

Electronically Filed

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August 2, 2023

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Dominion Energy South Carolina Comments Regarding the Biological Opinion issued by the National Marine Fisheries Service for the Saluda Hydroelectric Project (FERC No. 516-459)

Dear Secretary Bose:

Dominion Energy South Carolina, Inc. (DESC), in coordination with the Comprehensive Relicensing Settlement Agreement (CRSA) signatories, provides herein comments on the Biological Opinion (BiOp) issued by the National Marine Fisheries Service (NMFS) on February 28, 2023, for the relicensing of the Saluda Hydroelectric Project (Project) (Federal Energy Regulatory Commission [FERC] No. 516). In accordance with Section 4.2 of the CRSA, DESC held a meeting with CRSA signatories and NMFS on May 11, 2023, to review and discuss the BiOp issued for the Project relicensing and its consistency with the CRSA. The meeting notes are included as Attachment A.

The conclusion from the BiOp was that the effects of the proposed action (relicensing of the Project) and cumulative effects are not likely to jeopardize the continued existence of shortnose sturgeon. The effects of anticipated take (up to 132 adult shortnose sturgeon annually) will likely be at the population level and likely to influence population growth through delayed or interrupted spawning. Section 7(b)(4) of the Endangered Species Act (ESA) states that the Reasonable and Prudent Measures (RPMs) that NMFS issues are necessary to minimize the impacts of take and the terms and conditions to implement those measures must be provided and must be followed to minimize those impacts. Only incidental taking by the federal agency or licensee that complies with the specified terms and conditions is authorized. NMFS has determined that the following RPMs are necessary and appropriate to minimize effects of the incidental take of shortnose sturgeon related to the relicensing of the Project: 1) FERC shall require the Licensee (DESC) to monitor water quality via the current water gages and increase monitoring further downstream on the Congaree River especially in shortnose sturgeon spawning sites and 2) FERC shall require the Licensee to coordinate with the South Carolina Department of Natural Resources to monitor dam-locked shortnose sturgeon populations. Several terms and conditions for implementing the RPMs were provided in the BiOp, and they must be followed in order to comply with Section 9 of the ESA. NMFS also provided conservation recommendations to be considered and optionally implemented by the Licensee and/or the U.S. Army Corps of Engineers.

As discussed at the May 11, 2023, meeting, the CRSA signatories generally find no significant inconsistencies between the RPMs and terms and conditions in the BiOp and the measures, plans, and license articles proposed within the CRSA. The conservation recommendations proposed by NMFS will be further discussed internally with the CRSA signatories.

DESC appreciates FERC's continued efforts towards the successful conclusion of the Project relicensing. Please direct any questions pertaining to this filing to Mr. Raymond Ammarell, relicensing Project Manager for DESC at Raymond.Ammarell@dominionenergy.com or (803) 217-7322.

Sincerely,



Raymond R. Ammarell, P.E.
DESC Power Generation
Dam Safety & Hydro Compliance
Dominion Energy South Carolina, Inc.

Attachments: Attachment A – Meeting Notes and Presentation

cc: J. W. Miller/H. E. Delk, Jr./I. N. Griffin/A. I. Bresnahan/SH File
D. L. Tucker
C. Gaston/P. Vidonic
J. H. Hamilton
A. Jakupca (Kleinschmidt Associates)
Corporate Records

MEETING NOTES
Saluda Hydroelectric Project Name (FERC No. 516)

Dominion Energy South Carolina, Inc.
CRSA Document Review – Biological Opinion

May 11, 2023

Final JAG 5/31/23

ATTENDEES:

Ray Ammarell – DESC	Bill Post – SCDNR
Iris Griffin – DESC	Elizabeth Miller – SCDNR
Amy Bresnahan – DESC	Ellen Waldrop – SCDNR
Billy Chastain ¹ – DESC	Jason Bettinger – SCDNR
Caleb Gaston – DESC	Karen Swank Kustafik – Columbia Parks
Alison Jakupca – Kleinschmidt	Charlene Coleman – American Whitewater
Jenn Güt – Kleinschmidt	Debi Lafayette – Lake Murray Assoc.
Andy Herndon ¹ – NMFS	Jim McGrath – Lake Murray Assoc.
Fritz Rohde ¹ – NMFS	Lee Ayers ² – Lake Murray Assoc.
Kevin Mack ¹ – NMFS	Bill Eisele – Midlands Striper Club
Melanie Olds ¹ – USFWS	Tommy Stringfellow ¹ – Riverbanks Zoo
Rusty Wenerick – SCDHEC	Tony Bebber – SC Wildlife Federation
Bill Marshall – SCDNR	

¹Attended virtually

²Also representing the Lake Murray Power Squadron and America's Boating Club – Lake Murray

These notes are a summary of the major points presented during the meeting and are not intended to be a transcript or analysis of the meeting.

