Negotiating about Power: Hydropower Relicensing in North Carolina

L. Steven Smutko

"In my estimation, hydropower relicensing is the most important event to occur on the Catawba River since the creation of Lake Norman in the early 1960s," said Jeff Lineberger, Duke Power Company's hydropower licensing manager, to a room full of tense relicensing stakeholders in April 2003. Lineberger was referring to the regulatory process that his company has undertaken to update its federal operating licenses for hydropower facilities in North Carolina's piedmont. In the audience were representatives of nonprofits, industries, and federal, state, and local governments from a nine-county area in North Carolina. They were accepting Duke Power's offer to participate in decision making that will lay the foundation for management of the chain of Catawba River reservoirs for the next 30–50 years. At stake are hundreds of jobs in water-dependent industries, millions of dollars in land values of residences surrounding hydropower reservoirs, adequate river flows for sustaining aquatic species and other wildlife, new recreational opportunities for a rapidly urbanizing region of the state, and predictable water supplies for some of the state's largest municipalities.

Duke Power owns and operates eleven reservoirs and thirteen dams and

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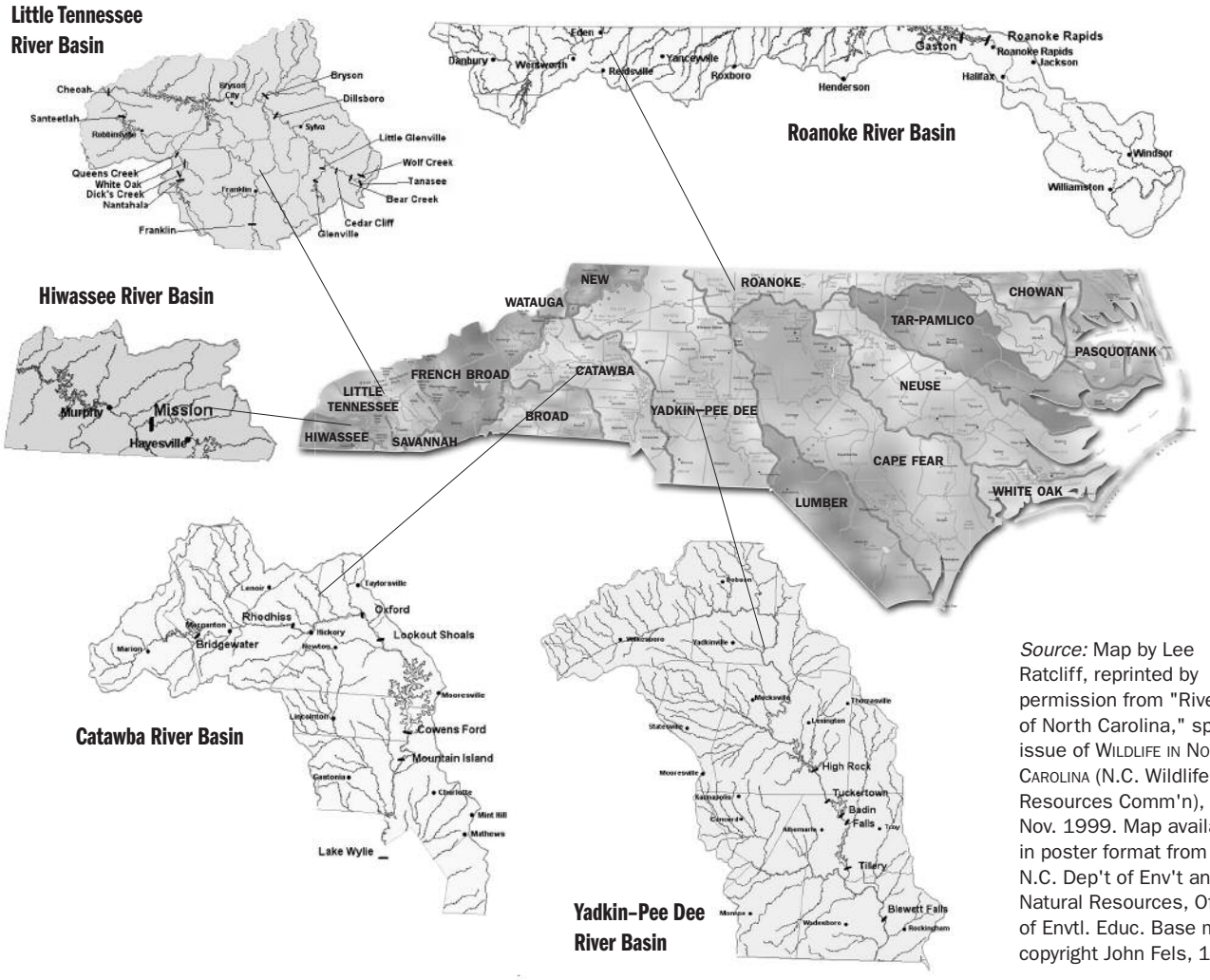
Locations of North Carolina Dams Operated for Hydropower Production



Source: Map by Lee Ratcliff, reprinted by permission from "Rivers of North Carolina," special issue of WILDLIFE IN NORTH CAROLINA (N.C. Wildlife Resources Comm'n), Nov. 1999. Map available in poster format from N.C. Dep't of Env't and Natural Resources, Office of Envtl. Educ. Base map copyright John Fels, 1997.

