

SALUDA HYDROELECTRIC PROJECT RELICENSING

FERC PROJECT NO. 516

Joint Agency & Public Meeting

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9:00 A.M. Session

HOST:

Allan Stuart, Kleinschmidt Water Resources

PRESENTATION,

Questions and Answers:

Allan Creamer, Federal Energy Regulatory Commission

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MEETING BEGINS:

MR. ALLAN STUART: The main point of today's Meeting was, in the course of these RCG Groups, we had some inquiries on the FERC's perspective on a number of things; and Bill Argentieri got with Allen Creamer who has been assigned to this project from the FERC, and Allen was gracious enough to come down and answer a lot of everyone's questions with respect --- or, from the FERC's perspective.

So, if you would, we have got a couple of kind of ground rules. We have to walk around since we are video taping, audio taping, Alison will be walking around with the microphone, and if you would, state your name and who you are with so George can get it incorporated into the record, and Allen can begin to put a name with a face, and a face with a name. Do we have any questions on the progress of the relicensing right now? We are pretty much on schedule. Most everyone in here to some degree is an active participant. But, I certainly would answer any questions. With that --- yes, sir?

UNIDENTIFIED: Maybe I am not supposed to be here. I just saw it in the paper yesterday and decided to come. Is that all right?

MR. STUART: Oh, absolutely. These public meetings are just for that. Anybody that is interested in

what is going on during the relicensing of the project, we encourage you to come. You are actually encouraged to come

as an observer, if you would like, to any of the Resource Conservation Groups. We frequently have students from the USC sit on them just to find out what is going on. So, if there is a Resource Conservation Group, one of the seven; we have Operation Safety, Fish and Wildlife, Water Quality, Cultural Resources, and Lake and Land Management. So, you are more than welcome, just get in touch with Alison Guth and let us know you are coming, because there is some security issues that you have to go through. We typically meet at the Training Center. But, no, you are more than welcome, and that is what these public meetings are for is to get people who have an interest in the relicensing, but just don't really have the time, but want to get their voice heard. With that, I am going to turn it over to Allan; and Allan is in the Licensing Division of FERC. One thing I did want to point out, and I pointed it out in an e-mail to the Group members. If there is questions regarding some land transaction, or some pending Motion, or something like that, Allan is not in a position to answer those questions; he is not in that Division, actually. And so, if there is process questions with respect to the relicensing, that is primarily what he is here for, and I am going to leave it to him. There is some things I think he is prepared to --- you know, his responsibilities, and he may get questions, legal questions or other things that is not his area of expertise, and he probably will not offer an answer to those. But, I am

going to let him make that determination. With that, I am going to introduce Allan Creamer from the FERC.

MR. CREAMER: Good morning. I have got so many wires under me here, I am trying to --- can you hear me okay up there? Okay. As Allan said, it is kind of easy to remember names, my name is Allan Creamer; I am with the FERC out of Washington. I have been with the Commission for almost fifteen years now, just to kind of give you a little of background, it will be fifteen years in July. My primary area of expertise is as a Fisheries Biologist. I deal with fisheries issues, aquatic issues, water quality stuff, things of that nature. I had been assigned to this project some time ago just kind of baby sitting it, so to speak, knowing that it was going to be coming in and relicensing was going to get going. Some years ago I had been involved a little bit with the Commission Order that extended the license during the Dam remediation work. And so, you know, I have a little bit of familiarity.

UNIDENTIFIED: Can you talk a little louder, or talk just a little bit so --- I think there is a wire ---

MR. CREAMER: Okay. I might end up having to talk ---

UNIDENTIFIED: Are they on?

MR. CREAMER: Yeah, they are on.

UNIDENTIFIED: Okay.

MR. CREAMER: Apparently I am going to have

to stay at the podium, which I didn't necessarily want to do.

UNIDENTIFIED: It's just the vents that flow back this way.

MR. CREAMER: All right. Can everybody hear me now?

AUDIENCE: Yes.

MR. CREAMER: All right.

(Off the record)

MR. CREAMER: Anyway, getting back, I was involved a little bit early on with the Order that created an extension to deal with the Dam remediation work. So, have a little bit of a background, not much history with the project, but a little bit. I did come down yesterday and I got a little bit of a lay of the land; I did take a tour of the Power Plant and went out on the Lake a little bit, and just to kind see what there is to see, and get my things that had been brought up. So, hopefully, I will be a little bit prepared to talk, you know, and understand the issues and things that are being raised today. As Allan said, I am in the Relicensing Group, I am not with the Compliance Group. I am not all that familiar with all of the lands issues and things that are going on, the pending stuff. So, I would ask that you refrain from asking questions about those sorts of things because I won't be able to necessarily

answer them. And, as much as we would like to think that we are practicing attorneys, we are not, as biologists. So, you

know, relative to things, legal issues, basically all I am going to be able to do is talk relative to what the Commission has done in the past, and where they have come down on various things. So, I won't be able to speculate on what the Commission may do in any particular area, other than potentially talk about what they said in the past about similar type of things. So, with that, I guess if anybody has any more procedural type of questions, I guess we can get into what you all are here for; and I guess I can just dawn my vest, and you start firing away.

MR. BILL MATHIAS: Bill Mathias, Lake Murray Association, Lake Murray Power Squadron. At the Safety Meeting recently we got into some discussions about safety, but it pretty much centered around shoal markers. And after, a lot of give and take, it appears that a mandate from FERC is that SCE&G is responsible for the safety of the Lake, not for shoal markers specifically. So, my question is, how do you define "safety"? Can you give me an operational definition for "safety"?

MR. CREAMER: I don't know that I can necessarily give you an operational definition of "safety".

You know, the Commission does hold the licensee ultimately responsible for public safety on the Lake, activities within the project boundary. Now, how that carries through, it

varies from project to project. There are cases where we have applicants that are responsible, or licensees that are

responsible, for navigation markers, shoal markers, that sort of thing. You know, they take that responsibility on themselves. In other situations there are other entities that bear that responsibility, whether it be --- in many cases a State Agency does it. But, in a few cases there's like homeowner groups and different groups like that that do it. So, it varies from project to project who has and who does bear that responsibility. But, you know, ultimately from a public safety standpoint the Commission does hold the licensee responsible for what happens within the project boundary. As I understand it, here in South Carolina the DNR is, I guess, by Statute, from what I understand, bears that responsibility.

MR. MATHIAS: Even shoal markers.

MR. CREAMER: Right.

MR. MATHIAS: My question really goes to some broader than that. Is vessel safety, search and rescue, law enforcement, aids to navigation? What all categories of elements are included within safety? Or, keeping statistics on incidents of deaths, or serious injury, or for whatever? Or, designating take out points for helicopters, transport? You know, what are we talking about?

MR. CREAMER: Okay. I don't know that I am going to be able to fully answer that. What I can tell you is, typically projects like this you have multiple parties



that are responsible for making things happen. The Commission doesn't necessarily like to put a licensee in the position for policing activities. Generally those type of things fall on other entities. Now, to the extent --- I mean, we do ask our licensees to work with these local law enforcement agencies. We do expect that they work with these other jurisdictions to ensure public safety. That is the tactic the Commission has taken in the past. But like I said, ultimately the licensee is responsible for what happens within the project boundary. I don't know if that -- I mean, that is probably the best answer I can give you to that question.

MR. MATHIAS: The way I interpret your answer is, FERC really does not propose to get into a lot specificity; they just assign the mission to the licensee to deal with safety without further explication of what elements there are to that. Right?

