

CATAWBA RIVERKEEPER FOUNDATION, INC.

May 11, 2009

The Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

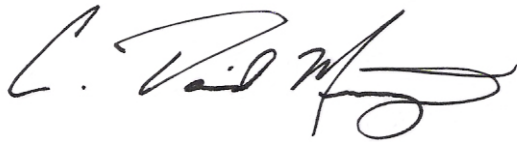
**RE: COMMENTS ON NOTICE DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE CATAWBA-WATEREE HYDROELECTRIC PROJECT NO. 2232-522**

Dear Secretary Bose,

In response to the March 6, 2009 Notice of availability of the draft environmental impact statement for the Catawba-Wateree Hydroelectric Project and intention to hold public meetings re Duke Power Company, LLC under P-2232, the Catawba Riverkeeper Foundation, Inc. hereby submits comments regarding this draft environmental impact statement.

We hereby submit our comments electronically via the Internet through eLibrary.

Respectfully submitted,



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**UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

Duke Power Company, LLC)
Catawba-Wateree Hydroelectric Project)
) **Project No. 2232-522**
)

**CATAWBA RIVERKEEPER FOUNDATION, INC.
COMMENTS ON NOTICE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE
CATAWBA-WATEREE HYDROELECTRIC PROJECT NO. 2232-522**

Upon review of the draft environmental impact statement (DEIS) issued by the Commission on March 6, 2009, Catawba Riverkeeper Foundation, Inc. respectfully submits these comments. Catawba Riverkeeper Foundation, Inc. (CRF) is a non-profit conservation organization and has been registered as a 501(c)(3) in North and South Carolina since 1997. CRF was issued a license by Waterkeeper Alliance, Inc., an international water conservation and advocacy organization headquartered in Irvington, NY, to be the sole Riverkeeper for the entire Catawba River watershed. Our primary office is located in Charlotte, NC.

CRF's mission is to advocate for and secure protection and enhancement of the Catawba River, its lakes, tributaries and watershed so that it will always sustain the human and wildlife populations that depend on it for life. With approximately 1200 members throughout the 17 counties that span the Catawba River watershed, CRF is the only river conservation and advocacy organization focused solely on the protection and enhancement of the Catawba River.

CRF has been actively engaged in activities related to license terms, conditions and operational issues on the Catawba-Wateree River since 1998. We have filed numerous comments on many proceedings related to the Catawba-Wateree Project. We fully participated in the Applicant's modified traditional relicensing process with at least 15 CRF members (Riverkeeper, Lakekeepers, Covekeepers, WaterWatchers) serving on all six stakeholder groups and many of the resource committees. The involvement of CRF and its members throughout this process demonstrates our commitment to the formulation of a license that sustains the Catawba-Wateree for which this license is accountable.

CRF has fundamental disagreements with the Comprehensive Relicensing Agreement (CRA)(Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project, FERC No. 2232, Signature Copy, e-Library No. 20060927-0179)(August 29, 2006) that prohibited us from supporting this document with our signature in July 2006. CRF did not sign the CRA because it did not adequately address a variety of issues including, but not limited to: water quantity management, minimum flows, water quality, species protection, public access, flood control, and the need for Duke to provide better overall environmental management of the Project. The CRA should not be given deference as to non-signing parties because the parties to