Table 1. **North Carolina Project Licenses Expiring by 2008**

Project Name	River	County	Exp. Date	Owner	Generating Capacity (kw)
Roanoke Rapids and Gaston	Roanoke	N.C.: Halifax, Northampton, and Warren Va.: Brunswick and Mecklenberg	Jan. 2001*	Dominion Power	278,000
Tapoco	Cheoah, Little Tennessee	N.C.: Graham and Swain Tenn.: Blount and Monroe	Feb. 2005	Alcoa Power Generating Inc.	359,800
Bryson	Oconaluftee	Swain	July 2005	Duke Power Co.	980
Dillsboro	Tuckasegee	Jackson	July 2005	Duke Power Co.	225
Franklin	Little Tennessee	Macon	July 2005	Duke Power Co.	1,040
Mission	Hiwassee	Clay	Aug. 2005	Duke Power Co.	1,800
West Fork	W. Fork Tuckasegee	Jackson	Jan. 2006	Duke Power Co.	24,600
East Fork	E. Fork Tuckasegee	Jackson	Jan. 2006	Duke Power Co.	26,175
Nantahala	Nantahala	Macon	Feb. 2006	Duke Power Co.	43,200
Yadkin–Pee Dee	Yadkin–Pee Dee	Montgomery and Stanly	Apr. 2008	Progress Energy	108,600
Yadkin	Yadkin–Pee Dee	Montgomery and Stanly	Apr. 2008	Alcoa Power Generating Inc.	9,520
Catawba-Wateree	Catawba	N.C.: Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell, and Mecklenburg S.C.: Chester, Fairfield, Kershaw, Lancaster, and York	Aug. 2008	Duke Power Co.	804,940

Source: Federal Energy Regulatory Commission, Hydroelectric Projects under Commission License (last visited Feb. 2004), available at http://ferc.gov/industries/hydropower/gen-info.asp.

*At the time of this writing, the Roanoke Rapids and Gaston project was operating on an annual license.

powerhouses on the Catawba River between Lake James in North Carolina and Lake Wateree in South Carolina. Under the Federal Power Act, the federal government licenses hydropower projects on navigable waterways. Duke Power's current license to operate its system of hydropower projects on the Catawba River, originally granted in 1958, expires in 2008. This article describes how utility companies like Duke Power are working with federal and state agencies, municipal and county governments, Native American tribal governments, industries and businesses, and nonprofit organizations to craft agreements that will govern the operation and management of dams, reservoirs, and other hydropower facilities for the next two generations.

Hydropower in North Carolina

The change in North Carolina's topography from the mountains to the piedmont holds certain benefits. Falling water not only produces fast-flowing rivers for rafters and trout fishermen, but when stored in reservoirs and shunted through turbine generators, it is converted into the electricity that powers North Carolina's economy.

Of the 2,700 dams in North Carolina, 69 are operated for hydropower production. These are some of the largest dams and reservoirs in the state. Lake Norman on the Catawba River, High Rock Lake on the Yadkin River, and Lake Gaston on the Roanoke River are known to boaters and anglers around the state. Water released from the dams that form these lakes is used to produce electricity. Dams for power production are found on twenty other rivers, including the Hiwassee, the Cheoah, the Little Tennessee, the Nantahala, the Tuckasegee, the Pigeon, the Deep, and the Mayo. (For the locations of major hydropower dams and reservoirs, see the map on page 15.)

Hydropower projects can be divided into two categories: federal and nonfederal. Federal projects in North Carolina are operated by the U.S. Army Corps of Engineers and the Tennessee Valley Authority. Nonfederal projects are owned and operated by individuals, private organizations, and state and local governments. The Federal Energy Regulatory Commission (FERC) regulates these nonfederal facilities through licenses. Among the 69 hydropower projects in North Carolina, 31 are licensed by FERC, 23 are exempt from licensing (because they are small projects or are constructed on an existing conduit such as an irrigation canal), 11 are unlicensed (because the facility does not sit across, along, or in navigable waters or on public lands), and 4 are federal facilities.[1] Because FERC issues few licenses for new hydropower facilities, most of its regulatory effort involves reviewing and modifying licenses set to expire. Of North Carolina's 31 licensed facilities, 12 have licenses that will expire by 2008 (see Table 1). FERC estimates that relicensing a project takes a utility five to eight years. So utilities like Duke Power and Progress Energy will be actively engaged in relicensing for the next several years.

Courtesy North Carolina Division of Tourism, Film and Sports Development

Balancing the Costs and the Benefits of Hydropower

Although the combined capacity of hydropower facilities in North Carolina represents only 4 percent of the total capacity statewide, it is nonetheless an important component of the state's system for generating electricity. Hydropower is a reliable, inexpensive, and renewable source of energy. One of its most useful characteristics is that it provides utilities with operational flexibility. They can switch hydropower generators on and off quickly, providing power during periods of peak demand. Also, dams support a number of recreational opportunities, including boating, fishing, swimming, and camping. Land surrounding reservoirs is valued for its scenic properties and its proximity to water. Local governments capture this value in property taxes. In some mountain counties, the high tax valuations on lakefront residential property constitute a significant portion of total county revenue. For example, the average value of the 1,800 residential parcels surrounding Lake Glenville, a Duke Power reservoir in Jackson County, exceeds $340,000.

