

**In The Matter Of:**  
*DNREC*  
*Delmarva Power & Light*

---

*Hearing*  
*October 1, 2019*

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DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL  
 OF THE STATE OF DELAWARE  
 DIVISION OF WATER  
 WETLANDS AND SUBAQUEOUS LANDS SECTION

RE: Public Hearing Regarding )  
 Delmarva Power & Light )  
 Subaqueous Land Permit )  
 White Creek Crossing )

.. .. .

Bethany Beach Coastal Library  
 43 Kent Road  
 Bethany Beach, Delaware

Tuesday, October 1, 2019  
 6:00 p.m.

.. .. .

BEFORE: Lisa Vest, Hearing Officer

ALSO PRESENT: Patty Murray, DNREC  
 Tyler Brown, DNREC

-- Transcript of Proceedings --

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1 MS. VEST: Can everybody hear me?

2 UNIDENTIFIED SPEAKERS: Yes.

3 MS. VEST: Okay. We are going to  
4 try this without the microphone. I think  
5 there is a microphone up on the podium, but I  
6 don't think we are going to need it.

7 The time is 6:01 on Tuesday,  
8 October 1, 2019. And I want to thank you for  
9 coming out and taking time out of your busy  
10 schedules to be here.

11 For those who do not know me, my  
12 name is Lisa Vest. And DNREC Secretary  
13 Garvin has assigned me to be the hearing  
14 officer for tonight's proceedings.

15 I just have a couple opening  
16 remarks and some protocol so you guys can  
17 kind of get a feel for what's going to go on  
18 tonight.

19 We are here tonight to receive  
20 comment, if any wishes to be offered for the  
21 record, on behalf of Delmarva Power and  
22 Light's permit application.

23 They have applied for a State of  
24 Delaware Subaqueous Lands permit to install,



1 by directional bore, a 16-inch diameter,  
2 482-foot long electric power distribution  
3 line at a minimum depth of 20 feet below the  
4 mud line of Whites Creek, with the  
5 directional drill access pits located at the  
6 terminus of Daisey Avenue and adjacent to  
7 Peaceful Lane in Ocean View, Delaware.

8 What we are going to have tonight  
9 is once I conclude with my opening remarks,  
10 the Department has a brief presentation that  
11 will give you a bit of information about how  
12 we received the permit at the Department and  
13 kind of all of that, you know, reviewing the  
14 permit and what we do about matters such as  
15 this.

16 The applicant, Delmarva Power and  
17 Light, also has a brief presentation.

18 And I think that's one of the best  
19 things about our public hearings. It gives  
20 the opportunity for the public to come and  
21 fully understand what's going on.

22 So we will have the applicant offer  
23 his presentation immediately following the  
24 Department's presentation. At that point we



1 will then open the floor to comment.

2 I have two sign-in sheets that are  
3 up here right now. I think there is a couple  
4 more that are floating around. Thank you.

5 And if, Tyler, if I can get those  
6 before we open the floor to comment. It will  
7 be in no particular order, just in the order  
8 of the sign-in sheets.

9 I do want to make a couple points,  
10 though. This is just a platform to receive  
11 public comment tonight.

12 MR. WOOD: I'm sorry?

13 MS. VEST: I'm sorry. This is just  
14 a platform to receive public comment tonight  
15 for the comment that wishes to be offered to  
16 be incorporated into the hearing record.

17 Given the fact that there are  
18 people here who are very interested in what's  
19 going on and what the applicant is doing, I  
20 am going to extend the comment period beyond  
21 the close of tonight's hearing. I am going  
22 to extend it through the rest of this week.

23 So if anyone wishes to offer  
24 comment for the record, all comment bears the



1 same weight, whether it's received -- I have  
2 actually gotten some comment already from the  
3 public.

4 So whether it came in before  
5 tonight's hearing, whether it comes in  
6 verbally at tonight's hearing, or whether it  
7 comes in written form through the rest of  
8 this week, it all bears the same weight; it  
9 will all get incorporated into the record.

10 Any questions pertaining to the  
11 application and what it all entails, it can  
12 be offered as part of your comment tonight,  
13 but there is no question and answer session  
14 tonight.

15 That will be incorporated into the  
16 transcript by the court reporter that's here,  
17 and then I will have division staff make a  
18 formal response to any comment or question  
19 that's raised tonight.

20 So there will be answers to  
21 anybody's questions that come up.

22 Also, as part of our consistency  
23 throughout the state, we limit the time to  
24 comment to three minutes. There will be a



1 visual timer up here. And it will kind of  
2 help you gauge your time as you are offering  
3 your comment.

4 Again, whether it's tonight  
5 verbally or whether it comes in writing  
6 throughout the rest of the week, it all bears  
7 the same weight, and there is absolutely no  
8 limit on the amount of written comment that  
9 you want to offer.