MR. CREAMER: Yeah. I mean, I'm not --- I could probably go back and look at particular cases where the Commission might have said certain things. You know, where the Commission might have said certain things about various aspects of public safety. But generally speaking, it's an area that --- it's a touchy area and a gray area for the Commission relative to how far the Commission typically

will go. And like I said, it generally is a project by project type of evaluation, and it's case by case.

MS. JOY DOWNS: I'm Joy Downs, Lake Murray Association. Is there an agreement required then between the licensee and the various agencies? Would FERC require them to have agreements, for example, between the Department of Natural Resources and the licensee?

MR. CREAMER: We do look for --- in license requirements, one of the things that we will put in is, we will ask for who is responsible for what? So, if you want to call it an official agreement, that's fine. But, we do look for some explanation from a licensee as to who bears responsibility for what aspect? And, our jurisdiction --- the Commission's jurisdiction is simply limited to the licensee. And, this is an area where I don't know ultimately how the Commission would handle it if another entity who said they were going to be responsible for something is falling short. I don't know what the Commission would do in that particular instance relative to the licensee's ultimate responsibility for safety on the Lake. I am not familiar with a situation where they have had to step out there and do something or say something about that. But, you know, it is certainly possible that if somebody that said they were responsible is falling short, and we could theoretically go back to the licensee and ask them to --- or, require them to address the issue in some fashion. But, to answer your question, if it's a formal agreement that's fine but it doesn't necessarily need to be that; it just needs to be an

understanding that's on paper when they file a plan that specifies who is responsible for what aspects of safety on the Lake.

MS. DOWNS: But if some agency were falling short, then you would expect the licensee to address it?

MR. CREAMER: We would expect the licensee to address that short coming in some fashion.

UNIDENTIFIED: --- with the Lake Murray Association. If you could introduce yourself and who you are with, it would be wonderful. Thank you.

MR. STEVE BELL: Allan, I am Steve Bell with the Lake Murray Watch. We are in what they call an Enhanced Traditional Process, SCE&G has chosen to do this, and we appreciate them doing this and allowing us to have full participation in this process. And things right now are going okay, and look pretty good. But, if things bog down before this process is over and the process doesn't move forward, can the FERC come in and basically help and assist in resolving problems to get the process going again?

MR. CREAMER: Yeah. I mean, to be sensitive that a state water group or a licensee would need help getting through a process, certainly. I mean, any party can come to us and ask for FERC's assistance. So, there are various avenues that they could take. We have a dispute

resolution service, they could get involved if that is what was necessary. You know, FERC's staff, like myself, we have

various staff that has had a lot of experience in facilitating. And so, yes, if need be certainly we can get involved to try to bring it to some --- you know, ultimately they are going to have to file an application, whatever that looks like. And if the parties need assistance getting through that and getting to that point to try to resolve issues, anybody can approach the Commission for that assistance.

MR. BELL: The Commission has the legal right to come in at this stage of the process and actually assist in dealing with any problems, you believe?

Mr. CREAMER: Well, again, I am not going to --- I am not an attorney and I am not going to talk about legal rights. But, I do know that if there is a need for the Commission to step into a process if some party feels that there is a need, they can come to us and ask for that, and we will make a determination whether we are going to get involved or not, the Commission.

MR. TONY BEBBER: I am Tony Bebber with the South Carolina Parks Recreation and Tourism. And, we have had a number of discussions this week and the last couple of weeks about the recreation data gathering and that kind of thing. And, just wondered if you would relate some of the processes that other projects may have used to collect data

about --- or, to determine current and future recreational needs? Are you aware of those? I may have put you on the

spot, I don't know. You may not be in that area.

MR. CREAMER: Well, sort of because, I mean, I really don't follow the recreation side of things relative to studies and how various things are done. You know, career surveys, you know, I could talk about career surveys, that goes a little bit about my training. But, general recreation type of trends, I know that typically a licensee will go out and get a consultant to do the recreation studies. And most times they are going out and they are doing counts, they are trying to get an idea of carrying capacity, boat capacity. They are trying to find out the use of facilities, how many people are using the facilities. And, are they being used to capacity, fifty percent of capacity? You know, those sorts of things kind of give out is there a need for additional public access? That's probably the extent to my understanding of recreation type of studies.

MR. DICK CHRISTIE: Good morning. I am Dick Christie with the South Carolina Department of Natural Resources. We are in the process now of identifying study needs and developing the studies that SCE&G will conduct, or hire somebody to conduct here in the near future to gather the information. Can you share with us from a process perspective what would happen if the studies are completed

but people feel like maybe there is still a lot outstanding questions that need to be asked? Is there a process that

can resolve that issue, that you could talk about?

MR. CREAMER: Okay. If I understand your question, depending upon where in the process --- you know, if you are talking about a study that might be done two years out, and say two or three years before the application will be filed. If there is enough time, you do the study and you look at the results, and you say, "Well, okay, it raises more questions." Or, there might be an issue relative to, "We didn't quite capture something that we needed to capture."

You know, theoretically there is additional time and other study seasons, you can go out and try to address those issues. Now, if folks come to logger heads and it's just about interpretation, then basically what would happen is some party would have to file with the Commission a request to resolve the dispute. And then the Commission would step in and look at things, and gather information, and make a determination whether or not something additional is needed. Now, certainly if you are like running up to the clock and they had to file an application, and there is issues relative to various studies or a particular study, to file an application with the study as it is and then we will take a look at it at that point and make a determination whether or not that study is valid. And if it is not, then

we may, as a post license requirement, go back and tell the licensee that they need to address something specific that

wasn't captured, or wasn't captured quite good enough, in the original studies. But, we don't like to --- the Commission does not like to hold up processes simply for --- but, yeah, we need to have enough information to do our job. So, we will take a look at it, and if we have enough that we can do our job, we will go ahead and process the application; ultimately we may end up saying that they need to go out and do some more work. And then there will be a re-opener that if that study shows something that we need to go back and take a look at the license we have the ability to do that.

MR. STEVE BELL: Steve Bell, with the Lake Murray Watch. Allan, when y'all review a license application, I guess ultimately you have to determine whether or not, you know, the license based on --- Let me repeat the question here. In reviewing an application, the FERC must ultimately determine whether or not to issue the license based on the public benefits that would be derived from the use of public waters for the next relicensing period. What process do y'all use to identify and quantify the public benefits associated with hydro power generation?

MR. CREAMER: I am trying to kind of process this thing in my mind here. That is a tough question to answer, again. I think it's a project specific type of a thing. You know, we are going to look at the process as a whole; we are going to look at what people's comments have

been, where they are at with various issues. We take a look at comprehensive plans that exist for river basins. We are going to look at everybody's comments and based on that, try to determine what is in the public interest relative to what all that says. Now, equal treatment is not necessarily the same as equal consideration. Okay? Under the Federal Power Act, the Commission is obligated to give equal consideration to all issues. Okay? We need to take a look at every issue that is raised in a particular proceeding. But that does not necessarily mean depending upon how the local environment is, so to speak, with public and resource agencies. There may be some issues that may need to be treated a little bit differently, that may end up being weighed more than others, and that's the whole balance question. So, it comes down to really kind of what the process dictates relative to a balance. I don't know if that answers your question.

MR. BELL: In your final decision, would we expect you to specifically quantify the public benefits derived from hydro generation at this project? In other words, how that facility out there actually benefits the public in some kind of value dollar amount?

MR. CREAMER: You know, relative to generation, yes. I mean, what typically happens in our developmental analysis is generally there is an inter-actional part of where we look at the facility as it is. You



know, that is one alternative. There is another alternative which is basically what we call a proposed action; and that is what a licensee is proposing to do. And then we will look at various alternatives other than those two relative to additional measures that other folks may have recommended. And then economically, we are going to look at what that does to the generation of the power plant, and the cost to operate that. So, yes, they are from a dollar perspective generation and a cost, we do that for the alternatives that we look at.