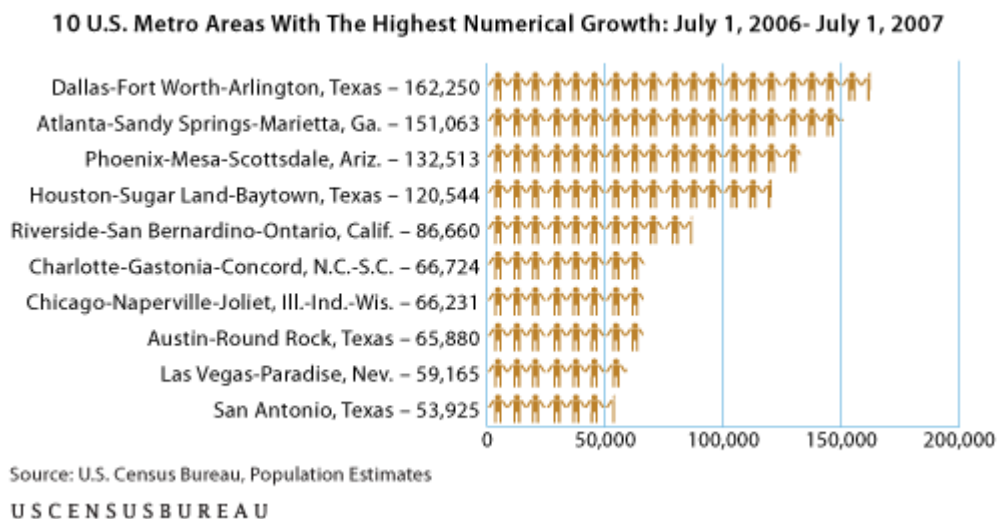
the CRA did not attempt to fully address the issues raised by non-signing parties. In fact, Duke expressly indicated that any tentative agreements regarding issues advocated by a party that did not ultimately sign the agreement would be removed from the agreement.

Opening Comments

Term of License

Although the Commission could not produce a draft environmental impact statement with license length conditions beyond 30 years, it is our understanding that Duke is requesting a 50 year license. CRF believes a 50 year license is too long because the issues that will arise in 50 years are difficult to predict and no attempt was made to predict the environmental impact of the project in 50 years. The Catawba-Wateree is undergoing substantial development and changes due to increased urban- and suburbanization that could accelerate over the next 50 years and have unanticipated impacts on the Catawba-Wateree ecosystem. On March 27, 2008, the U.S Census Bureau released its nationwide numerical growth estimates with the Charlotte-Metropolitan area ranking number 6.

Fig. 1 U.S. Census Bureau top 10 metro areas with highest numerical growth from July 2006- July 2007



On March 19, 2009, the U.S. Census Bureau released its most recent nationwide numerical growth estimates regarding July 2007-July 2008. In this estimate, the Charlotte-Metropolitan area ranked number 7 on the U.S. Census Bureau’s fastest-growing metropolitan areas. The substantial population growth felt throughout the Catawba-Wateree basin resulted, in part, to the 2008 designation of the Catawba-Wateree River as American River’s “Most Endangered River” in the United States. As represented in a figure on page 10 of the “2008 Report of the Water Allocation Study of the NC Environmental Review Commission,” water use, in million gallons per day, greatly exceeds population in North Carolina (Whisnant et al. 2008). The Catawba-Wateree has reached a tipping point regarding water quantity demands and related water quality issues. It is difficult to predict all of the impacts related to these changes on the Project over the duration of the pending license.

Thus, we request that the license be no longer than 30 years to ensure adequate future planning for a rapidly-changing and heavily-depended upon river. Additionally, we believe re-opener provisions should be part of the license term to provide for adaptive management of the entire Project. On page 108 of the DEIS, the Commission concluded that model simulations provided foresight into extended low flow conditions with taxing conditions on operating protocols beginning 2048. Studies into the validity of the CHEOPS model regarding population growth projections and projected water needs should be completed before license issuance.

CRA Signatories vs. Non-signatories

The CRA represents the views and interests of the signatory parties. In fact on multiple occasions, the Applicant has stated that provisions of the draft CRA (Agreement-in-Principle) that benefitted non-signatories were taken out of the final August 29, 2006 CRA. Thus, the CRA only represents the interests of the signers and does not represent the interests of the non-signers or general public.

The CRA should not be granted any special deference regarding issues raised by non-signatories because it does not reflect issues advocated by non-signers. The Commission is responsible for seeing that the interests of the non-signatories are adequately addressed in the final environmental impact statement and the final license. Therefore, the Commission should give special attention to the comments of CRA non-signatories.

