

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 516-518 – South Carolina
Saluda Hydroelectric Project
Dominion Energy South Carolina, Inc.

July 29, 2024

VIA Electronic Mail

Ms. Iris Griffin
Dominion Energy South Carolina, Inc.
iris.griffin@dominionenergy.com

Subject: Follow-up Compliance Inquiry – Buffer Zone and Riparian Management Plan

Dear Ms. Griffin:

On February 26, 2024 and March 15, 2024, we received additional information regarding allegations from Lake Murray Watch, a local conservation group, of non-compliance with the approved Buffer Zone and Riparian Management Plan (Buffer Plan) for the Saluda Hydroelectric Project No. 516.¹ Those allegations include failure to follow the provisions of the Buffer Plan, allowing for the continued privatization of the buffer zone, and allowing property developers adjacent to the shoreline to clear all understory growth and from the buffer zone.²

Background

On July 26, 2023, Commission staff issued a letter requesting Dominion Energy South Carolina, Inc. (DESC), as licensee, provide information regarding allegations of non-compliance with the approved Buffer Plan. On September 22, 2023, DESC

¹ Order Issuing New License (Major) (27 FERC ¶ 61,332), issued June 1, 1984, Order Approving Land Use and Shoreline Management Plan (107 FERC ¶ 62,273), issued June 23, 2004 (2004 Order), Order Clarifying and Modifying Order and Denying Rehearing (109 FERC ¶61,083), issued October 28, 2004.

² [February 26, 2004](#) filing and [March 15, 2024](#) filing.

responding to our inquiry describing your efforts to comply with the Buffer Plan by filing the following requested information:

1. We requested a progress report on removing existing encroachments into buffer zone areas owned and or controlled by DESC adjacent to the Harbour Watch Subdivision. Your report included photographs, a copy of an invoice for trees planted 20-30 feet apart where needed, and your strategy for de-privatizing the buffer in the least impact manner. You indicated most of the trees planted had died and would be replanted before the end of March 2024.
2. We asked you to describe the current condition of the buffer zone adjacent to the shoreline along 288 Vinge Road parcel. You provided a copy of the permit you issued, provided a photograph of the area after brushing occurred, and stated that the area had significant erosion requiring armoring of the shoreline. You also stated that no lawn has been planted and native plants are starting to grow between the trees. Additional surveying of the buffer zone and any needed additional planting would occur before the end of March 2024.
3. You provided an explanation of differences between the 2006 Management Prescription/Environmentally Sensitive Area map (sheet 11 of 18)³ and the 2017 map, filed as part of the relicensing proceeding.
4. You provided an email to the developer of Woodside Subdivision requiring them to stop clearing activities and remove encroachments from the buffer zone. You state that disturbance was minimal and did not require replanting.

February 25, 2024 and March 12, 2024 Allegations

Lake Murray Watch alleged additional compliance issues may be occurring at the project regarding enforcement of the Buffer Plan. Specifically, Lake Murray Watched stated the following:

1. The current DESC strategy allows for continued privatization of the buffer zone by allowing lawn maintenance, including mowing, the removal of new vegetative growth, and the removal of leaf fall and woody debris which inhibits the development of an herbaceous layer in the buffer zone.

³ Relevant portions of the 2006 and 2017 Environmentally Sensitive Area Maps are included in Attachment 4 of DESC's September 22, 2023 filing.

2. DESC allows the removal of all small trees and undergrowth in the buffer zone adjacent to parcels where new homes are being built, which minimizes the environmental effectiveness of the buffer zone.
3. Lake Murray Watch alleges they are unable to locate areas of replanting adjacent to Harbour Watch Development.
4. DESC is not following the vegetation removal, replanting, and non-privatization provisions of the approved 2007 Buffer Zone and Riparian Management Plan.⁴
5. DESC allowed over clearing of the buffer zone adjacent to the development at 288 Vinge Road and allowed the use of rip rap along the shoreline in lieu of vegetative techniques outline in the Buffer Plan for shoreline slopes flatter than 2 to 1.

