

SALUDA HYDROELECTRIC PROJECT RELICENSING

FERC PROJECT NO. 516

Joint Agency & Public Meeting

April 20, 2006

6:00 P.M. Session

HOST:

Allan Stuart, Kleinschmidt Water Resources

PRESENTATION,

Questions and Answers:

Allan Creamer, Federal Energy Regulatory Commission

Transcribed from recorded cassette tapes of Proceedings

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EVENING MEETING: 6:00 P.M., April 20, 2006

MR. ALLAN STUART: Welcome everybody to our second quarterly Public Meeting for the relicensing of the Saluda Project. We had a Meeting this morning. I wanted to give a quick update on the relicensing progress. The primary focus of this Meeting is an open question and answer session for Allan Creamer from the Federal Energy Regulatory Commission. We are pretty much on schedule with the relicensing; we formed a number of Resource Conservation Groups and Technical Working Committees. We are doing a number of studies, some are in the study plan, development stage; and, others are actually ongoing right now. So, we are right in the thick of the study phase. I encourage everybody who might be interested in seeing what we are doing is to visit the web site; it is [www.saludahydrorelicense.com](http://www.saludahydrorelicense.com), those that picked up a pad or a pen, I believe it is on that pad and that pen. With that, like I said, I just want to give people a quick update on where we were. Are there any questions with respect to the relicensing itself?

(No response)

MR. STUART: A couple of orders of housekeeping items, the Meeting is being video taped and audio taped. We will be passing around a microphone. That

microphone is not live to the audience, it is strictly for the audio tape; so, if you could please project and talk

loud, and that will help everybody hear your questions. Because I know a lot of times this side of the room can't hear this side. So, please, talk really loud. Please feel free to ask Allan any questions you have. He has been at the FERC for about fifteen years, he has been assigned to this project. He has also worked on a number of other projects in the Southeast, the Santee-Cooper, Catawba-Wateree, and other states, Lake of the Ozarks. So, he is pretty well familiar with the resources we have here in the South. So, one other item, if you do ask a question could you please state your full name and the organization you represent; if you are not here with an organization, just say "person", you know, "an individual", something like that. Any other questions?

(No response)

MR. STUART: With that, I am going to turn it over to Allan and let you fire away at him.

MR. ALLAN CREAMER: Thank you, Alan. Just real briefly, I just kind of wanted to give you a little bit about my background. As Allan said, I have been at the Commission for fifteen years, or will be going on fifteen years in July. I am by training a fisheries biologist, and so I deal mostly with aquatic issues, fishery issues, water quality, those sorts of things. But I have seen quite a bit; some of the projects I have worked on, I have seen a lot of the issues. And they are fairly generic, the projects; but there is always little twists with any one

project. So, I have had a lot of experience outside of my field. A couple of things that Allan didn't mention, I am not all that familiar with this project and I am just kind of getting on board with it since I was approached to come down here and do this. I believe that there are probably some pending proceedings that are before the Commission right now with regards to lands issues. I am in the re-licensing side, and we have another division that is our Compliance folks. And most of those things, all of those things, that are pending are in our Compliance Division. So, I would ask any of you to refrain from bringing those things up because I probably will not be in a position to talk about them or address whatever your issues are. And besides, from a commission standpoint we can't really talk about pending proceedings anyway. With that, I think if any of you guys have any questions with regards to my background and experience, we can deal with those now. Or, you guys just start firing away. This will be a quick Meeting.

MR. DON TYLER: My name is Don Tyler, and I represent both the Lake Murray Association and the Lake Murray Homeowners Coalition. And I believe that at one of our last SCE&G Meetings, one of the questions that had come up regarding FERC was what are the Federal Guidelines that you use in managing, or controlling, an impoundment such as Lake Murray?

MR. CREAMER: Controlling it in what way?

I mean there is a lot of things, there is a lot of different aspects to what we do with the environment. So, can you be a little bit more specific?

MR. TYLER: Primarily from a management standpoint, for establishing criteria that are to be complied with.

MR. CREAMER: Well, generically what is going to happen is the Commission is obligated under Federal Law to look at all of the uses. Okay? The competing uses. And so, what we are going to do is we are going to look at all the issues that are laid on the table, and the Commission will do its --- we'll take a look at things and balance it, and decide what is --- as the Commission would say, "What's in the public interest relative to requirements to place on a company, the power company, as far as managing the resource." Whether it be lake levels, whether it be downstream flows, whether it be recreation, shoreline management, all of those are cultural resources, all those things get considered. But, the treatment, how we deal with them, may differ depending upon how --- I don't know what the right word is, the way we balance it. Depends upon how we view the comments, what we think is the most appropriate.

MR. TYLER: Are you saying you start with a clean slate?

MR. CREAMER: As far as we are concerned, we are a neutral party. We have no agenda. Okay? As a

regulatory body, we have to under law look at all the competing uses. We have to balance all those uses. There are many, there are entities out there whether they be State agencies that are interest groups, homeowner's groups, that they have their agenda. And they are not necessarily looking at the full scope of things. Well, the Commission is not like that; the Commission has to look at the full scope, and will balance what those competing issues are to the best of its ability.

Does that answer your question?

MR. TYLER: In part. But, I guess what my real basis was, do you have some set of guidelines that assist you in reaching your decisions for, I guess, pursuing a specific direction one way or the other.

MR. CREAMER: We have no specific criteria guidelines. I mean, the things that we are going to look at are --- you know, we are going to look at the particular proceeding. We are going to look at all the issues raised, we are going to look at people's comments, we are going to look at what people are recommending whether it be the power company, whether it be another entity. And then we are going to --- we will look at that, try to balance things out. And the other thing that we look at is from a comprehensive planning standpoint, we dig into the comprehensive plans that exist for the river basins, and how is what we are doing fit within those comprehensive plans. We will look at

past Commission precedents, what the Commission has said and the way they have ruled in the past on various cases, and similar projects. Another thing that kind of comes into play sometimes is what the Courts have told us we are supposed to do. The Courts tell us with water quality certification whatever the State puts in, we can't touch it. Fish passage, Section 18, Courts have told us we can't touch it. The Department of Fish and Wildlife Service, whatever they would put in a Section 18 prescription is what it is. So, there is a lot of different things that come into play, the Federal Statutes, and the Court system, and just our whole balancing thing, the Federal Power Act 4(a), 10(a), which is the balancing, and competing use, comprehensive development. There's a lot of things that come into play.

