

August 14, 2012

Mr. David M. Bernhart  
Assistant Regional Administrator  
For Protected Resources  
National Marine Fisheries Service  
263 13<sup>th</sup> Avenue South  
Saint Petersburg, FL 33701

SUBJECT: ENDANGERED SPECIES ACT, MAGNUSON-STEVENSON FISHERY  
CONSERVATION AND MANAGEMENT ACT, AND FISH AND WILDLIFE  
COORDINATION ACT CONSULTATION CLOSE OUT FOR THE WILLIAM  
STATES LEE III NUCLEAR STATION, UNITS 1 AND 2 COMBINED LICENSES  
APPLICATION ENVIRONMENTAL REVIEW

Dear Mr. Bernhart:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by Duke Energy Carolinas, LLC (Duke) for a combined license (COL) application for construction and operation of two new nuclear reactors, William States Lee III Nuclear Station, Units 1 and 2 (Lee Nuclear Station), at the Lee Nuclear Station site in Gaffney, South Carolina. As part of its review of the proposed action, the NRC staff prepared a draft environmental impact statement (EIS) (NUREG-2111), which was published in December 2011. The draft EIS is available through the NRC's Agencywide Documents Access and Management System (ADAMS), which is accessible from the NRC's website at <http://www.nrc.gov/reading-rm/adams.html> at ADAMS Accession No. ML113430094. The draft EIS can also be found online at the NRC's Lee Nuclear Station specific webpage at <http://www.nrc.gov/reactors/new-reactors/col/lee/documents/nrc-2011.html>.

During the preparation of the draft EIS, the NRC staff issued a scoping letter to the National Marine Fisheries Service (NMFS) Southeast Regional Office dated April 9, 2008 (ADAMS Accession No. ML080850962), requesting information regarding Federally-protected species and critical habitat under NMFS' jurisdiction and, in support of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), any designated Essential Fish Habitat in the vicinity of the Lee Nuclear Station site. The NRC staff also requested any information considered appropriate under the provisions of the Fish and Wildlife Coordination Act (FWCA). By letter dated May 5, 2008 (ADAMS Accession No. ML081400585) NMFS provided a list of Federally-protected species for the state of South Carolina, which included the shortnose sturgeon (*Acipenser brevirostrum*). Subsequently, effective April 6, 2012, the NMFS listed the Carolina and South Atlantic distinct population segments of Atlantic sturgeon (*A. oxyrinchus oxyrinchus*) as endangered under the Endangered Species Act (ESA).

In the draft EIS, the NRC staff concluded that while not currently present in the vicinity of the Lee Nuclear Station site, two diadromous species (currently without Federal protection), the American eel (*Anguilla rostrata*) and American shad (*Alosa sapidissima*) had a historical presence at the site. Both shortnose and Atlantic sturgeon are not currently present nor were historically present in the vicinity of the site. The draft EIS cites the *Santee River Basin Accord for Diadromous Fish Protection, Restoration, and Enhancement of 2008*, and concludes that in

D. Bernhart

- 2 -

the future, should fish passage facilities be built in the Broad River, including at the Ninety-Nine Islands Dam, there is the possibility for diadromous fish to return to the vicinity of the Lee Nuclear Station.

As documented in an e-mail with Mr. Eric Hawk, ESA Section 7 Coordinator for NMFS, dated May 21, 2012 (ADAMS Accession No. ML12171A581), the NRC staff considers its consultation with NMFS under the ESA, MSFCMA, and FWCA for the Lee Nuclear Station COL application to be complete. However, upon construction and operation of the proposed Lee Nuclear Station and, in the event of the successful implementation of the fish passage program as described in the Santee River Basin Accord, the NRC staff will reinitiate consultation with NMFS, if there is potential for thermal, chemical, and physical impacts to Federally-protected species from operations at the Lee Nuclear Station.

If you have any questions regarding this matter, please contact the NRC environmental project manager, Ms. Sarah Lopas at 301-415-1147, or via e-mail to [Sarah.Lopas@nrc.gov](mailto:Sarah.Lopas@nrc.gov).

