1.0 Lake-specific Policies

1.0.1 Purpose and Objectives

This information provides general policy statements addressing development within and access to the reservoirs managed and/or owned by Duke Power in the Nantahala Area. It is intended to provide a basis for all company decisions and activities requiring the development of facilities or the use of land lying within one of these reservoirs (or any Duke-owned peripheral strips) for the purpose of public access, private access, or other activities. Specific objectives of these policy statements are:

1. Categorize the reservoirs according to factors that impact development decisions.
2. Provide clear guidance on activities that will and will not be allowed within the applicable reservoir or the Duke-owned peripheral strip.
3. Identify applicable land use license articles, Shoreline Management Plans, Recreation Plans and permitting process documents.

1.0.2 Background Information

The following issues are discussed to provide the background necessary to fully understand the reasoning for each policy statement:

1. Definitions of the four basic types of access:

   Private Access - Lake access that is restricted to selected individuals according to where they live, where they work, membership in a specific club, etc. Examples include but are not limited to Individual Private Facilities, Common Use Facilities, slips in Commercial/Residential Facilities, slips in marinas developed for clubs, recreation areas for employees of a specific company, slips for non-transient campgrounds (*i.e. rent for more than 14 days*), heat exchange coil zones for heat pumps, and private roadways.

   Public Recreational Access - Lake access that provides for the operation and management of recreational opportunities for the general public that directly support the requirements of Duke's FERC licenses and are not restricted to selected individuals. Examples include but are not limited to Duke-owned public access areas, federal, state, and local parks and recreation areas and True Public Marinas.

Public Infrastructure Access - Non-recreational lake access that directly supports regional public infrastructure needs. Examples include but are not limited to county, municipal or utility water intakes and discharges, public roadway and utility line rights-of-way, railroad crossings, boat mooring/launching facilities for emergency response activities and for state and local law enforcement support.

Business/Industrial Access - Lake access that directly supports a privately-owned industrial or commercial business, but which has little to no effect on boating. Examples include but are not limited to water intakes and discharges for factories, sand mining operations, certain utility connections, plant/business access roads, and commercial business staging areas.

2. For FERC licensed reservoirs, access to project lands and waters to meet justified, hydro project-related public recreational needs is a condition of the licensing process. The licensee is responsible for ensuring these needs are met as directed by the FERC. The licensee may choose from a number of options or combinations of options to ensure that the required public recreational facilities are provided including (a) developing and managing the public recreation facilities itself, (b) authorizing others to build and manage the facilities or (c) partnering with resource agencies, state and local governments, non-governmental organizations or commercial operators to build and manage the facilities.
3. All of these reservoirs were built for the purpose of power production and power production remains their primary purpose.
4. Private access and business/industrial access are not required to meet any current FERC licensing conditions although FERC licenses do allow for controlled private and business/industrial access. Positive measures should exist to control private and business/industrial access to protect the scenic, environmental and public recreational values of the project.
5. As the numbers of encroachments increase, the potential for conflicts between power production uses and private and business/industrial uses increase as well as lake management and lake maintenance costs.
6. Some of the smaller reservoirs have little to no appreciable water storage ability and a small boating surface area.

7. There are some lake uses that are implicit parts of Duke Power's lake access philosophy and therefore do not require any specific written permission from Duke Power. These implicit uses include:

   - Ingress and egress by adjoining property owners to view the lake or to access Duke Power approved lake use facilities either for their use or for *facility maintenance* or *facility emergency repair*.

   - Pursuit of any lawful public recreation activity within the FERC project boundary of a licensed lake or the full pond contour of an unlicensed lake that does not violate Duke's Public Safety Plan, create a public nuisance as declared by law enforcement officials, create a public health/safety hazard or otherwise endanger people or trespass on or damage property. Exceptions are any public recreation activity specifically identified as not being allowed or that requires Duke Power's written approval.

   - Placement and maintenance of signage and other minor devices that are not part of Duke's Public Safety Plan (e.g. navigation channel markers, buoys marking submerged natural hazards, water quality monitoring buoys, etc.) and any other lawful activity necessary for the execution of routine duties by any federal, state or local agency or group directly involved in emergency response, law enforcement, environmental management, public recreation management, public health management, lake user education or other lake management support functions.