MR. TYLER: Thank you.

MR. TIM HARGHLAY (phonetic): Talked about re-licensing and compliance in two different sections, and we can't talk about specifics, can we get generalities as to what is going on in Compliance that you can't talk about?

MR. CREAMER: Probably not because I am not familiar with all of that stuff.

MR. HARGHLAY: You don't you know the issues?

MR. CREAMER: Well, I mean, I generally know what the issues are, but I don't know specifics relative to what's going on in individual cases.

MR. HARGHLAY: I wasn't asking about individual cases; I was just asking some idea as to the generalities that are under discussion, or whatever they are under.

MR. CREAMER: Only to the extent that I have knowledge of them.

MR. HARGHLAY: This is Tim Harghlay from Lexington.

MR. CREAMER: I mean, we do work with our --  
- I mean, don't get me wrong. We are two different divisions, but we do work together. And I actually work quite closely with a couple of individuals on Shoreline Management Plan issues at Fontex (phonetic), and to make sure that we don't do something that we are not supposed to that would cause headache for the other side. We make sure that we are doing things that fit together, and so that we work kind of in a transparent fashion. But, there is two different divisions involved.

MR. HARGHLAY: Okay, I will do this proper. This is Tim Harghlay from Lexington. One more, and I'll try to stay out of it. When the construction gets done over where they are putting the bridge in at the Dam, are there any changes in the beach area access utility? Is there anything going to be done to try and decrease the number of people that drown over there each year?

MR. CREAMER: I can't address that. I don't

know.

MR. JOHN WALSTON: I'm John Walston, and I am a property owner. My question would probably be more in tune to a shoreline management question. The property I have has the 75 foot buffer zone between my property line and the 360 line. If that is not a question for you, then I will --- please, if someone can direct it to the who I may ask that question.

MR. CREAMER: What is your specific question about the buffer?

MR. WALSTON: I am new to the area, and have the property about a year. And just some of the areas of compliance, you know, I read bits and pieces about how we are supposed to manage that 75 foot buffer zone. I have understood that this is considered public property and that, for an example, anyone could come into the cove where my property is located and come up into the 75 foot buffer zone, and camp out for a week. Yes or no?

MR. CREAMER: I had this question come up this morning, and hopefully I am not going to say something that is going to be totally different. But, what is within the project boundary and in those places where the 75 foot buffer is within the project boundary, that is in fact public access. If somebody wanted to pull up, and get out

and stretch their legs they would more than likely be --- you know, it would be a permissible thing. Somebody going

up and camping out there for a week, while it is public access that is an activity that may not be an appropriate activity for that area. And I would like to think that a Shoreline Management Plan would address those kind of issues relative to what would be appropriate activities for that public access and what may not be. While I don't think that it can necessarily be outright a prohibited, it's certainly I would think where the Shoreline Management Plan may say and encourage certain activities like camping at the appropriate sites, the development sites, and not encourage that type of activity in these other areas. I would think that the Shoreline Management Plan can address that type of thing.

MR. WALSTON: Again, that was a stretch for a question. But with my reading, seeing that it is public property, that is why I wanted to ask that. And, I guess, the next question would be --- and this could be for someone with the power company. With that buffer zone, the County that I am located in taxes me based on the number of feet of water front that I have. But in effect if I have 75 feet between my property line and the 360 line, do I in effect actually have lake view property? And the question would be, "Does SCE&G pay property taxes to the Counties that the Lake is located in?" And, "Are they in effect double dipping?"

MR. CREAMER: That's a question that I don't

think that I can necessarily answer, but ---

MR. DAVID HANCOCK: I am David Hancock, I am with the Lake Management Division of SCE&G. And, the buffer zone itself, the 75 foot buffer zone that he is talking about, is sporadic around the Lake; and it's not like everybody in the general public knows where those areas are.

In some of our Technical Working Committees there has been some discussion about letting the public know where those activities are. And, like he said, in the Shoreline Management Plan define what can be done in those areas, whether it be passive walking, or getting and out stretching your legs, fishing from the bank, or whatever. And the same goes for below the 360, which is not part of the buffer zone; that's below the high water mark, which the Lake never really ever comes up to the full pool. So, there is an area between there and the buffer zone that people can still get out and walk along the shoreline without even getting on the buffer zone. And I hope that kind of answers your question on that. We are working on that for the upcoming relicensing process. But as far as the existing, we have not had a problem with people doing that. And you have been here a year, have you had anybody getting out, walking along in front of your buffer zone area, deciding to camp out?

MR. WALSTON: No. No one has camped there yet. Again, that was a stretch for a question.

MR. HANCOCK: Right, I understand that.

MR. WALSTON: However, we did have someone come into the cove, they got out of their boat, they walked in the 75 foot buffer zone, and they had a camera. And I said, "Sir, excuse me, can I help you?" I was working on a shed out on my property. They said, "Oh, no, I'm fine." And they continued to walk in the 75 foot buffer zone. My daughter happened to be on my dock. Well, he startled her. He continued to walk through the buffer zone. In fact I said, "Can I help you?" again. He said, "Oh, no." And he said he was with Shoreline Management doing some work for them. And he walked around the cove and was taking some pictures. I eventually got off my ladder and we spoke, and we had a good conversation. Again, no wrong done. But being new to it, I certainly do not want to risk doing anything out of compliance because I enjoy the property and I don't want to do anything inappropriate. This gentleman was almost warning me, "Don't do this here, and don't do that here, and they will be watching you." And that made me a little uncomfortable, David.

MR. HANCOCK: In that case, you can ask him for his identification. If he is representing Lake Management, you can ask him for identification. And if he defies that --- because it could be somebody else posing themselves as somebody with Lake Management, taking pictures for a reason for this very process that we are in.

UNIDENTIFIED: And he was helping Lake

Management. We are not saying he was with Lake Management.

MR. WALSTON: Well, I can assure you, nobody is helping us do anything.

MR. HANCOCK: But to answer your question about the taxes, SCE&G does pay taxes on all land that they own, that SCE&G owns. And it could have been that guy that was walking around taking pictures. But anyway, we do pay taxes. And I can't answer the question about is it fair for you paying taxes on property up against the 75 foot buffer zone, as opposed to having property down to the high water mark. I can't answer that; that's a County question.

