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BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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IN THE MATTER OF: : Docket Number
CATAWABA-WATEREE : P-2232-522
RELICENSING PROJECT :
- - - - -x

Baxter Hood Center
York Technical College
452 S. Anderson Road
Rock Hill, South Carolina

Wednesday, March 28, 2007

The above-entitled matter came on for scoping
meeting, pursuant to notice, at 9:15 a.m.

MODERATOR: SEAN MURPHY

P R O C E E D I N G S

(9:15 a.m.)

MR. MURPHY: Good morning everyone. My name is Sean Murphy. I'm the project manager for the relicensing effort for the Catawba-Wateree Project at FERC. The other FERC people are Stephen Boler, Allyson Conner and Allan Creamer, who I'm sure many of you know.

Today is your opportunity to talk to us and our chance to listen to you. We want to run through the issues for the project. We couldn't decide how to do it, development by development or a resource for the entire system. After talking to a few people, we decided to take a resource and run through the whole system since we've learned that you guys were pretty much looking at it that way now at the end of the process that you've gone through. We'll just start at the hard ones and go to the easy ones and hope that today ends on a high note.

Everybody have a copy of the SD-1? Extra points? Everybody have a copy? One thing today in order to get your input on the record, we have to get a microphone to you. The first couple of times you're going to have to say your names so that the court reporter can learn to identify your voice on the record. So if you have some input, wave

1 frantically at us and we'll run a microphone to you before
2 you start talking otherwise we could miss something or we'll
3 have to have you back up and start over again.

4 If I haven't told you yet, the lights are going
5 perpetually dim and while we were working with them trying
6 to get them started something burned out. I'm sorry you're
7 being kept in the dark, but that's not the intent. Since
8 you guys are talking to us and if you keep us in the dark,
9 it doesn't help.

10 Let's just start with the flows. Right at the
11 beginning, the flows water quality and then we'll work into
12 fisheries.

13 (Off mike question.)

14 MR. MURPHY: Yes, I did. Stephen Boler, Allyson
15 Conner and Allan Creamer. Actually, we were hiding Allan
16 back there. He's our surprise guest speaker later.

17 The staff that we couldn't bring with us due to
18 the continuing resolutions in Congress -- our engineer on
19 this project is Ken Carter, if you need to call him. Doing
20 terrestrial resources is Sarah Florentino. Geology and that
21 sort of thing is Peter Liskey. Allyson is our Rec person.
22 Stephen is doing water quantity/quality. I'm doing the
23 fisheries and I think I'm splitting the endangered species
24 with Sarah. Allan is the overseer after we actually come up
25 with a product. He's the one that's going to be telling

1 actually what our direction is.

2 Flows. Is everybody signed in? We're sending
3 around sign-in sheets on clipboards.

4 VOICE: We're not signed in over here.

5 MR. MURPHY: There's four of them. We'll make
6 sure you get it.

7 (Pause.)

8 MR. BOLER: I don't have any statement to make on
9 flows, but I'd just like to open the discussion on
10 outstanding issues or prepared statements related to -- we
11 could start with flow releases. We'll start at the top and
12 work our way down. So starting up at Lake James on the
13 Bridgewater Development.

14 I think we're trying to encourage dialogue back
15 and forth. So if you want to raise an issue, somebody can
16 respond to it and try to have some discussions. We'll move
17 the microphones as fast as we can to allow the discussion to
18 flow, so to speak.

19 MR. CANTRELL: This is Mark Cantrell with the
20 U.S. Fish and Wildlife Service out Asheville and can you
21 hear me okay?

22 MR. BOLER: I can hear you up here.

23 MR. CANTRELL: The spelling of the last name is
24 C-A-N-T-R-E-L-L. You should be able to catch the distinct
25 dialogue from here on out, but remind me if you don't catch

1 it.

2 With regards to flows in the Bridgewater
3 vicinity, the Fish and Wildlife Service did participate in
4 the instream flow studies and provided some nifty input
5 there. I think we're still concerned that we have not
6 identified adequate flows for some of the bypass reaches
7 there and only in the recent couple of weeks have we heard
8 about the complete plans for the new power house there at
9 Bridgewater. So we think there's still a good deal of work
10 to be done to identify adequate flows, especially with
11 regards to the newest information that's been provided
12 significantly after the license application was tendered.
13 And so we haven't really had an opportunity to review what
14 affect that proposal for a new power house would have and
15 what the potential flow issues are there.

16 We can get down in the weeds on the details of
17 flows, if you'd like, but I don't know if anybody else has
18 ideas about those flows besides what's already been
19 proposed.

20 MR. BOLER: Are there other outstanding issues
21 from the agencies about the Bridgewater flows?

22 MR. OAKLEY: My name is Mark Oakley with Duke
23 Energy -- O-A-K-L-E-Y. We recently submitted a license
24 amendment to indicate to the FERC that we would be building
25 replacement power house at the Bridgewater plant, at the

1 Bridgewater hydro station. The license negotiations, from
2 their beginning, anticipated that the current Bridgewater
3 power house would be removed and that there would be a
4 replacement structure. It was undecided at the time we
5 filed the original application if that was going to be a
6 valve structure or a generating power house.

7 So the recent filing was to reflect that decision
8 to go with the generating power house. However, the entire
9 negotiation from Day One was conducted with the
10 understanding that there would be a replacement and that the
11 flows, aquatic flows and recreational flows would form the
12 basis for designing that power house. And the flow
13 capability of the new power house generating structure is
14 designed to match what's in the relicensing agreement. So
15 there are no impacts to flows as a result of the Bridgewater
16 replacement power house.

17 MR. CANTRELL: This again is Mark Cantrell of the
18 Fish and Wildlife Service. And I guess I understood you to
19 say, Mark, that the impact of the proposed power house --
20 there are no impacts from the proposed power house. You
21 made no impacts to flows or no impacts to the proposed flows
22 from the original application filing?

23 MR. OAKLEY: This is Mark Oakley. Let me make
24 sure I understand your question. Are you referring to
25 current flows or the future flows?

1 MR. CANTRELL: Well, my question had to do with
2 which flows you were referring to because you intimated or
3 actually said that there would be no impacts to the flows,
4 and so I was trying to clarify which flows you thought would
5 have no effect.

6 MR. OAKLEY: The flows in the CRA, the future
7 flows will not be impacted and the current power house will
8 also be able to match the requirements. The replacement
9 power house, pardon me, will be able to meet the
10 requirements of the current license flows also. So maybe
11 that's an "all the above."

12 MR. BOLER: My understanding is that the current
13 proposal is the CRA proposal and that that proposal is the
14 same now that the Bridgewater Development dam changes have
15 been specified. So given that they're not changing and we
16 do have in the SD-1 the summary of the flows from the CRA
17 and if you had any comments, so to speak, down in the weeds,
18 now would be the discuss those.

19 MR. CANTRELL: Let me clarify my statement again.
20 And this is Mark Cantrell with Fish and Wildlife Service
21 again. My original comment was that I was still concerned.
22 Our agency has not seen that there have been adequate flows
23 for the bypass reaches of the Bridgewater tailwater and that
24 being that there are three dams that form the Bridgewater
25 Development and there are significant bypass reaches formed

1 downstream of that power house only provides flow into one
2 portion, the lower Linville River and so we're still
3 concerned about the Paddy Creek and Catawba bypass reaches,
4 which are not addressed by the flows in the CRA.

5 As I'm looking here, we don't address adequately
6 any thing but the Bridgewater tail raise at Linville River.
7 The Catawba River bypass reach and Paddy Creek is still not
8 addressed there.

9 MR. BOLER: I believe there are flows proposed
10 for the Catawba River bypass reach.

11 MR. WEST: Hi, my name is Ben West. I'm with the
12 U.S. Environmental Protection Agency regional office in
13 Atlanta, Georgia. I have a general comment about flows. I
14 mean it's certainly related to Bridgewater, but extends
15 certainly to some of the other developments as well. Should
16 I make those now or wait until the end?

17 Again, the general comment is related to our
18 expectation that the EIS include a full discussion. As we
19 see it, the provision of flows in particularly the bypass
20 reaches that Mark was talking about as well the regulated
21 river reaches there was a very exhaustive process that
22 entailed the instream flow study and that group that
23 identified what would be the recommended flows. What we
24 would very much like to see is in the context of presenting
25 that information in a traditional avoidance, minimization

1 and mitigation discussion, whether that's included in the
2 EIS or the application to the states for their 401
3 certification.

4 The avoidance, of course, would be a full
5 provision of flows necessary to meet the aquatic use support
6 criteria and the needs of the resource, understanding that
7 there are certain issues related to providing that full
8 range of flows steps down to minimization. What flows are
9 going to be provided to minimize those impacts and what are
10 the reasons that are required in order that you can provide
11 those flows, say, as opposed to the full range of initially
12 recommended flows.

13 And then the last step in the sort of traditional
14 mitigation sequencing would be compensatory mitigation and
15 we'd very much like to see a full description and maybe it's
16 in the final license application. I must admit I haven't --
17 we made comments to this effect in the draft license
18 application and honestly, I'm not sure how they were
19 responded to in the final. But we'd very much like to see
20 so I figured I say it again that sort of step-wise
21 avoidance, minimization and ultimately the compensatory
22 mitigation that's been proposed to address ostensibly not
23 providing those full range of flows that were originally
24 requested or required by the resource. Thank you.

25 Again, it applies to Bridgewater, Oxford, Great

1 Falls, you know, on down the basin, wherever you have the
2 wild eagle or wild eagles, those regulated reaches as well
3 as bypasses.

4 MR. BOLER: Are there other instream comments
5 that apply generally or at the top of the basin?

6 MR. OAKLEY: This is Mark Oakley again and it
7 appears that possibly one of the, up to now, unaddressed
8 concerns of Mark Cantrell is the adequacy of bypass flows
9 and it's simply worth noting that the Bridgewater Complex
10 flows had to be sort of designed as a complex to meet two
11 different resource needs and it was the work of the Aquatic
12 Resource Committee that helped establish a balance that not
13 only considered providing a benefit in the bypass, Catawba
14 Bypass, but also trying to see that that did not disrupt
15 other cool water habitat management programs going on in the
16 Linville tail raise.

