

Comments of
The High Rock Lake Association Inc.
concerning
WATER QUALITY CERTIFICATION FOR THE YADKIN HYDROELECTRIC PROJECT
401 Certificate
FERC No. 2197
DWQ # 2007-0812 version 2
NORTH CAROLINA DIVISION OF WATER QUALITY
Public Hearing January 15, 2009

Hello, I am Larry Jones, and I serve as President of the High Rock Lake Association Inc. (HRLA). The HRLA has a 55 year history of actively working to improve water quality and best management practices for High Rock Lake. For the past 6 years we have been very active in the FERC – Alcoa Relicensing process. I personally have spent thousands of hours involved with the process; I've met with the Director of FERC in Washington DC, with NCDENR's Secretary and staff, and I feel very informed of the issues for which this public hearing is being conducted.

Frankly, I am very disappointed we are here tonight, because this matter should have been settled a year ago. The Division of Water Quality/NCDENR was very involved in the lengthy negotiations that culminated in the Relicensing Settlement Agreement (RSA). The RSA includes all requirements that NCDENR insisted upon during negotiations. We were assured by DWQ during development of the RAS that all requirements for a 401 Water Quality Certification were being addressed. The RSA was subsequently signed by NCDENR Secretary William Ross. Because of a technicality concerning the advertising of a public hearing, DWQ has unwittingly become the tool of those who have previously failed to convince FERC to deny Alcoa's License Application.

If the 401 Certificate process had been handled correctly by the State of North Carolina, I believe North Carolina citizens would be enjoying benefits that I and many others worked so hard for. I believe that FERC, with the required 401(b) Certificate in hand, would have issued the new License to Alcoa last spring. That in turn would have protected water supplies during the extreme drought we experienced in 2008.

Instead, and absent a 401 Certificate, FERC had no choice but to direct Alcoa to operate during 2008 under terms of the old 1958 License. That required higher discharge rates with resultant lower lake levels during 2008.

The 401 Certificate is being issued as a discharge permit for each of the 4 Alcoa dams. That said, I wonder why the notice for this hearing advises NCDENR proposes "*to address sediment removal at the water intake for the City of Salisbury*" in issuing the 401 Certificate. The HRLA believes that is inappropriate and asks DWQ to NOT address upstream river sedimentation issues in this proceeding. During a stakeholders meeting on May 4, 2004 at Alcoa's Badin Conference Center Mr. John Dorney told everyone present that DWQ would not address water quality problems in High Rock Lake or the Yadkin River upstream of High Rock; and the 401 Certificate would only address water quality at the discharge of each of the 4 Alcoa dams. We urge Mr. Dorney to be true to his word¹ and his memorandum of May 3, 2004; and not let political pressure cause DWQ to include issues in the 401 Certificate that could cause further delay to issuance of a license.

The delay that has occurred in issuing the Water Quality Certificate has opened the door to all sorts of tactics being employed by a group of individuals in Stanly County (**NC Water Rights**) who are determined to disrupt the Relicensing process. In addition, I read in the Winston Salem newspaper this week that the newly formed **Yadkin Riverkeeper** group has decided to add its 2 cents worth, and will petition NCDENR to delay the process to allow the so-called "Riverkeeper" time to further disrupt these proceedings. Further, the opposition to the License Application has mailed a very inflammatory letter to all Badin Lake property owners written to scare people with mischaracterization of the RSA (*ref: **Citizens for saving Badin Lake**, an anonymous group mailing un-signed letters*). DWQ must not forfeit its integrity by allowing itself to become a political pawn for the various competing interests.

Alcoa Power Generating, Inc applied to the North Carolina Division of Water Quality for a Water Quality

Certification pursuant to Section 401 of the Federal Clean Water Act in a timely fashion more than a year ago. Even after the procedural mistakes were discovered, and Alcoa was asked resubmit an application in May 2008, DWQ requested additional information that was outside the scope defined by Mr. Dorney's memorandum of May 3, 2004²; and the application was delayed again until late October 2008. The delays are not the fault of Alcoa, the delays are an affront to all who worked so long and hard to find an equitable basis for a new FERC license, and have caused a hardship to all lake users. **We urge the Certificate be issued with terms agreed to by NCDENR by signing the RSA in February 2007 without further delay.**

¹ John Dorney said on May 4, 2004 that low flow, low dissolved oxygen, and bypass reaches are the issues that will be addressed in the 401 water quality certificate. Other issues such as eutrophication, sedimentation, interbasin transfer of water, and pollutant allocation (TMDL) are not necessarily caused or affected by Project operations and therefore will not be addressed in the 401 water quality certificate.

² Mr. Dorney said that the 401 certificate would be narrowly constrained to what can be related to the operation of the dam (i.e. if water moves through the turbines at the dam, it has to meet state water quality standards).

DWQ signed the Agreement in Principle June 2006

NCDENR signed the RSA in February 2007