Ray, DESC, began the meeting with a welcome, safety moment, and introductions. Alison, Kleinschmidt, reviewed the agenda and the meeting purpose, which was to review the Biological Opinion (BiOp) issued by the National Marine Fisheries Service (NMFS) for the relicensing of the Saluda Hydroelectric Project (Project) for consistency with the Comprehensive Relicensing Settlement Agreement (CRSA). The CRSA includes terms for the 19 signatories to work cooperatively to review regulatory documents for consistency with the CRSA. Alison reviewed the general content of the CRSA, which included a seasonal lake level guide curve, recreational flow releases, several operations protocols, off-license agreements, and over ten enhancement programs and management plans. Ray explained that DESC had already begun implementing some components of the CRSA, including

Phase 1 of the Lower Saluda River Warning System Enhancement Plan (new sirens and strobe lights and upgrade of signage between the Project and Saluda Shoals Park).

Alison reviewed the purpose of the BiOp. The Endangered Species Act (ESA) requires federal agencies ensure their actions are not likely to jeopardize the continued existence of threatened or endangered species or their habitat. A BiOp is issued during formal consultation and identifies whether a proposed action (relicensing of the Project) is "likely to jeopardize the continued existence of an ESA-listed species", or "destroy or adversely modify critical habitat." NMFS considered the Atlantic Sturgeon and Shortnose Sturgeon in the BiOp and concluded that Atlantic Sturgeon are not reasonably expected to occur within the Project area during the license term. It was conversely concluded that the new license for the Project will continue to result in adverse effects (depressed population numbers) to Shortnose Sturgeon due to habitat modification, poor water quality conditions, and blocked upstream access. NMFS concludes that the proposed action is not likely to jeopardize the continued existence of Shortnose Sturgeon. NMFS included an incidental take statement in the BiOp. Alison reviewed the BiOp's proposed measures and terms and conditions. The Federal Energy Regulatory Commission (FERC) is required to include the Reasonable and Prudent Measures (RPMs) in the Project license. In general, the RPMs state that FERC must require DESC to do the following: monitor water quality via current gages and increase monitoring downstream on the Congaree River; and coordinate with SCDNR to monitor dam locked Shortnose Sturgeon populations. The terms and conditions more specifically describe how to implement the RPMs. In order to have an incidental take statement, DESC is required to implement the RPMs and terms and conditions. Andy, NMFS, clarified that the purpose of the RPMs and terms and conditions is to monitor the effects on the Shortnose Sturgeon and ensure their existence is not jeopardized. Formal consultation could be reinitiated if there are effects occurring that are not intended or worse than expected.

Charlene, American Whitewater, asked what may happen if it is determined that the Parr Hydroelectric Project (Parr) is impacting conditions in the Congaree River as well. Ray and Alison explained that there are provisions/articles within the Parr license, including the Downstream Flow Fluctuations Adaptive Management Plan, that address river conditions downstream of Parr Dam. Andy explained that the Action Area for the Project includes the Saluda Project dam to 16 miles of the Congaree River, downstream of the confluence of the Lower Saluda River and Broad River. The Saluda Project is not held responsible for upstream influences, outside of the Action Area.

Alison reviewed the conservation recommendations in the BiOp, which are to assist SCDNR with ongoing sturgeon research and explore whether rocks could be placed in the Congaree River to facilitate mixing of water. NMFS strongly recommends that DESC or the U.S. Army Corps of Engineers implement the measures to minimize effects to sturgeon, but they are not required. Karen, Columbia Parks, noted that the recommendation for rock

placement was very vague and could affect public use of the water. Ray commented that the rock measure would require a number of significant detailed surveys. Andy noted that the BiOp is narrowly focused on the species of concern, and it is not uncommon for conservation recommendations to not move forward due to outside/implementation issues.

Alison reviewed the Project Sturgeon Protection and Adaptive Management Program (Sturgeon AMP), which is part of the CRSA. It includes protection and enhancement measures for the conservation of sturgeon during the term of the new license, and DESC would begin implementation consultation upon license issuance. The Sturgeon AMP includes studies to monitor sturgeon behavior and movements and establish a temperature and water quality monitoring program. The study plans will be developed upon license issuance by the Sturgeon Technical Advisory Team, which is created by the Sturgeon AMP.

