

## **DPNA Update to TCST and NCST Members – Fall 2005**

Fellow Nantahala Area Stakeholders,

I hope all of you are doing well and are ready for some cold weather and possibly some snow. I continue to appreciate all of your telephone calls, cards, kind thoughts and prayers of concern for my health problems. I finished six months of chemotherapy treatments at Duke University Hospital and am beginning to regain strength and stamina. I continue to work at my office and am available to talk and visit most days. So, if you are in the Nantahala Area, you are always welcome to stop in for a visit. Lisa Leatherman was working with me but was also needed at her former job in Charlotte and has been away from the Nantahala Area since October. Lisa will be returning to work full-time in the Nantahala Area after January 2, 2006.

As you will see as you read this update, Duke Power Nantahala Area (DPNA) has fulfilled the 2005 relicensing provisions specified in the Tuckasegee Cooperative Stakeholder Team (TCST) and Nantahala Cooperative Stakeholder Team (NCST) Settlement Agreements. This update also includes information concerning the recent filings with the Federal Energy Regulatory Commission (FERC) that have been made by stakeholders since the July 2005 stakeholder update.

### **Topics discussed in this update include the following:**

- **FERC EA issuance status**
- **FERC Decision on Appalachian Rivers Resource Enhancements, LLC**
- **FERC replies to Congressman Taylor and John Boaze**
- **Soil and Water Conservation District Initiatives**
- **Annual Recreation Flow Schedule Meetings**
- **Public recreation facilities on the main stem of the Tuckasegee River**
- **Dillsboro Dam Removal Update**
- **Reservoir and River Clean-Up**
- **United States Forest Service surveys DPNA property for development of recreational facilities plan**
- **FERC Relicensing Notifications for Duke Power – Nantahala Area Projects**
- **Welcome new NCST member and e-mail address changes**
- **Application Review Process**

### **FERC EA issuance status**

According to FERC staff, it is highly unlikely that the draft Environmental Assessments for the DPNA Projects will be issued in 2005. The Bryson, Mission, Franklin and Dillsboro Projects have been issued annual licenses to continue operation of these Projects until such time as the FERC acts on DPNA's application for continued operation

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(or removal in the case of Dillsboro). In January and February 2006, the East Fork, West Fork and Nantahala Projects will be issued annual operating licenses.

Since DPNA will not have new licenses from FERC by February 2006, DPNA will withdraw and re-file applications for Water Quality Certifications for the West Fork, East Fork and Nantahala Projects on appropriate dates.

### **FERC issues a decision on Appalachian Rivers Resource Enhancements (ARRE), LLC**

Recall that Mr. Charles Mierek, President of ARRE, applied to FERC a few months ago for a preliminary permit to try and take DPNA's Dillsboro Project to redevelop and expand it. The FERC denied the application for a preliminary permit for the proposed enhanced Dillsboro Project by ARRE. The FERC decision was based upon a review of the compliance record of other projects under Mr. Mierek's control and direction and concluded that no license should be issued to Mr. Mierek.

Since this ruling by the FERC, the Clifton Power Company, the Appalachian Rivers Resource Enhancement, LLC, Charles B. Mierek, and Jackson County have filed motions to the FERC to intervene and requests for rehearing.

### **FERC Issues responses to John Boaze's letters to Congressman Taylor**

Mr. John Boaze, who is representing Macon and Jackson Counties, expressed continuing concern to Congressman Taylor's office that the U.S. Forest Service (USFS) and/or the U.S. Fish and Wildlife Service (USFWS) have violated either the Endangered Species Act (ESA) or the National Environmental Policy Act (NEPA) in their actions concerning the removal of the Dillsboro Project.

The FERC response to Congressman Taylor and Mr. Boaze was that the determination of whether or not the USFS and/or the USFWS violated either the ESA or the NEPA procedures relating to the removal of the Dillsboro Dam is not a matter that is within the FERC's jurisdiction.

### **Soil and Water Conservation District Initiative**

Following the guidelines of the TCST and NCST Settlement Agreements, DPNA agreed that within 1 to 15 years following its acceptance of the new licenses for the DPNA Hydro Projects, DPNA will provide Cherokee, Clay, Jackson, Macon and Swain counties \$40,000 each to implement the DPNA-selected initiatives from a prioritized list identified by each county's Soil and Water Conservation District board as of July 1, 2005.

I am happy to report that all five counties in the DPNA service area provided DPNA with

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letters explaining their initiatives. Once the FERC issues acceptable subsequent licenses, DPNA will review the letters and work with stakeholders to determine the priority of the projects to be funded.

### **Annual Recreation Flow Schedule Meetings**

The TCST and NCST Settlement Agreements stipulate that in order to evaluate and enhance the scheduling of recreational flow releases, the Licensee will in October of each year of the license term, convene a recreation schedule planning meeting with the interested parties to define the recreation flow schedule for the next calendar year.