Despite the benefits of hydropower, the facilities impose a cost to the environment. Dams flood valuable wildlife habitat and interrupt and modify downstream flows. In many cases the streambed below the dam is left dry as water is diverted into large pipes and sent through the turbines in the powerhouse. Other impacts include altered water temperatures, blocked migration routes for fish and other aquatic organisms, and death of fish that become trapped in the apparatus for generating power.

The facilities also exact a cost on the people who live on the shores of reservoirs and along the rivers downstream. Although reservoirs provide a variety of recreational opportunities, dams can limit or eliminate activities that require free-flowing water, such as fishing, rafting, and canoeing. Powering the turbines causes reservoir levels to fluctuate, affecting fish populations and reducing the scenic and recreational value of the lakes and adjoining property. Reduced flow downstream can impair a river's ability to assimilate pollutants, limiting municipal and industrial growth along the river.

In granting a license, FERC evaluates a project's benefits and its environmental and social impacts to develop a multiple-year plan that balances these factors. Such benefits may include continued production of electricity, flood control and water regulation, and protection and enhancement of fish and wildlife, recreation, water quality, and cultural and aesthetic resources.

On the Catawba River, Duke Power is working to balance costs and benefits by bringing stakeholders together to craft a settlement that will form the basis of its license conditions. In 2003 it assembled two state relicensing teams and four regional advisory groups to work on issues such as lake levels, stream flow, land use, and access to recreation. Represented are fourteen units of local government, state and federal resource agencies, environmental organizations, water-dependent businesses, recreation

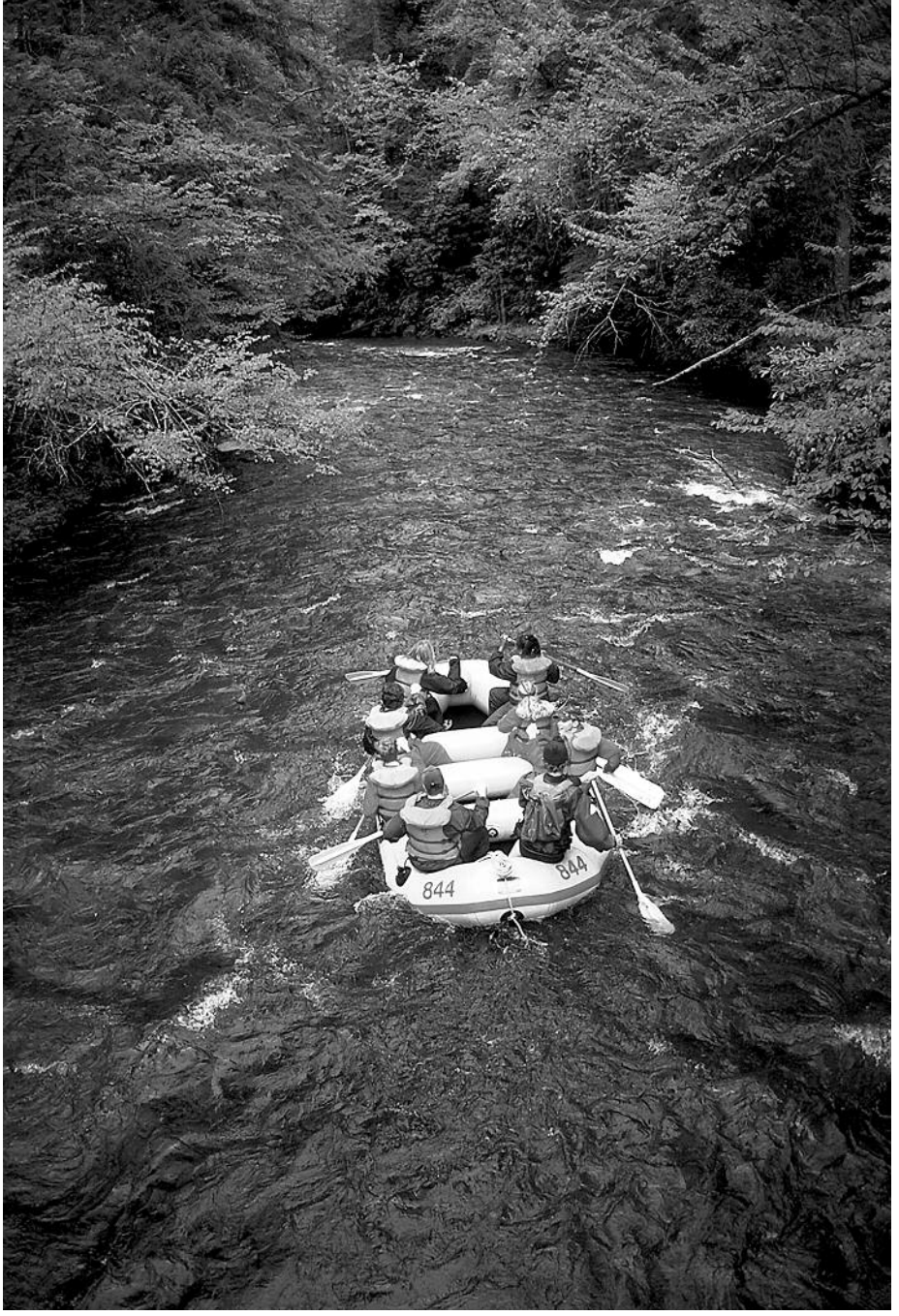
interests, adjacent property owners, and Duke Power officials—more than 120 people in all.[2] They will be meeting almost monthly through 2005 to negotiate agreements that balance interests and resolve the issues related to operation and management of Duke Power's facilities.

