

P-2210

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

OFFICE OF THE CHAIRMAN

March 22, 2005

The Honorable Bob Goodlatte
U.S. House of Representatives
10 Franklin Road, SE, Suite 540
Roanoke, VA 24011-2121

Re: Smith Mountain Pumped Storage Project, FERC No. 2210

Dear Congressman Goodlatte:

Thank you for your March 8, 2005 letter on behalf of Mr. George I. Vogel, II and Mr. Ron Willard, II regarding vested property rights and the Shoreline Management Plan (plan) at the Smith Mountain Pumped Storage Project, FERC No. 2210. Mr. Vogel is concerned that the permitting process provided for in the plan will require property owners to forfeit vested property rights in order to obtain a permit. Mr. Willard is concerned about several aspects of the plan including the economic impact, property rights, lake debris removal, the variance process for dock permits, dredging, public access, and nonconforming structures. The project is licensed to Appalachian Power Company, a part of American Electric Power (AEP).

The licensee began preparing the plan approximately four years ago. In May 2001, the licensee formed a steering committee of local officials, resource agencies, lake associations, business interests, and property owners. Mr. Willard was a member of this committee. This steering committee met regularly to identify shoreline management issues and discuss possible ways to treat those issues in the plan. In August 2002, February 2003 and July 2003, the licensee held public meetings to obtain public comments and further refine the plan.

The plan was filed on September 3, 2003. A public notice of its filing was issued by the Commission on September 10, 2003, with a comment deadline of October 10, 2003. This 30-day comment period was extended to January 10, 2004, at the request of several interested parties. The Commission staff prepared a draft environmental assessment (DEA) on the plan. This DEA was noticed on March 2, 2005, with a 45-day comment period. In the DEA, the Commission staff analyzed the environmental impacts of the plan, including the concerns of Mr. Willard where appropriate. Some of his concerns, such as lake debris removal and public access, will be addressed as part of the ongoing relicensing process.

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The Commission's jurisdiction extends to the licensee and activities that take place within the project boundary. We require our licensees to acquire and retain in perpetuity sufficient rights to accomplish all project purposes under their licenses. In this case, the project boundary is defined as the 800-foot contour for Smith Mountain Lake and the 630-foot contour for Leesville Lake. Any disputes between property owners and a licensee concerning property rights and the actions taken by a licensee under its license are matters for resolution in the appropriate state court.

The Commission staff plans to hold a public meeting in early April to provide another opportunity for the public to provide comments on the plan. I hope this information is helpful. If I can be of further assistance in this or any other Commission matters, please let me know. Your letter has been placed in the Commission's public file for this project, which serves to alert the Commission to the concerns of interested individuals and groups

Sincerely,

A handwritten signature in black ink that reads "J. McLane Layton". The signature is written in a cursive, slightly slanted style.

J. McLane Layton
Director
Office of External Affairs