MR. WALSTON: And when I asked them that question, they said, "Well, that's just the way it is."

MR. HANCOCK: Do you have the brochure for the Shoreline Management Plan?

MR. WALSTON: Yes. You sent me some. You and I talked a number of times.

MR. HANCOCK: Okay, good.

MR. WALSTON: Sure enough.

MR. HANCOCK: Good. I wasn't rude to you, was I?

MR. WALSTON: No, you were very nice.

MS. CHARLENE COLEMAN: Allan, I am Charlene Coleman, with American Whitewater. Welcome to Columbia. My

questions concern public safety on the River. What I would like to know is, what is FERC's position on public safety in

respect to reserve capacity obligations for SCE&G?

MR. CREAMER: Repeat the question again.

MS. COLEMAN: What is FERC's position on public safety in respect to reserve capacity obligations? The Saluda River can rise quickly, and you have a lot of people that use the River up and down it, and the rise of the River is a danger to them in certain instances.

MR. CREAMER: This question came up a little bit this morning, as well. From a project standpoint, the licensee is ultimately responsible for public safety. Now, there is a number of ways that the Commission addresses that issue with an applicant. And, the Commission is going to look for reasonable solutions. That is generally how it has worked in the past. The solutions may vary from project to project. But, I don't know that I could sit here and tell you exactly what would be the outcome here, I don't know. But certainly, we have projects where from a public safety standpoint addressing these sorts of issues downstream with flows and ramping, and that sort of thing where there is notification requirements, there is sirens, there is various things that are put in place to warn the public. We have projects where there is a line drawn below the Dam, there is an actual physical cable as such that crosses the river where it is "no zone", you can't go into it, for safety reasons. So, it becomes a project specific issue in terms of how it is handled.

MS. COLEMAN: I guess, a part, too, to that would be, is there another project where rapidly rising water due to hydro power generation is a public safety concern as it is on the Saluda?

MR. CREAMER: We have a lot of projects in the Southeast that operate in load following, or a peaking mode, where they do in fact come up and go down fairly quickly. Some of those projects have ramping rates established; some of those projects have different --- have other measures in place to address an issue like that. But, it is certainly not an issue that is unique to Saluda, and it is an issue raised in many cases, many projects.

MS. COLEMAN: So, a stream flow and alternative power studies would be considered reasonable requests from RCGs?

MR. CREAMER: Stream flows and what?

MS. COLEMAN: Stream flow studies and alternative power studies.

MR. CREAMER: Well, certainly stream flow studies for various reasons, whether it be aquatics, whether it be recreation, stream flow studies certainly is a reasonable type of study in a situation like that. The alternative power study, I am not exactly sure what you are getting at.

MS. COLEMAN: Gas powered turbines and such.

MR. CREAMER: That's what?

MS. COLEMAN: Gas powered turbines, other facilities.

MR. CREAMER: That would be a new one for me. I don't know that I have an answer for that.

MS. COLEMAN: The reason I am asking is, I don't know whether you are aware or not, but the Saluda has a Class 4 rapid that gets a lot of entertainment value locally. So, rising water is quite a concern.

MR. CREAMER: Right. Somebody told me, pulled me aside this morning and we talked a little bit about that. So, I am aware of that.

MS. COLEMAN: Thank you.

MR. MALCOLM LEAPHART: I am Malcolm Leaphart, representing Trout Unlimited. But I really just have a general question, and it is a little bit more about yourself; what you actually do, where you come in on the process. Right now we are working through these Conservation Groups, and Committees, and so forth, and trying to develop a consensus type plan. But, wondered where you fit into the equation here.

MR. CREAMER: Okay. You want to know where FERC generally fits in. In this particular case, because they are going through relicensing as a kind of an enhanced traditional, and generally the Commission does not get involved during pre-filing; only if there is a need do we get involved, and whether it's because something has been

problematic with the process, or it's just simply we get a request for participation from the group. And, Catawba-Wateree is a good example. We have had Commission staff that has been involved with that one from the start. Generally under traditional licensing when the application is filed, that is where the Commission gets involved. And that's the first exposure we generally have to the project. And then, from that point we go forward; we have an Inter-disciplinary Team that is assigned to the project. And, you know, I might be assigned to the aquatics, somebody else might be assigned to terrestrial resources, wetlands; recreation, somebody else might be assigned to handle. And then we would do our process, our scoping where we would get the public involved.

And then we do our environmental analysis. That is generally under traditional process, how the Commission would fit in and where we would fit in as staff getting involved. Times are changing, Commission's new rules, licensing process; we have a new licensing process that came into effect three years ago, the ten year process last year. But when that happened it changed the rules for the traditional licensing, whereby the public is now brought in early on and there is an opportunity for Commission staff to get involved early on if there is a need. One thing that still remains the same is, if the group is at loggerheads on

an issue, so to speak, and can't agree to something parties can file a dispute resolution with the Commission, and then

we would get involved at that point to try to resolve that dispute. That's another place that the Commission would normally get involved. But there is project to project as far as traditional and how much involvement we have upfront.

It depends upon what the group is looking for.

MR. DON TYLER: Don Tyler, I have another question. It's a curiosity thing. On the actual term for the relicensing, and I hear anywhere from twenty-five to thirty year period. How is that arrived at and how do you maintain continuity from when the license is granted until the next period? Because you almost have a generation period in-between there. And so that the people that are applying, or requesting, the relicensing now versus the next group that there is really no continuity between those two groups. And how do you maintain it if you start anew each time?

MR. CREAMER: Are you referring to the applicant in general being the same applicant from the time a license is issued until it comes up again?

MR. TYLER: Yes, including the people that are involved.

MR. CREAMER: Okay, and the people involved.