Water Quantity Management

Water Users

Currently, the Applicant is the largest water user in the Catawba-Wataree River Basin. Figure 16 on page 119 of the Commission's DEIS depicts that the Applicant currently uses 80.8 million gallons per day which represents 48% of net water usage from the Project. According to North Carolina Department of Environment and Natural Resources Division of Water Resources, approximately 4.6 billion gallons per day, approximately 86% of all water withdrawals, from the Catawba River Basin are withdrawn for thermal electric power production. The NC Division of Water Resources provides river basin specific withdrawals amounts on their website at <http://www.ncwater.org/Water-Withdrawals/>. According to this website, energy generating units operated by the Applicant intake the following amounts of water: Marshall Steam Station on Lake Norman withdrawals approximately 1.06 billion gallons per day, Riverbend Steam Station on Mountain Island Lake and Allen Steam Station intake a total of approximately 865 million gallons per day, and McGuire Nuclear Station on Lake Norman withdrawals approximately 2.6 billion gallons per day. Although a large portion of this water is returned to the river, a substantial amount of water is lost to evaporation both before water is returned to the river and after thermally polluted water is discharged. Additionally, the North Carolina Department of Environment and Natural Resources Division of Water Quality issued NPDES permits with no flow limits for McGuire Nuclear Station in Mecklenburg County on Lake Norman (NPDES

Permit No. NC0024392), Marshall Steam Station in Catawba County on Lake Norman (NPDES Permit No. NC0004987), Riverbend Steam Station in Gaston County on Mountain Island Lake (NPDES Permit No. NC0004961). Allen Steam Station in Gaston County on Lake Wylie received an NPDES from NC Division of Water Quality with a flow requirement limitation of 10 million gallons per day (NC0004979).

The Catawba-Wateree River is becoming unable to meet all of the water quantity demands, and local governments and private citizens are spending millions of dollars to conserve water. In order to provide ample water supplies throughout all climatic variations of precipitation events and without severe reservoir drawdown during low inflow conditions, the Commission should require the Applicant to investigate and assess methods that would reduce its reliance on water consumption for electrical production at its non-hydroelectric facilities located along the Catawba-Wateree Project. As a condition of the License, the applicant should be required to implement changes to the cooling systems at its non-hydro electrical generating plants to reduce the net consumption of water from the Catawba-Wateree. A condition requiring a ten percent decrease in net loss of water from thermal cooling would be an appropriate start.

Water Quantity Conservation

On page 122 of the DEIS, the Commission states in regards to water withdrawal from the Project limit that “the only control Duke Energy has in this process is the granting of easements on Project lands.” We respectfully disagree with this statement; Duke Energy has stepped beyond this suggested limited capability of influencing water withdrawals from the Project as indicated by its motion to intervene in the United States Supreme Court case between SC and NC (*South Carolina v. North Carolina*, No. 138, Original (filed June 7, 2007)).

CRF believes the Applicant should facilitate better water management by charging for water taken from within the Project boundaries. The dollars received from these charges should be delegated to an established independent conservation advocate for the river as well as to projects that improve water quality conditions throughout the Catawba-Wateree River Basin. This “impact fee” could discourage additional inter-basin transfers (IBTs) and wasteful uses of water. For example, the Applicant should be required as a license term to establish fees and restrictions for use of lake water for irrigation by riparian owners along the Project.

As a condition in the license, the Commission requested that U.S. Fish and Wildlife Service, National Marine Fisheries Service and U.S. Geological Survey be added to the consulting expert agencies during the implementation and adaptive management of the parameters dictating the implementation of the LIP and the Drought Management Advisory Group (DMAG). Currently, the guidelines for participation in the DMAG are restrictive. Due to our role as a basin-wide educator and our ability to provide information throughout the Catawba-Wateree River Basin to our members and volunteers, the Catawba RIVERKEEPER[®] of CRF should be a member of the DMAG.

Lake Wateree Flooding

The Commission should be commended for receiving and acknowledging comments regarding flooding issues on Lake Wateree. A bladder dam at Lake Wateree is essential to control flooding regardless of the license term. While CRF supports the Commission in their alternative for the installation of a 10,000 cfs bladder dam at the Wateree dam to mediate flooding concerns, we feel this 10,000 cfs bladder dam would not provide sufficient flooding relief for the Wateree region. A 40,000 cfs bladder dam, however, would reduced sufficiently the magnitude, frequency and duration of flooding on Lake Wateree as depicted in Figure 14 on page 111 of the DEIS. Therefore, the Commission should recommend the installation of a 40,000 cfs bladder dam at Wateree to sufficiently safeguard the region. Additionally, the Commission should require as a license term that the Applicant prepare flood zone maps for Lake Wateree. As a part of the license, the Applicant should do what it can to prevent development within the flood zone. For example, the Commission should require that the Applicant not issue dock permits and/or intake easements to land-disturbing developments within the established Lake Wateree flood zone.