Upon reviewing the information provided in the September 2023 filing in conjunction with the additional allegations, we are requesting you provide the following information within 60 days:

1. We note discrepancies between the information you provided in the September 22, 2023 letter and the Buffer Plan. The Buffer Plan states replanting standards are to stabilize disturbed areas by planting forbs, grasses, shrubs, and trees as needed, and to allow natural succession to continue. In most of the photographs showing the encroachments at the Harbour Watch Subdivision it is almost impossible to discern the difference between a private backyard and the buffer zone.
 - According to the Buffer Plan, Zone II area (from the 360-elevation extending 25 feet inland, measured horizontally) are required to have at least a 50% understory consisting of native species of grasses, forbs, and shrubs. The photographs provided show that most of this portion of the buffer zone has been cleared, except for overstory trees, and is generally managed to maintain open views to Lake Murray often with little to no understory material. Please provide additional details regarding your revegetation strategy, especially as it relates to re-establishing the understory layer in Zone II and achieving the 50% density requirement.
 - The invoice provided in Attachment 1 of the September 2023 filing lists replacement tree species planted as Willow Oak, Maple, River Birch, and

⁴ Order Modifying and Approving Buffer Zone and Riparian Management Plan (120 FERC ¶ 62,105), issued August 9, 2007.

Bald Cypress and shrub species as wax myrtle. You stated trees are to be planted 20-30 feet apart, while the Buffer Plan states spacing between any two trees must not exceed 25 feet. Please provide an explanation for the discrepancy in the maximum spacing you are proposing. Also, provide an explanation for planting River Birch and Bald Cypress, as those species are not on the recommended species list provided in the Buffer Plan. Please provide photographs of the replacement trees planted through March 2024, and include a reference that will verify that the trees planted meet the 6-foot height above ground requirement and the maximum space between replacement trees planted is 20 feet.

- The Buffer Plan allows for traditional lawn species in Zone III portions of the buffer zone (25 feet to 75 feet upland of Zone II, measured horizontally). However, while allowed, the Buffer Plan states traditional lawn species must be managed without the application of nutrients or pesticides. Several photographs show what appears to be highly managed manicured lawns, which suggest the use of fertilizers and or pesticides/herbicides. Please describe how you inform adjacent property owners that the use of fertilizer/pesticides are not permitted on lawn areas in the buffer zone and how you enforce this policy. Additionally, please provide information regarding how regular mowing and intensive management of lawn areas (removing leaf fall, pine needles, woody debris, etc.) contributes and or hinders your efforts to revegetate the buffer zone, including establishing an effective understory layer.
 - Provide an updated progress report, including photographs, regarding your efforts to de-privatize and remove buffer zone encroachments from the 16 properties identified in the September 22, 2023 filing.
2. As requested, you provided a copy of the permit issued for 288 Vinge Road which authorized the installation of a boat lift, rip rap, and limited brushing (vegetation removal). The permit provided contains no guidance regarding any limitations on the proposed work, including vegetation removal. The September 2023 filing states the shoreline at this location had significant erosion, which was encroaching on the buffer zone, and DESC issued the permit to armor the shoreline with rip rap. The Buffer Plan states that in Zone I (vegetated perimeter below the 360 elevation) for slopes 2 to 1 or flatter, an understory cover consisting of grasses, forbs, and shrubs with a height of at least 6 inches or duff or natural mulch at least 4 inches thick will be established or encouraged to develop over at least 75% of this zone for the stability of the shoreline.

Lake Murray Watch provided pre- and post-brushing photographs of this shoreline, which appears to have slopes less than 2 to 1. Copies of these photographs are provided below for reference. Using publicly available historical aerial photography, we were unable to verify significant erosion at this location. If available, please provide photographs showing the erosion along this portion of shoreline which required armoring, verify the slope of the shoreline, and if relevant provide other factors which support the need to authorize rip rap stabilization in lieu of a vegetated solution. Additionally, provide information on the sediment control measures you required during this work, as the post clearing photograph appears to show considerable areas of bare earth where the understory has been cleared.

