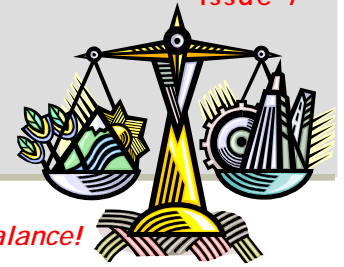


# CRA NEWS AND RECORD



*An update on Catawba-Wateree Relicensing Activities  
Provided by the Catawba-Wateree Final Agreement Committee (FAC)*

*It's about balance!*

## A Lot to Cover

*Mark Oakley, Duke Energy*

My dad used to say to me: "Boy, I'm going to have to drive a stake in the ground beside you to see if you're moving or not!" That's the way we've felt about the Catawba-Wateree relicensing process from time to time. While I have not gotten much faster, relicensing activities have really accelerated recently and for the rest of the year are expected to continue to move at a faster pace than we've seen so far.

On February 28, 2008 FERC issued its Final Scoping Document. On April 3, 2008, FERC sent Duke a 32-item additional information request on the license application. On April 7, 2008, FERC announced that the Catawba-Wateree application was Ready for Environmental Analysis. This last FERC action created a flurry of activity to meet a June 6, 2008 deadline for CRA Parties and others to file recommended terms and conditions with the FERC, for Duke to file its 401 Water Quality Certification Applications in NC and SC, and for the US Fish and Wildlife Service and National Marine Fisheries Service to file preliminary fish passage prescriptions with the FERC. During the remainder of 2008 there will be comment periods on the 401 Water Quality Certification applications and also on the Draft Environmental Impact Statement expected from FERC late this year.

During the same period of time, CRA Parties and others were making spectacular things happen. This issue of the CRA News and Record highlights these achievements, which include the completion of an Upper Catawba Public Access Agreement,

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completion of a Fish Passage Agreement (Accord), continued development of Water Management Group plans, and continued drought management stewardship by the C-W Drought Management Advisory Group.

You will notice a slightly different format in this newsletter. CRA Parties and others who contributed articles are recognized with a by-line in the title of their article. Thanks to these folks for taking the time to share their stories with all Parties. If you want to contribute an article or just want a question answered, contact Mark Oakley (704-382-5778; [emoakley@duke-energy.com](mailto:emoakley@duke-energy.com)).

### Your current FAC members are:

- Mike Bailes ..... [mbailes@comporium.net](mailto:mbailes@comporium.net)
- Barry Beasley ..... [beasleyb@dnr.sc.gov](mailto:beasleyb@dnr.sc.gov)
- Tony Bebbber ..... [tbebbber@scprt.com](mailto:tbebbber@scprt.com)
- Maurice Blackburn . [mblackburn1@carolina.rr.com](mailto:mblackburn1@carolina.rr.com)
- Marc Collins ..... [mcollins@co.burke.nc.us](mailto:mcollins@co.burke.nc.us)
- Gary Faulkenberry .... [gariverrats@comporium.net](mailto:gariverrats@comporium.net)
- Chris Goudreau ..... [chris.goudreau@ncwildlife.org](mailto:chris.goudreau@ncwildlife.org)
- Barry Gullet ..... [bgullet@ci.charlotte.nc.us](mailto:bgullet@ci.charlotte.nc.us)
- Jeff Lineberger..... [jglinebe@duke-energy.com](mailto:jglinebe@duke-energy.com)
- Steve Reed..... [steven.reed@ncmail.net](mailto:steven.reed@ncmail.net)
- Al Sharp ..... [arsharp@centralina.org](mailto:arsharp@centralina.org)
- Vicki Taylor ..... [vetaylor@roadrunner.com](mailto:vetaylor@roadrunner.com)