MR. TYLER: And the people within FERC. Twenty-five years from now there is going to be a totally different group, and I expect ---

MR. CREAMER: Yes, twenty-five years from now, hopefully, I won't be there. But, no, it certainly is

an issue when you have got people coming and going from a process like this. And it does create some problems. As far as the license term, license terms can be anywhere from thirty to fifty years. And the license, once it is granted, it stays with the project, and requirements of that license stays with the project no matter who the licensee is and who the people are. I mean, that is the one constant in this whole thing over that period of time, is that license that project has and what it says. The people involved, you are right, they come and go within the order of whether it be a power company, whether it be those of us at FERC, any of you guys out here. And it's a tough thing to deal with when you have changes within because it is kind of like you have to bring new people up to speed on what the requirements are in a license. And there is a knowledge base that kind of goes with those people when they leave a process, that type of thing is certainly problematic in some cases. But the Federal Power Act requires us to look at each time a project comes up for relicensing, it requires us to look at things with a fresh view. We have a base line, which is what the condition is today. That is our base line. And then we go from there. But we have to --- we are required under the Statute to take a fresh look at the issues and what may be necessary going forward with the project and a relicensing.

That is something that we have to do.

MR. TYLER: It just seems like it would be -

-- it is very difficult if you step back fifty years from now, and to have tried and developed criteria to govern or manage an impoundment. And certainly fifty years from now moving forward, the criteria is going to be totally different. And I don't ---

MR. CREAMER: And that is the reason why we are required to take a fresh look at things. Because, you are right, the conditions change, the needs change, and what may have been fifty years ago important to people may not be fifty years in the future. So, that's the whole balancing thing, and that's why we have to take a fresh look at things. So, in a sense, having new people there is a fresh look at things.

MR. TYLER: Thank you.

MR. CREAMER: We have got a question over here on the left.

MR. JEFF ADAMS: Jeff Adams, a boat owner and immediate past Commodore of Windward Point Yacht Club. And Windward Point Yacht Club has approximately a hundred to a hundred fifty boats at its location. And one of the aspects that we are concerned about --- and I don't know that you can answer the question because I think you immediately took this out of the equation. But, I am going to say our piece anyway. We have large groups of boats that go out and want to anchor in locations. And I feel for the homeowners because when we pull up and we put twelve to

fifteen boats in a raft-up in an area, and we stay all day, and most of us stay all night, now granted this crowd doesn't stay up all night partying all night long. There is other groups of boats that do that kind of thing, but we don't. But in any case, we sit out in front of somebody's property if we don't go to a secluded location, a secluded cove. There are a couple of coves on the Lake now that fit that description. In the future though, from what we understand those two coves are going to be developed to where there will not be any location that is protected from wind, fetch of the water and whatnot; those are going to go away. So we are going to be forced to either cease doing what we have been doing, using the Lake as we have been, or rafting up in areas that are exposed to weather, which changes sometimes drastically and quickly those are going to go away. I don't know whether you can address that or answer those questions.

MR. CREAMER: Well, a development happens, and when we look at things and try to balance what the competing uses are. And your specific issue is a tough one to deal with, I am going to tell you that right now. And when you mentioned fifteen to twenty boats kind of tying up together, how about five thousand? There's other lakes in this country where that happens. Not all five thousand at a time tied together, but they are all in a cove. And you have lines of hundreds of boats that all tied up together.

And it is a tough issue, and I think it is an issue that is something that you have to find a local solution to. And, I don't know what the solution in your case, with the case here, is.

MR. ADAMS: Well, our understanding right now is that SCE&G owns the land around the two remaining coves. And my understanding is that is potentially up for sale to development.

MR. CREAMER: I can't speak to that.

MR. ALLAN STUART: You are probably talking about what they refer to as Hurricane Cove and Two Bird Cove.

MR. ADAMS: Correct.

MR. STUART: It is my understanding that Hurricane Cove, I am pretty certain, is going to be designated as a special recreation area. Both of them are going to be designated as special recreation areas. I think, my understanding, is those areas would not be developed.

MR. DAVID HANCOCK: That has not been determined officially.

MR. STUART: Okay. But the areas, I know, at this point at least have been designated as special recreation areas.

MR. ADAMS: What does that mean?

MR. STUART: It's basically --- my understanding is it is going to be designated for mooring

activities such as what you are talking about.

MR. HANCOCK: Not specifically mooring, but any type of recreational activities on water, activities, you could have a jet skier coming there matter. But you can't restrict other boaters from an area that is mooring.

MR. ADAMS: Well, we don't expect that. We don't like it, but we don't expect it.

MR. HANCOCK: Nobody does, I don't think.

MR. STUART: There is a separate proceeding that's going on based on a FERC Order that came out in response to the Shoreline Management Plan, a revision that was done a few years ago. And that's the Hurricane Cove and Two Bird Cove are being dealt with under that process.

MR. HANCOCK: And while he talked about that, I wanted to address Don's comments over here about the long process, the fifty years. In our past license we had a five year review of the SMP, the Shoreline Management Plan, and land use, and that type thing. So there is a process that is probably going to be effect for every licensee, a review process, whether it may be ten, we hope in ten years. And those type things. So that will give a look every ten years basically of the license itself, of the Shoreline or different aspects of it that could be changed or altered, depending on the needs.

MR. DON TYLER: And hopefully keep it a semi-living document that way.

MR. HANCOCK: It is a living document.

David Hancock, SCE&G. Usually these Shoreline Management Plans, at least from my experience with them, they are living documents. And he is right that just about every one that I have seen has built-in component where you revisit five years, ten years, you know, in that interval. So, they are in fact living documents and meant to be that way.

MR. JOHN FRICK: I would like to know if some special consideration could be given to landowners who own large tracts of land? I obtained a piece of property a few years ago that belonged to some of my ancestors where the property was taken under eminent domain when they built the Lake. This property is like 130 acres, and my intent is to do a low density development. I think one of the problems with the Lake now is you either have high density development or you have nothing at all, which makes everything very spotty. But my plan is to do a low density development. However, SCE&G has designated some of the property that was taken under eminent domain as forest management property, which is a little absurd in that the property is 150 to 15 feet wide. You know? It was logged a few years ago, but it is not really suitable for forest management. And my thing is, I have no problem with buffers, and so forth, and so on. But I would like the meandering path and I would like to be able to have dock permits, especially if I am going to have one to five acre lots on

the property. I am not going to have quarter acre or third acre lots. So, if I am willing to make those types of concessions, I think I also ought to be able to have docks. Because, one of the values of the Lake is for recreation. And it seems kind of ridiculous for me to own 130 acres on the Lake and not be able to get a dock.