MR. BELL: I can't read this. I noticed that in an application that you do look at the different alternatives and the cost associated with any recommended changes. And so, you are basically saying that if there is recommended changes in operations that you would require them to actually give you a cost of --- the cost of those changes?

MR. CREAMER: Well, what we are going to do is, if you look at Requirements to the application, we require them to file various economic, certain economic information relative to that project: cost of power, and various things. And, I am drawing a blank right now what they all are. But, we will take the information that they give us and put it into --- you know, we will do our little economics model. And then we do that analysis ourselves.

MR. BELL: For example, it mentions here in

the Federal Regulation that, for instance if someone proposes that lake fluctuations be modified from their existing --- how they are managed now, that the licensee would give you a cost figure on modifying it to accept that proposal. And we would expect that that be done in the --- when the application gets to you.

MR. CREAMER: Yeah. I mean, they are going to give us their cost. And they are going to cost these things out. And then we are going to take a look at that and do an independent analysis of it. And, in the environmental document there is a section called "Developmental Analysis" section, where that is where we take a look at the cost of everything that has been relative to if there are changes in lake level fluctuations, flows down stream, various things like that, cost and measures; you know, rec facilities, have costs to them. And those things are all factored into that analysis. And we ultimately come out with a number that, you know, annual generation, and the cost on an annualized basis, the cost of operating that project. So, there is the cost as compared to the cost of alternative power. And that is how we come up with our quantification; or, you know, what's the public benefit to that.

MR. BILL MATHIAS: Bill Mathias, Lake Murray Association, Lake Murray Power Squadron. Is there any way for those of us who are sitting here working on this

project, and most of us have no experience working on other projects, is there any way for us to get any kind of systematic feedback of good ideas/best practices from these other facilities that may or may not be applicable, but might enrich our conversations here without us trying to just re-invent the wheel?

MR. CREAMER: Certainly. I mean, if you have got particular things that you would like to know what other projects do, you can let us know and we will try to put together a list of those projects and what those requirements ultimately were for those projects. I have done that before in other proceedings. So, it's not out of the realm of possibility, we just need to know what you are looking for specifically so that we can look into our records, and find the projects that are relevant.

MR. BOB KEENER: I am Bob Keener, with the Lake Murray Association, and also the Lake Murray Southside Community Association. I have a question concerning buffer zones. About twenty years ago you all established the buffer zones which we think is a very good thing. It's too bad that we didn't start them earlier so that we would have a little more protection of the Lake. My question relates to the fact that that buffer zone is not owned by the back property owner, but ownership is retained by the Power Company. I have no problem with that. Is there a requirement in the license, real or implied, that the Power

Company, or FERC, or anybody else needs to publicize the fact that that property is available for public use? The concern that we have is the back property owners that build a residence behind the buffer zone find that a group of people come in and have a lively picnic gathering, or a fishing party, or an old fashioned beer party on the shoreline in that buffer zone, which is public land. That poses some real serious problems for the future, as I see it. I just wondered is there any feeling that it's incumbent in any way upon the Power Company to publicize the fact that those lands are available, and can and should be used by the public?

MR. CREAMER: Okay. Those lands as the existing buffer zone, whatever is within the project boundary. Okay? And if it includes those buffer zones, you know, the Commission generally looks at that --- I mean, that is public access. That is open to public use. Okay? Whatever is within the project boundary. Now, having said that, there is nothing --- at least I don't believe, that there is nothing that would suggest that Power Company can't sit down with the stakeholders and basically put together a plan that encourages certain uses in some areas, and discourages uses in others. In other words, you know, say for example your buffer zone --- if somebody wanted to pull up and just get out and stretch their legs, all right. You know, that is an activity that probably is an appropriate

thing, at least in my mind; as opposed to if somebody wants to pull up and they want to set up camp in front of somebody's house. That may be an activity that, while it certainly is permissible, you maybe don't want to encourage.

But I don't think we, because it is public access, it is what it is, we can't restrict the uses; but you can certainly --- at least, I think, encourage camping activities or things like that in the areas that are designated for that and discourage, not recommend that those type of activities be done along the shoreline in front of somebody's house. You know, I think that is something that can be handled within the context of this Shoreline Management Plan, and how those uses are laid out. I was thinking about this last night, and it probably is something that our Compliance folks would probably take a look at; and they may ultimately say something --- that the compliance people are going to --- you know, what is appropriate and what is not. But I am thinking as public access is, I draw back to a project that I am currently working on in Missouri where the developer went in and put a sea wall in. And they cut off access, public access, to the lake for another community. And the Commission required them to go pull a permit, stop the sea wall, and then the developer had to go back in and put a path that cut through everybody's lawns;

so that, that one community still has a public access. So, public access is what it is, and if it's in the project

boundary it has to be such. But I think the group as a whole can either --- you know, you can decide to encourage something in one area, and discourage it in another. That's probably the best you are ultimately going to be able to do.

MR. KEENER: I think I understand what you said. But, the question that I still have is, is it really appropriate for this seventy-five foot strip to be considered as public access? I would suggest that the FERC ought to re-visit that issue. The buffer zone is good, there's no question about that. Nobody argues with that point, I don't believe. Some developers may. But still, the public access being available is something that does raise a question. Whether or not the back property owner who has a residence there, they could use that same property, I guess, the same as a visitor, as an outsider, to come down and have an activity there in the buffer zone. You mentioned a pathway was put in; to me, that destroys or mitigates against the purpose of a buffer zone. If you are making easy access through a buffer zone, clearing a path, you are reducing or minimizing the buffer material that is intended to filter the flow into the lake. So, I have a real difficulty understanding that.

MR. CREAMER: Yeah. I think it all depends upon how you approach that path. I mean, in this particular case, that path went in without taking any material out. So, in other words, the trees, everything remained; and

instead of that path being a straight path, it was a winding path that went around the trees. So, you know, I really can't --- I'm not in a position to speak to the appropriateness of the seventy-five foot buffer. I do know that the Commission, in the Shoreline Management Plan Guidance Book that we have, certainly encourages these things. And seventy-five feet is generally what we look for, and in some cases we actually look for more. And, you know, we have in some instances looked for a two hundred foot buffer; so, if the land is available for it. But the buffer zone is there to protect the lake, but that doesn't mean that there can't be limited use of that. You know, if somebody wanted to put a path through that buffer zone to get down to the lake, as long as they weren't taking down trees, and completely bulldozing a path down there, those are probably appropriate type things to access the lake. But, anybody that does that, they are going to have to go to the Power Company and get approval from them to do it. And then the Power Company is going to say, "Well, you can do this as long as you meet 'x', you know, this, this, this, as far as conditions."

MS. JOY DOWNS: Joy Downs, Lake Murray Association. I don't want to belabor the point, but as it stands now a back owner has, according to the Shoreline Management Plan, or according to SCE&G's plan, they can have a meandering path to the shoreline, and in some cases have a

dock. But that is the extent of what they can do, is my understanding. They can't have a camp fire, they can't build a --- put a tent out there, they can't --- you know. So, the back owner has this upon them, that they can only do certain things. And they are obviously --- if they break that rule, SCE&G can come in and deny their permit to have a dock, etcetera. My question is, what do you do with the general public who has the same access, and they break the rules? Is that something that you are going to require it be enforced, that they see that the rules aren't broken? And also, can the back property owner, as Bob mentioned, use that property in some other way than a meandering path to their dock?