17 So the resulting proposal in the Comprehensive
18 Relicensing Agreement is the collaborative effort of that
19 team trying to meet several potentially conflicting resource
20 management objectives and probably is one of the definition
21 of trying to achieve a balance of where probably none
22 existed before.

23 MR. BOLER: How about moving down the basin as we
24 move into Rhodhiss Hickory?

25 I guess our group -- we have several dams where

1 the outflow is into the pool of the next reservoir and in
2 that case the proposal is for minimum average daily flows
3 and I guess I'd run through those as a set, perhaps. The
4 Rhodhiss 225 cfs, minimum average daily flow, Cowans Ford,
5 311 cfs and Mountain Island, 315 cfs; Fishing Creek, 440
6 cfs; Rocky Creek, Cedar Creek, 445 cfs. Again, these are I
7 believe the cases where these are flows down into the pool,
8 the next impoundment.

9 Are there any comments on those flows or the
10 principal of the minimum average daily flows into the
11 downstream impoundments?

12 MR. CANTRELL: This is Mark Cantrell again with
13 the Fish and Wildlife Service and I'd like to note that
14 again we're concerned that another bypass was not listed in
15 that range of developments and that's the Mountain Island
16 Bypass for which we think we need to provide adequate flows
17 or at least address the adequacy of flows to that important
18 reach of the Catawba River.

19 MR. MURPHY: Is there anybody else who wants to
20 comment on the Mountain Island Bypass since it's been
21 raised?

22 MR. REED: This is Steve Reed with the North
23 Carolina Division Water Resources. We didn't have an
24 opportunity to look at the mountain. I went by yesterday,
25 the aquatics technical work team and aquatics ad hoc did

1 review that, looked at a number of alternatives there. As
2 we are all aware, there is listed of the plant species
3 there. One is the Schweinitz's Sunflower and the flow
4 ranges we were considering tried to take that into account
5 so there wouldn't be an impact there as well. So that is
6 one of the areas that goes into the mitigation package.
7 That was a complicated factor. It wasn't simply looking at
8 flow in the bypass reach. It was a bypass reach that is
9 fairly short that has a listed plant species.

10 MR. CANTRELL: This is Mark Cantrell of the Fish
11 and Wildlife Service again. And indeed, as the topic is
12 instream flows at these developments, we certainly remind
13 you again that we're interested in providing adequate flows
14 into that reach of the Catawba River. We also note that we
15 anticipate consultation with the Commission for endangered
16 species. We've consulted before and issued biological
17 opinions having to do with maintenance of habitat for the
18 endangered Schweinitz's Sunflower in the Mountain Island
19 Bypass.

20 In fact, I think we've amended biological
21 opinions there to reflect the ongoing need to provide an
22 open spillway into that bypass reach certainly for dam
23 safety issues and we do anticipate consulting with the
24 Commission over what the ongoing effects are to Schweinitz's
25 Sunflower and how we should deal with those, anticipating

1 that there will be continued take at that species. At no
2 time have we ever concluded that there was no affect to that
3 species in the bypass reach. So I think is a separate topic
4 for the Commission and the Fish and Wildlife Service to deal
5 with.

6 MR. BOLER: Let's move down to the Wylie
7 Development. The proposal is to replace an existing hydro
8 unit with a small aerating hydro unit to provide a year-
9 around continuous flow of at least 1100 cfs.

10 MR. CHRISTIE: Good morning. My name is Dick
11 Christie and I work with or represent the South Carolina
12 Department of Natural Resources. The establishment of
13 continuous instream flows is a very important objective for
14 the department. We believe that the proposed flow of 1100
15 at Wylie will considerably increase the existing habitat.
16 There presently is no requirement for a continuous flow at
17 that impoundment. So we believe going from effectively zero
18 to 110 cfs will greatly enhance the aquatic habitat at that
19 facility. We think that flow will support a balanced
20 aquatic community, which is also an important consideration
21 and we think that recommendation is consistent with our
22 state water plan and meets the objectives of the DNR.

23 MR. BOLER: Any other comments on the Wylie
24 Release?

25 MR. CANTRELL: This is Mark Cantrell with the

1 Fish and Wildlife Service and we did work with South
2 Carolina DNR and other members on the instream flow studies
3 and agree that the 1100 cfs continuous minimum flow will
4 certainly improve the habitat quantity and we hope that the
5 habitat quality issues will be addressed as well with some
6 of the DO issues.

7 However, the one missing element that we think
8 needs to be addressed is the potential for future flows to
9 provide habitat for diadromous fish species that are part of
10 our restoration efforts in that reach and so that one
11 additional element, when diadramous fish species are present
12 would be an additional flow requirement for their specific
13 spawning and maturation habitats.

14 MR. BOLER: Any other comments on the Wylie
15 Release?

16 MR. OAKLEY: This is Mark Oakley with Duke
17 Energy. A lot of work from the Service, Mark Cantrell's
18 organization and others, went into trying to establish flow
19 regimes and with no small amount of effort had to be
20 compared to and balanced with other flow needs in the basin.
21 And we've looked at a couple of different alternatives for
22 higher flow proposals -- proposals for higher flow releases
23 from the Wylie Development and what is being found is that
24 they result in the -- the proposals to date result in
25 unacceptable reservoir elevation drops in the upstream

1 projects in North Carolina and we're very happy to have been
2 able to worked out a significant benefit to that stretch of
3 the river.

4 We have also included in our agreement a high-end
5 flow protocol by which we'll monitor stream gage and when
6 they are above normal we will release a higher amount of
7 water and that that 1100 cfs up to, I believe, 1400 cfs
8 during spring months, the months I think that would
9 correspond to the season that Mark Cantrell was referring
10 to.

11 What we've seen so far is that trying to evaluate
12 additional proposals for more flow do have ramifications to
13 the water storage in North Carolina reservoirs. So we
14 believe that we've reached that point of balance between
15 several water needs.

16 MR. CANTRELL: This is Mark Cantrell with the
17 Fish and Wildlife Service again. I'd like to just briefly
18 address that again we reiterate the concern for providing
19 adequate flows for diadramous fish and then recognizing the
20 overall balancing of water supplies and water storage and it
21 certainly brings to mind that besides these minimum
22 continuous flows proposed for that reach that they also
23 propose significant higher flows in the recreational flow
24 schedule for that same area.

25 So in terms of providing fish habitat in the flow

1 schedule, I think that you should also consider the
2 potential effect of these higher flows on a regularly
3 scheduled basis April through September, October -- whatever
4 that schedule is -- of those significantly higher flow
5 amounts and how that will affect fish habitat and affect
6 larval fish development and survival. And if you want to at
7 the same time consider how those flows would affect that
8 storage that Mr. Oakley had just referred to as being
9 critically balanced.

10 MR. OAKLEY: This is Mark Oakley. We can't
11 confirm that the recreation flows were incorporated into the
12 flow modeling and were balanced and have all be factored
13 into and considered as part of the Comprehensive Relicensing
14 Agreement and have been included in the current proposal
15 because they can be supplied without having the upstream
16 storage impacts.

17 MR. BOLER: Let's move on to the Great Falls
18 bypasses unless there is anything else on Wylie. The
19 proposal for the Long Bypass reach is January through
20 February 14th, 450 cfs; February 15th through May 15th, 850
21 cfs; and May 16th through December, 450 cfs. And then the
22 short bypass reach is 100 cfs all year. These are
23 continuous minimum flows.

24 MR. CHRISTIE: Dick Christie with the South
25 Carolina Department of Natural Resources. Another important

1 objective of the DNR is to restore flows where feasible in
2 the Great Falls Bypass with the except of high water events
3 has pretty much been dewatered for I think it's fair to say
4 almost a hundred years now. The restoration to these flows
5 to this 2-mile stretch of unique habitat in the Great Falls
6 area we think will greatly enhance the aquatic component and
7 habitat associated with that area. We're very pleased to
8 see this proposal in the license application.

9 MR. CANTRELL: Mark Cantrell with the U.S. Fish
10 and Wildlife Service. We, too, agree that providing habitat
11 and continuous minimum flows with the seasonably variable
12 schedule provided will increase habitat there for resident
13 fishes and other aquatic life and that's important. We also
14 reiterate the theme that when diadramous fish become present
15 in these areas additional flows may become necessary to
16 provide adequate spawning habitat seasonally for those
17 species and as well as maturation habitat.

18 The other theme that we would add that we still
19 would like to consider is the potential adverse impacts of
20 the recreational flow schedule upon the benefits of the
21 proposed minimum flow schedule and the habitat provided
22 there for those resident species and any additional flows
23 for diadramous fish and so we'd like for that to be a topic
24 considered -- the interaction of those potentially
25 detrimental higher flows on a regular schedule basis to

1 negate the benefits and gains.

2 MR. BLACKBURN: Maurice Blackburn, Carolina Canoe
3 Club. Mark is quite right. There are recreational flow
4 releases that I should point out that they're for less than
5 30 days a year and the hours are quite modest. So the
6 effect we judge it to minimum.

7 MR. BOLER: Any other comments on the Great Falls
8 bypasses?

9 MR. PITTS: My name is Irvin Pitts. I'm with
10 South Carolina Department of Parks, Recreation and Tourism.
11 Part of our interest as an agency is to promote recreational
12 access as well as a balanced approach with the natural and
13 cultural resources. And we feel like the proposed released
14 in the Great Falls Bypass will significantly improve the
15 aquatic habitat of that region and also we feel like it will
16 greatly support a new need for recreational assess as far as
17 canoeing and kayaking.

18 MR. BOLER: Let's move on to the Wateree
19 Development. We've got a schedule in the SD-1 which shows a
20 range of flows through the year. I can run through it, but
21 they range from January to February, 930 up to March to
22 April, 2700 cfs.