.1.0.3 Categorizing Lakes

Each of the Nantahala Area lakes is classified into one of two categories based on key factors that affect Duke Power's decisions concerning lake uses including licensing requirements, extent of existing development, and current power generation function. The categories are:

I. Duke-owned, FERC-licensed Hydro Projects that have existing private and business development.

II. Duke-owned, FERC-licensed Hydro Projects that have little or no existing private and business development.

1.0.4 Lake Category Description

Detailed policies for each lake category are shown below.

1.0.4.1 Category I - Duke-owned, FERC-licensed hydro projects that have existing private and business development.

The lakes in this category are under three separate licenses with the FERC. They are as follows:

EAST FORK HYDROELECTRIC PROJECT (FERC No. 2698)
Cedar Cliff Lake, Bear Lake, and Wolf Lake.

NANTAHALA HYDROELECTRIC PROJECT (FERC No. 2692)
Nanatahala Lake.

WEST FORK HYDROELECTRIC PROJECT (FERC No. 2686)
Lake Glenville.

DEVELOPMENT POLICY:

A. *Private & Business/industrial Access*

Additional private and business/industrial access to the above referenced lakes is allowed and is controlled as follows:

1. On the *East Fork Hydroelectric Project (FERC NO. 2698),* lakes Cedar Cliff, Bear and Wolf, the FERC license Article 33 issued January 23, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of

project lands and waters. Except for implicit uses, all private and business/industrial access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Private and business/industrial access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing private and business/industrial access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.

2. On the *Nantahala Hydroelectric Project (FERC NO. 2692),* Nantahala Lake, the FERC license Article 33 issued February 6, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of project lands and waters. Except for implicit uses, all private and business/industrial access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Private and business/industrial access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing private and business/industrial access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.
3. On the *West Fork Hydroelectric Project (FERC NO. 2686),* Lake Glenville, the FERC license Article 34 issued January 28, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of project lands and waters. Except for implicit uses, all private and business/industrial access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Private and business/industrial access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and

requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing private and business/industrial access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.

B. *Public Recreation Access*

Additional public recreation access to the above referenced lakes is allowed and is controlled as follows:

1. On the *East Fork Hydroelectric Project (FERC NO. 2698),* lakes Cedar Cliff, Bear and Wolf, 1) the FERC Exhibit R entitled "Exhibit R- Plan for Utilization of Project Waters for Recreational Purposes", filed with the FERC March 4, 1969, and supplemented and modified by Applicant's letters filed March 13, 1969; May 2, 1969 and July 2, 1974, and a drawing designated and described as Exhibit R-2, FERC No. 2698-31, entitled "Public Access and Recreation Areas"; 2) the Recreation Upgrades as more fully described in the application for new license which will be filed with the FERC by early 2004; and 3) Article 33 issued January 23, 1981, that provides limited approval authority and guidance to the licensee for reviewing proposed public recreation uses of project lands and waters. Except for implicit uses, public recreation access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within the FERC Project boundary or on property owned by Duke Power.
2. On the *Nantahala Hydroelectric Project (FERC NO. 2692),* Nantahala Lake, February 6, 1981, 1) the Exhibit R entitled "Exhibit R- Plan for Utilization of Project Waters for Recreational Purposes", filed with the FERC November 1, 1968, and two drawings designated as Exhibit R Sheets 1 and 2; 2) the Recreation Upgrades as more fully described in the application for new license which will be filed with the FERC by early 2004; and 3) Article 33 issued February 6, 1981, that provides limited approval authority and guidance to the licensee for reviewing proposed public recreation uses of project lands and waters. Except for implicit uses, public

recreation access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within the FERC Project boundary or on property owned by Duke Power.

3. On the *West Fork Hydroelectric Project (FERC NO. 2686),* Lake Glenville, 1) the Exhibit R entitled "Exhibit R- Plan for Utilization of Project Waters for Recreational Purposes", filed with the FERC September 3, 1968, and two maps (both dated August 30, 1968) entitled "Recreation Developments and Sites in Western, North Carolina" designated Exhibit R-1 and "Public Access and Recreation Areas" designated Exhibit R-2; 2) the Recreation Upgrades as more fully described in the application for new license which will be filed with the FERC by early 2004; and 3) Article 34 issued January 28, 1981, that provides limited approval authority and guidance to the licensee for reviewing proposed public recreation uses of project lands and waters. Except for implicit uses, public recreation access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within the FERC Project boundary or on property owned by Duke Power.

