

IN REPLY REFER TO:

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United States Department of the Interior

OFFICE OF THE SOLICITOR

Southeast Regional Office
Richard B. Russell Federal Building
75 Spring Street, S.W., Suite 304
Atlanta, Georgia 30303

September 26, 2002

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Re: Keowee-Toxaway Hydroelectric Project
Duke Power Corporation, Applicant
FERC Project No. 2503-068

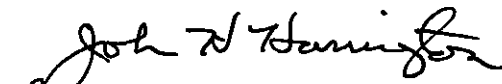
Dear Ms. Salas:

Enclosed for filing with the Federal Energy Regulatory Commission is an original and fourteen (14) copies of a motion to intervene by the Department of the Interior in the above-captioned proceeding.

An additional copy of the motion is enclosed so that you may file stamp and return it in the enclosed stamped self-addressed envelope.

Thank you for your cooperation.

Sincerely yours,


for Horace G. Clark
Regional Solicitor

cc: Franklin Keel, Regional Director, Eastern Region, Bureau of
Indian Affairs, 711 Stewarts Ferry Pike, Nashville, Tennessee
37217. ATTENTION Jim Kardatzke

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02 SEP 27 AM 10:17
FEDERAL ENERGY
REGULATORY COMMISSION

ORIGINAL

OFFICE OF THE SECRETARY
FILED
02 SEP 27 AM 10:20
FEDERAL ENERGY REGULATORY COMMISSION
FEDERAL ENERGY REGULATORY COMMISSION
KEOWEE VINEYARDS HYDROELECTRIC *
PROJECT, DUKE ENERGY CORPORATION, * FERC Project No. 2503-068
Applicant *

**MOTION TO INTERVENE and PROTEST
BY THE UNITED STATES DEPARTMENT OF THE INTERIOR**

1. The United States Department of the Interior (Department), in the exercise of its statutory responsibility on behalf of the people of the United States, moves to intervene in the above-captioned proceedings pursuant to 18 C.F.R. 385.214, and protests pursuant to 18 C.F.R. 385.211 the grant of application by Duke Energy Corporation. In support of this motion to intervene and protest, the Department states as follows:

2. The Department has statutory responsibilities and represents public interests that are directly affected by the application to excavate sediment material from the bed of Lake Keowee in The Cliffs at Keowee Vineyards Subdivision in Pickens County, South Carolina, as set forth in the Commission's notice of August 29, 2002.

3. The proposal places in jeopardy the preservation *in situ* of certain Cherokee village sites containing human remains, objects, and structures of great importance to Cherokee peoples and to the United States.

4. The Department has broad obligations under the laws of the United States to protect Indian cultural resources that are subject to the effects of water developments permitted by the Federal Energy Regulatory Commission.

5. The Bureau of Indian Affairs, an agency of the Department, is the Federal agency charged with primary responsibility over matters pertaining to the administration of Indian affairs, 25 U.S.C. § 13. The Bureau also has a "unique relationship" with Indian tribes with respect tribal remains or objects. 25 U.S.C § 3010. In pursuance of that relationship the Bureau may provide technical assistance to Indian tribes concerning remains, objects, and sites with which they are culturally affiliated.

6. The Federal Energy Regulatory Commission has a statutory obligation under the National Historic Preservation Act (NHPA), 16 U.S.C. § 470 et seq. with respect to Native American districts, sites, buildings, structures and objects which are included in or eligible for inclusion in the National Register of Historic Places.

7. The Secretary of the Department of the Interior, is authorized by the NHPA to "use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations." 16 U.S.C. § 470-1(1).

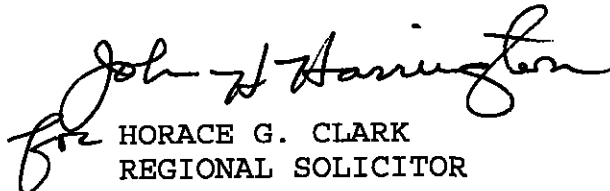
8. For the foregoing reasons, it is submitted that: (1) the Department is authorized to participate in these proceedings; (2) the Department has interests which shall be directly affected by the outcome of these proceedings; and (3) the Department's participation is in the public interest.

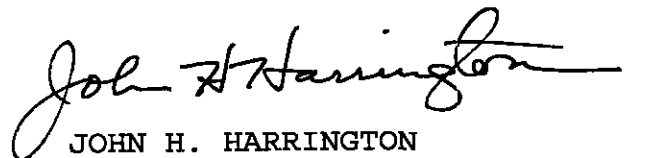
9. All notices in this matter should be served upon the following:

Horace G. Clark, Regional Solicitor, Southeast Region, U.S. Department of the Interior, 75 Spring Street, S.W., Suite 304, Atlanta, GA 30303. Attention: John H. Harrington

Franklin Keel, Regional Director, Eastern Region, Bureau of Indian Affairs, 711 Stewarts Ferry Pike, Nashville, Tennessee 37217. ATTENTION Jim Kardatzke


Respectfully submitted,


for HORACE G. CLARK
REGIONAL SOLICITOR
SOUTHEAST REGION


JOHN H. HARRINGTON
ASSISTANT REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
75 SPRING STREET, SW, SUITE 304
ATLANTA, GA 30303
TEL. (404) 331-4447 ext. 228
FAX (404) 331-3448

CERTIFICATE OF SERVICE

I certify that the foregoing was mailed this 26th day of September, 2002, to the persons and entities set forth on the attached FERC service list.



JOHN H. HARRINGTON

Service List for P-2503

Duke Power, Division of Duke Energy Corp

Principal/Party Name/Address

CHRISTIN J. JUVIER
Duke Power, Division of Duke Energy Corp
422 S Church St
Charlotte , NC 28242-0001

E. M. Oakley Manager
Duke Power, Division of Duke Energy Corp
PO Box 1006
Charlotte , NC 28201-1006

Representative Name/Address

ELLEN T. RUFF
Duke Power, Division of Duke Energy Corp
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Charlotte, NC 28242-0001