

Appendix F
Agency Correspondence and Public Comments

Comments Spreadsheet

Concord Kannapolis Interbasin Transfer Commenters

Written Comments

Received

Written Comments	Received	
1 George and Suzanne Johnson	Residents of Nebo, NC (Lake James)	June 29, June 23, July 15, July 11, July 25, 2005
2 David W. Treme	City of Salisbury	06-Jul-05
3 Jeffrey V. Morse	Town Manager, Valdese	July 7 2005
4 Barry B. Edwards, PE	Catawba County Utilities and Engineering	June 22, June 24, June 29 2005
5 Gary Ruth	VP/Gen Mgr, Philip Morris	16-May-05
6 Judson McAdams	Real Estate Development Partners	19-May-05
7 Brian Hiatt	Concord City Manager	22-Jun-05
8 John S. Cox	Cabarrus Regional Chamber of Commerce	21-Jun-05
9 Toby Prewitt	Cabarrus Regional Chamber of Commerce	22-Jun-05
10 George Johnson, Robert Long	Lake James Environmental Association	21-Jun-05
11 Michele Nowlin	Southern Environmental Law Center	July 1, July 22, 2005
12 Eric Davis	Town manager, China Grove	July 7 2005
13 Mike Legg	City Manager, Kannapolis	22-Jun-05
14 George A. Galleher	Duke Power	17-Jun-05
15 Graham Morgan and Ron Kendrick	SouthPointe Homeowner's Association	14-Jul-05
16 Charles R. Abernathy	County Manager, McDowell County	18-Jul-05
17 William and Wanda Ledbetter	Resident Nebo, NC	18-Jul-05
18 Gresham Orrison	Community of Lake James, Inc.	15-Jul-05
19 Howard Morgan	East Shores Homeowners' Association	12-Jul-05
20 Ned Y. Hudson	Cabarrus Soil & Water Conservation District	21-Jul-05
21 Teresa B. Abernathy	Waterglyn POA	22-Jul-05
22 Richard Garrison	Morganton, NC	26-Jul-05
23 Donna Marie Lisenby	Catawba Riverkeeper	July 22, July 26, 2005
24 Ross M. Morrison, III	Cabarrus County Watershed Improvement Commission	27-Jul-05
25 Jim Pearson	Alba-Waldensain/Tefron USA	26-Jul-05
26 Linda Harwood	Marion, NC	29-Jul-05
27 Neil Cantor	Lenoir, NC	29-Jul-05
28 Rod Birdsong	McDowell Chamber of Commerce	02-Aug-05
29 Gwen Straub	Nebo, NC	Aug 7, Aug 8, 2005
30 Maynard Taylor	Burke County Board of Commissioners	08-Aug-05
31 Rik and Laurie Craig	Morganton, NC	10-Aug-05
32 Robert Stone	Morganton, NC	11-Aug-05
33 Alton Boozer	South Carolina Dept of Health and Environmental Control	11-Aug-05
34 Danny Johnson	South Carolina Dept of Natural Resources	08-Aug-05
35 Sarah McRae	NC Natural Heritage Program	15-Aug-05
36 R. Douglas Taylor	Western Peidmont Council of Governments	12-Aug-05
37 George Butler	Lake View Shores Owners' Association	11-Aug-05

Concord Kannapolis Interbasin Transfer Public Comments

Hearings held June 22-23, 2005

#	Comment	Commenter(s)	EIS Section	Response
1	Request additional time for comments. McDowell County, South Carolina and USFWS not notified directly of public hearing.	11,23,29,33	N/A	Notification of the public hearings was made according to the requirements of the IBT Statute. In addition to the requirements of the statute, several other parties in the source and receiving basins were notified. The Final EIS will receive an additional 60 day notice in the State Clearinghouse with opportunity for comment prior to the EMC making a final decision regarding the IBT. The following will be notified of this public review: All parties required to be notified in the IBT statute, persons involved in Catawba and Yadkin River Basin hydropower relicensing, the South Carolina Department of Health and Environmental Control, a selection of public libraries in the affected region, and all parties who commented on the draft EIS or expressed interest to DWR. In addition, a weblink to the final EIS will be provided, and press releases will be made to the media.
2	IBT should not be considered/approved until FERC relicensing of hydropower operations in the Yadkin and Catawba basins has been completed	1,10,11,15,16,21,23,30,33,36	Executive Summary / 1.4 / 2.1.2	This issue has been discussed since petitioners began the IBT process over four years ago. Duke Power has been very clear that the process should move forward first so that the IBT proposal could be considered as part of FERC relicensing. Clearly, there are some analyses being done as part of the FERC effort that could eventually impact the IBT request. The EIS has been modified to incorporate the latest technical analyses, modeling, and safe yield information from the FERC process. A letter from Duke Power addressing this issue is included as Appendix F.
3	The IBT application process is not following the guidelines developed by DWR and published on website. The process is a rule under the NCAPA and cannot be changed without meeting public notice requirements of the NCAPA	1,11,23	Executive Summary	The process was developed by the Division of Water Resources (DWR) in concert with the EMC legal counsel from the Attorney General's Office and approved by the Water Allocation Committee of the EMC. The process being utilized is based upon prior experience with other IBT certificates and EIS documents.
4	The DEIS violates the State Environmental Policy Act and the National Environmental Policy Act. Concord and Kannapolis appear to have pre-decided that the IBT was the preferred solution and the DEIS was not used as a decision making document.	11,23	Executive Summary / 1.6	The appropriate procedures have been followed in identifying and evaluating feasible alternatives. The EIS is a decision-making tool for both the petitioners and the EMC. Alternatives are discussed in Section 1.6 and in Appendices A and C.
5	Decision by EMC before all data is available would be arbitrary and capricious.	11,23	N/A	The EMC will not make the final decision until all pertinent information is available for evaluation and all comments have been considered.
6	Inadequate documentation of need for water, why is entire allocation being requested now when not needed until 2035	1,11,23,32	1.4 / 1.5	NC General Statute 143-355(l) requires the submittal of a plan to alleviate the available supply shortfall when the ADD is greater than 80 percent of available supply (80 percent criterion). Water demand projections listed in Table 1-6 indicate the ADD will reach 80 percent of the available supply (31 MGD) in about 2007. DWR and EMC have established the use of a 30-year time frame for the purpose of evaluating a planned IBT.
7	Petition states an anticipated 24 MGD average day shortfall by 2035. Why is the request for 48 MGD, so much more the projected shortfall?	1,29	1.4 / 1.6.4 / 4.1.4	The IBT request has been updated to reflect water demand changes since the drought of 2000-2003. The total IBT from both sources will not exceed a MDD of 36 MGD or an ADD of 22 MGD. The 36 MGD could come from both basins. The Preferred Alternative represents a regional solution to meeting water supply needs through cooperation with neighboring communities. These are the projected demands during the 30-year projection period used for IBT certificates. The actual withdrawal amounts will gradually increase over time.
8	The IBT request is premature because the cities base it on an alleged need for water that is not urgent.	11,23	1.4 / 1.5	NC General Statute 143-355(l) requires the submittal of a plan to alleviate the available supply shortfall when the ADD is greater than 80 percent of available supply (80 percent criteria). Water demand projections listed in Table 1-6 indicate the ADD will reach 80 percent of the available supply (31 MGD) in about 2007.
8a	Need for water by applicants is overestimated. According to Concord, "lawn watering accounts for 60 percent of residential water use."	11,23,32	1.4 / 1.4.1	Water supply projections were calculated using the projected populations and current water usage by type of use such as residential, commercial and industrial users. As shown in Table 1-5, the Concord and Kannapolis water systems have a per capita water use very close to usage rates in similarly sized systems in the Charlotte region. Recent per capita water usage in the service area has decreased as a result of actions taken during the drought. A comparison of 2002 per capita demands is shown in Table 1-4.

Concord Kannapolis Interbasin Transfer Public Comments

Hearings held June 22-23, 2005

#	Comment	Commenter(s)	EIS Section	Response
9	The feasibility and cost of a new reservoir in the Rocky River basin has not been adequately addressed.	1,21	1.6, Appendix A	Potential reservoir sites in the Rocky River Basin have already been developed. Dutch Buffalo Creek is not a recommended reservoir location due to environmental concerns. Additionally, Concord and Kannapolis have reservoir storage that already exceeds watershed yield. A reservoir site was investigated on Second Creek; however, this site only provided an additional 6 to 8 MGD of additional safe yield and was determined to be cost prohibitive. The land acquired for the potential reservoir on Second Creek has been sold at below market value to a land trust.
10	Request for clarification on reference to Kannapolis supplying water to Landis in the public hearing notice. Why were plans to sell water by Kannapolis to Landis not mentioned in the DEIS?	1,2,11,23,29	1.2	The EIS has been modified to state that any water sales to Landis do not constitute an IBT. This is because Kannapolis currently receives water from Second Creek in the South Yadkin River Basin and the small amount of water going back to Landis is returned to the South Yadkin River Basin.
11	Request to explain how the term "consumptive use" is used in the DEIS.	2	1.4.1 / 2.1.10.1	For the purpose of IBT evaluations, consumptive use is any use of water withdrawn, that is not returned to surface waters as a discharge. The EIS evaluated the impacts of consumptive use on lake levels in the Catawba basin. See Figures 2-8 & 2-9.
12	If IBT quantities are approved decades in advance of actual need, the allowed quantities should be time-phased to match needs	1,29,32	N/A	The IBT certificate will allow the petitioners to proceed with infrastructure projects to supply water. These infrastructure projects require additional environmental reviews and regulatory approvals. The agencies will not allow a local government to build excess capacity beyond their needs nor would this be a prudent use of funds by the local governments. It takes a considerable amount of time and money to develop and build water supply infrastructure. The full IBT quantity will not be utilized for many years.
13	A provision should be made for an interim limit for the IBT to a maximum of 10 MGD from the Catawba river basin until after Duke Power files the Catawba Wateree Hydroelectric Project FERC License Application.	14	NA	The EMC will make the final determination concerning the IBT based on all available information.
14	Prefer the 38 MGD transfer come from an existing water withdrawal allocation rather than a new allocation.	3,4	4.1.4	The decision about where that allocation comes from will be determined through contract negotiations with water providers from the Catawba River and/or Yadkin River through the FERC permitting process.
15	Have "safe yields" and IBT limits been established for the Catawba Basin?	3,4,11,23	NA	Traditional "Safe Yield" analysis does not apply well to a complex system of 11 reservoirs. The better approach is to model the whole system and evaluate the impacts to all 11 reservoirs. The results of the model runs are in Appendix CD-2 of the EIS. The EMC is responsible for determining if an IBT will be issued based on all available information.
16	What is the justification for upstream and downstream boundaries for analysis, i.e. Lake Wylie and Lake Norman?	1,11,16,23,25,28,33	2.1.2 / 2.1.3 / 2.1.5	The available modeling for the draft EIS focused on IBT effects on flows from Lake Wylie. Updated modeling used for the Final EIS considers modeling impacts throughout the Catawba-Wateree project from Lake James to Lake Wateree and will focus primarily on Mountain Island Lake and Lake Norman. New model runs by the DWR evaluate impacts to all 11 (6 in NC) reservoirs in the Catawba watershed. Results from the model runs are placed in Appendix CD-2 in the EIS.
17	Those living above Lake Norman were not represented, and were not even shown on the map.	1	2.1.1 / 2.1.2 / 2.1.5 / 2.1.6	Although the areas above Lake Norman are not shown on some of the Figures in the EIS, there are numerous references throughout the document concerning the analysis of potential impacts to areas and reservoirs above and below Lake Norman. Additional modeling completed by DWR evaluates the effects of the IBT on water levels in all potentially impacted reservoirs in the Catawba and Yadkin Basins. Modeling results are included in Appendix CD-2.
18	Direct and cumulative impacts to entire Catawba River Basin have not been adequately addressed	1,5,6,8,9,11,12,13,20,24,23,25,33	2.1.1 / 2.1.2 / 2.1.3	DWR is using the latest version of the CHEOPS model developed as part of Duke Power's FERC relicensing process to re-evaluate the analysis included in the draft EIS. This includes impacts throughout the Catawba-Wateree project. This information is included in the Final EIS and will receive additional opportunity for public review.
19	Effect of severe drought on all lakes within the Catawba system must be adequately addressed.	3,4,10,11,16,21,23,27,23,29,31,32,33,36,37	2.1.1 / 2.1.2 / 2.1.3	DWR has used the latest version of the CHEOPS model developed as part of Duke Power's FERC relicensing process to re-evaluate the analysis included in the draft EIS. This includes impacts throughout the Catawba-Wateree project and conservation measures during drought conditions. This information is included in the Final EIS that will receive additional opportunity for public review.

Concord Kannapolis Interbasin Transfer Public Comments

Hearings held June 22-23, 2005

#	Comment	Commenter(s)	EIS Section	Response
20	2002 drought should be used in analysis to estimate impacts to Catawba basin. Use of 2000 and 2002 data is inconsistent.	1,11,23,27	2.1.3.2	Modeling scenarios used to predict future impacts of the proposed CMU withdrawal for the year 2035 were based on consumptive use projections for the entire Catawba River basin. The model runs use 70 years of historic streamflow records including the 2002 drought. This information has been updated based on the latest CHEOPS model and is included in the Final EIS. Discussions of the Low Inflow Protocols to address drought situations are included in Section 2.1.3.1 & Appendices D and E.
21	Cumulative effects of all IBT from given basin should be considered.	1,3,4,11,23,30,33,36	2.1.1 / 2.1.2 / 2.1.3	DWR is using the latest version of the CHEOPS model developed as part of Duke Power's FERC relicensing process to re-evaluate the analysis included in the draft EIS. This will include impacts throughout the Catawba-Wateree project including Lake James. The EIS for the IBT does not address FERC issues and decisions.
22	Cumulative impacts within source basin, including impact on cost of treating drinking water and assimilation of wastewater, and impacts on species of concern	1,3,4,10,11,21,23,33,36	2.1.3.1	The latest CHEOPS model was used to analyze the Catawba River basin. No significant impacts to the cost of treating drinking water and assimilation of wastewater will occur as a result of the IBT. Because lake levels and minimum releases are not significantly impacted, no impacts to species of concern will occur.
23	The CHEOPS model was developed to evaluate withdrawal from Mountain Island lake, application to this IBT request is not appropriate. IBT petition based on an outdated CHEOPS model that uses old data. Therefore, the model results are no longer credible. Underlying assumptions used in CHEOPS model not included in DEIS	11,23	2.1.1 / 2.1.2 / 2.1.3	DWR has used the latest version of the CHEOPS model developed as part of Duke Power's FERC relicensing process to re-evaluate the analysis included in the draft EIS. This includes impacts throughout the Catawba-Wateree project. This information is included in the Final EIS that will receive additional opportunity for public review.
24	Impact of sedimentation/siltation within lakes of upper Catawba should be considered and addressed.	1,3,4,21,37		This is a lake maintenance issue to be addressed through the FERC relicensing process.
25	Guarantee of minimum lake level of 1194 for Lake James	1,15,21,37	2.1.3	Minimum lake levels for all 11 reservoirs in the Catawba River Basin, including Lake James, will be addressed as part of the Catawba River Basin relicensing process. In the EIS, water level effects of the IBT have been evaluated with the new CHEOPS model for all 11 reservoirs. Lake levels will also be managed during drought conditions by implementation of the Low Inflow Protocol (LIP). This LIP was developed by a group of water users and stakeholders. This information is included in the Final EIS that will receive additional opportunity for public review.
26	EMC should consider the larger role for Salisbury as a water source before making decision including the capacity of the Salisbury-Kannapolis line. Consider impacts on Salisbury relative to its plans to provide water for Rowan County	2	1.2 / 1.6.4 / 4.1.4	The Salisbury and Albemarle interconnections are currently limited to < 2 MGD to be in compliance with IBT statutes. Approval of an IBT from the Yadkin-Pee Dee River Basin to the Rocky River subbasin would allow Kannapolis and Concord to negotiate with either Salisbury or Albemarle regarding provision of water.
27	Lack of evidence in DEIS for conclusion of no impact on threatened, rare, and endangered species in the Rocky River Basin.	11,23,35	2.1 / 2.2 / 5.1.2 / 5.2	Sufficient mitigation measures have been, or will be, enacted by the local governments within the service area to mitigate the secondary and cumulative impacts associated with increased population growth and development. The EIS identifies potential impacts and measures proposed to minimize those impacts. The State Environmental Policy Act (113A-4a and b) requires the EIS to document impacts which cannot be avoided. It does not require a conclusion of no impact.
28	Secondary and cumulative impacts in the Rocky River Basin, including increased flows and changes in water quality must be adequately addressed in the EIS.	11,20,23,24,35	5.1	Mitigation measures have been, or will be, enacted by the local governments within the service area to mitigate the secondary and cumulative impacts associated with increased population growth and development. Section 5.1 of the EIS addresses mitigation to these impacts.

Concord Kannapolis Interbasin Transfer Public Comments

Hearings held June 22-23, 2005

#	Comment	Commenter(s)	EIS Section	Response
29	Concord and Kannapolis should make clear commitment to enact and enforce ordinances required to minimize SCI in receiving basin	20,24,35	Executive Summary / 5.2.1	Concord and Kannapolis have adopted a Unified Development Ordinance (UDO). As part of the UDO, updated stream buffer rules require an undisturbed buffer of at least 50 feet along both sides of perennial streams, as measured from the top of the stream bank plus 20 feet of vegetated setback, totaling 70 feet. An intermittent stream buffer shall be an undisturbed area measured from the top of the stream bank perpendicularly for a distance of 35 feet with an additional 20 feet of vegetated setback, totaling 55 feet. Intermittent stream buffers will be protected in accordance with the Phase II Stormwater Rules.
30	Cumulative and secondary impacts of development will result in stream bank instability and stream morphology changes, increased sediment loading, changes in substrate characteristics, modified aquatic food resources, changed stream temperatures, increased nutrient loading, increased toxicant loading, changed fish communities, and reduced complexity of benthic habitats.	20,24	3.1.2 / 5.1.2 / 5.2.1	Sufficient mitigation measures have been, or will be, enacted by the local governments within the service area to mitigate the secondary and cumulative impacts associated with increased population growth and development. See stream buffer description above. The City of Concord is in the process of developing and approving the use of a stormwater Technical Standards Manual.
31	Document does not address the transfer of non-native species from source to receiving basin, nor the impact of transfer on endangered species and critical habitat	11,23	4.1.2 / 4.1.3 / 4.1.4	Alternatives 1 and 3 include the transfer of raw water to reservoirs or to water treatment facilities. If the IBT volumes are transferred to water treatment facilities, no species transfer would occur. The preferred alternative involves obtaining finished water through existing interconnections. If raw water transfer to a reservoir occurred the intake would be screened to prevent the introduction of any but very small organisms. Also, a raw water transfer will require additional permits which will address this concern at that time. Impacts of the transfer on endangered species and critical habitat are not likely to occur because lake levels and minimum releases are not significantly impacted.
	Request for conditions:			
32	1) During drought, local jurisdictions in the Catawba have first rights to water	3,4	1.4.1 / 2.1.10.1 / 5.2.1.10	Concord and Kannapolis currently have Water Shortage Response plans. These plans will be revised and when additional water supply is approved for use. The DWR will review the revised plans prior to approval. The Cities would follow the policies of the LIPs as users of water from the river basin. See the next response.
33	2) During drought, all voluntary and mandatory water restrictions for the Catawba also be applied to the IBTs.	1,3,4,21,37	5.2.1.10	During a drought situation, CMU, Concord, and Kannapolis would be following their Water Shortage Response Plans, which include either voluntary or mandatory conservation measures depending on the severity of the drought and the policies of the LIPs. The water shortage management plan must be approved by the DWR. The DWR will require the plan to include measures describing the response to Catawba basin drought conditions. This may be included as a condition of the IBT certificate, if issued.
34	3) Any recipient of an IBT should be required to help fund programs on Catawba River, e.g., aquatic weed programs.	3,4	N/A	In an effort to offset any impacts the withdrawal may have in the Catawba Basin the participants are willing to pay for costs of water from the Catawba River that are authorized through the FERC permitting process.
35	Clarification requested on discharges to the Rocky River and potential expansion and location of IBT lines.	35	2.2.1.2	The Rocky River Regional Wastewater Treatment Plant (WWTP) in the receiving basin already has a National Pollutant Discharge Elimination System (NPDES) permit for 34 MGD. Expansion of this facility is not projected until very close to the end of the 30-year IBT planning period. Additional information is included in the Final EIS. At that time any required permitting for the expansion will be done. A separate environmental document will address the impacts of any new water lines installed to accommodate the IBT.
36	Native plants should be used in vegetated setbacks for buffers.	35	5.2.1.3	According to County, Kannapolis, and Concord regulations the buffers are to be retained in their natural vegetated, revegetated or reforested state through the preservation of appropriate perennial vegetation. Vegetation types have not been specified for the setback areas.

Concord Kannapolis Interbasin Transfer Public Comments

Hearings held June 22-23, 2005

#	Comment	Commenter(s)	EIS Section	Response
37	Would like to see 50-foot native, forested buffers on intermittent and 100-foot native, forested buffer on perennial streams.	35	5.2.1.3	Concord and Kannapolis have adopted a Unified Development Ordinance (UDO). As part of the UDO, updated stream buffer rules require an undisturbed buffer of at least 50 feet along both sides of perennial streams, as measured from the top of the stream bank plus 20 feet of vegetated setback, totaling 70 feet. An intermittent stream buffer shall be an undisturbed area measured from the top of the stream bank perpendicularly for a distance of 35 feet with an additional 20 feet of vegetated setback, totaling 55 feet. Intermittent stream buffers will be protected in accordance with the Phase II Stormwater Rules.
38	Maintain pre- and post- development hydrographic conditions to extent practicable, using control measures before impervious surfaces reach 10% of the watershed area.	35	5.2.1.3	The UDO adopted by all municipalities within Cabarrus County requires all construction impacting more than 1 acre to install BMPs that maintain the preconstruction runoff conditions. In addition, the City of Concord is developing a Stormwater Standards Manual.
39	Strongly encourage the use of low impact development techniques.	35	5.2.1.4	This recommendation has been incorporated into the UDO adopted by the Cities of Concord, Kannapolis, Harrisburg, Midland, and Mt. Pleasant.
40	If wastewater treatment plants added or upgrade, disinfection of discharge from the Rocky River WWTP should be converted to non-chemical processes, and not use chlorine.	35	N/A	Recommendation noted.
41	Water and sewer lines should not be extended into basins supporting populations of the federally endangered Carolina Heelsplitter.	35	N/A	Recommendation noted.
42	Updates to ordinances should be incorporated in the latest version of the EIS. For example, p. 5-12 of the DEIS states, "Concord plans to adopt updates to the UDO in the first quarter of 2005. Kannapolis is planning to adopt changes to the UDO in 2005."	35	5.2 and Appendix CD-1	Updates are incorporated into the final EIS.
43	The water intake structures on reservoirs upstream of Lake Norman should be lowered by 6 feet.	1,21,37	N/A	This issue is most appropriately addressed through the FERC permitting process.
44	There is no reason that Concord/Kannapolis have to expand, particularly at the expense of "quality of life" issues, recreational opportunities for our State's citizens, and in some cases, economic loss.	32	Executive Summary	Concord and Kannapolis are required by DWR to plan for water supply into the future. Demand will increase over time; the full IBT will not be needed for many years. Measures such as conservation plans and tiered water rate structures to discourage irrigation are in place to protect quality of life and conserve water.
45	Has anyone looked into the reservoir that was built just outside of Concord/Kannapolis about 10 years ago (Coddle Creek)?	1	1.2	This reservoir is the Lake Howell (Coddle Creek Reservoir) discussed throughout the EIS. Table 1-2 presents the 50- and 100-year safe yield amounts available from current water supply sources in Cabarrus County. The combined 50-year safe yield of the local governments is approximately 31 MGD. Table 1-2 also indicates that the available supply can decrease by nearly 50 percent to 16.5 MGD during severe droughts such as the one from 1999-2003. Further detail regarding safe yield amounts is included in Appendix A.
46	IBT request seeks to lock in a commitment for IBT water years in advance with no chance for reversal at a later date.	32	Executive Summary	EMC and DWR have determined the use of a 30-year projection period for the purpose of obtaining an IBT certificate. A reopener clause has been included in all previous IBT permits.
47	If IBT quantities are approved decades in advance of actual need, the allowed quantities should be time-phased to match actual need.	1, 29		It takes a considerable amount of time and money to develop and build a water supply infrastructure. The full IBT quantity will not be utilized for many years. This is a planning process under the guidance of DWR.
48	Multiple NHP comments.			These comments were addressed in the NHP approved EA.