10 So if you want to give comment  
11 tonight and then supplement it, you can feel  
12 free to do so.

13 If you weren't planning on speaking  
14 tonight, but then you see something in these  
15 presentations and you think, "I would like to  
16 make a comment on that," by all means, do it.  
17 As long as it comes in before close of  
18 business on Friday, it all bears the same  
19 weight.

20 And, lastly, no decision has been  
21 made yet with regard to these permits. It's  
22 important for the Department to hear comments  
23 and questions that the public may have, for  
24 us to get divisional staff to provide





1 responses to the same.

2 And at the end of the day, the  
3 Secretary will review the entire record that  
4 is developed in this matter, meaning the  
5 permit application, itself, the questions and  
6 comments that may come in tonight, the  
7 presentations, the Department's responses to  
8 any questions and comment. And ultimately  
9 it's Secretary Garvin that makes the decision  
10 with regard to these matters.

11 So these hearings play a very  
12 important role with regard to the decisions  
13 that the Department makes in these matters.  
14 And, again, I thank you for being here.

15 At this point I am going to turn it  
16 over to Patty Murray, who is representing the  
17 Division of Water, and she can do her  
18 presentation.

19 MS. MURRAY: Good evening.

20 UNIDENTIFIED SPEAKERS: Good  
21 evening.

22 MS. MURRAY: I'm Patty. I work for  
23 Wetlands and Subaqueous Lands for DNREC. I  
24 have been working for DNREC for a long time.



1                   And here is what we are going to  
2                   talk about tonight. If my thing will work,  
3                   or not. (Laughter)

4                   So Lisa has already gone over the  
5                   purpose of our hearing. We are here about an  
6                   application that was assigned to scientists  
7                   to our section.

8                   We get applications all the time  
9                   every day. And this is a hearing that anyone  
10                  can come and talk to and have a discussion  
11                  about what we are doing if you have any  
12                  questions about our application.

13                  So, again, Lisa went over this is  
14                  for DP&L putting a 16-inch diameter,  
15                  foot-long electrical distribution power cord  
16                  going underneath the mud line of Whites Creek  
17                  in Ocean View.

18                  This is the location map. So we  
19                  actually have Solitudes on the west side, and  
20                  we have TAC Beacon, or they are calling it  
21                  Foresite, on the right side, and these are  
22                  the two areas it's going.

23                  So we have the initial problem that  
24                  they want to upgrade service connections to



1 the area. And they are doing a horizontal  
2 drill, which I worked in the well side for a  
3 long time, so I have dealt with this for many  
4 years at DNREC, and they are going to put a  
5 bore hole underneath the bed of White Creek  
6 going 20 feet down.

7 The proposed horizontal drill point  
8 is going to be in the uplands area. And this  
9 is in -- it's close to the tidal wetlands,  
10 and they are going to have all kinds of  
11 required erosion controls and stabilization  
12 with the best management practices that our  
13 other section actually goes over, to stop any  
14 sediment or runoff during the rain events.

15 The rig is going to be set up,  
16 again, like I said, the east side on Daisey  
17 Avenue, and it's going to be on the west side  
18 at Peaceful Lane.

19 And they are going to pull it back  
20 through the hole created by the drill bit.  
21 And the directional drill is going to put the  
22 conduit through it. And I'm pretty sure DP&L  
23 is going to go over that in a little more  
24 detail, so ...



1           So we did the application because  
2           of our jurisdiction, so I'm not going to bore  
3           you with the chapters. Subchapter 7205 is  
4           going to be why we are here.

5           The problem with us is that we only  
6           have from the mean water high to mean water  
7           low on Whites Creek.

8           So, again, my section, Wetlands and  
9           Subaqueous Lands, is only worried about  
10          what's under the ground, and that's what we  
11          are worried about.

12          So we talked with our stormwater,  
13          our sediment management today, and they  
14          talked about getting it dredged, because we  
15          had a question about that.

16          It was dredged in the early  
17          two-thousands, ninety-seven, two-thousand,  
18          something like that. And they go 4 feet  
19          beneath the mean water low.

20          So this is going 20 feet below the  
21          mud line, so it's certainly not going to be  
22          anything interrupting of what's already been  
23          dredged.

24          So this is the first map we



1 received where it's showing the proposed line  
2 where it's going straight across. This has  
3 been changed, and so right now it has been  
4 upgraded that we are going to see in this.

5 So, because of that map, we  
6 received -- it was advertised in the paper in  
7 June to July 16. And because of that map, we  
8 got several comments.

