

Exhibit I

Letter from Stanly County to the North Carolina Department of Environment and Natural Resources Division of Water Quality dated November 9, 2007, which describes several significant water quality issues impacting Badin Lake

PARKER POE

PARKER POE ADAMS & BERNSTEIN LLP

Attorneys and Counselors at Law

Thomas N. Griffin, III

Partner

Telephone: 704.335.9049

Direct Fax: 704.335.9567

tongriffin@parkerpoe.com

Three Wachovia Center

Suite 3000

401 South Tryon Street

Charlotte, NC 28202-1935

Telephone 704.372.9000

Fax 704.334.4706

www.parkerpoe.com

November 9, 2007

VIA EMAIL AND CERTIFIED MAIL

Mr. John Dorney
401 Development Unit Supervisor
North Carolina Department
of Environment and Natural Resources
Division of Water Quality
Mail Service Center 1650
Raleigh, North Carolina 27699-1650
john.dorney@ncmail.net

Re: *Comments by Stanly County to Section 401 Water Quality Certification
Alcoa Power Generating, Inc. FERC Relicensing Project No. P-2197-0000*

Dear Mr. Dorney:

Thank you for allowing Stanly County (the "County") the opportunity to submit comments on Alcoa Power Generating, Inc.'s ("APGI") request for a Section 401 water quality certification related to its Federal Energy Regulatory Commission ("FERC") relicensing application. For the reasons outlined below, the County strongly urges the Division of Water Quality ("DWQ") to take additional time (as permitted under the applicable rules) to gather and consider important environmental information related to the potential impact on water quality from APGI's proposed operation of the dam system. Among other things, critical information is now being gathered, and current data should be assimilated, to understand fully the potential impact that the proposed activities may have on Badin Lake (the "Lake") and related water bodies.

The Lake is an approximately 5,000 acre lake that, as part of the Yadkin Pee Dee basin, serves as a primary drinking water source and is one of the best (and most frequently used) fishing and swimming lakes in North Carolina. The Lake is bordered by the former Alcoa Badin Works facility (the "Plant"), which conducted aluminum smelting operations from approximately 1915 until mid-2007, and both the Lake and the Plant are located in Stanly County. During the Plant's operations, wastes containing cyanide complexes and potentially other materials were disposed of at the Plant property. There is no doubt that historic operations at the Plant have contaminated the Plant property and have potentially impacted the Lake. See RCRA Facility Investigation Report ("RFI"), Alcoa Badin Works, Badin, North Carolina,

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prepared by MFG, Inc. (March 2001). These comments focus on the extent to which DWQ has and should consider the potential that, in light of the current and historical environmental conditions, APCI's proposed operation of the dam and Lake system has impacted or may seriously impact water quality, including the biological integrity of the Lake.

The Relicensing Application

As you know, APCI, a wholly-owned subsidiary of Alcoa, Inc. ("Alcoa"), is in the process of relicensing its Yadkin Hydroelectric Project (FERC No. P-2197) located on the Yadkin River in North Carolina (the "Project"). APCI is seeking a renewal of its 1958 license for a 50-year term, the maximum time period permitted by law.¹

As part of the FERC relicensing process, APCI applied for a Section 401 water quality certification from DWQ. Although we have not had an opportunity to review the information that APCI submitted to DWQ, the County believes that APCI has not provided DWQ with environmental information about how the Plant's operations may have affected the Lake. The County has attempted to assemble and supply such information to DENR's Solid Waste Division and has had several conversations with those officials regarding newly discovered waste sites. However, we are not aware that any of this information has been shared with DWQ for purposes of the 401 review. Accordingly, we believe that DWQ has not had the opportunity to evaluate how the continued operation of the dam system may affect or exacerbate any conditions, including whether any conditions would render the Lake in violation of the applicable water quality standards.

For this reason, and the reasons presented below, the County respectfully requests that DWQ (i) extend its review of APCI's application pursuant to 15A N.C.A.C. 2H .0507(a)(5), and (ii) seek and evaluate additional information concerning the interaction of environmental conditions from the Plant and the operation of the Lake and dam systems prior to issuance of any water quality certification.

