

FERC LICENSING

**Presentation to Virginia Department of Environmental Quality
Regulatory Advisory Panel
September 27, 2011**



FERC LICENSING AUTHORITY

- Under the authority of the Federal Power Act, as amended by the Electric Consumers Protection Act, the Federal Energy Regulatory Commission (FERC) has the responsibility of issuing licenses for non-federal hydroelectric power plants. The FERC issues licenses for up to 50 years for constructing, operating and maintaining nonfederal hydropower projects. Upon expiration of a license, the FERC can issue a new license to the existing licensee or a new licensee. Licenses issued by the FERC must take into consideration the environmental as well as economic aspects of continued operation of the project. The conditions of the license identify those responsibilities of the Licensee in order to assure the best comprehensive use of the waterway where the project is located.

NOI AND PAD

- The initial step in preparing an application for original or new license is the Notice of Intent (NOI) which informs the Commission as well as all others of the Applicants intent to file for an original or new license and the process to be utilized. For a new license, the NOI must be filed with the Commission no earlier than five and one-half years or no later than five years prior to the date of license expiration.
- Accompanying the NOI is the Pre-Application Document (PAD) that describes the project, contains all relevant information about the project environment, and planned studies to obtain additional information.

Pre-Filing ILP Activities

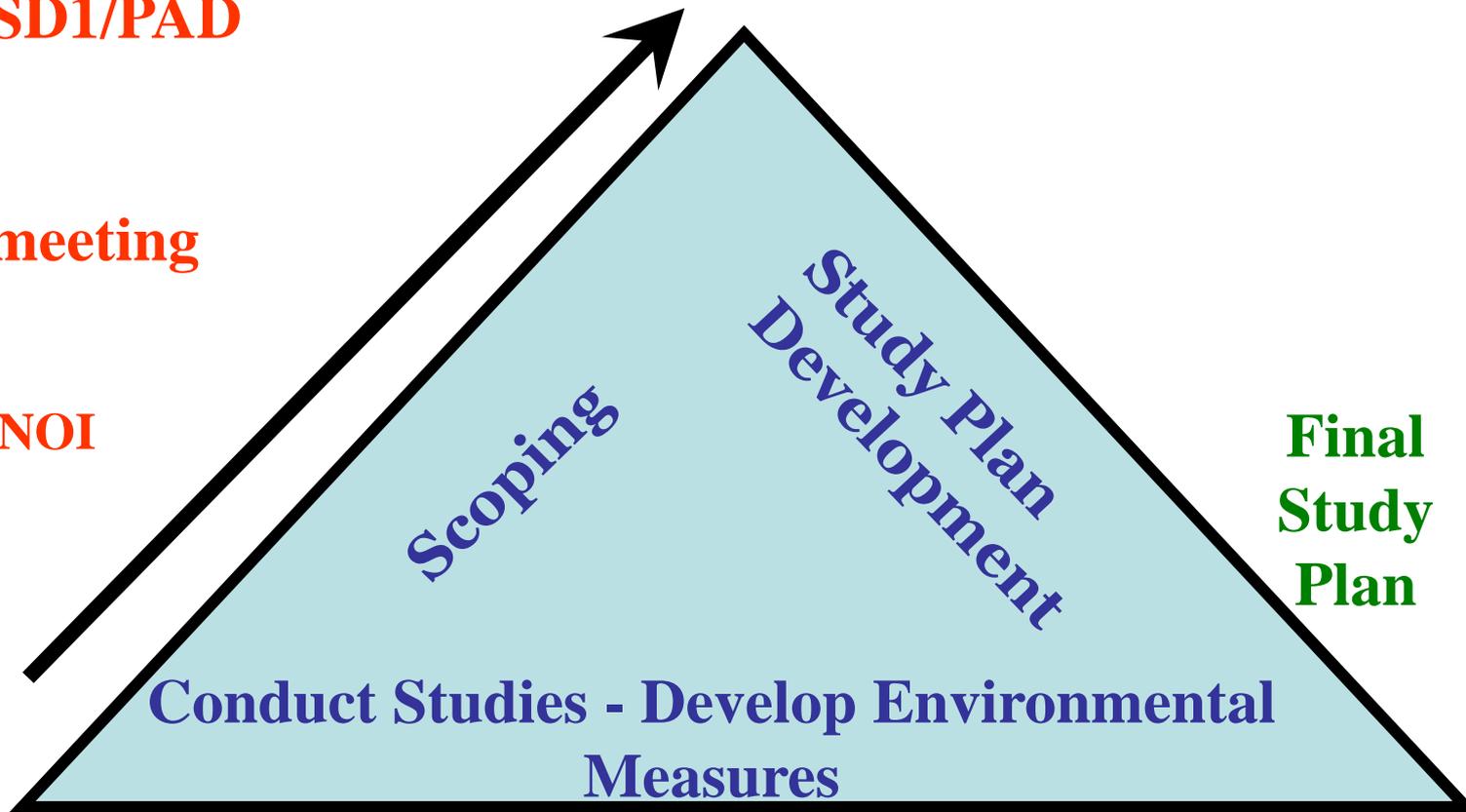
Proposed Study Plan

Comments on SD1/PAD

Scoping meeting

Scoping/PAD/NOI

**NOI/
PAD**

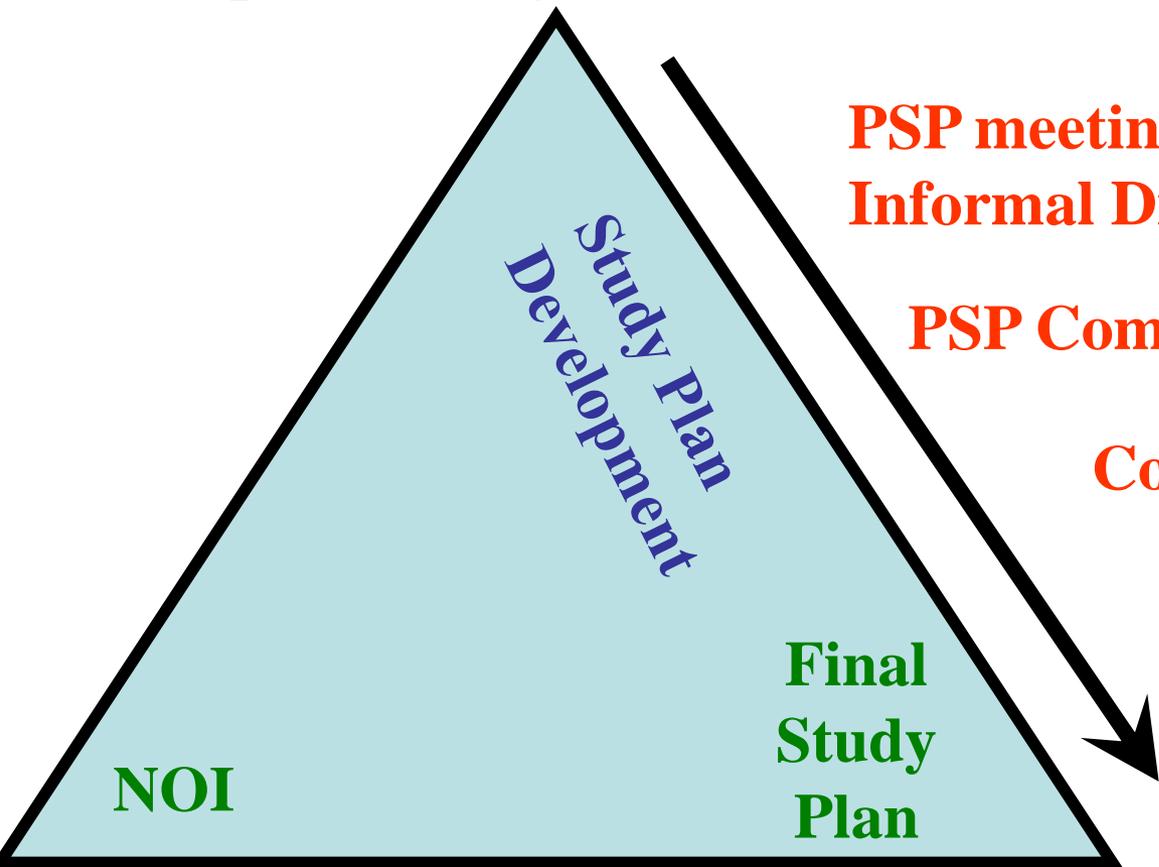


Scoping Purpose

- Initiate scoping of issues
- Review and discuss existing conditions and resource management objectives
- Review and discuss existing information and make a preliminary determination of information and study needs
- Review, discuss, and finalize the process plan
- Discuss cooperating agency status

