

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL**

**Before the Licensing Board
G. Paul Bollwerk, III, Chairman
Nicholas G. Trikouros
Dr. James F. Jackson**

In the Matter of)	Docket Nos. 52-025 COL and
SOUTHERN NUCLEAR OPERATING CO.)	52-026-COL
(Combined Operating License, Vogtle Electric)	ASLPB No. 09-873-01-COL-BD01
Generating Plant, Units 3 and 4)	November 2, 2009
)	

**AMENDED PETITION OF VINCE DRESCHER, KENNETH WARD, JOHN C.
HORN, JR., WILLIAM S. BASHLOR AND JAMES EDDIE PARTAIN
TO INTERVENE AND ADMIT NEW CONTENTION**

I. Introduction and Procedural Background

Pursuant to 50 C.F.R. § 2.309, Vince Drescher, Kenneth Ward, John C. Horn, Jr., William S. Bashlor and James Eddie Partain (collectively, “Petitioners”) respectfully petition the Atomic Safety and Licensing Board (“ASLB”) for leave to intervene as parties in this proceeding and admit a new contention.¹

In this proceeding, Southern Nuclear Operating Company (“SNC”) seeks a Combined License (“COL”) for two new nuclear reactors (“Units 3 and 4”) at the Vogtle Electric Generating Plant (the “Vogtle Plant” or “Vogtle”), which is located in Burke County, Georgia, on the Savannah River, approximately 25 miles southeast of Augusta. Notice of acceptance and docketing of the COL application was published on June 11, 2009, 73 Fed. Reg. 33118. A Notice of Hearing and Opportunity to Petition for Leave to

¹ This petition is timely because, as required by this Board’s Order dated December 2, 2008 (n.6), it is filed within 30 days after the new information on which the contention is based became available.

Intervene was published in 73 Fed. Reg. 53446 (Sept. 16, 2008). In its order of March 3, 2009, the ASLB granted petitions to intervene and proposed contentions of the Atlanta Women's Action for New Directions, *et al.*

In June 2009, after an adjudicatory hearing on SNC's separate application for an early site permit ("ESP") for Units 3 and 4, a separate Licensing Board rejected environmental contentions raised by intervenors in that proceeding. *Southern Nuclear Operating Co. (Early Site Permit for Vogtle Site ESP)*, ASLPB No. 07-850-01-ESP-BD01 (June 22, 2009) ("*Vogtle ESP First Partial Initial Decision*"). In a subsequent August 2009 decision, that Licensing Board resolved all remaining environmental issues and held that the Final Environmental Impact Statement for the ESP (the "ESP FEIS") satisfied the requirements of the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* ("NEPA"). ("*Vogtle ESP Second and Final Partial Initial Decision*"). On August 26, 2009, the Commission issued an ESP and accompanying Limited Work Authorization for Vogtle Units 3 and 4. 74 Fed. Reg. 44879 (Aug. 31, 2009).

II. Description of Petitioners and Basis for Standing

Pursuant to 50 C.F.R. § 2.309(d)(1)(i), the names, addresses and telephone numbers for each petitioner are set forth in the Declarations accompanying this petition. These Declarations establish that each petitioner has standing to intervene as a party in this proceeding. First, Mr. Ward resides less than 50 miles from the Vogtle site. Accordingly, he has presumptive standing. *Diablo Canyon, supra*, 56 NRC at 426,27, citing *Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4)*, LPB01-06, 53 NRC 138, 146, *aff'd* CLI 01-17, 54 NRC 3 (2001). As stated in his Declaration, Mr. Bashlor resides less than 53 miles from the Vogtle Plant.

Moreover, each petitioner actively uses and enjoys the Savannah River for recreational purposes, including fishing and, in the case of Mr. Ward, boating and water skiing. Consequently, each of them has interests that stand to be directly injured if the potential impacts of proposed Units 3 and 4 on the Savannah River -- impacts to water quality, water quantity/flow and the river's fish and other natural resources -- are adversely affected or if those potential impacts are not adequately assessed by the NRC.