Scoping Responses



CH2MHILL

May 24, 2002

Ms. Chrys Baggett
Department of Administration, State Clearinghouse
5th Floor Administration Building
1302 Mail Service Center
Raleigh, NC 27699-1302

Subject: Cities of Concord and Kannapolis Joint Study: Interbasin Transfers to the Rocky River Subbasin, Environmental Assessment, Scoping Request

Dear Ms. Baggett:

The Cities of Concord and Kannapolis are in the process of looking at a variety of alternatives to meet the future drinking water demands of their citizens. The Cities continue to experience a growing demand for drinking water as part of the growing Charlotte metropolitan area. Each of the potential alternatives would require an Interbasin Transfer (IBT) certificate and will be analyzed in an Environmental Assessment (EA). The enclosed Scoping Document was prepared to assist in defining the potential impacts of the alternatives and determining what aspects of the EA should be emphasized.

The EA will consider a variety of IBT alternatives from entities adjoining Cabarrus County. Options include an IBT from the Catawba River Subbasin basin to the Rocky River Subbasin (in the Yadkin-Pee Dee River Basin) and/or for an IBT from either the Yadkin River or South Yadkin River Subbasins to the Rocky River Subbasin. The Cities' service areas are located entirely within the Rocky River Subbasin. I have enclosed the Scoping Document that contains more detailed information about the project.

We are in the scoping phase of the EA and respectfully request that the enclosed Scoping Document for the project be distributed to the appropriate agencies. We have also contacted Tom Fransen with the Division of Water Resources, the lead agency, about the project.

If you have any questions, please contact me at (704) 329-0073, ext. 217.

Sincerely,

CH2M HILL

Chip Smith, P.E.
Project Manager

Enclosure

C Bill Kreutzberger/CH2MHILL; Henry Waldroup/City of Concord
Wilmer Melton/City of Kannapolis; Tom Fransen/DWR;



North Carolina
Department of Administration

Michael F. Easley, Governor

Gwynn T. Swinson, Secretary

June 3, 2002

Mr. Chip Smith
CH2MHill
4824 Parkway Plaza Blvd., Suite 200
Charlotte NC 28217-1968

Dear Mr. Smith:

Subject: Scoping - Cities of Concord and Kannapolis Joint Study for the Interbasin Transfer to the Rocky River Subbasin

The N. C. State Clearinghouse has received the above project for intergovernmental review. This project has been assigned State Application Number 02-E-4300-0687. Please use this number with all inquiries or correspondence with this office.

Review of this project should be completed on or before 06/30/2002. Should you have any questions, please call (919)807-2425.

Sincerely,

A handwritten signature in cursive script that reads "Chrys Baggett".

Ms. Chrys Baggett
Environmental Policy Act Coordinator

PLEASE NOTE NEW MAILING ADDRESS
EFFECTIVE IMMEDIATELY

**N.C. STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
1302 MAIL SERVICE CENTER
RALEIGH, NC 27699-1302**



North Carolina
Department of Administration

Michael F. Easley, Governor

Gwynn T. Swinson, Secretary

July 23, 2002

Mr. Chip Smith
CH2MHill
4824 Parkway Plaza Blvd., Suite 200
Charlotte, NC 28217-1968

Dear Mr. Smith

Re: SCH File # 02-E-4300-0687; Scoping Cities of Concord and Kannapolis Joint Study for the Interbasin Transfer to the Rocky River Subbasin

The above referenced environmental impact information has been reviewed through the State Clearinghouse under the provisions of the North Carolina Environmental Policy Act.

Attached to this letter are comments made by agencies reviewing this document which identify issues to be addressed in the environmental review document. The appropriate document should be forwarded to the State Clearinghouse for compliance with State Environmental Policy Act. Should you have any questions, please do not hesitate to call me at 807-2425.

Sincerely,

A handwritten signature in cursive script that reads "Chrys Baggett".

Ms. Chrys Baggett
Environmental Policy Act Coordinator

Attachments

Region F



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

MEMORANDUM



Chrys Baggett
State Clearinghouse

FROM: Melba McGee *McGee*
Environmental Review Coordinator

02-0687 Concord and Kannapolis Joint Study: IBT to
Rocky River, Cabarrus County

DATE: July 18, 2002

The Department of Environment and Natural Resources has reviewed the scoping notice for the proposed Interbasin Transfer to the Rocky River Subbasin.

We support continued coordination of this project. The issues raised by our divisions show the potential for significant impacts to natural resources from both primary and secondary project effects. If this is the case, the applicant may need to consider a more detailed environmental review in the form of an Environmental Impact Statement.

Thank you for the opportunity to respond,

Attachments



☒ North Carolina Wildlife Resources Commission ☒

Charles R. Fullwood, Executive Director

MEMORANDUM

TO: Melba McGee, Legislative and Intergovernmental Affairs
Dept. of Environment and Natural Resources

FROM: Ron Linville, Regional Coordinator
Habitat Conservation Program

DATE: June 28, 2002

SUBJECT: State Clearinghouse Project No. 02-0687, Cities of Concord and
Kannapolis Joint Study: Interbasin Transfers (IBT) to Rocky River,
Environmental Assessment (EA) Scoping Request, Cabarrus County



This correspondence responds to a request by you for our review and comments on the Environmental Assessment (EA) scoping for the referenced project. These comments are provided in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d.) and the North Carolina Environmental Policy Act (G.S. 113A-1 through 113A-10; 1 NCAC 25).

The Cities of Concord and Kannapolis are in the early stages of looking at options to increase drinking water needs for anticipated growth. Options indicated for study include IBTs from the Catawba to the Rocky River and from the Yadkin or South Yadkin to the Rocky River. The Cities service areas are presently located entirely in the Rocky River subbasin.

North Carolina Wildlife Resources Commission (NCWRC) biologists are concerned about long-term secondary and cumulative impacts (CSIs) to fish and wildlife associated with IBTs. This concern goes beyond the physical project. These impacts can be far reaching and cause significant ecosystem modifications. As the IBT certification is based on 2035 demands of 69 million gallons per day (MGD), the EA may need elevation to an Environmental Impact Study (EIS) if substantial impacts and mitigative measures occur. The State of South Carolina should be invited to participate in the EA or EIS review if impacts could impact interstate waters.

The information provided is not sufficient for our review and comments. Attached are NCWRC General Guidelines for Environmental Reviews and Utility Line Installations. Although not specifically designed for IBT issues, these should assist in the preparation of environmental review documents. We urge project proponents to fully evaluate the economic benefits and reduced environmental quality related to development facilitated

by an IBT. CSIs will be a major component of any future reviews by this agency; therefore, project proponents should provide substantial information about potential CSIs that may be attributed to the proposed IBT.

Any federal or state listed species that may be impacted by an IBT must be professionally evaluated. It is very probably that extensive reviews will be necessary if listed species may be impacted by the IBT. Mitigation and protection measures should be provided to avoid and minimize species and habitat impacts. The IBT evaluation should discuss non-listed species, including game fish and wildlife species that may be reduced or imperiled by direct, secondary or cumulative impacts. Enforceable land use planning ordinances and regulations as well as biological monitoring of impacts for both the receiving and sending watersheds may be appropriate. Federal Energy Regulatory Commission concurrence may be appropriate and necessary.

Thank you for the opportunity to review and comment on this project. If you have any questions regarding these comments, please contact me at 336/769-9453.

Attachment:

General Guidelines for Environmental Reviews and Utility Lines
Utility Line and Sewer Line Avoidance and Minimization Recommendations

General Guidelines for Environmental Reviews

Due to staff limitations, this standardized response was developed. Although some of the information, requests and comments may not be applicable to certain projects, these guidelines should facilitate preparation of fish and wildlife Environmental Assessments (EA) or Environmental Impact Statements (EIS). In addition to addressing site specific concerns, the environmental document should include a detailed assessment of existing natural resources within the areas of potential development and should discuss the potential of mitigating development impacts to wetlands, streams and high quality floodplain and upland habitats. To provide a meaningful review of the EA or EIS prepared for the project(s) secondary and cumulative impacts, we request that project consultants and sponsors provide the following information:

- 1) Description of fishery and wildlife resources within the project area, including a listing of federally or state designated threatened, endangered, or special concern animal and plant species in the project area and any areas that may be impacted by secondary or cumulative impacts within the sub-basin. A listing of designated species can be developed through consultation with: Mr. Steven Hall of the North Carolina Natural Heritage Program (919/715-8703) or Mr. Mark Cantrell of the US Fish and Wildlife Service (828/258-3939, ext. 227).
- 2) Description of waters and/or wetlands affected by the project(s).
- 3) Project map identifying wetlands and intermittent as well as perennial streams in the area. Identification of wetlands may be accomplished through coordination with the U.S. Army Corps of Engineers. If the Corps is not consulted, the person delineating wetlands should be identified and criteria listed.
- 4) Description of activities that will occur within streams and wetlands, such as fill or channel alteration. Acreage of wetlands impacted and linear feet of stream channels to be relocated, channeled, culverted or disturbed by some other means by alternative project designs should be listed.
- 5) Description of project site and non-wetland vegetative communities.
- 6) Description and cover type map showing acreage of upland wildlife habitat impacted by the project.
- 7) Discuss the extent to which the project(s) will result in loss, degradation, or fragmentation of wildlife habitat.
- 8) Discuss any measures proposed to avoid or reduce impacts of the project or to mitigate for unavoidable habitat losses.

- 9) Discuss the cumulative impacts of secondary development facilitated by the proposed utility improvements and any interrelated infrastructure projects, especially the impacts to water quality and habitat in the impacted watershed(s). Such discussion should weigh the economic benefits of such growth against the costs of associated environmental degradation.
- (a) Include specific measures that will be used to address stormwater at the source. Include specific requirements for both residential and industrial developments and BMPs that will be required.
- (b) Include specific measures that will be used to protect stream corridors, riparian habitat and a minimum of a 100-year floodplain.
- (c) Include specific measures that will be implemented to promote water conservation and wastewater reuse.
- (d) Include a discussion of any other local ordinances or programs (e.g., industrial pretreatment, infiltration and inflow management, farmland preservation, habitat restoration/preservation, and recycling) that will mitigate the impacts of development.
- 10) Discuss the use of any mitigation, preservation, deed restrictions, and conservation plans and management objectives. These should include detailed site descriptions and maps. A determination concerning which agency or entity (e.g. land conservancy) will own and manage the easements or property should be included.

Note: A list of document preparers should be provided that provides each individual's professional background and qualifications.

Utility Line and Sewer Line Avoidance and Minimization Recommendations

Measures to avoid or minimize impacts to sensitive resources, including wetlands, should be implemented during all phases of construction associated with the area. Where impacts to wetlands (and waters) are unavoidable, we will recommend mitigation of the losses. In addition to providing wildlife habitat, wetland areas perform the important functions of flood control and water quality protection. Whenever possible, utility lines should be placed along existing right-of-ways along roads and previously impacted corridors. Pumping may be economically feasible where direct or secondary impacts can be avoided in sensitive habitats. To avoid or minimize stream and wetland impacts during construction of utility lines, we offer the following generalized recommendations that should be incorporated into project plans:

- 1) Construction corridors should be no wider than absolutely necessary. The 401 certification for Nationwide 12 stipulates that wetland construction corridors are not to exceed 40 feet and permanent maintained corridors are not to exceed 10 feet except at access points. The NC division of Water Quality's 401 Certification for utility lines should be followed specifically for all jurisdictional impacts.
- 2) Where crossings are necessary, sewer lines should cross streams at right angles to minimize impacts to riparian areas. Disturbed stream banks and wetlands must be restored to original contours and revegetated with native plant materials such as silky dogwood (*Cornus amomum*), silky willow (*Salix sericea*) and hazel alder (*Alnus serrulata*). Riprap may be used to stabilize the bank in the area of the ordinary high water stage and vegetation (bioengineering) should be used above this stage. Aquatic life passage must not be hindered during low flows upon project completion. Directional boring is the preferred method of crossing jurisdictional waters and wetlands.
- 3) Utility lines crossing streams should be buried in the stream bottom or attached to existing bridges to maintain fish movement upstream and downstream and prevent debris from collecting at the pipe and causing a hydrologic change. We do not recommend installing piers in a stream channel to support a sewer line.
- 4) If concrete will be used, work must be accomplished so that wet concrete does not contact stream water. This will lessen the chance of altering the stream's water chemistry and causing a fish kill.
- 5) An undisturbed buffer zone should be left between streams and all construction. We prefer a buffer zone of at least 100 feet to control sedimentation into streams, provide shade, and maintain a travel corridor for wildlife. Buffers should also be left along intermittent drains or streams. Following floodplain edge contours with utility lines is preferable to following the riparian zones and streams.

- 6) Temporarily disturbed wetlands should be reseeded with annual small grains appropriate for the season (e.g. oats, millet, rye, wheat, annual lespedeza or rye grass) and be allowed to revert to native natural wetland vegetation.
- 7) A portion of the upland right-of-way (minimum of one acre) should be planted with VA-70 lespedeza, Korean lespedeza, ladino clover, and/or partridge pea to provide food and additional habitat for wildlife.
- 8) Slash and/or large trees available from corridor construction through forested and stream corridors should be placed along the permanent right-of-way in the form of brush piles and downed logs to provide cover and nesting habitat for wildlife.
- 9) If necessary, ROW areas should be mowed not more than once every 2-3 years. Mowing should not occur between April 1 through September 30 in order to avoid disturbing wildlife utilizing the project corridor during the critical stages of nesting and rearing of young.
- 10) Stringent erosion control measures should be implemented where soil is disturbed and maintained until project completion.
- 1) Temporary or permanent herbaceous vegetation should be planted on all bare soil within 5 to 10 days of ground disturbing activities to provide long-term erosion control. We prefer a "seed as you go" strategy rather than allowing a large area to remain bare.



July 2002

MEMORANDUM

TO: Melba McGee
Department of Environment and Natural Resources

FROM: J. Todd Kennedy *JTK*
Division of Water Quality, Water Quality Section

SUBJECT: Concord and Kannapolis Interbasin Transfers
DENR #02E-0687; DWQ# 13108

The Water Quality Section of the Division of Water Quality (Division) has reviewed the subject Environmental Assessment (EA) scoping request. We have the following comments regarding EA preparation:

Identify streams within the project service area and discuss their current classification, use support rating, and present water quality condition. Information on use support and existing water quality conditions is available in Basinwide Water Quality Plans (<http://h2o.enr.state.nc.us/basinwide/>). Stream classifications are available from the Classifications and Standards Unit (<http://h2o.enr.state.nc.us/csu/>).

Discuss the impact of the new raw water withdrawal alternative on assimilative capacity and permitted dischargers of the affected streams in the Catawba, South Yadkin and Yadkin River subbasins. Contact the NPDES Unit for more information at 919.733.5083 x517.

3. Discuss land use, population, zoning, development density, and growth trends within the project service area. Describe potential land use changes and impacts from induced growth effects of the project.
4. Maintaining predevelopment hydrologic functions is an important goal in watershed development. Planning design that reduces the creation of impervious area, provides for pervious green infrastructure, and maintains natural detention and retention functions should be encouraged. Disconnecting impervious surfaces, connecting pervious surfaces, and routing flow through vegetated conveyances can reduce impacts. When development in a watershed or subwatershed exceeds 10% to 15% impervious surface coverage, streams and the hydrologic regime are negatively impacted. At increasing levels of imperviousness, it becomes especially important to implement appropriate stormwater control to reduce pollution, maintain groundwater recharge and minimize stream channel erosion.

The EA should describe specific ordinances and regulations in detail and discuss how and to what degree they mitigate impacts to water resources. In the event that existing state and local programs do not provide adequate mitigation, additional local protection may need to be considered. Emphasis should be placed on actual implementation of mitigation measures.

Stormwater controls should protect against stream damage due to increases in volume, velocity and peak rates of stormwater. While controls based on large storm events (e.g., 10-yr and 25-yr) may provide overbank flood protection and safely pass larger storm events, they fail to protect water quality and stream integrity. Smaller, more frequent storms are responsible for the majority of channel erosion in streams. And as imperviousness in the watershed increases, the frequency of these bankfull and mid-bankfull flows typically increases in response. For stream channel protection, design criteria should mimic the pre-development sediment transport characteristics of the stream. The typical two-year peak discharge control (to predevelopment levels) is often insufficient for channel protection: it does not properly address increases in detention-associated flow duration and development-associated peak runoff frequency. Extended detention of the one-year, 24-hour storm event will likely be needed to adequately protect channels. Equivalent control measures may also be considered. In addition, appropriate treatment of stormwater for water quality protection should be implemented.

- 5 Discuss measures designed to protect the critical ecosystem functions of riparian buffers? Vegetated buffers are a typical component required for protection of streams. Widths of 50 feet for intermittent streams and 100 feet for perennial streams are recommended. A significant portion of the buffer adjacent to the streambank should be undisturbed, natural vegetation. Alternative measures suitable for this area may be considered given they provide a similar level of protection.
- 6 A stream reclassification may be required if the new raw water sources are not presently classified for water supply. Contact Elizabeth Kountis with the Classifications and Standards Unit for assistance (919.733.5083 x369). The reclassification process takes approximately 2 years to complete.

may be contacted at 919.733.5083 x555. Thank you

Britt Setzer

DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL HEALTH

Project Number 022-0687
County Cabarrus

Inter-Agency Project Review Response

Project Name Concord / Kannapolis - Seepers letter
Type of Project IBT from either/or

Comments provided by: IBT options for 2035 needs

Combo Catawba, Yadkin
or S. Yadkin to Rocky
River.

- Regional Program Person
- Regional Engineer for Public Water Supply Section

Central Office program person

Name: Britt L. Setzer

Telephone number: 704 663-1699

Date: 6/24/02
JUN 13 2002

RECEIVED

Program within Division of Environmental Health:

Public Water Supply

Other, Name of Program: _____

NODEN
Division of Environmental Health
Public Water Supply Section
Mooresville Regional Office

Response (check all applicable):

- No objection to project as proposed
- No comment
- Insufficient information to complete review
- Comments attached
- See comments below

The Mooresville Regional Office Public Water Supply Section supports this project. The Cabarrus County area has a limited availability of surface-water supplies and will need approval of an IBT in order to meet increased water supply demands in the future.

Return to:

Public Water Supply Section
Environmental Review Coordinator
for the
Division of Environmental Health



COPY

North Carolina Department of Cultural Resources
State Historic Preservation Office

David L. S. Brook, Administrator

Division of Historical Resources
David J. Olson, Director

Michael F. Easley, Governor
Lisbeth C. Evans, Secretary
Jeffrey J. Crow, Deputy Secretary
Office of Archives and History

June 25, 2002

Chip Smith
CH2MHILL
4824 Parkway Plaza Boulevard Suite 200
Charlotte NC 28271-1968

Re Concord and Kannapolis Joint Study: Interbasin Transfers to the Rocky River,
Cabarrus County, 02-E-4300-0687

Dear Mr. Smith:

We have received notification from the State Clearinghouse concerning the above project.

The Environmental Assessment (EA) outline does not address cultural resources. We recommend these be addressed. This would include background research for the study area presented in the EA along with a commitment to conduct an archaeological survey of the preferred corridor/alignments to be constructed on new location. If alignments are located within existing rights of way for roads or utilities, no archaeological survey is recommended for these disturbed areas. Results of the archaeological survey should be presented in the FONSI.

For Cabarrus and Mecklenburg Counties more than 1,200 archeological resources are recorded in the files at the Office of State Archaeology in Raleigh. Some of these archaeological sites have been determined eligible for inclusion on the National Register of Historic Places. The Soil Conservation Service mapped Cabarrus County as a mix of noneroded, eroded, and urban soil. Potential exists for unreported archaeological sites exhibiting integrity. Reed Gold Mine State Historic Site is recorded in the county. Numerous other gold mines exist and some are recorded as sites. Other gold mines not recorded to date, exist in the county and only archaeological evidence may remain. Numerous archeological sites, some eligible for the National Register of Historic Places, are located in the Rocky River floodplain and adjacent terraces. In addition to archaeological sites, we are especially concerned about the possibility that human graves are located in this study area. Some human graves are associated with archaeological sites. Others may be in abandoned or unmarked cemeteries. Human graves are protected by a variety of North Carolina State Statutes.

Please notify the State Archaeologist, Stephen R. Claggett, at 919-733-7342, if human remains are uncovered during the survey or any earthmoving activities. Our files are open to project planners. Please feel free to make an appointment with John Mintz, the Site Registrar, to review files at the Office of State Archaeology.

As plans are available for the exact project corridor, please forward them to us so that we may continue our review.

	Location	Mailing Address	Telephone/Fax
Administration	507 N. Blount St. Raleigh, NC	4617 Mail Service Center, Raleigh 27699-4617	(919) 7 3-4763 • 3-8653
Restoration	515 N. Blount St. Raleigh, NC	4613 Mail Service Center, Raleigh 27699-4613	(919) 7 3-6547 • 5-4801
Survey & Planning	515 N. Blount St. Raleigh, NC	4618 Mail Service Center, Raleigh 27699-4618	(919) 7 3-4763 • 5-4801

Page 2
Chip Smith
June 25, 2002

If there are any structures more than fifty years old on or adjacent to the project site, please send us photographs (Polaroid type snapshots are fine) of each structure. These photographs should be keyed to a map that clearly shows the site location. If there are no buildings over fifty years old on or adjacent to the project site, please notify us of this in writing.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, contact Renee Gledhill-Earley, environmental review coordinator, at 919/733-4763. In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,



 David Brook
DB:kgc

cc: SCH



BUREAU OF WATER

90 Bull Street
Columbia, SC 29201-1708

June 11, 2002

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Chip Smith, P.E.
CH2M Hill
4824 Parkway Plaza Blvd, Suite 200
Charlotte, NC 28217

Re: Cities of Concord and Kannapolis Joint Study: Scoping Document

Dear Mr. Smith:

Thank you for the opportunity to provide comments on the Scoping Document and potential interbasin transfers. Although the considered transfers are entirely within North Carolina and subject to North Carolina law, we appreciate your consideration of downstream users in South Carolina.

Water transferred from the Yadkin or South Yadkin River Subbasins to the Rocky River Subbasin will remain in the larger Yadkin-Pee Dee River Basin. A transfer from the Catawba River Basin to the Rocky River Subbasin would create a loss in the Catawba River system. As such, the Yadkin-Rocky transfer is preferable to us because neither river system will lose water.

Should you have any questions or comments, please call me at (803) 898-4202.

Sincerely,

Tricia Henman Kilgore
Environmental Engineer Associate II
Water Supply and Recreational Waters Section
Water Facilities Permitting Division

Draft EIS Responses

State of North Carolina
Department of Environment
and Natural Resources
Division of Water Resources

Mike Easley, Governor
William G. Ross, Jr., Secretary
John N Morris, Director



FAX TRANSMISSION

TO: Chip Smith

FAX NUMBER: 704 329 0141

FROM: Phil Fragapane

FAX NUMBERS: (919) 733-3558 or (919) 733-3555

Total Number of Pages Sent Including This Cover Sheet: 9

If you do not receive all pages or if the transmission is not legible, please call (919) 733-4064.

MESSAGE:

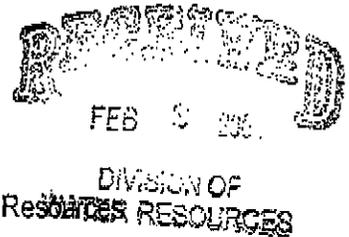
Chip,

These are the agencies' comments.
DWR's are being summarized and will
follow soon.

Phil



North Carolina Department of Environment and Natural Resources



Michael F. Easley, Governor

William G. Ross Jr., Secretary

MEMORANDUM

TO: Phil Fragapane
Division of Water Resources

FROM: Melba McGee
Environmental Review Coordinator

RE: # 1254 EIS for the Cities of Concord and Kannapolis – Proposed
Interbasin Transfer from the Catawba River to the Rocky River
Subbasin

DATE: January 23, 2004

The Department of Environment and Natural Resources has completed its internal review of the proposed project.

The attached comments identify a number of concerns that will need to be addressed before concurring with the proposal. In response to the level of concerns raised, it is felt that the draft Environmental Impact Statement (DEIS) has not evaluated the significance of secondary and cumulative impacts nor fully disclosed the potential for impacts to several rare, threatened and endangered aquatic species in the project area. It is our recommendation that the applicant work directly with the N.C. Wildlife Resources Commission and the Natural Heritage Program in addressing their concerns.

As the lead state agency for this proposal, the Division of Water Resources is responsible for seeing that the issues identified are addressed and appropriate changes are incorporated in the document. After revisions have been made, I recommend that the revised DEIS be circulated again through our internal review process.

Thank you for the opportunity to respond. Please let me know if I can be of further assistance.