Pre-Filing ILP Activities

Proposed Study Plan (PSP)



**PSP meeting
Informal Dispute Resolution**

PSP Comments

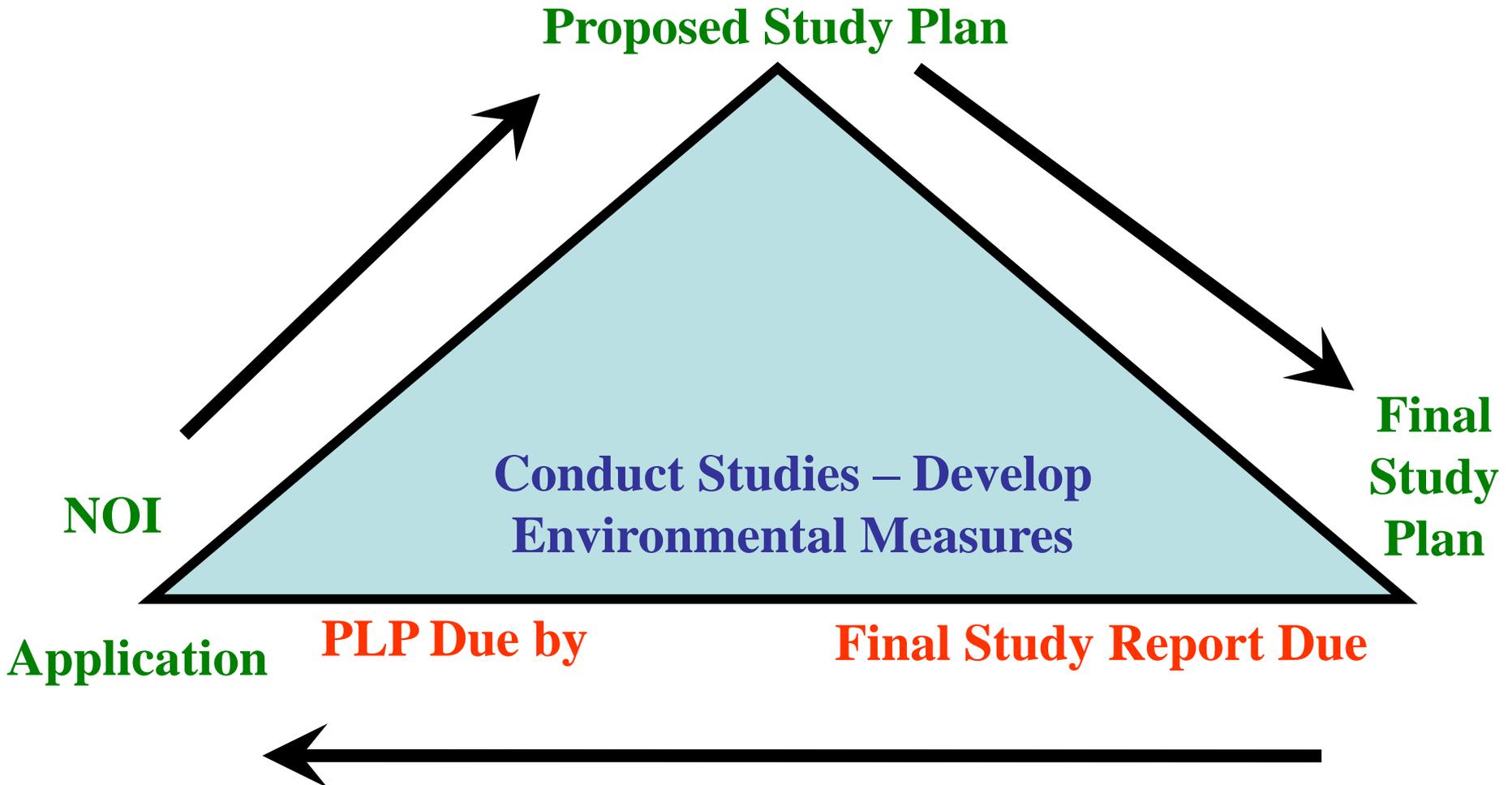
Commission approves SP

Formal DR – if needed

Study Request Criteria

- Describe goals and objectives of study proposal
- Explain relevant resource management goals
- Describe any existing information
- Explain relevant public interest if requester is not a resource agency
- Nexus to project operations and effects and how study results would inform development of license requirements
- Methodology consistent with accepted practice
- Consideration of level of effort and cost and why alternative studies would not suffice

Pre-Filing ILP Activities



Preliminary Licensing Proposal

- Preliminary Licensing Proposal due 150 days prior to license application due date
 - Existing and proposed facilities, operation, and environmental analysis
 - Draft environmental analysis
- Draft license application optional
- Draft PA (if necessary) and Historic Properties Management Plan
- Comments on proposal due within 90 days