Accordingly, each petitioner has standing to intervene and raise appropriate NEPA-based contentions that the NRC's analysis ignores reasonably foreseeable conditions and thus understates the potential adverse impacts of Vogtle Units 3 and 4 on the Savannah River. Thus, (1) each petitioner has suffered or will suffer a distinct and palpable harm that constitutes injury-in-fact within the zone of interests protected by NEPA; (2) the injury can be fairly traced to the challenged action; and (3) the injury is likely to be redressed by a favorable decision. *In the Matter of Pacific Gas & Electric Co.* (Diablo Canyon Independent Spent Fuel Storage Installation), LPB-02-23, 56 NRC 413, 426 (2002)("Diablo Canyon"). *See also Southern Nuclear Operating Company* (Vogtle Electric Generating Plant), No. 52-11-ESP, Board Memorandum and Order (March 12, 2007) at 5-5 (ruling on Standing and Contentions).

III. Proposed Contention (10 C.F.R. § 2.309(f)(1)(i))

NEPA-1. The potentially significant adverse impacts of Vogtle Units 3 and 4 on the Savannah River have not been fully or adequately evaluated in light of the proposal of the United States Army Corps of Engineers ("USACE") to reduce discharges from the Thurmond Dam to 3100 cubic feet per second ("cfs"), and as low as 2,600 cfs, from mid-September through mid-February in any future years when necessary to avoid Level 4 drought conditions in the Thurmond Reservoir. The cumulative impacts of such flow restrictions (and the assumed potentially recurrent Level 3 drought conditions that underly the USACE's proposal), combined with the proposed Vogtle Plant expansion, constitutes significant new

information not considered in the ESP FEIS, and could reduce river flows to levels that would adversely affect the river.

B. Brief Explanation of Bases for the Proposed Contention and Demonstration of a Genuine Dispute (§ 2.309(f)(1)(ii) and (vi))

The SNC contends that there are no new environmental issues pertaining to its COL application “that were not resolved” in the ESP licensing proceeding.² This assertion ignores the recent proposal of the USACE, announced, on October 2, 2009, to restrict discharges from the Thurmond Dam to 3100 cfs, and potentially as low as 2600 cfs, from mid-September through mid-February in the future when necessary to ensure a sufficient water supply in the Thurmond reservoir. The USACE’s proposal constitutes significant new information that must be considered in connection with the ASLB’s decision whether to approve the COL. As discussed below and in detail in the accompanying Declaration of Paula L. Feldman, P.E., the anticipated water use of proposed Vogtle Units 3 and 4, combined with the USACE’s proposed plan to restrict discharges from Thurmond Dam, may have a significant adverse impact on the Savannah River River, and reduce flows to levels that are below those required by the state of Georgia to assurance protection of the river, its resources and beneficial uses.

C. The Contention is Within the Scope of the Hearing (§ 2.309(f)(1)(iii))

The contention raises an issue whether the NRC has complied with applicable NEPA requirements. The Licensing Board in the ESP proceeding stated that any significant new environmental information not considered in the FEIS for the ESP would be considered in a supplemental environmental impact statement prepared in this proceeding. *See Vogtle ESP First Initial Partial Decision, supra* at 152-53. SNC

² SNC VEGP Units 3 and 4 COLA ER Revision 0 at 4-1 (March 8, 2009).

acknowledges that “new and significant” environmental issues that “would alter the conclusions on a specific issue in the ESP EIS” are cognizable in this proceeding.³

D. Materiality of the Contention (10 C.F.R. § 2.309(f)(1)(iv))

NEPA requires federal agencies to take a “hard look” at the impacts of proposed actions. *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n. 21 (1976); *Louisiana Energy Servs., L.P.* (Claiborne Enrichment Center), CL-98-3, 47 NRC 77, 87-88 (1998); *Vogtle ESP First Initial Partial Decision*, *supra*, at 13. While agencies need not address every possible impact, they must address significant impacts that are reasonably foreseeable. *Vogtle ESP First Initial Partial Decision*, *supra* at 13 [citing *Long Island Lighting Co.* (Shoreham Nuclear Power Station, Unit 1), ALAL-156, 6 AEC 831, 836 (1973)].