MR. CREAMER: Well, you are right, there is not a whole lot that I can really say about that other than I think that is an issue that would be appropriately handled within the Shoreline Management Plan, and what that Shoreline Management Plan says. And, you know, this is news to you that it has come up at many projects, and very recently for me. And it is a hard issue to deal with, and it is an issue that I don't necessarily have the answers for.

MR. FRICK: I mean, nobody came to me and said, "We would like to make this property forest management." I mean, it's almost like taking it because, you know, if somebody had come in and said, "Would you like to put this in a conservation easement," or something like that where there would be at least some monetary benefits to doing it, it would be different. But I didn't have any input into it, somebody just arbitrarily went up there and designated this piece of property as forest management. And like I said, it's kind of hard to do forest management on a fifteen foot wide strip.

MR. HANCOCK: Tommy Boozer needs to be here

and tell you that.

MR. FRICK: Well, I have talked to Tommy. But, you know, the problem is, is that you get different responses depending upon the day, the hour, and the person you talk to.

MR. HANCOCK: We are pretty consistent on that, but forest and game management property, he is talking about land use. And the property around Project 516 has different land uses. And it was done before the last license, I would imagine, in '84. And there was property set aside for forest and game management, and that is property that SCE&G owns from the project boundary line down to the high water mark. And how they did --- I've been here nineteen years, so it was before my time, who selected those sites for that, there is a lot of forest and game management property in the upper end of the Lake. You are either in Saluda or Newberry County more than likely. And then you have property, there is a classification of property around the Lake that SCE&G still owns, it's called fringe land. Well, all of it is fringe land, but it's called future development. And that is what he was talking about possibly in the Hurricane Cove area, Two Bird Cove; it's a classification of land that is classified as future development. It could be sold to the back property owner.

And that's when the buffer zone is established. In that '84 license, we were required to keep a 75 foot set back. And

that property could have been sold if it was classified as future development. Forest and game management property was a protected classification to try to protect some of the land around the Lake from development.

MR. FRICK: I understand that, and I understand how it's very good to have two, three hundred acre pieces of property designated as forest management and game management property. But you understand from my standpoint how absurd it seems to have a 15 foot wide strip, you know, to a 150 foot wide strip, depending upon where you are on the Lake, designated as forest and game management.

MR. HANCOCK: I understand. He's talking about the property from the project boundary line down to the high water mark. It can vary in depth. In some places it may be 300 feet, you know; in other cases like he says, it may be 15 feet.

MR. FRICK: Or 5, or 2.

MR. HANCOCK: Yeah. And that's more the rare than the norm. It's more --- the deeper areas is more, from what I have seen.

MR. FRICK: But again, forest management, even if it were 300 foot wide, it is not really adequate or suitable for forest or game management if SCE&G doesn't own the other property back behind it. And it puts a burden

upon the private property owner from whom the property was originally taken under eminent domain, you know, because it

makes your property less valuable. And there is no compensation to the back property owner for that, in effect taking.

MR. HANCOCK: This is property, what he is talking about, that was bought back in the 1920s. And the Lexington Water Power Company did buy that property. And it's just been classified as a protected classification. And those classifications are being looked at during the relicensing process.

MR. FRICK: Could some consideration be given --- because I have no problem with the 75 foot buffer, I have got no problem with 100 foot buffer, to be perfectly honest with you. But being a back property owner, I want to be able to enjoy the Lake without having to go around to some public boat ramp, or whatever, to put my boat in. And all I am looking for is some consideration as far as, I don't mind the meandering cove. I don't even mind giving you concession that the lots will only be at least 2 acres in size, or whatever. But everybody likes to have docks and that type of thing. I don't think my access and use of the Lake should be restricted when it was essentially taken by eminent domain years ago. And now somebody is sitting at a desk drawing lines on a map around the Lake puts my property in game and forest management when SCE&G didn't own the back property.

MR. HANCOCK: Well, we put our property in

forest and game management. We didn't put your property in forest and game management, we put SCE&Gs property in forest and game management.

MR. FRICK: But when your property is only 15 to 150 foot deep, it doesn't make much sense to penalize me. I mean, you have got 300 acres over on the other side. So, if you put the 300 acres in forest and game management, which would make a lot of sense because deer can actually raise there, and so forth and so on. But putting the burden - the conservation burden, if you will - totally on the private property owner, I don't think is in the best interest of everybody concerned.

MR. HANCOCK: I do understand your concern, because if I owned property like that I would have the same concerns you do. But, I can't answer --- I cannot give you a satisfactory answer at this point. Especially going through the process that we are going through with relicensing.

MR. FRICK: But you would be willing to look at it with me further and see what we could do?

MR. HANCOCK: We are looking at reclassifications of property right now through this relicensing process, working with some of the Technical Working Committees, and the agencies involved, the DNR, the U.S. Fish and Wildlife, and everybody concerned. And a lot

of the stakeholders are being represented. And I don't know if you are a member of any of the groups that are in these

Technical Working Committees, but you may ought to talk to them and voice your concerns about that, and some of those groups might be Lake Murray Association, Lake Murray Coalition, Lake Watch, you know, some of those groups. A lot of those groups are in the Committees. Is that fair enough?

MR. FRICK: Yes. Oh, my name is John Frick.

MR. STUART: It would be very beneficial for you to go to that left side and go to the Lake and Land Management Resource Conservation Group, it has got all the Meeting Minutes of the Technical Working Committee and the Resource Groups, and it pretty much identifies what the issues that we are discussing or have been discussed, and I think that will give you little bit of background before, you know --- you can contact those guys. I think it would be very beneficial for you.

MR. FRICK: It seems like, you know, the people that own one or two acres on the Lake, you know, and they have got 100 foot, and they have got a dock, have a lot more input in what is done at the Lake than the people like myself that own 130 acres and yet mine is restricted, you know, adversely so. And we have very little --- seems like we have very little input even though we are a much larger stakeholder.

MR. STUART: This process has been ongoing since last October, and we have encouraged all public

participation whether you own a tenth of an acre or ten thousand acres. So, it is not too late to get in. But, like I say, you would need to kind of do your homework, catch up. And the Technical Working Committee Meetings, or the Resource Survey, are open to everyone. They are primarily can meet the capacity of an observer unless you do your homework catch up and get up to speed to the issues where we are. We can't stop and go and restart. But can demonstrate that you are caught up, and you understand where we are, you are certainly willing to be an active participant in any of those groups.