Hydropower and Local Government

North Carolina's towns and cities are linked to hydropower dams and reservoirs by proximity, history, and utility. Dillsboro Dam, on the Tuckasegee River in the Jackson County town of Dillsboro, was one of the earliest hydropower dams in North Carolina. C. J. Harris built it in 1913 to provide power to his Blue Ridge Locust Pin Factory. Harris later formed the Dillsboro and Sylva Electric Company to provide power to his business and a few other customers in Dillsboro and nearby Sylva. Today the dam is an aesthetic backdrop for the town. It and nine other hydropower plants in Duke Power's Nantahala service area generate about 40 percent of all the power used by customers in Cherokee, Graham, Jackson, Macon, and Swain counties.

However, in a relicensing agreement reached in 2003, Dillsboro Dam, the smallest in Duke Power's hydropower system, is slated for removal. Removing the dam will allow fish and other aquatic wildlife to move freely up and down the river and restore nearly a mile of riparian habitat while sacrificing less than 1 percent of power generated in the Nantahala area. Many town residents oppose removing the historic structure, though. They want Duke Power to turn ownership over to another operator and keep the dam generating electricity.

Many towns and cities have grown up around the state's hydropower reservoirs, most of which were built in the 1940s and 1950s to supply electricity for an economy rebounding from depression. Municipalities such as Cornelius and Huntersville on Lake Norman, Mount Holly on Lake Wylie, and Roanoke Rapids on Lake Gaston all gain from their proximity to large bodies of fresh water. These and dozens of other municipal and county jurisdictions withdraw drinking water from, locate their parks and recreation areas near, and discharge wastewater into, above, or below hydropower reservoirs. Also, lakeshore development and lake-generated tourism provide significant sources of revenue for municipalities and counties near hydropower facilities. Further, the flood control afforded by some dams is a life-and-death matter to many people living downstream.

