

DPNA Update to TCST and NCST Members – Summer 2005

Fellow Nantahala Area Stakeholders,

I hope all of you are doing well and are enjoying summer. I appreciate all of your telephone calls, cards, kind thoughts and prayers of concern for my health problems. I'm presently taking six months of chemotherapy treatments at Duke University Hospital. I continue to work at my office and am available to talk and visit most days except Fridays. So, if you are in the Nantahala Area, you are always welcome to stop in for a visit. In the last stakeholder update, Lisa Leatherman was temporarily working for me in my absence. Lisa has transferred from Hydro Central to the Hydro Licensing group and will be working with me full time.

As you will see as you read this update, Duke Power Nantahala Area (DPNA) and other stakeholders have been busy working to meet the 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 many filings with the Federal Energy Regulatory Commission (FERC) that has been made by stakeholders since the December 2004 scoping meetings.

Topics discussed in this update include the following:

- **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**
- **“Preferred Settlement Agreement”**
- **TCST members respond to “Preferred Settlement Agreement”**
- **"Shoreline Management Regulations" changes proposed by the “Preferred Settlement Agreement”**
- **Friends of Lake Glenville, Inc. request for the FERC to issue a Scoping document 2**
- **FERC Relicensing Notifications for Duke Power – Nantahala Area Projects**
- **Application Review Process**

Public recreation facilities on the main stem of the Tuckasegee River – We're Getting There!

- 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 a gravel parking area downstream of the Cedar Cliff Powerhouse and a companion take-out area approximately 0.5 miles

DPNA Update to TCST and NCST Members – Summer 2005

downstream of the boat launch. The two horses presently trespassing in the field will undoubtedly hate to leave, but perhaps they'll find some greener pastures elsewhere!

- Tuckasegee Powerhouse (River Mile 1.8 – West Fork Tuckasegee River Mile starts at 0 at the confluence with the East Fork Tuckasegee River):

In order to receive an easement for the public to cross the private property from Highway 107 to Tuckasegee Powerhouse, DPNA agreed to remove and properly dispose of an old building that was located on the Grantor's property. The building has been removed and DPNA has a signed easement granting the public access to the boat launch site. DPNA is developing conceptual launch site plans and will construct a public boat launch and gravel parking lot at the Tuckasegee Powerhouse site.

- East Laport Park (River Mile 46.0):

Survey has been completed and conceptual plans have been given to Jeff Carpenter, Director of Jackson County Recreation/Parks Department. Jackson County has not provided any response or comments on the plans. DPNA will contact Gene Couch, the vice chairman of the Jackson County Recreation Board to determine if feedback can be provided on the TCST plan to provide a public boat launch and gravel parking area at the site.

- Cullowhee Dam (River Mile 40.1):

Western Carolina University (WCU) has reviewed and is agreeable with DPNA's proposed plans to construct an upstream take-out and downstream put-in for drift boat and canoe access at Cullowhee Dam. WCU has initiated contact with the Tennessee Valley Authority (TVA) regarding their lease change and getting a TVA 26A permit. TVA has a copy of the conceptual layout. Currently, Duke is waiting for a response from TVA.

- Delayed harvest:

Old Cullowhee Road (River Mile 37.3): Survey of the site should be completed by August 1, 2005. Once the survey is complete, a lease with the property owner will be signed leading to the building of a public launch site and gravel parking area at the upper section of the delayed harvest section.

TWSA site located at the TWSA treatment plant (River Mile 33.6): DPNA has been working with TWSA board members and has a tentative agreement to construct a public launch site and gravel parking lot at the sewage treatment plant which is located at the lower end of the delayed harvest section. Duke's legal department is crafting a lease agreement specific to the site.

DPNA Update to TCST and NCST Members – Summer 2005

- Barkers Creek (River Mile 26.9):

Survey of the site should be completed by August 1, 2005. Once the survey is complete, a lease with the property owner will be signed leading to the building of a public launch site and gravel parking area that will be located .25 miles downstream of Tuckasegee Outfitters, James Jackson's rafting company.

- 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 area in the Whittier area that DPNA could buy or lease, please contact Lisa Leatherman at 828-369-4561.