Further, agencies must consider direct, indirect, cumulative and short-term and long-term impacts. To the extent possible they must quantify all “reasonably foreseeable significant adverse impacts” and assess potential impacts “over the lifetime of the action . . . and beyond,” including the impacts of “other past, proposed and reasonably foreseeable future actions that either have or might affect those [same] resources” by other federal or non-federal agencies and persons.⁴ Cumulative impacts are defined as those which result

from the incremental impact of the action when added to other past, present and reasonably foreseeable future actions regardless of what agency . . . or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions . . . over a period of time

40 C.F.R. §1508.8.⁵

³ ER at 1-1 (emphasis added).

⁴ See NRC, Environmental Review Guidance for Licensing Actions Associated With NMSS Programs, NUREG-1748 at § 4.2.5 (August 2003).

⁵ The NRC has adopted certain definitions provided in Council on Environmental Quality regulations. See 50 C.F.R. § 51.14(b). Among those is 40 C.F.R. § 1508.25, which states that an EIS must consider direct, indirect and cumulative impacts of an action.

Where, as here, a COL application references an early site permit under Part 52, NRC staff must prepare a supplement to the ESP FEIS. 50 C.F.R. § 51.92(b). The supplement must address “new and significant circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” *Id.* § 51.92(a)(2). The NRC has announced that it will prepare a supplemental EIS for the proposed Vogtle expansion. *See* 74 Fed. Reg. 49407 (Sept. 28, 2009). For the reasons discussed below, the recent proposal of the USACE to restrict discharges from the Thurmond Dam constitute “new and significant information” that must be considered in connection with the COL application and are material to the findings that the NRC must make in determining whether to issue the COL. *Accord*, 10 C.F.R. § 52.39(c) (contentions may be litigated in a COL proceeding regarding “any issue involving the impacts of construction and operation of the facility that was resolved in the early site permit proceeding for which significant new information has been identified.”); *Vogtle ESP First Initial Partial Decision, supra* at 6 n.6 (stating that after an early site permit is issued, NRC staff will address significant new information in a supplemental EIS in the COL proceeding). This motion is timely under the ASLB’s initial prehearing order in this proceeding, which directs potential petitioners/intervenors to file motions to admit contentions within thirty days of the date upon which the information that is the basis of the motion becomes available to the petitioner/intervenor. *See Southern Nuclear Operating Co.* (Vogtle Electric Generating Plant, Units 3 and 4), Docket No. 52-025-COL and 52-026-COL, Initial Prehearing Order (Dec. 2, 2008) (slip op. at 6 n.6). The USACE publicly announced its proposal on October 2, 2009, less than 30 days ago. *See* Attachment A hereto.

E. Facts and Expert Opinions Supporting the Proposed Contention (10 C.F.R. § 2.309(f)(1)(v))

The facts and opinions supporting the proposed contention are set forth in detail in the accompanying Declaration of Paula L. Feldman, P.E. (“Feldman Decl.”), incorporated herein by reference and are summarized here.

On October 2, 2009, after the ESP FEIS was upheld by the ESP Licensing Board, the USACE announced a proposal to restrict discharges from Thurmond Dam, which lies upstream of Vogtle, during Level 3 drought conditions to ensure sufficient water levels in the reservoir. Discharges from the dam would be reduced to 3100 cfs -- and as low as 2600 cfs -- from mid-September through mid-February in any future year as necessary for this purposes. *See* Attachment B hereto. The Corps prepared an Environmental Assessment (“EA”) for this proposed action. *See* Attachment C hereto.