## 2008 CRA Commitments

*Mark Oakley, Duke Energy*

- CRA Section 4.5.2: By March 1, 2008 – Associated Public Access, Open Space and Trails Planning – The date for this commitment was extended by mutual agreement of the affected Parties and the Final Agreement Committee to May 1, 2008. On April 30, 2008 Duke Energy Carolinas, LLC, Duke Ventures, LLC, Crescent Resources, LLC, and the NC Department of Environment and Natural Resources (NCDENR) signed an agreement that provided a larger benefit than any party envisioned at the outset of the negotiations. Refer to Steve Reed’s article in this newsletter.
- CRA Section 9.3.2.5: By the end of 2008 – Vegetation Management – Duke has provided \$20,000 to the SC Department of Parks Recreation and Tourism for clearing vegetation that threatens the stability of the Dearborn Armory site.
- CRA Section 10.4: By August 31, 2008 – Maintenance Agreement with NCWRC – Duke and the NC Wildlife Resources Commission (NCWRC) have signed a new agreement for maintenance of boat launches, public fishing areas, and parking facilities at the Licensee’s access areas in North Carolina for the term of the New License. The new agreement took effect on July 1, 2008.
- CRA Section 14.1: By August 31, 2008 – Facility Exclusion Zones – The proper statutes and regulations are now in place in both NC and SC to enable NCWRC and the SC Department of Natural Resources to enforce areas upstream and downstream of Catawba–Wateree dams that are now more appropriately called “safety zones” rather than exclusion zones. Duke is working with both agencies to properly word the signs that will delineate these new safety zones. Duke will then have the signs made and installed.
- CRA Appendix K: By the end of 2008 – Template for a Memorandum of Understanding between the Licensee and States, Counties, and Municipalities – Parties will review the effectiveness of the MOU to evaluate potential modifications that more adequately address the purpose of the MOU, which is to promote coordination of land and/or water management responsibilities among Duke and local governments.

## Public Access, Open Space and Trails Agreement to Result in 2600 Acres of Conservation Lands along the Johns River in North Carolina

*Steve Reed, NC Department of Environment and Natural Resources*

The North Carolina Department of Environment and Natural Resources (NCDENR), Duke Energy Carolinas, LLC (Duke Energy), and Crescent Resources, LLC (Crescent) negotiated for almost two years on where public access would be provided on the conservation easements along the Johns River and Bridgewater Regulated River Reach of the Catawba River. NCDENR convened and worked closely with the Catawba–Johns Advisory

Committee throughout the planning process. On April 30, 2008, NCDENR, Duke Energy, Crescent and Duke Ventures signed an Agreement that will provide significantly more public access, open space and trail opportunities than any of the negotiators could have imagined only a few months earlier. On May 1<sup>st</sup>, Sec. Bill Ross of

*(continued on next page)*

NCDENR sent a letter, as called for in Section 4.5.2 of the CRA, to the Signature Parties stating that the planning process resulted in an Agreement that NCDENR finds results in a level of public access, open space and trail opportunities that is acceptable. According to Section 4.5.3, since this process resulted in an acceptable level of public access to NCDENR, no Party to the CRA shall make or support requests to FERC to require the Licensee to provide additional public access, open space or trails beyond those identified in Section 10.27 of the CRA and the above Agreement.

The Agreement provides new trail easements through some of the conservation easements along the Catawba River and Warrior Fork in Burke County and the Johns River in Caldwell County. The key component of the Agreement provides NCDENR or its designee the opportunity to purchase almost 2,600 acres of lands predominately along the scenic Johns River in Burke County with some parcels along the Johns River and Wilson Creek in Caldwell County. Duke Ventures, a wholly owned subsidiary of Duke Energy, has acquired the properties from Crescent and will provide roughly 3–4 years for NCDENR to obtain funds from grants and other sources to purchase the lands. Land

Purchase Options between The State of North Carolina and Duke Ventures will be finalized by March 1, 2009. Duke Ventures will reduce the purchase price by \$1,350 per acre, up to a total of \$3.5 million if all tracts are purchased. The acquisition of these 2,600 acres of riverine floodplains and uplands will help preserve a functional ecological corridor between the Johns River Gamelands at the confluence of the Johns and Catawba rivers upstream to Wilson Creek Gorge and the Appalachian Mountains. NCDENR and the Catawba–Johns Advisory Committee plan to have a celebratory float trip down the Johns River through these beautiful lands later this summer or during the fall.

