UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Alcoa Power Generating, Inc.  
Yadkin Hydroelectric Project  
Project No. 2197-073

Progress Energy Carolinas, Inc.  
Yadkin-Pee Dee River Hydroelectric Project  
Project No. 2206-030

MOTION TO INTERVENE AND SCOPING COMMENTS BY THE CITY OF ROCKINGHAM, NORTH CAROLINA

Pursuant to 18 C.F.R. § 385.214 and in response to the “Notice of Intent to Prepare an Environmental Impact Statement and Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments” (Dec. 21, 2006), The City of Rockingham, North Carolina hereby moves to intervene and provides scoping comments in these proceedings. This intervention will assure adequate representation of Rockingham’s interests in the relicensing of these projects.

I. DESCRIPTION OF THE CITY OF ROCKINGHAM

The City of Rockingham was founded in 1784. It is located in the Sandhills Region of North Carolina within a two hour drive of Charlotte, Raleigh, and the triad area of Winston-Salem, Greensboro and High Point. Rockingham is the official county seat of Richmond County and serves as the center of commerce. Rockingham is also the County’s largest city with a population of approximately 9,672. The corporate area is 7.5 square miles, with a planning jurisdiction of 19.5 square miles. The City Hall and offices are located at 514 Rockingham Road, Rockingham NC 28379.
Rockingham is served by three federal highways, including the Future I73/74 which intersects within the corporate limits of the City. It is home to the Rockingham Dragway, which is included in the International Hot Rod Association calendar and attracts 100,000 visitors annually.

Rockingham is located approximately 6.5 miles from the Pee Dee River. It is directly connected to the river by Hitchcock Creek, which flows through the City passing very near the downtown business district.

II. DESCRIPTION OF THE CITY’S INTERESTS

Rockingham has significant interests which will be directly affected by the relicensing of the Yadkin Pee-Dee Project and also of the Yadkin Project upstream. These interests are to enhance the recreational uses and the natural resources within the 19-mile reach of the Pee Dee River between the foot of the Tillery Dam and Blewett Reservoir (“Tillery Reach”).

Specifically, we seek to assure that, under the new license for the Yadkin-Pee Dee Project, Progress Energy will release flow from Tillery Dam suitable for excellent boating use of the Tillery Reach. We also seek to assure that Progress Energy will improve facilities for recreational access in this reach, so as to permit excellent access notwithstanding the fluctuations in flow stage resulting from peaking operations. We seek to assure that the new license include a minimum flow release and other measures adequate to enhance the fish and wildlife resources, and related catch and other recreational use of these resources by the City’s residents and visitors. These interests are unique and cannot be represented by any other party to the proceeding.
Rockingham participated in the relicensing negotiations which led to the Agreement in Principle (AIP) which Progress Energy submitted on April 26, 2006. However, Rockingham did not sign the AIP, on the ground that the proposed minimum flow schedule for Tillery Dam would not mitigate the Project’s significant and continuing adverse impacts on recreational uses and fish and wildlife resources of the Tillery Reach.

While Rockingham is directly affected by the Yadkin-Pee Dee Project, we also intervene in the relicensing proceeding for the Yadkin River Project, in order to address the cumulative impacts on the recreational and fish and wildlife resources of the Pee Dee River. The Yadkin Project controls the flow entering the Yadkin-Pee Dee Project, including Tillery Dam. See SD1, p. 2; "Motion to Intervene of Progress Energy Carolinas, Inc." (Feb. 6, 2007), ¶ 5.

III. SCOPING COMMENTS

We comment on the issues and alternatives described in the Scoping Document 1 (SD1) (Dec. 21, 2006). For ease of reference, we show proposed changes to the document text: such changes are underlined, and the original is indented and italicized. Our comments track the title and outline number in SD1 for each section where we have comments.

1.0 Introduction

Commission Staff intend to prepare an Environmental Impact Statement (EIS) for use in both proceedings. SD1, p. 2. We support this approach, on the stated ground of hydraulic and other linkages between the projects.
2.1 Purposes of Scoping

Commission Staff will consider whether to prepare a Scoping Document 2. SD1, p. 4. We believe that a revised document should be published to modify the description of issues and incorporate additional issues or information, as appropriate in response to scoping comments made during the scoping meetings and site visits held January 23-25, 2007 and in written form. See 40 C.F.R. § 1501.7(a)(2), (c). The SD2 should describe responsibilities for preparation of the EIS as between the Commission and any cooperating agencies. See id. at § 1501.7(a)(4).