23 MR. CHRISTIE: Dick Christie, South Carolina
24 Department of Natural Resources. Of the flows proposed for
25 the South Carolina portion of the river, we think the flows

1 proposed for Wateree are probably the best of all of them in
2 terms of the true balance they provide in providing habitat
3 for a multitude of species. We think it's highly
4 appropriate because you're looking at approximately 90 miles
5 of river below the Wateree Dam. That a riverine section
6 that we think will achieve the maximum benefit from these
7 continuous flows. We also think that's an ideal habitat for
8 diadromous fish communities. They need a long stretch of
9 river, generally, to support the development and to provide
10 adequate spawning habitat and also provide the development
11 for the eggs and fry. Unlike some of the other areas in the
12 Catawba that provide questionable amounts of spawning
13 habitat and/or maturation habitats for the eggs, in
14 particular.

15 Again, we think the flows here are -- we like the
16 fact that they're seasonal and we feel like they're in
17 compliance with the state plan and fully meet the objectives
18 of the DNR.

19 MR. CANTRELL: This is Mark Cantrell again with
20 the Fish and Wildlife Service. And indeed, we think that
21 the proposed minimum flows on a seasonably variable schedule
22 as defined will certainly increase habitat for resident and
23 daydreams fish in that 76-mile river reach downstream of
24 Wateree Dam and so I think that those are certainly good
25 flows.

1 We do, however, on the same theme remind you of
2 the Wateree Bypass, which I think we get a chance to look at
3 tomorrow and the potential significance of that bypass to
4 provide habitat for a number of diadramous and resident
5 species of fish as well as mitigatory birds and the
6 importance of that bypass in providing an adequate,
7 seasonably variable flow regime to it through whatever
8 delivery mechanism is appropriate. So the bypass reach is
9 an issue that we think needs to be addressed in terms of
10 minimum flows.

11 The other issue that we don't think is addressed
12 in the proposed flow schedule here is the adequacy of the
13 higher flows on a seasonal basis to provide flows to the
14 really nationally significant flood plain habitat downstream
15 that include the Department of Interior's Congaree National
16 Park, which borders the lower 8 or 9 miles of the Wateree
17 river that's regulated by Wateree Dam and we'd like to see
18 that issue addressed there for not just the national park,
19 but for the entire Wateree flood plain which is joint
20 venture focus area of the Fish and Wildlife Service and a
21 number of other agencies and organizations. It's classified
22 as an important bird area and it also provide significant
23 habitat for a number of species to include a host of
24 migratory birds as well as the wood stork, which is a
25 protected species under the Endangered Species Act. And it

1 also provides a great deal of potential habitat for
2 restoration and recovery and potentially rediscover of the
3 ivory-billed woodpecker and I think that all these issues
4 should be addressed in your EIS for flows in this area with
5 regard to specially to those seasonally high flows on the
6 flood plain.

7 The other element of the flow regime that needs
8 to be addressed there is the change of flow rates onto and
9 off of the flood plain and especially the impact of the
10 rapidly reduced flows that would pull water from the flood
11 plain and impact the stream bank stability at Lower Wateree
12 River.

13 MR. BROWNELL: Good morning. I'm Pres Brownell
14 with the National Marine Fisheries Service. I just wanted
15 to add a supplementary comment to what Mark has just
16 mentioned with regard to one of the species that has been
17 affected by hydro power developments in the Santee River
18 Basin in general and certainly with regard to the Catawba-
19 Wateree Project and that the short-nosed sturgeon federally-
20 listed endangered species that we're trying to do the best
21 we can to work with the companies as well as the states on
22 our best plans for improving the prospects for recovery of
23 the endangered short-nosed sturgeon.

24 One of the areas of habitat that probably is most
25 promising in that regard is the area of the Wateree River

1 below the Wateree Dam and in particular any available
2 habitats there that could have potential for spawning
3 habitat; and more particularly, the area of habitat that's
4 bypassed just below the Wateree Dam is potentially an
5 important area for additional spawning for the short-nosed
6 sturgeon.

7 And I think that area of habitat along with the
8 riverine reach needs to be addressed in the EIS as well as
9 during the Endangered Species Act consultation in
10 supplementing the Endangered Species Protection Plan for
11 short-nosed sturgeon. We're limited, I think, a lot in
12 bringing back additional habitat above the Wateree Dam for
13 the short-nosed sturgeon and probably will be for the
14 majority of the new license term.

15 So I think it's incumbent on the agencies and
16 FERC to do the best we can for taking advantage of the best
17 habitat that is currently available below the Wateree Dam
18 and the existing proposed flows in the Comprehensive
19 Agreement do make a very significant improvement and I think
20 we do need to look at a little bit closer and just as I say
21 see if we can do something to create conditions that would
22 be for spawning of sturgeon in that bypass region. Thank
23 you.

24 MR. OAKLEY: This is Mark Oakley with Duke Energy
25 and a couple of notes from the perspective of the Wateree

1 bypasses. It has been regularly identified as an important
2 habitat and I think it is recognized as so. The other
3 factor of that particular location as we will see tomorrow
4 is that water in that bypass has a very significant impact
5 to Duke Energy because that water would be water that bypass
6 generators and this is 100 percent loss of generation with
7 that water.

8 That being said, we do recognize the value of
9 that habitat and although we don't believe it's practical
10 from our perspective to put flow over there. And if you
11 look at the entire river you'd achieve about a 1 percent or
12 less habitat gain for this situation as well as a couple of
13 other place situations. We did feel like it was important
14 to mitigate for that and that's why in the South Carolina
15 mitigation package we have included provisions intended to
16 be mitigation for that particular section of habitat.

17 We also were pleased that the agreement, as it's
18 currently written, does have two period of 10-day released
19 from Wateree Development for fish spawning of the different
20 species at two different times of the spring season into the
21 plain and into the river below the Wateree Development. And
22 we've also agreed to a flow plain inundation protocol by
23 which we will try to extend flow plain inundation flow
24 events for as long as possible and to ramp those down as
25 slowly as possible.

1 Wateree hydro by itself is not capable of
2 creating a significant flow plain inundation, but in
3 combination with inflow events and high water on the
4 Congaree River, we can have a positive influence on
5 sustaining flow plain inundations below the Wateree Project.

6 MR. BOLER: Before we wrap up on instream flows,
7 on the general theme of flows or future flows for diadramous
8 fish, are there any other comments? That came up a few
9 times.

10 (No response.)

11 MR. BOLER: How about on the issue of the
12 balancing of recreation and aquatic biota?

13 MR. REED: This is Steve Reed with the Division
14 of Water Resources again. All of those recreational flows,
15 as best I can remember, are actually less than the
16 generation flows. There are a lot of places where we're
17 providing recreation is coming from generators that might be
18 operating anyway. Really the only change that's been made
19 is it's schedule, such as the user knows it's going to
20 occur. The quantity is either less than or at the
21 generation levels.

22 MR. BROWNELL: Just an additional comment about
23 the potential cooperative management team. I think again
24 that's been talked about throughout the relicensing process,
25 but it seems on this project as complicated and complex as

1 everything as far as integrated management of all the
2 aquatic resource certainly would be worth considering the
3 ability to have a management team in place that would at
4 least review the instream flows over the years to see if
5 there are ways or opportunities to improve operations could
6 be put forward.

7 I think to have the chance to monitor and discuss
8 how the flows are working would be probably be helpful and
9 they've shown to be advantageous in some of the other
10 projects in the southeast region where we have had a
11 cooperative management team. I think it's a very effective
12 approach. It might be non-mandatory, but it's something
13 that can keep the agencies talking and potentially address
14 the need to make some changes to adapt to unexpected
15 conditions.

16 MR. BOLER: Let's move on to flows for water
17 supply. We will get back some points of wake levels.

18 I guess I'll just -- well, we can go from the top
19 to the bottom again. Bridgewater Development is releasing -
20 - the release is 90 cfs continuous minimum flow for the City
21 of Morgantown Water Treatment Plant. Then we go down to the
22 Wylie Development proposal at least 600 cfs continuous flow.
23 This is also for industry, 1000 cfs and approximately 1000
24 cfs for a continuous 16-hour period each day for the water,
25 pulp and paper mill.

1 MR. CHRISTIE: Dick Christie, South Carolina
2 Department of Natural Resources. Another important
3 objective of the DNR is to ensure that present and future
4 water supply demands are met. We feel like there are
5 adequate provisions in the agreement, particularly in terms
6 of the quantity of flows that are provided, but also other
7 things such as water management group, establishment of a
8 water management group as well as a low inflow protocol that
9 will all be considered as we move forward.

10 So again, we feel like water supply for that
11 section of the river -- and I'll just go ahead and say for
12 the rest of it in South Carolina for the Catawba has been
13 adequately addressed.

14 MR. CANTRELL: This is Mark Cantrell with the
15 Fish and Wildlife Service. Again, I'd note that in the
16 Scoping Document I there are provisions there to provide at
17 least 800 cfs continuous minimum flow at river mile 12 and
18 river mile 17 for each of the downstream significant
19 discharges there and the proposed continuous minimum flow at
20 Wateree Dam is 930 cfs at its least and so that appears to
21 be adequately met there.

22 MR. BOLER: Any other comments on flows for water
23 supply or for dilution?

24 MR. CANTRELL: Can I add something?

25 Mark Cantrell of the Fish and Wildlife Service

1 again. I will add that those flow levels, the continuous
2 800 cfs proposed there in SD-1, although adequately met by
3 930 is based upon the current permit discharge limits there
4 and at least one of those permits in draft for renewal and
5 so I'd recommend at some point you consider ways to adjust
6 that flow to make sure that it maintains compliance with
7 whatever the currency of the permit is at that time because
8 those permits are renewed on a five-year basis.

9 So as you're looking forward 50 years with this
10 EIS, there may be an additional burden of workload there to
11 consider changes in permits and changes in flows.

