

November 19, 2002

Hon. Magalie Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Subject: **Yadkin Hydroelectric Project**
FERC Project Number 2197-056

Dear Secretary Salas,

The High Rock Lake Association Inc.(HRLA), representing the interests of property owners around High Rock Lake and many other users, is requesting actions from the Federal Energy Regulatory Commission that will protect High Rock Lake from further devastation, actions to protect the environment, fish and wildlife, and actions that will protect recreational opportunities upon our lake.

We respectfully ask the Commission to accept these comments with a waiver of any "out of time" condition; for this response was necessary for an answer to claims and charges made by Alcoa Power Generating Inc. (Alcoa) in its filing of 24 October 2002. We ask that you consider our comments and specific information on the following issues:

- 1. The Drought Should Not be Blamed As The Sole Factor Responsible For Draining The Lake**
- 2. Alcoa's Deliberate Failure To Comply With License Requirements**
- 3. Alcoa's Claimed "Financial Sacrifices"**
- 4. Non-Proportional Draw-Down Of Project Lakes**
- 5. No Demonstrated Need For Variance Requested By Alcoa On August 29, 2002**
- 6. Alcoa Should Provide Operational Data**
- 7. Regulatory Oversight Circumvented**
- 8. Federal Energy Regulatory Commission Obligations**
- 9. HRLA Request For Action By The Federal Energy Regulatory Commission**
- 10. Overview Of Widely Varying Lake Interests**

In the current proceedings the arrogance of licensee Alcoa and their lawyers is stunning. Alcoa, in its response (dated 24 October 2002) to public comments, claims that commentators have provided no specific allegations of Alcoa's deviation from its license terms. Indeed, Alcoa charges the many commentators with being irresponsible and lacking of fundamental knowledge of Alcoa's obligations as a licensee of the Federal Energy Regulatory Commission. These are strong charges to bring against people who have simply exercised fundamental rights in expressing their deep concerns over the tragedy that occurred this year at High Rock Lake.

It is hoped the following detail will satisfy the Licensee's demand for specific reasons for our comments and perhaps some insight into the many comments offered by other interested parties. It is also hoped our comments will stimulate impartial reasoning by FERC as these matters are studied.

1. The Drought Should Not be Blamed As The Sole Factor Responsible For Draining The Lake

Alcoa has been consistent and steadfast in their claim that draining of High Rock Lake in June and July of 2002 was caused by the drought and terms of Alcoa's Federal License requirements to provide certain minimum flows through the High Rock Dam. In the continuing absence of operational data to support their claim, and on the basis of other evidence, the High Rock Lake Association believes Alcoa deviated from its license requirements and operated the Project reservoirs outside of approved guidelines to meet secret company objectives.

We must remember that 2002 is not the only year considered as a drought year. The Year 2001 also fell into that classification, and we also experienced low lake levels in 2001. HRLA does not have the access to current

Alcoa electrical production data, but from the 2001 FERC Form No. 1 we noted that Alcoa's electricity generating revenues were 127% of Year 2000 revenues. We believe there is a direct correlation between increased revenues and decreased lake levels, indicating a Water Resource Management Issue, not a Drought Issue.

2. Alcoa's Deliberate Failure to Comply With License Requirements

In Article 33, Part III, of the Project License there is a very specific Section that deals only with High Rock Lake for the period March 6 through September 30 of each year. Rule 8 of Part III reads:

- If the elevation of High Rock Lake is less than Line 7 between May 15 and September 1, limit (emphasis added) the discharge through the High Rock turbines to:
 - March 6 – May 13 = 1,500 cfs average for the period
 - May 11 - July 29 = 1,610 cfs average for the period
 - July 29 – September 1 = 1,400 cfs average for the period

A graph is depicted in Part III, Figure 2.1, which shows LINE 7 referenced in Rule 8. Line 7 indicates the intended **minimum** lake levels that the Federal Power Commission expected to be maintained. From the chart, these Minimum Levels are depicted as follows, with Full Pool being Elevation 655.0 (Yadkin Datum):

April 10	Elevation 645	10' below full
May 1	Elevation 651	4' below full
June 1	Elevation 652	3' below full
July 1	Elevation 653	2' below full
August 1	Elevation 652.5	2.5' below full
September 1	Elevation 650.5	4.5' below full
September 15	Elevation 648	7' below full

Part III of the Operating Guides does not set forth any requirement for a **MINIMUM DISCHARGE**. The conditions imposed by Part III, 8 A, B, & C are limitations on flow.