3.0 Request for Information

Commission Staff request that comments include information to assist in the "accurate and thorough analysis of the site-specific and cumulative impacts" of these projects. SD1, p. 7. To that end, we attach declarations by Monty R. Crump, City Manager, City of Rockingham and Montie Hamby, President, Yadkin-Pee Dee River Trail Association, to describe the impacts of flow regulation on recreational uses and non-developmental economic value of the Tillery Reach. We intend to submit additional information on these issues before publication of the Draft EIS. Meanwhile, we recommend two further procedures.

Pursuant to 18 C.F.R. § 385.601, we request that Commission Staff convene a Technical Conference before publication of the Draft EIS, so that Staff and experts for the licensees and other parties may systematically discuss disputes about scientific data or method that otherwise may impede analysis of the complex issues related to direct and cumulative impacts of these projects across 90 miles of rivers. The conference should seek to establish a mutually agreeable approach to the completion of such analysis. That would be substantially
more effective than the ordinary battle of experts that would occur through notice-and-comment hearing.

Pursuant to 40 C.F.R. § 1501.6, we request that Commission Staff discuss with public agencies, including Rockingham, how they may effectively cooperate in the analysis of impacts and the preparation of the Draft EIS. Rockingham, which is a political subdivision of the State under North Carolina law (N.C. Const. Art. VII §1), has substantial expertise in non-developmental uses of the Pee Dee River. Such discussion may occur in the Technical Conference proposed above.

4.0 Proposed Action and Alternatives

Commission Staff propose that the EIS will include and analyze one ultimate alternative to Progress Energy’s proposals for a new license submitted in the New License Application (NLA) and the AIP. SD1, p. 8. That action alternative will function as the preferred alternative of Commission Staff.

The Draft EIS should include and analyze a reasonable range of alternatives to Progress Energy’s proposals, including those submitted by Rockingham and other parties. These action alternatives should be displayed as discrete action alternatives, not just as accepted (or rejected) elements of whatever Staff’s ultimate preference may be. This approach permits systematic comparison of the costs, benefits, and other impacts of all reasonable action alternatives. 40 C.F.R. § 1502.14(a) – (b). This approach is necessary to compare alternative minimum flow schedules and other elements of regulation of baseline power operations.

"In accordance with NEPA requirements and guidelines, the environmental analysis will consider the following alternatives, at a minimum: (1) the applicants’ proposed
actions, (2) other reasonable alternatives, (3) staff alternative(s) to the proposed actions, and (4) no action."

SD1, p. 8.

4.1.2.2 Yadkin-Pee Dee Project (Progress Energy)

Minimum Flows – Tillery Development

SD1 describes the NLA’s proposal to release a "continuous year-round minimum flow at Tillery dam of 200 cfs and seasonally release a 750 cfs minimum flow from April 1 through May 15 for American shad spawning." SD1, p. 18. It describes the AIP’s proposal to release a continuous flow of 330 cfs, bumpable to 375 cfs during the summer recreation season and 725 cfs during shad spawning. Id. Rockingham agrees that the Draft EIS should address these proposals as action alternatives.

Under these proposals, the minimum flow in the Tillery Reach would be less than 10% of the annual, mean flow of the unregulated hydrograph, which was 5,687 cfs. That minimum flow would fluctuate up to 18,000 cfs, the hydraulic capacity of the Tillery Development, during power generation. See NLA, p. B-3. The Draft EIS should include alternative minimum flow release schedules that range from 500 to 1,300 cfs (or more) for the benefit of the Tillery Reach. This range of schedules would permit a systematic comparison of the developmental and non-developmental benefits of alternative project operations more consistent with the unimpaired hydrograph and related geomorphic processes. As the NLA acknowledges, "[o]ne of the most effective ways to reduce peaking effects on the aquatic community while still maintaining peaking operations is to increase base flow. Increased base flows act as a hydraulic bugger against higher generation flows and also allow an enhanced..."
community to develop by increasing both the quantity and quality of base flow habitat.” NLA, p. E4-108. Indeed, Rockingham will submit evidence that 900 cfs would be the minimum flow suitable for excellent recreational uses of this reach and would materially enhance the baseline conditions of fish and wildlife resources.

**Water Quality – Tillery Development**

Progress Energy proposes to "continue continuous DO monitoring program, implement DO Enhancement Operation Plan, and install permanent monitoring and enhancement equipment." SD1, p. 20. Commission Staff should analyze: whether the minimum flow release proposed by Progress Energy will result in compliance with the applicable DO standard on a continuous basis, including periods of non-generation; whether the plan contemplates modifications of Tillery Dam for the purpose of such compliance, and if so, when such modifications will occur; and whether the plan includes adaptive management in the event that the minimum flow release and facility modifications do not result in compliance.