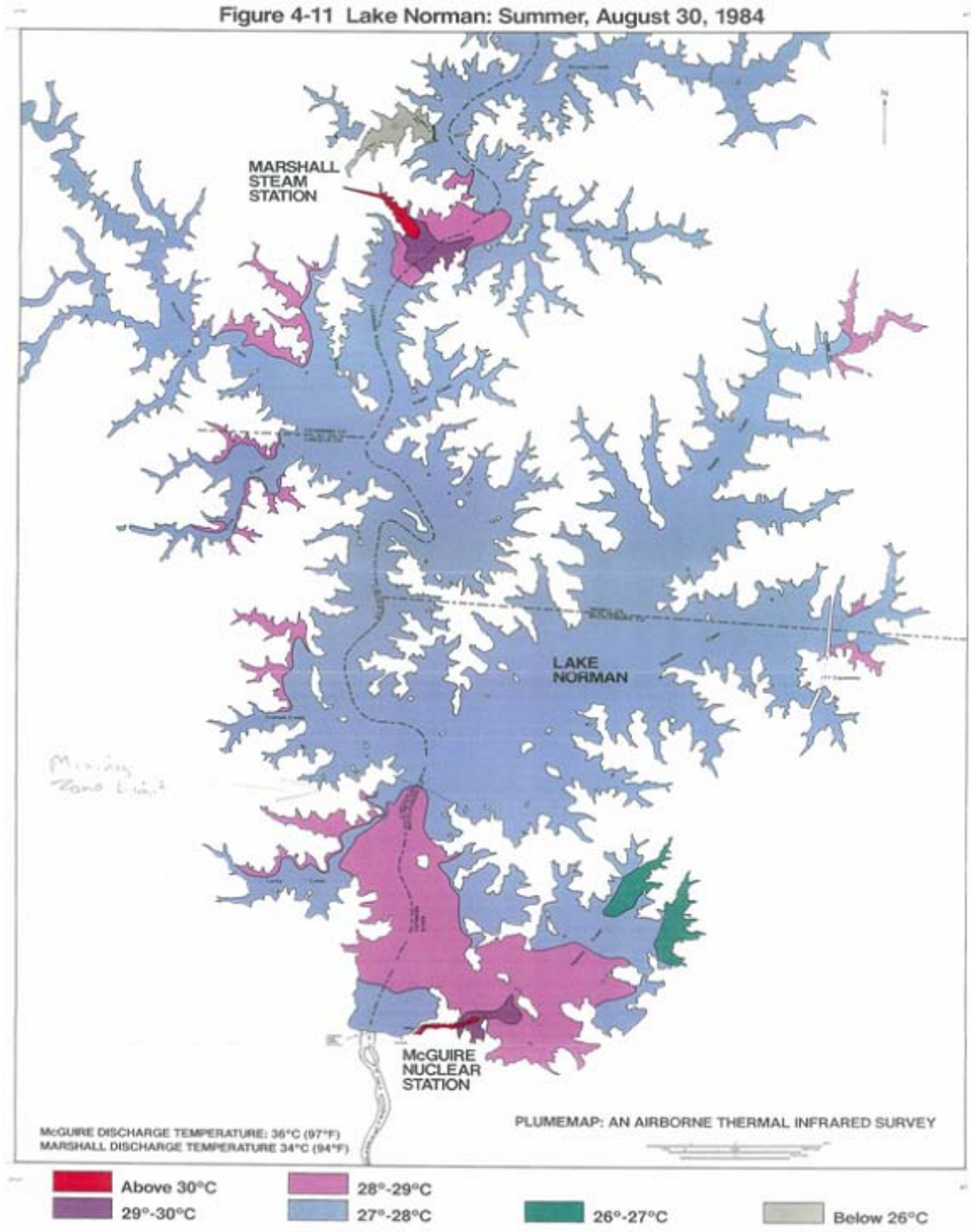
CHEOPS Modeling

While heavily relied upon throughout the re-licensing process, the CHEOPS model should not be solely relied upon to forecast the Catawba-Wateree's future. CHEOPS intended uses did not include long-range water supply and storage planning. Because estimates of flow conditions from historic, incomplete USGS graphs were used to develop the CHEOPS model, the margin of error for CHEOPS is incalculable. Without knowing a definite standard error, CHEOPS models should not be solely relied upon for the Catawba-Wateree future decades. The Commission should further analyze the validity of the CHEOPS model and employ appropriate planning and modeling of the Catawba-Wateree system before license issuance. By reference, CRF incorporates the modeling comments and recommendations of the Lake James Environmental Association (submitted May 5, 2009, FERC Project No. 2232-522, Accession No. 20090505-5110).

Flows

CRF continues to believe that the minimum continuous flow requirements as presented in the CRA do not adequately meet the needs for aquatic inhabitants or water quality standards. Infrared imagery of Lake Norman produced in 1984 depicts the Catawba River assimilating power plant effluent northerly, against its pre-impoundment southerly direction (see Fig. 2). This upstream flow induced by the power plants has many bad side effects, including less dilution of effluent being discharged into the Catawba near large power plants, because the full flow of the river is not passing by the discharge point, as assumed in the models used to develop NPDES permit limits. This is particularly true of the discharge of wastewater from sewage treatment plants near the Highway 150 Bridge on Lake Norman.

Fig. 2 Lake Norman infrared imagery depicting northerly flow of power plant effluent



We reiterate the suggested flows in our previous comments regarding the notice of application ready for environmental analysis submitted on July 11, 2008. We request the following minimum continuous streamflow conditions for the new license:

Table 1 Suggested continuous minimum streamflow conditions

Continuous Minimum Flows for Diadromous Fish (cfs) Month	Wateree Reach	Great Falls- Long Channel	Wylie Reach
January	2,700	450	1,100
February	3,700	850	1,400
March	3,700	1,500	1,800
April	2,700	1,500	1,800
May	2,400	850	1,400