Sincerely,

**/RA/**

William F. Burton, Chief  
Environmental Projects Branch 1  
Division of New Reactor Licensing  
Office of New Reactors

Docket Nos.: 52-018 and 52-019

cc: See next page

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If you have any questions regarding this matter, please contact the NRC environmental project manager, Ms. Sarah Lopas at 301-415-1147, or via e-mail to [Sarah.Lopas@nrc.gov](mailto:Sarah.Lopas@nrc.gov).

Sincerely,  
/RA/

William F. Burton, Chief  
Environmental Projects Branch 1  
Division of New Reactor Licensing  
Office of New Reactors

Docket Nos.: 52-018 and 52-019

cc: See next page

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RidsNroDnrl  
RHannah, RII  
RidsNroDseaRenv  
RKrieg, PNL Team Lead  
([Rebekah.Krieg@pnl.gov](mailto:Rebekah.Krieg@pnl.gov))  
TMiley, PNL Deputy Team Lead  
([Terri.Miley@pnl.gov](mailto:Terri.Miley@pnl.gov))  
RDarden, USACE  
([Richard.Darden@usace.army.mil](mailto:Richard.Darden@usace.army.mil))

**ADAMS Accession No: ML12173A383**

**NRO-002**

<b>OFFICE</b>	PM:NRO:DNRL:EPB1	LA:NRO:DNRL:EPB1	PM:NRO:DSEA:RENV
<b>NAME</b>	SLopas	ARedden	NKuntzleman
<b>DATE</b>	6/26/12	6/21/12	7/31/12
<b>OFFICE</b>	OGC	BC:NRO:DNRL:EPB1	
<b>NAME</b>	KRoach	WBurton	
<b>DATE</b>	8/8/12	8/14/2012	

**OFFICIAL RECORD COPY**

Lee Environmental Mailing List

cc:

Mr. Phillip Anderson  
PO Box 710  
Mtn Horn, NC 28758-0710

Mr. Larry Armstrong  
301 Zima Park Dr.  
Spartanburg, SC 29301

Ms. Deb Arnason  
360 Webb Road  
Wadesboro, NC 28170

Mr. J. Holland Belue, Asst. County  
Administrator  
Cherokee Council  
210 N. Limestone Street  
Gaffney, SC 29340

Mr. David Bernhart  
Asst. Regional Administrator for Protected  
Resources  
National Marine Fisheries Service  
Southeast Regional Office  
263 13th Ave., South  
St. Petersburg, FL 33701

Mr. Ray Blanton  
118 Stacy Drive  
Gaffney, SC 29341

Ms. Lily L. Blue  
124 Riverport Drive  
Clemson, SC 29631

Mr. Paul Boger  
PO Box 97  
York, SC 29631

Mr. Will Bowers  
145 Mildred Avenue  
Gaffney, SC 29341

Ms. Susan Broadhead  
328 Martins Creek Rd.  
Barnardsville, NC 28709

Mr. Stephen M. Cain  
3231 Glenn Springs Rd.  
Spartanburg, SC 29302

Mr. Mark A. Caldwell  
U.S. Fish and Wildlife Service  
Ecological Services  
178 Croghan Spur Road  
Suite 200  
Charleston, NC 29407

Mr. Dick Carr Jr.  
16 Fourmile Branch Lane  
Spartanburg, SC 29302

Mr. Ben L. Clary  
County Administrator  
Cherokee County Council  
210 N. Limestone Street  
Gaffney, SC 29340

Mr. Michael Cook  
Executive Director  
United South and Eastern Federation of  
Tribes  
Stewarts Ferry Pike  
Suite 100  
Nashville, TN 37214

Mr. David Cordeau  
105 N. Pine Street  
PO Box 1636  
Spartanburg, SC 29304

Ms. Claudine Cremer  
260 Dula Springs Road  
Weaverville, NC 28787

Mr. Brian Crissey  
1689 Silver Creek Rd.  
Mill Spring, NC 28756

Lee Environmental Mailing List

cc:

Ms. Mary Crockett  
Broad Scenic River Advisory Council South  
Carolina  
Dept of Natural Resources Land Water and  
Conservation Division  
PO Box 167  
Suite 354  
Columbia, SC 29202

Ms. Rebekah Dorbrasko  
Review and Compliance Coordinator  
South Carolina Department  
of Archives and History  
8301 Parklane Road  
Columbia, SC 29223

