

**Proposed Alternatives for First Draft Agreement in Principle  
Catawba-Wateree Relicensing Coalition  
Executive Summary - Revised 4/3/05**

In October 2004 Duke Energy through Kearns and West, facilitator for the hydropower relicensing process on the Catawba-Wateree river, presented a first draft for the Agreement in Principle to serve as the foundation for ongoing negotiations aimed at a comprehensive settlement agreement. The trial balloon now offered by the Catawba-Wateree Relicensing Coalition builds on this first draft AIP document and presents several alternatives for addressing stakeholder interests. These alternatives are based on discussions with stakeholders over the past five years, study of the interest statements collected, review of the All Teams Outcomes Matrix and a series of work sessions involving the diverse interests over the past several months.

**Building Consensus**

Our board of directors worked with people inside and outside of their affiliations to build consensus for the alternatives presented. Current board members and their affiliations are: Mary George - Catawba County; Susie Hamrick-Jones - Foothills Conservancy; "Squeak" Smith - Trout Unlimited; Mike Struve - Western Piedmont Council of Governments; Edna Chirico - Mountain Island Marine Commission; Tim Mead - Fisherman and sportswriter; Kirk Otey - Trout Unlimited; Will Close - Springs Close Foundation; Gerrit Jobsis - Coastal Conservation League, American Rivers; Donna Lisenby - Catawba Riverkeeper Foundation; Craig Davis - Wateree Homeowners Association; Shirley Greene - Wateree Fishing Interests; Vicki Taylor - Executive Coordinator and Lake Norman Covekeeper.

In addition we consulted with state and federal agencies, non governmental organizations and members of the relicensing teams. These proposals are intended to meet and balance all these interests, but we have not requested nor received formal endorsement from the groups or individuals we consulted with.

**New Elements Added to the Agreement in Principle**

We have added a Vision for the Catawba-Wateree Basin to help inform the entire document as well as statements of Guiding Principles for most sections. These are added to help keep the discussions focused on shared objectives and to help ensure that long-term results will be accomplished through the settlement terms.

**Key Differences:**

Key differences between this "Trial Balloon" and the first draft Agreement in Principle include:

1. An emphasis on continuous river flows for improving river habitat, providing more stable lake levels and enhancing recreational opportunities. While this means there will be a loss of operational flexibility and a reduction in peaking opportunities for Duke, our initial analysis shows this is within an acceptable range while meeting a broad range of other interests.
2. The design and governance of the Shoreline Management Plan is proposed to be broadened to include stakeholder teams of local government, state and federal agency representatives, Duke Energy, and additional river interests.
3. Any reliance on cost share funding and/or partnerships as prerequisites for meeting recreational or other needs is eliminated. While cost share funding and partnerships are acceptable means, they are not a condition precedent to Duke's own responsibility or

contribution of funds for recreation, habitat protection, water quality improvement and various protection, mitigation and enhancement measures.

4. Water quality improvements have been expanded beyond the focus on dissolved oxygen levels at the tailraces below the dams to include other measurable criteria throughout the river sections, and reservoirs.

5. An expanded approach to providing public access beyond the emphasis on access area improvements is proposed. This includes some specific lands to help satisfy license requirements and mitigate for project impacts. It is noted that only a small number have been suggested as examples. These are not intended to ignore land related trial balloons that have already been presented to the relicensing teams. We strongly encourage their consideration. However, we recommend waiting until the work of the Land Ad Hoc Committee, the Advisory Groups and the Recreation Resource Committee complete their reports before negotiating and balancing specific land related provisions.

#### **Key Areas of Agreement and Support:**

1. The desire to build a comprehensive settlement agreement that balances and integrates the needs and objectives of diverse stakeholders
2. Improved warning and communications systems
3. Clearly stated Emergency and Low Flow protocols
4. Increasing the number and type of recreational enhancements
5. Commitment to meet water supply needs now and in the future
6. The Habitat Enhancement Program agreement
7. Partnerships with agencies and stakeholders to maximize beneficial uses of the resource
8. Improvements in water quality and ecological health

#### **Vision for the Catawba-Wateree River Basin**

Our river basin will sustain a healthy ecosystem that increases bio-diversity and that attracts people and business to the region. The river basin shall be central to the identity of the Bi-State region, and its many resources will be seen as essential to our quality of life.