¹ When FERC issued Alcoa the original license in 1958, Alcoa employed over 900 local residents at the Plant and the electricity generated from the Lake was supposed to be used to power the smelting operations at the Plant. The situation now is decidedly different -- Alcoa announced the closure of the Plant on or about July 30, 2007, and by spring 2008, no local residents will be employed by the Plant and the Plant will not require any power to operate. Rather, Alcoa's request to renew its license is based purely on revenues from the sale of Project electricity (more than \$40 million/year in gross revenues, according to Alcoa's estimates) derived from Alcoa's free use of the public's waters. The County submits that Alcoa's current relicensing proposal provides little or no benefit to the citizens of the State of North Carolina that would justify or offset adverse Project impacts to water quality.

The Section 401 Certification

Section 401 of the Clean Water Act (the "CWA") essentially requires that states issue a "Section 401 water quality certification" for all projects that may involve a discharge to waters of the United States and that require a Federal permit (including a FERC license). See 33 U.S.C. §1341(a). The Section 401 certification basically verifies that a given project will not degrade waters of the State or otherwise violate water quality standards. See id. Section 313 of the CWA, in turn, provides the states with authority to enact water quality standards. See 33 U.S.C. §1313(a). Finally, the North Carolina Environmental Management Commission has delegated to the Director of DWQ the authority to issue water quality certifications on behalf of the State of North Carolina. See 33 U.S.C. § 1341; N.C. Gen. Stat. § 143B-282(1)(u); 15A N.C.A.C. 02H.0500.

Factors To Be Considered In A Section 401 Certification Determination

In evaluating a Section 401 certification, DWQ must first determine that the proposed activity does not remove or degrade the existing uses of the surface water and that water quality standards are met. 15A N.C.A.C. 2H .0506(a) and (b). Following this finding, DWQ must determine that the proposed activity:

- (1) has no practical alternative under the criteria outlined in [the rules];
- (2) will minimize adverse impacts to the surface waters based on consideration of existing topography, vegetation, fish and wildlife resources, and hydrological conditions under the criteria outlined in [the rules];
- (3) does not result in the degradation of groundwater or surface waters;
- (4) does not result in cumulative impacts, based upon past or reasonably anticipated future impacts, that cause or will cause a violation of downstream water quality standards through the use of on-site stormwater control measures; and
- (5) provides for replacement of existing uses through mitigation as described [in the rules].

See id. at 0506(b). In addition, DWQ's practice, appropriately, is to use the Section 404(b)(1) guidelines to assist it in evaluating the issuance of a Section 401 water quality certification for FERC licenses. See Internal DWQ Guidance, "Stream Mitigation for FERC-related 401 Certifications" (January 9, 2007); 33 U.S.C. §1344(b)(1). The United States Environmental Protection Agency ("EPA") issued such guidelines at 40 C.F.R. 230 et seq.

The Section 404(b)(1) guidelines focus on, among other things, the avoidance and minimization of impacts to waters, and highlight the paramount importance of water quality

standards. They state, for example, that no discharge of dredged or fill material shall be permitted if it "causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable state water quality standard." 40 CFR § 230.10(b)(1).² They also prohibit the proposed activity if it "cause[s] or contribute[s] to significant degradation of the waters of the United States." 40 CFR § 230.10(c). "[E]ffects contributing to significant degradation considered individually or collectively include: (1) [s]ignificantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites; (2) [s]ignificantly adverse effects of the discharge or pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemicals processes. . . ." *Id.*

The guidelines explain that the evaluation of the effects of each proposed activity must include, among other things, an analysis of: contaminant determinations (determination of the degree to which the material proposed for discharge will introduce, relocate, or increase contaminants) and aquatic ecosystem and organism determinations (determination of the nature and degree of the effect that the proposed discharge will have on the structure and function of the aquatic ecosystem and organisms). *See* 40 CFR § 230.11(d) and (e). For example, the impacts of the proposed activity on fish, crustaceans, mollusks and other aquatic organisms in the food web must be considered. *See* 40 CFR § 230.31(a). The regulatory authority must in particular consider whether the requested activity "affect[s] the populations of fish, crustaceans, mollusks and other food web organisms through the release of contaminants which adversely affect adults, juveniles, larvae, or eggs" *Id.* at § 230.31(b).