These flows are the minimum flows needed to provide appropriate flows for resident and diadromous species. The Commission should analyze this flow schedule before the final EIS is released and before license issuance. The flow schedule above will achieve the 70-80% Weighted Usable Area (WUA) for resident and diadromous species. Our proposal recommends flows increases in the Wateree Reach, Great Falls Long Channel, and the Wylie Reach that are higher than those proposed in the CRA. The recommended flows are based on the target availability of 70-80% of the WUA.

Neither the flows in the CRA nor the Wylie High Inflow Protocol adequately provide for the habitat needs of resident and diadromous species. The CRA does not consider the planned reintroduction of diadromous species to the Great Falls and Wylie reaches. The CRA does not provide flows for diadromous fish when fish passage is achieved in the basin, specifically in the 30-mile Wylie reach, while the “Santee Accord” will allow for passage into this reach. The CRA flows below Lake Wylie are based on navigation flow requirements and do not provide for instream habitat needs.

Furthermore, we recommend that the Commission require a flow regime that will meet the temperature requirements of trout below the Lake James (Bridgewater) Development in the Linville River and the Catawba River reach below the Catawba bypass/Linville confluence.

Through an implementation program that decreases electrical generating water needs along with incentivizing water conservation from riparian owners and municipalities with water fees, the Project waters could be reserved for hydroelectric generation, minimum flow requirements, recreational flow requirements and ramping needs. Potential changes to water demands from technological changes or population alterations would require an adaptive management approach for flows; thus, CRF suggests that flow requirements be re-assessed and re-opened within the license period to ensure adequate adaptive management of the flow requirements as well as meeting all 401 water quality certification criteria.

Ramping

Within the Commission's DEIS, the development of ramping rates during recreational flow releases is requested. CRF supports the Commission in their request for ramping rates during recreational releases. Ramping rates will, as stated by the Commission, aid in reducing downstream shoreline erosion. It is important to note, however, that ramping rates during recreational flows alone constitute a very small percentage of flows. In order to encapsulate a larger portion of flows and truly safeguard the River's shoreline, ramping rates should be required during flows generated from hydroelectric production.