**Fish and Aquatic Resources – Tillery Development**

Progress Energy proposes to "implement the restoration plan for Diadromous fishes of the Yadkin-Pee Dee River Basin for American shad, hickory shad, blueback herring, striped bass, Atlantic sturgeon, shortnose sturgeon, and American eel." SD1, p. 21. Rockingham requests that the Commission Staff analyze whether: the plan includes trackable objectives for the future population or habitat condition for each such species in the Tillery Reach; how such objectives relate to baseline conditions; and whether the plan provides for adaptive management of the facilities or operations in the event that the objectives are not attained.
Recreation Resources – Tillery Development

Progress Energy proposes to establish a facility at Clarks Creek for access to the Tillery Reach. Commission Staff should analyze: the capacity of this access location for parking, launching of different types of boats, bank fishing; the adequacy of such capacity under alternative flow release schedules that would enhance the suitability of the Tillery Reach for recreational uses; and ADA accessibility.

Recreation Resources – Blewett Falls Development

Progress Energy proposes to provide trash receptacles, updated signage, and improved parking management or facilities at Pee Dee Access and Grassy Island (Mountain Creek) Access. SD1, p. 23. Commission Staff should consider: including safety information in the updated signage for boaters, anglers and swimmers who use this facility; the capacity of roads and parking relative to expected use; the appropriate frequency of trash pickup; and ADA accessibility.

Progress Energy proposes to construct a new public boating access area on the Richmond County (east) side of Blewett Falls Lake within 5 years of issuance of the new license. SD1, p. 24. Commission Staff should consider the adequacy of constructing just one boating access area on the Richmond County side of Blewett Falls Lake. This would increase the access points in Richmond County from one (under the original license) to only two. As discussed in Section 5.2.7, infra, this may be inadequate given the population of the region and forecasted growth of recreational use. Rockingham is prepared to cooperate with Progress Energy and Commission Staff to identify additional locations for boating access.
Progress Energy proposes, in the AIP, to expand or enhance the Yadkin-Pee Dee River Trail. SD1, p. 24. Commission Staff should consider specific locations for such expansion or enhancement, as well as levels of recreational use which would justify such measures.

4.2 **Staff Modification of the Proposed Actions**

SD1 anticipates that the Draft EIS will include a Staff alternative to Progress Energy’s proposals. SD1, p. 25. For the reasons stated in our comments on Section 4.0, Rockingham submits that the document should include a reasonable range of action alternatives, not limited to the alternative which the Commission Staff ultimately prefers.

*Staff will consider and assess proposed and potential operational or facility modifications and other environmental measures identified by staff, the agencies, and the general public. Modifications could include recommendations by the agencies, non-governmental organizations, Indian tribes, individuals, and Commission staff. These modifications will be presented as discrete action alternatives for developmental and non-developmental analysis. To the extent that modifications would reduce power production from the projects, we will evaluate the costs and contributions to air-borne pollution related to generation of replacement power by fossil-fueled stations.*

*Id.*

5.1 **Cumulative Effects**

SD1 finds that “Alcoa Generating and Progress Energy coordinate operations of the Yadkin and Yadkin-Pee Dee hydroelectric projects. Operations are primarily based on prevailing water conditions, license requirements, and operating agreements with Duke Power’s Buck Power Station (a nearby fossil fuel electrical generating facility) and other entities....” SD1, p. 26. Commission Staff should analyze: whether Alcoa and Progress Energy coordinate operations under written agreements or standard practices; what the
operating agreements with Duke Power require; and how the new licenses may enhance such existing coordination for the benefit of developmental and non-developmental uses.

SD1 finds that aquatic resources are likely to be cumulatively affected by such coordinated operations. SD1, p. 26. Commission Staff should also analyze how the cumulative regulation of flow affects recreation.

5.2 Resource Issues

As stated above, Rockingham requests that the Draft EIS discretely analyze how each action alternative, including alternative minimum flow release schedule, would affect the baseline condition of each resource, so as to permit comparison of the incremental costs and benefits of such alternatives. See SD1, p. 27.

5.2.2 Water Resources

In the second bullet in this subsection, the Commission Staff proposes to analyze the impact of project operations on water use, level, and availability in each affected reach. The Commission Staff should prepare and display that analysis using a time-step and other metrics which are meaningful for each affected resource. Among other things, the display should allow comparison of the condition of the resource during peaking and non-peaking operations. Thus, the stage of flow during daylight hours is a meaningful variable for recreational use, not the average stage across an entire day or month.