9 So four of them were impacts to  
10 White Creek and the adjacent uplands, is what  
11 people were concerned about.

12 And, obviously, two of them, this  
13 is we talked about the dredging issues.

14 And then we had one comment about  
15 the Solitudes on White Creek in your  
16 development. You had just gotten -- the HOA  
17 had just done some upgrades there. They put  
18 some plantings. They had things paved. And  
19 they were concerned about where that was  
20 going to come up on their side.

21 We also got, because we always do  
22 this with our Department, as well, Fish and  
23 Wildlife also weighs in, like they do for all  
24 of our actual applications.



1                   And there will be a time-of-year  
2                   restriction that they cannot do any water  
3                   work from March 1st until September 30th.  
4                   Most of wetlands area, all work has to be  
5                   done in the wintertime because of the fish  
6                   population and things like that.

7                   So it's about flounder and eel, and  
8                   they are worried about some things that are  
9                   happening there.

10                  So this week we received an upgrade  
11                  of a revised map from DP&L where they are  
12                  going to not do such a straight line, so it's  
13                  going to miss the dock that was -- oops,  
14                  wrong one.

15                  So the dock was going through this  
16                  actual T-dock, and they have changed it so  
17                  that it will now go away from that and come  
18                  up on the other side.

19                  This is my contact information you  
20                  all have, if you don't have it already.

21                  So that concludes my part of it.  
22                  And we are going to have DP&L do their  
23                  presentation.

24                  MR. WOOD: Is there a question



1           where we can --

2                       MS. VEST: We are going to wait  
3           until both presentations are done.

4                       MR. SMITH: My name is Jim Smith.  
5           I work in Government External Affairs for  
6           Delmarva Power handling Sussex County. I  
7           live here in the county.

8                       And I want to give a brief overview  
9           to the group about our Whites Creek Electric  
10          Reliability Improvement Project.

11                      And we appreciate folks coming out  
12          tonight so we can talk about the crossings,  
13          specifically the crossing the bed, and then  
14          provide some construction details, because I  
15          know there are some questions about that.

16                      That's just an overview of  
17          Delmarva. And, by the way, I have some extra  
18          copies of this presentation that I can give  
19          to you.

20                      We have been serving this area for  
21          many years, the greater southeastern Sussex  
22          County area.

23                      We have 527,000 electric customers  
24          throughout Delaware and the eastern shore of



1 Maryland.

2 We have a lot of local employees  
3 who work on our system, that's Delmarva Power  
4 folks.

5 But we own, operate, and maintain  
6 13,000 miles of electric distribution and  
7 about 1,500 miles of transmission on the  
8 Delmarva Peninsula.

9 This project for the Whites Creek  
10 Crossing is what I would call an umbrella,  
11 part of an umbrella of projects designed to  
12 improve electric service in southeastern  
13 Sussex County that we have been working on  
14 over at least the last five years.

15 And this particular -- and that  
16 umbrella of projects has really targeted at  
17 least 13,000 customers in the areas of Ocean  
18 View, Millville, Cedar Neck, Clarksville,  
19 Bethany, South Bethany, and really even  
20 reaching as far as the 113.

21 We have done a lot of modernization  
22 and upgrades throughout this whole part of  
23 the county.

24 What's driving? You know, customer





1 expectations, certainly, but the natural  
2 growth in this area is one of the huge  
3 drivers for Delmarva Power to increase the  
4 way we serve our customers through increased  
5 capacity to serve a very ever-growing area.

6 We want to decrease the frequency  
7 and duration of power outages for our  
8 customers, strengthen the system during times  
9 of peak demand, which, of course, during  
10 summer is the peak utility here at Delmarva.

11 And then, when we have an outage,  
12 to be able to be in a position to restore  
13 interruptions quickly.

14 This is part of a broader strategic  
15 effort throughout our entire system to  
16 modernize the grid.

17 And I'm not going to read every  
18 bullet here, because I know we have some time  
19 constraints.

20 But our focus on reliability over  
21 the last five years has driven about a  
22 34 percent decrease in the frequency of power  
23 outages on our system.

24 And these are just a couple of



1 graphs that shows you what projects like this  
2 are aimed at doing.

3 We have seen almost a 40 percent  
4 improvement in the frequency of outages since  
5 2012, and in the duration of outages more  
6 than 50 percent.

7 It's all aimed at limiting and, you  
8 know, capturing better service for our  
9 customers, but limiting the problem before it  
10 ever exists, and then modernizing through  
11 what we call distribution ultimatum to get  
12 quicker service.

13 Specifically about the Whites Creek  
14 Crossing, we are going to extend our  
15 electric -- we would like to -- we are  
16 proposing to extend our electric distribution  
17 system across Whites Creek to provide service  
18 redundancy on both sides of the creek, the  
19 Millville side to the west and the Ocean View  
20 side to the east.

