

JOINT
PUBLIC NOTICE

CHARLESTON DISTRICT, CORPS OF ENGINEERS
69A Hagood Avenue
Charleston, South Carolina 29403-5107
and the
S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
Office of Environmental Quality Control
Water Quality Certification and Wetlands Programs Section
2600 Bull Street
Columbia, South Carolina 29201

REGULATORY DIVISION
Refer to: P/N #2009-122-SIR

14 December 2011

Pursuant to Sections 401 and 404 of the Clean Water Act (33 U.S.C. 1341 and 1344) an application has been submitted to the Department of the Army and the S.C. Department of Health and Environmental Control by

DUKE ENERGY CAROLINAS, LLC
526 SOUTH CHURCH STREET
CHARLOTTE, NORTH CAROLINA 28202-1802

for a permit to conduct dredging and place fill material in the

BROAD RIVER (NINETY-NINE ISLANDS RESERVOIR) and LONDON CREEK

and in tributaries and their adjacent wetlands which flow into the Broad River and London Creek at locations of the proposed William States Lee III Nuclear Station at 1313 McKowns Mountain road near Gaffney, in Cherokee County, South Carolina (Latitude 35° 2.000' N, Longitude 81° 30.667' W).

In order to give all interested parties an opportunity to express their views

NOTICE

is hereby given that written statements regarding the proposed work will be received by both of the above mentioned offices until

12 O'CLOCK NOON, MARCH 6, 2012

from those interested in the activity and whose interests may be affected by the proposed work.

The overall project purpose, as stated by the applicant, is the development of new nuclear baseload generating capacity as part of a diverse fuel portfolio to supply reliable electrical generation to Duke Energy Carolina's customers, that is consistent with Duke Energy Carolina's integrated resource planning approach, located proximate to its major customer base and that minimizes overall impacts to the environment. According to the application, the proposed work consists of construction of ancillary facilities associated with two new nuclear power units, including a drought contingency pond, intake and refill structures, and roads and road crossings at the site and within the vicinity of the formerly permitted (but not constructed)

Cherokee Nuclear Station. The proposed work also includes the enlargement of a culvert along an existing railroad right-of-way and the construction of four new transmission lines to be installed within two different routes totaling approximately 31 miles of new right-of-way within Cherokee and Union counties, South Carolina. Transmission line routes are described below and shown in the permit drawings available at the web location mentioned below:

- 1) Lee Nuclear Station – Pacolet Tie-Catawba West 230-kV Line – traverses from the proposed Lee Nuclear Station switchyard to the existing Pacolet Tie-Catawba 230-kV Line;
- 2) Lee Nuclear Station – Oconee-Newport West 525-kV Line – traverses from the proposed Lee Nuclear Station switchyard, paralleling the proposed 230-kV west line to the Pacolet Tie-Catawba 230-kV line, then continuing to the existing Oconee-Newport 525-kV Line;
- 3) Lee Nuclear Station – Pacolet Tie-Catawba East 230-kV Line – traverses from the proposed Lee Nuclear Station switchyard to the existing Pacolet Tie-Catawba 230-kV Line; and
- 4) Lee Nuclear Station – Oconee-Newport East 525-kV Line – traverses from the proposed Lee Nuclear Station switchyard, paralleling the proposed 230-kV east line to the existing Oconee-Newport 230-kV line, then continuing to the existing Oconee-Newport 525-kV Line.

Permit drawings are available at the web page shown below:

<http://www.sac.usace.army.mil/?action=publicnotices.pn2011>

Please click on the file name “SAC 2009-122-SIR Permit Drawings.pdf” under files for the week of December 16, 2011. That filename is immediately below the link for this public notice you are reading now.