Attachments

1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Phone: 919-733-4984 \ FAX: 919-715-3060 \ Internet: www.enr.state.nc.us/ENR

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North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

07 January 2004

MEMORANDUM

TO: Melba McGee, Environmental Coordinator
Office of Legislative and Intergovernmental Affairs

FROM: Sarah McRae, Freshwater Ecologist *JEM*
NC Natural Heritage Program

SUBJECT: Comments on EIS for the Cities of Concord and Kannapolis – Proposed
Interbasin Transfer from the Catawba River to the Rocky River Subbasin:
Project #1254

The NC Natural Heritage Program (NHP) commends the preparers of this document for their thoroughness. The summarization and evaluation of existing protection measures at the federal, state, and local levels is exemplary.

NHP concurs with the findings that increasing the interbasin transfer will have little or no direct impacts but that there is high potential for significant indirect and cumulative impacts to result from the facilitation of urban development within an area that is now largely rural. While such development can be expected to have widespread impacts to wildlife and their habitats, and to environmental quality in general, we are particularly concerned about the potential for impacts to several rare species that occur within the receiving basin of this project. As described in the EIS (pp. 3-2,3), impacts are particularly likely to the federal species of concern and state endangered Carolina creekshell (*Villosa vaughaniana*), the federal and state species of concern Carolina darter (*Ethostoma collis*), the state threatened Carolina fatmucket (*Lampsilis radiata*), and the state significantly rare Eastern creekshell (*Villosa delumbis*), and the federal and state endangered Schweinitz's sunflower (*Helianthus schweinitzii*), and potentially the federal and state endangered Carolina heelsplitter mussel (*Lasmigona decorata*).

Current traditional land uses generally appear to provide much needed stream buffers and hydrologic conditions that help protect the area's aquatic habitats. The extension of water and sewer services into the area (facilitated, in part, by the IBT) will drastically change the current land and water uses. Anticipated cumulative and secondary impacts of development, including impacts from increasing numbers of bridges and culverts and numbers of wastewater spills, will result in stream bank instability and other stream morphology changes, increased sediment loading, changes in substrate characteristics, modified aquatic food resources, changed stream

temperatures, increased nutrient loading, increased toxicant loading, changed fish communities, and reduced complexity of benthic habitats. These anticipated changes are known threats to sensitive aquatic species, such as freshwater mussels. Anticipated secondary impacts are likely to extirpate rare aquatic species if major protective land and water use policies are not implemented.

The EIS claims that the existing protective measures constitute adequate mitigation for the project's impacts (p. 5-1). Based on this claimed mitigation, the overall impacts of the project are implied to be brought below the threshold necessary for issuance of a FONSI. On this point, NHP cannot concur. While the collection of existing protection measures cover a wide range of the problems associated with growth, general summaries of federal and state regulations and programs are not adequate - there is no reference to specific mitigation for impacts associated with this project. Without actual commitments on the part of the applicant to implement mitigation, significant impacts may still occur. Issuance of a FONSI without such commitments is therefore premature.

The North Carolina Wildlife Resources Commission has guidelines that spell out what could constitute adequate mitigation for secondary and cumulative impacts associated with various projects ("Guidance Memorandum to Address and Mitigate Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality." Available: http://www.ncwildlife.org/pg07_WildlifeSpeciesCon/pg7c3_impacts.pdf.)

We would like to see the applicant provide explicit comments on mitigation actions for cumulative and secondary impacts. NHP would particularly like to see a focus on enhancing the protection of certain environmentally sensitive areas, such as the Dutch Buffalo and Coddle Creek watersheds and areas still containing populations of Schweinitz's sunflowers. Ideally, the applicant would shoulder some of the financial or regulatory burden for mitigating the impacts of this project, which include implementation of additional land use planning or other regulatory measures. We hope that any cooperative planning initiatives that are agreed to as part of the mitigation for this project will ultimately involve other local governments and even cross county jurisdictional boundaries.

The commitment to implementing a mitigation package can take the form of a Memorandum of Agreement, entered into by the applicant and the Division of Water Resources, the lead reviewing agency for this project. If, as we recommend, mitigation focuses on certain key environmental areas, particularly those supporting rare and endangered species, we further recommend that the US Fish and Wildlife Service, NC Wildlife Resources Commission, and the NC Plant Protection Program be invited to sign the MOA and participate in planning the mitigation actions.

Please let me know if I can provide more information. The North Carolina Natural Heritage Program looks forward to a collaborative effort to help protect the State's natural diversity. If I can be of assistance, please do not hesitate to call me at 919-715-1751.

CC via email: Ron Linville, WRC



☒ North Carolina Wildlife Resources Commission ☒

Charles R. Fullwood, Executive Director

MEMORANDUM

TO: Melba McGee, Legislative and Intergovernmental Affairs
Dept. of Environment and Natural Resources

FROM: Ron Linville, Regional Coordinator
Habitat Conservation Program 

DATE: January 16, 2004

SUBJECT: State Clearinghouse Project No. 1254, DRAFT Environmental Impact Statement (EIS) for Cities of Concord and Kannapolis, Proposed Interbasin Transfer (IBT) from Catawba to Rocky River Subbasin, Cabarrus County

This correspondence responds to a request by you for our review and comments on the DRAFT Environmental Impact Statement for the referenced proposed IBT. These comments are provided in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661-667d.) and the North Carolina Environmental Policy Act (G.S. 113A-1 through 113A-10; 1 NCAC 25).

We have reviewed the draft EIS and find that while the document is fairly complete in the range of issues addressed, it does not thoroughly address the substantial cumulative and secondary impacts and any extraordinary activities to mitigate for impacts to the extent that we will be able to support or not object to any of the proposed alternatives. Therefore, we reserve our option to comment on the amount of the IBT and a preferred alternative until additional information is provided concerning indirect (cumulative and secondary) impacts and improved mitigative measures within the receiving basin.

Throughout the EIS, there are statements indicating the IBT "should not significantly impact" or impacts will be "permitted under appropriate" programs at a later date or that the IBT "will not have secondary or cumulative impacts" of one sort or another on the large water bodies under consideration. As an example, the EIS indicates minimal impacts to wetlands primarily associated with lakes in the region while minimizing anticipated wetland impacts associated with increased development and imperviousness in the receiving basin. The EIS is generally well written and easy to follow; however, specific details about anticipated indirect impacts and effective mitigative actions throughout the service area are minimal or lacking substance.

Sixty-three (63) pages of the EIS discuss direct impacts associated with the IBT while only six (6) pages discuss cumulative and secondary issues of anticipated development in the receiving basin. Again, despite anticipated development facilitated by the proposed action, the document indicates that "this EIS cannot adequately address the potential for direct impacts of these future

infrastructure projects" (page 3-1). The document also indicates that Cabarrus County's policies are collectively planned to accommodate urban growth that will increase impacts to farmland, forests, air, water, noise, wetlands, groundwater and other quality of life issues. To some extent, the report acknowledges that stormwater and hydrographic modifications will result due to urbanization. These will cause secondary and cumulative impacts to aquatic ecosystems and exasperates sensitive aquatic species declines as well as impact other plants and animals without adequate mitigation.

Whether or not cumulative and secondary impacts are adequately expressed in the EIS, North Carolina Wildlife Resources Commission (NCWRC) biologists continue to observe habitat degradation throughout the state from urbanization and lack of mitigation for changes in the landscape, primarily (but not entirely) due to deforestation, sprawl and increased imperviousness without needed mitigation. Ten (10) pages of the EIS discuss various state and federal programs that may provide some aspects of environmental protection or restoration within the state. We doubt that adequate environmental protection can be provided without significant local initiatives to address cumulative and secondary impacts associated with the IBT.

The EIS indicates that no local governments in the receiving basin are subject to minimal requirements of Phase I NPDES Stormwater requirements although there are industrial sites. The EIS further indicates that Cabarrus County "may" have to develop and manage stormwater under Phase II NPDES requirements. We are aware that Cabarrus County has programs in place to preserve agricultural lands, promote cluster development, and provide buffers on USGS "solid blue line" streams in a River/Overlay Zone. We are concerned that the efforts indicated will not offset cumulative and secondary impacts associated with urbanized growth. As an example, the use of USGS blue line streams for buffer provisions does not adequately identify or buffer all jurisdictional waters and wetlands. USGS maps were never intended to identify jurisdictional waters or wetlands. Also, meeting or exceeding minimum floodplain management requirements of the National Flood Insurance Program appears to allow construction in floodplains provided structures are elevated at least a foot above the 100-year flood. This activity does not preserve floodplain integrity or functionality as indicated in Executive Order 11988, which calls for the restoration and preservation of natural and beneficial values of floodplains. Direct and indirect habitat impacts occur from stream impacts and floodplain modifications.

The Rocky River may provide suitable habitats for the Carolina heelsplitter (*Lasmigona decorata*), a state and federal endangered species as the service area is within the historic range of the heelsplitter. The Carolina darter (*Etheostoma collis*), a state species of concern and several rare mussels are found in the area, including the Eastern creekshell (*Villoas delumbis*) and the Carolina creekshell (*Villosa vaughaniana*). Schweinitz's sunflower (*Helianthus schweinitzii*), a federal endangered plant is also present. Cumulative and secondary impacts to headwater environments from urbanization without the use of conservation development techniques and habitat preservation plans will degrade wildlife habitats even with improvements in the existing wastewater discharge. Accordingly, we recommend that project proponents continue to evaluate both direct and indirect impacts. IBT proponents should visit our website at http://www.ncwildlife.org/pg07_WildlifeSpeciesCon/pg7c3_impacts.pdf for information about our recommendations concerning cumulative and secondary impacts and our recommendations on mitigation activities. In addition, we recommend Low Impact Development (LID) techniques be incorporated into local ordinances for planning and development activities. Information on LID measures can be found at www.lowimpactdevelopment.org. Ecosystem based planning and environmental permit reviews (including building permit check off lists) should be provided by local governments to ensure compliance with needed environmental protections.

In closing, we recommend that the draft EIS be updated to include the concerns indicated above and those indicated in the referenced websites. The updated EIS should provide specific details about anticipated cumulative and secondary impacts as well as provide details about existing and/or proposed enforceable mitigation activities that local governments will provide to maintain habitat values. Project proponents should forward a copy of this draft EIS and any subsequent IBT documents to the appropriate South Carolina state agencies to determine if they have any concerns or objections.

Thank you for the opportunity to review and comment on this project. If you have any questions regarding these comments, please contact me at 336/769-9453.

Ec: Mark Cantrell, USFWS
Sarah McRae, NHP

DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL HEALTH

Project Number A 1254
County CABARRUS

Inter-Agency Project Review Response

Project Name CONCORD / KANAWAPOUS INTERBASIN Type of Project ETS
TRANSFER

- The applicant should be advised that plans and specifications for all water system improvements must be approved by the Division of Environmental Health prior to the award of a contract or the initiation of construction (as required by 15A NCAC 18C .0300et. seq.). For information, contact the Public Water Supply Section, (919) 733-2321.
- This project will be classified as a non-community public water supply and must comply with state and federal drinking water monitoring requirements. For more information the applicant should contact the Public Water Supply Section, (919) 733-2321.
- If this project is constructed as proposed, we will recommend closure of _____ feet of adjacent waters to the harvest of shellfish. For information regarding the shellfish sanitation program, the applicant should contact the Shellfish Sanitation Section at (252) 726-6827.
- The soil disposal area(s) proposed for this project may produce a mosquito breeding problem. For information concerning appropriate mosquito control measures, the applicant should contact the Public Health Pest Management Section at (252) 726-8970.
- The applicant should be advised that prior to the removal or demolition of dilapidated structures, a extensive rodent control program may be necessary in order to prevent the migration of the rodents to adjacent areas. For information concerning rodent control, contact the local health department or the Public Health Pest Management Section at (919) 733-6407.
- The applicant should be advised to contact the local health department regarding their requirements for septic tank installations (as required under 15A NCAC 18A. 1900 et. sep.). For information concerning septic tank and other on-site waste disposal methods, contact the On-Site Wastewater Section at (919) 733-2895.
- The applicant should be advised to contact the local health department regarding the sanitary facilities required for this project.
- If existing water lines will be relocated during the construction, plans for the water line relocation must be submitted to the Division of Environmental Health, Public Water Supply Section, Technical Services Branch, 1634 Mail Service Center, Raleigh, North Carolina 27699-1634, (919) 733-2321.
- For Regional and Central Office comments, see the reverse side of this form.

Britt Setzer P-SS 1/2/04
Reviewer Section/Branch Date

Britt Setzer

MOORE
RECEIVED

DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL HEALTH

Project Number <i>#125A</i>
County <i>Cabarrus</i>

DEC 16 2003

Inter-Agency Project Review Response

Project Name *EIS for Cities of Concord and Kannapolis Proposed* Type of Project *EIS*
 Comments provided by: *Interbasin Transfer from Catawba River to Rocky River Subbasin*

- Regional Program Person
- Regional Engineer for Public Water Supply Section
- Central Office program person

Name: *BRITT SETZER*

Date: *2/2/04*

Telephone number: *704 663 1699*

Program within Division of Environmental Health:

- Public Water Supply
- Other, Name of Program: _____

Response (check all applicable):

- No objection to project as proposed
- No comment
- Insufficient information to complete review
- Comments attached
- See comments below

NO OBJECTIONS TO PROJECT

RECEIVED

JAN 05 2004

PUBLIC WATER SUPPLY SECTION

Return to:
 Public Water Supply Section
 Environmental Review Coordinator
 for the
 Division of Environmental Health

Concord Kannapolis Interbasin Transfer Commenters

Written Comments		Received	Notes
1	George and Suzanne Johnson Residents of Nebo, NC (Lake James)	June 29, June 23, July 15, July 11, July 25, 2005	Include only latest version in record
2	David W. Treme City of Salisbury	06-Jul-05	
3	Jeffrey V. Morse Town Manager, Valdese	July 7 2005	
4	Barry B. Edwards, PE Catawba County Utilities and Engineering	June 22, June 24, June 29 2005	Include only latest
5	Gary Ruth VP/Gen Mgr, Philip Morris	16-May-05	
6	Judson McAdams Real Estate Development Partners	19-May-05	
7	Brian Hiatt Concord City Manager	22-Jun-05	
8	John S. Cox Cabarrus Regional Chamber of Commerce	21-Jun-05	
9	Toby Prewitt Cabarrus Regional Chamber of Commerce	22-Jun-05	
10	George Johnson, Robert Long Lake James Environmental Association	21-Jun-05	
11	Michele Nowlin Southern Environmental Law Center	July 1, July 22, 2005	Include only latest version
12	Eric Davis Town manager, China Grove	July 7 2005	
13	Mike Legg City Manager, Kannapolis	22-Jun-05	
14	George A. Galleher Duke Power	17-Jun-05	
15	Graham Morgan and Ron Kendrick SouthPointe Homeowner's Association	14-Jul-05	
16	Charles R. Abernathy County Manager, McDowell County	18-Jul-05	
17	William and Wanda Ledbetter Resident Nebo, NC	18-Jul-05	
18	Gresham Orrison Community of Lake James, Inc.	15-Jul-05	
19	Howard Morgan East Shores Homeowners' Association	12-Jul-05	
20	Ned Y. Hudson Cabarrus Soil & Water Conservation District	21-Jul-05	
21	Teresa B. Abernathy Waterglyn POA	22-Jul-05	
22	Richard Garrison Morganton, NC	26-Jul-05	
23	Donna Marie Lisenby Catawba Riverkeeper	July 22, July 26, 2005	Submissions different, include both.
24	Ross M. Morrison, III Cabarrus County Watershed Improvement Commission	27-Jul-05	
25	Jim Pearson Alba-Waldensain/Tefron USA	26-Jul-05	
26	Linda Harwood Marion, NC	29-Jul-05	
27	Neil Cantor Lenoir, NC	29-Jul-05	
28	Rod Birdsong McDowell Chamber of Commerce	02-Aug-05	
29	Gwen Straub Nebo, NC	Aug 7, Aug 8, 2005	Include only latest version
30	Maynard Taylor Burke County Board of Commissioners	08-Aug-05	
31	Rik and Laurie Craig Morganton, NC	10-Aug-05	
32	Robert Stone Morganton, NC	11-Aug-05	
33	Alton Boozer South Carolina Dept of Health and Environmental Control	11-Aug-05	
34	Danny Johnson South Carolina Dept of Natural Resources	08-Aug-05	
35	Sarah McRae NC Natural Heritage Program	15-Aug-05	
36	R. Douglas Taylor Western Peidmont Council of Governments	12-Aug-05	
37	George Butler Lake View Shores Owners' Association	11-Aug-05	

Public Comments

CONCORD
NORTH CAROLINA
a city meeting the future...

Memorandum

To: Mayor Padgett and Members of Council

CC: City Attorney Albert Benshoff

From: W. Brian Hiatt, City Manager

Brian

Date: 5/6/2005

Re: IBT Info

Attached is a fact sheet on our interbasin transfer effort. Please note the dates and times of the public hearings.

We will be putting together a target list of organizations/individuals we will ask to speak at the public hearings. Mike Legg and I have also sent out a letter to larger businesses and business organizations asking them to write to Governor Easley, Speaker Black and Senate Pro Tem Basnight in support of the effort. These are the people who appoint the members of the Environmental Management Commission so we are hopeful they will mention these letters to their appointees. We are trying to approach this from several directions.

Fact Sheet on Proposed Interbasin Transfer

Cabarrus County needs additional water supply to sustain economic development

Cabarrus County is located in the upper reaches of the Rocky River subbasin (Yadkin River basin) and has a limited watershed for water supply development. The area has experienced significant economic development in recent years, particularly in the southwestern portion of our County near the Lowe's Motor Speedway. This trend is expected to continue into the future. Recent master planning for Cabarrus County indicates its current available water supply is 31 million gallons per day (MGD). It is important to understand that the current supply will only sustain economic development for the next 5 to 10 years. Based on a 30-year planning period, 24 MGD of additional water supply is required by 2035.

Additional water supply is available through various alternatives, all requiring transfer approval across river basins

As the major drinking water providers in Cabarrus County, additional water supply is necessary for the Cities of Concord and Kannapolis to accommodate long-term water supply demands. The alternatives include a potential combination of raw and/or finished water alternatives from the Catawba and Yadkin River Basins. Upon issuance of the Interbasin Transfer (IBT) Certificate, both Cities may collectively begin evaluation of the best long-term and cost effective alternatives for the community's needs. Consequently, both of these alternatives require an Interbasin Transfer (IBT) Certificate to be approved by the North Carolina Environmental Commission (EMC).

Extensive analysis of alternatives and evaluation of impacts have been conducted in cooperation with agencies within the NC Department of Environment and Natural Resources. The following two documents have been developed:

- Draft Environmental Impact Statement (EIS)
- Interbasin Transfer (IBT) Petition

The NC Environmental Management Commission will be holding hearings on whether to approve an Interbasin Transfer

In February, the EMC approved going forward with public meetings to receive comments on the proposed IBT. The first public hearing date has been scheduled for June 22, 2005 from 5:00 p.m. to 7:00 p.m. at the McKnight Building on the campus of the University of North Carolina at Charlotte. The second public hearing date has been scheduled for June 23, 2005 from 5:00 p.m. to 7:00 p.m. at the Albemarle City Hall Annex 157 N. Second Street, Albemarle, NC 28001. Following the public hearings, the hearing officers will make a recommendation to the full EMC on whether to approve, modify, or deny the requested interbasin transfers. We anticipate that opponents of the transfers will be vocal in their efforts to prevent or reduce the amount of the requested transfers.

Your support is important

In order to sustain economic development in Cabarrus County, your support of the requested IBT is important! Comments at the public hearing, to local political representatives, and contacts within state government will be helpful in getting approval for the proposed transfers.

For your reference, we have included the contact information for Governor Michael Easley, Senate President Pro Tempore Marc Basnight and Speaker of the House Jim Black to encourage their support of our efforts.

Governor Michael Easley

Office: 20301 Mail Service Center
Raleigh, NC 27699-0301

Phone: 1-800-662-7952 valid in North Carolina only
or (919) 733-4240, or (919) 733-5811

Fax: (919) 715-3175 or (919) 733-2120

Email: <http://www.governor.state.nc.us>

Senate President Pro Tempore Marc Basnight

Office: 2007 Legislative Building, Raleigh, NC 27601-2808

Phone: (919) 733-6854

Email: Marcb@ncleg.net

Speaker of the House Jim Black

Office: 2304 Legislative Building, Raleigh, NC 27601-1096

Phone: 919-733-3451

Email: jimb@ncleg.net

Public Hearing Comments
Concord City Manager Brian Hiatt
June 22, 2005
Charlotte, NC

I would like to thank the Environmental Management Commission and the DENR staff for the work they have done so far to get us to the public hearing stage of the interbasin transfer process. We certainly understand the complexity of this process.

I also want to thank the previous speakers for their comments in support of this effort.

When I became Concord City Manager in late October of 1998, I was faced with establishing mandatory water restrictions within two months of my first day of work. This was a real wake up call as to how fragile our existing water supplies were. Little did we know that we were just beginning to see the impact of the drought of record.

I point this out because it is important to note that within a month after establishing these restrictions, we were meeting with the City of Albemarle to our east and the City of Charlotte Utility Department to our west to begin exploring possibilities for partnerships to bring more water into Cabarrus County. Of course, we learned very quickly that getting the authority for interbasin transfers from the Yadkin and the Catawba was a necessary prerequisite for working out any contractual relationships. Later, Kannapolis and Concord decided it only made sense for us to pursue the interbasin transfer authority together.

Our immediate need for the approval to transfer water is not the timing of the construction of facilities, it is to establish permission to be able to try to negotiate long term/non-emergency water contracts with our neighbors. Concord has already spent hundreds of thousands of dollars making additional connections with the Charlotte system to provide emergency water during the drought. We have had a detailed study done to explore connections with Albemarle both long term and short term and are seriously discussing a connection and water purchase right now along Highway 24/27 with Albemarle and Stanly County. However, all of these efforts could be in vain if we are not granted the opportunity to try to pursue regional partnerships.

I also want to point out that we have also taken steps to manage our growth and protect our environment. Our City Council is moving forward with implementing the Phase II stormwater requirements by adopting a stormwater fee that will fund services beyond the minimum required by the regulations. We are committed to clean water and to mitigating the impact that may have already been felt by growth. Kannapolis, Concord, Mount Pleasant and Harrisburg have all adopted a Unified Development Ordinance with significant growth standards and I am very pleased to say that this week Cabarrus County adopted new land use and development standards which are also very sensitive to our environment and to growth management.

I thank you again for your consideration and I ask the EMC for its support of our request.

WR



Offices of the Governor

Michael F. Easley
Governor

Correspondence Unit
733-2391

To: DENR
Attn: Don Reuter
Building: Archdale
Room: 1419-D
Phone: 715-1442
Email:

Issue: Water
Case Number: 1112791
Date Initialized: 5/17/2005
Respond By: 6/1/2005
Returned:
Closed:

Name: Mr. Gary R. Ruth
Title: Vice President/General Manager
Organization: Philip Morris USA/ Cabarrus Operations
Address: PO Box 1098
Concord NC 28026

County: Cabarrus Country: USA
Phone: Email:

Case Details:
Requesting an inter-basin water transfer from the Catawba and Yadkin Rivers to the Rocky River Basin to support Cabarrus County.

- UPON COMPLETION OF THIS CASE, PLEASE RETURN THE ENTIRE FILE AND A COPY OF YOUR REPLY TO Claire Ennis, Room 1081, Admin. Bldg.
 - For Your Information/ Copy and Return
 - Prepare reply suitable for Governor's signature and return.
 - Acknowledge stating Governor referred and return.
 - Draft reply suitable for secretary or agency head signature and return.
 - Other
- Received By: Phil Fragapone DWR Date: May 31, 2005
 Action Taken: Response letter sent (see attached) *PA*

Water 330 Demand

1112791

PHILIP MORRIS

U.S.A.

P.O. BOX 1098, CONCORD, NORTH CAROLINA 28026-1098

GARY R. RUTH
VICE PRESIDENT/GENERAL MANAGER
CABARRUS OPERATIONS

Received
MAY 16 2005
Office of the Governor

May 9, 2005

The Honorable Michael Easley
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Dear Governor Easley:

I am writing to you on behalf of Philip Morris USA to convey our support of the efforts by the municipalities within Cabarrus County to obtain approval for the inter-basin transfer of water supplies.

Philip Morris USA employs 2600 personnel at our Cabarrus Manufacturing Center in Concord, NC. The City of Concord provides our plant with the water supply necessary for manufacturing our product and meeting the needs of our personnel in the work environment, as well as, for their families within the surrounding area.

The City of Concord has been very proactive in the management of the water resources available to the community to ensure the existence of safe water supplies to support not only the current needs, but also the requirements for future economic development. Their excellent planning, communication, and infrastructure development efforts made it possible for the community to endure the recent severe drought conditions without emergency transfers.

However, the existing water supply is physically limited with regard to meeting future growth demands. As a result, the City of Concord and the City of Kannapolis have jointly requested an Inter-basin Transfer (IBT) Certificate from the North Carolina Environmental Management Commission (EMC) to meet the projected increase in demand.