The 300-mile Catawba-Wateree River is difficult for many to view as a river, because of its stair-step like nature from reservoir-to-reservoir. Ramping rates on the downside of release (ramping down) is extremely important to the natural character of a lotic ecosystem (Allan and Castillo 2007). Not only would ramping down rates decrease shoreline erosion in downstream reaches, the natural flow regime of a lotic system and the way it accepts and attenuates inflow (stormwater inflow being comparable to dam release) would be mimicked. Electrical generating, recreational and flood flows with ramping down rates would imitate natural streamflow hydrographs with rising limbs, peak flows, and recession limbs. This type of ramping down scheme would produce continued benefit throughout the Catawba-Wateree Project and its regulated reaches by decreasing the risk of fish stranding in pools inundated during peak flows or flood flow conditions.

Water Quality Management

Many times throughout the DEIS the Commission states that water quality and water quantity are closely related. CRF completely agrees with the Commission. While it is understood that the Commission has no regulatory authority over the prevailing climatic patterns and precipitation amounts received in the Catawba-Wateree River Basin, the Commission can issue a license that: allows the Catawba-Wateree to function as a lotic system; ensures adequate water quantity through seasonal variability in a continuous minimum flow regime; incorporates the appropriate technologies to ensure the Project's reservoirs, tailraces and regulated reaches meet all state water quality criteria under the Clean Water Act at all times; requires the protection of riparian buffer corridors along the Project; prohibits or mitigates Project developments that impact water quality; protects the Project from sedimentation through the Applicant's easement granting authority and provides additional water quality and quantity monitoring throughout the Catawba-Wateree River Basin.

Temperature and Dissolved Oxygen

The Applicant has yet to demonstrate that the Project will meet North or South Carolina's DO temperature standards, throughout the Project. Furthermore, there is no evidence that the Applicant has in place a plan or method to provide continuous compliance with state water quality standards during operating and non-operating periods. As part of its review of the CRA and its development of the final EIS, the Commission must require that the Water Quality

Monitoring Plan specifies that all elements of the Project will meet all applicable state water quality standards at all times and under all operating conditions. CRF agrees with various other commenting parties that proof must be given before license issuance that applicable water quality standards will be met under all conditions.

On page 127 of the DEIS in response to the Catawba Riverkeeper's request for redundancy, the Commission states that redundancy "is unnecessary. To some degree redundancy is built into the system through the ability to spill water if aeration systems fail." It seems strange that the Commission would suggest spillage to meet water quality standards, especially when other Project's under the Commission's authority have gone through or are going through tremendous lengths to reduce spillage (FERC Project No. 1881-050, Accession No. 20081114-4000, Page 57). However, if the Commission is reliant upon spillage to meet water quality criterion in the Catawba-Wateree Project, CRF requests that this ability to spill water become a license article and regarded as a method for meeting dissolved oxygen requirements.

Sediment

North Carolina Department of Natural Resources Division of Water Quality has identified sediment as the number one pollutant in the rivers of North Carolina. The issue of sedimentation knows no political boundary, and thus the South Carolina portion of the Catawba-Wateree also struggles with sediment deposition and sediment transport through the Project. Sedimentation is a major problem because of its impact on hydraulic capacity and its impact on the environment. Sediment buries and/or chokes aquatic inhabitants, reduces photosynthesis and carries many other environmental contaminants, such as oil, grease, nutrients, etc.

The Commission indicates in the DEIS that the Applicant can do little to control sedimentation. CRF believes the Applicant can greatly direct and control the influx of sediment into the Project. Through its ability to provide, withhold or remove pipe easements and dock permits, the Applicant can ensure safeguards and limit the amount of construction stormwater runoff, which is frequently sediment-laden, beyond the required local or state mandates. Additionally, the Applicant can deny any application for a wastewater discharge pipe permit into or water supply intake pipe permit from the Project. This would benefit the Project by curtailing the amount of newly-disturbed land within the entire Catawba-Wateree River Basin.