For Zone II areas (0-25 feet inland from the 360 elevation), the Buffer Plan states absolutely no removal of trees other than dead or diseased specimens is permitted in this zone and removed trees must be replaced as needed to meet the spacing requirement. Please provide the justification for the removal of virtually all vegetation, including trees, in the Zone II portion of the buffer zone at this location and why you have not enforced the requirement for replanting in this area. While the Buffer Plan allows for selective thinning in Zone III of the buffer zone to remove undesirable or dead trees and shrubs, the photographs suggest that more than diseased or dead trees have been removed. Please provide justification for the number of trees and other vegetation removed in the Zone III portion of the buffer in this area.



Shoreline adjacent to 288 Vinge Road before installing rip rap and brushing.



Shoreline adjacent to 288 Vinge Road after installing rip rap and brushing.

3. You provided the requested information regarding the difference between the 2006 and 2017 Management Prescriptions/Environmentally Sensitive Area maps.⁵ From the explanation and information in Attachment 4, it appears that the buffer zone, shown as a thick redline along the shoreline adjacent to the Vinge Road properties, indicates a more restrictive and robust buffer zone. The buffer zone in this area was a requirement of ordering paragraph (B) of the Order Approving Change in Land Rights, issued January 29, 2004 (2004 Order).⁶

As indicated in September 2023 filing, the area is described as adjacent to the Randy and Myra Moore and Scott Lominick parcels in the 2004 Order. In the 2004 Order, these parcels are described as undeveloped shoreline containing naturally vegetated land including willow and buttonbush, which are high-resource habitat areas for fish and wildlife, and having scenic, recreational, and environmental values integral to the project. While the Land Use and Shoreline Management Plan requires you to retain title to the 75-foot buffer zone adjacent to the 360 elevation, the 2004 Order requires you to establish a 50-foot natural buffer zone around each environmentally sensitive area (ESA) identified or adjacent to the parcels identified in the order, before they are sold, and mark each natural buffer and ESA with appropriate markers. Additionally, ordering paragraph (C) requires you to establish a 25-foot natural buffer zone above the 360 elevation in areas without ESAs.

Since many trees and all of the understory vegetation has been removed from the buffer, please provide justification how the buffer meets the natural buffer requirement of the 2004 Order. The photographs provided in Attachment 2 of the September 2023 filing do not show the natural buffer and ESA markers required by the 2004 Order. Please provide photographs showing these markers in the buffer zone adjacent to both the Moore and Lominick parcels. Additionally, please provide a signed copy of the Shoreline Management and Vegetation Protection Agreement which identifies the restrictions within the buffer zone to

⁵ Order Approving Environmentally Sensitive Areas Report (116 FERC ¶ 62,087), issued August 1, 2006. Updated maps were filed August 31, 2017, in response to a request for additional information in the relicensing proceeding.

⁶ Order Approving Change in Land Rights (106 FERC ¶ 61,086), issued January 29, 2004.

which Thad H. and Susan Riley, permittees for the 288 Vinge Road parcel, agreed to abide.⁷

4. The extension of the buffer zone along the shoreline adjacent to the lot adjacent to the Randy and Myra Moore and Scott Lominick parcels was a requirement of the 2004 Order. However, the post-brushing photograph shows a diminished buffer zone which appears to open views to Lake Murray for the benefit of future construction on the adjacent parcel. Please provide an explanation why many of the trees and nearly all understory vegetation was removed from the buffer zone and if there are plans to restore the buffer zone to its previous condition. additionally, please provide an explanation why machinery and or tracked equipment appears to have been allowed below the 360 elevation and within the vegetative buffer zone.

The Commission strongly encourages electronic filing. Please file the requested information using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426. The first page of any filing should include docket number P-516-518.

Thank you for your cooperation. We look forward to your response, due September 27, 2024. If you have any questions regarding this matter, please contact Mary Karwoski at (678) 245-3027 or mary.karwoski@ferc.gov.

Sincerely,

Mary J. Karwoski
Land Resources Branch
Division of Hydropower Administration
and Compliance

⁷ The final Environmental Assessment (EA) issued by Commission staff on October 30, 2003, prepared as part of the proceeding evaluating the change in land rights approved in the 2004 Order. See EA at p. 16, Section E.3.a.