Philip Morris USA fully supports this request to develop the inter-basin transfer of water supplies from the Catawba and Yadkin River basins to the Rocky River Basin. Without these transfers, the water supply for the City of Concord and Cabarrus County will not remain adequate for the growing demands of our community.

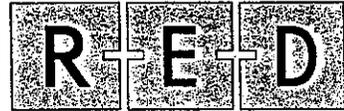
Thank you for your consideration in supporting this very worthwhile and necessary request for the inter-basin transfer to support our community.

Sincerely,

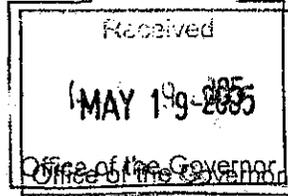
A handwritten signature in cursive script, appearing to read "Gary Ruck".

xc: W. Brian Hiatt, City Manager, City of Concord
Mike Legg, City Manager, City of Kannapolis

Water 336
1112922



REAL ESTATE DEVELOPMENT PARTNERS



DEVELOPMENT

BROKERAGE

PROPERTY MANAGEMENT

Murphy Rand
Lois Buenau
Ashley Stewart

Tuesday, May 17, 2005

Governor Michael Easley
20301 Mail Service Center
Raleigh, NC 27699-0301

RE: **Concord and Kannapolis Interbasin Transfer Certificate**

Dear Governor Easley:

Our company, Real Estate Development Partners, is an active commercial developer in Cabarrus County. High taxes and congestion in Charlotte and Mecklenburg County is a factor in the growth being felt in Cabarrus County and other surrounding counties. Because of this growth, the water system is being taxed and without relief now, the system could be in jeopardy of being insufficient to supply the needs of Cabarrus County in ten years.

Our company strongly supports the efforts of Cabarrus County, Kannapolis and Concord to have an IBT approved by the NC Environmental Commission.

Thank you for your attention to this very important issue.

Sincerely,

E. Judson McAdams, Partner

1819 Charlotte Drive
Suite 101
Charlotte, NC 28203

T - 704.374.9998
F - 704.374.9909



North Carolina Department of Environment and Natural Resources
Division of Water Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary
John N. Morris, Director

May 31, 2005

Mr. Gary R. Ruth
Vice President/General Manager
Philip Morris USA/Cabarrus Operations
PO Box 1098
Concord, NC 28026

RE: Concord and Kannapolis Interbasin Transfer

Dear Mr. Ruth:

Governor Easley's office has referred your letter of support for the Concord/Kannapolis water supply interbasin transfer proposal to our Division. Though the Division of Water Resources is the lead agency for interbasin transfer proposals, State statutes assign responsibility for decisions to the North Carolina Environmental Management Commission.

A copy of your comments will be included in the Hearing Officer's Report for the public hearings scheduled for June 22 and 23 in Charlotte and Albemarle. For detailed information on the public hearings, see the Division's website at:

http://www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/Status/Concord/

We appreciate your concern for water supply planning to support North Carolina's economy.

If you have questions on the status of this or any interbasin transfer process, please contact Phil Fragapane at 919-715-0389 or phil.fragapane@ncmail.net.

Sincerely,



John Morris

Cc: Claire Ennis, Offices of the Governor



North Carolina Department of Environment and Natural Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary

15 August 2005

MEMORANDUM

TO: Phil Fragapane
Division of Water Resources

FROM: Sarah McRae, Freshwater Ecologist
NC Natural Heritage Program *SEM*

SUBJECT: Additional Comments on Revised Draft EIS and Petition for the Cities of Concord and Kannapolis – Proposed Interbasin Transfer from the Catawba River to the Rocky River Subbasin

This letter is in response to a request by the Division of Water Resources for an additional review of the revised Draft Environmental Impact Statement and Petition for the Interbasin Transfer (IBT) in Cabarrus County.

NHP will not object to the issuance of the interbasin transfer, provided that the Division of Water Resources requires consistency between the municipalities and Cabarrus County. Specifically, NHP would like to see consistent policies pertaining to buffers and stormwater controls, and we would like clarification on the discharge to the Rocky River and potential expansion and location of IBT lines. We would like to see that the stipulations provided in the NC Wildlife Resources Commission's (WRC) comments (Linville, 23 November 2004) be addressed by all municipalities within the receiving basin.

For buffers, NHP would like to all municipalities and the county adopt similar language in their ordinances, and we recommend the sole use of native plants in the vegetated setbacks. Furthermore, we would like to see WRC's recommendation of 50-foot native, forested buffer on intermittent and 100-foot native, forested buffer on perennial streams be followed.

For stormwater controls, NHP urges that all municipalities and the county have consistent requirements, specifically by maintaining pre- and post- development hydrographic conditions to the extent practicable, using control measures before impervious surfaces reach 10% of the watershed area, and strongly encouraging the use of low impact development techniques.

Increased IBT flows may result in the need for new or upgraded waste water treatment plants. If this happens, disinfection of discharge from the Rocky River Waste Water Treatment Plant should be converted to non-chemical processes, and chlorine should not be used for treatment of

Draft EIS for IBT - Concord/Kannapolis
15 August 2005
Page 2

waste water in any new plants. Furthermore, should the need for public utilities increase as a result of the IBT, water and sewer lines should not be extended into basins supporting populations of the federally endangered Carolina heelsplitter.

Finally, NHP would like to see that updates to ordinances be incorporated into the latest version of the EIS. For example, p.5-12 of the Draft EIS states, "Concord plans to adopt updates to the UDO in the first quarter of 2005. Kannapolis is planning to adopt changes to the UDO in 2005." NHP will be encouraged to see that the intended "measure[s] to protect the service area's natural resources are in place well before the IBT" (p.5-12).

As long as there is consistency in the ordinances of Concord, Kannapolis, all other municipalities and Cabarrus County, NHP will not object to the interbasin transfer. Please let me know if I can provide more information. The North Carolina Natural Heritage Program looks forward to a collaborative effort to help protect the State's natural diversity. If I can be of assistance, please do not hesitate to call me at 919-715-1751.

CC via email: Ron Linville, WRC
Melba McGee, DENR
Dennis Testerman, Cabarrus Co. Soil and Water



RECEIVED

DUKE POWER
P.O. Box 1006
Charlotte, NC 28201-1006

June 13, 2005

JUN 17 2005

DIVISION OF WATER RESOURCES

Mr. Phil Fragapane
Division of Water Resources
NC Department of Environment and Natural Resources
1611 Mail Service Center
Raleigh, NC 27699-1611

Re: Written Comments on the Cities of Concord and Kannapolis Request for an Interbasin Transfer Certificate.

Dear Mr. Fragapane:

Duke Power is providing comments to the North Carolina Environmental Management Commission (EMC) regarding the petition of the Cities of Concord and Kannapolis (Cities) for an interbasin transfer (IBT) certificate of up to 38 MGD (maximum day IBT) from the Catawba River.

Duke Power is beginning its third and final year of doing studies and conducting meetings with over 160 Catawba River stakeholders seeking to reach a comprehensive hydro project relicensing agreement on a wide array of issues including those associated with water quantity. Duke Power believes that the outcome will be a much different set of minimum flow requirements required by the Federal Energy Regulatory Commission (FERC) from the hydroelectric stations on the Catawba River.

As part of the studies being conducted to support relicensing of the Catawba – Wateree Hydroelectric Project, Duke has been updating water supply projections and modeling for evaluating basin hydrology and water demands for the entire Catawba River Basin. Water supply demands include projections for the entire river basin plus known or projected interbasin transfers. Planned transfers from the Cities of Concord and Kannapolis were included assuming that their future demands were met from the Catawba River Basin. Only preliminary analyses have been conducted to date and they do not yet account for changes in minimum flow requirements anticipated from a new FERC license. To analyze this IBT comprehensively, Duke Power will perform an analysis that looks at the water quantity and minimum flow issues as changed by the FERC along with a comprehensive review of other water purveyor withdrawals over a long period of record that includes significant drought periods.

Duke recognizes the complexity of making decisions regarding water supply and interbasin transfers during an on-going FERC relicensing process and did encourage the petitioners to move forward with the IBT process before the FERC process was complete so their IBT could be considered as part of the process. Duke also recognizes that the petitioners have worked to formulate a regional solution for meeting their water supply needs which allows them to negotiate with neighboring water providers.

In balancing the uncertainty in the minimum instream flow requirements with the need to negotiate medium range water supply needs, Duke Power is requesting that if the EMC approves the IBT request that a provision be made for an interim limit for the IBT to a maximum of 10 MGD from the Catawba River Basin until after Duke files the Catawba – Wateree Hydroelectric Project FERC License Application (i.e., by August 31, 2006). This timeframe would create a clearer picture of what minimum flows would likely be required by the FERC. Duke Power would then be willing to analyze the Cities' request and evaluate its impact on other water purveyors or users and file a report with the Division of Water Resources and Environmental Management Commission on or before December 31, 2006.

It is our understanding that Concord and Kannapolis have emergency interconnections with Charlotte-Mecklenburg Utilities (CMU) and that the interim approval will allow them to proceed with working with CMU to meet on-going water supply needs. The delay in allowing use of the full IBT will allow time to carefully evaluate the impacts of this request especially as they might occur during a prolonged drought as we have recently experienced in this area of North Carolina.

Should you have any comments please do not hesitate contacting me (704-382-5236).

Yours truly,



George A Galleher, PE
Manager, Lake Management
Duke Power, Fossil Hydro Generation
Duke Energy Corporation

Chuck Abernathy

From: "George A Galleher" <gagalleh@duke-energy.com>
To: <charlesa@mcdownellgov.com>
Cc: "Jason A Walls" <jawalls@duke-energy.com>; "Sandra B Tallant" <stallant@duke-energy.com>
Sent: Monday, July 11, 2005 3:47 PM
Attach: IBT Cities 20050613.doc
Subject: Duke Power and Interbasin Transfer

Mr. Abernathy,

Jason Walls has asked me to provide you with a copy of Duke's letter to NCDENR regarding the proposed Interbasin Transfer (IBT) of Concord/Kannapolis.

(See attached file: IBT Cities 20050613.doc)

In short our position is:

Duke Power is requesting that if the EMC approves the IBT request that a provision be made for an interim limit for the IBT to a maximum of 10 MGD from the Catawba River Basin until after Duke files the Catawba -- Wateree Hydroelectric Project FERC License Application (i.e., by August 31, 2006). This timeframe would create a clearer picture of what minimum flows would likely be required by the FERC. Duke Power would then be willing to analyze the Cities' request and evaluate its impact on other water purveyors or users and file a report with the Division of Water Resources and Environmental Management Commission on or before December 31, 2006.

Please feel free to call me with any questions or comments that you may have. After normal business hours please try my cell phone number 704-995-7140.

George A. Galleher, PE
Manager, Lake Management
Duke Power Fossil/Hydro Department
704-382-5236 (Office)
704-382-8614 (Fax)

No virus found in this incoming message.

Checked by AVG Anti-Virus.

Version: 7.0.323 / Virus Database: 267.8.12/46 - Release Date: 7/11/2005

7/11/2005

June 20, 2005

Mr. Phil Fragapane
Division of Water Resources DENR
1611 Mail Service Center, Raleigh, NC
27699-1611.

Re: Cities of Concord and Kannapolis Proposed Interbasin Transfer

Dear Mr. Fragapane:

The City of Hickory and other jurisdictions in Catawba County and the Hickory Metropolitan Area depend on the Catawba River for potable water, electricity, recreation and flood control. We have concerns that withdrawals from the Catawba River be regulated so as not to impair the capacity needed to serve our citizens or the cost of treating water for human consumption, and to provide for future growth and economic development opportunities in the upper Catawba Valley. Therefore, we submit the following comments and requests on the interbasin transfer proposed by Concord and Kannapolis.

- 1) We are concerned that the future volumes in the upper Catawba River be estimated in view of the worst-case drought scenario and the likelihood of continued sedimentation, which has dramatically reduced the physical volume of these rivers and lakes. The environmental impact study does not appear to reflect conditions as they existed in 2002 during the height of the drought, nor does it appear to reflect the impacts of ongoing sedimentation in the lakes of the upper Catawba River. We would like to see these factors evaluated and considered before the EMC makes a decision on this request.
- 2) We prefer that the proposed 38 million gallon per day transfer come from an existing water withdrawal allocation rather than it being a new withdrawal allocation.
- 3) Duke Power will be applying to the Federal Regulatory Commission (FERC) for a new license for its dams on the Catawba-Wataeree river system in August 2006. As part of the relicensing process, Duke Power has conducted 32 different studies to address many areas of concern raised by over 150 stakeholders. These studies address recreation needs, water levels, water quality, habitat preservation, etc. One specific study includes an analysis of future water needs for the region in a water supply study. It appears that the request of 38 MGD from Concord/Kannapolis has been accounted for in this study; however, we have concerns that any future requests for interbasin transfers from the Catawba River could impact the results of this study. The water flow and lake levels established in the study, along with other flows needed for recreation, habitat, water quality, etc. are being input into a very complicated model, called CHEOPS. All 150 stakeholders in the relicensing will be reviewing the results of the flows from the CHEOPS model and will be considering signing a final relicensing agreement based on these results. This agreement will then be the basis for the FERC to approve Duke's license for the Catawba-Wataeree for the next 30-50 years. With the precedence of interbasin transfer requests from the Catawba River Basin being approved, there is concern that future requests may be approved without consideration of the flow levels approved by the 150 stakeholders in Duke Power's relicensing process.
- 4) If the EMC approves the interbasin request, we request the following considerations:
 - a. A provision that during drought situations the local jurisdictions within the basin have first rights to its water and that all voluntary or mandatory water restrictions for the Catawba also be applied to the interbasin transfers.
 - b. That any recipient of an interbasin transfer be required to help fund programs on the Catawba River, such as paying for an aquatic weed removal program.

- 5) We would like to know if a cap or limit on interbasin transfers has been established for each basin in the State. If there is such a limit, then we would like information as to what level has been approved for the Catawba-Wataree and what volume has been approved thus far. Once again, this has ramifications as it relates to the stakeholder approval of Duke Power's relicensing.

We appreciated your consideration of these comments and look forward to receiving a response from you on these matters.

Sincerely,

Mick Berry, City Manager , Hickory

828 323 7400

PC: Mayor and Council

To: Phil Fragapane, Division of Water Resources, DENR, 1611 Mail Service Center, Raleigh, NC 27699-1611 or Phil.Fragapane@ncmail.net

From: Lake James Environmental Association (LJEA) Board of Directors written by George Johnson, DBA. and Robert Long, PhD.

Date: June 21, 2005

Subject: Comments concerning the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal

The LJEA Board of Directors recommends **against granting the IBT** because:

1. **The EIS is missing critical information and misrepresents reality in the Catawba basin (especially in drought periods).** IBT justification is based on 2002 and the EIS is based on computer modeling done for the years up to 2000 (avoiding drought year 2002).

The shortfall of water during the height of the 2002 drought is used as justification for the IBT. This same year should have been used to predict the affect of this IBT on all the impoundments on the Catawba River system, not just Lakes Norman, Mountain island and Wylie. If this had been done there would have been no need for a computer model. In the summer of 2002, the Catawba River valley suffered from extreme drought conditions. For the first time ever, York, Union, Mecklenburg and Lancaster counties as well as the cities of Charlotte, Mooresville, Rock Hill, Fort Mill, Tega Cay and Lake Wylie imposed mandatory water use restrictions for commercial, residential and/or agricultural customers. South Carolina towns and counties also imposed mandatory water use restrictions and the Governor of South Carolina declared many counties in the Catawba River basin disaster areas.

The drought devastated aquatic life and wildlife resources across the basin. Many of the tributaries throughout the Catawba Waterway watershed dried up completely. For the first time ever, the Catawba River experienced negative hydrologic flow. More water left the river through evaporation, ground water recharge, electricity production and withdrawals than the amount of water that entered the river. Local economies suffered greatly as the low water conditions caused state and county recreation facilities to close swimming beaches and boat accesses. Duke Power reduced water flow through its dams on the Catawba other than to provide water for municipal water systems.

Specifically of interest to the Lake James Environmental Association was that during this period, Lake James was drawn down to 8 feet below full pond to provide water to downstream city water systems. The result was that marinas closed, all boat accesses closed and many homeowners had to spend thousands of dollars to move their docks to deeper water or repair them.

- 2. The IBT is being rushed for approval during a high rain period and before the upcoming Duke Power relicensing studies and the license conditions are known.**

The application states that the Rocky River basin can supply the needs of the two cities until 2015. Why must the IBT be approved before the relicensing studies are complete in 2006 and relicense flow constraints are known in 2008?

Lake James Environmental Association (LJEA) is a 50 year old organization founded to protect the environment surrounding and including Lake James. It has over 200 members and contributors. For the last 4 years it has monitored the rivers (5 locations) and lake James (6 locations) monthly and worked with the University of North Carolina – Asheville in sharing and understanding the water analysis information. Our analyses indicate that sedimentation and low water levels due to drought are the most serious threats to Lake James. Our address is: Lake James Environmental Association 159 Bayshore Drive Nebo, NC 28761



June 21, 2005

The Board of Directors of the Cabarrus Regional Chamber of Commerce, at its June 16, 2005 Board Meeting, unanimously approved a recommendation from the Chamber's Public Policy group to support the proposed Inter-basin Transfer agreement that will benefit Concord, Kannapolis and all of Cabarrus County.

The Cabarrus Regional Chamber continually pursues the "sustainable communities of the future," and believes that the Inter-basin Transfer is essential to our communities' sustainability. We believe this to be the case for several reasons:

- Cabarrus County has limited water resources within its natural drainage areas
- Communities have been good stewards of water resources; aggressive drought management and conservation efforts during 5 year drought prevented need for emergency actions
- Concord has branded itself as a "water conservation" community
- Multiple alternatives were evaluated to provide flexibility and minimize impacts
- A regional solution to the areas water supply needs has been proposed
- Communities are committed to environmental protection and natural resource preservation
- have worked to develop leading programs in these areas

In particular, the Chamber supports the IBT because it will:

- Provide a sufficient water supply for continued balanced growth of the communities
- Support good stewardship of water resources including a strong conservation program
- Support local and regional planning efforts and ordinances designed to protect the environment and natural resources while allowing for livable communities
- Assure current and future business owners that Cabarrus County is competitive from a resource allocation standpoint.

I would be happy to discuss this further, but on behalf of the Cabarrus Regional Chamber, I ask for your immediate consideration and approval.

Sincerely,

John S. Cox
President and CEO
Cabarrus Regional Chamber Of Commerce & Economic Development



June 21, 2005

The Board of Directors of the Cabarrus Economic Development Corporation, at its April 2005 Board Meeting, unanimously approved a recommendation to support the proposed Inter-basin Transfer agreement that will benefit Concord, Kannapolis and all of Cabarrus County.

The Cabarrus EDC and its partner the Cabarrus Regional Chamber continually pursue the "sustainable communities of the future," and believe that the Inter-basin Transfer is essential to our communities' sustainability. We believe this to be the case for several reasons:

- Cabarrus County has limited water resources within its natural drainage areas
- Communities have been good stewards of water resources; aggressive drought management and conservation efforts during 5 year drought prevented need for emergency actions
- Concord has branded itself as a "water conservation" community
- Multiple alternatives were evaluated to provide flexibility and minimize impacts
- A regional solution to the areas water supply needs has been proposed
- Communities are committed to environmental protection and natural resource preservation - have worked to develop leading programs in these areas

In particular, the EDC supports the IBT because:

- Cabarrus County requires dependable additional water supply
- The EDC is working to recruit business and industry to replace and add jobs to the communities
- Due to the recent drought many businesses ask about availability of water for current demands and for long-term growth
- Additional water supply will assist in recruiting efforts and meeting areas needs for jobs
- The EDC supports branding as "Water Conservation" communities as long as supplies are dependable to support business and community growth

I would be happy to discuss this further, but on behalf of the Cabarrus EDC, I ask for your immediate consideration and approval.

Sincerely,

Toby Prewitt
Chairman
Cabarrus Economic Development Corporation



North Carolina Department of Environment and Natural Resources
Division of Water Resources

Michael F. Easley, Governor

William G. Ross Jr., Secretary
John N. Morris, Director

Cities of Concord and Kannapolis Proposed Interbasin Transfer

NOTICE OF PUBLIC HEARINGS

June 22, 2005, 5:00 PM

McKnight Auditorium in the Cone Center, Third Floor
UNC-Charlotte

June 23, 2005, 5:00 PM

Albemarle City Hall Annex
157 N. Second Street
Albemarle, NC 28001

The North Carolina Environmental Management Commission will hold two public hearings to receive comments on a petition for an interbasin transfer from the Catawba River and Yadkin River Sub-Basins to the Rocky River Sub-Basin. The Cities of Concord and Kannapolis are requesting an interbasin transfer (IBT) certificate from the North Carolina Environmental Management Commission for a total transfer of 48 million gallons per day (MGD) on a maximum day basis. The maximum day IBT under the proposal would be up to 38 MGD from the Catawba River Sub-Basin and up to 10 MGD from the Yadkin River Sub-Basin.

Under the proposal, the applicants would meet short-term water supply demand increases using interconnections with Charlotte (Catawba), Salisbury (Yadkin), and Albemarle (Yadkin). Long-term demands would be met by developing a raw water supply from Lake Norman (Catawba) to supplement flows to Lake Howell and Kannapolis Lake. IBT occurs because of consumptive use in and discharge to the Rocky River Sub-Basin via the Water and Sewer Authority of Cabarrus County's Rocky River Regional Wastewater Treatment Plant. The IBT certificate is being requested to meet a projected cumulative water demand shortfall of 24 MGD (average day demand) in 2035.

Notice of these hearings is given in accordance with N.C. General Statute 143-215.221(d). The first public hearing will start at 5:00 PM on June 22, 2005 on the Third Floor of McKnight Auditorium on the campus of the University of North Carolina at Charlotte, Charlotte, NC. The second hearing will begin at 5:00 PM on June 23, 2005 in the Albemarle City Hall Annex, Albemarle, NC. In addition, Division of Water Resources (DWR) staff will be available to answer questions from 4:00 – 5:00 PM at the hearing locations. The public may inspect the staff's recommendation report, the interbasin transfer petition, and the draft Environmental Impact Statement (EIS) supporting the petition during normal business hours at the offices of DWR, 512 N. Salisbury Street, Room 1106, Archdale Building, Raleigh. These documents may also be viewed at the DWR web site:

http://www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/Status/Concord/

1611 Mail Service Center, Raleigh, North Carolina 27699-1611
Phone: 919-733-4064 \ FAX: 919-733-3558 \ Internet: www.ncwater.org
An Equal Opportunity/Affirmative Action Employer-50% Recycled/10% Post Consumer Paper

According to the draft EIS, there are no expected significant direct impacts in either the Catawba River or Yadkin River Sub-Basins. No significant changes are predicted in lake levels, downstream flows, or water supply withdrawals. Direct impacts on water supply, water quality, wastewater assimilation, fish and wildlife resources, navigation, or recreation are not expected since there will be no significant changes in the hydrology of the system due to the increased withdrawal. There is some potential for loss of power generation capacity in the Yadkin Sub-basin.

The draft EIS concludes that there are no secondary impacts related to growth in either of the source basins. However, the IBT will provide additional water supply to support growth and development in the receiving basin. Mitigation measures presented in the IBT petition are expected to mitigate secondary impacts related to growth and development in the receiving basin.

The draft EIS was circulated among agencies of the Department of Environment and Natural Resources. The Division of Water Quality, Natural Heritage Program, and the Wildlife Resources Commission were the primary commenting agencies. Their comments included concerns concentrated on secondary and cumulative impacts in the receiving basin on aquatic habitat and water quality. Suggested mitigation measures were specified, such as stream buffers and development ordinances, including low impact development measures.

The purpose of this announcement is to encourage those interested in this matter to provide comments and to comply with statutory notice requirements. You may attend either of the public hearings and make relevant oral comments and/or submit written comments, data, or other relevant information. Written submissions of oral comments at the hearings are requested. The hearing officers may limit the length of oral presentations if many people want to speak. If you are unable to attend, written comments can be mailed to Phil Fragapane, Division of Water Resources, DENR, 1611 Mail Service Center, Raleigh, NC 27699-1611. Comments may also be submitted electronically to Phil.Fragapane@denrmail.net. All comments must be received before July 1, 2005. Oral, mailed, and emailed comments will be given equal weight.

Under the Regulation of Surface Water Transfers Act (G.S. 143-215.221), persons intending to transfer 2.0 mgd or more, or increase an existing transfer by 25 percent or more, must first obtain a certificate from the Environmental Management Commission. As part of the petition process, the applicants completed an environmental impact statement. Review of the environmental impact statement by the Department of Environment and Natural Resources has been completed in accordance with the State Environmental Policy Act.