The entire Agreement is available at the Catawba–Wateree Relicensing Facilitation website at [www.cwadmin.com](http://www.cwadmin.com) in the Party Information folder or at our Division of Water Resources' website at [www.ncwater.org](http://www.ncwater.org) under the Special Topics header. If you have any questions or would like additional information regarding the Agreement, please contact Steve Reed, Hydropower Licensing Coordinator, at [Steven.Reed@ncmail.net](mailto:Steven.Reed@ncmail.net) or 919–715–5424.

## Fish Passage Accord is Signed!

*Mark Cantrell and Amanda Hill, US Fish and Wildlife Service*

Well, when all the dust settled after the Comprehensive Relicensing Agreement was signed, many of you may have noticed that there were still some unresolved issues, and you may have noticed that the U.S. Fish and Wildlife Service (USFWS) did not sign the CRA.

One of the reasons that the USFWS was reluctant to enter into the CRA was that a chief concern of the agency was not addressed – namely that of diadromous fishes. The reason that diadromous

fish were not addressed in the CRA was that this issue involved much more than just the Catawba–Wateree Hydroelectric Project, fish passage, flows, or even Duke Energy. Diadromous fish restoration is an inter-jurisdictional issue that involves many interested parties and objectives that are broader than those typically resolved in a relicensing settlement agreement, even for a large hydroelectric project like the Catawba–Wateree. *(continued on next page)*

So, quietly, over the past couple of years since the CRA was signed, the USFWS, the South Carolina Department of Natural Resources, the North Carolina Wildlife Resources Commission, South Carolina Electric and Gas and Duke have been working out the details of an agreement to restore diadromous fish in the Santee River Basin which includes the Catawba–Wateree River Basin. With participation from the National Marine Fisheries Service, the South Carolina Department of Health and Environmental Control, and Santee Cooper, the group has developed a vision for restoration that includes an initial 10–year action plan, a list of restoration goals and actions, and provisions for fish passage that extend for the life of the next C–W FERC license known as the Santee Basin Fish Passage Accord.

The group has embarked on an aggressive but careful program of fish stocking, habitat research, and monitoring that will extend through the next license period.

Remember, diadromous fish were explicitly not dealt with in the CRA, because of the complexity of the issues, and a timeline that just did not allow adequate resolution. Besides, diadromous fish restoration is much larger than just the Catawba–Wateree, and required a broader perspective – the entire Santee Basin. The solution had to include other parties and other sub–basins.

So, Duke, the USFWS, and the other parties were careful to craft an agreement that would restore diadromous fish in the most logical and efficient manner, but in a way that did not “unravel” the hard work of the CRA (and other agreements within the Santee Basin), but achieved important objectives for the C–W Project area, and contributed to the restoration goals for the Santee Basin.

Important provisions of the Santee Accord include:

1. Funding for American shad fry stocking,

important to “jump–start” returning shad populations.

2. Construction of a trap/sort/haul facility at Wateree Dam to serve the upstream spawning habitat for American shad and blueback herring. This facility will be constructed by 2018, and will provide upstream passage to priority reaches of the Catawba and Wateree rivers and some of the larger tributaries.
3. Construction of American eel fishways at each of the C–W Project developments in a sequential order as eels progress upstream. Plans are to construct temporary/portable manual ramp traps in an orderly sequence beginning at Wateree Dam, and proceeding upstream through the Catawba–Wateree Project developments to provide passage for these fish.
4. Monitoring and research of diadromous fish movement patterns in the basin. There is much that we still need to know and understand about how diadromous fishes utilize the C–W and other parts of the Santee Basin in its current and future conditions.

The Santee Accord promises to be the most efficient and cooperative means of restoring migratory American shad, blueback herring, and American eels to the Santee Basin. These specific measures to provide access to habitat that is currently inaccessible above dams will increase diadromous fish in the Santee Basin, while the monitoring and studies will provide information needed to refine and guide our conservation and enhancement efforts for these important resources.