Alison reviewed the upcoming process steps and timeline. The Environmental Assessment (EA) was issued by FERC in 2010. There have been changes in ESA-listed species since that time. As such, FERC will likely re-issue the EA with the updated ESA species. Ray expects that FERC would also want an updated Exhibit D (costs and financing information). It could be six months to one year before the new license is issued. Ray is planning to touch base with the assigned FERC branch to discuss the process.

In addition to making enhancements to the warning system, DESC has begun other actions to implement CRSA measures. These include starting the bidding process for aerating runners and starting the headgate replacement project (pre-requisite for the runners). The DESC biological group has continued to conduct the fish community and macroinvertebrate sampling, so there is no interruption in the data set. Ray stated that two drawdowns have already been conducted (winter of 2018-2019 and winter of 2022-2023) that are roughly equivalent to what will be done every three years as proposed in the CRSA.

Charlene asked when the "ring-down" operations notification system is expected to come back online. Ray said that DESC is currently working with a new contractor. DESC has a list of participants from the previous system which will be used with the new system also. DESC attempts to send an email to key individuals when a high flow event is anticipated. Charlene noted that DESC may consider revisiting repainting the markers on the bridges and boat ramps in the Lower Saluda River.

Elizabeth, SCDNR, asked if the CRSA group could expect to have additional meetings ahead of license issuance. Alison stated that a plan has not yet been made, but that it is a good idea. Caleb, DESC, agreed. Andy noted that the Santee Cooper has taken the approach of starting consultation early and it appears successful. Jenn, Kleinschmidt,

mentioned that an additional task prior to license issuance could be reviewing the Rare, Threatened, and Endangered Species Management Program as the Tricolored Bat will be listed as endangered in the fall of 2023.

Ray discussed with the group the need to respond to the BiOp. DESC could draft a letter on behalf of the CRSA signatories, issue the draft to the signatories for review, and file it with FERC. It would essentially state that the CRSA signatories met and found no significant inconsistencies between the BiOp and the CRSA. The CRSA group agreed that this was a good approach.

Meeting adjourned.

ACTION ITEMS:

- DESC to draft a letter within 30 days of the meeting date (by June 10). CRSA signatories, particularly those not able to attend the meeting, would be requested to provide comments.