Although the Corps says it is “uncertain” whether drought conditions will recur in the future so as to require implementation of its proposed plan, it is at least reasonably foreseeable that recent drought conditions that prompted the preparation of the plan will recur in the future, triggering the proposed restrictions. Feldman Decl, ¶¶ 9-11. Indeed, why else would the Corps have seen fit to develop its proposed plan? Moreover, widely accepted climate change models and projections suggest that such conditions are not only reasonably foreseeable, but reasonably likely to occur over the next several decades while Vogtle Units 3 and 4 are operational. *Id.* and sources cited therein.

The consumptive water use of proposed Vogtle Units 3 and 4, coupled with the Corps’ proposed restrictions on releases from Thurmond Dam, could well have a significant adverse impact on the Savannah River. In the ESP licensing proceedings, NRC witnesses asserted (and the ESP Licensing Board concluded) that an in-stream flow

of 3800 cfs in the vicinity of the Vogtle plant is the appropriate benchmark for NEPA analysis. Second and Final Partial Initial Decision, ¶ 4.18. The NRC's analysis and projections of in-stream flow rates focused on the assumption that releases from Thurmond Dam would be about 3800 cfs, which is consistent with the USACE's contingency plan then in effect which called for releases to be reduced to 3800 cfs during Level 3 drought conditions. ESP FEIS at 5-7. Although some data were presented concerning impacts when flows fall to 3000 cfs and lower, this information was presented merely for "context" rather than as a comprehensive "hard look" analysis, and the Licensing Board agreed with staff that assumed flows at such low levels were "extremely unlikely" and should not provide the basis for a NEPA analysis. Second and Final Partial Initial Decision, ¶ 4.32.⁶ NRC witnesses concluded that the impacts of proposed Units 3 and 4 on the river would be SMALL because, *inter alia*, their consumptive water use would constitute only 1.7 percent of the assumed low flow of 3800 cfs. Feldman Decl., ¶ 10.

However, in light of the USACE's most recent proposal, it is not "extremely unlikely" that flows will drop to 3100 cfs or less, and such lower flows should be the basis for a NEPA analysis of the potential cumulative impacts of Vogtle Units 3 and 4. Moreover, those potential impacts cannot be determined based on the percent of river water they withdraw. To determine those impacts, one needs to know the minimum in-stream flow levels *that are necessary to protect the river*. *Id.*, ¶ 11. At the Vogtle location, the flow level required to protect downstream uses and resources is not 3800 cfs; it is 4070 cfs. *Id.*, ¶ 14. Thus, even if river flow at Vogtle remain at 3800 cfs under

⁶ In fact, NRC staff asserted that the Level 3 drought conditions which had caused the USACE briefly to decrease dam releases to about 3100 cfs for a few weeks in the winter of 2009 are unlikely to recur -- a premise recently belied by the USACE's October 2nd proposal. See Attachment D hereto.

the combined influence of Units 3 and 4 and the USACE's restrictions on releases from Thurmond Dam, resulting in-stream flows according to the NRC staff's own analysis, can be expected to be at or less than 3800 cfs -- which is nearly 300 cfs less than what is necessary to protect the river. *Id.*

Further, even if an in-stream flow of 3800 cfs were an appropriate benchmark, by definition, the NRC staff's previous analysis did not take full account of the USACE's recent proposal because the potential impacts of reducing dam discharges to as low as 2600 cfs, as proposed by the USACE, were not systematically assessed or used as the basis for the NEPA analysis. And even at a dam release rate of 3100 cfs, there is no information or analysis from which one could conclude that future, protracted restrictions of dam releases to 3100 cfs five months each year would ensure in-stream flows of 3800 cfs near Vogtle. Feldman Decl., ¶ 15.