MR. CREAMER: Well, I mean, the Shoreline Management Plan is going to define how that buffer can be used. And if it is not used in that manner, then somebody can bring that to the Power Company's attention, somebody can bring it to FERC's attention, and say, "Hey, this is --- something is going on here that's is a violation of the Shoreline Management Plan, it's a violation of the license."

But that is incumbent upon somebody telling the Power Company what is going on, or FERC, that activities that are not permitted are going on.

MS. DOWNS: So, FERC does not require SCE&G

to publish that and say this is public property? They can let the Shoreline Management Plan address it? Or, dictate



it?

MR. CREAMER: I mean, I don't know if the Commission would require them to publish it per se. I think the way we look at it is, when we write an Order we are going to talk about it; or, we could talk about the fact that the project lands, the project boundary, because we do have to talk about what the project boundary is. And it is implied when we talk about the project boundary that anything within that is public access.

MS. DOWNS: Thank you.

MR. RICHARD KIDDER: I am Richard Kidder, Lake Murray Association. In this conversation about this buffer zone, I sense an extreme dichotomy. Here the back property owner is limited to a meandering path down to the shoreline. And yet, with this property being public access, there is nothing says the people can't come in, clear out some brush, pitch a tent, and build a fire pit. And, you know, you are destroying the benefit of the buffer zone.

MR. CREAMER: If the Shoreline Management Plan prevents going in and clearing in an area, then yes. I mean, theoretically, you could prevent somebody from coming in and camping there if they are in fact clearing brush and doing things that the Shoreline Management Plan does not allow. Then no, they won't be able to do that. But if they

were just simply to go in and, let's say the shoreline where they are at has enough of an area where they could just

pitch a tent, is that a violation of the Shoreline Management Plan? It depends upon what the Shoreline Management Plan says about it.

MS. MARY KELLY: I am Mary Kelly, with the League of Women Voters. Well, if somebody comes in, or a group comes in, and they are behaving in a way that is obnoxious, who is going to enforce this, do something about it?

MR. CREAMER: I would like to think that the property owner that sits right behind that activity is going to let somebody know that that is going on.

MS. KELLY: But who is the somebody who is going to?

MR. CREAMER: Well, I think you would probably want to call the Power Company first. You know, they are going to be in the best position to do something about it at the time.

MS. KELLY: Well, would DNR do something about it?

MR. CREAMER: If the DNR has --- you know, assuming that the DNR in various local jurisdictions has law enforcement capabilities for dealing with it, yes. I mean, certainly you could call, I would think. I mean, I don't know for sure, but I would think you would want to call the

Power Company and say, "Hey, this is going on on my property." And if it is activity that is illegal or

obnoxious, or somebody is just creating a ruckus, I would see no reason why, me personally, that --- I would probably do this. I would probably call the local law enforcement and say, "Hey, this is going on. Is there anything you can do about it?" Some communities may have noise ordinances, and you know, that may be a violation of that noise ordinance. So that law enforcement can be called in.

MR. STEVE BELL: Allan, I am Steve Bell, with the Lake Murray Watch. It is my understanding that the FERC requires the licensee to report any accidents, drownings, and that kind of thing, and y'all keep that information. Can you explain exactly what you do with the information, and how you determine whether it is project related?

MR. CREAMER: Okay. You are correct. I think that is like a six month reporting period. I am not exactly sure what reporting, what the frequency is. But they are required to report any fatalities that go on within the project boundary. Now, typically our Compliance folks get that information and they deal with that information. And, what constitutes a project related fatality, I am not really clear. I am not sure what that would be. I can make some educated guesses. But I am not sure that how the Commission may make that call. Just as an educated --- you know, for

me, if you get two power boats out there, and they are just traveling sixty miles an hour, and they just run into each

other, that's not really project related. If you have got a boat out there that happens to run into a shoal that is not marked, because the lake level may be a little lower than what it would normally be, that may be interpreted as a project related incident. I don't know for sure. But, I mean, logically, I am thinking that it could be.

MR. BELL: Do you normally take some kind of action if you believe it is project related, and do a report or --- I guess, you ask the licensee what happened, or --- and then what do you do with this information as you gather it? Are you going to, like, use it when you review their license application, that type of thing?

MR. CREAMER: Yeah. All this information is maintained in a data based project. And when we get ready to issue a license, we are going to go back and look at a licensee's compliance with their existing license; we are going to look at safety issues, both from our dam safety perspective, and then public safety issues. So, those things do --- we will go back and take a look at it and review all of that before we would issue a license. But in the interim, if our Compliance folks get that information, they look at it and say, "Well, there might be a problem here." And they could on their own accord address that directly at that time.

MR. BELL: Along those lines, when the FERC makes a decision or a ruling on a complaint, do you consider

that decision to be like a judge's order as far as your authority, and as far as what the licensee has to do? I mean, if you issue an order or a decision, does the licensee have to do what you tell them?

MR. CREAMER: Pretty much. If they don't and it's a licensure requirement, that we can find them in violation of the license. Now, we issue an Order. Those Orders are considered final; there is a thirty day window that they could file for re-hearing. They could appeal our decision. The Commission then addresses that appeal, if there is additional --- new information. And they go back and take a look at something. They may change the requirement, or they may leave the requirement along. And then from that point, if somebody still disagrees with that decision, then there is the court process. You can go through judicial review. But, yes. I mean, if the Commission puts something in an order, if the licensee does not do it, unless they are appealing it, it could be interpreted as a violation of the license.

MS. JOY DOWNS: Joy Downs, Lake Murray Association. Does the FERC have a number, or a percentage, that says how much development a lake can tolerate as it relates to water quality?

MR. CREAMER: Can you repeat the question again? I didn't quite hear it.

MS. DOWNS: Does FERC address, or have, a

percentage or number that says how much development a lake can tolerate as it relates to water quality?

MR. CREAMER: If they do, I am not aware of it. I have not seen a number like that. A lot of times when we address water quality issues, we will look at what is going on in the water shed. And certainly we will say various things about what the water quality in the lake is. We may require an applicant to do something to address an issue. But, these activities that go on outside of the project boundary and the water shed, you know, those are beyond the Commission's jurisdiction. And a lot of times, they are addressed in a more qualitative fashion. So, really it might again be a case by case thing, because in some places you might be able to stand more development than in others before you start seeing water quality problems in a water body. But to answer your question, I am not aware that there is a number or percentage, if there is I have never seen it.

MS. DOWNS: Well, is that a consideration in the license, though, when the license is applied for as to how much land is left natural, or not developed?

MR. CREAMER: Well, certainly we are going to take a look at what's around, in the immediate area. And if there is a particular area that we think is necessary or that needs to be protected for project purposes, we could --  
- if the licensee already owns it, we could wrap that into

the project boundary. If they don't own it, we could require that they go out and acquire that in some fashion, and bring it into the project boundary. That's a way that we can deal with some --- you know, in particular areas, sensitive areas, where if we know that if those areas remain open to development that could ultimately cause a problem with that sensitive area, we would take a look at needs, and what we need to do to protect it. But, we don't do carte blanche around a project.

MS. DOWNS: So, that would have to be pointed out to you in a study, or something of that nature?

MR. CREAMER: Yes. That is something that is going to have to be pointed out to us in some fashion with the study and the application. We are going to need to know what those areas are.

MR. BILL MATHIAS: Bill Mathias, Lake Murray Association, Lake Murray Power Squadron. In the discussions that we have had to date about the length of the license that might be granted at the end of this period, I can only recall two terms coming up. One was thirty years, one was fifty years. One, what are the parameters under FERC, and the State law, about FERC, about how long they can be granted. And secondly, what is the norm that is being granted on projects similar to this?