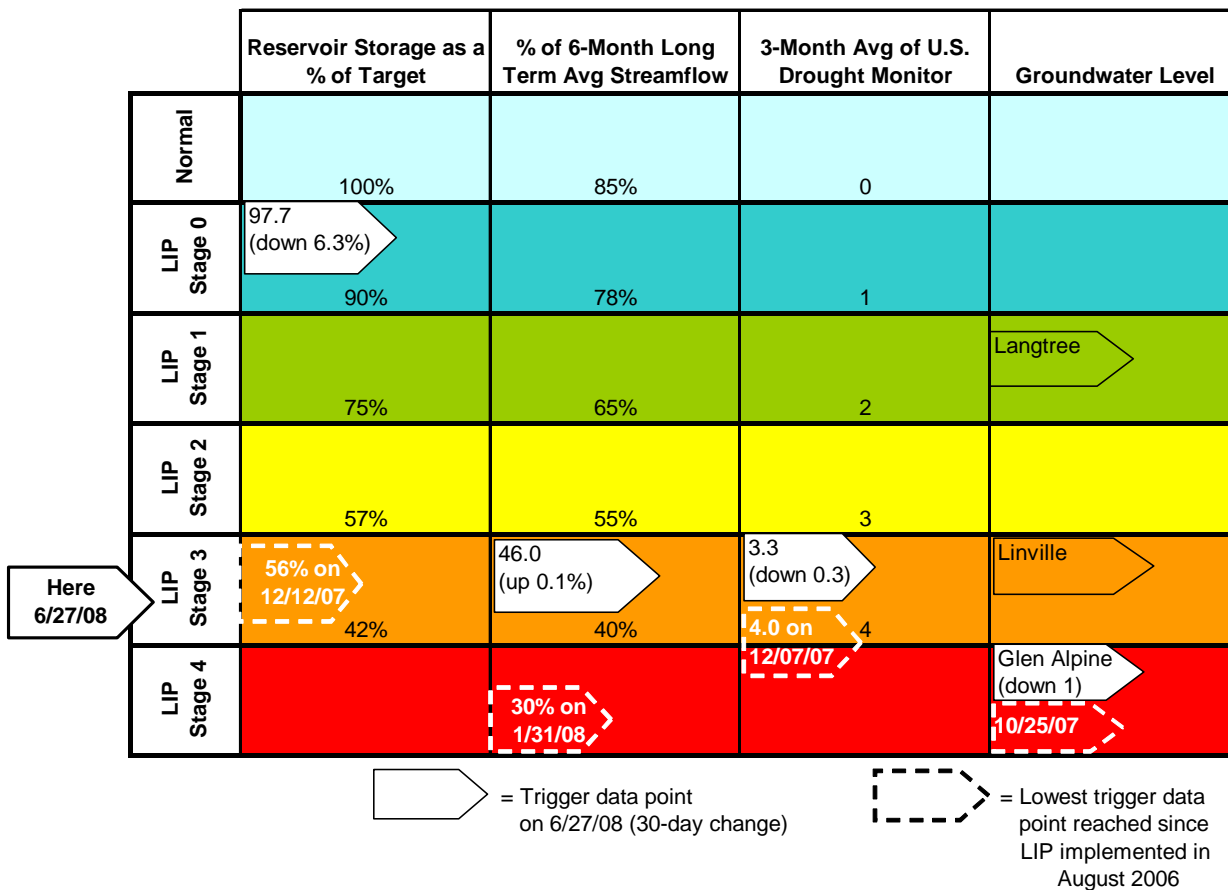
For more details about the Santee Accord, and what it will mean for the C–W, contact Mark Cantrell at 828/258–3939 (extension 227) or Amanda Hill at 843/727–4707 (extension 303).

# Drought Update

*Ed Bruce, Duke Energy*

The drought in the Catawba–Wateree Basin has continued into the summer of 2008, with significantly below average rainfall this year. The remaining storage in the reservoirs recovered to just above Target levels earlier this spring from last fall’s lowest points. However, low tributary streamflows and increased natural evaporation have begun to impact reservoir storage again in 2008. The Catawba–Wateree Drought Management Advisory Group (CW–DMAG) monitors remaining storage in the reservoirs, tributary inflows, the US Drought Monitor and groundwater levels as part of the Low Inflow Protocol (LIP) procedures that are contained in the CRA. The latest drought indicators used to monitor the drought are shown graphically in the diagram below.