Post-Filing Activities

Application

Tendering Notice

Acceptance Notice and REA

Comments/Conditions/Interventions

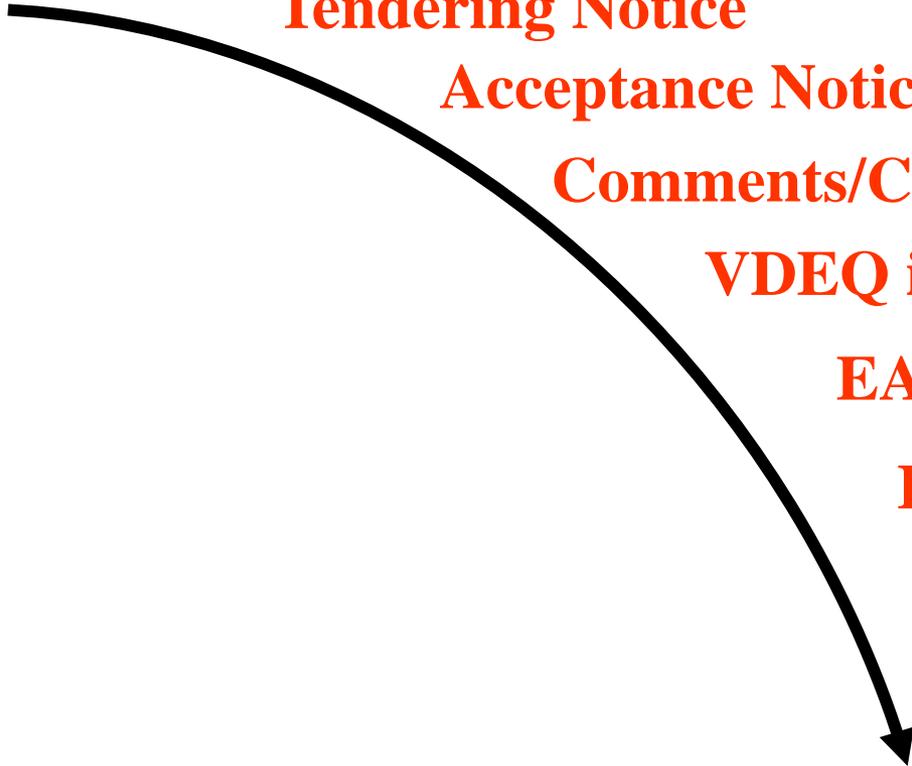
VDEQ issues 401 WQC

EA Issued

EA Comments Due

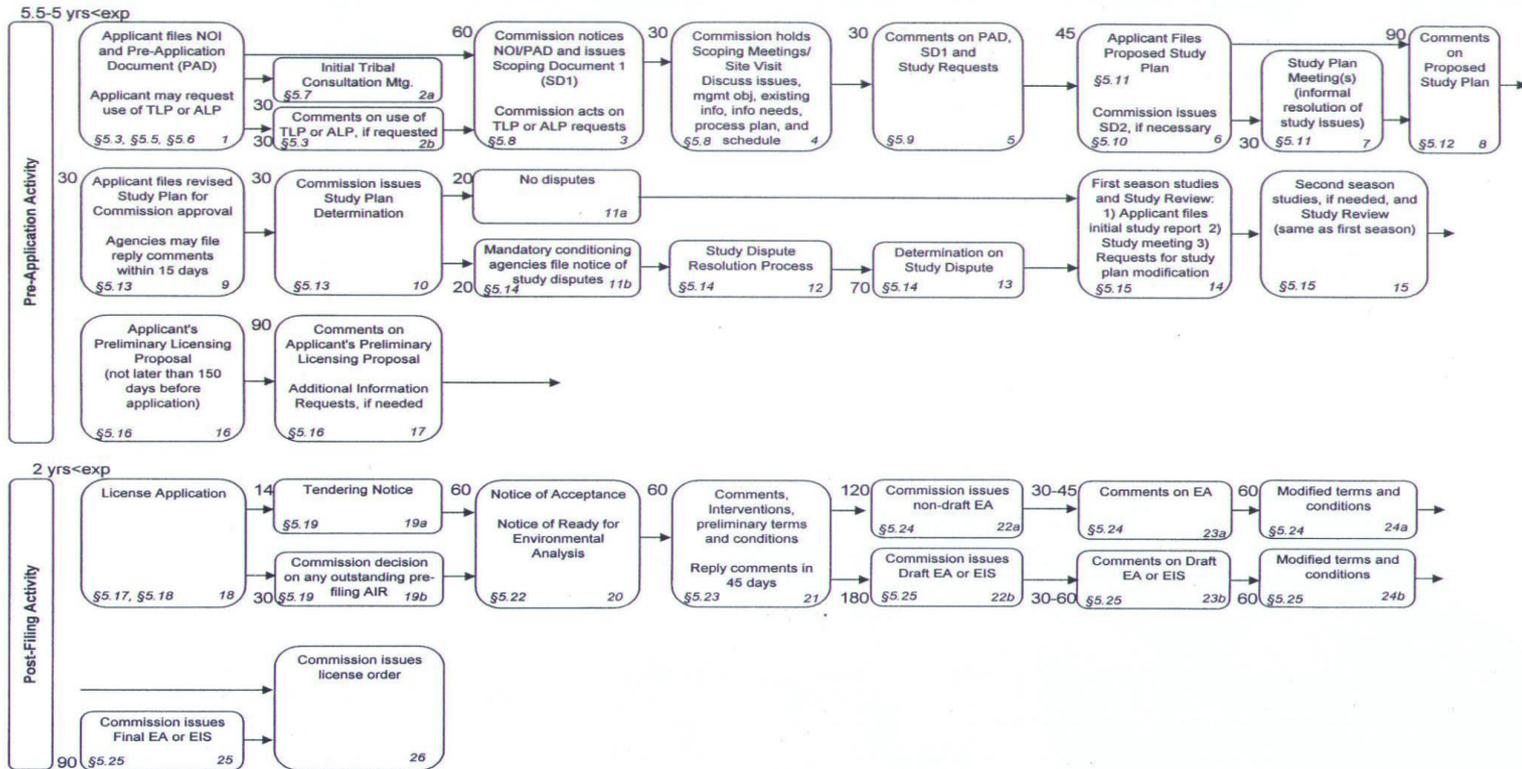
Modified Conditions

License Order



RELICENSING TIME-LINE

Integrated Licensing Process Final Rule



Resource Issues

- Geology and Soils
- Water Resources
- Aquatic and Fisheries Resources
- Terrestrial Resources
- Recreation Resources
- Land Use and Aesthetics
- Archaeological and Historic Resources
- Developmental Resources

SECTION 10(J) PROCESSES

18 CFR 4.34(e)(1); 18 CFR 5.26(a)

- The Commission is required under Section 10(j) of the Federal Power Act (FPA) to include in any license fish and wildlife measures for the protection, mitigation of damages to, and enhancement of fish and wildlife resources potentially affected by the project based on recommendations from the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and state fish and wildlife agencies. The Commission will include those recommended measures unless it believes that they are inconsistent with the FPA or other applicable law. Submission of recommendations by fish and wildlife agencies in response to the Ready for Environmental Assessment (REA) notice marks the beginning of the process under Section 10(j) of the FPA.