The abundant resources of this basin shall be managed to improve and sustain a diverse natural ecosystem, a vibrant economy, and broad recreational opportunities.

While there are many elements to this vision, a partial list, in random order, includes:

- Clean, reliable and affordable electric power generation
- Safe and sufficient access for users of motorized and non-motorized boats
- Watershed and hydro operation practices that protect and sustain the quality and quantity of the waters of the Catawba-Wateree River basin
- A well managed water supply to serve the region for years to come
- Plentiful areas for swimming, fishing, hiking, sightseeing, camping and other recreational opportunities
- Planned commercial and residential development that complements regional goals
- Opportunities to support tourism
- Balanced shoreline uses to accommodate diverse interests including undisturbed areas
- River reach sections that resemble natural flow conditions and support fisheries and other wildlife

## **Guiding Principles**

Below are the Guiding Principles we propose for most sections. These should serve in two ways. First, to provide a framework for discussions and second, to allow conceptual agreements to be achieved while waiting for specific data from studies. While there may appear to be inherent conflicts among the various guiding principles, our approach is to reconcile these by proposing complementary rather than contradictory alternatives in the full draft of the Trial Balloon.

### **§ 2.0 Guiding Principle: Normal Operating Ranges for Lake Levels**

Lake levels function as part of a system that must be balanced for power and non power uses. This includes managing the reservoirs to support water quality, and to store sufficient water to meet growing demands for water withdrawal, assimilation of discharges, drought management, thermal plant intake needs and operational flexibility for hydropower plants.

It also includes managing the levels to protect habitat in near shore lands and shallow water areas, to provide stability during spawning, to ensure diverse recreation opportunities, and to use best efforts to minimize property damage due to unnecessary water level fluctuations.

Lake level management must also meet downstream flow needs for aquatic resources, flood plain functions, river recreation, water withdrawers and dischargers, and the protection of water quality.

### **§ 3.0 Guiding Principle: Instream Flows for Recreation**

Continuous flows that resemble natural river flows as much as possible with seasonal and weather related variations, provide a basis for meeting a variety of recreational flow needs. Additional recreational opportunities can be provided through scheduled flow releases.

### **§ 4.0 Guiding Principle: Instream Flows for Aquatic Habitat**

Continuous flows that resemble the natural flow of the river with seasonal and weather related fluctuations are generally best to restore, maintain and enhance biodiversity and a healthy ecosystem. This includes fish spawning and larval development, meeting other aquatic life requirements, habitat enhancement and restoration, and periodic inundation of the floodplains.

### **§ 5.0 Guiding Principle: Instream Flows to Support Water Users**

The waters of Catawba-Wateree river are a public resource belonging to the people and should be managed to maximize the benefit to the public in a fair and equitable manner taking into account the long term future needs and uses.

### **§ 7.1 Guiding Principle: Flooding**

The licensee's ability to assist government entities in flood management is one of the reasons for and benefits derived from the project. This includes operating the project to avoid flood conditions to the best of their ability and minimizing the impact of unavoidable flooding by providing adequate warning and implementing safety measures to protect people, property, habitat and water quality.

### **§ 8.0 Guiding Principle: Public Information System**

Operation of the project includes the provision of adequate public information regarding flow releases, lake levels, recreational access and potential dangers related to the project.

### **§ 9.0 Guiding Principle: Cultural Resources Management**

Cultural Resources form a significant part of the public's cultural heritage. Cultural resources management and the Historic Properties Management Plan will meet the requirements of the National Historic Preservation Act, remain consistent with the purposes of historic preservation and remain sensitive to the values and interests of the public related to areas of local importance. The management of cultural resources is woven throughout the management of the river's resources and will be taken into account in all areas of the Final Agreement.