The use of the Section 404(b)(1) guidelines as guidance, and their emphasis on potential biological/ecological impacts, also makes sense in light of North Carolina's own water quality standards. Badin Lake is classified as a Class WS-IV water with a Class B designation. Under North Carolina's water quality standards, the "best usage" of Class WS-IV waters means "a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II or WS-III classification is not feasible and any other best usage specified for Class C waters." 15A N.C.A.C. 2B .0216(1). The "best usage" of Class C waters, in turn, provides that "[t]he waters shall be suitable for aquatic life propagation and maintenance of biological integrity . . . [and] sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard." 15A N.C.A.C. 2B .0211(2) (emphasis added). Finally, "biological integrity" is "the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of

² As you know, the guidelines focus on the discharge of dredged and fill material, which is governed by Section 404 of the CWA. However, their careful evaluation and explanation of how activities can affect aquatic systems, and their description of the important aspects of those systems, provides valuable guidance for understanding impacts to water quality in other circumstances, such as those presented here.

organisms having species composition, diversity, population densities and functional organization similar to that of reference conditions.” *Id.* at .0202(11).³

We note that ecological factors are decidedly relevant in the evaluation of a request for a 401 certification. When imposing conditions on section 401 certificates, states may take into account a wide range of factors associated with the impact of a proposed use on water quality. Specifically, in *S.D. Warren Co. v. Maine Bd. of Env’tl Prot.*, 126 S.Ct. 1843 (2006), the U.S. Supreme Court held that, in making 401 certifications, states may take into account the effect of a proposed use on the chemical composition of the surrounding water and its effect on a species’ habitat or reproductive health and on recreational use. *Id.* at 1853. The Court’s reasoning was based in the idea that the impact of the changes caused by dams on water quality is a part of the business of states, and that the Clean Water Act’s system is designed with those state concerns in mind. *Id.* Similarly, in *PUD No. 1 of Jefferson County v. Washington Dep’t of Ecology*, 511 U.S. 700 (1994), the Supreme Court addressed the broad power of states in this context, noting that states may “place any conditions on a 401 certificate that are necessary to assure that the applicant will comply with effluent limitations, water quality standards, . . . and with ‘any other appropriate requirement of state law.’” *Id.* at 712.

There is no doubt, therefore, that DWQ should carefully review all environmental information that relates to potential impacts to biological integrity and ecosystems. For the APGI project, it is precisely this type of water quality information that DWQ must evaluate before it can issue a thoughtful decision on the proposed Section 401 certification.

The 401 Certification Must Be Delayed To Provide Time For DENR To Evaluate New And Important Biological And Water Quality Information

The County’s review of available information has revealed sources of existing environmental information that demonstrate the very real possibility that environmental conditions exist in the Lake system that may be affected by operation of the dams. That existing information is described in the next section of these comments. This section addresses critical information that is now being developed that should be considered in the Section 401 review. That information consists of a new study that will bear directly on whether and how environmental conditions could impact biological integrity, including important and sensitive species. The new study will be directly relevant to your decision-making process.

Some consideration of the project’s impacts on sensitive species is included in the April 22, 2007 Relicensing Settlement Agreement (“RSA”) between APGI and various parties (including the North Carolina Department of Environment and Natural Resources (“DENR”). The RSA imposes certain obligations on APGI for the “protection, mitigation and enhancement of ecological, environmental, recreational and cultural resources affected by the Project under a

³ The other affected waters are designated as Class WS-IV, except for a certain portion of Little Mountain Creek, which has a Class C designation.

New License.” Id. at Section 1.1. For example, one of the proposed license articles in the RSA requires APGI to develop and implement an approved Rare, Threatened and Endangered Species Management Plan. See Section 3.6.1. The Plan is required to address the impact of the Project operations on the bald eagle (*Haliaeetus leucocephalus*), as well as two other plant species. See id. Our concern is that this study schedule, to which the County did not agree, will be too late to allow a proper water quality determination under Section 401, and to allow the imposition of appropriate conditions in the final certification.

The bald eagle provides a prime example.⁴ Bald eagles are primarily fish eaters. They generally can catch fish 6-12 inches under the surface, and they often select dead or floating fish. See http://www.carolinaraptorcenter.org/b_eagle.php. Usually, they catch fish that have come through the turbines at a dam; these fish are dazed, dead, or injured and make easy prey for the eagles. This phenomenon has been noted at the Badin Dam (Narrows Dam) in particular. See <http://www.ncnatural.com/NCUSFS/Uwharrie>. In general, bald eagles consume approximately 1-2 pounds of fish per day. See <http://www/greatriverroad.com/Eagles/eagleSciFacts.htm>.

These facts are important for two reasons. First, there is no doubt that the operation of the dam system can have a critical impact on how the bald eagle gathers its primary food, given that dams are a favorite hunting ground. Indeed, one source suggests that the Badin Dam provides a prime location to view the bald eagle for just that reason. See <http://www.ncnatural.com/NCUSFS/Uwharrie>.