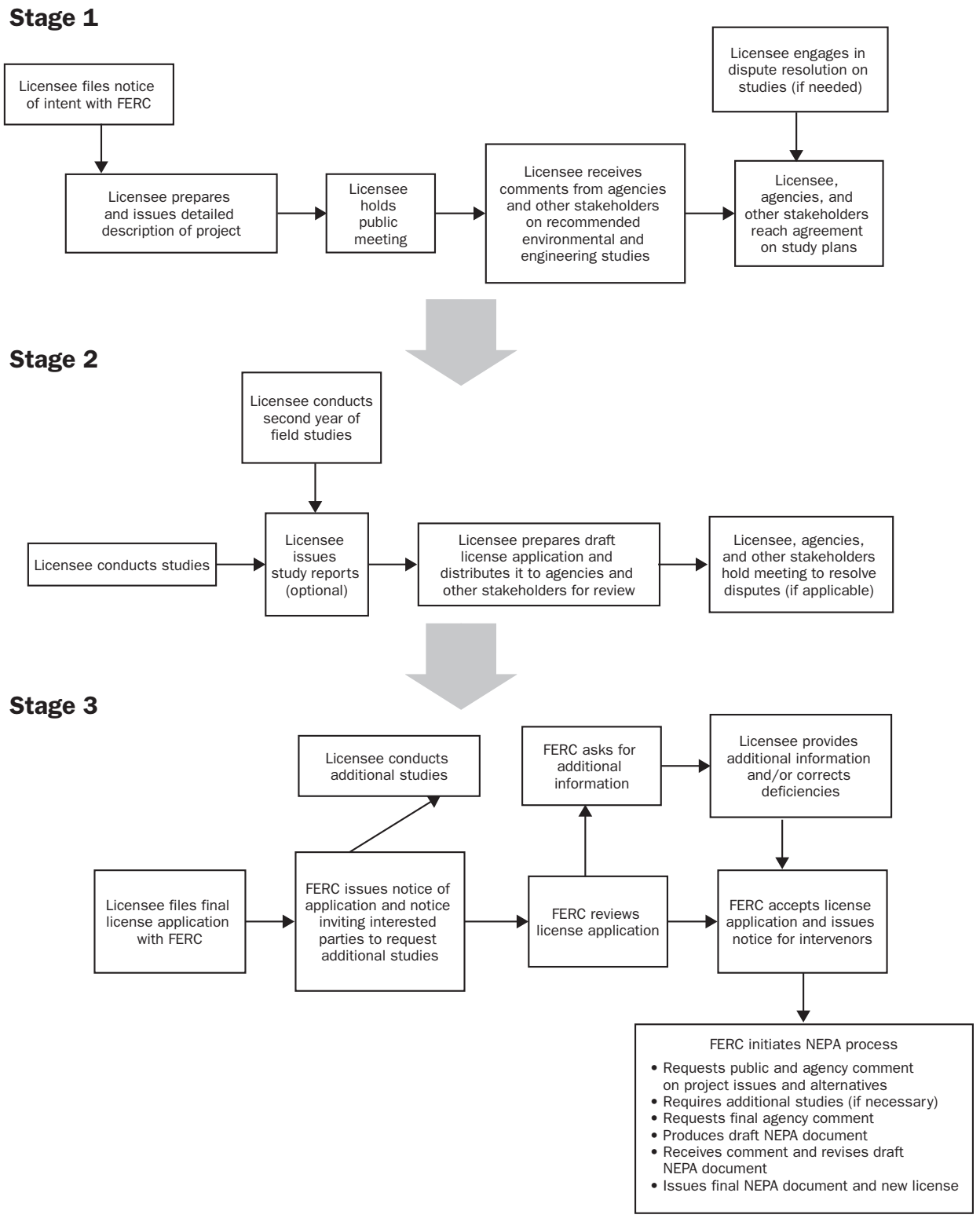


Courtesy North Carolina Division of Tourism, Film and Sports Development

With so much riding on the hydropower industry, local governments share a keen interest in the operation and management of nearby dams and reservoirs. Relicensing is a once-in-a-generation opportunity for them to protect—and even strengthen—their interests in such resources. Mary George, Catawba County senior planner, thinks that Catawba County should have "an active voice in the outcome of relicensing. We need to be part of the solution, and we want others to be aware of our interests and needs." Bordered by three of Duke Power's hydropower reservoirs, the county relies on the tourism and the associated economic development that these facilities generate. According to George, county officials want to maintain strategic public access to recreation amenities for lake users while ensuring high water quality in the lakes and predictable flow levels below Oxford Dam.[3]

Downstream from Catawba County, officials of Belmont are chiefly concerned about protecting the city's water supply. The water-supply intake is

Figure 1. **Traditional Licensing Process**



located on Lake Wylie, just south of the bridge over Highway 74. "We're the last intake on the Catawba in North Carolina," says City Manager Barry Webb, "and water quality and quantity are extremely important to us."[4] Relicensing is the primary mechanism for Belmont residents to ensure the protection of their water interests.

Local governments can secure their needs for water allocation, public access, and flood control by participating in relicensing processes and seeking agreements with power companies, natural resource agencies, conservation organizations, and other stakeholders. However, the licensing process is complex, specialized, and somewhat arcane. Most

Table 2. **Comparison of the Three Licensing Processes**

	Traditional Licensing Process (TLP)	Alternative Licensing Process (ALP)	Integrated Licensing Process (ILP)
Consultation with Stakeholders	Paper driven	Collaborative	Integrated
FERC Staff Involvement	After application is filed	Before application is filed Early involvement on request	Early and sustained involvement throughout process
Deadlines	Some prefiling deadlines for participants Defined postfiling deadlines for participants	Prefiling deadlines defined by collaborative group Defined postfiling deadlines for participants	Defined deadlines for all participants, including FERC, throughout process
Study Plan Development	Developed by applicant on basis of early agency recommendations No FERC involvement	Developed by collaborative group Assistance from FERC staff as resources allow	Developed through study plan meetings Plan approved by FERC
Dispute Resolution (for Disputes about Study Plans)	Available from FERC on request FERC opinion advisory	Available from FERC on request FERC opinion advisory	Informal dispute resolution available to all participants Formal dispute resolution available to agencies Three-member panel technical recommendation on study dispute FERC opinion binding on applicant
Application	Draft and final application to include environmental report	Draft and final application to include applicant-prepared environmental assessment or third-party environmental impact statement	Preliminary licensing proposal or draft application, and final application to include environmental report that has form and contents of environmental assessment

Source: Adapted from *Hydroelectric Licensing Rulemaking, Order 2002—Matrix Comparing Three Processes* (last updated Oct. 16, 2003), by Federal Energy Regulatory Commission, available at http://ferc.gov/industries/hydropower/indus-act/hl-matrix.asp.

Note: FERC = Federal Energy Regulatory Commission.

planners, municipal utility directors, and other local government staff who might become involved in relicensing are not familiar with the laws, the procedures, and the actors that define the process.

The Relicensing Process

The federal government's regulatory oversight of construction, operation, and maintenance of hydropower facilities dates back to 1920, with the passing of the Federal Power Act and the creation of the Federal Power Commission, later to become FERC.[5] The most recent amendments to the act enlarged the role of state and federal fish and wildlife agencies, giving environmental and other nonpower values the same consideration that power concerns receive.

Since the mid-1980s the FERC relicensing process has consisted of a comprehensive review of the license application combined with consultation with the power company and other interested parties. Known as the "three-stage consultation process" or the Traditional Licensing Process (TLP), it gets its name from three discrete stages of consultation. The principal participants in the review process include the power company (more accurately referred to as the licensee), FERC, federal and state natural resource agencies, and Native American tribes. Involvement of other participants, including local governments, varies depending on the issues related to each project. (For an illustration of the basic flow of the process, see Figure 1.)