The applicant should be required to use its ability to grant, withhold or place conditions on permits for activity within the Project boundary to limit or control development outside of the project boundary that will have negative impacts on the Catawba-Wateree River. For example, as a condition to approving permits for community docks or outfalls for new sewage treatment plants, which facilitate additional development activity, the Applicant should be required to include conditions minimizing the sediment and other pollutants entering the Catawba River from the proposed development activity.

Species Protection and Eradication

CRF supports the Commission's recommendations relating to the protection and restoration of numerous aquatic and terrestrial species (floral and faunal) throughout the Catawba-Wateree River Basin. While we recognize the work and collaboration put forth by various parties to develop the Santee Fish Accord, the Accord does not truly plan to re-establish aquatic species that once inhabited the Catawba-Wateree River Basin, particularly diadromous fishes. Additional flows and/or fish bypasses apparatuses (i.e. fish ladders, fish lifts, etc.) may be necessary throughout the Project to develop and establish a plan that truly seeks to re-establish migratory species, such as the shortnose sturgeon (*Acipenser brevirostrum*). The CRA did not attempt to develop or prescribe measures needed to protect migratory fish species. The Commission should provide in the license opportunities to re-visit and re-establish requirements that would provide for the protection and restoration of diadromous fish populations in the Catawba-Wateree River.

Regarding fish mortality during Maintenance and Emergency Protocol, we agree with the Commission that "mitigation for the loss of resources may be necessary in some situations," recognizing this is not always a possibility. We, however, disagree with the Commission's statement that "replacement of forage species and a diversity of 'minnows' also may not be necessary." While frequently abundant, forage species such as minnows often comprise a substantial proportion of the ecological function in lotic ecosystems. We request that any loss of aquatic inhabitant be mitigated, in spite of their perceived importance or abundance.

The Commission should require the Applicant, as a license term, to continue to operate and fund a noxious aquatic plant eradication program. This program has proven successful through the years, and the Project would benefit from its continued implementation. We also support the Commission's recommendations relating to the planning and eradication of exotic terrestrial plants which are dispersed by the Project's operations.

Environmentally Sensitive Areas (ESAs)

As reservoir shorelines throughout the Project continue to develop, the protection of the still existing ESAs becomes more and more important. In order to adequately protect the Project's shoreline from degradation, Duke Energy's Lake Services team should be required to monitor year-round activities near ESAs. The Applicant should also develop, implement and enforce a plan that will ensure non-disturbance to ESAs throughout the Project boundary. This plan could be linked to dock permits or necessary easements as well as "impact/destruction fees" that could be used for re-establishment of the impacted area.

Project Lands and Recreation

From the beginning of this re-licensing process to our present date, our nation's economy has experienced extreme high and low periods. Because the duration of this process as well as the pending license is significant, we feel the deadlines for getting funds from the Applicant to

acquire property should be extended. While it is down from the prior year's earnings, it should be noted that the Applicant did report a net total income of \$344 million during the first quarter of 2009 (Attachment A).

Project Boundary

Several conservation easements have been established in the upper portion of the Catawba-Wateree River Basin as mitigation for several riverine impacts (i.e. dewatered reaches). For this reason, all lands used as mitigation offsets along the Project should be included in the Project Boundary. Because the Applicant is supposed to provide recreational access and enhancements throughout the Project area, lands proposed for lease to Counties, municipalities or other entities for the purpose of recreation should remain within the project boundary.

All islands within the Project reservoirs and regulated river reaches should be included within the Project boundary. Including these islands in the Project boundary facilitates adequate safety precautions and enforcement of regulations regarding their usage. Although it may be outside the scope of the Commission's regulatory authority, the leasing of these islands to various entities should be granted only to public entities. Again, this ensures the public's accessibility and safety.

Recreational Access

Through our own outreach efforts, CRF promotes the recreational use of the entire Catawba-Wateree Project area as well as those regulated river reaches outside the Project limit. We feel it is of utmost importance to provide the public as much access as possible to the reservoirs and the regulated riverine reaches. To this end, we lead guided paddling eco-tours throughout the waters of the Catawba-Wateree River Basin. Additionally, we will soon begin providing a youth kayaking program, which will provide guided kayaking experiences on Project reservoirs for students without aquatic vehicles. Providing recreational access to the Project's waters is critical to engendering public regard and concern for this natural resource.