12 MR. BOLER: Any other comments on flows for water
13 quality?

14 MR. REED: Steve Reed, Division of Water
15 Resources. I'd just reiterate some of the comments with
16 regard to flows for water quality for Bridgewater area.
17 There had to be a balance, not only with the quantity of
18 water, but we're also looking at the temperature and the
19 dissolved oxygen and that's one of the reasons that the
20 flows in the bypass had to be balanced with the flows coming
21 out of the power house where you had cold-water species
22 downstream of the power house. You have mussels in the
23 bypass reach. You have dissolved oxygen problems in
24 different locations. So we were looking at a multitude of
25 things, not just the quantity, but the temperature of the

1 water and the dissolved oxygen of the water.

2 MR. TOMS: This is Dave Toms from the North
3 Carolina Division of Water Quality and in the Comprehensive
4 Relicensing Agreement, Duke has agreed to meet the terms of
5 our 401, which they must meet all water quality standards,
6 either through flow enhancements or dissolved oxygen
7 enhancement. So we believe as they go through the 401
8 process they will meet our requirements.

9 MR. CANTRELL: This is Mark Cantrell with the
10 Fish and Wildlife Service again. I wanted to note that
11 water quality is an important component of fish and wildlife
12 habitat, providing the adequate living conditions for not
13 just a lot of our focal species, but also for the pre-base
14 and so we're concerned that the water quality implementation
15 schedules set forth in the license as well as any comments
16 that we make to each of the state agencies who provide 401
17 certificates that they identify a schedule that's adequate
18 to provide that water quality when the license is issued
19 and/or to get the facilities there to do it on an aggressive
20 schedule. So I think the timing of those water quality
21 improvements should be a topic of the EIS.

22 MR. TOMS: Dave Toms, North Carolina Division of
23 Water Quality. There are interim measures that are being
24 implemented where possible. Beyond that, most of the
25 information we've been provided show engineering and

1 equipment provider issues with the rate at which these
2 things could be implemented. We believe where quality
3 improvements can be made they are being made in a timely
4 manner and where they're held up is because of an industrial
5 provider.

6 MR. WEST: This Ben West with the EPA. I'd also
7 like to echo what Mark said and in particular SD-1 talks
8 about, I guess, the flow and water quality implementation
9 section there's a plan to be prepared that has largely been
10 prepared, but there's a section that suggest it'll be
11 developed in consultation with a number of agencies. EPA is
12 not listed as a consulting party in that list and we'd like
13 to request that we be added to that list for the purpose of
14 consultation, not only for this the flow and water quality
15 implementation plan for the purposes of the scheduling and
16 other things that Mark talked about; but also the water
17 quality monitoring plan, again, which is in a pretty good
18 form and we have actually participated to date. But just
19 for the purposes of the record, we'd like to be involved in
20 the consultation associated with the development and
21 implementation of those plans.

22 MR. BOLER: Any comments on water quality flows
23 further downstream? How about on the low inflow protocol or
24 the maintenance and emergency protocol?

25 (No response.)

1 MR. BOLER: How about on the flow monitoring,
2 USGS gages, I think adding one and paying for annual
3 maintenance on others?

4 MR. WEST: Are you done with water quality in
5 general? Are we going to go back to that because I do have
6 some comments. I mean not necessarily flow related
7 comments, but just some general comments about water
8 quality.

9 MR. BOLER: We've moved into water quality. Go
10 ahead.

11 MR. WEST: Again, this is Ben West with EPA. Our
12 primary interest throughout this process has been to work to
13 improve water quality in the reservoirs, the tributaries in
14 the project boundaries, tail raise areas, bypass reaches and
15 the downstream river reaches. Currently, all 11
16 developments do not meet state water quality standards for
17 dissolved oxygen during several months of the year. In
18 addition, several water bodies in the project area,
19 including many of the mainstem reservoirs and riverain
20 sections are not meeting their designate uses and are
21 considered impaired by the States of North Carolina and
22 South Carolina from turbidity, high ph nutrients and low
23 dissolved oxygen.

24 It is our interest to ensure that these
25 discharges from all 11 developments, which include 13 dams,

1 meet those state water quality standards. In addition, EPA
2 proposes the continuation of their long-term water quality
3 monitoring in the project area to determine compliance with
4 those state water quality standards.

5 Again, echoing what other folks have said. From
6 my perspective, it is clearly a situation of not only the
7 flows, but also the chemical constituents that will make the
8 biggest difference and we do have some potential issues, in
9 particularly, in South Carolina in regards to what has been
10 proposed in as far as meeting dissolved oxygen standards
11 below the dams.

12 MR. MURPHY: There is a proposal in the
13 application to continue water quality monitor after the
14 license. It's set up now as a plan. We've typically tried
15 to get away from having plans required in licenses. At this
16 point, we just have an actual proposal there to start. With
17 all the work that's gone into this, it may require some more
18 work to come up with an adequate plan with all the
19 information that's already been gather.

20 MR. OAKLEY: This is Mark Oakley. It's really
21 more of a status note to the participants more than anything
22 else. We did do some supplemental water quality testing
23 last summer, learned more about the aeration capability of
24 our units. We have talked to North Carolina DOBQ and South
25 Carolina DOBQ a couple of time since then to share some of

1 those results and receive comments on how they would like to
2 see that reflected in a water quality certification
3 application. We have taken that input and are now drafting
4 water quality certification applications for both states.

5 The consultation that Ben West refers to is going
6 to happen relatively soon. We're getting ready for that.
7 I'm not quite ready yet and we're very willing and happy to
8 include EPA in that consultation.

9 MR. WEST: One other issue we'd like to see
10 addressed in the Scoping Document I that is included in the
11 Comprehensive Licensing Agreement, so don't mistake me to
12 think that it hasn't been addressed. But the notion in the
13 50-year or 30- to 50-year term of the new license, as I
14 mentioned, there are a number of waters that are not meeting
15 their designated uses and will require, more than likely,
16 some time in the future development of total maximum daily
17 loads. There is some language in the CRA that discusses
18 Duke Power's participation in the future in those TMBL
19 processes, providing data, coordination with the states and
20 other stakeholders as they develop loadings in the future, I
21 think especially given the term of the license, it's highly
22 likely we will see some of those come to bear and require in
23 the basin here and it's important to show that commitment.

24 Again, I'm not sure if it's going to be part of
25 the license or not. I think, from our perspective, it might

1 be appropriate to include in the new license, that TNDL
2 commitment. But certainly would like to get on record the
3 ability for Duke to provide information and support those
4 processes as they're required in the future.

5 MR. OAKLEY: This is Mark Oakley with Duke Energy
6 and we do have some provisions built into the Comprehensive
7 Relicensing Agreement to do supplemental monitoring on
8 certain streams flowing into the project long term so that
9 as those longer term scenarios possibly play out that we'll
10 have data for our own use and for sharing with both states
11 about what we've observed about any trends of changing water
12 quality flowing into the reservoir, the objective being to
13 sort of help track the source of any future water quality
14 excursions and determine if they are from incoming sources
15 or from our equipment to make sure we live up to our
16 obligation, to make sure that our equipment is operated and
17 being operated properly and possibly provide whatever
18 assistance that we can to both states about where we're
19 seeing changes in trends and incoming polluted loads or
20 whatever is coming into the project.

21 MR. TOMS: Dave Toms, Division of Water Quality.
22 I just want to note that it's North Carolina policy that dam
23 operators are not responsible for the incoming water quality
24 and results in the reservoir of any incoming flows. That
25 being noted, the information that Duke has provided is very

1 helpful and the models that have been produced as part of
2 this process are even now being applied to management
3 strategies our future team in the development point source
4 permitting policy.

5 So while they're not responsible for incoming
6 water quality, the information they've provided as part of
7 this process is helping us in our mission to improve that.

8 I'm going to provide you with a written statement
9 that goes into some of the specifics about what the
10 Comprehensive Relicensing Agreement -- which sections meet
11 our interest. But just in general, I wanted to note that
12 all of our interest coming into this process were either met
13 by the Comprehensive Relicensing Agreement or will be met
14 through this 401 application process.

15 MR. MURPHY: I just wanted to bring up a quick
16 point on the end of that. You have 30 days to file scoping
17 document comments, scoping meeting comments. If you have
18 written comments, you can leave them with our court reporter
19 -- just a quick note because it just came up.

20 VOICE: (Off mike question.)

21 MR. MURPHY: Thirty days from today. We've been
22 telling people 30 days from the last meeting since it's a --
23 today or tomorrow, whichever day is a week day.

24 Before we start getting into reservoir
25 elevations, I think we'll take a quick break. I see a few

1 glazed eyes.

2 MR. CANTRELL: Thirty more seconds if you can
3 hold it. Mark Cantrell with the Fish and Wildlife Service.
4 I wanted to ask that you include some consideration in your
5 EIS for the need to have, in addition to whatever the 401
6 certs requires for water quality monitoring and reporting,
7 that you need to consider -- and I'd recommend provisions to
8 provide for real-time monitoring of flow and water quality
9 requirements to the license such that there can be detection
10 of problems and compliancy issues sooner than the following
11 June as suggested in the SD-1. So I'd asked that there be
12 some way to monitor compliance and have interim reports,
13 especially of excursions outside of those license
14 requirements.

15 MR. MURPHY: Now we will take the break.

16 MR. TOM: In the consultation to develop the 401
17 continuous monitoring at a 15-minute interval is built into
18 the releases of all the dams and that's complied, I believe,
19 on a daily average and then reported to our regional offices
20 monthly, I believe, is right and then a yearly report of
21 actions to date. So with the monthly reporting we'll get
22 any sort of acute issues that need to be addressed
23 immediately and then we track yearly the long-term trends.

24 MR. CANTRELL: Again, my point was not that the
25 water quality certified agencies would be able to monitor

1 those things, but that for the license purposes for the
2 Commission and under the Coordination Act the Fish and
3 Wildlife Service and other agencies could have access to, on
4 a timely basis, those flow-related information, including
5 the water quality and quantity issues.

6 MR. MURPHY: Let's take a quick 10 minutes.

7 (Recess.)

8 MR. MURPHY: We are going to move on into
9 reservoir elevations. Rather than read through every
10 reservoir and every month, does anybody have an issue with
11 the reservoir elevations as proposed in the CRA?

12 (No response.)

13 MR. MURPHY: Does anybody have reservoir
14 elevations they want us to consider in our EIS other than
15 what's in the CRA?