Comprehensive Relicensing Settlement Agreement Participant Meeting

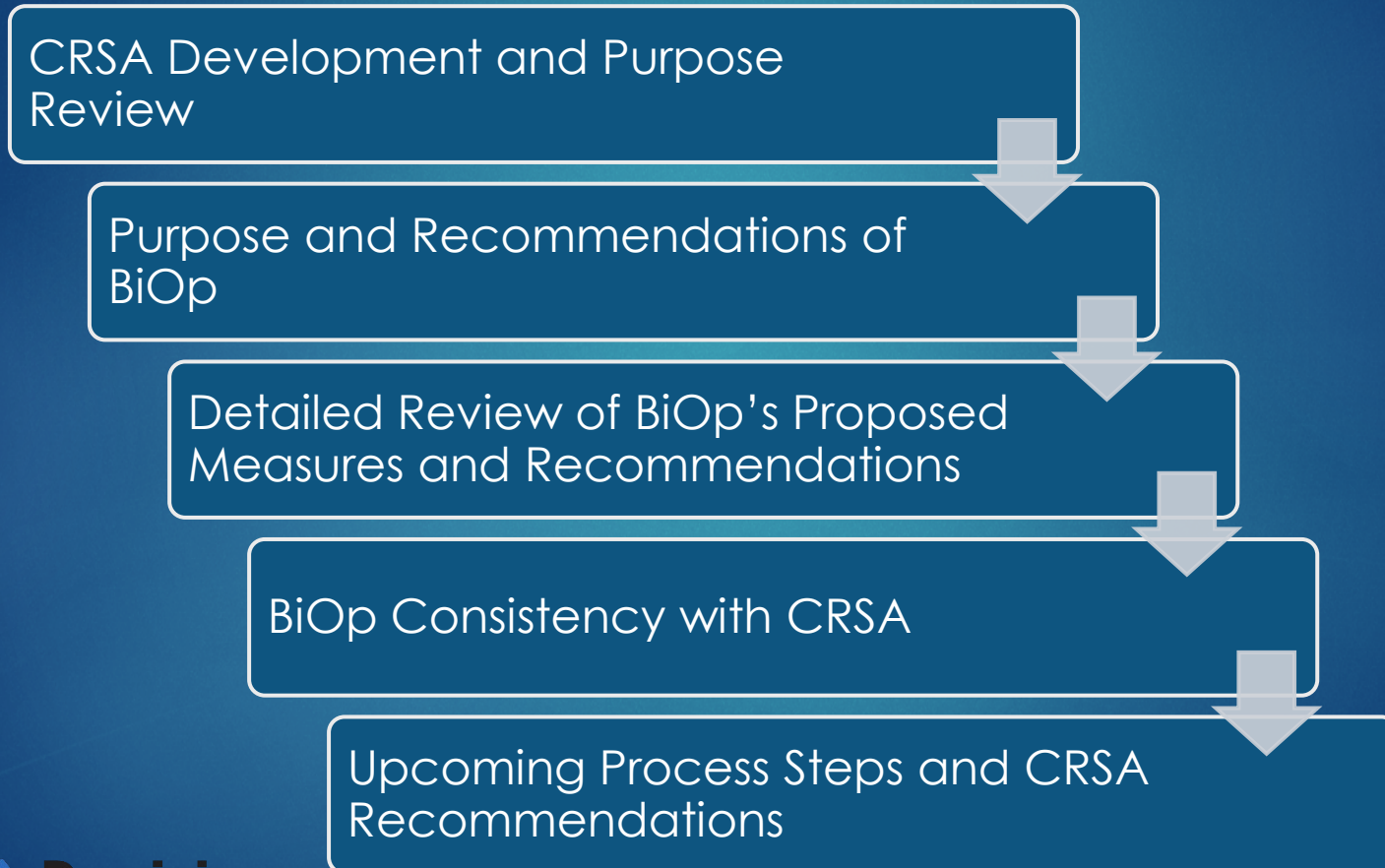
BIOLOGICAL OPINION FOR THE SALUDA HYDROELECTRIC PROJECT

MAY 11, 2023

Meeting Purpose


To review the Biological Opinion (BiOp) issued by the National Marine Fisheries Service for the relicensing of the Saluda Hydroelectric Project for consistency with the Comprehensive Relicensing Settlement Agreement (CRSA).

Meeting Agenda



CRSA Development and Purpose

- ▶ CRSA was developed during the federal relicensing of the Saluda Hydroelectric Project.
- ▶ During the relicensing, SCE&G (predecessor to Dominion) was presented with a series of consultation challenges to overcome.
- ▶ The CRSA serves to balance the various and often competing resource interests.
- ▶ The mitigation proposed will protect all designated uses of Project waters, enhance important economic and recreational aquatic resources, and allow Dominion to continue providing low-cost power to its customers, contributing to the economic viability of South Carolina for years to come.



“After five years of relicensing activities, the CRSA package provides a positive example of settlement agreement development and the pragmatic cohesion of differing viewpoints in the quest to achieve common goals.”

Why are
we
meeting
today?

The CRSA includes components for CRSA parties to work cooperatively to review regulatory documents for consistency with the terms of the CRSA.



If inconsistencies are identified, the parties will work cooperatively to address inconsistencies.

General Content Overview of CRSA

- ▶ License Term – 50 years
- ▶ Seasonal Lake Level Guide Curve
- ▶ Reservoir Drawdown Program for water quality, vegetation and sediment transport
- ▶ Lower Saluda River Flow Release Program
- ▶ Recreational Flow Schedule
- ▶ Low Inflow Protocol
- ▶ High Inflow Protocol
- ▶ Maintenance and Emergency Protocol

General Content Overview of CRSA (cont.)

- ▶ Unit Upgrades and DO enhancements
- ▶ Trout Evaluation and Monitoring Program
- ▶ LSR Warning System Enhancements
- ▶ Benthic Macro Monitoring
- ▶ Freshwater Mussel Enhancement Program
- ▶ Sturgeon Protection AMP
- ▶ LSR Fish Community Monitoring
- ▶ RTE Species Management Program
- ▶ Shoreline Management Plan

General Content

Overview of CRSA (cont.)

