

**RECOMMENDATIONS AND CONCERNS TO KERSHAW
CONSERVATION DISTRICT ON DUKE POWER CO.
RELICENSING AIP**

MARCH 13, 2006

- A- ITEM 14.5.3.a. DELETE REFERENCE TO THE 50-YEAR LICENSE AS A CONTINGENCY FOR THE BLADDER DAM/FLOOD MANAGEMENT IN PARAGRAPH 5. DELETE REFERENCE TO RESTRAINTS IN PARAGRAPH 3d and 3e PERTAINING TO ALL SIGNATORY PARTIES NOT CALLING FOR ADDITIONAL FLOOD MANAGEMENT IMPROVEMENTS FOR SET PERIODS.

REASONING. 1- THE TERM OF THE LICENSE IS DETERMINED EXCLUSIVELY BY FERC AND WAS NOT A PART OF THE NEGOTIATIONS; FLOODING ISSUES REMAIN AND ARE EXACERBATED BY OTHER AGREEMENTS OF THE AIP WHETHER FOR A 30 OR 50-YEAR TERM. 2- THE SIGNIFICANTLY INCREASED NUMBER OF FLOOD EVENTS INDICATED BY FLOW STUDIES AND EXACERBATED BY OTHER COMPONENTS OF THE NEGOTIATION DICTATE THE GRAVITY OF THE FLOOD MANAGEMENT ISSUE TO LAKE WATEREE. THE BLADDER DAM SHOULD NOT BE CONTINGENT UPON LICENSE LENGTH. 3- THE NEGOTIATED BLADDER REMEDY WAS ACCEPTED BY STAKEHOLDERS AS A REASONABLE IF NOT IDEAL SOLUTION TO THE FLOODING PROBLEM DESPITE THE INDICATION THAT A 40,000 cfs BLADDER WOULD PROVIDE A MORE COMPLETE SOLUTION TO THE PROBLEM. THE NEGOTIATION TO THE SMALLER 10,000 cfs BLADDER DID NOT INCLUDE A CONTINGENCY SINCE THE LARGER BUT MORE EXPENSIVE (AND MORE CERTAIN) REMEDY WAS SOUGHT DURING THE NEGOTIATIONS. 4- WHILE STUDIES INDICATE INCREASED FLOOD EVENTS AT LAKE WATEREE AS A CERTAINTY, THE NEGOTIATED SOLUTION RESULTS ARE NOT A CERTAINTY. THEREFORE IT IS NOT REASONABLE TO RESTRICT AND PREVENT FURTHER NEGOTIATIONS FOR RELIEF IN THE FUTURE WITHOUT FULL KNOWLEDGE OF RESULTS WHICH WILL ONLY BE SEEN WITH ACTUAL EVENTS OF THE FUTURE.

- B- ITEM 16.2.2 DELETE ALL REFERENCE TO PREVENTION OF STAKEHOLDERS FROM ANY AND ALL PARTICIPATION IN 401 WATER QUALITY CERTIFICATION REQUIREMENTS.

REASONING. 1- THIS SECTION PREVENTS PARTICIPANTS FROM INVOLVEMENT ON AN APPLICATION THAT HAS NOT YET BEEN MADE. 2- WATER QUALITY CERTIFICATIONS ARE NOT EXPECTED TO OCCUR PRIOR TO FA AND PARTICIPANTS ARE BEING ASKED TO ACCEPT WHATEVER IS INCLUDED WITH NO RECOURSE FOR LATER NEGOTIATION. 3- RESPONSIBILITY OF A NUMBER OF STAKEHOLDERS AS WELL AS OTHER REPRESENTATIVES IN THE PROCESS INCLUDE INVOLVEMENT AND COMMENT IN 401 ACTIONS AND THOSE RIGHTS AND RESPONSIBILITIES ARE NEGATED BY THIS SECTION.

C- ATTACHMENT Q. THE CONSERVATION EASEMENT DOES NOT APPEAR TO BE COMPLETE AS SUBMITTED IN THE AIP. THE ISSUE OF PUBLIC ACCESS IS NOT ADDRESSED; STATE HOLDERS OF THE EASEMENTS HAVE NEITHER INDICATED ACCEPTANCE NOR HAVE THEY INDICATED IF EASEMENT AS WRITTEN SERVES THE GOALS OF MITIGATION AS NEGOTIATED.

GENERAL CONCERNS: 1- WHILE FUNDING FOR LAND PURCHASES HAS BEEN PROVIDED, THERE IS NO APPEARANCE OF A WORKING RELATIONSHIP WITHIN DUKE ENERGY BUSINESS DIVISIONS TO FULFILL THAT NEGOTIATION OF LAND PURCHASE. NEITHER A WILLINGNESS TO SELL, STATEMENT OF AVAILABILITY, OR PRICE/VALUE HAS BEEN DETERMINED. THE MEASURED IMPACT OF THOSE NEGOTIATIONS CANNOT BE DETERMINED.

2- AREAS OF THE AIP INCLUDING 401 WATER CERTIFICATION AS WELL AS OTHER ISSUES ARE NOT SETTLED/INCLUDED AND ARE NOT LIKELY TO BE COMPLETED PRIOR TO THE FA. STAKEHOLDERS ARE BEING ASKED TO SIGN WITHOUT FULL KNOWLEDGE OF WHAT THEY ARE ENDORSING.

3- NO PROVISION FOR BUFFERS HAS BEEN MADE THAT WILL ADDRESS NON-POINT POLLUTION ISSUES. CONTINUED AND EXTENDED PERIODS OF FLOODING OF SEPTIC SYSTEMS HAVE A SERIOUSLY NEGATIVE IMPACT ON WATER QUALITY AND POTABLE WATER SOURCE FOR THOUSANDS, RECREATIONAL ACTIVITIES, HEALTH OF THE FISHERY, ETC. 4- NO INCREASED POLICING OF THE ISLANDS FOR VIOLATIONS OF CAMPING, FIRES, ETC. HAS BEEN MADE.