21 The new crossing will result in  
22 future -- or less power interruptions on each  
23 side of the creek.

24 And we will have the ability to



1 reroute power that we don't currently have.

2 We have what now is really called a  
3 radial feed from our Cedar Neck substation,  
4 which is located off Route 1 north of Hudson  
5 Road. We have tentacles of that system, our  
6 electric distribution system, that go out to  
7 Route 26 and really all the way out to  
8 Clarksville.

9 And this will give us, in the  
10 middle of that, a very strong connection  
11 point between Millville and Ocean View.

12 We conducted a comprehensive review  
13 to look at the best options, both  
14 economically and environmentally, and what  
15 would be the most -- the least impactful for  
16 customers, residents, the community in  
17 general, and certainly the environment.

18 To minimize the impacts, as Patty  
19 said, we are going to use an HDD method, or  
20 horizontal drilling, directional drilling  
21 method, which is very common in today's  
22 utility sector, whether it's electric, water,  
23 sewer, what have you. We use it in almost  
24 all new developments when we are installing



1 electric lines today.

2 This project will include four  
3 4-inch lines, which will be installed in a  
4 PVC casing. Those 4-inch lines will be in  
5 PVC and installed in a 16-inch tunnel, which  
6 will be bored under the bed of the creek at  
7 least, at a very minimum, of 20 feet below  
8 the bed.

9 We are certainly committed to  
10 working with customers, residents on both  
11 sides in the communities, to educate them  
12 about the construction timeline, when we  
13 would start, and any government officials  
14 that we need to talk to know, like the Town  
15 of Ocean View on the east side on Daisey.

16 You know, we would work in public  
17 space and existing Delmarva Power easements  
18 that exist on both sides.

19 We are specifically interconnecting  
20 Daisey Avenue, the end of Daisey Avenue to,  
21 on the west side, over at Peaceful Lane in  
22 the Solitudes.

23 At the conclusion, we would do  
24 property restoration, as we do with all



1 projects.

2 We will work with other utilities.  
3 Certainly, there are plenty of other  
4 underground utilities in the vicinity. We  
5 work daily with the other utilities through  
6 the Miss Utility 811 process to have all that  
7 located so we don't intertwine with other  
8 utilities.

9 We work in, you know, construction  
10 methods and materials, at a minimum, in  
11 accordance with all the applicable State and  
12 Federal regulations and within all the times  
13 identified by the local restrictions as far  
14 as construction goes.

15 Once we start, we think the total  
16 time of the project would be two weeks,  
17 weather depending. We work during daytime  
18 hours.

19 We think the residents will have  
20 minimal impact, both from the construction  
21 point of view, and then certainly with the  
22 using the bore, you know, within the creek,  
23 that limits the impacts.

24 We would set up -- I know I think



1 the original permit, we had said we would set  
2 up the rig on the east side. I think we are  
3 looking at doing the bore rig on the west  
4 side and then having the wheels of the  
5 conduit on the east side, on the Daisey  
6 Avenue side.

7 The bore rig basically drills a  
8 tunnel underneath the creek, and it  
9 eventually becomes a 16-inch tunnel that  
10 houses the new electric lines.

11 You know, construction guidelines,  
12 certainly we will work with the Town of Ocean  
13 View and what they have set forth.

14 There will be some intermittent  
15 lane closures, but never a full closure. We  
16 don't anticipate that. And residents will  
17 certainly have access to the street on Daisey  
18 Avenue. We don't really anticipate any  
19 traffic issues on the west side at all.

20 The new line that is going to run  
21 underneath the creek -- and I will show you a  
22 map, but it's going to -- there is an  
23 existing box on the Solitudes side, a switch  
24 cabinet, we call it, that gives us the



1 ability to switch the direction of the  
2 electricity, and then it will interconnect  
3 with a new flush-mounted splice box which  
4 will be a 4-by-8 box flush mount to the  
5 ground, about 3 feet in the ground.

6 And we will certainly work with the  
7 folks in Foreside Commons as far as the  
8 location of that, which will be on the south  
9 side of Daisey Avenue where we have an  
10 easement and where there is public space  
11 there.

12 And then eventually we will connect  
13 in from that splice box on Daisey down to the  
14 Sussex County lift station, just down the  
15 street, where we will have to do -- we'll  
16 have to install a new pole in front of the  
17 County's lift station.

18 You know, we are committed to the  
19 environment. You know, we work with DNREC on  
20 a lot of different projects and, you know, in  
21 the various states that we operate in.

22 And certainly, you know, we try to  
23 go above and beyond and being committed to  
24 environmental stewardship.



1           As far as the specifics on this,  
2           you know, we have had to file the permit here  
3           with DNREC, the Army Corps of Engineers --  
4           and Patty mentioned the time-of-year  
5           restrictions -- the Federal permit from the  
6           Army Corps, erosion and sediment control  
7           plans that were submitted to Sussex County,  
8           as well.