The public is invited to comment on the applicants' petition and supporting environmental impact statement. The Commission is considering and seeking comments on three options with regard to the interbasin transfer request. The options are: (a) grant the certificate for the interbasin transfer request; (b) deny the interbasin transfer request; or (c) grant the certificate including any conditions necessary to achieve the purposes of the statute or to provide mitigation measures.

The public is invited to comment on the following possible conditions and to suggest any other appropriate conditions, including limitations on the amount of the transfer:

1. The Cities of Concord and Kannapolis will enact the following buffer definitions as part of the Unified Development Ordinance (UDO):
 - A perennial stream buffer shall be an undisturbed area measured, at minimum, 50 feet from the top of stream bank plus 20 feet of vegetated setback, totaling 70 feet
 - An intermittent stream buffer shall be an undisturbed area measured from the top of stream bank perpendicularly for a distance of 20 feet with an additional 10 feet of vegetated setback, totaling 30 feet

The UDO shall require that within stream buffer areas, the following regulations will apply:

- No new on-site sewage systems utilizing ground adsorption
 - No new structures
 - Maintenance of stream buffers to maintain sheet flow and provide for diffusion and infiltration of runoff and filtering of pollutants
2. All municipalities and counties receiving water and/or sewer services from the Cities of Concord and/or Kannapolis shall comply with the UDO, including the stream buffer requirements. Municipalities and counties potentially affected include Harrisburg, Landis, Midland, Mount Pleasant, and Cabarrus County.
 3. Prior to transferring water under the proposed IBT certificate, the holders of the certificate will work with the Division of Water Resources to develop a compliance and monitoring plan subject to approval by the Division. The plan will include methodologies and reporting schedules for reporting the following information: maximum daily transfer amounts, compliance with permit conditions, progress on mitigation measures, and drought management. A copy of the approved plan will be kept on file with the Division for public inspection. The Division of Water Resources will have the authority to make modification to the compliance and monitoring plan as necessary to assess compliance with the certificate.
 4. If either the EIS were to be found at a later date to be incorrect or new information were to become available such that the environmental impacts associated with the proposed transfer were substantially different from the projected impacts that formed the basis for certifying the IBT, the Environmental Management Commission can reopen the certificate to adjust the conditions or to require new conditions to ensure that the detriments of the transfer continue to be mitigated to a reasonable degree.

For more information or to download the EIS supporting this IBT request, visit the Division of Water Resources' website at

http://www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/Status/Concord/

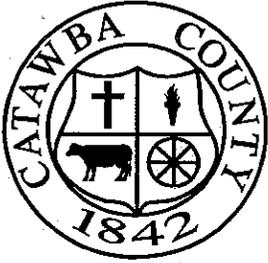
You may also contact Phil Fragapane in the Division of Water Resources at 919-715-0389, or email: Phil.Fragapane@ncmail.net

Oral Statement of Gary Faulkenberry

June 22, 2005, UNC-Charlotte

Good afternoon and thanks for the opportunity of presenting some thoughts to you in front of the Commission. I am Gary Faulkenberry and I one of your neighbors south of the border. I am South Carolina resident in the small town of Liberty Hill, SC on Lake Wateree, one of the towns on the Catawba River Basin System. I am a stakeholder for 3 reasons; my drinking water currently comes from the Catawba River, my home is on the Catawba River, and I love to recreate on the river, so I have plenty of reasons to be attentive and concerned about anything that impacts our river system. I also work at the [unintelligible] and that is who I represent it is a little bit difficult for me to answer because I work in several different organizations who are focused on health and welfare of the river. I am vice chair of the Wateree Homeowners Association, on the Catawba Waterway Foundation Group Keeper Board, I am a board member of Clean Water South Carolina. I also am very happy with the current work going on earlier in the hydro relicensing process and boy has that been an education and a much bigger scope than any of us ever anticipated [unintelligible]. And most recently I was appointed by the South Carolina Senate to the newly formed My State Catawba-Wateree Basin Commission, which is charged for looking futuristic about the river basin. At stake today, to illustrate hopefully to you that I am an advocate who doesn't just oppose things from an environmental prospective. I'm an advocate for the river who tries to walk the line in trying to do a lot of work personally and be involved, personally in what happens to the future of our river. I relate the work that goes on in organizations to this IBT into [unintelligible]. First of all, this new five-state commission. Some earlier thinking in that is the principal based statement, this is one river, it is not a North Carolina and South Carolina river, its not a river, it's the Catawba and maybe if we do put our heads together between the two states instead of acting in a vacuum perhaps as we do today, we will together realize that the smarter ways to manage this resource on the Catawba for the future generations of both states. Maybe through this Commission in some future months or years there maybe a different way of looking about the process and the rules we use for such things as this exact IBT. So I see a lot of hope in that, I see a lot of opportunity in that, of improving the way we manage this river resource. I also relate this IBT to my work with water quality because being downstream of this tremendous growing region called the Charlotte-Mecklenburg Region brings a lot of challenge. Most of the effluent from the Charlotte-Mecklenburg area reaches back into the river between Rock Hill and the lower Catawba region where myself and many others live and recreate. It is important to us that flows are sufficient to assimilate with that tremendous volume of effluent to try to mitigate some of the water quality problems that we already experience from a very high phosphorus flow that creates a [unintelligible] in our water quality. Flows depend on water quantity so I am very sensitive as other stakeholders in South Carolina are to anything that takes water quantity from this Catawba River basin. It not only involves quantity, it involves quality from this respective mixing with the effluent. The other thing I relate to this IBT and my river work if you will, is my experiences with the Duke relicensing process. The number of studies, the amount of data, the number of hours and technology that is going into that is very [unintelligible] and a tremendous amount of work, but we are getting it and there are a lot of questions still being answered about water quantity, water quality, and many other aspects. We are close but we aren't there yet and I just urge you not to be premature in making a decision on this IBT until that work is complete, the new CHEOPS model is improved over something that has been done in the past. It is going to tell us some different

stories. One of the engineers who is responsible for that model made a statement to me many months ago, Gary I hear you talking about water quality a lot but if you had an insight on what I think this model is going to show us you may be even more concerned about water quantity than you are water quality as you take it out 30 to 50 years and the growth of this [unintelligible] both in the Charlotte region and downstream in the Carolinas. So from that perspective, I see a lot of new understanding that we are going to be aiming in the latter stages of this relicensing process and I think it would be unwise for us to make important decision such as this IBT without benefit of that knowledge. So in conclusion based upon my work in water quality, based upon my work with the relicensing effort, based upon the hope and the opportunity that I see in what this Commission might be able to do in looking at the resource as one resource not a North and South Carolina resource, I encourage the IBT not to be approved and at minimum delayed until some of the results from these other related activities can be better understood. Thank you very much



CATAWBA COUNTY Utilities and Engineering

PO Box 389: 100-A South West Boulevard: Newton, North Carolina 28658-0389 -Telephone (828) 465-8200
http://www.catawbacountync.gov Fax (828) 465-8392

June 22, 2005

Mr. Phil Fragapane
Division of Water Resources DENR
1611 Mail Service Center, Raleigh, NC
27699-1611.

RECEIVED

JUN 24 2005

DIVISION OF WATER RESOURCES

Re: Cities of Concord and Kannapolis Proposed Interbasin Transfer

Dear Mr. Fragapane:

The City of Hickory and other jurisdictions in Catawba County and the Hickory Metropolitan Area depend on the Catawba River for potable water, electricity, recreation and flood control. We have concerns that withdrawals from the Catawba River be regulated so as not to impair the capacity needed to serve our citizens or the cost of treating water for human consumption, and to provide for future growth and economic development opportunities in the upper Catawba Valley. Therefore, we submit the following comments and requests on the interbasin transfer proposed by Concord and Kannapolis.

- 1) We are concerned that the future volumes in the upper Catawba River be estimated in view of the worst-case drought scenario and the likelihood of continued sedimentation, which has dramatically reduced the physical volume of these rivers and lakes. The environmental impact study does not appear to reflect conditions as they existed in 2002 during the height of the drought, nor does it appear to reflect the impacts of ongoing sedimentation in the lakes of the upper Catawba River. We would like to see these factors evaluated and considered before the EMC makes a decision on this request.
- 2) We prefer that the proposed 38 million gallon per day transfer come from an existing water withdrawal allocation rather than it being a new withdrawal allocation.
- 3) Duke Power will be applying to the Federal Regulatory Commission (FERC) for a new license for its dams on the Catawba-Wateree river system in August 2006. As part of the relicensing process, Duke Power has conducted 32 different studies to address many areas of concern raised by over 150 stakeholders. These studies address recreation needs, water levels, water quality, habitat preservation, etc. One specific study includes an analysis of future water needs for the region in a water supply study. It appears that the request of 38 MGD from Concord/Kannapolis has been accounted for in this study; however, we have concerns that any future requests for interbasin transfers from the Catawba River could impact the results of this study. The water flow and lake levels established in the study, along with other flows needed for recreation, habitat, water quality, etc. are being input into a very complicated model, called CHEOPS. All 150 stakeholders in the relicensing will be reviewing the results of the flows from the CHEOPS model and will be considering signing a final relicensing agreement based on these results. This agreement will then be the basis for the FERC to approve Duke's license for the Catawba-Wateree for the next 30-50 years. With the precedence of interbasin transfer requests from the Catawba River Basin being approved, there is concern that future requests may be approved without consideration of the flow levels approved by the 150 stakeholders in Duke Power's relicensing process.

"Keeping the Spirit Alive Since 1842!"

Page 2

Mr. Phil Fragapane

June 22, 2005

- 4) If the EMC approves the interbasin request, we request the following considerations:
 - a. A provision that during drought situations the local jurisdictions within the basin have first rights to its water and that all voluntary or mandatory water restrictions for the Catawba also be applied to the interbasin transfers.
 - b. That any recipient of an interbasin transfer be required to help fund programs on the Catawba River, such as paying for an aquatic weed removal program.
- 5) We would like to know if a cap or limit on interbasin transfers has been established for each basin in the State. If there is such a limit, then we would like information as to what level has been approved for the Catawba-Wateree and what volume has been approved thus far. Once again, this has ramifications as it relates to the stakeholder approval of Duke Power's relicensing.

We appreciated your consideration of these comments and look forward to receiving a response from you on these matters.

Sincerely,



Barry B. Edwards, PE, Director
Catawba County Utilities and Engineering

PC: Board of Commissioners

KANNAPOLIS



Inter-Basin Transfer Public Hearing Comments Kannapolis City Manager Mike Legg

(also serves on the Board of Directors for the Water and Sewer Authority of Cabarrus County)

June 22, 2005

Charlotte, NC

I am Mike Legg, City Manager, City of Kannapolis. On behalf of our Mayor Ray Moss and the Kannapolis City Council, please accept our many thanks to the Environmental Management Commission and the DENR staff for all of the hard work on the inter-basin transfer process statewide; and especially regarding this particular request. We understand the challenges you face in making your decisions and appreciate the attention you give to the details of all of the concerns. Most of us in local government typically find ourselves on the side of *receiving* public comments so we are very sensitive to your complex responsibilities.

I would like to very briefly highlight six key points summarizing our request and perhaps offer you two things 1) a sense of comfort that we do not take the management of our current water resources lightly and 2) that the ability to secure a consistent long-term water source for our communities is critical to our economic health and well-being.

First, growth is coming.

As you are all well aware, Cabarrus County is one of the state of North Carolina's high growth counties but we are challenged by very limited water resources within our natural drainage area. Many other communities like us across the state do not have this significant constraint. The natural growth radiating from the Charlotte economic engine across Cabarrus County does not mesh well with the water resource limitations we are faced with. We are simply asking that the economic playing field be as level as possible while preserving the environment to the greatest extent possible.

Second, growth can be managed and we have planned well and continue to plan.

Over the past five years, Concord, Kannapolis and the Water and Sewer Authority of Cabarrus County have spent hundreds of thousands of local water and sewer revenues dollars on comprehensive utility planning. We have a strong game plan for where we are going, what are needs are and how to manage the change. We are NOT requesting this IBT to facilitate the immediate construction of water facilities. Instead, the EMC approval to transfer water will allow for both continued smart growth planning and negotiation of longer term/non-emergency water supply contracts with our neighbors in Charlotte-Mecklenburg, Albemarle and Salisbury. It will also allow us to explore our options regarding future raw water resources of the Catawba and/or Yadkin Rivers.

During the drought, while Concord began negotiations with the City of Albemarle and City of Charlotte regarding regional water partnerships, the City of Kannapolis was pursuing an additional, very complex partnership of our own. Kannapolis, Rowan County, the City of Salisbury and the towns of China Grove and Landis embarked on a rapidly constructed major water main project along US Highway 29.

This project was aimed at providing short- and long-term relief from the lingering effects of the drought. The City of Kannapolis spent in excess of \$4 million to extend this line from the City of Salisbury, south to the Kannapolis system and upgrading the Kannapolis system. The yield was as much as 2.1 million gallons per day. This is just one example of the financial commitment the City has made in securing alternative water resources to secure our future. However these kinds of investment having limited value without the security of a consistent water source to meet our future demands.

It is critical to understand that our need for actually securing the water is not immediate – however, the need for approval IS immediate.

Third, we are responsible water resource managers.

The communities of Cabarrus County have been good stewards of the precious, albeit limited, water resources we are blessed with. We have implemented extremely aggressive drought management and conservation efforts during the recent 5-year drought. Our business community stepped up to the plate and did a marvelous job in conservation. In fact, our aggressive approaches to water conservation literally changed the way our citizens thought. A cultural change in Cabarrus County is what occurred during the 1997-2003 drought of record. Our utility funds were hit hard by the changes in attitude about water (and corresponding use patterns). The usages did not rebound in Kannapolis – people continued to cut back even when the drought was long over. While there were plenty of tense periods, these aggressive conservation approaches prevented the need for emergency water actions in Cabarrus County. Other communities in the state were forced to rely on drastic actions to solve their temporary water challenges.

Fourth, we are committed to partnerships.

During the height of the drought, through a complex partnership with DENR, the City of Charlotte and the City of Concord, the City of Kannapolis was able to provide South Rowan County and Town of Landis with emergency water services in a time when their supplies literally dried up. During this unique time period, all political turf issues were put aside in the interest of serving the common good. The very fact that Concord and Kannapolis are requesting this IBT together is a signal of our commitment to each other in defining and implementing the best long-term water service solutions. We are firmly committed to developing regional solutions because such approaches provide flexibility to manage supplies during time of drought. Our water systems are completely interconnected and we now view our water resources collectively, never alone.

Fifth, Kannapolis has suffered economically for the past two years but is in the midst of a rebirth.

Two years ago our major employer, Pillowtex, closed its doors, leaving more than 4,000 Cabarrus and Rowan County workers out of a job. Despite that struggle, Kannapolis is in the midst of a major economic renaissance. More than 1.5 billion dollars in new investment is on the short-term drawing board. Much of this is pure job creation and economic development, especially surrounding California billionaire David Murdock's purchase of the 7 million square foot of former textile facilities. The properties are currently under demolition with removal of all structures expected within one year. Over the next decade a wide variety of office space, research and development facilities, residential and retail construction will occur in Downtown Kannapolis. This redevelopment project, likely the largest in N.C. history, will certainly be reliant on the ability of the City of Kannapolis to secure long term water resources to support the development. Other significant residential, retail and industrial development is about to emerge. Our economic future hinges, in part, on our ability to provide available water. That ability hinges on the approval of our IBT request.

Sixth, we are committed to real conservation of all of our natural resources.

Like Concord, the City Kannapolis is in the process of implementing the Phase II stormwater requirements – we are committed to establishing standards and programs that go beyond the permit requirements. Kannapolis, Concord, Mount Pleasant and Harrisburg have all adopted a Unified Development Ordinance with significant growth standards. Also, after much urging from the municipalities, Cabarrus County (this week) has now adopted new development standards, which provide an extraordinary level of open space preservation (generally between 35% and 50% of all new subdivisions).

Furthermore, the City owns 2,842 acres of land along Second Creek in west-central Rowan County where Kannapolis has a current grandfathered Inter-Basin Transfer right for this important supplemental water source. Although it has not been easy reaching a conclusion on this matter, the City, after careful deliberation and advice from three different engineering firms has abandoned the thoughts of constructing an additional reservoir on this land. As a result, we are in the final stages of negotiations with the Land Trust of Central Carolinas to transfer the land to them for preservation purposes. The decision to not sell the land on the open market has not been finalized but it appears that going the conservation route is very appealing to our City Council, mostly as a means to preserve our supplemental water supply. The Kannapolis City Council is willing to consider sacrificing several million dollars in new revenue for the sole purpose of protecting the environment, mostly centered on the protection of our water supply and the preservation of its quality.

We in Kannapolis are very appreciative of your time and effort on this matter. We respectfully ask that you support our request.

KANNAPOLIS



City of Kannapolis

1997 – 2003 Drought and Water Management Timeline

1997

- Water levels in Kannapolis Lake and rainfall are at average to above average levels for the year.
- Recognizing that dependence on surface waters for the City's water supply may not support anticipated growth, City Officials take the first steps to identify new water supply options. Without a major river adjacent to the city, leaders know that the process of securing additional water resources will be long and challenging.

1998

- Before much progress is made to identify new water supply options, drought, now referred to as a 100-year drought, begins in mid-1998.

1999

- As water levels in Kannapolis Lake fall, City officials work with representatives of the North Carolina Department of the Environment and Natural Resources (NCDENR) to develop an ordinance outlining the city's policy on water restrictions.
- Voluntary restrictions are instituted Sept. 3 and lifted Oct. 11.
- Finkbeiner, Pettis and Strout, a civil engineering firm, is hired to begin water supply and water distribution and master plans that includes work to secure additional water supply alternatives.

2000

- The worst year of the drought- water levels averaged 30 inches below normal, rainfall totals 34.67 inches, a 13.88-inch deficit for the year.
- July 24 voluntary restrictions are implemented.
- Sept. 11 mandatory restrictions begin limiting water use to weekends for watering lawns and plants and washing cars.
- Water conservation education begins.

2001

- Businesses and citizens reduce water consumption by 25 percent.
- February 12 restrictions are tightened prohibiting car washing, except at a commercial facility, or watering of plants or lawns, except by hand held container.
- April 24 restrictions are relaxed to allow water use for outdoor activities on Wed. and Sat. with a hand-held spring-loaded nozzle.

- June 12 restrictions are relaxed to allow water use for outdoor activities on Wed. and Sat. from 7 am to 7 pm the following mornings.
- March 26 a suspension of plan approvals and water line extensions is in effect creating a building moratorium.
- Beginning in March, rainfall returns to normal levels in Kannapolis.
- In August, City Council approves the issuance of \$35 million in revenue bonds, \$20 million of which are for water and sewer projects. The bonds fund a \$14 million renovation of the water treatment plant to bring it into compliance with federal and state guidelines and increase the treatment capacity from 12 million gallons per day (MGD) to 15 MGD. The remaining funds are used for replacing aging lift stations, installing new water mains in the Coddle Creek annexation area and replacing water and sewer lines.
- Also in August, City Council approved the negotiation of a contract with the City of Salisbury to obtain up to 3.1 mgd of treated water through a \$2.4 million water main extension along Hwy. 29 to the northern city limits. One million dollars of the cost will go to complete infrastructure improvements in northern Kannapolis where the water from Salisbury will enter the city's system. The remaining cost is Kannapolis' share of a larger project involving Rowan County, China Grove and Landis. Up to 2 mgd might be available by summer 2002 without an interbasin transfer (IBT) permit from the state. The remaining 1.1 mgd will be available after an IBT is obtained.
- Sept. 11, Kannapolis Lake is 27.5 inches above normal; rainfall totals 27.68 inches for the year (only a 5.98-inch deficit) and mandatory restrictions are reduced to voluntary.
- The suspension of plan approvals and water line extensions continues while City staff complete a number of water related plans and policies including the water supply and water distribution master plans; a water allocation plan that will keep a running total of the water available for new development; a new water line extension policy; a backflow policy; and a wastewater collections master plan.
- Due to National Drought Monitoring Council predictions of below average winter rainfall, mandatory restrictions were reinstated November 20 as a precautionary measure. Kannapolis Lake was at 70 inches below full pond, one inch below average for the time of year and 27 inches higher than 2000.

2002

- At their January 28 meeting, City Council approved a contract between the City of Kannapolis, the City of Concord and an outside consultant to conduct the environmental assessments necessary to begin the process of applying to the State for an interbasin transfer. The environmental assessment will study the feasibility of pursuing such long-term options as a raw water intake on the Yadkin or Catawba Rivers.
- February a Community Well and Water Extension Policy is approved by City Council.
- April 26, the moratorium on plan reviews and water line extensions, first implemented March 26, 2001, is lifted when the lake level improves to four inches below full pond, .25 inches below average.
- By July 3, Kannapolis Lake is 30 inches below full pond, 8.5 inches below normal and dropping. The prolonged effect of the drought has impacted the groundwater at Second Creek reducing the stream flow by 85 percent. For the first time in the City's history water cannot be pumped meaning that 5.5 mgd of water is not supplementing Kannapolis Lake.

- July 27 City Council amended water restrictions to discontinue irrigation with automated systems or household sprinklers previously allowed on Wednesdays and Saturdays from 7 pm to 7 am the following morning.
- Mayor Ray Moss asks citizens to pray for rain.
- In August, emergency water flows from Charlotte through Concord to Kannapolis and on to Landis. Kannapolis accepts 700,000 gallons a day, 300,000 of which goes to Landis.
- On August 26, City Council discontinued warnings for water restriction violations and approved police officers, code enforcement officers and other city staff to issue immediate fines of \$100 per residential water violation and \$300 per business violation.
- At the same meeting City Council, reinstated the moratorium on plan reviews and water line extensions and amended the water emergency management ordinance to prohibit car wash fundraisers, to eliminate tanker fill-ups and to limit automobile dealerships to washing cars only when they arrive on their lot and when they are sold.
- Sept. 23 City Council adopted the water system master plan and a backflow prevention policy.
- Two inches of rain during September allow pumping at Second Creek to increase to 2.2 mgd, half the usual amount of 5.5 mgd.
- October 10, Kannapolis reaches an historic low- 113 inches below full pond.
- Plans are underway to complete a new waterline and pump station along the Kannapolis Parkway in 2004 that will bring additional treated water from Charlotte through Concord.
- October rainfall equaled 7.57 inches, 2.7 inches above normal. This is the first above average rainfall for the year. The rainfall deficit is still 9 inches for the year and 48 inches, equivalent to a year of rainfall, since the drought started.
- The rain brings pumping at Second Creek back to full capacity at 5.5 mgd.
- Due to almost 11 inches of rain in a month, mid-November Kannapolis Lake is 85 inches below full pond up from 97.25 inches below full on Nov. 1. This is still 14 inches below average.
- Water consumption for customers of the Kannapolis water system drop to an all time low of 4.9 mgd from the previous low of 5.4 mgd.
- Mandatory water restrictions and the moratorium on plan reviews and waterline extensions remain in place.

2003

- On January 27 City Council voted to amend water restrictions to allow tanker truck fill ups, car wash fundraisers on Wed. and Sat., pool filling permits to be issued. They also lifted the moratorium on water lines and plan reviews in place since Aug. 2002.
- February 24, 2003 City Council voted to allow daily use of water for outdoor activities with a hose with a hand-held spring-loaded nozzle. Irrigation with an automated sprinkler system or household sprinkler remains prohibited.
- With Kannapolis Lake a half inch above full pond, water restrictions were amended to allow irrigation with an automated system or household sprinkler under an odd/even schedule. Homes with even house numbers could irrigate on Sundays, Wednesdays and Fridays from 10 pm to 6 am. Homes with odd numbers could irrigate on Tuesdays, Thursdays and Saturdays from 10 pm to 6 am. No irrigation was allowed on Mondays.

City of Kannapolis Recent Water Supply Projects

Collaborative Work with the City of Concord

During the height of the five-drought that plagued the region from 1998 to 2003, Concord, Charlotte, Kannapolis and Landis with the help of State officials reached an agreement so that 700,000 gallons of supplemental emergency water was available to pass from Charlotte to Kannapolis through Concord. City officials also continue working with the City of Concord to pursue new raw and treated water options from the Yadkin and Catawba Rivers as well as future connections with the City of Charlotte. Both cities have contracted with an outside consultant to conduct the environmental assessments necessary to begin the process of applying to the State for interbasin transfers (IBT). Decisions on an IBT are expected in 2005.

Western Cabarrus Waterline

The western Cabarrus waterline that will extend up the new Kannapolis Parkway is under construction. When completed, the line could bring up to one mgd of treated water from Charlotte through Concord.