Stage 1 of the relicensing process begins five years before the license is set to expire. The licensee alerts FERC that it intends to relicense its facilities. It prepares a detailed project description and holds meetings with resource agencies and other stakeholders to gather comments and recommendations on environmental and engineering studies that should be undertaken in preparation for the new license. This is known as "project scoping." At the licensee's discretion, it can work with agencies and stakeholders to reach agreement on a study plan.

In *Stage 2* the licensee conducts the studies and, at its discretion, issues study reports for review and comment by agencies and other stakeholders. During this stage the licensee generates a draft license application that summarizes the results of the studies and describes how the project will be operated to satisfy environmental or other nonpower issues. The licensee receives comments from agencies and stakeholders and may decide to hold additional meetings to resolve disputes over the draft license application.

In *Stage 3* the licensee files its application with FERC. At this time FERC becomes formally involved. It publishes a notice announcing the submission of the final application, invites interested parties to request additional studies, and publishes a notice inviting comment,

Table 3. **Recent and Active Settlement Negotiations on North Carolina Hydropower Projects**

Project Name	Owner	Deadline for Submission of License Application	Local Government Participants
Negotiations Complete			
Roanoke Rapids and Gaston	Dominion Power	Jan. 1999*	Regional Partnership of Local Governments (Va.), Roanoke Rapids, and Virginia Beach (Va.)
Tapoco	Alcoa Power Generating Inc.	Feb. 2003	Graham County
Tuckasegee (East and West Forks)	Duke Power Co.	Jan. 2004	Dillsboro, Eastern Band of Cherokee Indians, Jackson County, Swain County, Sylva, and Webster
Nantahala	Duke Power Co.	Feb. 2004	Eastern Band of Cherokee Indians, Swain County Economic Development Commission, and Swain County Soil and Water Conservation District
Negotiations in Progress			
Yadkin	Alcoa Power Generating Inc.	Apr. 2006	Albemarle, Catawba Indian Nation, Davidson County, Davie County, Georgetown (S.C.), Montgomery County, Rowan County, Salisbury, and Stanly County
Yadkin–Pee Dee	Progress Energy	Apr. 2006	Anson County, Badin, Lumber River Council of Governments, Montgomery County, Richmond County, and Rockingham
Catawba-Wateree	Duke Power Co.	Aug. 2006	Alexander County, Belmont, Burke County, Caldwell County, Camden (S.C.), Catawba County, Catawba Regional Council of Governments (S.C.), Centralina Council of Governments, Gaston County Quality of Natural Resources Commission, Great Falls (S.C.), Iredell County, Kershaw County Conservation District (S.C.), Mecklenburg County Water Quality Program, Rock Hill (S.C.), Western Piedmont Council of Governments, and York County (S.C.)

Courtesy North Carolina Division of Tourism, Film and Sports Development

*At the time of this writing, the Roanoke Rapids and Gaston project was operating on an annual license.

protest, or intervention. This step triggers the environmental review process of the National Environmental Policy Act (NEPA), which documents the environmental impacts associated with the project. Depending on the results of the project scoping, FERC may require a licensee to conduct additional studies or provide it with additional information. Once FERC has gathered the information it needs from the licensee, resource agencies, and stakeholders, it prepares a draft NEPA document—— either an environmental impact statement or an abbreviated environmental assessment, depending on the project—— and issues the document for public comment. Following agency and public review, FERC decides whether to issue a new license and issues a final NEPA document that contains the terms and conditions of the new license.

This description of the TLP offers three lessons. First, if there is any contention among the licensee, resource agencies, and other stakeholders, the process can become redundant and time-consuming. For instance, the licensee may undertake comprehensive studies of the environment and project operations in Stage 1. If the resource agencies and other stakeholders find the study plan to be deficient, they may appeal to FERC in Stage 3 and compel the licensee to undertake new studies. Second, much of what is learned in the Stage 1 studies is duplicated in the NEPA environmental review conducted by FERC in Stage 3. Third, the licensee can increase the efficiency of the entire process if it chooses to negotiate with resource agencies and other stakeholders on the study plan and license application before filing.

Following a period of significant contention and polarization in the early 1990s, when more than 150 licenses were being renewed around the country, FERC, the industry, resource agencies, and other stakeholders sought changes in the TLP. In 1997, FERC adopted the Alternative Licensing Process (ALP), through which it sought to increase public participation, reduce disputes, and promote agreement. The fundamental difference between the two processes is that the ALP integrates the Stage 1 project scoping nd the Stage 3 environmental review before the license is filed.

The ALP is a significant departure from the old way of relicensing. One of its primary objectives is to promote cooperation and early communication between the stakeholders and the licensee. It expands the group of stakeholders involved in the process and ensures discussion and negotiation of issues.

One of the most important aspects of the ALP is project scoping. During this phase the licensee and stakeholders cooperate to identify project issues and alternatives and develop a study plan to guide later decision making.

Dominion Power, in relicensing its facilities on the Roanoke River, and Alcoa Power, in relicensing its Tapoco project on the Cheoah River, both used the ALP. Dominion Power initiated its process in February 1998. It signed a settlement with thirteen parties, including Roanoke Rapids and a consortium of local governments, five years later, in July 2003. Alcoa Power's ALP also required five years, culminating in a license application in February 2003. Graham County and the Eastern Band of Cherokee Indians were parties to that agreement.