Dillsboro Dam Removal Update – A Big Step Forward

I have excellent news to report to you on this important piece of the TCST and NCST Settlement Agreements. The North Carolina Department of Environment and Natural Resources, Division of Water Quality approved Duke Power Nantahala Area's application for a 401 Water Quality Certification. The 401 Water Quality Certification was issued to Duke Power for the surrender of the Dillsboro Project License and subsequent removal of the Dillsboro Dam and powerhouse. To review the conditions of this certification on the DPNA relicensing website, visit the following site and scroll down to Attachment B:

http://www.nantahalapower.com/nantahala/lakes/hydroelectric/consensusagreements/nantahala/NA_Settlement_Offer_Comments.pdf

A Western Carolina University professor with experience in dam removals says that the removal of the Dillsboro Dam would improve the health of the Tuckasegee River. Mr. Rob Young of Webster goes on to say "I think the benefits (of dam removal) are overwhelming." The Sylva Herald article entitled "Science backs Dillsboro Dam Removal" can be viewed in its entirety by going to the above website and scrolling down to Attachment C.

DPNA is currently working to finalize a multi-faceted pre-removal, removal, and post-removal monitoring plan. This monitoring plan will cover aspects including removal sequencing, water quality, fishery surveys, sediment transport, endangered mussel relocation, bank stabilization, cultural resources, flow coordination, and agency consultation. This monitoring plan is being prepared and reviewed in consultation with

DPNA Update to TCST and NCST Members – Summer 2005

the resource agencies such as the North Carolina Wildlife Resources Commission, North Carolina Division of Water Quality, North Carolina Division of Water Resources, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Forest Service, and the Eastern Band of Cherokee Indians before execution of the full removal. DPNA plans to partner with these agencies, the Eastern Band of Cherokee Indians and Western Carolina University in conducting the monitoring, sampling and analytical effort. DPNA will initiate this contact by August 1, 2005. Upon FERC approval of this dam removal, DPNA will also initiate several important tasks including the preparation and submittal of the U.S. Army Corps Section 404 permit, downstream mussel surveys, and the selection of the downstream and specific monitoring locations.

Reservoir and River Clean-Up

DPNA Lake Management representatives removed trash that was collected by homeowners that organized a “Reservoir-Wide Clean Up” on Lake Glenville and Nantahala Lake. Duke Power financially supported the annual “River Clean Up” on the main stem of the Tuckasegee River. Thanks to the members of the Nantahala Gorge Association for cleaning up the banks of the Nantahala River and the sides of the highway that runs through the Nantahala Gorge.

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 began the process of preparing a facilities layout by contracting for a topographical survey. Much of the field work by the surveyor has been finished but the USFS has not received the survey. The USFS will proceed with their conceptual plan when the topographical survey is completed.

“Preferred Settlement Agreement” – Or is it Really?

A group of Jackson and Macon County based entities filed the “Preferred Settlement Agreement” (PSA) as an alternative to the Tuckasegee Cooperative Stakeholder Team Settlement Agreement. The stated goal of the PSA is to put before the FERC an agreement that resolves the concerns of local entities and governmental units.

Many of the proposals included in the PSA -- including the retention of Dillsboro Dam, eliminating recreational releases to the West Fork Bypassed Reach, relocating the

DPNA Update to TCST and NCST Members – Summer 2005

swimming area to Andrews Park, maintaining Lake Glenville at a constant level, reservoir dredging, and forcing DPNA to lease its buffer strip lands around Lake Glenville to the members of the Friends Of Lake Glenville, Inc. (FOLG) -- were proposed during the settlement discussions but rejected by DPNA and the other parties to the TCST Settlement Agreement.

DPNA considers the PSA as nothing more than requests for cash, free land, and other handouts and special rights for the Counties, FOLG, and others in the PSA. The PSA disregards the interests of the signatories to the TCST Settlement Agreement and DPNA's retail customers. DPNA estimates that the costs to it of implementing all the measures specified in the PSA over the 40-year terms of the new licenses advocated in the PSA would *exceed \$709 million*. As a result of these huge additional costs, *each* retail customer of DPNA would end up paying over *\$10,300 more* for electricity than they otherwise would during this 40-year period. Note that this is *\$709 Million over and above* what we would already be required to spend to implement the TCST and NCST Settlement Agreements.