- The potential effects of proposed and alternative flow regimes on water use, levels, and availability in the reaches influenced by project operations.* For each project and affected reach, the analysis of each alternative will include: (A) flow exceedance curve(s) at representative locations, (B) estimation of the frequency and volume of intra-day and intra-week flow fluctuations as a result of power generation, and (C) estimation of flow depth and width at representative transects.
The fifth bullet in this subsection proposes to analyze compliance of project operations with North Carolina’s water quality standards. The Commission Staff should analyze each action alternative’s compliance with each of North Carolina’s water quality standards, including beneficial uses, narrative and numeric objectives and anti-degradation policy applicable to the affected reaches.

- The effects of continued project operations (under each action alternative) on the project’s compliance with each of North Carolina’s water quality standards (including designated beneficial uses, narrative and numeric objectives, and the anti-degradation policy) applicable to the affected reach.

The seventh bullet in this subsection proposes to analyze the effects of project generation on point source and non-point source pollution discharges upstream and downstream of the project. The Commission Staff should consider Total Maximum Daily Load(s) (TMDL) under Clean Water Action section 303(d), 33 U.S.C. § 1313(d), which currently are in effect or are scheduled to be adopted by the North Carolina Department of Environmental and Natural Resources (NCDENR) within the geographic scope of this NEPA analysis. For example, we understand that NCDENR plans to adopt a TMDL for the Rocky River, which was listed for turbidity and “impaired biological integrity” in 1998, no later than 2011. Progress Energy cited Rocky River as a major contributing source of poor water quality in the Tillery Reach, and a limitation on any effort by Progress Energy to improve water quality in the Tillery Reach through flow enhancements. See NLA, pp. E3-17—18. We specifically
request that Commission staff consider how adoption of a TMDL for the Rocky River will affect the benefits of flow enhancement from the Tillery development.

- The effects of project generation (under each action alternative) on point source and non-point source pollution discharges (including existing and scheduled TMDLs) upstream and downstream of the project.

SD1, p. 28.

5.2.3 Aquatic Resources

Commission Staff proposes to analyze the effects of project operations, including lake fluctuations and minimum flow releases, on aquatic resources, including fish and macroinvertebrate habitats, in the reservoirs and downstream river reaches. SD1, p. 28.

Rockingham requests that the analysis use metrics (such as population trends, or habitat conditions) that are trackable as testable hypotheses over the term of the new licenses. The Habitat Duration Analysis (HDA) produced by Instream Flow Incremental Methodology (NLA, Pee Dee River Instream Flow Study Final Report (April 2006), p. 8-7) is a modeling construct which is typically not monitored after licensing. For example, the second and third bullets should be amended as follows:

- The effects of project flow releases (under each action alternative) on aquatic habitat in the Yadkin and Pee Dee rivers downstream of the projects. The analysis will include HDA as well as other metrics which may be monitored as appropriate as conditions of new licenses.

- The effects of project operations on diadromous fish migrations and spawning, and on the overall fish restoration efforts in the Yadkin and Pee Dee rivers. The analysis will include HDA as well as other metrics which may be monitored as appropriate.

SD1, p. 28.
Further, Commission Staff should analyze the legal and factual basis for Progress Energy’s proposal to triage fishery enhancement in the Tillery Reach in favor of power generation. “PE believes that an operational strategy that emphasizes generation value at the Tillery Development while emphasizing flow-based aquatic resource enhancements below Blewett Falls Development is the best adapted overall water resource management strategy.” NLA, p. E4-110. If continued over the term of the new license, this strategy would prevent the material enhancement of sportfishing in the Tillery Reach as well as other aquatic resources. See, e.g., North Carolina Wildlife Resources Commission, *North Carolina Wildlife Action Plan* (2005), p. 351.

5.2.7 *Recreational Resources*

In the first bullet in this subsection, Commission Staff proposes to analyze the effects of project operations, including lake level fluctuations and minimum flows, on recreational resources. This analysis should compare the suitability of a given location (such as the Tillery Reach) for specified recreational uses (small craft navigation, canoeing and sportfishing) under a reasonable range of operational alternatives. For example, the analysis should describe the flows at which the Tillery Reach would be suitable for each of the specified recreational uses, and how often such flows would be available during daylight hours in the recreation season under each minimum flow alternative.

- *The effects of project operations (under each action alternative), including lake level fluctuations and minimum flows, on recreational resources (including small craft navigation, canoeing and sportfishing).*

SD1, p. 29.
Commission Staff should require a field study to test actual conditions for recreational uses of Tillery Reach under a reasonable range of flow alternatives. It does not appear that Progress Energy conducted such a recreational study to develop or test its proposed navigational flow of 375 cfs between May and September. Instead, the NLA appears to rely on IFIM study results which are limited to three transects within the reach. See NLA, “Pee Dee River Instream Flow Study Final Report,” p. 8-14.