The two flow schedule meetings were held on October 14 and the results of the meetings are as follows:

#### **Nantahala Flow Schedule Meeting**

The meeting was attended by 14 stakeholders or interested parties representing Carolina Canoe Club; Nantahala Outdoor Center; Bartram Trail Conference; American Whitewater; Bunrab Enterprises; Endless Rivers Adventures; Nantahala Gorge Association; and Duke Power.

The consensus was there was a lot of water – much more than was on the schedule but there wasn't so much water that it caused problems for the outfitters. There were no suggestions for changes to the 2006 schedule. There were no proposals for water for special events and races. Representatives from the two organizations that usually have special events, the Georgia Canoe Association and the Nantahala Racing Club, were not present.

The group discussed that since the FERC has not issued the draft EA for the Nantahala Project, it is unlikely that Duke Power will receive the new license for the Nantahala Project in time for bypass releases in 2006. Bypass releases will begin within a year after Duke Power accepts the new license provided a written and complete traffic control plan is developed by the USFS and the improved parking areas above and below the Cascades near River Mile 16.5 are completed. Fred Alexander and Bunny Johns volunteered to work with Mike Wilkins and the Wayah District to determine how to move ahead with these plans. Bunny Johns has been asked to meet with the USFS to determine how we can get the project started in January 2006.

#### **Tuckasegee Flow Schedule Meeting**

The meeting was attended by 12 stakeholders or interested parties representing Carolina Canoe Club; Glenville Community Club; Friends of Lake Glenville; American Whitewater; Bunrab Enterprises; Dillsboro River Company; Tuckasegee Gorge Association; and Duke Power.

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There were no suggestions for changes to the 2006 schedule. There were no proposals for water for special events and races.

The group discussed that since the FERC has not issued the draft EA for the West Fork Project, it is unlikely that Duke Power will receive the new license for the West Fork Project in time for bypass releases in 2006. Bypass releases will begin within a year after Duke Power accepts the new license providing that construction of any trails and parking areas at the put-in and take-out are completed. George Galleher reported that Duke Power was evaluating the trail needs at the put-in and parking at the put-in and take-out areas.

Shane Williams reported that the water levels in the Tuckasegee had been high all year. Shane also said that the new USGS gages were helpful but it would be most helpful to have a USGS gage at or near Dillsboro. Shane recommended that the special messages that are posted on the lake section of the website also be posted to the river section of the website. Shane also recommended that the flow calendar be posted to the Duke Power website. Fred Alexander will look into Shane's suggestions.

Steve Yurkovich, representing Trout Unlimited, e-mailed that he would like for Duke Power to compare the amount of accretion flow that was in the river at Caney Fork in 2001 to the accretion flow at Caney Fork in 2005. Steve is concerned that the present accretion flow plus West Fork Project flow releases may create safety concerns for wade fishing. DTA reviewed historical flow records to determine if the 2001 flows varied greatly from normal flows. A comparison of the historical mean flows (period of record is 1945 to 2004) to the 2001 flows revealed that the 2001 flows were representative of the normal or average conditions in the Tuckasegee River. Therefore wading safety should not be a problem.

Doug Odell noted that the lake graph on the Lake Glenville website tracks actual lake elevation very well up to 99 feet, but above that level he believes the recorded lake elevation is less than the actual elevation. Fred Alexander and Bill Stroud will evaluate if this is indeed the case. Doug also requested daily Lake Glenville reservoir elevations for the past ten years. John Wishon provided this information to Doug.

Phil Fowler noted the letters to the newspaper about flooding allegedly due to Duke Power keeping the lake levels too high. Fred Alexander indicated that the letter writers were either new to the area or utilizing second or third-hand information and thus did not have accurate information when they wrote their letters.

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### Status of Public recreation facilities on the main stem of the Tuckasegee River

- Cedar Cliff Powerhouse (River Mile 51.3): DPNA owns both site locations and does not anticipate any problems with the construction of a public boat launch and gravel parking area downstream of the Cedar Cliff Powerhouse and a companion take-out area approximately 0.5 miles downstream of the boat launch. DPNA representatives are having trouble communicating with the owner of the two horses presently trespassing in the field. *(I don't think the horses could read a written eviction notice. The next best solution could be to brand the horses with the Duke Power logo and let the horses earn their keep by hauling boats from the lower access area to the upper access area. But, that problem is a horse of a different color.)*
- Tuckasegee Powerhouse (River Mile 1.8 – West Fork Tuckasegee River Mile starts at 0 at the confluence with the East Fork Tuckasegee River): There are no obstacles to development of this access site.
- East Laport Park (River Mile 46.0): Detailed drawings were sent to Jackson County Parks and Recreation Department **many months ago with no response**. The site plan includes upgrading the access to the river so drift boats can launch, paving the entrance to the park and the turn around area at the launch site and adding more gravel to the rest of the parking area. The upgrades cannot begin until Jackson County has approved the plans.
- Cullowhee Dam (River Mile 40.1): Western Carolina University (WCU) has reviewed and has given verbal agreement to the conceptual plans. WCU has acquired the TVA Section 26A approval to upgrade the site. A written agreement/lease with WCU prior to construction will be needed. DPNA is working to develop such an agreement.
- Delayed harvest:  
Old Cullowhee Road (River Mile 37.3): The landowner on Old Cullowhee Road upstream of “Jack the Dipper” agreed to a lease price but is now asking for more money. DPNA is working to finalize the lease agreement for this property. After the lease is signed, DPNA will begin to develop conceptual plans for the access area.  
  