The proposed project will result in impacts to 5.43 acres of wetlands, 29.63 acres of open water, and 67,285 linear feet of streams, within the jurisdiction of the Clean Water Act. In particular, the proposed project requires: 1) excavation, fill, and temporary draining within open waters of the Ninety-Nine Islands Reservoir and existing impoundments that would result in 2.68 acres of temporary impact and 9.37 acres of permanent impact from the installation of proposed raw water system intake structures, proposed refill structures, and a proposed wastewater discharge diffuser, 2) permanent impacts to 65,056 linear feet of stream, 4.07 acres of wetlands, and 17.58 acres of open water farm ponds due to the construction of a drought contingency pond and associated infrastructure; of these impacts, 60,414 linear feet of stream and 3.22 acres of wetlands will be impacted due to inundation from the impoundment with the remainder of the impacts due to the construction of the dam, culverts associated with S.C. 329, culvert associated with the railroad, and placement of spoils, 3) clearing impacts to 884 linear feet of stream due to a 50-foot-wide cleared area required around the perimeter of the drought contingency pond, 4) temporary impacts to 1,345 linear feet of stream and 0.45 acre of wetland from placement of fill and flooding associated with temporary cofferdams used during the replacement of a railroad culvert, and 5) clearing impacts to 1.36 acres of forested wetlands due to the construction of the four 230-kV and 525-kV transmission lines.

The applicant provided an alternatives analysis prepared within the context of guidelines set forth under Section 404(b)(1) of the Clean Water Act that evaluated potential alternatives in light of impacts to aquatic and other environmental resources, practicability, and the overall project purpose, including a no-action alternative, offsite alternatives, alternative cooling water sources, alternative technologies, and alternative transmission routes. Based on this analysis, the applicant concluded that the proposed jurisdictional impacts are the least environmentally

damaging practicable alternative. As part of the proposed project's planning and design, the applicant incorporated avoidance and minimization measures to minimize wetland and stream impacts. These include, among other things, a redesign of a parking lot, reroute of the wastewater line, incorporation of a pipe bridge for the raw water line, location of temporary construction roads within the drought contingency pond footprint, reroute of a proposed railroad spur, and siting transmission towers outside of wetlands and other waters of the U.S.

A description of proposed mitigation is contained within the applicant's conceptual mitigation plan included with the application. Compensatory mitigation for unavoidable impacts is proposed to be provided through the combination of credit purchase from mitigation banks serving the Broad River watershed and permittee-responsible mitigation. Information supplied by the applicant indicates that 483,583 stream compensatory mitigation credits will be required for stream impacts. In addition, 54 wetland compensatory mitigation credits and 273 open water compensatory mitigation credits will be required for wetland and open water impacts. According to the applicant, its proposed compensatory mitigation proposal has been prepared consistent with the USACE Charleston District 2010 Guidelines for Preparing a Compensatory Mitigation Plan and the 2008 Federal Compensatory Mitigation Rule. The applicant anticipates that approximately 10 to 20 percent of the wetland and stream mitigation need will be satisfied through mitigation banks, potentially purchased from Sandy Fork, Grove Creek, Taylors Creek, and/or Turners Branch mitigation banks. The application proposes that the remainder of the stream and wetland mitigation need will be satisfied through permittee-responsible mitigation projects at two sites in the Broad River watershed. One of these projects will consist of stream restoration activities at the Sumter National Forest in cooperation with the United States Forest Service. The other project will consist of wetland and stream enhancement and preservation at the nearby Turkey Creek tract. The applicant intends to provide compensatory mitigation for unavoidable impacts to open water through the onsite and in-kind creation of drought contingency Pond C.