Both recreational access areas recommended by the Commission, one at Lake Cornelius and the other on the east side of Lake Wateree, are supported by CRF. The Lake Cornelius access area was a part of the draft CRA (Agreement-in-Principle). This provision was removed after the Town of Cornelius abstained from signing to the final CRA. This area is greatly needed to provide safe, stable access for recreational paddlers in the ever-increasingly populated and heavily boated Lake Norman area. The Lake Wateree access should also be established by the Applicant to provide Project access to the public in Kershaw County.

For over a century, the Applicant has generated electricity and received economic benefits from the Catawba-Wateree River. With proceeds in the millions of dollars, if not billions, funds generated by waters of North and South Carolina should provide the public access to their local River.

Additional Comments

CRF would like to recognize the Commission for the laborious examination of the CRA submitted by Duke Energy and the CRA Signatory parties. This document provided an easy-to-follow synopsis of the CRA and the Commission's analysis of the CRA and received comments.

We would like to provide the Commission with some clarifications of a couple of items mentioned in the DEIS. The Commission cites Duke Energy's report "that 1.3 million people rely on the system for their domestic water." As recently as 2009, the Centralina Council of Governments estimates that nearly 1.68 million people rely on the Catawba-Wateree River for their domestic water supply.

Furthermore, we would like to take this opportunity to note that the official name of our organization is Catawba Riverkeeper Foundation, Inc., opposed to the documented Catawba Riverkeepers Foundation on pages 9 and 10 or the Catawba River Keeper Foundation as it appears on page 356 of the DEIS. In addition to the comments attributed to the Catawba Riverkeeper throughout the DEIS, Lake Wylie Covekeeper (pages 288, 448, 452, 456, and 458) and Lake Wateree Lakekeeper (page 126) comments within the DEIS should be attributed to Catawba Riverkeeper Foundation because of their status as representative volunteers within the organization. To the extent that FERC recommends the involvement of CRF volunteers, Lake Wylie Covekeepers or Lakekeepers (who are CRF volunteers), or other Covekeepers or Lakekeepers along the Catawba-Wateree, we respectfully request that the final document refer to the Catawba Riverkeeper Foundation.

Conclusion

Catawba Riverkeeper Foundation, Inc. appreciates the opportunity to comment on the DEIS for the Catawba Wateree Hydro-electric Project No. 2232. If you have any questions, please do not hesitate to contact us. Our address is as follows: Catawba Riverkeeper Foundation; 421 Minuet Lane, Suite # 205; Charlotte, NC 28217

Respectfully submitted,



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Charlotte Business Journal - May 5, 2009
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CHARLOTTE BUSINESS JOURNAL

Tuesday, May 5, 2009

Duke Energy's earnings down 26%

Charlotte Business Journal

Duke Energy Corp.'s earnings fell short of expectations in the first quarter, with the company hit by a drop in sales to industrial customers and a rise in operating expenses.

Net income totaled \$344 million, or 27 cents per diluted share, in the first quarter, down 26 percent from the \$465 million, or 37 cents per diluted share, the company earned a year earlier.

If one-time items are excluded, Duke's earnings were 28 cents per share for the latest quarter, down from 35 cents per share last year.

On average, analysts had expected the company to earn 32 cents per share, excluding one-time charges.

Operating revenue in the latest quarter totaled \$3.31 billion, dipping from \$3.34 billion a year earlier.

The Charlotte-based company (NYSE:DUK) says its earnings decline was affected primarily by two factors: lower sales to industrial customers because of the recession, and increased operating and maintenance costs because of winter storms.

"Despite the effects of the recession and storm-related expenses, our businesses remain fundamentally strong," Chief Executive Jim Rogers says in a written statement. "We can't control the weather or the economy, so we're focused on issues we can control — managing our costs, improving operational performance, maintaining our liquidity, and making progress on our regulatory and legislative initiatives.

"After the first quarter, we are on track to achieve our 2009 employee incentive target of \$1.20 per share on an adjusted diluted basis. But, of course, the third quarter is usually the most significant for our company."

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