16 (No response.)

17 MR. MURPHY: Fish, fishes? After going through
18 the flows and the water quality stuff, we did discuss a bit
19 about different fish at different developments. Since we
20 have cold water and warm water and diadramous, we get to
21 cover the gamut on this project.

22 Let's start with the cold water fishery effort at
23 Lake James or downstream of Lake James unless somebody wants
24 to talk about the reservoir fishery up there.

25 Cold water fishery? Somebody is holding back.

1 Rhodhiss? Is there cold water fisheries there or is it just
2 warm water?

3 VOICES: Warm.

4 MR. MURPHY: Oxford? I'm with Oxford with the
5 going, going, gone here?

6 (Laughter.)

7 MR. MURPHY: Lookout Shoals? Lookout Shoals
8 Bypass? Wylie?

9 Do we want to talk about fish in the upper part
10 of the system?

11 MR. GOODREAU: This is Chris Goodreau with North
12 Carolina Wildlife Resources Commission. I'm looking at
13 Section 5.2.3 of your SD-1. I've got two comments. One is
14 the -- well, the effects on native shop populations and
15 enhancement efforts. Native trout I understand that to be
16 brook trout and brook trout really aren't in the project
17 boundary or project effects area, so I'm not sure that
18 that's necessary as an issue to be analyzed.

19 If you mean trout in general by that statement,
20 then I would just scratch the word "native" out of that and
21 the effects of the project on trout population below ridge
22 water would be a more appropriate statement there.

23 The second question I have or statement is --
24 let's see, the one, two, three, four, fifth bullet in that
25 section. Effects of project operations on diadramous fish

1 migrations and spawning and on overall fish restoration
2 efforts in Catawba and Wateree Rivers. I have basically a
3 question whether or not that includes an analysis of habitat
4 and population fragmentation of fish populations. And if it
5 doesn't, that that analysis should be added to the list of
6 issues.

7 MR. MURPHY: Noted. Anyone else with some
8 constructive stuff?

9 VOICE: Are we still talking about reservoir
10 fisheries?

11 MR. MURPHY: We were just moving down the stream.
12 Did you want to comment on reservoir fisheries in general or
13 just a particular lake?

14 VOICE: (Off mike question.)

15 MR. MURPHY: I was trying to step down through
16 each river section. So reservoir, below the reservoir and
17 next reservoir. You just wanted a clarification of what we
18 were talking about?

19 (Off mike comment.)

20 MR. MURPHY: Take the mike, sir, so we can put
21 that on the record.

22 VOICE: (Off mike.)

23 MR. MURPHY: Wylie? Great Falls?

24 VOICE: (Off mike.)

25 MR. MURPHY: Wateree? Reservoir first, then

1 downstream? Downstream?

2 MR. CANTRELL: This is Mark Cantrell with the
3 Fish and Wildlife Service. I wanted to address two issues
4 with regard to these series of reservoirs and these
5 fisheries there and the first is that in the Wylie
6 tailwater, which is also the fishing creek, upstream reach
7 fishing creek, there's concern that your EIS may need to
8 address the need for additional information on the existing
9 fishery there.

10 Information provided in the license application
11 was significantly dated and considerably limited in its
12 scope and we're concerned that we need to have additional
13 information on what to characterize the aquatic community
14 and especially the fish community in that 30-mile reach of
15 regulated river downstream of Wylie and upstream of Fishing
16 Creek.

17 MR. OAKLEY: This is Mark Oakley with Duke
18 Energy. Our draft licensing application, I think, included
19 some information that was several years old on fish found in
20 the Wylie tailwater and therefore when we issued the final
21 license application we went out and updated that information
22 in the Wylie tailwater, so it is current.

23 MR. CANTRELL: This is Mark Cantrell with Fish
24 and Wildlife Service again and I'm trying to understand what
25 Mr. Oakley just said. I guess I'll reiterate that the

1 license application didn't include information providing a
2 good description of the fishery resources in that 30-mile
3 reach, both within scope and certainly the timing of what's
4 there and that the information was considerably dated and
5 not up to the level of standard that was employed in
6 sampling the other tailwater and tributary reaches during
7 the license study phase.

8 MR. KARDATZKE: I'm Jim Kardatzke from the Bureau
9 of Indian Affairs. That's K-A-R-D-A-T-Z-K-E and just want
10 to reinforce what Mark Cantrell had to say. The stretch of
11 river and the Wylie regulated stretch of river is extremely
12 important to the Bureau because we an Indian reservation and
13 federal trust lands located abut to it and the fisheries are
14 a natural resource of the tribe and things that can be done
15 to enhance and encourage that resource to include what we
16 anticipate in the future with the return of diadromous fish
17 sometime in the future to this stretch of the river that
18 studies need to be prepared and the license should be so
19 structured so that if changes are needed to enhance this
20 resource they can be put into the relicense.

21 MR. CHRISTIE: Dick Christie, DNR. Just a few
22 comments in regard to some of the existing fisheries
23 information that is available below the Lake Wylie Dam and
24 the Wylie River stretch. The DNR was involved with
25 conducting a study back in 1996. I think that might be the

1 dated information that's being referred to. The study was
2 conducted with the DNR, with Duke Power, with Clemson
3 University through the funding of a graduate student, and
4 the study methods -- well, we employed six sampling sites
5 scattered throughout that 30-mile stretch. There were a
6 variety of methods used from grid sampling, the backpack
7 electric fishing, boat electric fishing, trapping and a few
8 others to try to get a good representation of the fish
9 community.

10 If I recall, I think there were 45 plus species
11 of fish documented. In particular interest at that time was
12 the sucker species. We consulted the expertise of Dr.
13 Jenkins up at Roanoke College of Virginia, a noted sucker
14 expert for identification of all of the species to confirm
15 them and anyway I think that was a baseline study at the
16 time that was pretty consistent with other studies that have
17 taken place in the Catawba Basin.

18 Duke has supplemented that data with some
19 additional sampling that was conducted more recently. I
20 think they added three species to the list. They may want
21 to speak to that. Again, I don't remember exactly the
22 details, but I'd just like to add that to the record.

23 MR. MURPHY: Let me backup. I hopped over the
24 shoals. Cowans Ford? Mountain Island? Fishing Creek?
25 Rocky Creek and Cedar Creek? Wateree Reservoir? Wateree

1 downstream? Would you like to discuss the fisheries through
2 the system or down to Wateree?

3 MR. CANTRELL: This is Mark Cantrell with the
4 Fish and Wildlife Service. We'd like to remind the
5 Commission when preparing their EIS that there are important
6 fishery resources in the regulated river reach downstream of
7 Wateree, in particular, that fish assemblage is punctuated
8 seasonally with spawning diadromous fishes. It's also
9 inhabited by then the juveniles as they mature and we would
10 like to make sure that you consider them as significant
11 component of that fish assemblage and we've already talked
12 about the flow issues related to management of those
13 habitat. But in general, we're concerned to ensure that
14 that's adequately described and addressed there.

15 MR. MURPHY: We're going to talk about certain
16 endangered species with the agencies that are in charge of
17 those as the process continues rather than take up time here
18 because that's really between us.

19 MR. GOODREAU: This is Chris Goodreau again with
20 North Carolina Wildlife again. Just a question. I
21 understand FERC -- this as being a federal action assessing
22 federal listed species, but we would request that the
23 analysis also include effects of operations and maintenance
24 on state-listed species, particularly mussels.

25 MR. MURPHY: Are they all listed in the

1 application? Is there anything that was missed.

2 MR. GOUDREAU: Not that I know of.

3 MR. MURPHY: The answer no or not that I know of.

4 Let's go into geology and soils and our geologist
5 results back in D.C. So if you have issues, give them to
6 me. I can't answer them, but I'll make sure he knows about
7 them.

8 MR. GOUDREAU: Chris Goudreau again. In the
9 first bullet under Geology and Soils in Section 5.2.1, I've
10 just got a question. If the effects -- it says, "The
11 effects of continued project operations, including lake
12 level fluctuations on shoreline erosion," and I wonder if
13 that sentence includes shoreline management plan as part of
14 the continued project operations or not? And if it doesn't,
15 that should also be considered as part of the analysis how
16 implementation of the proposed shoreline management plan
17 does or doesn't affect shoreline erosion.

18 MR. MURPHY: Anything else? I'm taking this
19 note.

20 MR. CANTRELL: This is Mark Cantrell with the
21 Fish and Wildlife Service again. We'd like to make an
22 addition there or a suggestion that in addition to
23 considering the effects of continued project operations on
24 shoreline erosion is to reiterate that at least I'm
25 concerned about shoreline erosion in the regulated river

1 reaches downstream, not just in the reservoirs and in
2 particular along the Wylie tailwater and the Wateree
3 tailwater. And the Wateree tailwater extends, again, that
4 76 miles downstream bounded on one edge by the Congaree
5 National Park, which is of real interest and that that
6 section would probably be a good place to also address the
7 effects on geo-morphic processes that occur on the flood
8 plain as well as along that stream channel and the way it
9 affects the erosional processes, those cutoffs and the
10 health of that ecosystem there.

11 MR. MURPHY: I'll adjust the third bullet for
12 you.

13 Anything on sedimentation?

14 MR. BOLER: While we're on a related topic, are
15 there any questions, issues about flooding in general, high
16 flow issues through the project? I know we've talked about
17 downstream flood plain concerns. Flood elevations?

18 MR. MURPHY: We're the new tag team. If that's
19 all you guys want from the geologists, the geologists will
20 be very happy.

21 Island erosion? I know that came up in a couple
22 of places. It's all in the application? Okay.

23 Allyson, you want to talk about recreation?

24 MS. CONNOR: (Off mike.)

25 MR. MURPHY: We'll do terrestrial after lunch.

1 Recreation? Maurice is here.

2 MR. BLACKBURN: This is Maurice Blackburn,
3 Carolina Canoe Club. I participated in quite a few -- one or
4 two stakeholder meetings over the past three years as part
5 of the recreation team, as part of the geo-ops team. As far
6 as recreation is concerned, we recognize that while there
7 are all sorts of things we'd like to have, we have to go for
8 balance. From a recreational flow point of view, even
9 though what we came up with may not have made everyone
10 happy, we feel we struck a very good balance there,
11 particularly when we're starting from zero recreational
12 flows.