Based on the applicant's request to the Nuclear Regulatory Commission (NRC) for a combined construction and operating license for the proposed facilities, an Environmental Impact Statement (EIS) is being prepared pursuant to the requirements of the National Environmental Policy Act (NEPA). The NRC is serving as the lead federal agency in preparation of the DEIS, and the USACE is serving as a cooperating agency pursuant to NEPA and the September 2008 Memorandum of Agreement (MOA) between NRC and the USACE. As part of this process, a Draft EIS has been made available to the public on December 13, 2011. The Draft EIS is available for inspection at the Cherokee County Public Library, 300 East Rutledge Avenue, in Gaffney, SC. The Draft EIS is also accessible at the NRC web page at any of the following web locations:

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr2111/>

<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/>

<http://www.nrc.gov/reactors/new-reactors/col/lee/documents/nrc-2011.html>

Within the context of 10 CFR Part 51 and NUREG-1555, the Draft EIS addresses the project's Purpose and Need; a comparative analysis of the range of project alternatives considered by the applicant as well as by the agencies in preparing the Draft EIS; and identifies environmental impacts that would likely result from the construction and operation of each alternative. Information presented in the Draft EIS will be used in the evaluation of the work proposed in the permit application advertised in this notice.

NOTE: Plans depicting the work described in this notice are available and will be

provided, upon receipt of a written request, to anyone that is interested in obtaining a copy of the plans for the specific project. The request must identify the project of interest by public notice number and a self-addressed stamped envelope must also be provided for mailing the drawings to you. Your request for drawings should be addressed to the:

**U.S. Army Corps of Engineers
ATTN: REGULATORY DIVISION
69A Hagood Avenue
Charleston, South Carolina 29403-5107**

The District Engineer has concluded that the discharges associated with this project, both direct and indirect, should be reviewed by the South Carolina Department of Health and Environmental Control in accordance with provisions of Section 401 of the Clean Water Act. As such, this notice constitutes a request, on behalf of the applicant, for certification that this project will comply with applicable effluent limitations and water quality standards. The District Engineer will not process this application to a conclusion until such certifications are received. The applicant is hereby advised that supplemental information may be required by the State to facilitate the review. Persons wishing to comment or object to State certification must submit all comments in writing to the S.C. Department of Health and Environmental Control at the above address within thirty (30) days of the date of this notice.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Implementation of the proposed project would impact approximately 50 acres of freshwater habitat well inland of estuarine substrates and emergent wetlands utilized by various life stages of species comprising the red drum, shrimp, and snapper-grouper management complexes. Our initial determination is that the proposed action would not have a substantial individual or cumulative adverse impact on EFH or fisheries management by the South Atlantic Fishery Management Council and the National Marine Fisheries Service (NMFS). Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS.

Pursuant to Section 7(c) of the Endangered Species Act of 1973 (as amended), the applicant has provided the results of protected species surveys for the area associated with the activity described above as well as United States Fish and Wildlife Service correspondence concurring with the findings. Based upon the report and correspondence, the District Engineer has determined that the proposed jurisdictional impacts are not likely to adversely affect federally endangered, threatened, or proposed species or result in the destruction or adverse modification of designated or proposed critical habitat. This public notice serves as a request for written concurrence on this determination from the National Marine Fisheries Service and United States Fish and Wildlife Service.

Pursuant to Section 106 of the National Historic Preservation Act (NHPA), this public notice also constitutes a request to Indian Tribes to notify the District Engineer of any historic properties of religious and cultural significance to them that may be affected by the proposed undertaking.

In accordance with the NHPA, the District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer. The applicant provided the results of cultural resources surveys for the area

associated with the activity above as well as correspondence from the State Historic Preservation Officer (SHPO) stating that the proposed undertaking would not adversely affect properties listed on, or eligible for listing on the National Register of Historic Places. This public notice serves as a request to the SHPO for written confirmation that the proposed project will not adversely affect cultural resources.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest and will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act and, as appropriate, the criteria established under authority of Sections 102 and 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest. In cases of conflicting property rights, the Corps of Engineers cannot undertake to adjudicate rival claims.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposed activity. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of a Record of Decision on the application and the Corps environmental documentation pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the activity.

If there are any questions concerning this public notice, please contact Richard Darden at 843-329-8044 or toll free at 1-866-329-8187.