The potential cumulative impacts of Vogtle Units 3 and 4, combined with the USACE's proposed flow reduction plan, will potentially be felt far downstream of the Vogtle plant. These impacts could include reducing dissolved oxygen concentrations below the levels required to support the river's fish; adversely affecting the City of Savannah's water supply by increasing chloride concentrations to unacceptable levels; and adversely affecting the water supplies for other downstream users of the river. Feldman Decl., ¶¶ 16-20.

The proposed contention is also timely as a new contention under 10 C.F.R. § 2.309(f)(2). The contention raises new data and conclusions that differ significantly from those of SNC and the NRC; was not previously available; is materially different from information previously available; and has been timely submitted. Assuming,

counterfactually, that this petition is untimely, it satisfies the requirements of 10 C.F.R. § 2.309(c). The USACE's proposal was announced very recently, after issuance of the ESP; petitioners clearly have standing and have demonstrated a direct and significant interest that would be adversely affected if the NRC fails to consider the new information; granting the petition clearly will not delay the proceedings; their participation will contribute to the development of a sound record; no other parties have raised the foregoing issues in this proceeding; and there are no other means by which petitioners may protect their interests in ensuring that the potential cumulative impacts of Vogtle Units 3 and 4 are fully considered before they are approved.

CONCLUSION

For all the foregoing reasons, the instant petition should be granted.

Dated: November 2, 2009

Respectfully submitted,
/Signed (electronically) by Barry S. Neuman/

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Counsel for Petitioners Vince Drescher, Kenneth Ward, John C. Horn, Jr., William S. Bashlor and James Eddie Partain

ATTACHMENT A



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
SAVANNAH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 899
SAVANNAH, GEORGIA 31402-0899

Mobile/Savannah
Planning Center

JOINT PUBLIC NOTICE
US Army Corps of Engineers, Savannah District,
and the
Georgia Department of Natural Resources, Coastal Resources Division,
and the
South Carolina Department of Health and Environmental Control
Office of Ocean and Coastal Resource Management

TO WHOM IT MAY CONCERN:

SUBJECT: Notice of Availability of a Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) for a temporary deviation to the US Army Corps of Engineers' Savannah River Basin Drought Contingency Plan on the Savannah River in Georgia and South Carolina, in response to the continued drought conditions.

Notice of the following is hereby given:

a. Pursuant to the National Environmental Policy Act of 1969, notice is hereby given that the US Army Corps of Engineers, Savannah District proposes a temporary deviation to the March 1989 Savannah River Basin Drought Contingency Plan, as revised.

b. The Savannah District announces the availability to the public of a Draft EA and Draft FONSI concerning the action. Copies of the Draft EA and unsigned FONSI can be obtained from the following website: www.sas.usace.army.mil, by emailing Mr. William Bailey at following address: william.g.bailey@usace.army.mil.

c. Written statements regarding the Draft EA and FONSI for the proposed action will be received at the Savannah District Office until

12 O'CLOCK NOON, OCTOBER 31, 2009

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

PROJECT DESCRIPTION: The proposed action is a temporary revision to the US Army Corps of Engineers (Corps) 1989 Savannah River Basin Drought Contingency Plan. The revision would be a reduction in the minimum daily average discharge from the J. Strom Thurmond reservoir from 3,600 to 3,100 cubic feet per second (cfs) during the fall/winter months for the duration of the present drought. The reduction would begin in the fall (mid-September) when dissolved oxygen levels in the harbor exceed Water Quality standards as measured at the USGS gage at the Corps of Engineers' Depot (#0219897730). The reduction in flow would continue until one of the following conditions occurred:

1. arrival of the first Shortnose sturgeon at the New Savannah Bluff Lock and Dam, or
2. water temperature at USGS gage at the NSBL&D (#02197000) reaches 11 degrees C after February 1.

This change would preserve water in the Corps reservoirs and delay the time at which those reservoirs would reach the bottom of their conservation storage. The Corps would restore the discharges from the Thurmond reservoir up to the present 3,600 cfs per day daily average if requested by either the State of Georgia or South Carolina.