Salisbury Water Line

Cooperative efforts between the City of Kannapolis, Rowan County, the City of Salisbury, the Town of Landis and the Town of China Grove have resulted in a new waterline from Salisbury to the northern city limits. The waterline from Salisbury makes a minimum of 300,000 gallons of treated water a day available to Kannapolis. When Salisbury finishes upgrades to their system, up to 2 mgd will be available. After an interbasin transfer is obtained, a minimum of 400,000 gallons a day will be purchased with a maximum of 3.1 mgd.

Water Treatment Plant Renovation

The \$14 million, two-year renovation of the water treatment plant on Pump Station Road was substantially complete in December 2003. Remaining construction should be complete in January 2004. The renovations will bring the plant into compliance with state and federal regulations while increasing the water treatment capacity from 12 mgd to 15 mgd. To pay for the renovation and numerous other water and wastewater system improvements, City Council budgeted for the issuance of \$35 million in revenue bonds in fiscal year 2002.

Water Management Resources Available from the City of Kannapolis (from the City's Website)

Conservation Kits

The City of Kannapolis sells household water conservation kits for \$7. The 10-piece water conservation kit includes a leak detecting kit, flow rate bag for toilets, a drip gauge, toilet displacement toilet tank bag, pressure enhanced showerhead, a kitchen faucet aerator, two bathroom faucet aerators, teflon tape and a toilet fill cycle diverter. The kits are available from the Water and Sewer Administration, 133 Floyd Street, or call 704-933-1133 for information.

Water Conservation Tips

IN THE BATHROOM

- *Fill a plastic bottle or bag with water or pebbles. Place it in your toilet tank. The water displaced per flush saves 5 to 10 gallons a day or up to 300 gallons a month.
- *Replace your five-to-seven gallon per flush toilet with a one-and-a-half gallon, ultra-low flush model.
- *Put dye tablets or food coloring into your toilet tank. If color appears in the bowl without flushing, a leak needs to be repaired. Saves 400 gallons a month.
- *Turn off the water while brushing your teeth or shaving. Saves three to six gallons a day.

IN THE KITCHEN AND LAUNDRY

- *Wash dishes by hand when possible. Use two sinks, one for washing and one for rinsing, to avoid running water continuously. For single sinks, use a spray device or short blasts of water to rinse. Saves 200 to 500 gallons a month.
- *Use a small amount of detergent when hand washing dishes to minimize rinsing. Saves 50 to 150 gallons a month.
- *Keep a bottle of chilled water in the refrigerator instead of running water to cool it for drinking. Saves 200 to 300 gallons a month.
- *Take frozen foods out in time to defrost or use the microwave. These methods, instead of hot water, can save 50 to 150 gallons a month.
- *Clean vegetables or fruits in a filled sink or a pan instead of under running water. Saves 150 to 250 gallons a month.
- *Use garbage disposals less and the garbage cans or compost pile more. Saves 50 to 150 gallons a month.
- *Turn on clothes and dishwashers when there are full loads.

OUTSIDE

- *Use recycled household water from cleaning, dishes or fish tanks to water
- *Catch rainwater in large basins for watering
- *Put a layer of mulch, bark, peat moss or gravel around trees and plants to slow evaporation. Saves 750 to 1,500 gallons a month.
- *Keep a cover over outdoor pools to lessen evaporation. Saves 1,000 gallons a month.
- *Set lawn mower blades a notch higher to slow evaporation. Saves 500 to 1,500 gallons a month.
- *Instruct your children not to play with garden hoses. Saves 10 gallons a minute.
- *Drain evaporative air conditioners to a flowerbed, tree base or lawn.
- *Use only commercial car washes that recycle wash water.

Additional Tips from the American Water Works Association

Clean greasy hands with a waterless hand cleaner.

Insulate hot water pipes.

Deactivate automatic sprinkler systems

Landscape using low-water plants and rock gardens to reduce the amount of lawn

Water Conservation Links

Education and resource sites

Environmental Protection Agency www.epa.gov <<http://www.epa.gov>>

North Carolina State Government www.ncgov.com <<http://www.ncgov.com>>

North Carolina Department of Environment and Natural Resources www.ehnr.state.nc.us

<<http://www.ehnr.state.nc.us>>

The North Carolina Drought Monitoring Council www.dwr.ehnr.state.nc.us/drought/detail.htm

<<http://www.dwr.ehnr.state.nc.us/drought/detail.htm>>

The Federal Energy Management Program

<<http://www.eren.doe.gov/femp/techassist/waterconserve.html>>

The following links are not an endorsement of any product or company but a service to our communities. They list water conservation products for the home and garden:

<<http://www.conserving-water.com>>

<<http://www.greenculture.com>>

<<http://www.frostproof.com/catalog/ng06.html>>

(Soil Moist, a product that stores over 200 times its weight in tap water, is available through this site.)

233 Magnolia Drive
Nebo, NC 28761
June 23, 2005

Phil Fragapane, Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

Dear Mr. Fragapane

Regarding the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal:

Lake James is the uppermost water impoundment in the Catawba River Basin. In order to retire there, we, and many others, invested life savings to purchase property and build a home on this lake.

We feel that home and property owners on Lake James are stakeholders who may not be adequately represented in this (or the FERC) process. After yesterday's public hearing, it appeared that those living above Lake Norman don't even exist as far as the decision makers are concerned. (Nothing above Lake Norman was even on the map shown at the meeting nor was the environmental impact information specific to Lake James or the upper Catawba addressed, except in a perfunctory way.)

For the following eight reasons, we (and several other home owners to whom we have spoken) oppose approval of the proposed IBT at this time unless there is a firm standard for minimum water level of 1194 feet on Lake James:

1. The documentation available to date does not adequately describe the **potential effects of the proposed IBT on Lake James, especially** in severe drought conditions. (The impact analysis apparently used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring impacts above Lake Norman in the Catawba "chain."). There were serious effects of drought in this area:
 - a. During the serious drought in 2002, draw-down of water on Lake James had significant impacts on water quality and quantity (at 1192 feet, the lake was 8' below full pond of 1200 feet). This affected recreational use of the lake (boat ramps and the state park swimming area were unusable) and it caused costly damage to private and commercial docks. We also suspect this low level affected the water table and our wells.
 - b. In our particular area, significant dock damage begins to occur at about 1192 feet, when docks hit bottom. Others on the lake experience damage below 1194.
 - c. While it appears that Concord and Kannapolis may have done so, it cannot be emphasized enough: Water transfers occurring during extreme drought conditions should be contingent on downstream users first implementing and enforcing drought-based water conservation practices, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
2. From the hearing yesterday, it appeared that a (if not the) primary reason for this water transfer request was for the **economic development** of Concord and Kannapolis. Having lost many manufacturing jobs, McDowell County, our county, has experienced the same, or worse, severe economic (and record weather) problems as these two towns. In fact, the county is emphasizing its natural resources in an effort to stimulate economic growth through tourism. Lake James (and its related waterways) is McDowell county's

most valuable resource. A water diversion to benefit other areas could undermine the economic development strategy of this county.

3. It was explained at the hearing yesterday that an engineering study found the addition of another **local reservoir** near these towns to be uneconomical. Therefore, the land is being divested. The study conclusion and decision to part with the land may make sense locally, but in the system as a whole, another reservoir may be a good total cost solution. What would be the system-wide cost of this solution versus that for transferring water from the Catawba and Yadkin Basins (the area encompassing the two basins being the system as a whole)? Has this been investigated?
4. **Duke Power's license** to operate the dams and power generating system along the Catawba Basin is currently under review for **renewal with FERC**. Until the management and utilization of these waters is settled under the relicensing process, no outside uses of water from the basin should be approved and especially those not needed until 2012 or later.
5. We suggest that utility and municipal water intake pipes downstream of Lake James (like Lake Hickory, Norman, etc) be lowered at least six feet, thereby increasing the total *useable* reservoir capacity in the system as a whole.
6. A serious threat to the long-run reservoir capacity of Lake James is **siltation**. Already significant capacity has been lost in the western end of the lake. (It is believed that Duke Power has detailed information on the amount of capacity already lost to silt in Lake James.) To maintain adequate water supply capacity for future needs, additional siltation should be minimized by appropriate conservation measures upstream. Additionally, potential dredging of the west end of the lake should be investigated.
7. If a community outside of the Catawba Basin benefits from IBT's from the Catawba, it should be required to pay any **incremental costs** incurred to provide the transferable water. These would include the costs to lower water intake pipes downstream of Lake James, perhaps dredging the already silted part of Lake James, and costs associated with damages caused by low water levels on Lake James, such as dock repairs, lower property values, dry water wells, etc.
8. If the River Keeper Foundation's assertion at yesterday's hearing was correct, the **legality of the approval process** is in question since the final impact statement was not available to the public prior to that hearing. This made it impossible for readers to make a valid evaluation before making input into the process.

For these reasons we are opposed to approval of the IBT.

Thank you for your consideration of our concerns in making your decision.

Sincerely,



George A. Johnson
Suzanne M. Johnson
(828) 655-1872

To: McDowell County Commissioners

From: George A. and Suzanne M. Johnson, 233 Magnolia Drive, Nebo, NC 28761

Date: July 11, 2005

Subject: Comments concerning the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal

We oppose approval of the proposed Interbasin Transfer. Our reasons are:

1. We feel that McDowell County as well as property owners on Lake James are stakeholders who may not be adequately represented in this decision process.
2. The environmental impact analysis did not use valid scientific comparisons. It used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring the possible impact above Lake Norman on the Catawba "chain." In fact, at the June 22, 2005 public hearing and in the proposal for the water transfer, it appeared that those living above Lake Norman don't even exist as far as the decision makers are concerned. (Nothing above Lake Norman was even on the map shown at the meeting nor was the environmental impact information specific to the upper Catawba or Lake James addressed, except in a perfunctory way.)
3. McDowell County's scenery and water are probably it's most valuable natural resources. A water diversion to benefit the economic development of other counties could undermine the economic development strategy of this county, namely tourism, as well as industry and water supply.
4. A system-wide approach/plan for adequate water is necessary before piecemeal changes are approved for water needed several years in the future. The analysis omitted the requirement to evaluate the impact of past, present, and likely future transfers on the water supply as a whole. Also, the FERC relicensing process with Duke Power is currently underway, and could have a significant impact on future water demands put on Lake James.
5. It cannot be emphasized enough: Before water transfers occur during extreme drought conditions, downstream users must be doing everything possible to conserve their water, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
6. If the River Keeper Foundation's assertion at the June 22nd hearing was correct, the legality of the approval process is in question since the final impact statement was not available to the public prior to that hearing. This

made it impossible for readers to make a valid evaluation before making input into the process.

7. In 2002, those living on Lake James experienced serious drought conditions which affected water quality and quantity. The lake was 8 feet below full pond. Boat ramps and the state park swimming area were closed. Many private and commercial docks were damaged resulting in significant expense to their owners. This low level may have also affected the wells because the water table was so low. We feel a minimum standard lake water level of 1194 feet is needed.
8. Increasing the total amount of usable water for all concerned may require lowering utility and municipal water intake pipes in Lake Hickory, Norman, etc., and correcting the excessive silt problem that is occurring in the west end of Lake James.
9. It is unclear who will pay the extra costs to provide water to Concord and Kannapolis (such as lowering water intake pipes downstream of Lake James, dredging the silt from Lake James, if necessary, etc).

Thank you for your consideration of our concerns.

233 Magnolia Drive
Nebo, NC 28761
July 25, 2005

Phil Fragapane, Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

Dear Mr. Fragapane

This is the Final Consolidated Version of our comments, questions and suggestions regarding the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Petition and Draft EIS. It contains some revisions and replaces the comments we sent you by letter, dated June 23, 2005 and the "additional points..." email document dated July 14, 2005.

We feel that home and property owners on Lake James are stakeholders who may not be adequately represented in this (or the FERC) process. After the public hearing of June 22, 2005, it appeared that those living above Lake Norman don't even exist as far as the review process is concerned. (Nothing above Lake Norman in the Catawba River basin was even on the map shown at the meeting nor was the environmental impact information specific to Lake James or the upper Catawba addressed, except in a perfunctory way.)

REASONS FOR OPPOSITION:

For the following nine reasons, we (and several other home owners to whom we have spoken) oppose approval of the proposed IBT at this time unless there is a firm standard for minimum water level of 1194 feet on Lake James:

1. **Current Impact Analysis and Drought Conditions:** The scope of the impact analysis was inadequate. It did not seriously consider the potential impact above Lake Norman. Data analysis was invalid because it used water availability data from the year 2000 and their own water need data from the year 2002. Thus, the documentation available to date does not adequately describe the **potential effects of the proposed IBT on impoundments and communities up- and downstream of Lake Norman, especially** in severe drought conditions. For example:

While there has been excess water during the past 12 months, in drought year 2002 there were instances of **inadequate flows to dilute sewage** even within the Catawba Basin (per the Catawba Riverkeeper). This calls into question whether any water at all should be transferred out of the basin. Additional impact analysis should pay special attention to severe drought/low-flow conditions.

In 2002, there were serious effects of drought in McDowell county. Draw-down of water from **Lake James had significant impacts on water quality and quantity** (at 1192 feet, the lake was 8' below full pond of 1200 feet). This affected recreational use of the lake (boat ramps and the state park swimming area were unusable) and it caused costly damage to private and commercial docks. We also suspect this low water level affected the water table and our wells.

Q: Even without the proposed IBT will there be enough water flow left, especially in severe drought years, for satisfactory dilution of waste and provision of safe drinking water within the Catawba River Basin?

Q. How about with the IBT?

2. **Cumulative Impact Analysis:** It is our understanding that on March 14, 2002, using data from 2000, Charlotte Mecklenburg Utilities (CMU) was approved for an increase in interbasin transfer from the Catawba River Basin to the Rocky River Basin from 16.1 MGD to 33 MGD. This was needed to allow CMUD to meet projected water supply demands through the year 2030 in eastern Mecklenburg County.

Q. Has this increase (and others) been factored into a cumulative impact analysis on the Catawba Basin for the Concord/Kannapolis IBT?

Q. Concord/Kannapolis are asking for 48 MGD. Why are these smaller towns asking for even more than CMU?

Q. Is their average gallons per day usage per person factor realistic or too high?

Q. Does the extra water they claim they need have to do with their desire to sell water to other towns?

3. **Request for Excessive Water:** According to their Petition, Concord/Kannapolis are anticipating an average 24 MGD water shortfall by the year 2035. But they are asking for authority to transfer a maximum of 48 MGD (38 MGD from the Catawba and 10MGD from the Yadkin basin), an amount one hundred percent above their projected need thirty years from now.

Q. Why do they need so much water now?

4. **Sale of Water:** According to an article in the Salisbury Post on Tuesday, July 12, 2005, "Landis Readies for Move to Buy Water From Kannapolis," Kannapolis will be selling water to Landis beginning November 2005, and Landis will be shutting down its water plant. Sale of water supplied to Concord/Kannapolis by IBT, **should be prohibited**. The planned sale is not included in their Petition and to permit such sales would set a bad precedent, encouraging towns to view water sales as revenue generators.

Q. Why were these plans not mentioned in the Petition so they could be included in the impact analysis?

Q. Was the Catawba Riverkeeper's statement correct about this being a "water grab?"

5. **Economic Development:** From the public hearing on June 22, 2005, it appeared that a (if not the) primary reason for this water transfer request was for the economic development of Concord and Kannapolis. Having lost many manufacturing jobs, our own McDowell County has experienced the same, or worse, severe economic (and record weather) problems as these two towns. In fact, McDowell County is emphasizing its natural resources in an effort to stimulate economic growth through tourism. Lake James (and its related waterways) are McDowell county's most valuable natural resource. A water diversion to benefit the economic (or other) development of other areas could undermine the economic development strategy of this county.

6. **Local Reservoir Rejection:** It was explained at the June 22, 2005 hearing that an engineering study found the addition of another **local reservoir** near Concord/Kannapolis to be uneconomical. Therefore, the land is being divested. Since the hearing we have heard from a neighbor, who lived in the Concord/Kannapolis area. She wrote, "I am not

convinced that this (IBT) is a good idea given our most recent "weather pattern" of the past 4-5 years. Has anyone looked into the reservoir that was built just outside of Concord/Kannapolis about 10 years ago? There was a HUGE problem as far as design that was overlooked-- such as a pump that would take the water from the reservoir into the city for the purpose of taking care of insufficient water problems. This really needs to be looked into by someone who would understand the design issues, correction of the problem and the REAL need for outside water source...especially ours! The original name was Coddle Creek Reservoir and the name has either changed and/or is known as Lake Howell. I hope that this will be of help to the folks gathering the necessary information regarding this issue."

Q. Since there seems to have been a design issue, has anyone looked into the reservoir that was built just outside of Concord/Kannapolis about 10 years ago?

The engineering study conclusion, if valid, and the decision to part with the land may make sense locally, but in the system as a whole, another reservoir may be a good total cost solution.

Q. What would be the system-wide cost of this solution versus that for transferring water from the Catawba and Yadkin Basins (the area encompassing the two basins being the system as a whole)?

7. **Duke Power's License** to operate the dams and power generating system along the Catawba Basin is currently under review for **renewal with FERC**. Until the management and utilization of these waters is settled under the relicensing process, no outside uses of water from the basin should be approved and especially those not needed until 2012 or later.

Q. Is the approval process being fast tracked?

Q. If so, why?

8. **Incremental Costs for Water Transfer**: Such costs should be borne by those benefiting from the IBT. These would include the costs to lower water intake pipes downstream of Lake James, perhaps dredging the already silted part of Lake James, costs associated with damages caused by low water levels on Lake James, such as dock repairs, lower property values, dry water wells, and loss of revenue due to conservation easements that remove land from development and preserve water quality for downstream users, etc.

Q. Will this be the case if this IBT is approved?

9. **IBT Review and Approval Process**: If the River Keeper Foundation's assertion at the June 22, 2005 hearing was correct, the **legality of the approval process** is in question since the final impact statement was not available to the public prior to that hearing. This made it impossible for readers to make a valid evaluation before making input into the process.

For these nine reasons, we are opposed to approval of the IBT without a firm minimum water level standard of 1194 feet on Lake James.

OTHER THOUGHTS/SUGGESTIONS RELATING TO WATER SUPPLIES:

1. **Low Flow and Design Issue:** Communities benefiting from IBTs may design their water/sewage systems for a range of normal flow conditions. But with designed-in dependency on normal flow IBT water, they then run the risk of system failure under low flow conditions. It might be better if they designed their systems using their own local water sources with low-flow protocols.
2. **Threat to Reservoir Capacity:** A serious threat to the long-run reservoir capacity of Lake James is **siltation**. Already significant capacity has been lost in the western end of the lake. (It is believed that Duke Power has detailed information on the amount of capacity already lost to silt in Lake James.) To maintain adequate water supply capacity for future needs, additional siltation should be minimized by appropriate conservation measures upstream. Additionally, potential dredging of the west end of the lake should be investigated.
3. **Increasing Reservoir Capacity:** Utility and municipal **water intake pipes** downstream of Lake James (like Lake Hickory, Norman, etc) should be lowered at least six feet, thereby increasing the total *useable* reservoir capacity in the system as a whole.
4. **Controlling Water Quantities:** If IBT quantities are approved decades in advance of actual need, the **allowed quantities should be time-phased** to match actual need.
5. **Water Conservation:** While it appears that Concord and Kannapolis may have done so, it cannot be emphasized enough: Water transfers occurring during extreme drought conditions should be contingent on all downstream users first implementing and enforcing drought-based water conservation practices, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.

Thank you for your consideration of our concerns in making your decision.

Sincerely,

George A. and Suzanne M. Johnson
233 Magnolia Drive, Nebo, NC 28761
(828) 655-1872

To: McDowell County Commissioners

From: George A. and Suzanne M. Johnson, 233 Magnolia Drive, Nebo, NC 28761

Date: July 11, 2005

Subject: Comments concerning the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal

We oppose approval of the proposed Interbasin Transfer. Our reasons are:

1. We feel that McDowell County as well as property owners on Lake James are stakeholders who may not be adequately represented in this decision process.
2. The environmental impact analysis did not use valid scientific comparisons. It used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring the possible impact above Lake Norman on the Catawba "chain." In fact, at the June 22, 2005 public hearing and in the proposal for the water transfer, it appeared that those living above Lake Norman don't even exist as far as the decision makers are concerned. (Nothing above Lake Norman was even on the map shown at the meeting nor was the environmental impact information specific to the upper Catawba or Lake James addressed, except in a perfunctory way.)
3. McDowell County's scenery and water are probably it's most valuable natural resources. A water diversion to benefit the economic development of other counties could undermine the economic development strategy of this county, namely tourism, as well as industry and water supply.
4. A system-wide approach/plan for adequate water is necessary before piecemeal changes are approved for water needed several years in the future. The analysis omitted the requirement to evaluate the impact of past, present, and likely future transfers on the water supply as a whole. Also, the FERC relicensing process with Duke Power is currently underway, and could have a significant impact on future water demands put on Lake James.
5. It cannot be emphasized enough: Before water transfers occur during extreme drought conditions, downstream users must be doing everything possible to conserve their water, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
6. If the River Keeper Foundation's assertion at the June 22nd hearing was correct, the legality of the approval process is in question since the final impact statement was not available to the public prior to that hearing. This

made it impossible for readers to make a valid evaluation before making input into the process.

7. In 2002, those living on Lake James experienced serious drought conditions which affected water quality and quantity. The lake was 8 feet below full pond. Boat ramps and the state park swimming area were closed. Many private and commercial docks were damaged resulting in significant expense to their owners. This low level may have also affected the wells because the water table was so low. We feel a minimum standard lake water level of 1194 feet is needed.
8. Increasing the total amount of usable water for all concerned may require lowering utility and municipal water intake pipes in Lake Hickory, Norman, etc., and correcting the excessive silt problem that is occurring in the west end of Lake James.
9. It is unclear who will pay the extra costs to provide water to Concord and Kannapolis (such as lowering water intake pipes downstream of Lake James, dredging the silt from Lake James, if necessary, etc).

Thank you for your consideration of our concerns.

Oral Statement of Bill Connolly

Public Hearing, June 23, 2005, Albemarle City Hall

Good evening my name is Bill Connolly, I am resident of Kannapolis, a banker in Concord and Kannapolis, and I am here tonight on behalf of the Cabarrus Economic Development Corporation so thank you for your time and this opportunity. Cabarrus EDC is continually pursuing the sustainabilities of our community and our future and we believe the interbasin transfer agreement is essential to that sustainability of the Cabarrus County communities. There are several reasons for that: Cabarrus County is not blessed with the Yadkin River or Catawba River, we have very limited water resources within our natural drainage areas. Because of that, our communities have been good stewards of our water resources, we have implemented aggressive drought management and conservation efforts in the last five years, we are a voluntary water conservation county so the state is never had to force us to implement water restrictions, we have done that on a voluntary basis through cooperation with industry and public support to control water usage in our area. We think a regional solution to the area water supply is needed and our communities are committed to these environmental protection and natural resource preservation and we are working to develop programs everyday to help in those areas. Perhaps the most important issue that we think the interbasin transfer represents is really an economic development issue for Cabarrus County. Just to take you back a couple of years, I think most everyone knows that Cabarrus County was a textile based economy, Pillowtex closed about 2 years ago, we lost some 4,000 jobs at that time and so through private and public efforts everyone is working to replace those jobs, very important to our communities that we do that. And so basically part of recruiting new industries is natural resources and one of those most important natural resources is a stable water supply. We think the interbasin transfer agreement would be a mechanism to virtually assure any industrial commercial prospect considering relocating to Cabarrus County that they have adequate water and adequate natural resources to operate their business. I think everyone would agree that an adequate and plentiful water supply is integral to the industrial and commercial development, it's just a must. Therefore, approving the interbasin transfer agreement will virtually assure an adequate water supply for Cabarrus County and its communities, it would allow Cabarrus County to assure new industrial prospects as well as existing industrial business in Cabarrus County that their water requirements can be met. So based on the importance of the industrial development for Cabarrus County and our region and our communities, the Cabarrus County Economic Development Corporation urges the approval of the interbasin transfer.