MR. FRICK: What was the web site?

MR. ALLAN STUART: The web site is [www.saludahydrorelicense.com](http://www.saludahydrorelicense.com).

MR. ARGENTIERI: I just want to add something. This is Bill Argentieri, with SCE&G. There are other reasons that could play a factor in the reason why that certain piece of property might be designated the way it is, and that has to do with ESAs and other environmental issues. But, if you would let David know where your property is while we are reclassifying, or going through the reclassification process, they can take a look at that specific property and see what is involved and the reason for its classification. And if there is --- if we have the ability to change a classification, then we can take a look at that. If there is a specific other reason, an

environmental reason, for it to be classified the way it is, then there most likely would not be the opportunity to change that. But if you could let David or Tommy know which property in particular you are talking about while we are going through the classification process, we will address that.

MR. STUART: One other thing I wanted to add. Some of the recent discussions we had where we are trying to promote homeowners that run down to the 360 to try to establish buffer zones and some other things, and civic programs. so I suggest you really get involved. So, we recognize your --- and just come to the table and --- we are not unreasonable in these, I mean, you know, there are still State agencies, Federal agencies, that you tell these folks.

MR. FRICK: There's one other aspect to this, also. We look at the development of the Lake, you know, talk is done in the papers and all that about a leaking septic tank, and this type of thing. The real danger to the Lake is not septic tanks simply because if the lots are large enough, you know, the septic fields keep all of the earth soil in the nutrients pretty much on site. The real danger to the Lake is from all the public whose treatment plants, which dump the affluent property into the Lake. You know, that affluent really ought to go elsewhere

because all the water soluble nutrients they go through an anaerobic and aerobic digesting process, which supposedly

kills the bacteria, but that doesn't kill the chlorine in it. But the water soluble --- the algae and all that come from all water soluble nutrients that the water sewer authorities and so forth put into the Lake. Now, on TV after Charlotte, okay? We have them put the deionizer beds (phonetic) in, take the phosphorus and potassium, and so forth and throw them out. So, a greater look when you look at water pollution, algae bloom, Hydrilla blooms, and so forth, some needs to go back to some of these public municipal water treatment plants and so forth that are really the main cause of the nitrate and potassium levels, not the farmers, not the septic tanks.

MR. STUART: Just kind of a point of order here. There are no waste water discharges that dump directly into Lake Murray, there are a couple that discharge into, I think, the Lower Saluda and --- there's several, that's where they are. And our Water Resource Group, SCE&G has identified that for a number of years, we have been working forward.

MR. FRICK: Everything on the Lake side of the railroad lines, and so forth, dumps into the Lake. That goes directly into the River.

MR. STUART: Yeah, I encourage you to go to the Water Quality Resource Group, the Conservation Groups, a

lot of professionals in that area. It is definitely widely recognized, and even though they are outside the project,

per se, they are looking at as many ways of maybe (inaudible). A lot of that probably would fall on DHEC, a regulatory authority. It's certainly worth catching up on, I think it would be very profitable.

MR. MALCOLM LEAPHART: Malcolm Leaphart, Trout Unlimited. If I could change your topic. I would like you to discuss a little bit about the Federal Legislation that provided for fish friendly flows. I know that things have changed a lot over the years, particularly like over the SCE&G license. This is something that you now have to factor in to these plans, and wondering if you could give us an example maybe of the Southeast tail race that maybe has a different type of license requirement, or requirements, because of the requirement for that as opposed to it not having that Legislation.

MR. CREAMER: Probably the best example, the Legislation you are talking about or some of the Amendments to the Federal Power Act, Energy Policy Act of '92, and some of those. Probably the best project in the Southeast that I have the most knowledge of because I worked on it would be a little bit north of here that borders North Carolina and Virginia, and that would be the Roanoke Rapids, the Gaston Project. They did some very good things with regards to environmental measures, with regards to flows and project operations, at that facility. And both from a ramping standpoint, flows for fisheries; not so much recreation,

although there was some consideration given to recreation but because of the location of the project there is not a lot of whitewater. But one of the big issues for them on that project was flood plains, and bottom lands, forests, and protecting those. And so they did some very good things with regards to changing and their license with regards to operations that will go a long way to enhancing those flood plain areas.

MR. REED BULL: I am Reed Bull, and I represent the Midlands Striper Club here that uses the Lake, and a very interesting striper population. And for quite a few years there has been a problem, and it is not every year, but it happens fairly frequently. There are some striper kills during the summertime due to the dissolved oxygen, depletion, and basically we are on the Resource Groups and all of the developing information studies now because nobody really knows --- well, we know what is causing the problem but nobody really understands the circumstances that make it happen and what can be done. So, from what I hear you saying, I mean, we need to have studies done to find out as much as we can, and then come up with recommendations that would go to your group to make some decisions on what would be included in the licensing. And, is that basically the process? And, what can you tell us about that?

MR. CREAMER: Yeah, that's essentially the

process in a nutshell. You know, what our expectations are of this process is as it starts is the involvement, you know, all the relevant parties around the table and identifying what the issues are. And from that, then the company will sit down and try to decide, "Okay, now what do we know and what do we need to do to fill some data gaps to address the issues?" And, so the necessary studies are done and that information along with the existing information is then used by the group to come --- hopefully, will come to some agreement on what needs to be done to address the issue. And then that becomes --- if there is agreement amongst the parties, that becomes their proposed measure, part of their proposed action in their application. And the Commission certainly looks with favor on agreements reached by parties. You know, to the extent that parties can come together and resolve through local decision making and local solutions, really. That's what we like to see, because otherwise you put the decisions in the hands of those of us in Washington that doesn't know your particular needs down here. And all we have is what we have in front of us, the paper record and that sort of thing. So, what you said was essentially the process, all that information is used, those are done, gathered, information gathered, and that all is used to arrive at a decision for an operating condition and a license.