Mr. Phillip Ervin  
412 Colonial Avenue  
Gaffney, SC 29340

Mr. R. Michael Gandy  
SC Dept of Health  
& Environmental Control  
2600 Bull Street  
Columbia, SC 29201

Mr. Steven Gilman  
18 Birchwood Lane  
Asheville, NC 28805

Ms. Peggy Guy  
177 Haywood Knolls Drive  
Hendersonville, NC 28791

Dr. Wenonah G. Haire  
Tribal Historic Officer  
Catawba Indian Nation  
Tribal Historic Preservation Office  
1536 Tom Steven Road  
Rock Hill, SC 29730

Cecil & Cynthia Hale  
668 Wofford Road  
Gaffney, SC 29340

Mr. Timothy Hall  
Fish and Wildlife Service  
176 Croghan Spur Road, Suite 200  
Charleston, SC 29407

Mr. Andy Halligan  
350 East Main Street, Suite 500  
Spartansburg, SC 29302

Ms. Judith Hallrock  
11 Digges Road  
Asheville, NC 28805

Mr. Sam Hamilton  
Regional Director  
U.S. Fish and Wildlife Service  
Southeast Region  
1875 Century Blvd, Suite 400  
Atlanta, GA 30345

Mr. Mike Hamrick  
138 Alpine Drive  
Gaffney, SC 29341

Mr. Hillbert Hansborough, Jr.  
244 Keith Haven Lane  
Columbus, NC 28722

Chris Hardy  
York Regional Chamber of Commerce  
PO Box 590  
Rock Hill, SC 29731

Mr. Jeff Harmon  
102 Stonecrest Lane  
Gaffney, SC 29341

Mr. Ray Hearne  
91 Bald Creek Rd.  
Leicester, NC 28748

Mr. Bruce Henderson  
600 S. Tryon St.  
Charlotte, NC 28203

Lee Environmental Mailing List  
cc:

Mr. David Hogue, Mayor  
Town of Blacksburg  
PO Box 144  
Blacksburg, SC 29702

Ms. Cathy Holt  
43 Vermont Ct., #B7  
Asheville, NC 28806

Rev. Posy Jackson  
145 Old Mt. Olivet Rd.  
Zirconia, NC 28790

Ms. Virginia Jenkins  
P.O. Box 2562  
Spartanburg, SC 29304

Mr. David G. Johnson  
Morgan Corporation  
PO Box 3555  
Spartanburg, SC 29304

Mr. Mike Jolly  
P.O. Box 11706  
Rockhill, SC 29708

Mr. Henry L. Jolly, Mayor  
City of Gaffney  
PO Box 2109  
Gaffney, SC 29342

Ms. Leah Karpen  
400 Charlotte Street, Suite 803  
Asheville, NC 28801-1452

Mr. Don Kilma, Director  
Office of Federal Agency Programs  
Advisory Council on Historic Preservation  
Old Post Office Building  
1100 Pennsylvania Avenue, Suite 809  
Washington, DC 20004

Ms. Valerie LeVander  
68 Niles Drive  
Hendersonville, NC 28792

Mr. Ron Linville  
North Carolina Wildlife Resources  
Commission  
Habitat Conservation Program  
3855 Idlewild Road  
Kemersville, NC 27284

Mr. Lanny Littlejohn  
210 Deerwood  
Pacalet, SC 29372

Thomas J. LoVullo, Chief  
Aquatic Resources Branch  
Div. of Hydropower Administration and  
Compliance  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Mr. David McEntire  
1085 Bridges Rd.  
Blacksburg, SC 29702

Ms. Susie Mitcham  
P.O. Box 755  
Greenville, SC 29602

Mr. Charles Moss  
PO Box 217  
Sharon, SC 29742

Representative Dennis Moss  
306 Silver Circle  
Gaffney, SC 29340

Rep. Dennis Moss  
South Carolina House District 29  
306 Silver Circle  
Gaffney, SC 29340

Charles and Evelyn Nelson  
119 Clary Drive  
Gaffney, SC 29341

Chief Gene Norris  
Piedmont American Indian Assn  
Lower Eastern Cherokee Nation SC  
3688 Warrior Creek Church Road  
Gray Court, SC 29645

Lee Environmental Mailing List  
cc:

Mr. Les Parker  
Columbia Regulatory Field Office  
US Army Corps of Engineers  
1835 Assembly Street  
RM 865, B-1  
Columbia, SC 29201

Mr. Lewis Patrie, MD  
99 Eastmoore Drive  
Asheville, NC 28805

Mark and Penny Patterson  
125 Scenic Drive  
Blacksburg, SC 29702

Mr. Joseph Patterson  
100 Rains Road  
Blacksburg, SC 29702

Sen. Harvey S. Peeler, Jr.  
PO Box 742  
Gaffney, SC 29342

Mr. Billy Pennington  
1566 Victory Trail  
Gaffney, SC 29340

Mr. Robert D. Perry  
Certified Wildlife Biologist Director  
Office of Environmental Programs  
1000 Assembly Street, RM 310A  
PO Box 167  
Columbia, SC 29202

Ms. Michelle Pounds  
Chief Executive Officer  
Rep Pine Hill Indian Community  
Carolina Indian Heritage Association  
4055 Coberg Land  
Orangeburg, SC 29115

Ms. Sandra Reinhardt  
THPO Archaeology Department  
Catawba Indian Nation  
1536 Tom Steven Road  
Rock Hill, SC 29730

Mr. Don Richardson  
577 Windover Dr.  
Brevard, NC 28712

Ms. Amanda R. Rowe  
417 W. Pine St.  
Blacksburg, SC 29702

Mr. Garrett Scott  
300 East Main Street  
Suite 500  
Spartansburg, SC 29302

Mr. Michael Seaman-Huynh  
SC Office of Regulatory Staff  
1441 Main Street  
Suite 300  
Columbia, SC 29201

Mr. Coleman Smith  
P.O. Box 2551  
Asheville, NC 28802

Mr. Pete Smith  
P.O. Box 205  
Drayton, SC 29333

Mr. Clyde E. "Butch" Smith  
Manager  
Cleveland County Water  
439 Casar Lawndale Road  
PO Box 788  
Lawndale, NC 28090

Ms. Laura Sorensen  
40 Green Valley Rd.  
Asheville, NC 28806

Frank & Donna Sossaman  
190 Sossamon Loop  
Gaffney, SC 29340

Mr. Willard Steele  
Tribal Historic Preservation Officer  
Seminole Tribe of Florida  
HS 61 Box 21A  
Clewiston, FL 33440

Lee Environmental Mailing List

cc:

Mr. James R. Taylor  
Gaffney City Administrator  
PO Box 2109  
Gaffney, SC 29342

Mr. Bill Thomas  
PO Box 272  
Cedar Mountain, NC 28718

Ms. Ruth Thomas  
354 Woodland Dr.  
Columbia, NC 28722

Ms. Ellen Thomas  
P.O. Box 26  
Tryon, NC 28782

Rev. JoAnn Tomberlin  
651 Old Mt. Olivet Rd.  
Zirconia, NC 28790

Mr. Russell Townsend  
Tribal Historic Preservation Officer  
Eastern Band of Cherokee Indians  
PO Box 455  
Cherokee, NC 28719

Ms. Janet Tsiknias  
133 Cherokee National Hwy.  
Gaffney, SC 29341

Chief Glenna J. Wallace  
Eastern Shawnee Tribe of Oklahoma  
PO Box 350  
Seneca, MO 64804

Mr. Rusty Wenerick  
SC Dept of Health and Environmental  
Control  
Bureau of Water  
2600 Bull Street  
Columbia, SC 29201-1708

Ms. Debralee Williams  
9 Neil Price Ave  
Black Mountain, NC 28711

Mr. Clint Wolfe  
Citizens for Nuclear Technology Awareness  
1204 Whiskey Road, Suite B  
Aiken, SC 29803

Ms. Vicki S. Wooten  
Executive Assistant  
Office of the Secretary  
SC Dept of Commerce  
1201 Main Street, Suite 1600  
Columbia, SC 29201

Dr. Joseph W. Zdenek  
752 Harrell St.  
Rock Hill, SC 28730

Mr. Chuck Zimmerman  
28 Waterford Ct.  
Atlanta, GA 30328

Eric Hawk  
Section 7 ESA Coordinator  
National Marine Fisheries Service  
263 13<sup>th</sup> Avenue South  
Saint Petersburg, FL 33701