By January 2001, fewer than half of the licensees initiating relicensing proceedings had adopted the ALP. Those waiting to start their processes, including Duke Power and Progress Energy, had observed the ALP experiment and elected to stay with the TLP or some version of it. For many licensees and stakeholders, the ALP was an improvement over the TLP, but it had flaws. Primary among them was the lack of a scheduling structure and deadline requirements that provided the licensee with certainty that it could undertake the process at a reasonable cost.[6] Other problems included duplication in the NEPA scoping and information development process. These shortcomings prompted FERC and a coalition of industries, nonprofit groups, and state and federal resource agencies to revamp the process. In summer 2003, FERC announced the Integrated Licensing Process (ILP).

The ILP should be more predictable, efficient, and timely than its predecessors. Like the ALP, it combines the pre-filing consultation and the NEPA scoping, rather than conducting these activities sequentially. Also, it brings FERC staff into the process during the preparation of the application, and it establishes schedules for all participants. After July 2005 the ILP will become the default process for obtaining a FERC license, and licensees must appeal to FERC if they want to use the TLP or the ALP. (For a comparison of the three licensing processes, see Table 2, page 20.)

A common theme underlying all the efforts just described is that FERC, the licensees, and stakeholders sought to reduce the time and cost of the licensing process, improve the quality of decision making, and expand the role of stakeholders, including local government, in relicensing. Even though most licensees elected not to proceed with the ALP after 1997, many employed a modified version of the TLP that included significant opportunities for extensive input into relicensing decisions from stakeholders.

Duke Power, Alcoa Power, and Progress Energy each elected to use such a version. In the Nantahala service area, Duke Power convened two stakeholder teams, one on the Tuckasegee and one on the Nantahala, to work toward settlements on four of its seven licenses. Its process on the Catawba River has been modeled after that effort. Says Duke Power's Lineberger, "Every hydropower licensee has to make some decisions about how it's going to set up its process, but I would recommend to all of them to figure out a way to get the people that have an interest in the project involved. They don't have to have the regulator come tell them how to do things. Local decisions are always, I believe, going to be better."[7]

Settlement to Address Local Governments' Needs

FERC bases its licensing decisions, in part, on input from state and federal agencies, Native American tribes, and stakeholders. The utility often is better off attempting to secure the endorsement of these parties before filing its license application. To this end the utility may seek to negotiate a comprehensive settlement with all the primary parties. A "settlement" is a written and signed agreement among stakeholders to resolve some or all of the relicensing issues pertaining to a project. Settlements often include agreements on operating conditions, such as lake levels and stream flows, construction and placement of recreation facilities and access, and protection of fish and wildlife habitats. Settlements are filed with FERC along with the license application. If parties to a licensing process reach settlement (sometimes a partial settlement between certain parties), FERC will usually implement these terms as part of the license.

Settlements now form the basis for about half of all FERC licenses.[8] Often they are the result of considerable negotiations among stakeholders. Although settlements incorporate standard conditions that are within FERC's primary jurisdiction, some also include provisions outside that jurisdiction, increasing the relevance of the relicensing process for many stakeholders. Reaching a settlement with a broad group of stakeholders before submitting its application to FERC is arguably the most effective and efficient way for a licensee to meet local interests. (For a list of projects that recently completed settlement negotiations or currently have negotiations under way, see Table 3, page 21.)

Local governments have had mixed results in past settlements in North Carolina. In October 2003, Duke Power signed agreements with thirty parties, including four units of local government, on its licenses on the Nantahala and Tuckasegee watersheds in western North Carolina. Issues under consideration on these projects included lake levels, downstream flows for recreation and aquatic life, removal of Dillsboro Dam, sedimentation, protection of wildlife habitat and open space, recreation facilities, and public access to lakes and rivers. Dillsboro, the Swain County Economic Development Commission, the Swain County Soil and Water Conservation District, and Sylva were parties to one or both agreements.

Jackson County participated in the negotiations on the Tuckasegee but not in the agreement. According to Jackson County Manager Ken Westmoreland, the agreement provided few general recreation opportunities for county residents. Jackson County wanted more upgrades at the county-owned park located at Lake Glenville and development of a greenway along the Tuckasegee River.[9] Dillsboro officials did not support removal of the dam but did settle for a compensation package that included land along the project site and monetary and in-kind assistance to help the town develop and implement a plan for economic development following removal of the dam.

On the Cheoah River in Alcoa Power's Tapoco project, Graham County was the lone local government to participate in the relicensing effort. In 2004 it signed a settlement with the utility, along with

state and federal resource agencies, river outfitters, and conservation organizations. Important issues to Graham County revolved around the economic development potential of building and maintaining a viable tourism industry in the county. According to County Manager Jeff Cabe, the county was reasonably successful in stabilizing lake levels on Santeetlah Lake, maintaining sufficient downstream flows for a trout fishery and recreational boating on the river, and providing recreation access on the lake and the river.[10]

Roanoke Rapids, Virginia Beach (Va.), and a consortium of Virginia local governments entered into a settlement agreement with Dominion Power governing its hydropower facilities on Lake Gaston and Roanoke Rapids Lake. Roanoke Rapids especially wanted to secure recreation facilities on and access to the lakes. Chris Wicker, Roanoke Rapids parks and recreation director, reports that the city is satisfied with the agreement signed with Dominion Power. In addition to taking measures to enhance water quality and fish habitat in the two lakes, Dominion Power is providing land and facilities for a city park on Roanoke Rapids Lake, a day-use recreational area on Lake Gaston, improved sites for access to fishing, and scheduled releases below the dam for whitewater recreation.[11]