- ▶ Historic Properties Management Plan
- ▶ SCDNR WMA Program Lands
- ▶ Off-License Agreements

Purpose of BiOp

- ▶ The Endangered Species Act requires federal agencies to ensure that their actions are not likely to jeopardize the continued existence of threatened or endangered species or their habitat.
- ▶ Consultation is required when it is determined that a proposed action “may affect” ESA-listed species or critical habitat.
- ▶ A BiOp is issued during formal consultation that identifies whether a proposed action is “likely to jeopardize the continued existence of an ESA-listed species”, or “destroy or adversely modify critical habitat.”

Species Considered in BiOp



Shortnose Sturgeon



Atlantic Sturgeon



NMFS concludes that Atlantic Sturgeon are not reasonably expected to occur within the project area during the license period.

Determinations of BiOp

- ▶ The BiOp provides an extensive review of the species, the habitat, and the potential affects of the new license.
- ▶ The BiOp concludes that the new license will continue to result in adverse affects (depressed population numbers) to Shortnose Sturgeon due to habitat modification, poor water quality conditions and blocked upstream access.
- ▶ NMFS concludes that the proposed action is not likely to jeopardize the continued existence of Shortnose Sturgeon.

Determinations of BiOp

NMFS determined that up to 132 adult Shortnose Sturgeon are expected to be adversely affected annually by the effects of water to be released from the Project.

Summary of BiOp's Proposed Measures and Terms and Conditions

Reasonable and Prudent Measures (RPMs) are included to minimize impacts of the “take” of species.

These measures and terms and conditions are nondiscretionary and must be implemented by FERC or the licensee for the ESA protections to apply.

Summary of BiOp's Proposed Measures and Terms and Conditions (cont.)

Reasonable and Prudent Measures

1. FERC shall require the licensee to monitor water quality via the current water gages and increase monitoring further downstream on the Congaree River especially in shortnose sturgeon spawning sites.
2. FERC shall require the licensee to coordinate with South Carolina Department of Natural Resources (SCDNR) to monitor dam-locked shortnose sturgeon populations.

Summary of Terms and Conditions

FERC must ensure the following terms and conditions (T&Cs) are implemented:

1. USGS water gages to monitor water quality are installed at the I-77 Bridge, or at another nearby location, to ensure water quality effects at known Shortnose Sturgeon spawning habitats are adequately monitored. Two gauges must be installed, one of the west bank and one on the east bank to monitor water quality.
2. Within 6 months of re-licensing, the licensee will begin working with SCDNR and NMFS to complete a plan to monitor population levels of dam-locked Shortnose Surgeon in the Congaree River. Development of this monitoring plan must be completed within 12 months of re-licensing and consider adults, juvenile, YOY, and eggs/larvae life stages. The plan must include installation of an acoustic telemetry receiver array in the Congaree River, the lower Saluda River, and lower Broad River.

Summary of Terms and Conditions (cont.)

FERC must ensure the following terms and conditions (T&Cs) are implemented:

3. The Shortnose Sturgeon-monitoring plan will be implemented and funded by the licensee within 3 months of its completion.

4. Results of the previous year's water quality monitoring and population monitoring will be reported to NMFS by March 31 each year. If the water quality monitoring detects a statistically significant difference in water temperature between the two banks between February 1 to May 31, and the difference persisted for longer than 5 days the licensee must notify NMFS to evaluate if reinitiation is required.

Conservation Recommendations

1. Assist SCDNR in their ongoing sturgeon research by providing receivers to record tagged Shortnose Sturgeon in locations above the Granby Lock and Dam.
2. Explore whether rocks (or something similar) could be placed in the Congaree River, downstream of the confluence of the Saluda and Broad rivers, to facilitate mixing of water.

Sturgeon Protection AMP Review

- ▶ Under a new FERC license for the Saluda Project, Dominion will establish a Sturgeon Technical Advisory Team (STAT) consisting of the following agencies in addition to the Licensee: US Fish and Wildlife Service (USFWS), South Carolina Department of Natural Resources (SCDNR) and NMFS.

Sturgeon Protection AMP Review (cont.)

- ▶ Under new FERC license Dominion will recommend that Studies I and II, summarized below will be implemented during the initial 5-years of sturgeon studies under the Santee Basin Accord:
 - ▶ Study I – Sturgeon Behavior and Movements
 - ▶ Study II – Temperature and Water Quality Monitoring Study



Upcoming Process Steps & Discussion

- ▶ Discuss need to respond to BiOp
- ▶ We anticipate FERC will incorporate this information into the EA and/or issue Additional Information Requests over the next six months.

Thank You

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