## E-Mail

John.Aedo@ferc.gov (John Aedo)  
ehpa@bellsouth.net (Patricia Allison)  
daya@invirodesign.com (Daya Apunte)  
larmstrong@smeinc.com (Larry Armstrong)  
maugspurger@smeinc.com (Mark Augspurger)  
sara@cleanenergy.org (Sara Barczak)  
maubar53@bellsouth.net (Barbara Barnett)  
billbe@charter.net (William Beach)  
dbean@enercon.com (David Bean)  
all@aconsultingengineer.com (Philip J. Bisesi)  
rblanton118@bellsouth.net (Ray Blanton)  
stevenblanton@gmail.com (Steven Blanton, Jr.)  
Rachael.bliss@yahoo.com (Rachael Bliss)  
paulbogger@greateryorkchamber.com (Paul Bogger)  
bolinj@bellsouth.net (James W. Bolin, Sr.)  
sbreckheimer@gmail.com (Steve Breckheimer)  
aebridges@msn.com (Amy Elliot Bridges)  
s\_broadhead@hotmail.com (Susan Broadhead)  
timothy.brooks@us.nestle.com (Timothy Brooks)  
buscarino.john@gmail.com (John Buscarino)  
stephenmcaain@yahoo.com (Stephen Cain)  
richardcarr@charter.net (Dick Carr Jr.)  
sarah.chisholm@gmail.com (Sarah Chisholm)  
tclarkpsy@yahoo.com (Terrence Clark, MD)  
cclaunch@duke-energy.com (Chuck Claunch)  
tomclements329@cs.com (Tom Clements)  
pcoffey01@gmail.com (Peter Coffey)  
grwa2011@yahoo.com (Sky Conard)  
cookj@sccsc.edu (Jim Cook)  
icooper@wpceng.com (Ivan Cooper)  
ennagiarc@gmail.com (Anne Craig)  
cpremer@frontier.com (Claudine Cremer)  
brian.crissey@yahoo.com (Brian Crissey)  
Dobrasko@SCDAH.STATE.SC.US (Rebekah Dobrasko)  
joanwdrake@aol.com (Joan Drake)  
nsedwar@regstaff.sc.gov (Nanette Edwards)  
gfair@clemson.edu (Gabriel Fair)  
mark.farris@yorkcountygov.com (Mark Farris)  
mikeforrester@schouse.gov (Rep. Mike Forrester)  
fossmj@appstate.edu (Matthew Foss)  
jpfraedr@duke-energy.com (Lyn Fraedrich)  
pfredrickson@duke-energy.com (Paul Fredrickson)  
Dan@invirodesign.com (Dan Gamble)  
Steven.L.Gilman@gmail.com (Steven Gilman)  
chris.goudreau@ncwildlife.org (Chris Goudreau)  
worldwidewellness@madriver.com (Laura Grala)  
Agrant.pa@gmail.com (Anna Grant)  
jwgmaps@gmail.com (Chip Green)  
ben@scwf.org (Ben Gregg)