Nowhere does the terminology infer the maximum flows permitted by 8A, 8B, or 8C must be maintained. Quite to the contrary, the Guidelines are clearly intended to keep the level of the lake as shown by Line 7 of Figure 2.1.

The High Rock Lake Association believes Alcoa's announced INTENT must be remembered and considered when reviewing the conditions imposed by the Operating Guides which were adopted by the Federal Power Commission in 1968. We refer to a public announcement made by Yadkin, Inc. on January 18, 1968, wherein Yadkin (Alcoa) stated "***it would sacrifice power needed to operate the Alcoa smelter at Badin in order to provide improved recreational facilities on its Yadkin River reservoirs***". The announcement went on to say the new operating procedure is intended to limit drawdown to five feet or less 96% of the time during the recreational season, and in years of severe drought the drawdown would not exceed eight feet. We believe the Federal Power Commission fully understood this intent in 1968, when it issued the order making Yadkin, Inc.'s recommended Operating Guidelines a part of Yadkin's license.

In addition to press releases in January 1968 promising it would maintain High Rock Lake levels for recreational use, even in times of severe drought, Alcoa's spring 1968 issue of its newsletter, the Tarheel Alcoa (see Attachment "A") repeated this promise. Those promises were made at a time when Alcoa was actively developing and selling lakefront property, including Anchor Downs in Rowan County. We believe Alcoa's promise to keep High Rock suitable for recreation played a huge part in their ability to successfully market real estate around the lake for premium prices.

The High Rock Lake Association does not believe a period of drought provides any excuse for Alcoa to disregard long standing promises and lower lake levels far below those promised in 1968. In spite of all the criticism of Alcoa this summer, and their lawyers demand for specific data to support such criticism, it is amazing that Alcoa has refused to release any data describing its operations in May, June, and July of 2002. As a result of Alcoa's refusal to provide such, the High Rock Lake Association is forced to rely upon estimates derived from its own observations.

Association members watched High Rock Lake go from 4.7 ft. below full on May 14 2002 to 24.1 ft. below full on July 21, 2002. Between June 18 and June 21 the lake dropped 2.3 ft. Unlike Alcoa, the Association does not have access to total lake inflows, but we did have information on the Yadkin College station of the river indicating

the river alone was flowing about 400 cfs into High Rock June 18 to June 21. The Association believes outflow from High Rock must have been greater than 3,000 cfs average for the subject period. Our analysis is supported by USGS data from Station 02129000 on the Pee Dee River near Rockingham. During June 2002, this station frequently recorded maximum flows at around 8,000 cfs, with many days averaging around 3,000 cfs.

The high outflow, which we must assume was through the turbines and generating power, occurred at a time when the Operating Guidelines specified a MAXIMUM average flow of 1,610 cfs average. The high outflow also occurred at a time when Alcoa had promised the lake would be no more than 8 feet below full under severe drought conditions. In the minds of High Rock Lake Association members, that is very specific evidence of Alcoa violating terms of its license.

Lacking any current operational data, a review of the Year 2001 operating data for the Yadkin Project indicates total energy production for June 2001 as 116,148 MWH, July as 119,454 MWH, and August as 126,660 MWH. Operating guidelines specify a limit of 1,400 cfs through High Rock Dam during August if the lake is below line 7. Using 1,400 cfs for High Rock and run-of-river for the other three dams the Project would have been expected to produce approximately 30 MW, or 22,300 MWH at maximum licensed flow rate. Somehow, Alcoa was able to produce about 600% greater power than could have been expected at licensed flow rates. Similar conclusions apply to operations during June and July. Again, we believe this is very specific evidence of Alcoa violating terms of its license.

Alcoa claims that no license violation has occurred, but Alcoa fails to provide any credible evidence to support this claim. High Rock Lake Association has made many requests for operating data, so that we could better understand Alcoa's claims to be operating within license terms, but Alcoa has consistently refused to provide such data. We can only conclude Alcoa's data provides information they do not wish to reveal; possible information that would document exceeding maximum permitted discharge rates when lake levels are low.

3. Alcoa's Claimed "FINANCIAL SACRIFICES"

In the October 24 2002 filing, Alcoa claims to have made financial sacrifices by participating in the so-called "Protocol". Alcoa fails to provide any current or historical data to support this claim.

It appears that Alcoa and CP&L have resumed normal operations although the "**Yadkin-Pee Dee River Basin Emergency Drought Management Protocol for Post-September 15 Operation**" Section 4 clearly states – "After September 15, 2002 and until the Parties agree that the drought emergency has passed...the dams and reservoirs...will be operated ...subject to conditions described below. The initial target...shall be 900 cfs daily average".