The baseline minimum flow release has had a significant adverse impact on recreational uses of the Tillery Reach. See Julie Peacock, “FERC to hear residents’ comments on Blewett Falls,” Richmond Daily Journal (Jan 22, 2007) (Exhibit 1); Declaration of Monty R. Crump (Feb. 26, 2007) (Exhibit 2), ¶ 2; Declaration of Montie Hamby (Feb. 26, 2007) (Exhibit 3), ¶ 2. According to experienced boaters, the Tillery Reach can be very difficult to navigate during water drawdowns. See Ex. 3, ¶ 2. There are high tree stumps that are exposed at low water and wide areas of mud flats between the water and firm shore that would make it very difficult to get off the water in a emergency. See id. There have been reports of boaters being stranded by rapid changes in water levels. See id.; See Ex. 2, ¶ 2. The result has been to either diminish or deprive the public of recreational use of the river. See Ex. 2, ¶ 2. Before publication of the Draft EIS, Rockingham will submit additional evidence that the proposed minimum flow releases will not materially enhance this baseline condition.

In the second bullet in this subsection, Commission Staff proposes to analyze “the ability of existing and proposed recreational facilities and enhancements to meet current and future recreational demand.” Rockingham will submit further evidence that existing facilities in the Tillery Reach are inadequate to meet existing demand. See Ex. 1; Ex. 3, ¶¶ 2-3. We
will submit further evidence that the foreseeable growth in demand for riverine recreational uses will exceed the capacity of the proposed access facilities in the Tillery Reach. See Ex. 2, ¶ 3. According to the National Survey on Recreation and Environment, demand for freshwater boating and hiking is growing more quickly than for many other types of outdoor recreation. In the 8-year period between 1994 and 2002, user-days of kayaking and rafting increased by 182% and 36%, respectively. The survey predicts that this trend will continue. See Gary T. Green et al., “Boating Trends and the Significance of Demographic Change” (2003), pp. 26-27, 30, available at http://www.srs.fs.usda.gov/trends/NASBLALV.pdf.

Under 18 C.F.R. § 2.7, the Commission must consider how best to enhance the baseline condition of recreational resources affected by each project.

“The Commission will evaluate the recreational resources of all projects under Federal license or applications therefor and seek, within its authority, the ultimate development of these resources, consistent with the needs of the area to the extent that such development is not inconsistent with the primary purpose of the project.”

Similarly, North Carolina law provides that it is the state policy to maximize recreation for the benefit of its citizens:

“The General Assembly therefore declares that the public good and the general welfare of the citizens of this State require adequate recreation programs, that the creation, establishment, and operation of parks and recreation programs is a proper governmental function, and that it is the policy of North Carolina to forever encourage, foster, and provide these facilities and programs for all its citizens.”


For these reasons, we recommend that the second bullet in this subsection of SD1 should be revised as follows.

- The ability of the existing and proposed recreational facilities and enhancements to meet current and future recreational demand. This will
include an estimate of the capacity of each affected river reach for recreational uses under each flow alternative.

We request that Commission Staff analyze the non-developmental benefits (including sales, taxes, and employment) of recreational uses under flow alternatives. We request that Commission staff add a new bullet to this subsection:

- The non-developmental benefits of enhanced recreational resources.

As stated above, the City is the county seat and largest city within Richmond County. It lies at the southern end of what is known as the Uwharrie Lakes Region, which is composed of seven counties – Anson, Richmond, Stanly, Montgomery, Rowan, Davidson and Randolph – linked by the Yadkin-Pee Dee River as it cuts through the mountains in the Uwharrie National Forest, Birkhead Wilderness and Morrow Mountain State Park. See Yadkin-Pee Dee Lakes Project, The Uwharrie Lakes Region – A Strategy for North Carolina’s ‘Central Park’ (1999) (“Strategy”), available at http://centralparknc.org/strategy.pdf. This region has been the subject of coordinated, cooperative efforts to preserve and enhance its natural and cultural resources and to develop sustainable recreation and tourism as a significant economic engine for the region. See Ex. 2, ¶ 3. An increase in the tourism industry is needed in the rural counties like Richmond, which has the lowest per capita average income out of the seven counties in the region. See Strategy, p. 8.

Rockingham is well-situated to capitalize on an increase in river-based recreation and tourism. The Pee Dee River is located just 6.5 miles from the City limits, well within the range of economic impact. One of the river’s tributaries runs through the City. The City is accessible by three major highways. There are other attractions which would encourage out-
of-town visitors to visit and extend their stay, including the Rockingham Dragway, and is within a short drive of the Pee Dee National Wildlife Refuge. There is evidence that baseline project operations have interfered with the City’s ability to benefit from its most significant natural resource. See Ex. 2. For example, the existing flow schedule was cited as one of the reasons why the State of North Carolina would not site either a state park or recreation area at Blewett Falls. See id., ¶ 6.