Oral Statement of Bill Kreutzberger

Public Hearing, June 23, 2005, Albemarle City Hall

I am Bill Kreutzberger with CH2MHill. I am a consultant for the cities of Concord and Kannapolis. I wanted to provide just a few clarifying comments on the background of the request and the request itself. First, in terms of the need for the additional water, the cities of Concord and Kannapolis in cooperation with all of the communities of Cabarrus County and the Water and Sewer Authority of the county went through an extensive water and sewer master planning process about 3 or 4 years ago where they really looked at the entire system, what they needed to do, growth projections in the community, and in particular, did a detailed analysis of their available water supply to clearly establish how much they had and as part of that using sort of accepted procedures by the State, and everything else, that is where we identified a short fall of 24 MGD based upon an average annual amount within the 30 year time frame that the Division of Water Resources and EMC established for interbasin transfers. So that is where that 24 MGD short fall has come from. Now the next thing, we looked at a number of alternatives, we have been working on this process close to 5 years and part of the, while the master plan was established the need for the water really didn't look in detail at alternatives and we evaluated well over 20 different alternatives including various combinations for meeting that shortfall and the environmental impact statement just includes 5 of those that we had boiled it down to for final analysis, so we spent extensive time with the staff of both communities and making presentations to their councils regarding the alternatives that we needed to evaluate to meet their water supply needs. The requested interbasin transfer, which is a combination of up to 38 MGD from the Catawba Basin and up to 10 MGD max day from the Yadkin Basin, basically represents a regional solution. It will allow those communities to negotiate with their neighbors in Charlotte, their neighbors in Albemarle, they already have the interconnections up to the City of Charlotte to allow them to meet their needs through a regional approach to water supply and that has been the intent and the message that we had all along as part of this effort. I also want to mention drought management, when you go through water supply planning your needs are based upon your needs during normal or non-drought conditions. I think that 24 MGD represents that amount. You already heard presentations from the utility directors of the extensive efforts that the community went through in the past drought and have in place in case short term or longer term drought conditions occur. Clearly, those drought management efforts would reduce the demand the communities have during any future drought conditions. The last thing that I wanted to mention was a little bit of the timeline of the process. We, as I mentioned, started this process nearly 5 years ago. We recognize that there is an ongoing FERC relicensing process not only in the Catawba River basin but also in the Yadkin River basin, that we have had discussions with both applicants during the course of this effort and we determined that it would, with agreement from them, that it was important to this interbasin transfer request to go forward first so that the IBT could be appropriately considered as part of the FERC process. We have taken information from the, that was available, to analyze the draft EIS, based upon comments through this first notice and hearing process that the EIS has to be revised and then renoticed, we fully intend to take all of the current information from the FERC process that is available working with the Division of Water Resources so that we are maximizing our use of studies and analysis being done as part of that FERC process. I want to thank the Commission for their consideration of my comments and of the whole process, and urge that the Commission favorably consider the request. Thank you.

Oral Statement of Al Brown

Public Hearing, June 23, 2005, Albemarle City Hall

My name is Al Brown, I am Mayor Pro Tem for the City of Concord. I appreciate the opportunity to be here today to speak for this cause. At the time, and somewhat in retrospect, Brian eluded to earlier about the implementation of water restrictions that when we realized at some point that we were in the midst of a drought I think that people realize even in our rank-and-file community that the lifestyle that we know as a community and economic aspects of it as well could not continue without an adequate source of water. Water is taken for granted, water to me is life and without it we don't have anything as far as our style of living or anything else. So I think that we began to realize as a community and region that without water we were in serious trouble. I think the drought provided a number of difficult challenges for businesses, citizens, and the development community. Each one of these have distinct concerns. Businesses depending on perhaps what type of business it is may need more water than others, but as a good way to turn off business for wanting to come to your area or to maintain the ones that we have certainly an adequate water supply is necessary. The development community of which we've had certainly one of the largest development surges in the Southeast in the last number of years has brought a number of challenges for our city and I think Concord is better because of the leadership style that we have tried to take has been to be progressive to look ahead and to see what we need to do to provide solutions rather than run away from it. I think our citizens deserve a lot of credit for the willingness to participate in this process of sacrificing somewhat for a long term cause of what we are trying to accomplish here. Communities obviously need additional water for the growth that we have had. If we took the growth that we have had for the last 20 years and had that same percentage of growth for the next 20 years without an adequate water supply we wouldn't be able to sustain that, to have it to support it. The Concord City Council and our citizens are concerned about the environment and the natural resources of the county. I think in all sincerity our City Council looks on our efforts towards this as somewhat of a [unintelligible]. I think it is very important that we have that attitude. We have had discussions in other venues that we have participated in our community and I think the one thing I know I [unintelligible] a good many times is the land, the land as we know it is slowly diminishing and the more we take care of the land the better of we are going to be in terms of our water supply. The City of Concord was originally a partner in the conservation easement program that was started in the past year in Cabarrus County, by which people that own large tracts of land or family farms or whatever it may be have the prerogative to participate in this program if they so desire. We think this is a good thing because it encourages various forms of open spaces, a commitment to the natural resources and our natural setting. We also support a proposed solution that is regional in nature and will allow the Cabarrus County communities to work flexibly with others and regarding this water supply. Concord was also a prime initiator of the unified development ordinance when it was started and most of the people that make up the governing bodies in Cabarrus County most have the unified development ordinance. Recently Cabarrus County has adopted some new development standards and land use policies that we think will work hand in hand with our efforts with the UDO. We think the UDO is not perfect but we think it is a tool that we can better manage the growth that we have. We are grateful for this opportunity to be here today to present our case and hopefully we will be approved for option one.

Oral Statement of Henry Waldroup

Public Hearing, June 23, 2005, Albemarle City Hall

Good evening Mr. Green, with your permission. My name is Henry Waldroup, I am the Water Resources Director (of Concord). Mr. Melton and I are going to have a joint presentation. Mr. Melton is from Kannapolis. What I am here to talk to you about are the impacts to our community and actions taken during the five-year drought. We developed a partnership with our business communities. We have met with our car wash leaders, our hotel industry, our industrial water users and we have assisted them, working with them to promote water conservation. Our largest industry, Phillip Morris, reduced their water consumption by 25% and they continue to this day to have a 25% lower water use than they had prior to the drought. The partner with our hotels, as you know our area is the home of Lowes Motorspeedway, during the five years we had 10 major events that draws over 200,000 people to our community. We work with our hotels, our restaurant industry to continue to provide those services they needed, however by reducing their water consumption during this period of time. We were very successful. We didn't go into it as a dictatorship, we went into it as a partnership. We told them what we expected them to reduce the numbers by and they met those without us telling them how to do it and we feel like that was the proper way to do it. Both communities continue to encourage water conservation through educational programs, meeting with civic groups and home owners associations, implementation of an inclining tiered block water structure and higher irrigation rates. We use mass mailers for our customers including in monthly water bills. We distribute to the low flow devices to homeowners at no charge to help in cutting down those aerators and so on that they use in their homes. Concord collected over \$72,500 in violation penalties unofficially more than any other community in the state. Concord-Kannapolis has spent much effort and money developing a strong drought management plan for our existing supplies. This plan was included with the IBT petition. We monitor inflow to our reservoirs, we have worked with USGS to install stream monitoring devices. We monitor current lake levels and rainfall. We base it on the time of the year. We establish trigger points that will be used to implement further water conservation when necessary. An example in late May of this year, our water supply reservoirs were close to being full, however, we were experiencing less than normal rainfall. Our stream flow in our reservoirs was unusually low for the time of the year. We were very close to implementing water conservation management strategies. Fortunately, on Memorial Day we got a 2 1/2-inch rainfall that filled our stream flows back up to the normal points it should be, it wasn't necessary for us to do that. Concord and Kannapolis have adopted a water conservation philosophy. We manage our reservoirs effectively and make decisions based on our supply availability not on maintaining our revue streams through the sale of water. The action mentioned above was shared by other municipalities in our counties, the Water and Sewer Authority of Cabarrus County at large. The Cities of Concord and Kannapolis spent over \$4 million on interconnections to Charlotte Mecklenburg Utilities, the City of Salisbury, and internal systems of interconnections between our systems. In addition to improvement to the water plant facilities at a cost of over \$23 million while losing revenue due to lost water sales. Prior to the drought conditions our peak flow demands went up by 40% due to irrigation. After the drought, after water conservation measures are taken, our peak water flow demands go up about 2.14%,. As you can see we are serious about water conservation in Cabarrus County. Thank you, turn it over to Mr. Melton.

Oral Statement of Wilmer Melton

Public Hearing, June 23, 2005, Albemarle City Hall

My name is Wilmer Melton, Director of Public Works for the City of Kannapolis. As a follow up to some of Mr. Waldroup's comments, during the drought the City of Concord-Kannapolis experienced revenue losses of approximately \$3.4 million in water sales. We had numerous campaigns as Mr. Waldroup had indicated, educational campaigns to our citizens as well as the purchase of low flow water devices that we distributed to our citizens in order to further reduce those impacts on our system during the drought. Following those actions, as our supplies still plummeted, we were left with little alternative but to seek, finish water purchase contracts with adjacent cities and building those pipelines to connect in order to supply water for our customers. Those supply connections, at a cost of \$1.3 million annually to our community, to bring water in during those periods of time. In addition, we have also continually updated our master plan working through the Water and Sewer Authority of Cabarrus County to ensure true regionalization with the approach to better manage and protect our water resources. As many are aware, in 2002 Governor Easley came down to Concord-Kannapolis and challenged the communities in North Carolina to reduce their consumption by 10%. At that time, the Cities of Concord-Kannapolis had already reduced by 25% of their overall production. Communities contracted regional or national recognized engineering firms to come in and assist us and determine to help with the drought effects with our master planning efforts as well as our lake operational procedures and better management of our resources. Both communities continue to feel the effects of the drought as our customers have come into a way of life of conservation and not rebounded in terms of our revenues. As Public Works Director for the City of Kannapolis, I meet with a number of developers from time to time and one of the first questions that generally comes up is the stability of our water resources and without a stable water supply for our communities it makes it difficult for business to relocate to our area. In closing, Concord-Kannapolis have a regional support of our efforts and our ability to manage our existing and future water supplies. We are hopeful that the agencies, the public understand our commitment to protect and manage our water supplies. Upon approval of interbasin transfer certificate, we are committed to work with our neighbors to develop additional drought management efforts as necessary to ensure the continued protection of our environment and our water resources. Thank you.



Office of the
City Manager

City of Salisbury

North Carolina

June 30, 2005

VIA U.S. MAIL AND E-MAIL

Phil.Fragapane@ncmail.net

Mr. Phil Fragapane

Division of Water Resources

NCDENR

1611 Mail Service Center

Raleigh, NC 27699-1611

Re: Concord and Kannapolis Proposed Interbasin Transfer

Dear Mr. Fragapane:

The City of Salisbury requests that the following comments be taken into account by the Environmental Management Commission when it makes its decision to grant, grant with conditions, or deny an IBT certificate for a 48 MGD transfer to the Rocky River Sub-Basin (10MGD from the Yadkin River Sub-Basin and 38 MGD from the Catawba River Sub-Basin).

Salisbury-Kannapolis Water Supply Line. Between 2000 and 2002, the City of Salisbury, Rowan County, Kannapolis, Landis, and China Grove entered into a series of binding agreements to construct a potable water line from Salisbury to Kannapolis, Landis, and China Grove. Upon completion of the last phase, the line will have a capacity of 11.1 mgd. Salisbury will provide a quantity of water sufficient to meet the needs of Kannapolis (300,000 gpd to 3.1 mgd), Landis (75,000 gpd to 2 mgd) and China Grove (300,000 gpd to 2 mgd), as stated in the agreements. With the last phase of the water line designed, but not yet constructed, the current capacity is 4 to 5 mgd. Upon completion of the line, the anticipated 3.1 mgd for Kannapolis could be increased to 7.1 mgd without affecting the commitments to Landis or China Grove. Salisbury's raw water source is the confluence of the Yadkin and South Yadkin Rivers.

Salisbury has devoted very substantial resources to the Salisbury to Kannapolis water line in anticipation of water sales. Those sales are crucial to Salisbury in light of our recent history of lost industrial water users, a trend toward reduced per capita water use, and the unfortunate need to increase rates to offset low sales. However, the IBT petition indicates that Concord and Kannapolis only plan to maintain a Salisbury interconnection as an emergency water source. *IBT Petition p. 6.*

We are concerned that the current plan for the IBT may have significant impacts on our utilities that have not been identified, analyzed, or discussed with us. Salisbury requests, in light

of Salisbury's substantial investment, that the EMC consider the actual, larger role for SRU as a water source, before any IBT certificate decision is made. Salisbury requests that the capacity of the Salisbury to Kannapolis line be included in and discussed by the documents considered by the EMC in this matter, including the IBT petition and the EIS.

Landis. A notice of public hearing (June 22, 2005 and June 23, 2005) that we received from the Division of Water Resources indicates that Landis is among the communities that would receive "water and/or sewer services from the Cities of Concord and/or Kannapolis." We have been unable to find any explanation, discussion, or analysis of Landis in the petition for an IBT certificate or in the Environmental Impact Statement. Salisbury has made substantial commitments to provide service to Landis. We are concerned that the IBT may have significant impacts on our utilities that have not been identified, analyzed or discussed with us. Salisbury requests clarification of the reference to Landis.

Rowan County. In the last several years, Salisbury has invested heavily in infrastructure to position SRU as the water provider for Rowan County. If the IBT will be used to displace Salisbury's role, the fiscal impacts on Salisbury's water utility will be substantial. Salisbury requests that these issues be thoroughly analyzed before a decision on the proposed IBT is made. We note that, to the best of our knowledge, all of the analyses that will form the basis for any IBT certificate only address Cabarrus County and the Rowan County portion of Kannapolis. *See, e.g., IBT Petition p. 3.*

Irrigation and On-Site Wastewater Disposal. The IBT petition identifies irrigation and on-site wastewater disposal as "consumptive use." This characterization is factually incorrect. Nearly all of the water used in irrigation or discharged into an on-site wastewater disposal system within a basin will ultimately discharge to surface waters within the basin. Salisbury requests that the analyses for the proposed IBT be corrected.

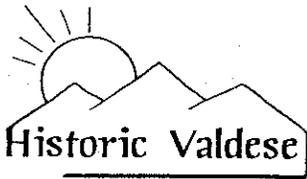
Thank you for providing the City of Salisbury this opportunity to provide the foregoing comments.

Sincerely,

David W. Treme

David W. Treme
City Manager

cc: Mr. W. Brian Hiatt, Concord City Manager
Mr. Mike Legg, Kannapolis City Manager
Mr. Reed Linn, Landis Town Administrator
Mr. Eric Davis, China Grove Town Manager
Mr. Tim Russell, Rowan County Manager
Mayor Susan W. Kluttz
Salisbury City Council



TOWN OF VALDESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2116

FAX (828) 879-2139

RECEIVED

JUL 7 2005

DIVISION OF WATER RESOURCES

OFFICE OF THE TOWN MANAGER

June 30, 2005

Mr. Phil Fragapane
Division of Water Resources DENR
1611 Mail Service Center
Raleigh NC 27699-1611

Dear Mr. Fragapane:

The Town of Valdese shares the same comments and concerns with the City of Hickory and Catawba County. Please accept the enclosed letter from Catawba County as the Town of Valdese's position on the I.B.T. for Kannapolis and Concord.

Sincerely,

A handwritten signature in cursive script that reads "Jeffrey V. Morse".

Jeffrey V. Morse
Town Manager

tr

Enclosure

pc: Mayor and Town Council

SOUTHERN ENVIRONMENTAL LAW CENTER

200 WEST FRANKLIN STREET SUITE 330 CHAPEL HILL, NC 27516 (919) 967-1450

Regional Office

201 West Main Street, Suite 14
Charlottesville, VA 22901-5064
(804) 977-4090

Deep South Office

The Candler Building
127 Peachtree St., Suite 605
Atlanta, GA 30303-1800
(404) 521-9900

July 1, 2005

VIA ELECTRONIC MAIL

Phil Fragapane
Division of Water Resources
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

COPY

Re: Proposed IBT for Concord and Kannapolis

Dear Mr. Fragapane:

Due to the press of other matters, I will be unable to complete our comments on the proposed IBT by today's deadline. I would greatly appreciate receiving a two-week extension of time, i.e., until Friday, July 15, 2005, to submit our comments.

Among the concerns we want to address and need additional time to explore are (1) the apparent lack of notice given to the U.S. Fish & Wildlife Service and the South Carolina Department of Environment and Health Control, two agencies with statutory interests in the allocation, use and quality of the Catawba and Yadkin Rivers; and (2) the merging of the environmental review required by the North Carolina Environmental Policy Act with the EMC's public hearings mandated by the North Carolina Administrative Procedures Act for the IBP petition. According to guidelines developed by your agency, completion of the environmental review, i.e., the issuance of an FEIS, is contemplated prior to the EMC's review and public hearing and comment process.

In addition, we are concerned that the IBT petition is proceeding in advance of pending actions of the Federal Energy Regulatory Commission in both source basins that will affect the management of these basins and the available water supply. As stated in the DEIS, the relicensing process is underway and in conjunction with that process, Duke Power is nearing completion of a Water Supply Study and an updated CHEOPS model. In the absence of any explanation for rushing to complete the IBP petition process, it appears imprudent to proceed until the results of the study and the updated model can be analyzed.

Finally, we have concerns with some of the conclusions stated in the DEIS. For example, the conclusion that the proposed IBT will have no impact on threatened, rare and endangered species in the Rocky River Sub-basin because of the lack of construction lacks supporting evidence and does not address potential impacts from increased development (and its attendant construction). Moreover, there is no mention at all of potential impacts from increased flow or changes in water quality; nor is there mention of impacts to species of concern in the source

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Regional Office

201 West Main Street, Suite 14
Charlottesville, VA 22901-5064
(804) 977-4090

Deep South Office

The Candler Building
127 Peachtree St., Suite 605
Atlanta, GA 30303-1800
(404) 521-9900

July 22, 2005

VIA ELECTRONIC MAIL

Phil Fragapane
Division of Water Resources
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

Re: Proposed IBT for Concord and Kannapolis.

Dear Mr. Fragapane:

On July 1, 2005, I submitted brief comments on the above-referenced IBT Petition, in which I outlined concerns with the administrative process and underlying EIS. A copy of that letter is attached for ease of reference. Our more detailed review of the EIS and IBT Petition in the intervening weeks has strengthened these concerns. In particular, the lack of attention given to cumulative impacts and environmental impacts in the two source basins are fatal flaws in the environmental review, flaws that violate the North Carolina Environmental Policy Act and the National Environmental Policy Act on which the state law is based. *See, e.g., Washington County, et al. v. U.S. Dep't of the Navy*, 357 F.Supp.2d 861 (E.D.N.C. 2005).

We have conferred with the Catawba Riverkeeper Foundation, and echo the concerns and problems they raise in their comment letter. We incorporate that letter and its contents by reference. We encourage the state to deny this IBT petition and order the applicant to defer its petition pending the completion of the FERC relicensing processes underway on both the Catawba and Yadkin Rivers and consultation and collaboration with the state of South Carolina, the U.S. Fish and Wildlife Service and the N.C. Wildlife Resources Commission. We further ask that the applicant be ordered to prepare a supplemental EIS that corrects the modeling and other deficiencies detailed in the Catawba Riverkeeper Foundation's comment letter.

Thank you for the opportunity to comment on this important matter.

Sincerely,



Michelle B. Nowlin
Senior Attorney

Enclosure

cc: Donna Lisenby

basins from decreased flow or changes in water quality. In addition, the section on cumulative impacts focuses exclusively on the receiving basin and fails to address the potential cumulative impacts to the source basins; two glaring omissions are consideration of the Charlotte-Mecklenburg Utilities IBT of 33 MGD and the proposed increase in the IBT for Union County. The IBT petition similarly excludes this critical information.

Thank you for your consideration of these preliminary comments and our request for additional time to submit more complete comments. I look forward to hearing from you.

Sincerely,

Michelle B. Nowlin
Senior Attorney

To: Phil Fragapane
Division of Water Resources
DENR 1611 Mail Service Center
Raleigh, N.C. 2799-161



JUL 14 2005

DIVISION OF WATER RESOURCES

Date: July 6, 2005

Subject: Response from the community of SouthPointe to the cities of Concord and Kannapolis' Interbasin Transfer Proposal.

The SouthPointe homeowners association represents three hundred property owners in the SouthPointe and Dry Creek developments located on Lake James. Due to a number of factors, we have experienced major fluctuations in water levels from 2001 to the present.

These fluctuations have resulted in severe damage to many docks necessitating costly repairs, inability to use docks due to low water in 2002 and boat access ramps and State Park swimming beach closures. As part of the FERC licensing process the Foothills A, G, group is negotiating with Duke Power for water levels of 1194 or higher on year round basis. In Addition, agreement needs to be reached on low intake protocol (LIP) as part of Duke Power's re-licensing agreement.

The impact study furnished by the IBT Applicants state, according to their draft EIS; "there are no expected significant direct impacts on either the Catawba or Yadkin river sub-Basins". Taking thirty-eight million gallons per day from the Catawba basin will have an impact on the water levels in Lake James, especially during periods of LIP considering factors such as the ingress of salt water at the river's mouth.

Those of us living around the Lake have significant financial investments in our land, houses and docks. We oppose the proposed IBT and recommend that a decision on this matter is postponed until the FERC negotiations with Duke Power are concluded and the water levels, flows, quality and low intake protocols are determined. Then, provided a guarantee of 1194 or higher year around can be given, we would withdraw our opposition to the proposed IBL.

Thank you in advance for taking our concerns into consideration in your decision making process.

Sincerely,

Graham Morgan and Ron Kendrick
Representatives of SouthPointe Homeowners association
828-584-4112 828-584-9123

Remarks to County Commissioners

George A. Johnson
233 Magnolia Drive
Nebo, NC 28761
July 11, 2005

Introduction

I am addressing you to raise awareness that a transfer of water from the Catawba River Basin has been requested for economic development, drinking water and other purposes in Concord and Kannapolis, NC. These needs appear to conflict with long-run development needs of McDowell County that depend on Lake James (e.g., water supply, industry and tourism). The decision-making group, the North Carolina Environmental Management Commission, is accepting input from interested parties until 5 PM on July 25, 2005.

Why Should We Be Interested?

My wife and I attended the public hearing on this issue in Charlotte on June 22nd. We came away with the distinct impression that there has been very little thought given to effects of the proposed water transfer on upstream water sources and stakeholder communities. The Catawba River Keeper labeled this proposal premature and a "water grab" and the River Keeper Foundation's legal analysis suggested the hearing was in violation of procedure because it occurred before a Final Environmental Impact Statement was made available to the public.

We have made verbal and written statements to the Environmental Management Commission (EMC), stating our opposition to the proposal. For your information, my wife will shortly cover a list of our reasons.

Requested Action

If you agree that McDowell County has important interests at stake here, we ask that you consider the matter and make written input to the EMC by July 25, 2005 at 5 PM as a Board or as individuals.

Attached For Your Information Is:

"Cities of Concord and Kannapolis Proposed Interbasin Transfer: Notice of Public Hearings." This document gives the essence of the transfer request and provides the web address where supporting documents may be viewed, i.e.,

- Staff Recommendation Report
- Interbasin Transfer Petition
- Draft Environmental Impact Statement

www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/Status/Concord/

**July 12, 2005
Mr. Phil Fragapane**

**Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, N.C. 27699-1611**

Dear Mr. Fragapane,

Subject: InterBasin Transfer between Catawba and Yadkin Rivers

I am writing on the behalf of approximately 200 homeowners on and around Lake James in Burke County, North Carolina. I believe that you are in receipt of correspondence from Mr. George Butler, therefore, I will not burden you with redundancy. Suffice it to say that we are in agreement with his comments and support his position.

We further request that this issue be tabled until the present negotiations with FERC and Duke Energy is completed. The Lake Levels and flow rates of all the Catawba Basin will be fixed upon completion of that negation and exact data will be available to everyone concerned.

We respectfully request your attention to this matter. If you have any questions, please feel free to contact us.

Respectfully,



**Howard Morgan, President
East Shores Homeowners' Association
P.O. Box 1723
Morganton, N.C. 28655**

July 12, 2005
Mr. Phil Fragapane

Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, N.C. 27699-1611

RECEIVED
JUL 15 2005
DIVISION OF WATER RESOURCES

Dear Mr. Fragapane,

Subject: InterBasin Transfer between Catawba and Yadkin Rivers

I am writing on the behalf of 2800 land and homeowners on and around Lake James in McDowell and Burke County, North Carolina. I believe that you are in receipt of correspondence from Mr. George Butler, therefore, I will not burden you with redundancy. Suffice it to say that we are in agreement with his comments and support his position.

We further request that this issue be tabled until the present negotiations with FERC and Duke Energy is completed. The Lake Levels and flow rates of all the Catawba Basin will be fixed upon completion of that negation and exact data will be available to everyone concerned.

We respectfully request your attention to this matter. If you have any questions, please feel free to contact us.