MR. BULL: One of the things that might

affect that is the EPA now has a requirement that all bodies of water must have TMDLs established, and that. Now, Lake Murray does not have those. DHEC at some point in time, Department of Health and Environmental Commission is responsible for that. At some time they plan to establish those. Well, we have --- how can that relate? Obviously that may take longer than what is involved with this relicensing process. But how could possibly that be part of the relicensing process, because as they were talking about the sewer treatment plants, and problems; there are a lot of chicken farms, turkey farms, cattle farms that are up these rivers that, you know, we could establish some things under that TMDL process that would benefit SCE&G. And that is something they don't have control over it now, but can somehow that get into this process that that would be a long term goal of the process?

MR. CREAMER: Certainly. I mean, we have a lot of projects that have TMDLs established for them that -- you look at the license requirements and, you know, some of those things that are in the TMDL that they are required to meet, get translated into a license requirement. So, certainly. I mean, it is something that we are very cognizant of and we will address it to the extent that we can during relicensing. And if there is information gathered along the way as this relicensing is going on that is germane to the relicensing effort and can be used in the

relicensing, I would certainly encourage the use of that information. Now, that TMDL process might not be complete before this licensing process concludes. I mean, I don't know what the schedule --- what time line you are talking about. But, the other thing that these licenses typically have in them is re-opener provisions. So, if something comes along like TMDL as that process concludes after a license is issued for this project, we have the ability to go back in and include to the extent that we need to things that came out of that TMDL that is relevant to this project. So, we have the ability to go in and change that license. So, you know, we do it with Endangered Species Act consultation stuff. And so certainly we have mechanisms for handling that. We have gotten criticism over the years with regards to delaying processes because we are waiting for this, or we are waiting for that. And so we are making a concerted effort now to find inventive ways to keep moving forward with these things, and still being able to do what we need to do environmentally and under the Statute. So, re-openers are a big part of what we do now.

MR. STEVE SUMMER: Steve Summer, with SCANA Services. I would like to make a comment about the TMDL process. And, Andy, you jump in if I say something wrong. The TMDL process is driven by impaired waters, or waters that don't meet State Water Quality Standards. So, in the instance of, say, sewage treatment plant input, you might

have a condition where phosphorous might be higher than what the Water Quality Standard might allow. And then the TMDL is established to control, or at least, limit the sources of phosphorous that are coming into an area. So, to get a TMDL, first of all, you would have to have a Water Quality Standard; secondly, a body of water that is listed in the 303D list, I think it is, as impaired for that particular pollutant. And then, the State could establish a TMDL for that pollutant. Is that right, Andy?

MR. ANDY MILLER: Yes. I am Andy Miller, with DHEC, Bureau Water. And I did want to comment on what Steve said. He is exactly right. You do need to have a impaired water, and it just so happens that in two arms of the impoundment of Lake Murray we have phosphorous impairments. And we have been --- DHEC and some of the other stakeholders that are involved in this process now have been trying to develop, or at least get the means to develop a TMDL for phosphorous. And that is still ongoing. We are having discussions both within the FERC relicensing process, the Resource Conservation Groups, and outside, you know, the efforts are continuing to come up with those means for developing that. But, I had a question. You had mentioned that TMDLs had been a part of other projects. And I was wondering, do you know of any --- can you name any projects in which a TMDL was a product of the FERC relicensing process?

MR. CREAMER: Speaking from my experience, no, I can't think of any off the top of my head; it doesn't mean it doesn't exist. But, most of the ones that I have been involved with the TMDLs have gone on, you know, they coincide with relicensing, or they occurred ahead of the relicensing. But, any with the product of relicensing, off the top of my head, no, I can't think of any. But that doesn't mean that they don't exist. And that is something that I can look into and get back with you on it, if that is what you --- you know, if you need that information, I would be happy to do that I am sure if you have got a card, or I can give you my card later.

MR. RON AHLE: I am Ron Ahle, with the South Carolina Department of Natural Resources. And, I am very interested in what you just said about re-openers. I have been involved with relicensing projects for many years, and can't say that I have ever been involved with a re-opener. I am not sure if it is better to go ahead and put provisions in your license that you are currently working on that you are going to address certain things in the future. You know, putting it in upfront instead of waiting until later on to find out that you need a re-opener. What is involved in a re-opener? Who can request it? And, who has to agree to it? I think that is basically my question.

MR. CREAMER: Okay. There is essentially two types of re-openers in just about all the licenses that

we issue now. One of the falls under the purview of our Standard L Forms, which is the generic license requirement for every project that we issue. There is a standard re-opener. There is a public process involved. I mean, we can't go and re-open a license without going through the company and having a public process. That is one mechanism. It has been used sparingly. Usually what happens --- I am thinking back in the last time I have looked at this type of information. There might have been two or three cases where that type of re-opener was used. Typically, what we try to do is work with the power company and other stakeholders to try bring resolution to the issue without having to use that. Our Compliance folks work in that fashion. So, that type of re-openers may be --- the last time I looked at this kind of information two or three times. The other type of re-opener that you see quite often in licenses is specific to Articles. There are type of Articles we include are our standard, they are a Series 400 Articles which are the specific Articles; they are not general, they are very specific with requirements. And, those Articles can have in many cases provisions in them to re-visit based on information --- let's say a condition is put in place, and then there is some monitoring that goes along with that. There typically is provision in that Article that will allow us to, based on that monitoring, make changes.

MR. AHLE: Is that the preferred?

MR. CREAMER: That happens much more often. You know, relative to implementation of Articles, that is a very common thing. And that seems to work. You know, it seems to work fairly nicely; I haven't heard too many ever since we started doing that. It is kind of --- we don't use the term, but it's in effect deaf (phonetic) management. And we have been using that more and more, because we know we can't answer all the questions in the time that we have.

MR. TIM HARGHLAY: Tim Harghlay, again. I already tried this once with you, and I was wondering though --- I didn't realize all these other folk around, perhaps somebody from SCANA can explain what may or may not going be happen with what is the equivalent of the swimming beach over there? Like, I was there when there was a near drowning and nobody could call for help; and there is a bunch of double talk as to whether there is any --- whether it is in SCANA's best interest to have anything like a telephone to call for a EMS. And it would appear to me that at this point in time when you have got it all coming up, you might think through it. And I was just curious if you have.