7.0 **Proposed EIS Outline**

We request that the “EIS Outline” be amended, and specifically Section 5 therein (“Staff’s Conclusions”), to include recommended conditions for a new license. This approach (which is standard practice under the Integrated Licensing Process) would benefit all parties in these proceedings, because it would clearly state the conclusions in the form that matters most: namely, as recommended license conditions.

We further request that Commission Staff make specific findings of fact as the basis for each such recommended condition. The Draft EIS should identify the evidence on which it relies for a given finding, explain why that evidence is probative, and also explain why Commission Staff reject competing evidence on the same issue. See 5 U.S.C. §§ 556, 557, 706(2); Fed. Rules Evid. 702; and 40 CFR § 1502.14(a). See also Daubert v. Merrell Dow Pharmaceuticals, 113 S.Ct. 2786 (1993); Motor Vehicle Manufacturers Association v. State Farm Insurance, 463 U.S. 29 (1983); Burlington Truck Lines v. United States, 371 U.S. 156 (1962); Farmers Union Central Exchange v. FERC, 734 F.2d 1486 (D.C. Cir. 1984); Scenic Hudson Preservation Conference v. Federal Power Commission, 354 F.2d 608, 620-1 (2nd Cir. 1965).
8. **List Of Comprehensive Plans**

The Draft EIS should analyze and display the consistency of each action alternative with the specific management objectives or requirements in each of the sixteen comprehensive plans listed in SD1. We respectfully disagree with the Commission’s standard practice of summarily concluding, in a single sentence of a NEPA document, that a preferred alternative is inconsistent with such management objectives or requirements. Before publication of the Draft EIS, we will submit a list of such objectives and requirements applicable to the Tillery Reach.

In the meanwhile, we note that several of the listed comprehensive plans --


*North Carolina Department of Environment, Health & Natural Resources. 2003. Yadkin-Pee Dee River Basinwide water quality management plan. Raleigh, NC;*

*North Carolina Department of Environment, Health & Natural Resources. 2004. Yadkin-Pee Dee River Basin (Classifications and Water Quality Standards). Raleigh, NC*

-- find that baseline operations of Tillery Dam contribute to low DO levels in the Tillery Reach, and they includes objectives for corrective actions.

Further, we note that another listed plan –


-- finds that freshwater fishing ranked in the highest categories of outdoor activities for both present use and future demand. The survey results specifically show that 50% of households participate in freshwater fishing. *Id.*, p. II-18.
Finally, we request that the Commission staff consider the following additional comprehensive plans:


IV.
CONCLUSION

Rockingham respectfully requests that the Commission grant this motion to intervene, consider these scoping comments, and add the following representatives to the official service lists for these proceedings:

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Dated: February 26, 2007

Respectfully submitted,

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On Behalf of the CITY OF ROCKINGHAM

Rockingham’s Intervention and Scoping Comments
Alcoa, Yadkin Project (P. no. 2197-073)
Progress Energy, Yadkin Pee-Dee Project (P. no. 2206-030)
DECLARATION OF SERVICE

Alcoa Power Generating, Inc., Yadkin Project (P. no. 2907-073-NC)
Progress Energy, Yadkin-Pee Dee Project (P. no. 2206-030-NC)

I, Jessica Nagtalon, declare that I today served the attached “MOTION TO INTERVENE AND SCOPING COMMENTS BY THE CITY OF ROCKINGHAM, NORTH CAROLINA,” by electronic service, or, if an email address was not provided, by first-class mail, to each person on the official service lists compiled by the Secretary in these proceedings.

Dated: February 26, 2007

By: __________________________

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The Federal Energy Regulatory Commission will be in Wadesboro Thursday evening to listen to what local residents’ concerns are for the changes in Blewett Falls Hydroelectric license.

FERC Spokeswoman Barbara Connors said the meeting is a way for FERC to "scope out the issues" while listening to citizens questions and requests.

The Progress Energy hydroelectric plant lies on the Pee Dee River a few miles north of the South Carolina line and is the last dam before the river reaches the Atlantic Ocean.

Blewett was originally licensed in 1958 and if the proposed application is approved the next time the dam would be relicensed would be in 40 years. The plant is primarily used to supply power during the peak times of the day.

The Sandhills Rod and Gun Club Inc., the city of Rockingham and Richmond County government have raised concerns over the proposed changes during the last year.

