

American Rivers

American Rivers does not support the March 31, 2006 Agreement in Principle and votes a “5” to withdrawal from Duke Energy’s Settlement Process.

American Rivers recognizes there are many features of the AIP that will provide benefits to the Catawba and Wateree rivers and their reservoirs. For example, we find Instream Flows for Recreation (Section 3) and parts of the Public Recreation Plan (Section 10) to have significant improvements for river-based public recreation.

There are, however, several sections of the AIP that do not meet the minimum threshold needed of our support. These include Sections 4, 11, 13 and 16 and Attachments N and Q. Duke Energy prematurely cut off negotiations based on an artificial deadline and did not allow additional negotiation time to resolve outstanding issues including those listed below.

Section 4.1.5 and 4.1.6

We cannot support the Mitigation Packages because they do nothing to mitigate for lost river flows and the public values they would provide. Trading of water flow for land protection would set a very bad precedent and inappropriately cause harm to the river for decades. The avoidance and minimization steps of mitigation sequencing were not appropriately applied. Lands were selected based on ownership by Duke Energy and not on how the affected river would benefit. Protection of land, even riparian buffers, does nothing to mitigate loss of flows. The mitigation package was negotiated by Duke Energy and selected stakeholders and does not represent consensus.

Section 4.2

Flows below the Bridgewater do not meet aquatic habitat needs of the Catawba River Bypass and Catawba River below the Confluence.

Section 4.4, 4.5 and 4.7

Flows below Oxford, Lookout Shoals, and Mountain Island developments do not meet aquatic habitat needs of the Catawba River. Flows needed for these reaches were inappropriately traded for land protection.

Section 4.8

Flows in this 32-mile river reach do not address future needs of diadromous fish when they are returned to this section. Seasonal variation of flows was inappropriately traded for land protection.

Section 11.1.5

Species protection plans are not complete. There is no assurance that species protection plans to be developed will be acceptable to the agencies charged with protection of those species.

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Section 11.11

Flows were not provided for the Wateree Bypass, an extensive shoal area below the spillway that has been identified as a high priority for the endangered shortnose sturgeon. Endangered species habitat was inappropriately traded for land protection (see Section 4.1.6).

Section 11.15

Consultation has not been completed to identify necessary flows for Section 18 fishway prescriptions and the Endangered Species Act. By design, the AIP creates opposition to additional flows that may be necessary for compliance with these statutes.

Section 13

This section does not provide adequate assurance that water quality standards will be met in discharges from the project or by flow alterations caused by the project. (See Attachment N)

Section 16.2.1 and 16.2.2

We cannot give up our ability to fully participate in FERC licensing and state water quality certification process when the AIP does not assure compliance with the Federal Power Act, Endangered Species Act, Clean Water Act, National Environmental Policy Act and state water quality regulations.

Section 16.5.3 (See 11.15)

Attachment N

This section is incomplete. Duke Energy's proposal on February 28, 2006 to the Water Quality Committee (not included in the AIP) specifically and inappropriately excluded compliance with temperature standards. Proposed enhancements to project equipment do not provide adequate assurance that dissolved oxygen standards would be met in a timely manner at all dams. Sufficient redundancy in equipment or a backup plan to assure the standard would be met if oxygen-enhancing equipment is down for repairs was missing.

Attachment Q

Criteria for conservation easements on riparian buffers do not assure water quality protection or public access