9           As I mentioned earlier, we will  
10          restore, you know, the work areas once  
11          complete.

12          This just gives you an idea of the  
13          actual cable. The dotted line shows the  
14          16-inch diameter bore, and within it the four  
15          cables, basically 4-inch what we call bundle,  
16          conduit bundle.

17          And that's just an overview of the  
18          general area between Daisey and over to  
19          Peaceful.

20          We have graphics of, you know, the  
21          map on the poster board. But this just shows  
22          the Daisey Avenue side. And when I talked  
23          about the splice box with interconnection  
24          here, 4-by-8 flush mounted to the ground.





1                   And, you know, the intent here is  
2                   to not infringe upon the buildable area of  
3                   anyone's property here with the target of the  
4                   line. And the same over here,  
5                   interconnecting to the existing cabinet  
6                   that's at the Solitudes and not affecting  
7                   buildable area there.

8                   So that's a snapshot of this  
9                   project. And I will have some cards, and I  
10                  will have extra copies of the project for  
11                  anyone that has questions about this.

12                 Thank you.

13                 MS. VEST: Mr. Smith, just a quick  
14                 question.

15                 If you could give us an electronic  
16                 version of that Power Point, we have a  
17                 hearing page where all of the documents that  
18                 come in tonight, as well as all the public  
19                 comment received, and the application,  
20                 itself, everybody can go online and check it  
21                 out.

22                 And if you could get that to us, we  
23                 will put that up there, too, because I think  
24                 for the residents, there is a lot of



1 information that they --

2 MR. SMITH: I will send that to you  
3 tonight.

4 MS. VEST: Okay. Thank you.  
5 Before we open it up to the comment, I  
6 believe the Department had some exhibits that  
7 they need to enter into the record.

8 MS. MURRAY: I do.

9 MS. VEST: Okay. Proceed.

10 MS. MURRAY: The first thing is the  
11 Delmarva Power and Light's application.

12 MS. VEST: Okay.

13 MS. MURRAY: The second thing to  
14 enter is the revised application that I  
15 received today.

16 MS. VEST: Okay.

17 MS. MURRAY: I have our project  
18 public notice as Exhibit 3.

19 Exhibit 4 is our public hearing  
20 notice.

21 And then Exhibit 5 is all of the  
22 public comments that we received, including  
23 our Fish and Wildlife.

24 MS. VEST: Okay. Thank you,



1 Ms. Murray.

2 Let the record reflect that  
3 Department Exhibits 1 through 5 -- that's  
4 bright (referring to lights turned on) --  
5 Department Exhibits 1 through 5 as identified  
6 now by staff are hereby entered into the  
7 formal hearing record.

8 And just a little housekeeping, Mr.  
9 Smith. When we get that copy of the Power  
10 Point, I am going to mark that as Applicant  
11 Exhibit 1.

12 MR. SMITH: Okay.

13 MS. VEST: And thank you again.

14 MR. SMITH: Uh-huh.

15 MS. VEST: Okay. As I stated at  
16 the beginning, we are on a timer here.

17 There are several people that have  
18 indicated a desire to speak, along with two  
19 other pages that I think are still floating  
20 out here. Oh, okay. One other page, maybe,  
21 that's floating out here.

22 But I do want to make sure that we  
23 get to everybody.

24 Again, for the record, the



1 Department's role in this is rather narrow  
2 and somewhat limited.

3 The only thing that DNREC is  
4 permitting right now in this matter is the  
5 ability to install, by directional bore, this  
6 line.

7 And to the extent that it's going  
8 in on subaqueous lands, that's why DNREC is  
9 here tonight.

10 I am sure, or at least it would be  
11 logical that if you are a resident in the  
12 community, you would have questions of DP&L.  
13 They are here. I would encourage you to see  
14 them offline after the hearing.

15 If you have concerns about how this  
16 project may affect your personal property,  
17 they may actually be the ones that a lot of  
18 your concerns are directed to.

19 But to the extent that you have  
20 questions about DNREC's involvement and their  
21 permit to do this project in subaqueous  
22 lands, that is why we are here.

23 And, again, I thank you for coming  
24 out.



1                   Going in no particular order other  
2                   than how people signed up, first up is  
3                   Mr. Gordon Wood.

4                   MR. WOOD:   Thank you.   I have two  
5                   statements.   I have a written statement that  
6                   was prepared before the design was changed --

7                   MS. VEST:   That's fine.

8                   MR. WOOD:   -- which is  
9                   problematical.   And then I have an oral  
10                  statement which I will read and give you  
11                  copies of also.

