

Interpretation of Article 33 of the License issued to Alcoa for their Yadkin Project

The draining of High Rock Lake in June and July of 2002 has brought much discussion about the Federal requirements to provide certain minimum flows thru the High Rock Dam.

In Article 33, Part III, 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 II is very clear:

If the elevation of High Rock Lake is less than Line 7 between May 15 and September 1, **limit** the discharge thru 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, which shows the referenced LINE 7. Line 7 indicates the intended minimum lake levels that the Federal Power Commission expected to be maintained. From the chart, these Minimum Levels are as follows:

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 do 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 refer to maintaining the maximum flows permitted by 8A, 8B, or 8C.

The Guidelines are clearly intended to keep the level of the lake as shown by Line 7 of Figure 2.1 which is referenced by Part III. Apparently, Alcoa now reads the Guidelines as "**Providing a discharge**" instead of "**Limit the discharge**". Apparently, Alcoa relies upon FERC's approval of the commercial terms of a headwater flow agreement that allows Alcoa to be compensated by Progress Energy if no less than the flows listed as "limits" in the Rule Curve are maintained for Progress Energy's benefit to justify its continued release of water even if mandated lake levels are violated.