The US Army Corps of Engineers operates its three multi-purpose projects on the Savannah River (Hartwell, Richard B. Russell, and J. Strom Thurmond) as a three-lake system. The most recent drought has reduced the volume of conservation storage in those three lakes. As a result of declines in the conservation storage and concerns that Level 4 drought conditions may be reached if the drought continues, Savannah District is considering reducing discharges from the Thurmond Reservoir during the fall/winter months when the projects are in a Level 3 drought condition. Alternatives considered included the following:

- (A) No Action,
 - (B) Reducing discharges during the fall/winter months from 3,600 to 3,100 cubic feet per second (cfs) (Alternative 1), and
 - (C) Reducing discharges during the fall/winter months from 3,600 to 2,600 cfs (Alternative 2).
- The tentatively recommended plan is Alternative 1.

AUTHORIZATION REQUIRED FROM THE STATE OF GEORGIA:

Coastal Zone Consistency: Savannah District has evaluated the proposed project and believes it is consistent with the Georgia Coastal Zone Management Program to the maximum extent practicable. The District will submit its evaluation to the Georgia Department of Natural Resources, Coastal Resources Division in Brunswick, Georgia, who administers that program. The State will review the proposed action and determine whether it concurs that the proposed project is consistent with the State's Coastal Zone Management Program to the maximum extent practicable. Any person who desires to comment or object to Georgia Coastal Zone Management Consistency Certification must do so in writing within 10 days of the date of this notice to the Federal Consistency Coordinator, Georgia Department of Natural Resources, Coastal Resources Division, Suite 300, One Conservation Way, Brunswick, Georgia 31520-8687 and state the reasons or basis for the objections.

AUTHORIZATION REQUIRED FROM THE STATE OF SOUTH CAROLINA:

Coastal Zone Consistency: Savannah District has evaluated the proposed project and believes it is consistent with the South Carolina Coastal Zone Management Program to the maximum extent practicable. The District will submit its evaluation to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management in Charleston, South Carolina, who administers that program. The State will review the proposed action and determine whether it concurs that the proposed project is consistent with the State's Coastal Zone Management Program to the maximum extent practicable. Any person who desires to comment or object to South Carolina Coastal Zone Management Consistency Certification must do so in writing within 10 days of the date of this notice to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management; 1362 McMillan Avenue; Suite 400, Charleston, South Carolina 29405 and state the reasons or basis for the objections.

DEPARTMENT OF THE ARMY EVALUATION:

Environmental Assessment: Savannah District has prepared a Draft Environmental Assessment (EA) and found that an Environmental Impact Statement will not be required for this action. The Draft EA is being coordinated concurrently with this Notice to Federal and State natural resource agencies for review and comment. No wetlands would be filled, but riparian wetlands could be temporarily impacted by reduced river flows. No discharge of dredge or fill material into waters of the US is included in the proposed action, so no evaluation is required under Section 404 of the Clean Water Act.

Threatened and Endangered Species: The District reviewed the most recent information on Federally-listed endangered or threatened species and determined that the proposed action may effect, but is not likely to affect shortnose sturgeon, manatee, and wood stork. This proposed action is being coordinated with the US Fish and Wildlife Service and the National Marine Fisheries Service under Section 7 of the Endangered Species Act.

Cultural Resources: In accordance with the National Historic Preservation Act (P.L. 89-655, as amended) and 36 CFR, Part 800, Savannah District has evaluated the proposed action's potential effect upon historic properties. The District has determined the proposed action will have no adverse effect upon historic properties and has initiated consultation with the Georgia and South Carolina State Historic Preservation Officers and eighteen Native American Tribes.

Essential Fish Habitat: Savannah District evaluated the proposal's potential effects on Essential Fish Habitat. The project's effects would be of relatively short duration. As a result, the District believes the proposed action would not produce long term effects on these valuable coastal habitats that warrant mitigation. The District is coordinating the proposed action with the National Marine Fisheries Service under the Magnuson-Stevens Fishery Conservation and Management Act.