12                  MS. VEST:   That's fine.

13                  MR. WOOD:   I'm not happy.   You  
14                  should be unhappy.

15                  It's requested a copy of this oral  
16                  statement be included in the record.

17                  Well, here we are after the denial  
18                  of my request on behalf of myself and others  
19                  to delay this hearing.

20                  My request to delay this hearing  
21                  was well-reasoned, most appropriate, and  
22                  highly recommended.

23                  It brings me to asking why the rush  
24                  to judgment?   Can someone explain why this



1 hearing was not delayed?

2 How could we possibly prepare for a  
3 hearing when we had incomplete, delayed, and  
4 changing details, technical details without  
5 proper notice?

6 In fact, the details not made  
7 available to us, as promised repeatedly by  
8 DP&L over months, but not made available as  
9 promised, were significantly revised and  
10 given to us as late as 3:30 yesterday  
11 afternoon.

12 It brings up a question which I  
13 could ask later: Are we holding a hearing on  
14 the application as it was made available to  
15 us, or are we holding a hearing on what was  
16 changed in the application as of 3:30  
17 yesterday?

18 To my knowledge, I don't know the  
19 answer to that.

20 Does this violate something in  
21 regulations or standard procedures,  
22 Administrative Procedures Act? Of course, it  
23 does.

24 I request now that this hearing be



1       adjourned, now, sine die, but for some  
2       reasonable period in the future reopened when  
3       everybody has full details and time to  
4       prepare a statement.

5               We can accomplish that. We can do  
6       something to benefit everybody.

7               Hear me out. DP&L representatives  
8       that I met yesterday -- and I appreciate the  
9       gentleman, Tom, sitting around my dining room  
10      table at 3:30 yesterday when I received the  
11      latest design.

12              It seems to have real merit, the  
13      design change. And we can do something about  
14      that. And we can suggest an outcome if we  
15      work together, satisfying not only those I  
16      represent, but also DNREC, the public, and  
17      DP&L.

18              I believe we can fairly agree to a  
19      detailed location plan which can be  
20      implemented and for which DP&L would  
21      stipulate it would not be changed without  
22      notice. Again 3:30 yesterday, the whole  
23      thing was changed.

24              MS. MURRAY: Thirty seconds.



1 MR. WOOD: Let me make sure I got  
2 through. The lens fell out of my glasses  
3 somewhere between my car and here.

4 Yeah. We requested that DP&L  
5 stipulate that it would not be changed  
6 without notice to us and approval of those I  
7 represent -- myself, Mrs. Dick is here, Bob  
8 Seamans. Bob, I don't think you were here.  
9 He was in my house this afternoon, and we  
10 discussed this at length.

11 Updated drawings with the added  
12 detail need to be prepared and reviewed.  
13 With them, an assurance no changes will be  
14 made without such an agreement, all sides can  
15 come to a solution without a further  
16 contested hearing being advocated by us.

17 As a hearing officer, you would be  
18 acting in the State's and public and DP&L's  
19 interest with so much less bureaucratic work.

20 Yes, this is a different process,  
21 but it is in everyone's interest.

22 We can be assured the information  
23 process will be approved. Then we know all  
24 the facts without changes, like yesterday at





1           3:30. And DP&L can be licensed or permitted  
2           to proceed.

3                     I ask the DP&L representatives  
4           present if they can agree to this suggested  
5           process. I believe they will. I think it's  
6           in their interests.

7                     If not, my protest of the decision  
8           not to delay this hearing will continue.

9                     To what effect? Delay? Increased  
10          costs to DNREC, DP&L, us, and me. More  
11          uncertainty.

12                    The unacceptable fast process of  
13          not timely receiving promised documents, I  
14          believe, will be changed if we adopt what I  
15          am suggesting.

16                    MS. VEST: Mr. Wood.

17                    MR. WOOD: Delays in receiving  
18          promised information and last-minute  
19          receiving the details from DP&L when our  
20          statement for this evening had already been  
21          prepared -- I had it prepared yesterday. I  
22          have a son in from Santa Fe for the week. It  
23          makes it difficult.

24                    MS. VEST: Mr. Wood, your time.



1 MR. WOOD: Okay. I just have a  
2 paragraph here.

3 It prevented -- the delay in  
4 getting information prevented us from being  
5 able to prepare meaningful and full  
6 statements at this hearing.

7 DP&L has apologized, and that's  
8 appreciated, around my dining room table  
9 yesterday. They apologized to me for this  
10 unacceptable process.

11 And I have confidence we can  
12 continue now with good faith on both sides.

13 Think outside the box. Give us and  
14 DP&L this chance. Everyone will benefit.

15 While we appreciate DNREC's  
16 agreeing to hold a hearing, as we know it was  
17 requested, we strongly protest not delaying  
18 this hearing.