For projects owned by Alcoa Power and Progress Energy on the Yadkin River, and by Duke Power on the Catawba River, relicensing settlement committees have been established, and negotiations are under way. Alcoa-Yadkin began the relicensing process in spring 2003 by appointing a number of advisory groups to identify issues that warrant study and to participate in settlement negotiations. The groups consist of representatives of state and federal resource agencies, local governments, Native American tribes, nonprofit organizations, and homeowner groups. After a year of study preparation, Alcoa Power began formal settlement negotiations. The local governments involved include Albemarle, Badin, and Salisbury, and the counties of Davidson, Montgomery, Rowan, and Stanly. Key issues for the local governments are lake levels in the three largest reservoirs, High Rock, Narrows, and Tuckertown; shoreline development; downstream flows to support recreation, water supply, and waste assimilation; and access to and facilities for recreation. Alcoa Power must file its license application with FERC by April 2006.

Down river from the Alcoa Power projects, Progress Energy is involving stakeholders in settlement negotiations for its facilities on the lower Yadkin. On the same schedule as Alcoa Power, Progress Energy has initiated a similar relicensing process, forming resource working groups in early 2003 that identified forty issues pertaining to Lake Tillery and Blewett Falls Lake and associated river reaches, dams, and powerhouses. Local governments involved in negotiating a settlement are Rockingham and the counties of Anson, Montgomery, and Richmond. The Lumber River Council of Governments also will be involved, representing the interests of other local governments. The issues are the same as those upstream on the Alcoa Power projects.

In Duke Power's ambitious relicensing process on the Catawba River, stakeholders will attempt to fashion an agreement that meets the interests of most people who are affected in some way by the hydropower projects. By working through the issues, learning what others need from the resource, and gaining an understanding of the legal, scientific, and technical aspects of resource protection and management, these stakeholders can put together the foundation of a license application that achieves the balance that FERC wants. Successful negotiations hold the promise of a comprehensive settlement that exceeds the benefits to be achieved by stakeholders acting alone through the TLP. Acknowledging this potential, when Duke Power offered its initial draft of a settlement in fall 2004, it prominently featured a quote by Helen Keller in the room where the stakeholders met: "Alone we can do so little, together we do can so much."

Conclusion

Even though hydropower relicensing is lengthy and complex, the process holds many rewards for local governments that choose to participate. The last major hydropower projects up for relicensing in North Carolina for the next twenty-five years are currently under negotiation. Duke Power, Progress Energy, and Alcoa Power will submit license applications to FERC in 2006. After that, the role of local governments will be to implement and monitor the agreements they are negotiating today.

Notes

1. Ecological Services, U.S. Fish and Wildlife Service, *North Carolina Hydroelectric Facilities* (last visited Apr. 6, 2005), available at http://nces.fws.gov/hydro/fercnc.html.

2. Information about Duke Power's relicensing process on the Catawba River project can be found at www.catawbahydrorelicensing.com. The site contains information on relicensing studies, participating stakeholders, and stakeholder meetings.

3. Telephone Interview with Mary George, Senior Planner, Catawba County, N.C. (Oct. 2004).

4. Telephone Interview with Barry Webb, City Manager, Belmont, N.C. (Oct. 2004).

5. For an excellent treatment of the laws and regulations on hydropower relicensing, *see* JEREMY M. FIRESTONE, HYDROPOWER RELICENSING: OPPORTUNITIES FOR AND OBSTACLES TO ENVIRONMENTAL QUALITY IMPROVEMENTS AND RECREATIONAL ENHANCEMENTS ON SOUTHEASTERN RIVERS (Environmental Finance Ctr., Univ. of N.C. at Chapel Hill, Oct. 2001), available at www.efc.unc.edu/projects/HydroLicensing.pdf.

6. Hydroelectric License Regulations under the Federal Power Act, Notice Requesting Comments and Establishing Public Forums and Procedures and Schedule, 67 Fed. Reg. 58739, 58744 (2002).

7. Interview with Jeff Lineberger, Hydropower Licensing Manager, Duke Power Company, in Cullowhee, N.C. (Aug. 2003).

8. Comments by Anne Miles, Hydropower Licensing Division Director, Federal Energy Regulatory Comm'n, at the Catawba-Wateree Relicensing All Stakeholders Meeting in Rock Hill, S.C. (Oct. 2004).

9. L. S. SMUTKO, DUKE POWER–NANTAHALA AREA TUCKASEGEE COOPERATIVE STAKEHOLDER TEAM—EAST FORK (#2698), WEST FORK (#2686), AND DILLSBORO (#2602) PROJECTS FINAL REPORT (Raleigh: N.C. State Univ., July 2003).

10. Telephone Interview with Jeff Cabe, Graham County (N.C.) Manager (Oct. 2004).

11. Telephone Interview with Chris Wicker, Parks and Recreation Director, Roanoke Rapids, N.C. (Oct. 2004).