“I think the two major things are the water level and the water level during the spawning season,” said John Lentz, charter member of Sandhills Rod and Gun Club. Lentz was a commissioner on the North Carolina Wildlife Commission for 14 years, four of those years were spent as chairman. “The water level is so changeable, it’s either too high or too low. Seems like if we could stabilize it more would be better for all the people that are using it over there.”

Typical daily water level changes will be in the range of two to four feet,” according to the Agreement in Principle filed by Progress Energy with FERC in October. The AIP outlines the previous fluctuation in water levels was between one and three feet.

The city and the county’s concerns center on recreational access for citizens. In October, Rockingham retained the legal services of the National Heritage Institute.

The problem the club foresees comes when the plant begins to draw down the lake which causes Mountain Creek’s levels to drop. Grassy Island Boat landing is located on the creek near Ellerbe and is the only access point to the Pee Dee River in Richmond County. This photo was taken last Wednesday.

In a letter sent to Progress Energy’s Chairman and CEO Robert McGehee last July SRG President Ricky Monroe said when the water drops between three and four feet "we cannot launch a boat and if we are out in the river, must exit the boat and wade the creek to get back home."
Lentz agreed saying when the water is drawn down 21/2 feet or more the creek becomes difficult for boaters to navigate. "(Boaters) could probably have enough to float the boat but you would have to walk along side of it."

Lentz said he understood Progress' position. "Progress Energy has to generate power but we need to work on a equalization up and down the Yadkin/Pee Dee River. Someone needs to release water to replace the water they are taking (out)," Lentz said.

The variation in water levels causes problems for more than just boaters. It also is a problem for native fish populations. "During the spawning season, when they lay their eggs and suddenly there is no water there it has a big effect on reproduction," Lentz said.

Large mouth bass, brim, white bass, catfish and white perch are all native to that area of the river.

The public is encouraged to attend the meeting which will be from 7 to 9 p.m. Thursday at South Piedmont Community College, in Wadesboro.

Contact reporter Julie Peacock at 997-3111, ext. 32; e-mail: jpeacock@yourdailyjournal.com
DECLARATION OF MONTY R. CRUMP

I, Monty R. Crump, declare the following:

1. I am a resident of Rockingham, located in Richmond County, North Carolina and I am the City Manager of the City of Rockingham. I have been City Manager for over 15 years and I am also a life long resident of Richmond County.

2. The City of Rockingham is greatly concerned with the proposed flow schedules in the Pee Dee River between Tillery Dam and Blewett Falls Dam. Both the current and proposed flow allows fluctuations that are detrimental to the recreation use and tourism value of the river. The “on and off” flow of this river section below Tillery results in flows that either deprive or diminish use of the river by the public. The dramatic fluctuation changes also create serious safety issues.

3. In 1999 the Yadkin Pee Dee Lakes Project commissioned two independent studies to assess tourism and the economics of the Central Park Region of which the Yadkin Pee Dee is a significant natural asset. Both studies were submitted as part of the regulatory process. The studies are: (1) North Carolina’s Central Park: The Economic Impact of an Alternative Economic Development Strategy on the Central Park Region of North Carolina prepared by UNC-Charlotte, and (2) North Carolina’s Center Park: Assessing Tourism and Outdoor Recreation in the Uwharrie Lakes region prepared by Appalachian State University.

4. The short conclusion of the Central Park Region Reports indicates that over the next 20 years an estimated 4.7 million persons will reside in North Carolina’s Urban Crescent along I-85/I-40 which is a 1.5 to 2 hour drive from the Central Park/Yadkin Pee Dee River.
The Reports conclude that there is a significant opportunity for economic growth by hosting visitors seeking both water and land based recreational opportunities within a short drive of the Yadkin Pee Dee River.

5. The flow schedule proposed by Progress Energy will not allow Rockingham and/or Richmond County to adequately capture the economic potential of the Pee Dee River because the flows are inadequate to support recreational uses.

6. The current flow schedule has already had a negative impact on the tourist dollar in the local economy by being cited as one of two reasons why the State of North Carolina would not site either a state park or recreation area at Blewett Falls. See State of North Carolina, Executive Summary (Exhibit 2.A).