13 We're pleased with what we were able to put into
14 the agreement. We felt that we too into consideration other
15 people's requirements. We're very much dependent on the low
16 flow protocol. We lose our flows very early in the low flow
17 inflow protocol implementation, which is fine. We believe
18 that the recreation flows that we've incorporated will
19 considerably enhance tourism in the area.

20 As I said the other night, paddling the river
21 sections of the Catawba is very hit and miss. You can do it
22 when Duke is releasing quite often early in the morning or
23 you can do it when it's flooded, but the other times you
24 really scrap down. We once had the misfortune to arrive at
25 the Fort Mill put-in just after they turned the water off

1 and being persistent we went down, but it wasn't a good
2 experience. So we feel getting these dependable flows will
3 considerably improve the situation.

4 As far as recreation amenities are concerned,
5 there's a considerable amount of information in the
6 agreement. I believe Jeff pointed out the other night that
7 Section 10 is one of the biggest sections in the entire
8 agreement. We have added a lot of new access areas. We've
9 added a lot of improvement to access areas. We've added
10 trails. Not as much as some people would have liked, but
11 nevertheless we came up with what I thought was a very
12 balanced agreement. That's all I have to say for the
13 moment. I may say something later, but that'll do for the
14 moment.

15 MR. PITTS: This is Irvin Pitts, South Carolina
16 Parks, Recreation and Tourism. I had some general comments
17 I'd like to make on the recreation.

18 As I mentioned earlier, our agency promotes
19 tourism in South Carolina. It also promotes the development
20 and the access of recreational activities and opportunities
21 in the state. Going into this process we had several
22 objectives that pertain to recreation -- providing
23 additional recreational and open space along the river
24 corridor in South Carolina and also to maintain and enhance
25 the quality of the experience as it pertains to recreation.

1 We feel like our objectives have been met through
2 the Comprehensive Agreement. The agreement does call for
3 increased scheduled recreational flows, which I think will
4 benefit recreational users in the Catawba River Basin. It
5 also proposes the protection of some significant shoreline
6 habitat in the Landsford Canal State Park area as well as in
7 the Great Falls area, which we feel is crucial for that
8 recreational experience for the visitor.

9 Also to reiterate what Maurice just commented on
10 that we feel like in some parts of this will also increase
11 and encourage economic development in some of these areas as
12 they pertain to recreation..

13 MR. CANTRELL: Mark Cantrell with the Fish and
14 Wildlife Service. I'd like to also make note that in your
15 consideration, although it's not described in detail in
16 these bullets in the SD-1, would like to remind you to
17 consider the importance of fish and wildlife-based
18 recreation as well as these other water-based recreation
19 activities and recall that fish and wildlife-based
20 recreation, especially things like bird watching are more
21 popular than some of the other forms of recreation enjoyed
22 by quite a few people and so we ask that you consider those
23 elements throughout the recreational resources section.

24 Also, to include the addition of our Fish and
25 Wildlife Service's inventory of fish and wildlife recreation

1 as one of the comprehensive plan that you look at the latest
2 additions of that for the national inventory as well as the
3 additions for the states of North and South Carolina.

4 MR. MURPHY: When were those revised?

5 MR. CANTRELL: I think 2005 or 2006. But I think
6 the latest ones are on file with you guys, but I know I've
7 provided them in a couple other relicensings recently but
8 we'll double check. I'm pretty sure 2005 or 2006.

9 MR. MURPHY: Anyone else wish to comment on the
10 recreational aspects?

11 (No response.)

12 MR. MURPHY: Land use and aesthetic resources?
13 Cultural resources? Issues that we've reviewed. Is there
14 any agreement there not adequately shown in the SD-1?

15 MR. KARDATZKE: This is Jim Kardatzke, Bureau of
16 Indian Affairs. I'm just need to remind the Commission that
17 within the area of this project are two environmental
18 justice communities -- the Catawba Indian Nation and the
19 Eastern Band of Cherokees. So you're doing your
20 socioeconomic analysis that they're among the environmental
21 justice communities that must be analyzed.

22 MR. MURPHY: Maybe we will do terrestrial
23 resources before lunch.

24 MR. PITTS: This is Irvin Pitts, South Carolina
25 Parks, Recreation and Tourism. I will add a couple of

1 comments about the protection of cultural resources. One of
2 our objectives going into this process was to support the
3 protection of the other significant cultural resources along
4 the river corridor and we feel like this has been addressed
5 in many ways. We've worked with the -- the Comprehensive
6 Agreement does address the protection of the Dearborn
7 Armory, which is on Mount Dearborn. It does include some
8 investigative work to identify what the most important
9 features that need protection and so we feel like a large
10 part of that agreement, from our perspective, has been met.

11 MR. CHRISTIE: Dick Christie, South Carolina
12 Department of Natural Resources. And while we have time,
13 I'd like to just jump back to the land use and aesthetic
14 resources.

15 We think that, again, the Great Falls, which was
16 dewatered years ago by the construction of the project, will
17 be greatly enhanced with the flows that are proposed and
18 will be reviewed in the scoping process. We think that's a
19 very significant natural feature that will benefit from what
20 has been proposed in the license application.

21 MR. CANTRELL: This is Mark Cantrell with the
22 Fish and Wildlife Service. Under the 5.2.4, Terrestrial
23 Resources, I'd like to maybe get some clarification or add
24 some hints there, at least for the bullet for project
25 impacts on wildlife refuge. I would guess that that may be

1 referring to Cowan Ford Wildlife Refuge. Also, I'd like to
2 add there that that bullet may be the appropriate place to
3 consider impacts to other wildlife management areas,
4 including the Congaree National Park downstream as a
5 terrestrial resource impacted by project operations.

6 Under the control of noxious weeds, I would be
7 glad to provide an updated list of some other noxious
8 terrestrial weeds -- purple leafy and stripe leafy I don't
9 think are an issue here. We do have a significant list of
10 other noxious weeds, including the kudzu and a host of
11 others that we can add there for your analysis and think it
12 would be more appropriate than the couple of examples listed
13 there.

14 Also, the next bullet for lost and restoration of
15 the cottonwood habitat, we do have -- well, we don't really
16 have the cottonwood habitat as a lost restoration issue here
17 in the tailwaters, but there may be some other appropriate
18 species, complex or habitat, that is impacted on the
19 terrestrial side by the project and operations.

20 Although we appreciate the initiative to identify
21 even the cumulative and other effects of the project on
22 native frog species, we're not sure this is as significant a
23 issue here, although we'll be glad to address that. We do
24 have significant amphibian resources that are affected by
25 the project in a number of areas. So we'd be glad to help

1 you flesh out that idea a little better. It's important to
2 even try to understand if we missed something in most of our
3 relicensing studies.

4 MR. GOUDREAU: Chris Goudreau, North Carolina
5 Wildlife. In addition to the changes that Mark suggested,
6 the list of terrestrial resources should include other
7 species complexes like bats, for example.

8 MR. MURPHY: I'm assuming you have included these
9 in your written comments so we don't miss them.

10 MR. GOUDREAU: Yes, they're included in the
11 relicense application.

12 MR. MURPHY: Okay. The part that's different for
13 me for this process from what I'm used to with environmental
14 assessments in the Environmental Impact Statement is we have
15 a socioeconomic section, which we didn't bullet yet. We
16 will include a section of bullets in the SD-2. If you have
17 any suggestions for that, written comments other than -- we
18 have yours for the tribes.

19 (Pause.)

20 MR. MURPHY: I don't have any more issues listed.

21 MR. GOUDREAU: Are we going to talk about
22 cumulative secondary, temporal and geographic scoping?

23 MR. MURPHY: Your name again?

24 MR. GOUDREAU: Chris Goudreau. I guess we will
25 now then. This is Chris Goudreau. A couple of comments on

1 geographic scope.

2 It appears to be adequate. There are some
3 general statements in SD-1, but I'm not sure from the
4 description that it necessarily includes tributaries to the
5 reservoirs and we would suggest that that should be the case
6 in order to get at the fragmentation issue that I raised
7 earlier.

8 MR. WEST: This Ben West with the EPA. I have a
9 similar comment on the geographic scope of the cumulative
10 impacts and I would suggest it's actually not written very
11 well-defined in terms of understanding. The way it states
12 now, "The scope of the analysis is proposed to encompass the
13 project boundary, the mainstream of the Catawba and Wateree
14 Rivers and lands adjacent to the Catawba-Wateree Project."

15 I think that is not the appropriate scope in
16 terms of the cumulative impacts and that it should include
17 essentially all reaches of the river that are affected by
18 the operation of the project, especially in the areas of
19 water use, water quality and aquatic resources. So our
20 suggestions is to include the upper basin and again, maybe
21 you meant this and it just didn't say this as directly. But
22 write it to include the upper basin from the upstream
23 influence of Lake James, all project developments, including
24 the tributaries Chris just mentioned, regulated river
25 reaches, bypass reaches outside the project boundary,

1 including the Wateree River downstream to its influence with
2 Congaree River. This would be consistent with other studies
3 completed for the project. So that's our recommendation for
4 the scope.

5 MR. GOUDREAU: Chris Goudreau. Section 5.1.1,
6 Resources That Could be Cumulatively Affect. It lists three
7 issues. I think water quantity, obviously, should be on
8 that list.

9 And I've got one other comment dealing with the
10 list of comprehensive plans. North Carolina Wildlife
11 Resources Commission had submitted and FERC has accepted our
12 fish and wildlife management plan for the Catawba Basin,
13 which is on the FERC website, but not listed in your
14 document here. So we'd ask that that be included as well.

15 MR. CANTRELL: Mark Cantrell, Fish and Wildlife
16 Service. I did want to add, since Chris reminded us of the
17 list of comprehensive plans that already mentioned a point
18 for recreational consideration, but also the Santee
19 diadramous fish restoration plan was absent from your list
20 there, although it is on file and we've mentioned it before.
21 So it may have been a cutoff at the bottom of the page
22 there.

