December 23, 2003

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Dominion Power, Roanoke Rapids-Gaston Project (Project no. 2009-018)

Dear Secretary Salas:

The Nature Conservancy, through its North Carolina Chapter, hereby comments on the Environmental Assessment (EA) dated November 28, 2003 in this proceeding.

The EA recommends approval of all environmental measures which the Settlement Agreement, as filed July 15, 2003, proposes as license articles. EA, p. 300. As a signatory of the Settlement, we wholeheartedly support such approval. We agree that these measures will protect and enhance the environmental resources within the project boundary and also in the lower Roanoke River, at a reasonable cost to Dominion. Id. We also agree that the additional measures recommended by OEP Staff (id.) to monitor compliance, review the studies produced in cooperative management programs, and protect bald eagle habitat, are appropriate. Accordingly, TNC affirms our support for issuance of a new license that includes all of these measures.

We report one development that relates to implementation of license articles FL3 and FL4 as proposed in Settlement Appendix A. These proposed articles state procedures and criteria for potential future modification in the project’s within-day and within-week peaking operation. We report this development solely for the purpose of completing the record, and we do not request or support an amendment to the Settlement or the EA as a result.

Specifically, the development relates to how the Army Corp’s weekly declaration of water available for generation in the Kerr Powerhouse, just above Lake Gaston, is actually dispatched. Under a 1999 contract with Southeast Area Power Administration (SEPA) as described in Application Exhibit B, Dominion dispatches the weekly declaration, which is to say, proportions and schedules that declaration to meet forecast load requirements of SEPA’s preference customers during the following week. It then transmits the federal energy to those customers. See EA, p. 7. Kerr dispatch affects the availability of water for project purposes, including peaking operation. Under the proposed articles, Dominion will modify its own
peaking operation in years 6 and subsequently, if monitoring results demonstrate adverse impact on the biological productivity of the downstream ecosystem. One approach available to Dominion to modify its peaking operation is adjusting Kerr dispatch -- in other words, adjusting how it currently distributes the weekly declaration (as between days of the week) through that upstream powerhouse. However, in an October 9, 2003 letter to the North Carolina Attorney General, SEPA announced that it will assume from Dominion the contractual duty for Kerr dispatch as of January 1, 2004, and that it will continue the current pattern of dispatch to maximize energy value. If so, Dominion will modify its peaking operation through regulation of the water once stored in the project, and not through adjustment of the Kerr dispatch, either approach being permissible under FL3 and FL4. Dominion has assured TNC that it will perform under these articles if SEPA assumes and exercises the responsibility for Kerr dispatch as described in the October 9th letter. Modeling by our consultant, HydroLogics Inc., confirms the feasibility of this approach. The Settlement plainly requires such performance. It establishes general procedures for post-licensing response to this or any other development that may affect performance, including FL3 and FL4’s provision for cooperative management of the response to a finding that peaking operation has an adverse impact on the downstream ecosystem.

TNC concludes by thanking OEP for its Staff’s considerable contributions to the success of the negotiations that produced the Settlement, and for its EA’s recommendation that the Commission approve the Settlement as the basis for the new license.

Respectfully submitted,

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Richard Roos-Collins
Senior Attorney,
NATURAL HERITAGE INSTITUTE

Special Counsel,
THE NATURE CONSERVANCY

Cc: Service List
DECLARATION OF SERVICE

Dominion Power,
Roanoke Rapids-Gaston Project (Project no. 2009-018)

I hereby certify that I today served the foregoing letter from Natural Heritage Institute to Secretary Magalie R. Salas, by first-class mail to each person designated on the official service list compiled by the Secretary in this proceeding.

Dated: December 23, 2003

By: _________________________

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