MR. CREAMER: Under the Federal Power Act, the Commission is authorized to issue licenses anywhere from

thirty to fifty years. Now, typically our --- and this in many cases is subjected to termination. Typically, a thirty year license would apply if there is relatively minor redevelopment of the site, or relatively minor mitigation, or enhancements put in place. A fifty year license would be on the other side where it would say a licensee is proposing to redevelop at capacity a significant amount of resource enhancements. That might warrant a fifty year license. A forty year would fall somewhere in-between. We use the term "moderate". A moderate amount of redevelopment, or a moderate amount of resource enhancements.

MR. MATHIAS: What is that related to? The investment on the part of the licensee is to why it would be granted for longer periods of time?

MR. CREAMER: Generally, yes. How much they are putting into that relicense. Now, you know, those are generally thirty, forty, fifty year terms. That's generally what the Commission would issue. There are instances where if there is a need to coordinate expiration of a license with another project, we may look at --- some terms would say a thirty-five year term so that a particular license would expire with another one that's in the same basin, might be upstream, so that we can coordinate review the next time around. So, we have done that, as well.

MR. ALLAN STUART: I wanted to offer up to the group, we wanted to try to take a break, and let Allan



have a break. We have been going about an hour. We may like to get up, go the restrooms, and so forth.

(Off the record - break)

MR. ALLAN STUART: I think Allan is ready to answer some more questions.

MR. TOMMY BOOZER: Tommy Boozer, with SCE&G. I guess it's appropriate for us to ask questions, isn't it? Okay.

MR. CREAMER: I don't know about that. You may not get a good response from me.

MR. BOOZER: One of the things I would like for you to discuss a little bit about, I know that SCE&G has participated in some of the FERC questionnaires and surveys about permitting fees on the reservoir. And, could you just kind of talk a little bit about, you know, what maybe some other folks are doing as far as permitting for their shoreline activities, the commercial marinas, or the individual docks, or the activities that take place along the shoreline.

MR. CREAMER: If I interpret your question correctly, you are asking me to explain what other licensees do relative to permitting various shoreline activities. Is that correct?

MR. BOOZER: Well, maybe to expand a little bit farther on what is FERC's position on the licensee charging a permitting fee for certain activities.

MR. CREAMER: Okay, fees. Our standard land use Article authorizes a licensee to charge a reasonable fee for implementing a Shoreline Management Program. The licensee has the right to do that under that Article. Now, certainly we are going to make sure and look for those to be reasonable fees. And that the requirements of that land use Article has been --- the Commission has addressed it in previous Orders, and upheld that right, and the Courts have upheld that right. And so, generally speaking --- and I am going to draw on my experience with one project where the licensee instituted a program, a permitting program, and they started charging fees for dock permits, and sea walls, and various things of that nature. They were also charging -- and it was part of their fees - they had a mosquito control program. They also had as a license requirement to work with the State providing the funds for fish stocking. They had added those things as well to their permitting fee structure. Well, there was an interest group who took issue with that, and just the whole idea of charging fees; they didn't believe it was the right thing to do. And, it did come before the Commission. This has been, this was going on about six years ago, 2000/2001. It did come before the Commission, and the Commission --- it started off with the staff with our Compliance folks. And they said, "Yeah, they have the right to do this." But they questioned some of the --- they asked for information about what was in their fee

structure. And when they looked at that, they made a determination that most of what they were charging for was okay. You know, charging for dock permits, sea wall permits. And they had a different structure for individual docks versus commercial docks. Don't think --- and this may vary from project to project, I am not familiar enough with it to know. But, an individual dock, he might charge a one time fee to put that dock in, and that's it. Whereas, commercial marinas, you may charge them that one time fee and that's it, or it may be a case where there is that one time fee to put that in and then they are charged on an annual basis. And I think that was the case in this one particular project, and that is what the issue was. It wasn't a fair across the board way of addressing the issue.

The Commission ultimately said that, "Yes, it was." And both from the Order and when it came back on appeal, the Commission upheld that. Well, that interest group didn't like that decision and took it to Court. And, they took it all the way to the U.S. Supreme Court, and lost it every step. So, you know, the take home message from that is, the standard land use Article is what it is, it says what it says, and it has been upheld by the Commission and the Courts that a licensee is --- they have the right to charge reasonable fees for implementing the Shoreline Management

Program. Now, the key word here has to be "reasonable".

So, if somebody doesn't believe that they are reasonable ---

you know, solution are a reasonable structure they can certainly bring it to the Commission and we will take a look at it, and decide if there are things that are not reasonable --- you know, we would take a look at that. Does that answer your question?

MR. BOOZER: Yes, sir.

MR. STEVE BELL: Allan, Steve Bell, with Lake Murray Watch. Could you explain the charges that the FERC applies to the licensee as far as your administrating -- the FERC's administration of these projects?

MR. CREAMER: Okay. There is a license requiring --- it is usually what we call a Series 200, where a licensee is required --- or, we charge them an annual charge for administering the Federal Power Act. And that is based on annual generation. I am not exactly sure what the formula is, but I do know that it is based on --- was it annual generation or installed capacity?

UNIDENTIFIED: Annual generation.

MR. CREAMER: It is based on the annual generation. Okay. And it is probably some percentage of that; and I am not exactly sure what the formula is. No, wait a minute, I am going to go back and look. I think it is based on --- that annual charge is based on the installed -- in that Article, it identifies what the installed capacity

is for the projects for purposes of billing annual charges.

So, I think it is based on ---

UNIDENTIFIED: There Article refers to the installed capacity, but the amount of the bill includes our annual generation.

MR. CREAMER: Okay. (inaudible)

UNIDENTIFIED: I believe the equation takes in (inaudible) annual generation and the installed capacity.

MR. CREAMER: Right. Now, it is an area that I don't get into and, you know, so I am probably not the best person to be answering that question.

MR. BELL: Do you have any idea how much, or what percentage of the FERC's budget comes from fees collected from the power companies?

MR. CREAMER: We are one of the only agencies in the Federal Government that actually makes money for the Federal Government. We are entirely --- our budget is appropriated by Congress as part of the bigger package for the Department of Energy. But what it comes right down to is annual charges, charges for use of Federal lands, you know. We collect those and we are self-supporting. And then we make a little money that goes into the general funds.

MR. BILL MARSHALL: Bill Marshall, with the Department of Natural Resources. Dave Anderson put me up to this. I needed to ask about, we are aware of operations and downstream flows being managed in a way to benefit aquatic resources, wildlife, and fisheries. In this particular

project there are concerns about public safety, recreational user safety. And, are you aware of projects where management of the operations in terms of flows have been handled in a way to mitigate or protect for safety issues downstream?

MR. CREAMER: Yes. It is certainly not an issue that is unique to this project. We have addressed downstream safety issues at other projects. And, the solutions for it vary from project to project, it depends upon the circumstances of what is going on at that project.

But, it is not an issue that is unique, let's just put it that way.

MR. MARSHALL: I had one more question. I hadn't thought it all the way through in how to phrase it. But again, Bill Marshall with the Department of Natural Resources. I am interested in how in this process we can continue to maintain impartiality, neutrality, and objective decision making. And one of the real challenges I see coming at us is some of the economic information that will come at us, be provided somewhere in the process. And this is my first time of being involved in a FERC relicensing. But, does the FERC provide for the neutral party analysis of information that is put on the table, to represent any of the positions that are either by stakeholders or the power company? How do you get the objectivity on --- some

information that can be pretty complex and overwhelming to the average public? Particularly maybe economic arguments

for certain positions; or there may be other issues, but that one particular would seem overwhelming to me. Just, who provides the objective analysis? Or, is there a requirement upon the utility to provide an auditor of some type, a neutral auditor, that helps everybody see what is on the table as being objective?