Only 4 weeks into the emergency protocol period Alcoa appeared to be discharging tremendously greater water quantity than stated in the "Protocol". USGS data from Station 02129000 on the Pee Dee River near Rockingham shows the Project is releasing weekday averages in November of about 6-7000 cfs, with daily peak flows equal to 100% of the Yadkin project maximum hydraulic capacity. Indeed, flows November 13 through November exceeded 10,000 cfs continuously, peaking over 20,000 cfs at the Rockingham Station. Such operation certainly refutes Alcoa's claim of "Financial Sacrifice"; to the contrary, Alcoa appears to be operating its generators at 100% much of the time.

Any claim of financial sacrifice should have been supported with certified production records for May through September of 2002, together with at least five years prior production records for comparative basis.

4. Non-Proportional Draw-Down of Project Lakes

Alcoa claims the Operating Guidelines of its license require it to draw down High Rock Lake "first and the most among the reservoirs". Alcoa should provide specific reference to language in its License that it believes required it to pull High Rock Lake down to 24.1 feet below full during July 2002.

5. No Demonstrated Need for Variance Requested by Alcoa on August 29, 2002

Alcoa's actions and lake operations in the Protocol period to date have already demonstrated there is no need to issue a variance to the requirement to have High Rock Lake to at least elevation 650 (Yadkin datum) by May 15 , 2003.

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reservoirs...will be operated ...subject to conditions described below. The initial target...shall be 900 cfs daily average”.

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If Alcoa believes there is a possibility of less than normal water supplies next Spring, it should act prudently and minimize its traditional winter draw-down of High Rock. Alcoa has always claimed the reason for the winter draw-down was to hold anticipated Spring flows, and to avoid “spilling water” in the spring. Given the sophisticated weather modeling and forecasting available to Alcoa operations managers, the High Rock Lake Association believes wintertime draining of High Rock Lake for anticipatory reasons is an unnecessary and antiquated procedure. Alcoa very dramatically demonstrated this summer that it has the hydraulic capacity in its turbines to quickly reduce lake levels. Alcoa can clearly prepare its reservoirs for weather events forecast to drop heavy precipitation in the Yadkin watershed without the need to drop the lake again to dangerous low levels. The prudent mode of operation, recognizing water conservation issues, is to keep lake levels up and operate all Project discharges/turbines in a “Run-of-River” mode.

Clearly recent rain events and current river flows have negated any factors claimed by Alcoa in its most recently requested license variance.

6. Alcoa Should Provide Operational Data

Instead of belittling and criticizing those who rely upon High Rock Lake for a livelihood, those who use the lake for recreation, or those who simply value the lake for its environmental and esthetic benefits, or those who care for the fish and wildlife who depend upon the lake, Alcoa should come forward with documented operational data that provides full disclosure of the details of lake operations since May 1, 2002.

Data that should be demanded by FERC and made part of the public record should include discovery of all pertinent details of Project operation; including but not necessarily limited to inflow and discharge data for each reservoir on an hourly basis, detail records of power production, complete financial data on electrical power sales, management memorandums of operational details, specific power plant operator guidelines, and all other documents necessary to describe the operation and management of Project Reservoirs between May 1, 2002 and November 1, 2002.

Only a full disclosure by Alcoa can permit FERC and other interested parties to determine in the Project was operated within license terms between May 1, 2002 and November 1, 2002. and if there is any basis for any of the license variances so aggressively requested by Alcoa.

7. Regulatory Oversight Circumvented

Several times this summer Alcoa acted with apparent immunity from FERC imposed penalties when deviating from license requirements. We view the so-called Protocol agreement as the latest such violation of license terms. We think Alcoa had no right to enter into an agreement it knew to be contrary to license terms, begin operations, and then come to FERC asking approval. That circumvents the regulatory process.

8. FEDERAL ENERGY REGULATORY COMMISSION OBLIGATIONS

Alcoa admits there is no urgency in the Commissions action on Docket 2197-056. There have been several Intervenor requests for a public hearing on this matter. We believe it is mandatory for FERC to conduct a well publicized meeting in either Rowan or Davidson County to receive first hand public comments of the issues that have become so apparent this summer; before it seriously considers any Alcoa request for license variance.

FERC must stop responding to inquiries from The President, US Senators and Congressmen, other elected officials, and the general public with standard form letters blaming the drought for High Rock Lake problems. High Rock Lake may be in a drought area, but it has experienced a “**Water Resource Management Problem**”; not a “**Drought Management Problem**”!