Second, and critically, planning is now underway to gather vital information about the Plant’s potential impact on fish populations, the same fish that will be affected by the dams and eaten by the bald eagles. This information is forthcoming, but not yet available. Approximately two years after the County raised environmental and health concerns about the conditions of the Lake to Alcoa, and after a recent meeting with DENR to require Alcoa to perform additional studies of the Lake impacts, Alcoa has apparently agreed to perform a “fish study” of the potential environmental impacts to the Lake from the Plant’s operations. The County understands that the design and parameters for this “fish study” will be available by November 16, 2007. Once the work plan is approved, Alcoa will presumably conduct the work outlined in the work plan and make this information available to the EPA, the North Carolina Department of

⁴ Although it was recently “delisted” under the Endangered Species Act, the bald eagle is still a critically important and protected species. For example, the bald eagle remains protected by the Bald and Golden Eagle Protection Act, which prohibits the taking of bald eagles within the United States. See 16 U.S.C. 668. Under that Act, “taking” also prohibits “disturbance,” a term that was defined by the Fish and Wildlife Service in June 2007 to mean “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” 50 C.F.R. 22.3. The term “disturb” is also broad enough to include adverse habitat modification. 72 Fed. Reg. 31133 (June 5, 2007); Contoski v. Scarlett, 2006 WL 2331180 at * 3 (D. Minn. Aug. 10, 2006). Therefore, although the bald eagle is delisted, the Bald and Golden Eagle Protection Act provides analogous protection to that afforded under the Endangered Species Act.

Environment and Natural Resources ("DENR") and other interested parties. The "fish study" is vital to understanding the potential impact of managing the Lake system on species, including the bald eagle, given that fish movement and management may depend on whether and how fish populations are impacted by the contamination conditions.

The County submits that DWQ must consider the results of the new fish study in its evaluation of water quality and its consideration of appropriate conditions for a Section 401 certification. In fact, while evaluating DWQ's decision on certain stormwater permits and how those permits might affect the Carolina Heelsplitter (an endangered species), a North Carolina Administrative Law Judge recently held that DENR's:

legal obligation to protect biological integrity necessarily includes the protection of the most sensitive species within a watershed. Therefore, in the Goose Creek watershed, biological integrity encompasses the ability of the watershed to maintain the federally endangered Carolina Heelsplitter population.

North Carolina Wildlife Fed'n, et al. v. North Carolina Dep't of Env't & Natural Res., Div. of Water Quality, 05 EHR 2055 and 06 EHR 0164 at 27-28 (consolidated cases)(March 7, 2002). Preservation of biological integrity would certainly include protection of the bald eagle and other species, and the study is therefore essential to evaluating whether the Project will affect water quality standards.

It also goes without saying that the fish study, and information related to biological integrity in general, is critical to understanding potential impacts on the human population. The water quality standards applicable to the Lake require, among other things, protection of uses for fish consumption and for primary recreational activities involving human body contact with water on a frequent basis. Given the potential for environmental impacts in the Lake, certainly these uses could be seriously impacted by operation of the dam system. Indeed, DENR itself argued in its February 22, 2007 Notice of Intervention and Alternative Motion to Intervene, filed in APGI's FERC license renewal process, that "[t]he operation of this project may change the quantity and quality of fish habitat in the river, alter the chemical and physical properties of the river, affect the recreational opportunities in the river, affect submerged lands to which the State retains title, etc." DENR Notice at 4. Based on DENR's own beliefs on the potential impact of the dam, it should certainly wait to review all available information, including the upcoming "fish study."

In sum, the County submits that the Section 401 certification process must be extended to permit a review of all environmental information. The outstanding fish study is "information necessary to the Director's decision" that is "unavailable," thus justifying a delay in the process beyond the 60 day decision-making requirement. 15A N.C.A.C. 2H .0507(a)(5).

The 401 Certification Also Must Be Delayed To Provide Time For DENR To Evaluate Existing Information Concerning Potential Contamination Of The Lake And Its Organisms, And To Evaluate The Need To Gather New Water Quality Data

Moreover, the process must also evaluate other current environmental information that (we believe) has yet to be considered. As discussed in more detail below, we do not believe that DWQ has been presented with environmental impacts that the contamination at the Plant and Lake may have on water quality standards, including the protection of the biological integrity of the Lake and the safety of the waters for the best uses of the Lake. Again, the potential for adverse impacts to the Lake and water system from the dam operation, and the appropriate conditions in a water quality certification, cannot be properly evaluated until this information is reviewed.