C. *Public Infrastructure Access*

Except as noted below, additional public infrastructure access to the above referenced lakes is allowed and is controlled as follows:

1. On the *East Fork Hydroelectric Project (FERC NO. 2698),* lakes Cedar Cliff, Bear and Wolf, the FERC license Article 33 issued January 23, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of project lands and waters. Except for implicit uses, all public infrastructure access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Public infrastructure access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing public infrastructure access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.

2. On the *Nantahala Hydroelectric Project (FERC NO. 2692),* Nantahala Lake, the FERC license Article 33 issued February 6, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of project lands and waters. Except for implicit uses, all public infrastructure access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Public infrastructure access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing public infrastructure access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.
3. On the *West Fork Hydroelectric Project (FERC NO. 2686),* Lake Glenville, the FERC license Article 34 issued January 28, 1981, provides limited approval authority and guidance to the licensee for reviewing proposed uses of project lands and waters. Except for implicit uses, all public infrastructure access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Public infrastructure access must be consistent with the Shoreline Management Plan (SMP). (Note that new SMP maps, Lake Use Restrictions, and requirements for use of the Duke Power-owned peripheral strip will be filed with the FERC by July 1, 2003 and implemented in conjunction with the application for new license). The guidelines for authorizing public infrastructure access are called the Duke Power Nantahala Area Shoreline Management Guidelines (SMG) and will include the requirements for use of the Duke Power-owned peripheral strip, which will be filed with the FERC for informational purposes only.

D. ***Lake Use Permitting and Management Responsibilities***

1. The Lake Management team within Duke Power, Asset Management is responsible for all lake use permitting approvals and shoreline management planning (including

approval of any hydro station lake structures/activities), and managing the Duke Power public access areas (including any island/access area leases).

2. Duke's Lake Management Office will coordinate development of any leases of islands or Duke Power public recreation areas. The Duke Energy Law Department and the Manager of Hydro Licensing for Duke Power will review any proposed island or recreation area leases. Leases will be executed by Duke Energy Real Estate. After lease execution, Duke's Lake Management Office will manage the lease.

3. Duke's Lake Management Office will coordinate the development of any other leases, easements or deeds necessary to convey interests in FERC hydro project lands in accordance with established lake use permitting programs. The Duke Energy Law Department will review any proposed lease, easement or deed conveyance. The Manager of Hydro Licensing for Duke Power will also review and must approve any leases, easements or deeds involving (a) water withdrawals from or effluent discharges to hydro project waters or (b) use of any land on or adjoining a water retaining structure or hydropower generating station. The Duke Energy Real Estate Department will execute all such leases, easements or deed conveyances. After document execution, Duke's Lake Management Office will have compliance oversight responsibility.

1.0.4.2 Category II- Duke-owned, FERC-licensed hydro projects with little or no existing development.

Each lake in this category is under a separate license with the FERC with the exception of the East Fork, West Fork and Nantahala projects which include the smaller developments listed below. They are as follows:

EAST FORK HYDROELECTRIC PROJECT (FERC No. 2698)
Tennessee Creek;
FRANKLIN HYDROELECTRIC PROJECT (FERC No. 2603)

Lake Emory;
DILLSBORO HYDROELECTRIC PROJECT (FERC No. 2602)
Dillsboro Pond;
BRYSON HYDROELECTRIC PROJECT (FERC No. 2601)
Lake Ela;
NANTAHALA HYDROELECTRIC PROJECT (FERC No. 2692)
White Oak Pond, and Dicks Pond;
MISSION HYDROELECTRIC PROJECT (FERC No. 2619)
Mission Pond;
WEST FORK HYDROELECTRIC PROJECT (FERC No. 2686)
Tuckasegee Pond;
QUEENS CREEK HYDROELECTRIC PROJECT (FERC No. 2694)
Queens Creek Lake.