APPLICABLE LAWS

- Section 401 of the Clean Water Act
- Endangered Species Act
- Magnuson-Stevens Fishery Conservation and Management Act
- Coastal Zone Management Act
- National Historic Preservation Act
- Pacific Northwest Power Planning and Conservation Act
- Wild and Scenic Rivers and Wilderness Acts

NATURAL HERITAGE RESOURCES

- Requests are submitted to the appropriate agencies for the Commonwealth of Virginia to identify occurrences of natural heritage resources within the project boundary and/or can be impacted by project operations.
- Information provided in response is incorporated into the license application filed with the Commission.
- The potential impacts to natural heritage resources are considered by the Commission in the Environmental Assessment and subsequent license issuance.
- Disagreement may be dealt with under the Section 10(j) process.

SMITH MOUNTAIN PROJECT NO. 2210

PARTICIPATING AGENCIES

STATE AGENCIES

- VDCR
- VDEQ
- VDGIF
- VDHR
- VDH
- VMRC
- VSCC
- Virginia Natural Resources Commission
- Virginia Council on Indians

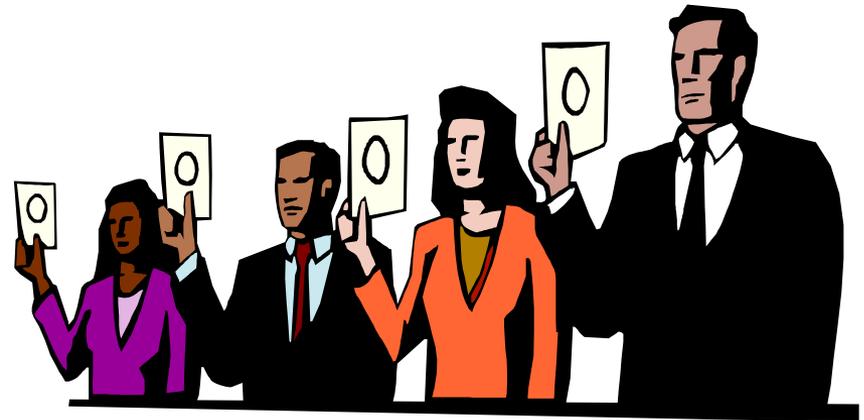
FEDERAL AGENCIES

- FERC
- U.S. Fish & Wildlife Service
- E. Band of Cherokee Indians
- Corps of Engineers
- National Marine Fisheries
- National Park Service
- Bureau of Land Management
- U.S. Forest Service
- USGS
- USEPA
- FEMA

SMITH MOUNTAIN PROJECT NO. 2210

PARTICIPATING LOCAL GOVERNMENTS

- Franklin County
- Bedford County
- Campbell County
- Mecklenburg County
- Pittsylvania County
- Halifax County
- Charlotte County
- Roanoke County
- Town of Brookneal
- Town of Altavista
- Town of Hurt
- City of Roanoke



SMITH MOUNTAIN PROJECT NO. 2210 PARTICIPATING NON-GOVERNMENTAL ORGANIZATIONS

- ALAC
- SMLA
- SMLCC/P
- TLAC
- Southside Concerned Citizens
- Staunton River Scenic Advisory Committee
- Friends of the Staunton
- Friends of the Roanoke River
- Staunton River Watch
- Citizens for Preservation of the River
- Leesville Lake Association
- The Nature Conservancy
- American Rivers
- Roanoke River Basin Assoc.
- Smith Mountain Lake Boating Association
- Regional Partnership of Local Governments
- Water Conservation Alliance
- Eastlake Business Association
- Virginia Roanoke River Basin Advisory Committee
- Dominion Power
- Upper Roanoke River Roundtable