23 MR. MURPHY: Cumulative effects and comprehensive
24 plans?

25 MR. CANTRELL: Mark Cantrell, Fish and Wildlife

1 Service. This is a good time for me just to thank the
2 Commission for, in fact, embarking on the production of an
3 EIS and we think that this is a significant undertaking that
4 deserves treatment in a document such as an EIS and we
5 commend you on that selection. This is a huge and complex
6 project and certainly the EIS will no doubt be challenging
7 and we recommend that if there is anything that we can do to
8 provide the information or to further flesh out ideas that
9 are in not just the license application, but in any of our
10 comments, by all means, contact us. We have a number of
11 roles that we think we can fulfill in terms of our expertise
12 and authority and we certainly want to assist you in that
13 endeavor as much as possible.

14 MR. WEST: Are we moving to sort of general
15 statements? I thought I'd like to make something for the
16 record unless you want to go to a specific section.

17 MR. MURPHY: Sure.

18 MR. WEST: I'd also like to reiterate what Mark
19 just said. The EPA is very pleased and supportive that the
20 Commission has chosen to do an EIS for this project for many
21 of the same reasons and again, in the same vane, would
22 certainly be willing to assist you in any way in the
23 preparation of your EIS.

24 But I thought I'd just quickly mention the EPA
25 has been active and participated in this process since 2003.

1 We were a designated party or interested party in the
2 comprehensive settlement agreement proceeding. We've been
3 active participants on the North Carolina and the South
4 Carolina state relicensing teams and participated on some
5 resource committees, including the water quality resource
6 committee.

7 EPA submitted comments on the draft license
8 application in April of 2006 and has been actively involved
9 in the development of the Agreement in Principle and we do
10 continue to support many of the protection and enhancement
11 measures included in the AIP and the subsequent
12 Comprehensive Relicensing Agreement. However, EPA did not
13 sign either the AIP or the CRA due to concerns related to
14 our statutory, regulatory role and other technical issues,
15 some of which I've mentioned here today.

16 However, despite not signing, EPA would like to
17 strongly support and compliment Duke Energy for the
18 collaborative process that they have used to develop these
19 agreements. The AIP and the Comprehensive Relicensing
20 Agreement represent significant attempts on the part of Duke
21 Energy to balance many stakeholder interest through their
22 intensive mutual gains negotiations.

23 We will be submitting some specific written
24 comments during the next 30 days, but we certainly wanted to
25 get those things on the record. Thank you.

1 MR. BROWNELL: Just a general comment pertinent
2 to the endangered species consultation for the short-nose
3 sturgeon. It's interesting that over this period that we're
4 involved in right now, over a 10-year period or so we're
5 addressing relicensing of many of the larger hydro power
6 facilities in the Santee River Basin and it may be
7 appropriate for taking a look at through the ESA
8 consultation for the sturgeon, taking a look at broadening
9 that a little bit and having some special coordination
10 leading up to the completion of the consultation that would
11 consider a base and wide approach. I'm not sure exactly how
12 to do that, but I think it may be worthwhile for the
13 Commission and NOAA Fisheries to have some discussions about
14 how to best handle the consultation.

15 MR. MURPHY: If we're going to be wrapping up
16 early, if you'd like to sit down -- the Fish and Wildlife
17 Service, the states and NMFS and talk about the endangered
18 species stuff, we're willing to do that for everybody here
19 just to get it started. We had the day booked in, so if you
20 guys are going to stick around.

21 Anybody else want to make a statement while we
22 have the court reporter?

23 MR. PITTS: Irvin Pitts, South Carolina Parks,
24 Recreation and Tourism. I just want to make some general
25 comments. The PRT has been actively involved in this

1 stakeholder process and the meetings. We've been on the
2 relicensing teams, the advisory teams. We also served on
3 several resource committees. The PRT is also a party to the
4 Comprehensive Relicensing Agreement and we support that
5 agreement. We've enjoyed working with the other state
6 agencies, the communities and the volunteers and also with
7 the colleagues from North Carolina and we think that this
8 collaborative process has crafted a meaningful agreement for
9 the good of both states.

10 We feel like it was a balanced process and we
11 think that the outcomes are, from our perspective, in the
12 best interest of the State of Carolina, the citizens of the
13 state in terms of outdoor recreation and for the protection
14 and the interpretation of the resources.

15 MR. MURPHY: I think everybody is all set. I'll
16 remind you that 30 days -- we actually have a deadline in
17 the SD-1 of April 30th for the scoping document, scoping
18 meeting comments and we will be producing our SD-2 for issue
19 in -- I believe it's June -- incorporating comments we
20 receive today and the written comments.

21 Al?

22 MR. CREAMER: This is Allan Creamer with FERC. I
23 just want to clarify. We're talking about sitting down with
24 Fish and Wildlife Service and NOAA Fisheries to talk about
25 ESA issues, scoping of ESA issues and species. It will be -

1 - certainly anybody can sit and listen because it will be
2 public and it will be recorded, so I just wanted to make
3 sure that everybody understood that. That we're not doing
4 something behind closed doors.

5 MR. MURPHY: The rest of our schedule is as was
6 in the SD-1. At the moment, we don't see any reason to back
7 off of our schedule. It's kind of aggressive, but there's a
8 lot of information that you guys produced through the
9 process that you went through and I've never seen a
10 hydroelectric license application with as much information
11 attached to it as this and I said that with a straight face.

12 So we'll break now for lunch. And if you want to
13 stick around and listen to the ESA discussions, you're more
14 than welcome. If not, thanks for coming.

15 (Lunch recess.)

16

1 resources agencies -- both North Carolina and South Carolina
2 -- and three major utilities on the Santee Basin, which
3 includes Duke, Santee-Cooper and SCE&G. SE&G's relicensing
4 on the Saluda Project and Santee-Cooper is the South
5 Carolina Public Service Authority and we are meeting and
6 working towards an agreement that will address diadramous
7 fish restoration throughout the basin and it is something
8 that is ongoing and we hope to have some type of agreement
9 soon that we could probably provide to FERC and the Section
10 18 prescription would therefore reflect is agreed upon
11 within that accord.

12 So that is something that is ongoing and we're
13 working towards and hopefully that will come to fruition
14 soon. So we want to keep you apprised of that and that you
15 should be expecting R-18 to encompass this accord.

16 MR. CREAMER: You mean soon by how soon?

17 MS. HILL: I can't tell you a date. Well, the 18
18 is due, I believe, in October of '07. So we would hopefully
19 like to have something agreed upon before then. But we
20 wanted to keep you apprised that there is a collaborative
21 approach going on with three different utilities and all the
22 resource agencies.

23 MR. CREAMER: We certainly appreciate that. I
24 mean I was aware, being involved in the other two
25 relicensing, I was aware that there was something going on.

1 But I certainly appreciate the update.

2 MR. CHRISTIE: Dick Christie, South Carolina
3 Department of Natural Resources. I'd just like to echo what
4 Amanda said. I think it's important that you guys know that
5 the services has expended a huge amount of time. I think it
6 goes for NMFS to know as well, but they've expended a huge
7 amount of time in trying to develop a collaborative approach
8 to addressing some of the diadramous fish interest that are
9 near and dear to their hearts. We are parties to that
10 agreement and are very, very pleased with the progress that
11 everyone has made -- the utilities, the two federal services
12 and two state agencies. Actually, North Carolina Resources
13 Commission and the South Carolina DNR and South Carolina
14 DHEC hopefully will be signatory parties to this agreement.

15 So I again echo that update and appreciate her
16 saying something about that and strongly support the concept
17 and we're working hard to help it all come to fruition also.

18 MR. CREAMER: I'm getting a hand in the back.

19 VOICE: Can you identify those acronyms
20 sometimes?

21 MR. CREAMER: Okay. NMFS is National Marine
22 Fisheries Service.

23 VOICE: What is the acronym?

24 MR. CREAMER: N-M-F-S.

25 MR. CHRISTIE: DHEC is Department of Health and

1 Environmental Control and it's South Carolina.

2 VOICE: D-H?

3 MR. CHRISTIE: D-H-E-C.

4 VOICE: Thank you.

5 MR. CREAMER: Okay.

6 MR. BROWNELL: Just with regard to the endangered
7 short-nose sturgeon, my comments are -- Pres Brownell, by
8 the way, with National Marine Fisheries Service. My
9 comments are intended to inform you of what we are doing as
10 an agency with that species in the Santee River Basin and
11 what our plans are, but also would like to suggest the
12 possibility of maybe an informal consultation or discussion
13 at some point on a basin-wide context, as I mentioned
14 earlier in comments.

15 But first of all, just to mention, we do have in
16 process right now or we're working on a Santee River Basin
17 recovery plan. It's going to be a while before that's done.
18 It certainly is not going to be done within the timeframe
19 before the license is issued for the Catawba project, but we
20 are ongoing with that as a component of that is looking,
21 over the long term, toward studies and information. We've
22 funded a number of studies in the basin and we'll continue
23 to do so.

24 We're trying to address the recovery needs of
25 sturgeon on a basin-wide basis. And of course, the Catawba-

1 Wateree Project is one of the projects that does affect and
2 has affected sturgeon habitat and affected the species in
3 the past and we still have some continuing, ongoing impacts
4 from the effects of the project. So what I was going to
5 propose for consideration is at least the possibility of
6 having an informal discussion about how to best proceed on
7 preparations for the consultation for the Catawba-Wateree
8 Project.

9 But perhaps even broader than that to take a look
10 at having an internal agency discussion, at least, on how best
11 to make sure we identify the information that's available
12 and also any additional information needs that might be
13 worth considering and also how to handle alternatives, how
14 to take the best that we have of the developing recovery
15 plan and incorporate those as considerations in the
16 consultation. I'm not sure if that's a possibility. I
17 don't expect FERC to answer at this point, but that's just a
18 suggestion that we might want to enter into some earlier
19 consultation on an informal basis.