bguild@mindspring.com (Bob Guild)  
peggyguy@morrisbb.net (Peggy Guy)  
hale.kendall@gmail.com (Kendall Hale)  
mandy@cleanenergy.org (Mandy Hancock)  
stonecrestapts@bellsouth.net (Jeff Harmon)  
jeanhedges2004@hotmail.com (Jean Hedges)  
Bhenderson@charlotteobserver.com (Bruce Henderson)  
Katie@cwfn.org (Katie Hicks)  
Lorena.hildebrandt@gmail.com (Lorena Hildebrandt)  
hollingj@dnr.sc.gov (Julie Holling)  
cathyholt@gmail.com (Cathy Holt)  
robhow@gmail.com (Robert F. Howarth)  
rhow@charter.net (Robert Howarth)  
jaxon07@bellsouth.net (Posy Jackson)  
majames@regstaff.sc.gov (M. Anthony James, P.E.)  
mjolly@cityofrockhill.com (Mike Jolly)  
jonesp@sccsc.edu (Para M. Jones)  
skeller@cityofgaffney-sc.gov (Scott Keller)  
kohler1122@yahoo.com (Elizabeth Kohler)  
Larson\_jean@hotmail.com (Jean Larson)  
jled43@chesnet.net (Judy Ledford)  
richardL640@bellsouth.net (Richard LeVander)  
david.lewis@pillsburylaw.com (David Lewis)  
patmccall1@aol.com (Pat McCall)  
mconney.ramona@epamail.epa.gov (Ramona K. McConney))  
David\_mcentire@yahoo.com (David McEntire)  
brian.mcintyre@areva.com (Brian McIntyre)  
lisamcw2@gmail.com (Lisa McWherter)  
Julia.millar@gmail.com (Julia Millar)  
dmillsclan@bellsouth.net (Randy Mills)  
bmina@morgan.corp.com (Robert Mina)  
knmominnee@firstenergycorp.com (Katharine N. Mominee)  
comcher@bellsouth.net (Gene Moorhead)  
dennismoss@schouse.gov (Rep. Dennis Moss)  
dennismoss@schous.gov (Dennis Moss)  
stevemoss@schouse.gov (Rep. Steve Moss))  
ca.nelson@att.net (Charles Nelson)  
Adam.nygaard@gmail.com (Adam Nygaard)  
maryo@nirs.org (Mary Olson)  
tervdog@mindspring.com (Ellen Pauly)  
hperry@smeinc.com (Howard Perry)  
Otis.Rawl@scchamber.net (Otis Rawl)  
sandrar@ccppcrafts.com (Sandra Reinhardt)  
karich321@yahoo.com (Kitty Katherine Richards)  
nrichardson.me99@gtalumni.org (Nicole Richardson)  
gaia@citcom.net (Don Richardson)  
krobbs@cherokeechamber.org (Kayla Robbs)  
Arowe@miller-rowe.com (Amanda R. Rowe)  
Gerald.rudolph@gmail.com (Gerald Rudolph)  
jwsaye@gmail.com (Jack Saye)

Darrell.scott@scchamber.net (Darrell Scott)  
jlsimage@gmail.com (Jonah Simmons)  
wesmith2@bellsouth.net (William E. Smith)  
seawind161@att.net (Pete Smith)  
newsouthnetwork@gmail.com (Coleman Smith)  
kshoesmith@charter.net (Karen Smith)  
hbsmith1207@bellsouth.net (Brian and Kay Smith)  
dale.smith@duke-energy.com (Dale Smith)  
LSRedoak@gmail.com (Laura Sorensen)  
Tims Spencer9@yahoo.com (Tim Spencer)  
dsteen@comporium.net (Darin Steen)  
bstill@morgan-corp.com (Bow Still)  
distroupe@dukeenergy.com (Dennis Stroupe)  
dsulock@unca.edu (Dot Sulock)  
dcswinton.campaign@gmail.com (D.C. Swinton)  
et@prop1.org (Ellen Thomas)  
Amber.Thomas@SunTrust.com (Amber Thomas)  
Charles.thornton@airgas.com (Charles Thornton)  
John.thrasher@duke-energy.com (John Thrasher)  
Deborah.thrift@shawgrp.com (Deborah Thrift)  
rathroneburg@duke-energy.com (Bob Throneburg)  
htinnaro@gmail.com (Heather Tinnaro)  
jate2531@gmail.com (JoAnn Tomberlin)  
gaffrest@hotmail.com (Janet Tsiknias)  
jtynan@upstateforever.org (John Tynan)  
VejdaniV@dnr.sc.gov (Vivianne Vejdani)  
waraksre@westinghouse.com (Rosemarie E. Waraks)  
steve.ware@us.nestle.com (Steve Ware)  
JASON.WATERS@gw.cherokee1.k12.sc.us (Jason Waters)  
jwatts@charter.net (Jim Watts)  
keith.webb@mccgillengineers.com (Keith Webb)  
weneriwr@dhec.sc.gov (Rusty Wenerick)  
gayleshop@bellsouth.net (Gayle White)  
cwilson@scdah.state.sc.us (Caroline Dover Wilson)  
Robert.wylie@duke-energy.com (Robert Wylie)  
joe.yanes@duke-energy.com (Joe Yanes)  
ryoungblood@yorkcountychamber.com (Rob Youngblood)  
jzdenek@comporium.net (Joseph Zdenek)  
bredl@skybest.com (Louis Zeller)  
czimmjr38@yahoo.com (Chuck Zimmerman)