FERC does not need to hold workshops on non-compliance for Licensees (Atlanta November 13 2002); it needs

to issue effective sanctions and fines without delay.

FERC must restore public confidence by acting decisively and in the public interest. Evidence of public distrust in the present system of administration was seen this week at the first 4 public meetings held on the Relicensing process for the Yadkin Project. At three of the meetings about a dozen people attended. The 4th, in Davidson County, had about 100 people present, but nearly all left discouraged with the format and unable to present their comments publicly. The poor participation is a reflection of local attitudes toward FERC support of Alcoa initiatives, and years of FERC rulings that are perceived as unfavorable to users of High Rock Lake. We believe another factor in the poor participation was the scheduling of several of the meetings at 1:00 PM in the afternoon; a time when the great majority of citizens are at their place of employment. Given the current high level of un-employment in North Carolina, we don't believe many workers would risk leaving their jobs to talk about recreational and environmental issues.

9. REQUEST FOR ACTION BY THE FEDERAL ENERGY REGULATORY COMMISSION

The High Rock Lake Association repeats its request that FERC reject Alcoa's latest request for another variance under Docket # P-2197-056. Alcoa should not expect to continue operation out of compliance with License terms.

FERC must recognize a fundamental difference exists in the operation of the Project. The hydropower facilities are no longer operated to provide beneficial employment to workers at Alcoa's Badin Works. Information from FERC sources indicate Alcoa is now selling all power produced to Aquilla Energy Management Co.(AEMC). We think is not just coincidence that drastically lower Project lake levels have accompanied the AEMC agreement.

High Rock Lake Association requests FERC to effectively deal with Alcoa's pattern of continued non-compliance, and move to direct operation of High Rock Lake in a fashion that will refill the lake and maintain a full lake. In view of Alcoa's failure to abide by approved operating guidelines, we ask that for the remaining period of the present License that FERC direct Alcoa to operate High Rock Lake as a Run-of-River facility, just like the other three (3) project lakes.

10. Overview of Widely Varying Lake Interests

Users of High Rock Lake seek many forms of enjoyment and/or recreation. Uses include the normal water based recreational forms such as fishing and boating. Many people pay high premiums to purchase property bordering lakes, just for the joy and relaxation that seems to spring from the feelings of enjoying a morning cup of coffee looking out over the water. Enjoyment of the environment and wildlife that goes hand in hand with a beautiful lake is a powerful stimulant of the senses. These are just a few of the reasons for the passionate battle that has formed over the long term management of High Rock Lake during the summer of 2002.

We believe the problems that occurred this summer did not spring from the drought. The drought only served as a catalyst to make it obvious to everyone that a huge problem has developed in the operation of lakes such as High Rock Lake in Central Piedmont region of North Carolina. The High Rock Lake Association has concluded that it is entirely possible the only answer to our problems may be legislative relief. We fear that the various regulatory agencies get so caught up in turf battles and jurisdictional authority they entirely lose sight of the person they have been ultimately charged with protecting – the individual taxpayer.

The fashion in which the Federal Energy Regulatory Commission has handled public outcry during the Summer of 2002 is an outstanding example of bureaucracy operating at its best (at least from the bureaucrats perspective) to receive hundreds or thousands of pleas for help, create complex procedures for acknowledgement of these pleas, convene workshops, hearings, and meetings to talk about the problems, spend large amounts of taxpayer monies, and in the end do little or nothing to answer the individual pleas for help.

Power Companies, Federal and/or State Agencies, and others who create or manage large lakes covering thousands of acres with miles and miles of shoreline must come to understand these lakes become just as public as those lakes created by nature. Once created, these lakes must ultimately be managed for the public good. Water levels must be maintained to permit safe and unimpeded lawful activities upon the waters of these lakes, just as occurs on large natural lakes.

The creation of large man-made lakes always involves the purchase of large tracts of land, and such purchases normally reach far beyond the high water mark of the planned lake. If the builder of the lake wishes no development around waters edge, it should retain private ownership of those lands, or consider conveying such land to government ownership with perpetual non-development restrictions, such as State or National Parkland.

On the other hand, if the builder of the lake chooses to sell the land surrounding the lake, for whatever reason, the builder must understand the proximity of the land to the lake was a factor in the sale of the land. Purchasers of lakefront property have every right to expect the lake to exist in perpetuity, and for the lake to be maintained to permit safe and unimpeded lawful activities upon the waters of these lakes, just as occurs on large natural lakes. Waterfront property owners have every right to expect full and unimpeded access to the lake and/or river waters that lie adjacent their property.

