

ENVIRONMENTAL MANAGEMENT COMMISSION

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DIV. OF ENVIRONMENTAL MANAGEMENT
Raleigh, NC

Certificate Authorizing the Towns of Cary and Apex
to Divert Water Under the Provisions of
G.S. 153A - 285 and 162A - 7

On September 13, 1988, the Towns of Cary and Apex petitioned the Environmental Management Commission (EMC) for a certificate to divert up to 16 million gallons of water per day from the Cape Fear River Basin to the Neuse River Basin, incidental to their proposed withdrawal of water supply from Jordan Lake and discharge of treated wastewater to tributaries of the Neuse River. A public hearing on the Cary - Apex petition was conducted in Raleigh, North Carolina, on May 25, 1989, pursuant to N.C. G.S. 153A-285 and 162A-7. A record of that hearing was prepared in June of 1989 and mailed to members of the Environmental Management Commission on June 28, 1989. A copy of the hearing record is attached to this certificate.

The EMC considered the Cary - Apex petition at its regular meeting on July 13, 1989. According to G.S. 162A-7, the EMC shall issue certificates only to projects which it finds to be consistent with the maximum beneficial use of the water resources in the State and shall give paramount consideration to the statewide effect of the proposed project rather than its purely local or regional effect. In making this determination, the Board shall specifically consider:

- (1) The necessity of the proposed project;

(2)

- (2) Whether the proposed project will promote and increase the storage and conservation of water;
- (3) The extent of the probable detriment to be caused by the proposed project to the present beneficial use of water in the affected watershed and resulting damages to present beneficial users;
- (4) The extent of the probable detriment to be caused by the proposed project to the potential beneficial use of water on the affected watershed;
- (5) The feasibility of alternative sources of supply to the petitioning authority and the comparative cost thereof;
- (6) The extent of the probable detriment to be caused by the use of alternative sources of supply to present and potential beneficial use of water on the watershed or watersheds affected by such alternative sources of supply;
- (7) All other factors as will, in the Board's opinion, produce the maximum beneficial use of water for all in all areas of the State affected by the proposed project or alternatives thereto.

Based on the hearing record and on consideration of the criteria in G.S. 162A-7 as reproduced above, the hearing officer recommended that the Commission issue a certificate to the Towns of Cary and Apex, giving them the right to divert up to 16 million gallons per day from the Cape Fear River Basin to the Neuse River Basin. The primary reasons for that recommendation were as follows:

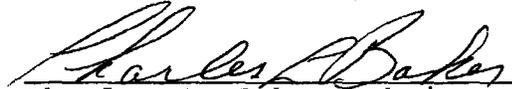
- (1) The Town of Cary presently purchases almost all of its water from the City of Raleigh. The Town of Apex obtains water from a small impoundment which is inadequate for its projected needs. The two Towns need a water source adequate in quantity and quality to meet their present and future requirements.
- (2) Jordan Lake is a major contributor to the storage and conservation of water in North Carolina. Governor Dan Moore requested the U.S. Army Corps of Engineers to include water supply storage as a purpose of the project. The U.S. Congress authorized Jordan Lake for public water supply as one of several purposes. The Environmental Management Commission has allocated water supplies from Jordan Lake to seven public water supply systems. The use of water supply from Jordan Lake by these water supply systems constitutes the use of the increase in the storage and conservation of water brought about by the authorization, planning, and construction of Jordan Lake.
- (3) Two-thirds of the water storage capacity of Jordan Lake is set aside for downstream flow augmentation. This stored water is released from Jordan Lake to maintain a flow target at Lillington of 600 cubic feet per second with a tolerance of plus or minus 50 cubic feet per second. This flow compares to a record low flow at Lillington of 11 cubic feet per second and a 7-day,

10-year low flow of about 80 cubic feet per second. The use of the remaining one-third of the lake's storage capacity for public water supply will not be allowed to encroach on the two-thirds of the storage capacity authorized by Congress for downstream purposes. As a result of the operating policies, downstream water users and wastewater dischargers have many times the quantity of water available now than existed before Jordan Lake was constructed.

- (4) The effects of the diversion on water levels in Jordan Lake will be minor. Under conditions of the worst drought of record, the diversion of 16 MGD will lower the water level in Jordan Lake a maximum of one foot.
- (5) The largest source of water supply in Wake County is Falls Lake. The City of Raleigh owns all the water supply storage at Falls Lake. The yield of Falls Lake is only about 66 million gallons a day as opposed to the 100 million gallons per day mentioned in early planning reports for Falls Lake. This reduction of one-third of the planned capacity of the lake makes it important to use other water sources for Wake County's long range needs. The use by Cary and Apex of Jordan Lake as a water supply source, rather than buying water from the City of Raleigh, will delay by approximately ten years the need for Raleigh to develop additional water supply sources.

Based on the hearing record and the recommendation of the hearing officer, the Commission on July 13, 1989, granted the petition of the Towns of Cary and Apex to divert up to 16 million gallons per day of water from the Cape Fear River Basin to the Neuse River Basin by duly made motion and vote. This document shall constitute the certificate as required by S.S. 153A-285 and 162A-7 and is effective as of the Commission's action on July 13, 1989.

This the 3rd day of November, 1989.


Charles L. Baker, Chairman

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing CERTIFICATE AUTHORIZING THE TOWNS OF CARY AND APEX TO DIVERT WATER UNDER THE PROVISIONS OF G.S. 153A-285 AND 162A-7, without attachment, on the persons listed below by the methods indicated:

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This the 6th day of November, 1989.

LACY H. THORNBURG
Attorney General

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