MR. CREAMER: All right. It's certainly relative to the relicensing process before an application is filed. You know, that can take any --- I guess, any form depending upon how the licensee wants to handle it. But, you know, as far as the Commission is concerned, when we are looking at things once the application is filed, we are the neutral party. You know, we are bound to --- and we are required by law to consider doing an independent analysis of issues, whatever those issues happen to be. Whether they happen to be recreation, whether they happen to be flows, lake level fluctuations, whatever they are, power generation. We are required to take an independent look at those things regardless of what the rest of the relicensing group may say. And certainly, we look at what they say and depending upon how much information is available to us, we may agree with --- based on our independent analysis agree with some position or not. But again, the Federal Statutes require us to balance. And we are, unlike many other entities that come to the table and have specific interests, we don't have that. We have to balance all of those

interests, all of those competing uses. And that's why the Commission, FERC, generally is not very popular. You know, from a decision standpoint FERC makes decisions that some parties may not agree with. And that's because of our responsibility to balance.

MR. MARSHALL: Just to follow up, the FERC provides that really towards the end of the process. Is that correct? So, do we have the benefit of any of that happening while we are in the middle of the process so that outcomes might be more --- I know there is the interest of all parties to work mutually for mutual gains in the front end; but it looks like some things just ultimately can't be settled until the end, to the bitter end, where FERC has to come in and cut the pie.

MR. CREAMER: Right. Again, early in the process before the application is filed, in this particular process enhanced traditional, it really comes down to how the licensee wants to handle it. You know, certainly there can be --- and we have seen this done in other projects where a facilitator is brought in that basically is a neutral party; and they facilitate discussions, they facilitate potential --- you know, trying to bring the parties together on issues. I have seen that done. I have also seen it where not so much in traditional processes like this but with an alternative licensing process, and then with the new process that we have - the integrating



licensing process - we do get involved as staff in the pre-filing, the whole pre-filing process. So, we are there as staff from the very beginning. And we can be used as a resource. I mean, we are there, we are not taking positions as staff; we cannot take positions on various things. But, we are there, say, as a resource for stakeholder group. We can provide advice, we can provide information about, "Well, this is how it has been done elsewhere." So, there is any number of ways to handle that during the pre-filing. And certainly we can, if the stakeholder group --- you know, and I worked a project that's probably not too far away from here, you know, Duke's project, Catawba-Wateree. We had a staff person, that's a traditional process. We had a staff person for that process that went to just about every stakeholder meeting. Generally, for a traditional it doesn't happen like that. It may happen for an alternative licensing process. But, certainly if there is a need and the licensee comes to us with that need, we can get involved and be part of that process, and be that objective voice, so to speak.

MR. STEVE BELL: Steve Bell, with Lake Watch. Allan, could you explain once the application gets to the FERC, how many people on the routine that will be looking, reviewing that license? And what kind of qualifications do y'all have? What is the --- how many people are involved? And kind of take me through this as far

as, you know, what efforts that y'all are going to have to put into reviewing this.

MR. CREAMER: Okay. Generally, when an application is filed there is a interdisciplinary team that is put on it. In other words, I might be assigned as an aquatics person to address the fisheries, and water quality, and that type of stuff. There will be a recreation person assigned. And really, depending upon the issues, a single person might handle recreation, cultural resources, shoreline management. One person may handle it. But, in other cases there may be different people that handle recreation, shoreline management, the cultural resources. Just depends upon how extensive issues are. There will be an engineer assigned. The engineer does the economics, the economic analysis. There will be a person assigned that will handle terrestrial issues, the wildlife side of things. You know, everything that I don't do from an aquatic standpoint, they would handle from a terrestrial perspective, wetlands, things of that nature, issues relative to wetlands. Threatened, endangered species is generally --- it is a resource that is kind of a combined thing. A terrestrial person may handle the terrestrial side of things, and then I might handle --- or, another aquatic person will handle, you know, if there is an endangered fish or an endangered mussel, that would fall with an aquatic person. But the

long and short of it is, there is an interdisciplinary team that is assigned. We are all, quote, quote, "professionals" that have college degrees in our areas of expertise. So, from a qualification standpoint, we all have the qualifications to work on the various resources that we work on. Something else that happens quite often is we have --- our Commission likes the continuing education thing. You know, somebody that may have come out of college that might be a landscape architect, or might have a background in land use planning. Well, they might get trained in cultural resources. You know, they go to Section 106 and they get that training, and then they can handle cultural resource issues, as well. So, we all have the qualifications, we all have advanced degrees, to address the issues that come up. If something comes up that we don't have the expertise to handle, we do have contracts where we can go to a contractor and have them --- you know, they will have the expertise that we don't. And a lot of times we do use contract staff on issues that might be --- that don't come up at every project. So, we might not have the resource staff to deal with it, we will go to the contractor in that particular instance so that we don't have to necessarily hire staff that don't always have work to do. So, as of right now, I am the only person that has been assigned because it's really so early. Although I, you know, will probably get to a point in the near future where I am going to go look for

other staff to handle various things. But once this thing is filed, all of us as a team will sit down and look at it, review the application. As a team we put together the environmental document. There will be somebody that is part of that team will be assigned to be the project coordinator. And then that project coordinator would be the person that is responsible for making everything happen as far as getting it through the process at the Commission. Does that answer your question?

MR. BELL: After y'all make your --- come to a conclusion, or review the application and make recommendations, where does it go from your team? And, who ultimately signs off on the approved license?

MR. CREAMER: The Commission. If it's a contested proceeding, it generally goes before the Commission, the five member Commission. Right now, there is three that we --- you know. However, the Commission has delegated authority to our Office Director to issue licenses. So, if it's an uncontested proceeding, that delegated authority might kick in and the license would be issued through the Office of Energy Project as opposed to the Commission. But ultimately the Commission is --- they know what is going on, they are aware of the things that we are working on, and what may be delegated and what may not be delegated.

MR. BELL: One follow up. How many times in

the past --- do normally the Commissioners pretty much go along with your recommendations, the application, the approved applications y'all are recommending? Or, are there sometimes a lot of changes after it leaves your team?

MR. CREAMER: I have seen projects that go both ways. The Commission will look at the staff's recommendations in the affirmable document. They carry a certain amount of weight relative to what the Commission's decision may be. However, the Commission also looks at the record, and they will look at if there are varying opinions or opinions that don't agree with staff recommendations, they will look at that and take that into account. And in their review, if they think that we did not quite balance things right relative to how we came down with out recommendations, they are certainly at liberty to re-balance. And they have on some cases.

MR. BOB KEENER: Bob Keener, with the Lake Murray Association, and the Lake Murray Southside Community Association. I have two items relating, I would say, to safety. I just want to be sure that I understood what was said earlier this morning. One, about the markers, marker buoys, on the Lake. In our particular case, SCE&G has overall safety responsibility within the project. South Carolina Department of Natural Resources has accepted the responsibility, and I think I am stating it correctly. It's not in law, but they have agreed to provide the navigational

aids on the Lake. One of the difficulties that DNR has had is limit of funds and limit of personnel to do any more work in putting out marker buoys. The question I would have is, if community associations, or other stakeholders, or SCE&G, were able to provide some funding to buy additional markers, and such groups as Lake Murray Association, or the Power Squadron, or the Coast Guard Auxiliary, if they were willing to do the work under the supervision of DNR, then I assume that that would be perfectly acceptable with the FERC. Am I correct?

