

03/07/2012

## CONVERSATION RECORD

TIME

3 : 00

☐ AM☒ PM

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU

Thomas J. Luvello and John Aedo

TELEPHONE NO.

TYPE OF CONVERSATION

☐ IN-PERSON☐ E-MAIL☒ TELEPHONE☐ INCOMING☒ OUTGOING

E-MAIL ADDRESS

ORGANIZATION

Federal Energy Regulatory Commission

SUBJECT

Clarification of Flow Requirements in Amended Article 402 of Ninety-Nine Islands Hydroelectric Project License

## SUMMARY

On March 7, 2012, the U.S. Nuclear Regulatory Commission (NRC) and its contractor, Pacific Northwest National Laboratory (PNNL), had a conference call with representatives of the Federal Energy Regulatory Commission (FERC) regarding clarification of a November 2011 amendment to Article 402 of the FERC license for the Duke Energy Carolinas, LLC (Duke) Ninety-Nine Islands Hydroelectric Project. FERC is collaborating with NRC and USACE on the Lee Nuclear Station environmental impact statement (EIS) as a participating agency due to its regulatory authority over the Ninety-Nine Islands Hydroelectric Project. At some point in the future, Duke must apply to FERC for permits for the proposed Lee Nuclear Station to withdrawal water from and discharge effluent to the Ninety-Nine Islands Reservoir.

Participants on the call included Sarah Lopas, NRC environmental project manager for the Lee Nuclear Station combined licenses application environmental review, Michael Masnik, NRC Water and Ecology Team Leader, Mohammad Haque, NRC hydrologist, Nancy Kuntzleman, NRC ecologist; Lance Vail, PNNL hydrologist, Nancy Kohn, PNNL team member, Jim Becker, PNNL terrestrial ecologist, Sue Southard, PNNL aquatic ecologist, Rebekah Krieg, PNNL team lead, Terri Miley, PNNL deputy team lead; Richard Darden, U.S. Army Corps of Engineers (USACE)—cooperating agency senior project manager; and FERC representatives Thomas J. Lovullo, Office of Energy Projects, Chief, Aquatic Resources Branch, and John Aedo, Office of Energy Projects, Fishery Biologist.

The purpose of the call was to get clarification from FERC regarding an amendment to Article 402 of the FERC license for the Ninety-Nine Islands Hydroelectric Project. Article 402 requires, in part, that the licensee provide various minimum flows to the Broad River based on time of year and project inflow. Specifically, the license requires seasonal flows of 966 cubic feet per second (cfs) from January through April; 725 cfs in May, June, and December; and 483 cfs from July through November, as measured below the project. On October 12, 2011, Duke filed a request with FERC to amend Article 402 to modify and clarify some of the language

**Continue on Page 2**

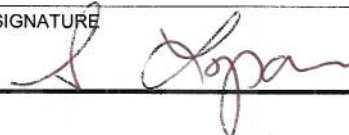
## ACTION REQUIRED

Send e-mail to FERC regarding NRC and PNNL interpretation of minimum flow requirements as stated in Article 402.

NAME OF PERSON DOCUMENTING CONVERSATION

Sarah L. Lopas

SIGNATURE



DATE

6/21/12

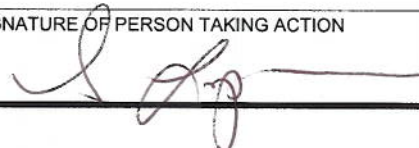
## ACTION TAKEN

E-mail sent 3/12/2012.

TITLE OF PERSON TAKING ACTION

Environmental Project Manager

SIGNATURE OF PERSON TAKING ACTION



DATE

6/21/12

## CONVERSATION RECORD (Continued)

### SUMMARY:

in the article. Duke stated that the text of Article 402 differed slightly from that outlined in a settlement agreement for the 1996 hydroelectric project license and included conflicting requirements. These conflicting requirements were noted and questioned by NRC and PNNL during development of the Lee Nuclear Station draft EIS and records of this issue can be found in the NRC's Agencywide Document Access and Management System (ADAMS) at Accession Nos. ML11158A171 and ML112440727. The 1996 FERC license for the Ninety-Nine Islands Hydroelectric Project and background information can also be found at Accession No. ML11158A171.

Duke's requested amendment was approved by FERC on November 15, 2011. The Article 402 amendment deleted the statement requiring the release of natural inflow during times when inflow was below each respective monthly discharge requirement. The amendment also made some clerical corrections and added some language for clarity. The amendment to Article 402 can be found at ML12173A295, and also at <http://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=12818275>.

Similar to a call with FERC on July 28, 2011 (that conversation record can be found at Accession No. ML112440727), NRC and PNNL were seeking clarification of the amended Article 402 because the seasonal Broad River flow requirements described in Article 402 could impact how Duke would withdrawal water from the Ninety-Nine Islands Reservoir, the source of cooling water for the proposed Lee Nuclear Station. As part of their analysis of water use at the Lee Nuclear Station, NRC and PNNL sought to understand if all the flow requirements described in the license would apply (i.e., 966 and 725 cfs, in addition to the minimum 483 cfs, which is the only flow requirement addressed in Duke's water management plan).

During the March 7, 2012 call, FERC was unable to confirm the NRC and PNNL's interpretation of the flow requirements as described in amended Article 402—FERC would require more time to review the requirements and make a determination. The call concluded with the decision that the NRC would send an e-mail to FERC clearly stating the NRC and PNNL interpretation of the seasonal flow requirements in Article 402, and FERC would review the interpretation and provide confirmation or feedback. The subsequent e-mail sent to FERC on March 12, 2012, and FERC's reply on March 26, 2012. Both e-mails are located in ADAMS at Accession No. ML12173A293. <<END OF RECORD>>