7. As City Manager of the City of Rockingham I believe that in order to accomplish our objective of providing an alternate economy based on attracting tourists to the Yadkin Pee Dee, it is absolutely imperative that the flow schedule be properly addressed.
8. I declare under penalty of perjury of the laws of the State of North Carolina and the United States of America that the foregoing is true and correct and that this declaration was executed the 26 day of February, 2007 at 514 Rockingham Road, Rockingham, NC 28379

Respectfully submitted,

[Signature]

for

Monty R. Crump, City Manager
CITY OF ROCKINGHAM
Executive Summary

In 2003, the Division of Parks and Recreation (DPR) identified Blevett Falls Lake, located in Anson and Richmond counties, as an area that might have the potential to become a state recreation area. The 2,570-acre lake with its relatively undeveloped shoreline appeared to offer the potential for a lakeside park that would allow access to and use of public waters, sufficient acreage for land-based recreational facilities, and protection of some rare biological resources identified by the North Carolina Natural Heritage Program. For these reasons, it was included in a list of 47 sites—called New Parks for a New Century—that named areas of the state that were priorities for investigation for possible additions to the state parks system.

Although a 2,570-acre lake was considered to have the potential to support a wide range of water-based activities, during the feasibility study authorized by the General Assembly, Division of Parks and Recreation staff identified several characteristics of the lake that severely limit the potential for boating and other water sports at Blevett Falls Lake. When the timber was cut and the lake impounded, the tree stumps were not removed from the land that would be submerged. Numerous stump fields are just under or just above the water surface at normal lake levels. This condition creates a hazard for boating and water-related sports, particularly motor boating at the lake.

The lake is shallow with an average depth of only 10.8 feet. In addition, the normal operation of the hydroelectric plant causes the lake level to fluctuate about 2-3 feet each day during the summer. This fluctuation makes the first two conditions—submerged stump fields and shallow water—more acute.

The lake and all Progress Energy lands surrounding the lake are designated as the Pee Dee River state game land except for a safety zone around the dam and boat ramp. Hunting on the game land has been a traditional use of the lake for many years. Hunting on the lake as well as the surrounding lands would create conflicts between hunters and park visitors as well as present potential safety issues.

Given these factors, the establishment of a state park or recreation area at Blevett Falls Lake is not recommended. The lake is better suited to continue as a state game land than become a state recreation area. The Wildlife Resources Commission (WRC) is currently working to expand the Pee Dee River Game Land at Blevett Falls Lake by acquiring property adjacent to the lake. An increased presence at the lake will enable the WRC to support the traditional uses that include hunting, boating and fishing; to expand public access by increasing the amount of public land around the lake; and to protect the significant natural resources of the area.

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DECLARATION OF MONTIE HAMBY

I, Montie Hamby, declare the following:

1. I am a resident of Winston Salem North Carolina, a member of American Canoe Association, and an active canoeist for 35 years. I have been active with the Yadkin Pee Dee River Trail since its formation in 1985. I also am the current President of the Yadkin Pee Dee River Trail Association (YPDRTA). The river-based, canoe trail originates in the northwestern part of North Carolina and extends to Yadkin’s confluence with the Uwharrie River. In 2002, by vote of the board of directors, the name changed to Yadkin Pee Dee River Trail Association in conjunction with our efforts to develop recreational access all along the Yadkin basin and extending into South Carolina.

2. The YPDRTA is concerned about the flow of the river in the 19 miles between Tillery Dam and Blewett Falls Reservoir (Tillery Reach). This area has a water depth of between zero and eight feet. During water drawdowns, this section can be very difficult to navigate. There are high tree stumps that are exposed at low water and wide areas of mud flats between the water and firm shore that would make it very difficult to get off the water in a emergency. I have seen reports that the water level can change so rapidly that there have been cases of stranded boaters on the lake. Additionally, this section only has four public boating access points, with only one of those access points near the City of Rockingham in Richmond County. These factors complicate planning and executing a paddle-trip in this section. Although I am an avid boater, I have only paddled down this reach once due to these limiting factors.
3. Because of the increase in popularity of paddle-sports and the trend for people to stay close to home for recreation, the need for proximate access to water-based recreation has increased greatly in the past decade. For this reason, and as stated above, one of the YPDRTA’s goals is to provide more boating opportunities by extending the YPDRTA trail all the way to South Carolina. In order to accomplish this objective we believe it is necessary to establish a shoreline maintenance program, maintain a minimum pool in the reservoir insuring flows adequate for recreational boating in the riverine reach below, and provide additional public access points. Given the proximity of the City of Rockingham and the natural beauty of the area, I believe that recreational boating would increase substantially in the Tillery Reach if adequate flow and access were provided under the new license.

4. I declare under penalty of perjury of the laws of the State of North Carolina and the United States of America that the foregoing is true and correct and that this declaration was executed this 26 day of February, 2007, at 4925 Romara Court, Winston Salem, North Carolina 27103.

Respectfully submitted,

[Signature]

Montie Hamby, President
YADKIN PEE DEE RIVER TRAIL ASSOCIATION
Submission Contents

City of Rockingham's Intervention and Scoping Comments
Rockingham20070226.pdf

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