19 How can you have people prepared  
20 for a hearing when you don't have the  
21 information?

22 It brings up the question what  
23 application are we considering tonight? The  
24 application that was made available for us to



1 evaluate or the application at 3:30 yesterday  
2 afternoon?

3 Let us proceed to implement  
4 something properly.

5 MS. VEST: Did you want to enter  
6 any of that in?

7 MR. WOOD: Yeah. I brought copies  
8 up here so you would have one.

9 MS. VEST: Okay.

10 MR. WOOD: This is the oral  
11 statement which was given pretty much  
12 verbatim.

13 MS. VEST: Okay.

14 MR. WOOD: And this is a statement  
15 which we prepared for which we thought what  
16 was going to be the application for this  
17 hearing.

18 MS. VEST: Thank you, Mr. Wood.

19 MR. WOOD: Uh-huh.

20 MS. VEST: For the record,  
21 Mr. Wood's oral statement is going to be  
22 entered as Wood Statement Number 1. And his  
23 written statement, which he has provided me  
24 just now, would be Wood Number 2.



1                   And, again, thank you, Mr. Wood.

2                   Next up, Martin Lampner.

3                   MR. LAMPNER:   Good evening,  
4                   everybody.   My name is a Marty Lampner.

5                   I represent Whites Creek Manor,  
6                   which is a community not directly impacted by  
7                   this work, but indirectly so.

8                   One of our major concerns has been  
9                   addressed by DNREC in their presentation, and  
10                  that is the issue of the availability of  
11                  sufficient depth to continue to be able to  
12                  dredge Whites Creek as needed.

13                  Boaters on our side of this project  
14                  are concerned because of continued silting of  
15                  the creek.   And if there isn't an adequate  
16                  depth, which we have been assured from the  
17                  materials we heard tonight, it would cause  
18                  significant harm to people who own slips and  
19                  dockage on the other side of the project.

20                  I would take a moment, and then I  
21                  will yield the floor, just to second the  
22                  comments regarding DNREC's process.

23                  This is not the first time we have  
24                  encountered an issue with DNREC, in another



1 matter, where plans were significantly  
2 changed and we did not get a chance to  
3 comment.

4 I would urge Ms. Vest and the  
5 others from DNREC to consider the request  
6 from Gordon that the hearing be adjourned and  
7 reconvened. Thank you.

8 MS. VEST: Thank you, Mr. Lampner.

9 Next up, David Rudolph.

10 MR. RUDOLPH: I'm David Rudolph, a  
11 resident and board member of Solitude at  
12 Whites Creek.

13 I would first like to thank  
14 Delmarva for pointing out that this is for  
15 reliability in Sussex County. This is not a  
16 Solitude on Whites' project. We have taken a  
17 lot of heat for this kind of stuff of late.

18 Secondly, the majority of my  
19 comments are actually questions that I would  
20 have for Delmarva Power and Light, which I  
21 think I'll take that offline and talk to  
22 those gentlemen. I don't want to bore  
23 everybody with the mechanics of this project.  
24 But thank you.



1 MS. VEST: Thank you, Mr. Rudolph.  
2 Next up, Don Bonsall?

3 MR. BONSALL: Yes. I only had  
4 questions for Delmarva.

5 MS. VEST: Okay.

6 MR. BONSALL: I didn't have any  
7 comments.

8 MS. VEST: Okay. Thank you, sir.  
9 The record will reflect that.

10 Is there another sheet floating  
11 around?

12 MS. MURRAY: It's blank.

13 MS. VEST: It's blank. Okay.

14 At this point, there are people  
15 that -- everyone that said yes absolutely has  
16 already offered their comment.

17 Mr. Frye, you said possibly? Frye?  
18 Jay Kevin Frye, Jr.?

19 MR. FRYE: Yes.

20 MS. VEST: Okay.

21 MR. FRYE: I thought it would be  
22 starting at 6:30, so I was late to the  
23 meeting, so I didn't get to hear part of the  
24 details about construction.



1                   My only concern is the details of  
2                   the construction, for the most part, is how  
3                   they maintain the 20-foot depth reliably  
4                   across the whole, entire creek.

5                   MS. VEST:   How Delmarva Power  
6                   maintains that?

7                   MR. FRYE:   Or who assures that it  
8                   is maintained.

9                   MS. VEST:   Okay.   Okay.   Well,  
10                  again, with respect to that, staff can jump  
11                  in if they want, but I believe that's more  
12                  along the lines of a question posed to DP&L  
13                  and not to the Department.

14                  So I would encourage you -- what  
15                  you might have missed earlier, sir, is, you  
16                  know, I said we do have personnel from DP&L  
17                  here, so, by all means, approach them if you  
18                  have additional questions about the  
19                  procedures that they are doing.   You know,  
20                  information is very important in things like  
21                  this.