DEVELOPMENT POLICY:

A. ***Private Access***

Except as noted herein, Duke Power will not authorize any additional (i.e. new) private access to these lakes. Any other private access that is listed as an exception below must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within or crossing the FERC Project boundary or on property owned by Duke Power. Duke Power does not have Shoreline Management Plans in place for these projects, although a shoreline management program including permitting guidelines will be developed during the process of applying for new licenses. Duke Power will not authorize any land disturbing activities within the Project boundary that support new private access. Existing private access must not conflict with the recreation upgrades proposed for the Project or with any current, FERC-approved recreation plans. (Note: The license for the Queen's Creek Project was issued March 28, 2002).

Exceptions:

a. On Mission Pond, no lake use permits have been issued, however, there is an easement that has been granted for road access along the northern shore of the project boundary from the hydro plant to the termination of the project boundary approximately one mile upstream.

b. DPNA has the flexibility to comply with any previous NP&L agreements.
c. Pre-existing encroachments within the FERC Project boundary or on any Duke-owned peripheral strips may be allowed to remain at the discretion of DPNA.

B. *Business/industrial Access*

Additional business/industrial access to these Projects may be allowed on a case-by-case basis. The applicable standard land use article in each license provides the licensee with limited approval authority and guidance for reviewing proposed business/industrial uses of Project lands and waters. Land disturbing activities associated with business/industrial access will be reviewed on a case-by-case basis and limited to that absolutely necessary to provide access to the reservoir. All new business/industrial access will be reviewed by the appropriate resource management agencies in accordance with the applicable standard land use article. Except for implicit uses (i.e. those uses of Project lands and waters or Duke-owned property that the company allows without requiring written authorization), all business/industrial uses of the lake must be authorized in writing by Duke's Lake Management Office prior to beginning any activity or activating a conveyance within the FERC Project boundary or on property owned by Duke. Business/industrial access must not conflict with any recreation area upgrades proposed for the Project or with any current, FERC-approved recreation plans.

C. *Public Recreation Access*

Duke Power will authorize additional public recreation access to these lakes as required to meet FERC licensing commitments. Except for implicit uses, all public recreation access must be authorized in writing by Duke's Lake Management Office prior to beginning any activity within the FERC Project boundary or on property owned by Duke Power. Public recreation access must not conflict with any recreation area upgrades proposed for the Project and must not be inconsistent with any current FERC-approved recreation plan. Public recreation access must also be reviewed according to the appropriate approved land use article.

C. *Public Infrastructure Access*

Except as noted herein, additional public infrastructure access to these projects is allowed. The applicable standard land use article in each license provides the licensee with limited approval authority and guidance for reviewing proposed public infrastructure uses of project lands and waters. Except for implicit uses, all public infrastructure uses of the lakes must be authorized in writing by Duke's Lake Management Office prior to beginning any activity or activating a conveyance within the FERC Project boundary or on property owned by Duke Power. Public infrastructure access must not conflict with any recreation area upgrades proposed for the Project or with any current, FERC-approved recreation plans.(Note – For the Queens Creek Project, the Recreation Plan was filed with the FERC on November 5, 2002 as required by the new license order).

D. ***Lake Use Permitting and Management Responsibilities***

1. The Lake Management team within Duke Power, Asset Management is responsible for all lake use permitting approvals and shoreline management planning (including approval of any hydro station lake structures/activities), and managing the Duke Power public access areas (including any island/access area leases).

2. Duke's Lake Management Office will coordinate development of any leases of islands or Duke Power public recreation areas. The Duke Energy Law Department and the Manager of Hydro Licensing for Duke Power will review any proposed island or recreation area leases. Leases will be executed by Duke Energy Real Estate. After lease execution, Duke's Lake Management Office will manage the lease.

3. Duke's Lake Management Office will coordinate the development of any other leases, easements or deeds necessary to convey interests in FERC hydro project lands in accordance with established lake use permitting programs. The Duke Energy Law Department will review any proposed lease, easement or deed conveyance. The Manager of Hydro Licensing for Duke Power will also review and must approve any leases, easements or deeds involving (a) water withdrawals from or effluent discharges to hydro project waters or (b) use of any land on or adjoining a water retaining structure or hydropower generating station. The Duke Energy Real Estate

Department will execute all such leases, easements or deed conveyances. After document execution, Duke's Lake Management Office will have compliance oversight responsibility.