**Catawba-Wateree Low Inflow Protocol (LIP) Trigger Status**



The Catawba–Wateree Basin entered LIP Stage 3 last October. Since that time, the drought indicators did not moved up to LIP Stage 2. The basin remains in Stage 3 and the longer–term predictions indicate that lower than average rainfall may continue throughout the summer months. The CW–DMAG has been meeting continuously throughout the last year as part of the efforts to manage the Catawba–Wateree Basin water resources.

## Water Management Group Update

*Barry Gullet, Charlotte-Mecklenburg Utilities*

The recommendation to create the Catawba-Wateree Management Group (WMG) was a major component of the CRA and has been accomplished on-schedule. The purpose of the WMG as stated in the CRA is “to pursue initiatives that improve water and energy conservation, drought management, and water quality in the Catawba-Wateree River Basin.” Chartered in late 2007 with sixteen member organizations, the WMG adopted a 5-Year Strategic Plan and has entered into contracts to begin implementing that plan. Through these contracts, Centralina Council of Governments is compiling regional water system maps that are needed to complete regional water planning work and the WMG was able to receive more than \$180,000 in outside funding over the next four years through the United States Geological Survey to complete a project to add ground water monitoring wells. In May, the WMG was pleased to receive IRS certification as a 501(c)(3) non-profit organization, opening

additional possibilities for receiving tax deductible contributions to leverage member’s dues.

Looking ahead, the WMG is poised to continue water resources planning and coordination on a basin-wide scale. Work is on-going on three fronts to better understand, plan, and manage:

- Water demands;
- Water supply; and,
- Drought preparation and management.

Meetings of the WMG are open to the public and are held at 10:00 a.m. on the second Tuesday of even numbered months at the Lee S. Dukes Water Treatment Plant in Huntersville, N.C. For more information about the WMG, you can contact the WMG Officers or any WMG member. Officers for 2008 are:

**Chair** Barry Gullet, Charlotte-Mecklenburg Utilities

**Vice Chair** Jeff Morse, Town of Valdese

**Secretary/Treasurer** Jeff Lineberger, Duke Energy

**N.C. Director at Large** Kevin Greer, City of Hickory

**S.C. Director at Large** Mike Bailes, Catawba River WTP

## Keep Talking

*Vicki Taylor*

Knowing who to talk to, where to ask questions and how to register concerns saves time, money and aggravation. When stakeholders were meeting regularly it was relatively easy to land our requests, suggestions and complaints where they needed to be. But since the license application has been filed, some stakeholders – both Parties and non-Parties – have been uncertain or unable

to get or give important information. Examples include situations where filings were made to the FERC where the underlying issue could have been resolved by making a phone call or coming to the Final Agreement Committee (FAC). The FAC has learned we need to do a better job of reaching out so that stakeholders know the best and most effective ways of dealing with issues as they come up.

*(continued on next page)*

At our stakeholder meeting in January, 2008 we started to do this but it is time to do more. At that meeting I talked about the importance of vigilant communication practices during this crucial time when the FERC is assessing both the agreement we signed and the license application. I asked for input on how best to establish clear communication channels, clear methodologies and timely updates. Here is a summary of what you said with current status on the suggestions in red:

- Continue to update us with timetables and ongoing implementations

Being done by email and newsletter

- Continue the newsletter

Ongoing

- Provide access to FAC meeting notes

These are posted on the Kearns & West Web site accessible to all Parties

- Advise Parties if they are about to miss a deadline  
Recently a deadline was extended by mutual agreement after affected Parties notified the FAC of the need for more time. All Parties were advised that the deadline was extended. We will continue to work with Parties so that deadlines are not missed or are appropriately re-set if warranted.

- Notify Parties of opportunities for public comment/public meetings, etc

Being done via newsletter and email

- Be more proactive in communicating

We are sending more frequent updates

The FAC needs your input to respond to your needs for:

- Improving the Web site

- Helping Parties respond to rumors among constituencies

- Training new representatives for Party organizations as they come in

In addition, stakeholders said they would:

- Do a better job of passing along communications to constituents in a timely manner

- Ensure organizations are aware of the contract and commitments - especially when personnel changes

- Proactively notify Duke when designated representatives change

Finally, the following table has a list of contacts that you can refer to for various topics:

Topic	Contact
CRA Compliance and Implementation	Any Final Agreement Committee Member
CRA Implementation	Mark Oakley: <a href="mailto:emoakley@duke-energy.com">emoakley@duke-energy.com</a> ; 704-382-5778
CRA Designated Representative and Contact Information Updates	Tami <a href="mailto:tsstyer@duke-energy.com">Styer: tsstyer@duke-energy.com</a> ; 704-382-0293
FERC Relicensing Process	Tami <a href="mailto:tsstyer@duke-energy.com">Styer: tsstyer@duke-energy.com</a> ; 704-382-0293
Drought Management Advisory Group and Low Inflow Protocol	Ed <a href="mailto:edbruce@duke-energy.com">Bruce: edbruce@duke-energy.com</a> ; 704-382-5239
Water Management Group	Barry <a href="mailto:bgullet@ci.charlotte.nc.us">Gullet: bgullet@ci.charlotte.nc.us</a> ; 704-391-5098
Diadromous Fish Passage, Habitat Enhancement Program	Hugh <a href="mailto:dhbarwic@duke-energy.com">Barwick: dhbarwic@duke-energy.com</a> ; 704-382-0805
NC and SC Water Quality Certifications	Mark <a href="mailto:emoakley@duke-energy.com">Oakley: emoakley@duke-energy.com</a> ; 704-382-5778

## Is your Designated Representative Up to Date?

*Ken Kearns, Kearns & West*

Remember the Comprehensive Relicensing Agreement's Appendix B? It's the one that lists each Party's designated representative for receiving official notices. If it's not up to date for your organization or you're just not sure, here's what you should do; Check out the latest Appendix B version (January 2008) on Duke's Web site - go to "www.Duke-Energy.com/lakes", click on "Catawba Lakes", then click on "Catawba-Wateree Relicensing" then click on "Final

Agreement & Lake Summaries" and finally click on "List of Parties to the Comprehensive Relicensing Agreement." Whew!! Look over every part of it (name, addresses, etc.) for your organization. If it's not perfect, then send the correct information to Mark Oakley (emoakley@duke-energy.com). If it is perfect, let Mark know that too. According the CRA, "Each Party shall be responsible for providing the Licensee with their updated contact information in a timely and accurate manner."

## CWAdmin.com – the Parties' Information Web site

*Ken Kearns, Kearns & West*

Even if there's not 8-10 stakeholder meetings every month, there's still a lot going on that's of interest to the CRA Parties, and most of it can be found on the CWAdmin Web site.

Sure, many of its folders don't see much action these days, but the folders near the bottom have info to keep you up to date on Party Information, the Final Agreement Committee, the Water Management Group, and the Drought Management

Advisory Group. Checking previous newsletters (CRA News & Record) on the site is always a good way to review what's been going on.

If you're not getting an occasional notice of a Web site posting, please contact Amanda Piasecki (202-535-7800, apiasecki@kearnswest.com) to get signed up. Also let her know if there are others in your organization (Parties only) that should have access to the site.