22                  That being said, no one else has  
23                  indicated a desire to speak.   Yes, sir?

24                  MR. HUDSON:   Excuse me.   My name is



1 Charles Hudson.

2 MS. VEST: Okay.

3 MR. HUDSON: I, too, thought the  
4 meeting was at 6:30. I only have a couple  
5 questions, really.

6 Number one, how did this get  
7 initiated? Was it initiated by DP&L through  
8 the idea that this really needed to be done,  
9 or was it initiated through Solitude,  
10 something that they decided to have done?

11 MS. VEST: And again, sir, we are  
12 not doing a question and answer portion in  
13 tonight's hearing. It's more of a formal  
14 procedure.

15 But you can certainly ask DP&L  
16 staff about the project and how they have  
17 done that.

18 That's kind of outside the purview  
19 of this particular hearing.

20 We are just here tonight because of  
21 the Subaqueous Lands permit that was filed  
22 with DNREC by DP&L.

23 MR. HUDSON: So okay. I have  
24 another question. I'm sure you are going to





1 tell me to check with DP&L, as well. Okay.  
2 Thank you.

3 MS. VEST: Okay. Thank you.  
4 Anyone else? Okay.

5 Well, as I stated previously, we  
6 are going to allow the record to remain open  
7 because of the slight change, you know, that  
8 DP&L made late yesterday.

9 All of this documentation will be  
10 up on the web. I do have my business cards  
11 here. We have an entire web page devoted  
12 just to this hearing.

13 So, you know, in the comfort of  
14 your own home after you think about it, you  
15 can get online.

16 If you don't know how to get to our  
17 hearing pages on our website, by all means  
18 grab my card, shoot me an e-mail in the  
19 morning, and I will send you the link.

20 I want to make sure everybody can  
21 get this information.

22 As soon as we receive the  
23 electronic version of the Power Point from  
24 DP&L, we will put that up on the web,



1 as well.

2 And any comments that come in will  
3 be posted on the website, as well.

4 And like I said previously, for  
5 those that came in late, all comment bears  
6 the same weight.

7 So whether it was offered prior to  
8 tonight's hearing, at the hearing, or at  
9 anytime between now and close of business on  
10 Friday, October 4th, it will all bear the  
11 same weight, and it will all be taken into  
12 consideration.

13 MR. WOOD: May I ask you a  
14 question?

15 MS. VEST: Yes, Mr. Wood.

16 MR. WOOD: I testified, but I have  
17 a question.

18 MS. VEST: By all means.

19 MR. WOOD: Oh, okay. Thank you. I  
20 guess the question is when will this happen?

21 MS. VEST: When will what happen?

22 MR. WOOD: When will you put out  
23 your report and so on and supplement the  
24 comment that I made while I was testifying?



1 I appreciate what DP&L did  
2 yesterday when they came to my house and  
3 tried to explain this, and I appreciate the  
4 fact that they made some changes to try to  
5 accommodate specifically Mr. Seamans. But we  
6 still didn't have time to comment.

7 MS. VEST: Well, and I appreciate  
8 that. Hopefully, the change of where they  
9 are laying the line alleviates a lot of the  
10 concerns that were initially put to the  
11 Department.

12 But that is one of the reasons why  
13 the comment period isn't closing tonight.  
14 I'm extending it for the rest of the week.

15 So to that extent, you know, there  
16 is the remainder of the week in which you can  
17 offer comment to the Department.

18 As far as the time frame, once the  
19 record closes, they will look at all the  
20 comment that comes in, the stuff that has  
21 come in now, the stuff that came in tonight,  
22 and the stuff that comes in between now and  
23 Friday, any responses to direct questions  
24 about this permit -- because the scope of the



1 hearing is regarding the Subaqueous Lands  
2 permit -- any kind of questions that come in  
3 about that will be formally responded to.

4 I will write my Hearing Officer's  
5 Report. And then Secretary Garvin will take  
6 it under consideration.

7 And I'm not at liberty to discuss  
8 his schedule, or I don't even know his  
9 schedule.

10 But the ultimate decision is up to  
11 Secretary Garvin.

12 We are just here tonight to have a  
13 formal platform to offer comment. So that's  
14 the best I can do as far as giving you a time  
15 frame. Okay?

16 But, that being said, I do want to  
17 thank everybody for coming out tonight.  
18 Again, the record is open through close of  
19 business on Friday, October 4th.

20 If people would like to get a  
21 business card from me so I can shoot them a  
22 link to where this all will be online, by all  
23 means, come up. This meeting is adjourned.

24 (The hearing was adjourned at 6:40 p.m.)



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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 2nd day of October 2019.



---

Lorena J. Hartnett  
Registered Professional Reporter

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