We have provided below a brief summary of the information collected to date, and presented to DENR in other contexts, that demonstrate potential impacts to the Lake and its ecosystems. As you will see, the information both identifies current impacts and highlights the need for additional studies.

A. The Screening Site Investigation of the Alcoa Badin Landfill by the Superfund Division of DENR in 1991 included an assessment of the aboveground waste pile for the disposal of spent potliners, furnace bricks and construction debris. Although the investigation identified only elevated levels of acetone in soil and groundwater, the report noted that the foot of the landfill ended in an area of seeping water. This water apparently flowed along the path of an intermittent creek leading to the Lake. The report further explained that the Lake is an "excellent fishery" for both sport and commercial fishing and "one of the best and heaviest used" in North Carolina. The Lake reportedly supported approximately 398.26 pounds per acre of fish and, as of 1980, approximately 69,408 pounds of fish were harvested and consumed per year. The County estimates that the volume of fish from the Lake consumed by humans has dramatically increased since the 1980 figures.

B. The March 2001 RCRA Facility Investigation Report ("RFI") prepared by MFG, Inc. for Alcoa provides the sampling data related to environmental impacts to sediment and surface waters at the Lake. Specifically, the RFI identified the following contaminants in the sediment in the areas of the Boat Launch and Swimming Cove in the Lake above the EPA Region III Industrial Soil Risk-Based Concentration: benzo(a)pyrene, benzo(a)anthracene, benzo(a)fluoranthene, dibenzo(a,h)anthracene, indeno(1,2,3-cd)pyrene, Aroclor 1242 and 1260, and arsenic.⁵ See RFI at 100 and Table 4-58. No contaminants were detected in surface water

⁵ Alcoa concluded that the concentration of arsenic in the sediments in these areas is not a constituent of concern because the detected levels were below the levels Alcoa determined to be "background" at the Plant. The County

above the North Carolina 2B standards. The RFI also concluded that benzo(a)pyrene was detected in the Swimming Cove area sediments at concentrations higher than the screening values for human health. See RFI at 101 and Table 4-59. Despite the elevated levels of contaminants in sediments, Alcoa concluded that the impacted sediments would yield acceptable results regarding human health risk exposure in the swimming area, and (for areas of shallow impacts in the Boat Launch area) Alcoa basically concluded that the time of contact would be brief because of the rocky floor bottom and the water washing off sediment. Even if Alcoa is correct, however, the County submits that potential human exposure is only one piece of a large, vital puzzle. We are not aware of any review of the information in light of the overall ecosystem, whether other components of the ecosystem are impacted, and how the operation of the dam and water system might affect the distribution of those impacts through movement of organisms or otherwise.⁶

Moreover, in this time of severe drought, sediments that were at one time at depth are now undoubtedly much closer to the surface. Other sediments may have migrated to deeper areas that have not been sampled or otherwise studied. Understanding exposure scenarios related to the current condition of sediments contaminated by the Plant's operations is critical to management of the Lake system and the maintenance of water quality/biological integrity.

Finally, the sampling data utilized in the RFI was collected in 1996 and 1997, over ten years ago. The possible presence of additional impacts to the Lake system since that time must also be evaluated. The County understands, for example, that Alcoa has been unable to meet the parameters of its NPDES permit (NC0004308) for the Plant. Indeed, DENR recently granted Alcoa an extension of time (ranging from 18 to 36 months) for Alcoa to meet the discharge standards in its current NPDES permit for the following parameters: chlorine, cyanide and fluoride. Accordingly, it appears that the Plant continues to discharge pollutants to the Lake in excess of its NPDES permit, including for parameters that – based on 10-year old sampling data – exceed industrial standards in the Lake.

C. The recent Characterization of the Toxicity and Bioavailability of Polycyclic Aromatic Hydrocarbons in Aquatic Sediments from Badin Lake, prepared by Retec (February 2007) assessed the bioavailability and toxicity of Polycyclic Aromatic Hydrocarbons ("PAHs") in the sediments of the Lake adjacent to the Plant. The report identified PAHs in sediment that ranged from 0.23 ppm to 1,690 ppm, and stated that the carbon identified in the samples was consistent with the emissions from a smelter and carbon plant, and the use of coal at the smelter.

does not know how DENR views either this conclusion or the appropriate standards against which to measure the results.