20 MR. CREAMER: We certainly appreciate those
21 comments and that perspective. We certainly want to make
22 sure that NMFS and even Fish and Wildlife Service is
23 comfortable with how we're going to proceed with our
24 consultation and the data that we have that would be
25 available for that. I'm not in a position right now to tell

1 you what we do and could do and how we will proceed, but we
2 have, in the past, and recently had discussions specific to
3 ESA and scheduling and that kind of at thing. So it
4 certainly wouldn't be novel to sit down and specifically
5 talk about that sort of thing. So it's something that we'll
6 take about and we'll talk with our supervisor and division
7 director and see where we're at with that and we might be
8 able to set something up specifically to start talking about
9 that sort of thing.

10 Anything else that anybody wants to bring up
11 specific to issues, policy or the procedure? Anything?

12 MR. CANTRELL: Mark Cantrell with the Fish and
13 Wildlife Service. I wasn't sure if we transitioned now into
14 a discussion of the endangered species at the Catawba-
15 Wateree?

16 MR. CREAMER: Yes.

17 MR. CANTRELL: Okay.

18 MR. CREAMER: I mean that's where I started this
19 discussion and we kind of got sidetracked with a couple of
20 other things -- with updates, which is fine. But certainly,
21 I want to come back to that.

22 MR. CANTRELL: Okay. I'm certain that there's a
23 lot of information, as was referred to earlier in the
24 licensing application, however, we do anticipate that there
25 may be required additional information in the FEIS,

1 especially in whatever biological assessments you put
2 together for these listed species. So we need to update
3 your list of species that are protected under the Endangered
4 Species Act and make sure that it's complete and we provide
5 you with an updated list to that affect and probably an
6 annotated list of where the species occurred in addition to
7 what's already mentioned in the license application and in
8 your scoping document and some of the issues that we think
9 need to be dealt with.

10 So we'll plan to do that as part of our written
11 report during the comment period on the SD-1. But I'll
12 touch on a few of those real quick and mention that we'd
13 already talked about the Schweiwilz's Sunflower at the
14 Mountain Island Bypass and we certainly think that since we
15 conducted the formal consultation a few years ago there and
16 issued biological opinion where there were impacts to
17 Schweiwilz's Sunflower from some of the spill-way clearing
18 activities, the relicensing study of the bypass reach
19 determined that there was -- well, actually came up with a
20 count of stems that was less than our previous consultation
21 had determined. So that demonstration that there had been
22 take in there from the series of flows and possibly from the
23 activities we've consulted on -- the clearing and brushing
24 and herbicide treatments. So we think that we really need
25 to talk about that, whether it's through renegotiation of

1 that consultation or just initiation of a new consultation
2 to talk about the overall project impacts, including those
3 maintenance affects and the potential for ongoing effects
4 from floodwaters or even from potential effects of possible
5 minimum flow regimes in there.

6 So I think that's a threshold that we've already
7 potentially tripped -- based on the information in the
8 record, tripped the may-effect threshold. We have fewer
9 Schweiwilz's Sunflower stems there than we had during that
10 previous consultation and it's escapes me whether it's been
11 four or five years.

12 MR. CREAMER: I wasn't familiar with them. I was
13 going to ask you what the timeframe was.

14 MR. CANTRELL: I probably should have pulled that
15 up. I'll pull it up on my screen, but it's -- I'll find the
16 docket for it, too, since we did that as a formal
17 consultation and we even had to amend that consultation once
18 since then. So I think that would be an important part of
19 all of our exercise to go back and pull up that information
20 and compare it back to the newest information and make some
21 informed determinations from that.

22 The other species that we've had formal
23 consultations on in the past few years at the Catawba-
24 Wateree project includes dwarf-flowered heartleaf at the
25 Bridgewater Development and there has been, because of the

1 schematic remediation activities, some impacts to dwarf-
2 flowered heartleaf and we still have some issues there in
3 terms of at least conforming our previous consultation to
4 the things that are proposed relicense application for the
5 ongoing and future management of that dwarf-flowered
6 heartleaf, the two dwarf-flowered heartleaf populations that
7 remain at Paddy Creek Dam stabilization occurred and how
8 those land will be protected.

9 So I think there's some significant issues there
10 just in trying to conform what product to that previous
11 consultation was and then what has been proposed for the
12 disposition of those lands that are and were adjacent to the
13 project boundary at Paddy Creek and how those consultation
14 lands would be protected.

15 The other quick note is that there are a couple
16 of species that are missing from the list and Carolina hill
17 splitter is an endangered fresh water mussel that occurs in
18 the project area and one that I didn't see mentioned in the
19 scoping and we'll certainly provide information about that.

20 We'll probably note to you that we have some
21 candidate species that occur in the project area and so we
22 would consider that, as you prepare an EIS for the scope of
23 50-year timeframe, that you consider species that are
24 candidates now for listing under the Endangered Species Act
25 and the potential that those species could be listed in the

1 future.

2 In that same direction, species that are state
3 listed as endangered are often -- some of those species that
4 are rare on a state basis are becoming increasingly more
5 rare at a national level and they may also be in need of
6 protection sooner rather than later. So as Chris noted
7 earlier, state-listed species are often both federal -- if
8 not federal currently, they'll become federal soon as the
9 trend for freshwater mussels, especially, are downward.

10 One other species that I'll mention that we have
11 within the project boundary and within the regulated river
12 reaches is the bald eagle and proposed in 1999 the Fish and
13 Wildlife Service determined and proposed to remove the bald
14 eagle from the endangered species list. I think that's
15 still on track. There have been a number of things we've
16 had to do over the past few years. We expect to provide
17 some additional guidance for how that species would be
18 protected if it's removed from the endangered species list
19 as we think that will be important to incorporate the sorts
20 of measures that we anticipate in our guidelines into
21 license requirements.

22 I'll stop and take a breath there and see if you
23 have any questions about those or other people have
24 comments.

25 MR. CREAMER: Just a couple of things, one, I'm

1 presuming that a lot of this information you'll detail in
2 your written comments. Okay.

3 The answer to that was yes. And two, it came up
4 earlier this morning we were talking about the state-listed
5 species. The way we typically treat state-listed species as
6 opposed to federal-listed species, they obviously get
7 different treatment. The environmental assessment or in
8 this case the Environmental Impact Statement will certainly
9 look at the impacts to all the species, whether they're
10 state listed or federally listed.

11 From a consultation perspective, we're only
12 consulting on the federally-listed species, recognizing that
13 there may be some that could be of concern, but we wouldn't
14 be consulting specifically on them. So I just wanted to
15 make sure everybody understood that. That's how we intend
16 to proceed with the consultation and the species we'd be
17 consulting on.

18 Pres, anything else you want to say about the
19 short-nose.

20 MR. BROWNELL: That's all right now unless you
21 have questions or others have questions.

22 MR. CREAMER: I didn't really have anything
23 specific, but we're just trying to flesh out the issues and
24 what you believe the issues for some of these species are
25 that we need to take into account.

1 The goal for us in this is making sure that our
2 biological assessment in this case will be integrated with
3 the Environmental Impact Statement. We just want to make
4 sure we have everything there and we do an adequate job so
5 that NMFS and the Fish and Wildlife Service can do their
6 jobs without delay and making sure all the information is
7 there. So that's our goal with this and we had no specific
8 questions necessarily.

9 MR. CANTRELL: Mark Cantrell with the Fish and
10 Wildlife Service, again. I'll add that as we're discussing
11 endangered species now we're primarily discussing the
12 Section 7 of the Endangered Species Act and the requirement
13 for federal agencies to consult with the services -- Fish
14 and Wildlife Service and National Marine Fisheries Service
15 over how their actions may affect these species and so
16 that's the primary discussion that we're having now on how
17 you would prepare, as part of the EIS, the biological
18 assessment and make ultimately a determination of effect for
19 each of those species and any critical habitats that may be
20 designated. And so I think we're proceeding along
21 informally now in discussing those sorts of issues, but I
22 also want to remind you that also Section 7 includes a
23 portion that requires federal agencies to use their
24 authorities to conserve endangered species and effect
25 recovery.

1 So besides the administrative requirement that
2 you consult and that we would discuss these things and make
3 those determinations, you have an affirmative responsibility
4 to assist in recovery of endangered species. So I hope
5 you'll take the opportunity in the EIS to discuss ways in
6 which the Federal Energy Regulatory Commission can provide
7 conservation measures and/or recovery opportunities, again,
8 with your authority for yourselves as well as your licensees
9 to assist in our recovery efforts for the species that we
10 consult on and any others that may be in the area of effect
11 or potentially could be restored to the area of effect.

12 MR. CREAMER: Right. We certainly understand
13 that and we have certain responsibilities under the
14 Endangered Species Act and I think what you will see in the
15 environmental document when we're talking about the
16 effective measures and potential what gets translated into a
17 staff-preferred alternative those will be the things that we
18 will put out there as being appropriate measures to conserve
19 and enhance any of the species that we'd be talking about.

20 From that point, I don't know that the
21 Environmental Impact Statement will do -- we'll certainly
22 talk about our obligations under the Endangered Species Act
23 and then we'll assess the measures and we'll have a
24 preferred alternative and those will be the things that we
25 believe are appropriate to conserve and enhance the

1 endangered species.

2 Anybody else have any issues, comments, concerns
3 that they want to talk about, endangered species-wise
4 anyway.

5 (No response.)

6 MR. CREAMER: Seeing none, I guess we'll wrap up
7 and the comment from Pres about further discussions is
8 something we will take back and we will talk to our
9 supervisors, bosses about and see where that goes and
10 programmatically looking at the basin as a whole is
11 something that could be interesting. I don't know that
12 we've done that necessarily before, but that's not saying we
13 couldn't do it, to sit down and have those kinds of
14 discussions. We'll just have to see where that goes.

15 If there's nothing further I guess we'll conclude
16 and I thank everybody for coming out and we certainly had a
17 lot of good discussion. So thank you again.

18 (Whereupon, at 1:30 p.m., the above-entitled
19 matter was concluded.)

20

21

22

23

24

25