The costs of implementing all the measures specified in the PSA over the 40-year term can be found at the following website under Attachment A:

http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050708-0098

The PSA has been signed by the following entities:

- Jackson County Government
- Jackson County Soil and Water Conservation District
- Jackson County Parks and Recreation Department Advisory Board
- Jackson County Greenway Commission
- Macon County Government
- Town of Franklin
- Town of Webster
- Dillsboro Inn owner T.J. Walker
- The Friends of Lake Glenville Association, Inc
- Glenville Community Development Club
- Cullowhee Falls, Inc.
- Cullowhee Forest Property Owners Association, Inc.

TCST and NCST Members Came Out in Force to Respond to the PSA:

DPNA very much appreciates the time investment made by several of the TCST and NCST members in their preparation of very thorough and firmly worded responses to the challenges proposed by the PSA. It is very important for us to continue working together

DPNA Update to TCST and NCST Members – Summer 2005

as teammates to defend the TCST and NCST Settlement Agreements against all challenges, even very misguided ones such as the PSA. Team member responses can be viewed at the following websites:

- North Carolina Department of Environment and Natural Resources and North Carolina Wildlife Resources Commission
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050706-5004
- American Whitewater
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050706-5012
- United States Department of Agriculture Forest Service
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050706-5080
- United States Fish & Wildlife Service
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050701-5001
- Duke Power, a division of Duke Energy Corp, Nantahala Area
http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20050708-0098
- Eastern Band of Cherokee Indians
Not yet listed on the FERC website

PSA's proposed "Shoreline Management Regulations" changes (Attachment B)

Attachment B to the PSA proposes some significant changes from what's in the NCST and TCST approved DPNA Shoreline Management Guidelines. The following identifies the proposed PSA changes and the page on which the changes appear:

- Eliminates picnicking and swimming from the uses of DPNA property by general public --only allowed in specifically designated areas. p. B-3.
- Changes archaeological and historic section to eliminate Cherokee's participation. p. B-5.
- Requires DPNA to issue leases to adjacent owners and specifies that we can't charge annual fees greater than the amount to cover lease program fees. p. B-6.
- These lessees can sub-lease dock space for compensation (apparently with no restrictions on what they can charge!). p. B-6.
- States that lessees will prevent others from engaging in offensive acts on leased land. p. B-6-7.
- No leases--no permits for docks. p. B-7.
- Requires DPNA at its own cost to construct barriers to erosion. p. B-8.
- States that destruction of boats, docks, etc. on DPNA buffer strip land prohibited. P.B-10.
- States that nude or topless sunbathing or urination or defecating in view of adjacent homes is a prohibited use. pp. B-10-11.

DPNA Update to TCST and NCST Members – Summer 2005

- States that lessees do not have authority to stop authorized uses of DPNA property (of course, since nude and topless sunbathing, etc. are prohibited uses, they could be stopped by implication). p. B-16.
- Deletes "sub canopy trees" from exhibit 1. p. B-26, 28.
- Deletes approval by NCWRC in 3j. p. B-28.
- Adds restrictions to commercial and private marinas. p. B-34.

FOLG Request for a Second Scoping Document

After conducting public scoping meetings for the West Fork Project, the FERC staff issued a letter stating that since no “new, substantive comments were received during the comment period or scoping meetings” it would not issue a scoping document 2. On two different occasions, FOLG expressed concern to the FERC over certain provisions in the proposed TCST Settlement Agreement and offered alternative measures to be considered in the EA:

- Require Duke Energy to lease its buffer strip around Lake Glenville;
- Maintain lake Glenville at guaranteed levels rather than targeted levels;
- Improve public recreation by redirecting proposed funding;
- Revise shoreline management plan to address removing debris or fallen trees in the lake and/or buffer zone.

Both of the FOLG requests for the FERC to issue a scoping document 2 were denied.

FERC Application Review Process

A FERC representative informed DPNA that due to the large volume of recent filings, the date for the FERC to issue draft EAs for the DPNA projects has been extended a few months. The present licenses for the Dillsboro, Bryson, Mission, and Franklin Projects expire in July and early August. Until a new or subsequent license for each project can be issued, the projects will be issued a yearly license which requires the licensee to operate the projects under the current license conditions. The FERC application processing steps for the DPNA projects can be viewed on page 8 of this update.

If you have questions, please call me at 828-369-4604 or Lisa at 828-369-4561.

Sincerely,

John

Application Processing Steps