MR. CREAMER: Yeah. I mean, and don't quote me on this. But, I would think that, yes, it would be appropriate and acceptable. And, like I said, we'll ultimately look for the power company to make sure things happen. How they make that happen is a little bit under their discretion; and, if they were to come in with a plan that would say that another party has accepted responsibility for this particular thing, we'll look at it. And if it is acceptable to the Commission, the Commission would go and would agree with it, and approve that plan as it is. Now, again, if that goes on for five years and then something happens, and we find out a party is not living up to what they agreed to do, we will go back to the applicant and say, "Hey, what gives? We need to figure something out here, because you are responsible for this." But, to answer your question, yes, I do believe that it would be

appropriate whether it's the DNR, another entity, if they accept responsibility and provide certain funds. We have seen cases where there have been matching funds, what an entity may come up with a certain amount of money, the licensee may say they will meet that. And then, they make something happen, any number of ways in the addressing the issue.

MR. KEENER: On the funding and of the requirement, that's a problem everybody has for the project is, there is always a limited amount of money. But, would I be correct in assuming that a use-tax on access to Lake Murray, taxing for the use of my boat on Lake Murray, or my neighbor's boat, for somebody that lives in Columbia that comes out on the weekend, that that would not be appropriate and would not be supported by the FERC?

MR. CREAMER: I can't speak to what the Commission would say about it. But, what I can say is, I am not aware of an instance where I have seen a use-tax like that at a FERC project.

MR. KEENER: That's encouraging. A question, another one I have is for downstream safety. We're primarily, Lake Murray Association, we're concerned about the Lake level of Lake Murray, and the things that go on in that part of the project. But, we are also concerned

about the trout fisherman and swimmers, people who are using the Lower Saluda. From other project applications that you

have knowledge of, that may have a similar downstream consideration, where the rapid rise of water in the Lower Saluda, that sometimes trap swimmers on the rocks in the summertime causes a little anxiety for the trout fisherman when they are out the midstream, and the Lake is coming up rapidly. It has been suggested that the way to reduce or minimize the hazard is to ramp up the Lake level --- I mean, the downstream output. But it mitigates against the benefit of the hydro system as a reserve system; but it is on line very quickly, gives maximum output in the minimum time, and that means maximum water going through the turbines, and that means a very, very rapid rise of the River. Other lakes that may have similar situations, have you all established any criteria in that sound devices, warning devices, sirens, horns, or whatever, that they should be a certain minimum distance, a minimum separation, in order to be effective?

MR. CREAMER: I don't know what exact criteria have been applied. I think it would depend upon specifics of the project. But certainly, sirens have been employed at projects and other forms of notification of where a licensee would notify downstream parties that things are happening. Those kind of things certainly are and have been parts of licenses of projects. But, relative to specific criteria in terms of placement and how far downstream, I am not aware of what those would be, if they



do exist. I think we would look at it more as kind of as specific projects, and what may be necessary at that project to address the issue. But, to go back and clarify the point about your use-tax, if you are talking about use-tax relative to putting a boat on the Lake, certainly a private marina can charge to put a boat in if they want to. But from a public access stand point, I don't know and I am not aware of instances where from a public access view point where we have had a use-tax like that, certainly there is a lot of projects out there that I am not familiar with and it may exist, I am just not aware of it. But, a private marina can certainly charge for it; if you want to put your boat in, and it's \$10.00 to do that, or something like that, or whatever, they have the right to do that.

MS. JOY DOWNS: Joy Downs, Lake Murray Association. We are very pleased that the SCE&G chose enhanced traditional process; however, I would like to ask you if that is a --- I don't know whether I want to use the "legal", but is that really one of the processes that is available? Or, is it just alternative and traditional? Is there a great difference between traditional and enhanced traditional? And, if not, when the applicant finally files for his application, does he pretty much --- is he able to put in pretty much what he has decided he needs at that point? Or, does the stakeholder have any rights at that point?

MR. CREAMER: The Commission has three defined processes at this point. There is the traditional licensing process, there is an alternative licensing process, and then there is the new process which is the integrated licensing process. Those are the three defined processes. Now, certainly we have worked with licensees and in proceedings where what they chose to do is the traditional process whereby they still have to go through a three-stage consultation process, as defined under the traditional licensing. But what they have chosen to do is include the public upfront. Okay? That's what a, quote, quote, "enhanced traditional" really is. In a true traditional process, if you look at the FERC regs, at least the way it use to be, it is they work with resource agencies, come up with whatever, and then they file their application with their proposals. And at that point we would - through our NEPA scoping process - that's where the public would get involved. When they do an enhanced traditional, the public is involved upfront; and which is what the power companies decide to do in this particular case. And however, when they file their application --- really, under any process, unless there is an agreement, a settlement agreement, in place at the time they file their application, an applicant can pretty much so propose whatever they want to propose as their proposed action, whether or not the other stakeholders agree with it or not. I would like to

think though that an applicant, if they chose to work in this form, work with the communities and the public, and involve them upfront that the idea here is to identify all the issues, get them on the table, and try to find some resolution to them. And, I would like to think that the applicant, when they file their application as a proposed action, they are going to take into account everything that has been said throughout the licensing process, and try to have --- if there has been resolutions reached, then their proposed action would reflect that. Now, there may be things that they just can't and don't agree with for whatever reason, a proposed action. They are at liberty under any of the licensing processes to disagree with it, and not include as part of their proposed action. And then basically what happens is, when it is filed there is three or four that I can think of right off the top of my head, opportunities for the public to tell us what they think. And one of those opportunities is the public can provide their own recommendations, that we have to take a look at them as an alternative to what the applicant has proposed. So, you know, certainly, to answer your question, regardless of the process it is really the licensee, what they propose when they file their application with a proposed action, they can include in that proposed action whatever they want to include in it. And in this type of process the hope is that they do in fact take into account all of the issues

raised; and to the extent that those issues have been resolved, their proposed actions reflect that. If for some reason there are things out there that just don't agree with, they probably will not include those proposed actions.

MS. DOWNS: Well, I certainly didn't mean to imply that they were not very cooperative and they have certainly spent enough money in this process that I am sure they will consider the position of the stakeholders. But, in fact it is still handled as a traditional process. Correct?

MR. CREAMER: Yes.

MS. DOWNS: Thank you. Can I ask another question? Is there any precedent set or any way that generation is defined in the license? For example, there must be a minimum flow I know that is in the license. Currently SCE&G is using the --- they state that they use generation for reserve. Can they be --- is there any requirement for them stating what the generation will be used for? In the past we have talked about it being used for maintenance, for peaking, for different things. Is there any restriction in the license? Or, can there be? I would think that it might be hard to say what they were going to generate for for the next thirty years; but, indeed, does that happen that they state what the generation is for? I probably thoroughly confused you.

MR. CREAMER: Yeah. I'm trying to figure out exactly what you are asking me. What you are asking me is,

is that okay, they produce a certain amount of power. And what do they use that power for? Is that what you are asking me?

MS. DOWNS: Yes. I am asking if that is stated in the license? Is that appropriate? Or, is it just at their discretion over the next thirty years?

MR. CREAMER: Well, you know, I am going to imagine, I don't think that the actual license will tell them what their power can be used for. Generally, the power is used for their service area; whatever their service area is, it meets a certain demand in that service area. And as they need it, they use it wherever they need it in their service area. But, you know, I don't think that a license is going to --- and I have never seen it, where the license would dictate you have to do and provide this power to certain things.

MS. DOWNS: But the license will state how much generation they must do to provide minimum flows and so forth to the Lower Saluda?