⁶ The RFI also identified elevated levels of contaminants in groundwater that the County believes may lead to adverse impacts on the Lake water quality. Indeed, the five (5) groundwater monitoring wells located downgradient from the Plant and near the Lake all identified elevated levels of contaminants. The following contaminants were identified above the applicable North Carolina 2L standards: total cyanide (MW-16, MW-25 and MW-25A); fluoride (MW-16, MW-25, MW-25A and MW-26) and trichloroethene (MW-16). See RFI at Table 4-59.

The report concluded that the samples collected did not exceed the concentrations at which benthic aquatic invertebrate would be expected to have reduced survival, and that the toxicity and bioavailability of PAHs in sediment did not represent a significant source of toxicity to benthic aquatic organisms. We are not aware of DENR's reaction to this study, and whether DWQ has considered its bases and agrees with its conclusions. We do note, however, that the report apparently did not include any sampling or analysis of the potential impacts to the fish population in the Lake and/or on individuals (including children) who frequently swim and conduct other water activities in the Lake.

D. There are numerous other Sources of Information that we believe would contain information relevant to evaluating environmental and water quality impacts to the Lake system deriving from the Plant. For example, among others, APCI's compliance history with its NPDES permit (No. NC0081947), water quality reports for the Plant, monitoring data for the Plant, the impaired water status of Little Mountain Creek (which is part of the proposed Yadkin Hydroelectric Project), litigation records from a suit initiated by Alcoa with respect to insurance coverage for environmental contamination at the Plant, and the Toxic Release Inventory Reports for the Plant.

The County's position is well known: Alcoa's record of waste contamination at the Plant, and its minimal and delayed responses to address such contamination, are directly relevant to the issue of whether Alcoa (and its wholly-owned subsidiary APCI) would be a fit environmental steward for the Yadkin Project and would conduct its operations without negative impacts to the water quality standards of the Lake.⁷ The County intends to press its position in the FERC proceedings, and to ask FERC to assert its full authority to mitigate and improve environmental conditions at the Project, including Badin Lake.

For the current purposes, it is apparent that there is a lack of a comprehensive (or current) environmental assessment of the environmental impacts to the Lake from the Plant's historic operations, and that the absence of complete and adequate information directly impacts DWQ's Section 401 certification decision. Indeed, the County's view is that, while the situation at the Plant may have improved (due largely to the shutdown of the facility), the documents already show an inextricable link between prior operations at the Plant and impacts to the Lake's water quality that would dictate that the Section 401 certification be conditioned to assure protection of water quality and biological integrity. Those conditions cannot be properly understood until all information is considered. Importantly, they also cannot be evaluated until additional information is gathered concerning impacts to the Lake and the resulting consequences for Lake management. See 15 A N.C.A.C. 2H .0502(c) and (d) (allowing DWQ to request additional information and conduct investigations necessary for the proper consideration of the application).

⁷ Indeed, it appears that significant remedial work remains to be performed at the Plant. Alcoa disclosed in a lawsuit against its insurance company in Washington State that the estimated cleanup costs at the Plant would be \$50 million. However, to date, it appears that Alcoa has spent only \$8 million to investigate and implement remedial measures at the Plant.

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Conclusion

In sum, the County believes it is premature for DWQ to issue a Section 401 water quality certification based on the current information it has been provided and without fully evaluating the environmental impacts to the Lake from the Plant's historic operations, including information from the impending "fish study." Indeed, DENR must review this information to determine if the identified impacts to the Lake, its aquatic life and/or related species and ecosystems will be exacerbated by the operation of the dam system APGI is proposing to operate for another 50 years. We would therefore submit that DENR should deny certification at this time or otherwise hold APGI's application in abeyance, pursuant to 15A N.C.A.C. 2H .0507(a)(5), to allow DENR additional time to receive and review information necessary to its decision.

The County therefore respectfully requests that DWQ not grant the 401 water quality certification, and that the process continue as necessary to consider the past and impending environmental studies and to gather adequate new information related to the agency's decision.

Thank you again for your attention to this matter. Please feel free to contact me if you have any questions or require any additional information from the County along these lines.

Very truly yours,


Thomas N. Griffin, III
Attorney for Stanly County

TNG/cmh

cc: Mr. Jerry D. Myers, County Manager, Stanly County (via email only)
JMyers@co.stanly.nc.us

Tom Reeder, Chief, Division of Water Quality (via email only)
tom.reeder@ncmail.net

Paul Rawls, Division of Water Quality (via email only)
paul.rawls@ncmail.net

David. R. Poe, Esq., LeBoeuf, Lamb, Greene & MacRae LLP (via email only)
Counsel for APGI
david.poe@llgm.com