## What does "401" mean?

*Mark Oakley, Duke Energy*

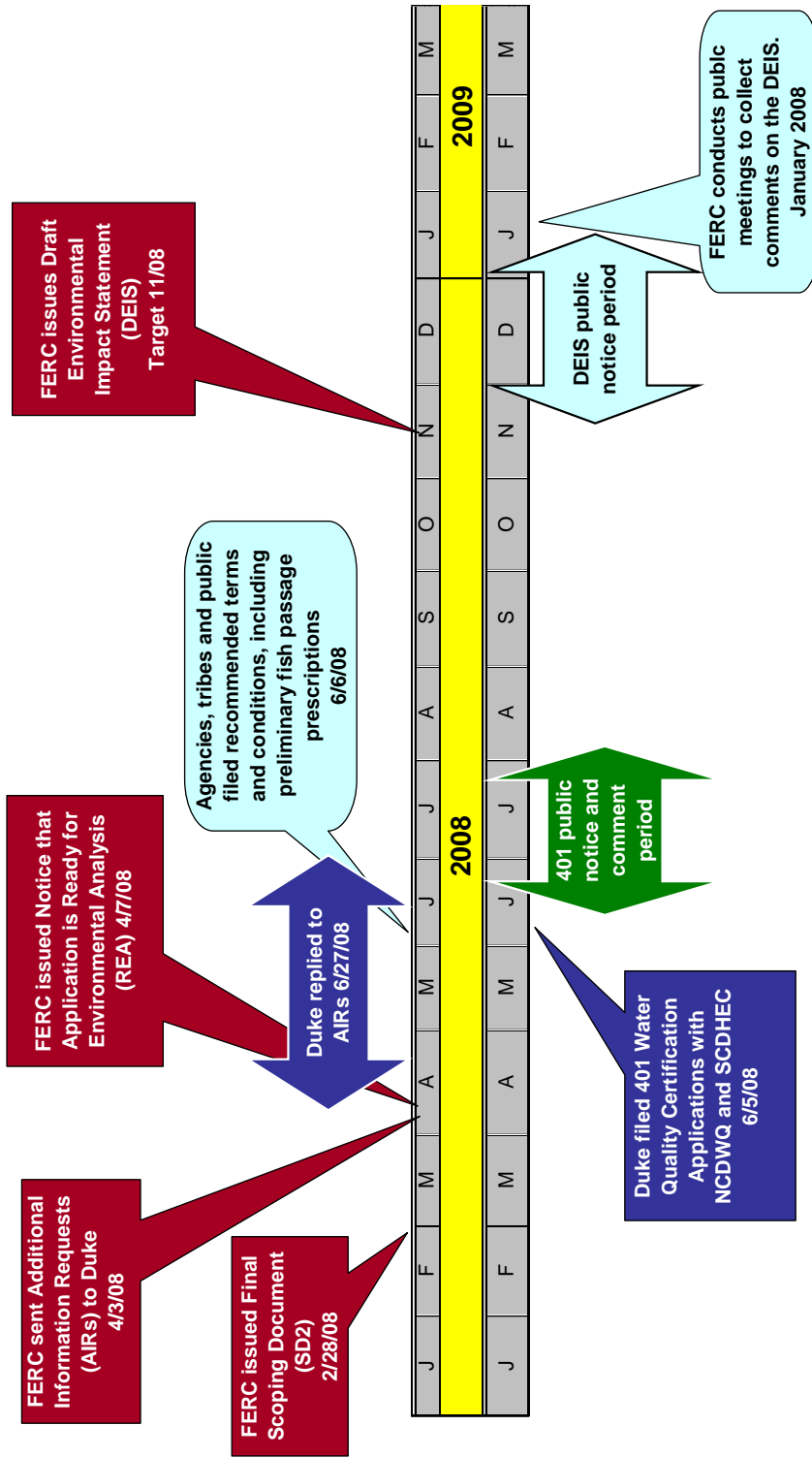
On Thursday June 5, Duke delivered water quality certification applications to the NC Division of Water Quality (NCDWQ) and to the SC Department of Health and Environmental Control (SCDHEC), thereby initiating the Catawba-Wateree Section 401 Water Quality Certification processes. All CRA Parties should consider sending comments to NCDWQ and SCDHEC that: 1) recommend the Flow and Water Quality Implementation Plan (CRA Appendix L) and the Water Quality Monitoring Plan (CRA Appendix F) as conditions of the 401 Water Quality Certifications, 2) support the value of the mitigation packages (CRA Sections 4.5 and 4.6), 3) promote the long-term sustainable balance of water uses represented in the CRA, and 4) describe how your particular water use interests (drinking water, recreation flow, aquatic habitat, industrial water use, etc...) are met via the CRA.

**NORTH CAROLINA:** Comments must be received no later than **July 31, 2008** at the following address:

NC Division of Water Quality; Attn: John Dorney; Water Quality Section; 2321 Crabtree Boulevard, Suite 250; Raleigh, NC 27604

**SOUTH CAROLINA:** The SCDHEC process works a little differently. SCDHEC will soon issue instructions to Duke for publishing public notices in SC newspapers, which will include public comment instructions. I will send an e-mail to all Parties providing this information as soon as I receive it.

# Catawba-Wateree Relicensing Process Schedule



NOTE: All dates are estimated based on the typical timeframe associated with the FERC Traditional Licensing Process. Dates are subject to change based on FERC completions.