MR. CREAMER: Well, the license could require --- and I am not going to say what it will, because it is hard to speak to that. But, certainly the license --- there could be a license requirement that would tell the company that, "Okay, you have to provide "x" amount of flow

downstream for x, y and z purposes, whether there is fisheries, whether there is water quality, whether there

happens to be recreation, white water, whatever." The license would have the requirement in there telling them that they have to do something as far as those flows. Now, generally what happens is, in this particular case I don't think it would really matter, but what would happen is they would think about how they operate the project, the peaking project they operated on load following, some of what they would generally have available to them to meet peak power demands is no longer there, so they are shifting some of their generation from peak periods to non-peak periods. So there are shifting generations but it doesn't necessarily go away. You know, the value of it can change, but --- so, yes, a license could include specific flow requirements, and those flow requirements could have an affect on generation in terms of how much the plant puts out.

MS. BERTINA FLOYD: Bertina Floyd, with the Lake Murray Homeowners Coalition. Does the FERC have a standard, or a guideline, for the scheduling of the periodic reviews of the licensees after the approval? You know, like five years, ten years? Is this just something that the applicant proposes and you approve? Or, do you have a regular standard or guidelines for those reviews?

MR. CREAMER: Relative to what kind of reviews?

MS. FLOYD: Of the plan, how it is being administered, performance of the licensee?

MR. CREAMER: The Shoreline Management?

MS. FLOYD: Yes, the Shoreline Management.

MR. CREAMER: The Shoreline Management Plan.

I am not aware that we have a specific standard. Generally it is, we look at what a licensee might propose, whether it's five years, ten years. And we will make some determination of what would be reasonable in a specific instance. The only reviews that I am aware of that is generally consistent and a requirement is what we call the FERC (inaudible), which is a recreation assessment. Every six years they are required to do that, and they go out and provide us some information about recreation use, and demands on the public facilities. And that information is used to --- we will use that information to determine whether additional public facilities are necessary. But, that is a defined time of six years. The review time for Shoreline Management Plan is generally whatever a group can agree to. And we look at it and determine whether it is reasonable or not.

MS. FLOYD: So, the applicant would propose something, and then you would approve it, or not approve it?

MR. CREAMER: Yes. Generally speaking, an applicant that has a Shoreline Management Plan, or is one that might be required to do one, we are going to look at

what has been done elsewhere and the type of things that are included in that Shoreline Management Plan. And one of those

things is, is it schedule for review? So, typically when we get that proposal, it's generally within the norm of what exists at other projects. We are not going to --- One thing I am pretty sure of is that most Shoreline Management Plans that I am aware of, that I have seen, always has some mechanism for review; to go back and take a look at things. I have not seen one yet where there is no mechanism to go back and over the course of a thirty year, or forty year, whatever, to go back and re-look at things. There is always something there, at least from the ones that I have seen.

MS. FLOYD: Thank you.

MR. STEVE BELL: Steve Bell, with Lake Murray Watch. Allan, could you explain, once the license is approved, how can this relicense be re-opened if there is a problem? Can a stakeholder request it to be opened? Or, does it take the agencies? Or, can the FERC reopen it? If we have a major problem down the line that we didn't see, what is the process of resolving that?

MR. CREAMER: It can generally be handled in two ways. When a license is issued, there is two sets of Articles. One set is what we call an L Form Article, which are very general in nature. The other set of Articles are the more specific Articles that implement various actions, and they are what we call Series 400 Article, and they are very specific relative to what needs to be done to address an issue. Now, those L Form, there is a standard re-opener



included as part that L Form. That is one mechanism by which a license can be re-opened. The other mechanism is, if there is an Article, an Article can be crafted such that if we believe that there is --- say, one of the requirements is to go out and implement some measures, study the effectiveness of it, you are really --- when you are doing something like that you don't stop necessarily with just studying the effectiveness of it; if it shows something you want to be able to go back and make modifications to license requirement. In a situation like that a specific Article could have a mechanism to go back and make changes based on something that was looked at. Okay? So, there is really two mechanisms; but, the one thing they both have in common is, is that the Commission can go back and re-open the license but only after public review. In other words, I mean, it's a public process, and certainly we need to go back and we have to go back to the applicant. And, you know, they could fight us tooth and nail if they really wanted to, but ultimately if the Commission deems it necessary to re-open a license we could certainly do it as long as that provision is included, which usually they are in today's licenses they are there. Some of the older licenses, they don't include that re-opener; so, it kind of precludes going back and looking at issues. And, you know, we have had instances for ESA,

Endangered Species Act, consultation where there have been specific re-openers relative to addressing ESA issues down

the road. It all comes down to what we include in the license.

MR. BELL: I had one other question. I have a brochure here, or a manual, on shoreline protection and relicensing. And it says, "FERC applies a simplistic formula approach to shoreline protection. It's Regulations define a two hundred foot buffer zone, or less, unless they cite specific case where greater width buffer exists." Do you have some kind of guidelines out there that deals with buffer zones that you use? Or, do you have guidelines out there that you use to deal with shoreline management issues?

MR. CREAMER: We do, and some years ago, and I can't exactly remember how long it was; it has been updated recently. But we do have a Shoreline Management Handbook. It's a guidance handbook relative to, you know, if somebody is just putting one of these things together, it's very useful because it provides a framework for how these things should be put together, how we look for them to be put together. And a lot of the information talked about relative to guidelines and criteria for buffers and how much should be included, is contained within that guidance handbook. That is something that is available on the Commission's web site.

MR. BELL: The public can review that?

MR. CREAMER: Yes.

MR. BELL: And is that --- do y'all use

that, or is that for the licensee to use? Or, both?

MR. CREAMER: It is certainly something that all of us staff are aware of, and when we have questions, those of us who don't work with shoreline management on a regular basis, we will consult that handbook to see what it says, and how does this --- if we're reviewing something. If I am reviewing something relative to shoreline management, I am going to --- a lot of times I will consult that to see, "Okay, and what does it say relative to how this thing should have been put together? Is this consistent with this handbook or not?" So, yes, we do consult that.

MR. BELL: Thank you.

DR. THERESA THOM: I am Dr. Theresa Thom, I am at Congaree National Park, I am an ecologist there. And, I know I talked with you briefly, but just so everyone --- at Congaree National Park is really maintained by the Congaree River by flooding from the Congaree. And we are very specifically concerned about downstream impacts potentially from --- well, the Saluda and Broad form the Congaree. And, I guess, with your fisheries background you are probably very familiar with downstream impacts from dams. And I was specifically wondering, does FERC have any guideline for just how far downstream this process needs to focus? I mean, if you look at a landscape level of this, we could even start looking at the Santee. And so, I don't know if you specifically know of guidelines, or

recommendations, that we could have for downstream influence?

MR. CREAMER: We don't have specific guidelines for what the geographics scope should be relative to impact. Although what I can tell you is, is that we do look --- you know, part of our need for process is going to be looking at the geographic scope, cumulative facts, and that sort of thing. And one of the things that we are going to look at --- and generally we look to the applicant to define this; and if they don't in their application, it is one thing that we will go back and ask them for is, where is the downstream limit of effects for the project? So, we are going to look at where that limit is, and we will look at what goes on within that, or beyond that, you know, for picking a project. Obviously, the most direct impact is right there at the dam. And then that attenuates as we go downstream. Eventually you get to a point where the operation really doesn't have a lot of impact on the aquatic environment. You know, we'll stop at that point in terms of our geographic scope. If that answers your question.

DR. THOM: Thank you.

MR. CREAMER: Again, looking at Bill over here, you know, that is something we are going to look for --- this process, to tell us what that geographic scope is.

So, we are going to look for that in the application. One other thing that I will mention is as studies are being

done, those studies should address --- and they should account for what that geographic scope is. So, you know, relative to downstream impacts, if there is a need for a flow study, whatever, my expectation would be that that flow study would cover where that geographic scope that the project has an impact.

MEETING ADJOURNS.