MR. DAVID HANCOCK: David Hancock, again. The park site that he is talking about is the park site on the Lexington side of the Dam, and is where we have a public beach area. It is a "swim at your own risk" area. There is a security phone that was tied directly to the security

guard office up there at the gate. And, that is going to change now with the situation, we have a whole new guard house now, and I don't know if there is going to be a public phone down there for after hours. I am not sure about that yet. But, there is a phone down there where the security guard's office is --- you know, not his office but there is a little security office down by the beach. And that phone is directly tied to the phone in the guard house when that guard house is manned. We do not man that twenty-four hours a day.

MR. HARGHLAY: I used that very phone after I saw somebody all but drown, and it just went up to the little lady that takes money. And they just sort of nonchalantly walked down later. They don't have any process where they call your emergency operation center, they have no process to call for anything. And since they are not going to do anything, it would nice if there would be an alternate way that the public could in fact call for help when help is necessary.

MR. HANCOCK: They do have a process. And they are required to call 911 and notify our claims office and also notify security personnel. But, they do have a process, and it is written down.

MR. HARGHLAY: I have written several letters and got "Go mind your own business," answers. So, you might want to take another look at it.

MR. HANCOCK: Who have you written that to? Who did you write your letters to?

MR. HARGHLAY: President of SCANA, the Sheriff of Lexington, talked to your emer --- well, that is my phraseology, I mean, you know.

MR. HANCOCK: Did you get a written response back from the President of our Company?

MR. HARGHLAY: Yeah. He said he was reviewing it, and ---

MR. HANCOCK: Okay.

MR. HARGHLAY: "Don't bother me," you know.

MS. CLARISSA ADAMS: My name is Clarissa Adams, I am a boat owner, but we own property in town. And I just wondered if you all were considering --- I don't know the ins and outs of it, haven't gone to the web site so I apologize for not knowing a lot of the other things. But, like in Charleston or on the coast, there are a lot of ways that you can purchase a dock-a-minium. So, you own --- legally, the way they do it is you own a tiny parking lot, or a parking space because then you buy a dock so you are able to permanently keep your boat there. And I think the requirements --- and I could be wrong, but I have heard that if you have a boat that is over 30 feet, you are not allowed to keep your boat at that property. So, and our boat is larger than that. So, buying a piece of property wouldn't solve that. So, I just wondered is there a way --- and, I am

not a --- I don't own property up there, but is there a way for someone who did to market that? And would they go to y'all? Or, would they go to a Commission? Or -- it is just something I am interested in.

MR. HANCOCK: On Lake Murray, we have what we call multi-slip facilities. Windward Point, I guess, where you guys have a boat tied up now, is one of them. And in our general permit that is issued by the Corps of Engineers, DHEC put in a requirement that you couldn't have a boat larger than 30 feet parked at a residential dock. And, the purpose of that was mainly because of most boats that were larger than 30 feet had on board toilet facilities, and they would be required to be at a multi-slip facility where there were pump out stations. And that was the purpose of putting that in the GP. We are in the process now, you know, with the Lake Management, TWCs, and Shoreline Management Plan, to talk about those type issues. But right now, Lake Murray does not have dock-a-miniums, or whatever you want to call it. But we do have multi-slip facilities that are --- some are leased and some are owned by individuals, maybe within a development, or whatever. Did that answer your question?

MS. ADAMS: Right. But a person can't --- like we lease, or we pay a dock fee every month, but an individual can't buy --- in other words, if I had a large piece of property, I couldn't sell docks ---

MR. HANCOCK: That's correct.

MS. ADAMS: --- for them to own forever, and still have to pump out --- in other words, in the coast it's like a private marina, I guess, but you own that dock.

MR. HANCOCK: And some of that may be changing on Lake Murray because of some of the new --- they are old projects, they are old multi-slip facilities; but they may be going from a public facility to a private facility. And they may sell that slip to an individual.

MS. ADAMS: They don't have to go through y'all to do that?

MR. HANCOCK: They're an existing facility. They already have gone through us. You know, SCE&G --- I mean, get a look at it with the Corps of Engineers, as with a multi slip facility. And right now, we have a moratorium on any requests for any new multi slip facilities until we get through the relicensing process.

MR. GARY CHESNO: My name is Gary Chesno, I am a recreational fisherman, kayaker. I don't know really who to direct this question to, SCE&G or Federal Energy Commission. But, can you guys talk about how the release coming out of the Dam is going to change with this new relicensing, or just some information on the flow coming out of the bottom of the Dam changing erratically, and things of that nature? Thank you.

MR. BILL ARGENTIERI: This is Bill

Argentieri, with SCE&G. Our future flows will be determined through this relicensing process. That's part of both the Water Quality, Fish and Wildlife Resource Conservation Groups are looking at the types of flows, whether they be minimum flows or other flows to help support the Water Quality and the Fish and Wildlife in the River. So, that has not been determined, that is what we will be determined through the process. So, to say what specifically the flows will be come relicensing, we don't know at this time. We are still in the process of doing studies to help determine that.

MR. REED BULL: Reed Bull again. A quick question. What is the criteria that determines whether you issue a thirty year license or a fifty year license? Excuse me. In this process?

MR. CREAMER: Okay. The criteria. It is based on the amount of redevelopment at a site, and the amount of environmental enhancements that is being proposed.

As we talked about this a little bit this morning, there are three categories basically. The Commission can issue a thirty year, a forty year, or a fifty year. That's typically what you see in licenses. A thirty year license generally has little, if any, redevelopment or environmental enhancements put in place. A significant amount of

redevelopment and/or environmental enhancements, generally we look at that as potentially a fifty year. And then the

forty year falls in-between what we categorize as moderate level of redevelopment. And there is no quantitative criteria, it's based on our judgment of looking at the project, looking at what the cost of power is, and what all of the enhancements are going to mean to that project. And then that goes into our decision whether or not the Commission is going to issue a thirty, forty or fifty. Now, one variable in this, is that while most licenses are thirty, forty or fifty, the Commission has in the past issued licenses that might be say twenty-seven years --- or, not twenty-seven, let's say thirty-seven. And the reason they do that generally is, if there is another project in the basin and they want to coordinate relicensing so that you can look at a basin more comprehensively, if they are close enough in the process in terms of relicensing, the Commission may opt to kind of coordinate the license expiration; so, you might see a thirty-seven year license somewhere. So, it just depends.

Any other questions?

(No response)

MR. CREAMER: I guess, if there are no other questions, I guess we are done.

MEETING ADJOURNS.