### **§ 10.0 Guiding Principles: Public Recreation Plan**

Adequate opportunities for public recreation include a diverse mix of recreation types throughout the basin, compliance with the American with Disabilities Act and provisions for long term needs.

The needs of the public are best met when the licensee works with counties, NGOs, municipalities, states, the federal government and other entities, and they all endeavor to coordinate plans for recreational opportunities, zoning, land use, shoreline classifications and any other plans for land acquisition, preservation or disposition.

### **§ 11.0 Guiding Principles: Species Protection Plans**

A sound species protection plan provides adequate environmental protection, mitigation, and enhancement at project reservoirs and other project waters. It follows applicable laws and coordinates recovery plans and/or comprehensive conservation strategies for species and habitat protection from local, state and federal agencies, and other relevant entities.

Species Protection plans and their implementation are best accomplished when the licensee, local, state and the federal government agencies, and NGOs work together.

### **§ 12.0 Guiding Principle: Shoreline Management Plan**

A Shoreline Management Plan serves to ensure adequate public access to project lands and waters and to protect the scenic, public recreational, cultural and other environmental values of the reservoir shoreline. The Plan, the Guidelines, the implementation and monitoring should be formulated to ensure the enduring protection and enhancement of the scenic, recreational, ecological, cultural, socio-economic and other environmental values of the project. This is best accomplished when the licensee, governments, agencies and interested parties work together.

### **§13.0 Guiding Principle: Water Quality Enhancements**

The waters discharged from the hydropower facilities will meet water quality standards as required by each state. Because development of the Project includes reservoirs where additional adverse water quality issues may arise or be exacerbated, any adverse project effects in reservoirs also need to be minimized and/or mitigated to protect water quality so that no aspect of the project's operation adversely affects water quality.

The benefits derived from water quality enhancements can be magnified when the licensee works with the state agencies and others to support modeling and other efforts on lands and tributaries whether inside or outside of the Project Boundary.

### **§ 15.0 Guiding Principle: Gauging and Compliance Monitoring**

Regular monitoring is necessary to verify compliance with the new license and state water quality standards. This is accomplished by establishing and maintaining adequate gauging and monitoring stations and programs.

## **Other Considerations**

We have taken into account both national relicensing trends and the unique nature of the Catawba Wateree River system. Of critical importance in agreeing the terms of this license will be planning for population growth. Forecasts show large increases in population for our region by 2058. The ability of our river system to support the diverse interests today will be severely taxed in the coming years. We have strived to take this into account in drafting this proposal.

We have endeavored to give equal consideration to these diverse interests to achieve outcomes that are balanced, reasonable and that adequately protect the river's resources over the term of the license so that the next generation will inherit a healthy river system.

## **Term of the License**

In the first draft AIP, a 50 year license term was proposed. While we understand that the determination of the length of the license belongs to the FERC, we suggest consideration of the extent to which the overall license meets and balances stakeholders' enduring interests and the extent of the protection, mitigation and enhancement measures provided be an important part of this determination.

Factors of particular importance for stakeholders to support a longer license term are:

- a) whether permanent easements for conservation and recreation are created rather than easements only for the term of the license.
- b) the creation of an "adaptive management" committee to monitor and adjust certain license terms as necessary over the length of the license to ensure that measures agreed are fulfilling their objectives and are able to meet needs related to population, demographic and/or regulatory changes.
- c) the extent to which Duke has provided public benefits beyond the typical minimum requirements of a FERC prepared license.

## **Conclusion**

The project has been well managed to serve the interests of power generation, property values and drought management for over 50 years. Recreational access has been provided primarily through boat ramps. And, despite taking steps to protect habitat and water quality, there has been a diminishment of habitat and water quality is compromised in some places. While the first draft Agreement in Principle proposed ways to help balance power and non power interests, the alternatives we now propose increase the focus on habitat restoration and preservation, expanded recreational opportunities, improved water quality and increased cooperation with stakeholders for best management of the resources of the Catawba-Wateree River for years to come.