The Federal Energy Regulatory Commission, in its role of primary regulator at this time of High Rock Lake, has a strong duty to the public to be cognizant of the afore addressed issues as it goes about its business of directing power companies such as Alcoa in the management and operation of lakes such as High Rock Lake.

Actions, rulings and orders issued by the Federal Energy Regulatory Commission (FERC), especially over the last decade, have apparently convinced Alcoa it has unlimited rights to operate its lakes in any fashion it pleases, to do anything it wishes that results in loss public access to the lake waters, to deviate from License requirements, all while enjoying virtually 100% support from FERC.

The Summer of 2002 notwithstanding, FERC's recent endorsement of Alcoa's Shoreline Management Plan in the face of overwhelming public opposition typifies the public perception of FERC's "rubber-stamping" of anything Alcoa wants. We know current law requires your Commission to consider issues other than simply power production; and we expect FERC actions to address lake operational problems for the immediate time, not just for the Relicensing of the Project scheduled to take effect in 2008.

Respectfully Submitted,

Larry O. Jones

President

High Rock Lake Association Inc.

Attachment "A"

(Alcoa 1968 **TARHELL ALCOAN** Newsletter excerpt)

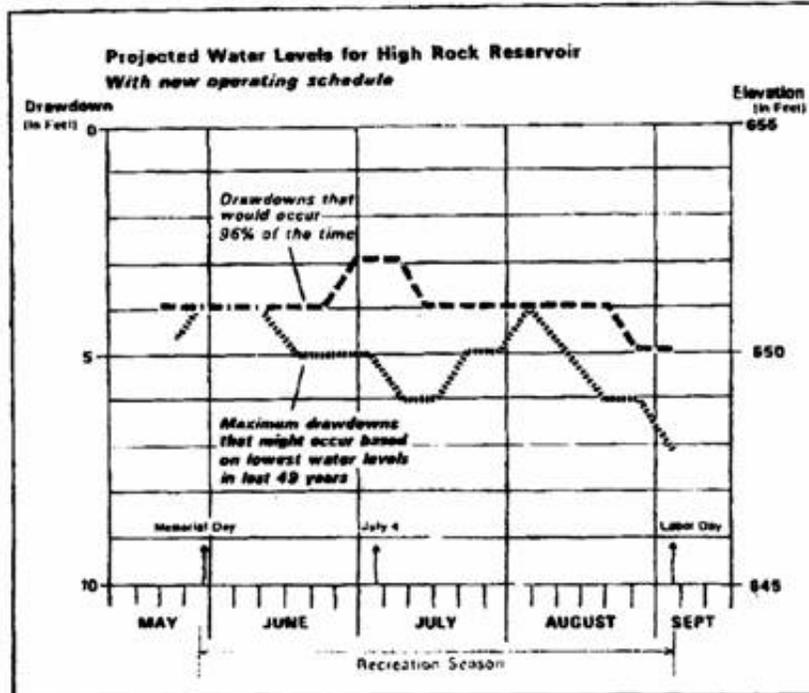
HIGHER WATER LEVELS FOR HIGH ROCK RESERVOIR

... that's the promise made today by Yadkin, Inc., power-generating subsidiary of Alcoa, to thousands of North Carolinians who use High Rock Reservoir for recreation.

The new procedure for operating our power-producing facilities on the Yadkin River will limit draw down to five feet or less 96 percent of the time from Memorial Day through Labor Day. The procedure was established after a study of rainfall and stream flow conditions over a 49-year period. Included in this period were two exceptionally bad years of stream flow. Should these severe drought conditions reoccur, the draw down still would not exceed eight feet.

This plan has been submitted to the Federal Power Commission. It will provide boating and fishing enthusiasts with a full summer of water recreation equal to the best in the Piedmont area.

Maintaining this higher water level, which will be costly to Alcoa, further evidences our desire to share this reservoir with our friends and neighbors in North Carolina.



THIS CHART SHOWS the improved water levels for High Rock Reservoir under Alcoa's new operating schedule. The top line shows the draw downs that will occur 96 percent of the time from Memorial Day through Labor Day. The dotted line shows the maximum draw downs that might occur during this recreation period, based on the lowest water levels experienced during the past 49 years.

YADKIN, INC. A wholly owned subsidiary of Aluminum Company of America—Badin, North Carolina

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U. S. POSTAGE
Permit No. 2
Badin, N. C.

Return Requested

CERTIFICATE OF SERVICE

I certify that I have this 20th day of November, 2002, served this Comment via U.S. Mail upon all persons on the service list maintained by the Federal Energy Regulatory Commission for Project No 2197.

Respectfully submitted,

Larry O. Jones