



DEPARTMENT OF THE ARMY
WILMINGTON DISTRICT, CORPS OF ENGINEERS

P.O. BOX 1890
WILMINGTON, NORTH CAROLINA 28402-1890

IN REPLY REFER TO

July 11, 2008

Regulatory Division

Action ID. 2007-01748

5/22/08
73 FR 28785

(7)

RECEIVED

2008 JUL 17 AM 9:07

RULES AND DIRECTIVES
BRANCH
USAMC

Chief, Rules and Directives Branch
Division of Administrative Services
Mailstop T-6D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Sir or Madam:

This refers to the proposal by Progress Energy Carolinas, Inc. (PEC) to expand the Shearon Harris Nuclear Power Plant by adding Units 2 and 3 to the existing facility. This power plant is located approximately 22 miles south of Raleigh in the southwestern corner of Wake County and the southeastern corner of Chatham County, North Carolina. A comprehensive Environmental Report (ER) was received by the U.S. Army Corps of Engineers, Raleigh Regulatory Office (Corps) for review and comment. Since receiving the ER, an interagency meeting was conducted between the applicant and the resource agencies to answer questions and to provide additional information on certain aspects of this proposal. Therefore, comments contained within this letter will address the wetland/stream impacts and concerns for these aquatic features that fall under jurisdiction of the Corps pursuant to our regulatory authority under Section 404 of the Clean Water Act, and will reflect the proposal as presented within the documents and meetings to date.

A Corps permit, issued in October 1977, authorized the fill required for the construction of a dam on Buckhorn Creek which created Harris Lake. This lake was necessary to supply cooling water to the power generating unit and was described in the permit as having a normal pool elevation of 220 msl. The current proposal, as described in the ER, is to increase the lake's normal pool elevation to 240 msl by augmenting the standard flow into the lake with a pumping system on the Cape Fear River, immediately upstream of Buckhorn Dam. After considering the purpose and need associated with the installation of the intake pump and the outfall device in Harris Lake, we have determined that the increase in the pool elevation constitutes a change-in-use for the earlier permitted dam. This change-in-use would result in impacts by inundation to approximately 115 acres of wetlands and over 50 miles of streams. Due to the large amount of aquatic impacts from this proposal, we have determined that this proposal would require an Individual Department of the Army Permit.

SUNSE Review Complete
Template = ADM-013

E-RIDS = ADM-03
Att = D. Palmrose (dep 1)
T. Perry (T-12)

As part of the permitting process for the Individual Permit, an Environmental Assessment (EA) must be completed to evaluate the project against impacts to the aquatic resources and the required public interest factors. These factors include: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values (in accordance with Executive Order 11988), land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. Generally, the result of the EA is a Finding of No Significant Impact (FONSI) which the Corps will use to base a decision of permit issuance. However, there are instances where a FONSI cannot be reached due to significant direct or cumulative impacts from a proposal. This results in either a project modification, or the start of an Environmental Impact Statement (EIS).

As stated above, the Corps cannot make a determination on whether an EIS is needed until completing the EA process. Therefore, applicants on large projects with sizeable aquatic impacts will sometimes volunteer to forgo the EA in-lieu of an EIS as a time saving decision. As such, the Corps can use the Record of Decision on an EIS for basis of a permit decision. We are aware that the Nuclear Regulatory Commission (NRC) is the lead federal agency on an EIS for this proposal. In an effort to be as responsive to the applicant as possible, the Corps has offered to be a cooperating agency with the NRC to reduce the potential of requiring a supplemental EIS at the end of the process. Early conversations with NRC staff indicate that they may not be able to expand their EIS to incorporate Corps regulatory requirements. Therefore, the possibility of a supplemental EIS remains.

The Corps is mandated to review permit applications according to the 404(b)(1) Guidelines which dictate the overall evaluation process. Since power generation is not a water dependant activity, other alternatives which might have less aquatic impacts are presumed to be available. Under this assumption, only the least environmentally damaging practicable alternative (LEDPA) can be permitted after a fair review of the alternatives. The ER details several alternative sites that were evaluated and ranked below the preferred site at Shearon Harris. However, the sites were evaluated using the criteria NRC established in 10 Code of Federal Regulations (CFR) 51, Appendix B, Table B-1, Footnote 3 which uses a "SMALL, MEDIUM or LARGE" designation on the alternatives. No detailed environmental information is listed for any alternative beyond the designation stated above. In order to comply with the 404(b)(1) Guidelines, environmental impacts must be quantified for a fair comparison between alternative sites. Please provide this data for Corps review along with data relevant to the public interest factors stated above.

As part of the LEDPA exercise, the proposal is assessed for avoidance, minimization, and finally mitigation in that respective order. Since the final permit can only be for unavoidable impacts, any aquatic features on site that can be avoided by modifying the project or the plans should be preserved. For example, while the water within Harris Reservoir is used for cooling purposes, PEC indicated that the purpose/need for the Harris Reservoir expansion is solely for economics. This would provide enough cooling water to run the plant during a severe drought without reducing the power output of the plant. Economic justification for aquatic impacts is not an easy process and would require an in-depth assessment of any available alternative which might further avoid or minimize aquatic impacts. Any viable project modification that minimizes the adverse impacts to streams and wetlands must be fairly evaluated. The ER does not report any on-site avoidance and minimization measures that have been considered.

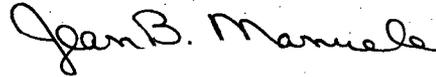
Additionally, all unavoidable impacts must be properly mitigated. While it is understood that inundating a stream or wetland is not a complete loss of waters of the U.S., it is a change in aquatic function which would require mitigation. Compensatory mitigation should take place before or concurrent with the impacts and should be located as close as possible to the impact site. Due to the potential size of the impacts associated with this proposal and the resulting mitigation amount, early coordination with the regulatory agencies is critical.

As stated above, impacts to aquatic features could be in excess of 115 acres of wetlands and over 50 miles of streams. The ER states that GIS methods were used to estimate these impacts with some field checks to corroborate the findings. To date, the Corps has not been requested to verify these aquatic features. Wetland and stream verification on a project this size could be a time consuming process, therefore the Corps recommends that this process begin as soon as possible.

Secondary and cumulative impacts should be addressed within the ER and the ensuing EIS since a portion of the need for this proposal is to accommodate growth within the area. In addition, any ties to the Western Wake Regional Wastewater Treatment Facility proposal, currently undergoing a federal EIS, should be discussed and disclosed. Finally, all aquatic impacts associated with this project must be reported and assessed during the EIS process including alterations to roadways and utility lines, relocating park facilities, installation of blow-down lines, dredging within the Cape Fear River, etc.

If you have any questions or concerns, please contact Mr. Monte Matthews at (919) 554-4884 x 30 or at the address above.

Sincerely,



Jean B. Manuele
Chief, Raleigh Regulatory
Field Office

cc:

Mr. Paul Snead
Progress Energy Carolinas, Inc.
Post Office Box 1551
TPP15
Raleigh, North Carolina 27602

Ms. Cyndi Karoly
NC DENR – Wetlands Unit
Division of Water Quality
Parkview Building
2321 Crabtree Blvd., Suite 250
Raleigh, North Carolina

Ms. Rebecca Fox
U.S. Environmental Protection Agency
1349 Firefly Road
Whittier, North Carolina 28789