Coastal Zone Consistency: Savannah District evaluated compliance of the proposed action with both the Georgia and South Carolina Coastal Management Programs (CMP). The District believes that the proposed action is consistent with the CMPs to the maximum extent practicable. The District will submit the EA to the Georgia Department of Natural Resources, Coastal Resources Division in Brunswick, Georgia and to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management in Charleston, South Carolina.

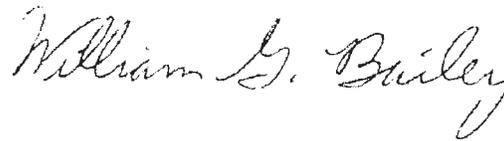
Public Interest Review: The decision whether to proceed with the project as proposed will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both the protection and use of important resources. The benefits which reasonably may be expected to accrue from the proposal will be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including the cumulative effects thereof. Among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife, flood hazards, flood plains, land use, navigation, shoreline erosion/accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, environmental justice, and, in general, the needs and welfare of the people.

Consideration of Public Comments: The US Army Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Native American Tribes; and other interested parties in order to consider and evaluate the impacts of the proposed activity. Any comments received will be considered by the US Army Corps of Engineers in its deliberations on this action. To make this decision, comments are used to assess impacts to endangered species, wetlands, historic properties, water quality, general environmental effects, socioeconomic effects, and the other public interest factors listed above. Comments are used in the preparation of the Environmental Assessment 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 proposed activity.

Comment Period: Anyone wishing to comment to the Corps on this proposed action should submit comments no later than the end of the comment period shown in this notice, in writing, to the US Army Corps of Engineers, Savannah District, Savannah Planning Unit, ATTN: Mr. William Bailey, Post Office Box 889, Savannah, Georgia 31402-0889, by FAX to 912-652-5787, or by emailing the comments to the following address: william.g.bailey@usace.army.mil.

Any person who desires to comment or object to Georgia Coastal Zone Management Consistency Certification must do so in writing to the Georgia Department of Natural Resources, Coastal Resources Division, Federal Consistency Coordinator, Suite 300, One Conservation Way, Brunswick, Georgia 31520-8687.

Any person who desires to comment or object to South Carolina Coastal Zone Management Consistency Certification must do so in writing to the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management; 1362 McMillan Avenue; Suite 400, Charleston, South Carolina 29405.

A handwritten signature in black ink that reads "William G. Bailey". The signature is written in a cursive style with a large, prominent initial "W".

William G. Bailey
Chief, Savannah Planning Unit

ATTACHMENT B



NEWS RELEASE

U.S. ARMY CORPS OF ENGINEERS

BUILDING STRONG.

For Immediate Release:
October 2, 2009
News Release No. 09-54

Contact:
Billy Birdwell, Public Affairs Officer, 912.652.5014/5279
After hours: 912-677-6039, billy.e.birdwell@usace.army.mil
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Comment period opens on temporary changes to drought plan

SAVANNAH, GEORGIA – The Savannah District of the Army Corps of Engineers proposes to make a temporary revision to the 1989 Savannah River Basin Drought Contingency Plan and is soliciting comments from the public on the change. The revision in the plan would reduce the minimum daily average discharge of water from the J. Strom Thurmond Dam and Lake from 3,600 to 3,100 cubic feet per second (cfs) in the fall and winter months for the remainder of the present drought, if conditions warrant the reduction.

The change would preserve water in the three Savannah River reservoirs and delay the time at which those reservoirs would reach the bottom of their conservation storage pools. The Corps of Engineers would restore the discharges from the Thurmond reservoir to the present 3,600 cfs per day daily average if requested by either the states of Georgia or South Carolina.

A more detailed description of the proposed action is contained in the draft Environmental Assessment and Appendices. The comment period, described in the Joint Public Notice, is open until October 31.

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ATTACHMENT C