TWSA site located at the TWSA treatment plant (River Mile 33.6): DPNA sent TWSA a lease agreement for the TWSA site near the Waste Treatment Plant. TWSA's changes to the lease agreement were not acceptable to DPNA. TWSA board would like to have a clause that allows TWSA to terminate the contract if they need to. Duke is interested in establishing an agreement that provides a reasonable level of

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confidence the site will be available to the general public for the term of the new licenses for the East Fork and West Fork Projects.

- Barkers Creek (River Mile 26.9): DPNA sent the landowner a contract last week that reflected changes asked for by the landowner. Hopefully, the signed contract will be returned this week or next. Conceptual drawings are finished and have been sent to Eastern Band of Cherokee Indians Tribal Historic Preservation Office director Russ Townsend for review. The plan was also discussed with Shane Williams at the October “Flow Schedule Planning meeting”. DPNA is awaiting comments from Shane Williams.
- Whittier: DPNA has not been able to buy or lease suitable property to construct a public launch site and parking area in the Whittier area. There has been correspondence with two property owners in Whittier. DPNA has not received a response from either party and will continue to contact the property owners. If anyone knows of a suitable site in the Whittier area that DPNA could buy or lease, please contact Lisa Leatherman at 828-369-4561.

### **Dillsboro Dam Removal Update**

Presently, DPNA is waiting on permission from FERC to remove the Dillsboro Project. DTA has discussed the possibility of using WCU students to collect water sampling data with a professor at WCU. The samples collected will be processed at the lab at Cherokee.

DPNA has had inquiries from one company and two individuals concerning the possibility of salvaging the Dillsboro generating equipment. No decisions concerning salvaging equipment will be made until the FERC approves the removal of the project.

### **Reservoir and River Clean-Up**

Following the guidelines of the Tuckasegee Cooperative Stakeholder Team (TCST) and the Nantahala Cooperative Stakeholder Team’s settlement agreements, DPNA agreed to provide support to others that may organize an annual “Reservoir-Wide Clean Up” on Nantahala Area Lakes by removing collected trash during the week following the clean-up from pre-designated collection sites around the reservoir.

Trash was removed from the Tuckasegee River and the shoreline by groups from WCU on 4/11/05. Trash was removed from Nantahala Lake by Nantahala homeowner’s associations on 6/18/05. Friends of Lake Glenville conducted their annual cleanup on 6/11/05. Duke Power crews disposed of all trash that was collected on all rivers and lakes.

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Thanks to DPNA's Dale Mosteller for picking up and disposing of the trash around Wolf Creek, Bear Creek and Cedar Cliff lakes. No other organizations stepped forward to provide assistance in the cleaning up around these three reservoirs. Trash management around these three lakes must not be as big an issue now as it was to the stakeholders that represented these lakes during relicensing negotiations. In fact, Dale also picked up trash around Bear Creek, Cedar Cliff and Wolf Creek lakes in 2004.

### **USFS development of a recreational facilities plan**

The NCST Settlement Agreement specifies that (1) DPNA will lease and/or convey to the USFS only that portion of land required for the recreation facilities that will be installed within the first five years following DPNA's acceptance of the New License; and (2) DPNA will determine if its property will be leased or conveyed after DPNA, the Nantahala Gorge Association (NGA), and the USFS finalize the USFS-prepared facilities layout.

The USFS reports that they have surveys of the property and a preliminary plat of the property. They also finished a topographical survey of the property. Dave Wright has finished a draft conceptual design of the facilities for the property and is working on a final draft conceptual plan. The next step for the USFS is the public involvement process and funding process. The funding process and public involvement process will probably begin early to mid 2006. As soon as the FERC issues the EAs and new licenses for the DPNA Projects, a more specific timetable can be developed.

### **Welcome new NCST member and e-mail address changes**

DPNA welcomes new NCST member Tammy Smith. Tammy replaced Billy Dills as the stakeholder representative for the Swain County Soil and Water Conservation District. All members of the NCST look forward to meeting Tammy and working with her in the future. Tammy's e-mail address is: [tammy.shuler@nc.nacdnet.net](mailto:tammy.shuler@nc.nacdnet.net). Howard Chambers' new e-mail address is: [hchambers28@earthlink.net](mailto:hchambers28@earthlink.net). Shane Williams' new e-mail address is [shane@dillsbororiver.com](mailto:shane@dillsbororiver.com). Please update your Attachment G to the NCST and TCST Settlement Agreements which is the Designated Representatives of the Parties for Receipt of Notices document.

The DPNA relicensing team wishes each of you a joyful and happy holiday season. If you have questions, please call me at 828-369-4604.

Sincerely,

John