Respectfully,



**Gresham Orrison, President
Community of Lake James, Inc.
601 North Terrace Place
Morganton, N.C. 28655**

Andrew K. Webb, Chairman
David N. Walker, Vice Chairman
Dean Buff, Commissioner
Michael Lavender, Commissioner
Barry E. McPeters, Commissioner



Charles R. Abernathy
County Manager
Carrie Padgett
Clerk to the Board
Donald Fred Coats
County Attorney

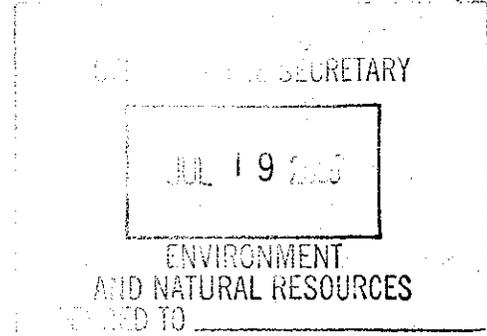
McDowell County

60 East Court Street • Marion, North Carolina 28752
Telephone: (828) 652-7121 • Fax: (828) 659-3484 • Website: www.mcdowellgov.com

#6803

July 14, 2005

William G. Ross, Secretary
NCDENR
1611 Mail Service Center
Raleigh, NC 27699-1611



Dear Secretary Ross,

The McDowell County Board of Commissioners received the attached information from local residents that attended the Public Hearing held on June 22, 2005 regarding a permit for an Interbasin Transfer request made by the Cities of Concord and Kannapolis. There are a number of issues raised in the correspondence that deserve consideration. I did speak with Phil Fragapane about these issues and with Duke Power representatives.

The primary issue of concern to the Board of Commissioners is the question of the future impact to Lake James. The State's position is that the impact to the Lake would be "minimal" and that this is the reason that Lake James was not included in the assessment that was performed. Duke Power representatives seemed to agree with this conclusion but felt that the issue needed further review. It is my understanding that Duke Power has requested an extension on the request in order for this assessment to occur.

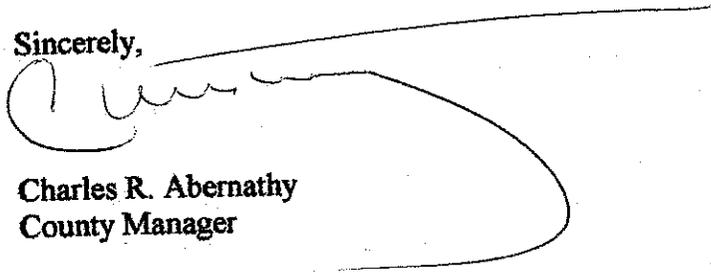
The McDowell County Board of Commissioners voted unanimously to request that an extension on this permit for an Interbasin Transfer be delayed pending the appropriate impact assessment taking place and being reviewed. We would appreciate receiving copies of any documents and being included in notice requirements or formal actions taken on this matter.

Thank you very much for your consideration of this matter. Mr. Fragapane was most

"Great History, Exciting Future"

helpful and we appreciate his assistance on this issue as well. As always, do not hesitate to call if we can ever be of assistance.

Sincerely,



Charles R. Abernathy
County Manager

cc. McDowell Board of Commissioners
cc. Phil Fragapane, Division of Water Resources
cc. George and Suzanne Johnson

1077 Forest Lake Heights
Nebo, N.C.

RECEIVED

JUL 18 2005

DIVISION OF WATER RESOURCES

Phil Fragapane, Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

Dear Mr. Fragapane

Regarding the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal:

Lake James is the uppermost water impoundment in the Catawba River Basin. In order to retire there, we, and many others, invested life savings to purchase property and build a home on this lake.

We feel that home and property owners on Lake James are stakeholders who may not be adequately represented in this (or the FERC) process. After yesterday's public hearing, it appeared that those living above Lake Norman don't even exist as far as the decision makers are concerned. (Nothing above Lake Norman was even on the map shown at the meeting nor was the environmental impact information specific to Lake James or the upper Catawba addressed, except in a perfunctory way.)

For the following eight reasons, we (and several other home owners to whom we have spoken) oppose approval of the proposed IBT at this time unless there is a firm standard for minimum water level of 1194 feet on Lake James:

1. The documentation available to date does not adequately describe the **potential effects of the proposed IBT on Lake James, especially** in severe drought conditions. (The impact analysis apparently used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring impacts above Lake Norman in the Catawba "chain."). There were serious effects of drought in this area:
 - a. During the serious drought in 2002, draw-down of water on Lake James had significant impacts on water quality and quantity (at 1192 feet, the lake was 8' below full pond of 1200 feet). This affected recreational use of the lake (boat ramps and the state park swimming area were unusable) and it caused costly damage to private and commercial docks. We also suspect this low level affected the water table and our wells.
 - b. In our particular area, significant dock damage begins to occur at about 1192 feet, when docks hit bottom. Others on the lake experience damage below 1194.
 - c. While it appears that Concord and Kannapolis may have done so, it cannot be emphasized enough: Water transfers occurring during extreme drought conditions should be contingent on downstream users first implementing and enforcing drought-based water conservation practices, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
2. From the hearing yesterday, it appeared that a (if not the) primary reason for this water transfer request was for the **economic development** of Concord and Kannapolis. Having lost many manufacturing jobs, McDowell County, our county, has experienced the same, or worse, severe economic (and record weather) problems as these two towns. In fact, the county is emphasizing its natural resources in an effort to stimulate economic growth through tourism. Lake James (and its related waterways) is McDowell county's

most valuable resource. A water diversion to benefit other areas could undermine the economic development strategy of this county.

3. It was explained at the hearing yesterday that an engineering study found the addition of another **local reservoir** near these towns to be uneconomical. Therefore, the land is being divested. The study conclusion and decision to part with the land may make sense locally, but in the system as a whole, another reservoir may be a good total cost solution. What would be the system-wide cost of this solution versus that for transferring water from the Catawba and Yadkin Basins (the area encompassing the two basins being the system as a whole)? Has this been investigated?
4. **Duke Power's license** to operate the dams and power generating system along the Catawba Basin is currently under review for **renewal with FERC**. Until the management and utilization of these waters is settled under the relicensing process, no outside uses of water from the basin should be approved and especially those not needed until 2012 or later.
5. We suggest that utility and municipal **water intake pipes** downstream of Lake James (like Lake Hickory, Norman, etc) be lowered at least six feet, thereby increasing the total *useable* reservoir capacity in the system as a whole.
6. A serious threat to the long-run reservoir capacity of Lake James is **siltation**. Already significant capacity has been lost in the western end of the lake. (It is believed that Duke Power has detailed information on the amount of capacity already lost to silt in Lake James.) To maintain adequate water supply capacity for future needs, additional siltation should be minimized by appropriate conservation measures upstream. Additionally, potential dredging of the west end of the lake should be investigated.
7. If a community outside of the Catawba Basin benefits from IBT's from the Catawba, it should be required to pay any **incremental costs** incurred to provide the transferable water. These would include the costs to lower water intake pipes downstream of Lake James, perhaps dredging the already silted part of Lake James, and costs associated with damages caused by low water levels on Lake James, such as dock repairs, lower property values, dry water wells, etc.
8. If the River Keeper Foundation's assertion at yesterday's hearing was correct, the **legality of the approval process** is in question since the final impact statement was not available to the public prior to that hearing. This made it impossible for readers to make a valid evaluation before making input into the process.

For these reasons we are opposed to approval of the IBT.

Thank you for your consideration of our concerns in making your decision.

Sincerely,

William R. Ledbetter
Wanda R. Ledbetter
828 652 3395



Subject: FW: IBT Petition Comments
From: Dawn Brown <DSBrown@cabarruscounty.us>
Date: Thu, 21 Jul 2005 10:17:55 -0400
To: "phil.fragapane@ncmail.net" <phil.fragapane@ncmail.net>

TO: Phil Fragapane, Division of Water Resources, DENR
FROM: Ned Hudson, Chairman, Cabarrus Soil & Water Conservation District
DATE: July 25, 2005
SUBJECT: Cities of Concord and Kannapolis Proposed Interbasin Transfer Petition
COPIES: Wilmer Melton, Henry Waldroup

Our staff attended the recent public hearings on the petition by Concord and Kannapolis for an interbasin transfer from the Catawba River and Yadkin River Sub-Basins to the Rocky River Sub-Basin (IBT petition). At our monthly meeting on July 05, 2005, Wilmer Melton, Director Public Works for Kannapolis and Concord Water Resources Director Henry Waldroup explained their petition and asked for our support. After a I detailed discussion, the Board voted to support this petition, which we have had an opportunity to review.

Before detailing some of the concerns that we discussed at our last meeting, let me provide some background information on the Commission. Our Board consists of 2 appointees and three elected officials. We have been concerned with problems of too much water (flooding) and too little water (water supply). We have also worked extensively to address water quality problems.

We have focused much of our attention on efforts to restore unstable streambanks that were the primary sources of trees forming log jams in our streams. We are also assisting the Ecosystem Enhancement Program with stream restoration projects. Additionally, we have worked closely with the state on the Upper Rocky River Watershed Plan and the Yadkin-Pee Dee River Basinwide Plan.

Our monthly meetings regularly include discussions about flooding and stormwater runoff, water quality planning initiatives, stream corridor management, erosion and sedimentation control, and conservation education. In spite of the fact that members of the staffs of the cities of Concord and Kannapolis have a standing invitation to give reports at our meetings, our July meeting marked the first time these municipalities presented their IBT petition to us.

Our discussion of the IBT petition centered on concerns that we have expressed at our past meetings about local governmental efforts to protect water and other natural resources. A contingency to our approval focused on the concern of the transfer of untreated water from Catawba River Basin to the Yadkin River Sub-Basin. Several additional concerns echoed those raised by the Natural Heritage Program—as well as concerns raised by the Wildlife Resources Commission—in response to the Environmental Impact Statement for this proposal:

- Anticipated cumulative and secondary impacts of development, including impacts from increasing numbers of bridges and culverts and numbers of wastewater spills, will result in stream bank instability and other stream morphology changes, increased sediment loading, changes in substrate characteristics, modified aquatic food resources, changed stream temperatures, increased nutrient loading,

increased toxicant loading, changed fish communities, and reduced complexity of benthic habitats.

Ideally, the applicant would shoulder some of the financial or regulatory burden for mitigating the impacts of this project, which include implementation of additional land use planning or other regulatory measures. We hope that any cooperative planning initiatives that are agreed to as part of the mitigation for this project will ultimately involve other local governments and even cross county jurisdictional boundaries.

Several years ago, our staff attended an annual meeting of the North Carolina Watershed Coalition at which findings were presented from the report, [Paving Our Way to Water Shortages: How Sprawl Aggravates the Effects of Drought](#). This report, released by American Rivers, Natural Resources and Defense Council and Smart Growth America, drew on contributions by the Center for Watershed Protection and the U. S. Geological Survey. This report, available online at <http://www.smartgrowthisamerica.org/waterandsprawl.html>, included the following recommendations:

- Protect Open Space, Especially Critical Aquatic Areas
- Practice Sound Growth Management
- Integrate Water Supply into Planning Efforts
- Invest in Existing Communities
- Encourage Smart Growth Development
- Manage Stormwater Using Innovative Approaches
- Fund Research and Database Needs

We support these recommendations and commend them for consideration as conditions on the IPT certificate.

In terms of the first two of these recommendations, we are concerned about the conversion of soils designated as "prime farmland soils" and "statewide important farmland" soils. While representatives of the cities of Concord and Kannapolis—and the Cabarrus Regional Chamber of Commerce and the Cabarrus County Economic Development Corporation—testified at the public hearing on the importance of a adequate water supply as a industrial recruitment tool, we are concerned about the neglect of agribusiness to the present and future economy of Cabarrus County.

In spite of statements in the notice of public hearing on this IBT petition to the effect that "the IBT will provide additional water supply to support growth and development in the receiving basin" and "mitigation measures presented in the IBT petition are expected to mitigate secondary impacts related to growth and development in the receiving basin," discussions at our July meeting included concerns about enforcement of existing water protection ordinances by the cities of Concord and Kannapolis. Missed opportunities for both cities to model water conservation

were part of this discussion. We are awaiting additional information on two specific projects discussed at our meeting which involve filling activities within floodplains and riparian buffer zones with municipal approval.

Specifically concerning Condition #1 proposed in the Notice of Public Hearing, existing buffer rules currently allow for a number of exceptions to "an undisturbed area." While the permit CESAW-CO88-N-013-0061—issued in 1990 under Section 404 of the U. S. Clean Water Act (33 U.S.C. 1413) by the US Army Corps of Engineers as a condition for creating a water supply reservoir on Coddle Creek—specified road crossings and sewer right-of-ways as the only exceptions within the countywide buffer, landowners in Cabarrus County have been permitted clear some or all vegetation, place fill material, alter drainage, and construct trails (including impervious asphalt walkways).

Unfortunately, Concord and Kannapolis delayed adopting stream buffers for nearly a decade after this permit was issued. That time period was characterized by unprecedented growth, fueled in part by major annexations by Concord and Kannapolis. The Westside Bypass, now known as the George W. Liles Parkway and Kannapolis Parkway, was planned and constructed as an economic development engine in the 1990's after construction of the reservoir on Coddle Creek. Development has also been allowed to take place in the watersheds for the drinking water supply reservoirs on Lake Concord and Lake Fisher. Much of the growth in the newly annexed areas in western Cabarrus County is on soils with limitations for development due to poor drainage and/or permeability characteristics. Stormwater runoff and flooding problems are the result.

Stream buffers have already been established as a condition for water supply purposes. If stream buffers are also required as a condition for an IBT certificate, accountability for enforcement should be a part of this condition. Efforts by our Board to enhance and restore streams would be accelerated significantly with cooperation by the county and municipal planners to transfer ownership of stream corridors to either homeowners associations or to Cabarrus Soil and Water Conservation District—the designated lead agency on conservation easements. Currently, platting to the centerline of streams is being permitted. In light of the fact that the minimum width for stream buffers acceptable to the Ecosystem Enhancement Program, we recommend that minimum buffers on intermittent streams be increased from 30 feet to 35 feet.

Respectfully submitted,

Ned Y. Hudson, Chairman, Cabarrus Soil & Water Conservation District.

DISCLAIMER:

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Waterglyn POA
P.O. Box 580
Nebo, NC 28761

July 22, 2005

Phil Fragapane, Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

Dear Mr. Fragapane

RE: Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal:

Waterglyn Property Owners Association is located on Lake James which is the uppermost water impoundment in the Catawba River Basin. Most of us have invested our life savings to live and retire on Lake James.

For the following seven reasons, we oppose approval of the proposed IBT at this time unless there is a firm standard for minimum water level of 1194 feet on Lake James:

1. The documentation available to date does not adequately describe the potential effects of the proposed IBT on Lake James, especially in severe drought conditions. (The impact analysis apparently used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring impacts above Lake Norman in the Catawba "chain."). There were serious effects of drought in this area:
 - a. During the serious drought in 2002, draw-down of water on Lake James had significant impacts on water quality and quantity (at 1192 feet, the lake was 8' below full pond of 1200 feet). This affected recreational use of the lake (boat ramps and the state park swimming area were unusable) and it caused costly damage to private and commercial docks. We also suspect this low level affected the water table and our wells.
 - b. In our particular area, significant dock damage begins to occur at about 1192 feet, when docks hit bottom. Others on the lake experience damage below 1194.
 - c. While it appears that Concord and Kannapolis may have done so, it cannot be emphasized enough: Water transfers occurring during extreme drought conditions should be contingent on downstream users first implementing and enforcing drought-based water conservation practices, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
2. It appears that the primary reason for this water transfer request was for the **economic development** of Concord and Kannapolis. Having lost many manufacturing jobs, McDowell County, our county, has experienced the same, or worse, severe economic (and record weather) problems as these two towns. In fact, the county is emphasizing its natural resources in an effort to stimulate economic growth through tourism. Lake James (and its related waterways) is McDowell county's most valuable resource. A water diversion to benefit other areas could undermine the economic development strategy of this county.
3. From our understanding, an engineering study found the addition of another **local reservoir** near these towns to be uneconomical. Therefore, the land is being divested. The study conclusion and decision to part with the land may make sense locally, but in

the system as a whole, another reservoir may be a good total cost solution. What would be the system-wide cost of this solution versus that for transferring water from the Catawba and Yadkin Basins (the area encompassing the two basins being the system as a whole)? Has this been investigated?

4. **Duke Power's license** to operate the dams and power generating system along the Catawba Basin is currently under review for **renewal with FERC**. Until the management and utilization of these waters is settled under the relicensing process, no outside uses of water from the basin should be approved and especially those not needed until 2012 or later.
5. We suggest that utility and municipal **water intake pipes** downstream of Lake James (like Lake Hickory, Norman, etc) be lowered at least six feet, thereby increasing the total *useable* reservoir capacity in the system as a whole.
6. A serious threat to the long-run reservoir capacity of Lake James is **siltation**. Already significant capacity has been lost in the western end of the lake. (It is believed that Duke Power has detailed information on the amount of capacity already lost to silt in Lake James.) To maintain adequate water supply capacity for future needs, additional siltation should be minimized by appropriate conservation measures upstream. Additionally, potential dredging of the west end of the lake should be investigated.
7. If a community outside of the Catawba Basin benefits from IBT's from the Catawba, it should be required to pay any **incremental costs** incurred to provide the transferable water. These would include the costs to lower water intake pipes downstream of Lake James, perhaps dredging the already silted part of Lake James, and costs associated with damages caused by low water levels on Lake James, such as dock repairs, lower property values, dry water wells, etc..

For these reasons we are opposed to approval of the IBT.

Thank you for your consideration of our concerns in making your decision.

Sincerely,

Teresa B. Abernathy, President
Waterglyn POA



Catawba Riverkeeper Foundation, Inc.

421 Minuet Ln. #205 Charlotte NC 28217-2784
Phone: 704.679.9494 Fax: 704.679.9559

www.catawbariverkeeper.org

July 22, 2005

Mr. Phil Fragapane
Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

Subject: Catawba-Wateree Hydroelectric Project FERC No. 2232-407 comments on: (1) Draft Environmental Impact Statement for the Cities of Concord and Kannapolis: Proposed Interbasin Transfer from the Catawba River to the Rocky River Subbasin and (2) Interbasin Transfer Petition for the Cities of Concord and Kannapolis.

Dear Mr. Fragapane:

The Catawba Riverkeeper Foundation has reviewed the Draft Environmental Impact Statement ("DEIS") and the Interbasin Transfer ("IBT") Petition for the Cities of Concord and Kannapolis. The cities of Concord and Kannapolis are petitioning the North Carolina Environmental Commission ("EMC") to approve an IBT of 24 million gallons on an average day basis from a combination of the Catawba River basin and the Yadkin-Pee Dee River basin to the Rocky River subbasin. The IBT would allow the cities to withdraw a maximum of 38 million gallons a day ("MGD") from the Catawba River basin. Both the IBT Petition and DEIS conclude that this proposed IBT will cause no significant impacts to the source or receiving basins.

On behalf of the nearly two million people who depend on the Catawba River and its reservoirs for drinking water, electricity production, recreation and wildlife resources, the Catawba Riverkeeper Foundation offers the following comments on the IBT Petition and DEIS.

1. The Request for the IBT is Premature

The Concord and Kannapolis request for an IBT certificate is premature. Concord and Kannapolis are requesting an IBT at a time when most of the dams on the Catawba and the Yadkin-Pee Dee Rivers are undergoing relicensing by the Federal Energy Regulatory Commission ("FERC"). The terms of these licenses will define the dam releases on the rivers for the next thirty to fifty years. Because the new terms will likely change significantly the minimum flow, base flow and instream flow requirements in both basins, it is imprudent to approve, or even consider, an IBT just before the terms of these new licenses are established.

Additionally, the request for the IBT certificate is not based on the most current, available information. At a minimum, EMC should wait until relicensing studies are complete before considering the IBT. The relicensing studies will provide more accurate and up to date information regarding flow, water quality and the cumulative impacts on the Catawba River basin. For example, the Catawba-Wateree Hydroelectric Relicensing Project's April 2005 Draft Water Supply Study Status Report states that the Catawba River basin currently has a consumptive loss of 181 MGD (280 CFS). A removal of up to 38 MGD, as requested by Concord and Kannapolis, would amount to a 21% increase in consumptive loss. This is a drastic increase in the amount of water permanently leaving the Catawba River basin.

The Concord and Kannapolis request is also premature because the cities base it on an alleged need for water that is not urgent. The IBT Petition states under section 3.1.4 titled "Reasonableness of the IBT Request," that "existing water supplies within the Rocky River Subbasin available to Concord and Kannapolis have been fully developed and will be maximized by 2015." That maximization is 10 years away. Concord and Kannapolis should reapply using new data from the relicensing studies and after the terms of the new FERC licenses can inform their analysis and the decision of the EMC.

2. The IBT Petition and DEIS Are Substantively Flawed

a.) The Conclusions in the IBT Petition and DEIS Are Unreliable

The conclusions in the IBT Petition and DEIS are unreliable. Not only do these documents use an outdated CHEOPS model but also they use old data in the outdated model. Duke Power has updated the CHEOPS model as part of its relicensing process. Therefore, the conclusions in the IBT Petition and DEIS based on the outdated CHEOPS model are no longer credible.

The most egregious flaw of the IBT Petition and DEIS is that these documents analyze impacts on the Catawba River basin using old data up until only the year 2000. The analysis includes no data from 2002, the basin's lowest flow year (7Q10) in recent history.

That year, the Catawba River basin suffered from unprecedented extreme drought conditions. Union, Lincoln, Cleveland and Mecklenburg counties as well as the cities of Cherryville, Shelby, Statesville, Charlotte, Mooresville, Rock Hill, Fort Mill, Tega Cay and Lake Wylie imposed mandatory water use restrictions for commercial, residential and/or agricultural customers. The U.S. Secretary of Agriculture designated 54 North Carolina counties as primary natural disaster areas. This designation included all the North Carolina counties in the Catawba River basin. The Governor of South Carolina declared many South Carolina counties in the Catawba River basin disaster areas as well. South Carolina towns and counties in the basin also imposed mandatory water use restrictions.

The drought devastated aquatic life and wildlife resources across the basin. Many of the tributaries throughout the Catawba River basin watershed dried up completely. For the first time ever, the Catawba River experienced negative hydrologic flow—more water left the river through evaporation, ground water recharge, electricity production and withdrawals than the amount of water that entered the river. Local economies suffered considerably as the low water conditions caused recreation facilities to close swimming beaches and boat access areas. The

drought also led Duke Power to reduce water flow through its dams on the Catawba River, which decreased the company's hydroelectric generation 70%. Neither the IBT Petition nor the DEIS report this dramatic reduction in power generation.

Both the IBT Petition and the DEIS rely on the old CHEOPS model and old data to conclude that withdrawing a maximum of 38 MGD from Lake Norman will have no significant impact on lake levels, downstream flow, water supply withdrawal or hydro power generation in the Catawba River basin during normal or drought conditions. This conclusion is completely uncorroborated by the drought conditions the Catawba River and its reservoirs experienced during 2002. The discrepancy between this conclusion and the actual conditions in 2002 demonstrates that the IBT Petition and DEIS do not reliably predict all the potential impacts of the proposed IBT on the Catawba River basin.

b.) The IBT Petition and DEIS Do Not Adequately Assess Cumulative Impacts

The IBT Petition and DEIS fail to adequately assess the cumulative impacts of the proposed IBT. Under the North Carolina Administrative Code ("NCAC") an EIS must analyze the "cumulative effects and significance" of the proposed action.¹ NCAC defines "cumulative effects" as the "environmental impacts resulting from incremental effects of an activity when added to other past, present, and reasonably foreseeable future activities regardless of what entities undertake such other actions."²

The cumulative impacts analysis in the IBT Petition and DEIS does not fully assess past activities because, as discussed above, these documents do not account for past projects that took place in the Catawba River basin during the drought of 2002. For example, many outside communities withdrew water from the Catawba River basin by connecting emergency hook-ups and temporary pumps, dramatically increasing the pressure on Catawba water suppliers to provide water outside of the basin. Neither document includes these or other past projects from the drought in the cumulative impacts analysis.

Additionally, the cumulative impacts analysis in the IBT Petition and DEIS does not fully consider the impacts of present and foreseeable future activities. Most notably, the cumulative analysis makes no mention of whether or how new FERC license requirements following from dam relicensing in both basins could add to the impacts of the IBT.

The cumulative impacts analysis also fails to fully account for the impacts of other foreseeable future IBTs from the Catawba River basin. Union County currently has a pending IBT petition and is just one of the counties or municipalities looking to the Catawba River basin for water. Although the analysis in the IBT Petition and DEIS includes some estimate of future IBTs by relying on the consumptive loss estimate in the old CHEOPS model, the analysis is flawed because the old model is unreliable for the reasons previously stated.

As a result, the DEIS does not meet the requirements of NCAC because it fails to fully analyze the cumulative effects of past, present and foreseeable future activities on both the source and

¹ 1 N.C. Admin. Code 25.0603 (2005).

² 15A N.C. Admin. Code 1C.0103.

receiving basins. These activities may be individually minor but collectively significant. The IBT Petition is objectionable for those same reasons.

c.) The IBT Petition and the DEIS Fail to Adequately Evaluate the Impact to Impaired Lakes

Neither the IBT Petition nor the DEIS sufficiently evaluate the impacts to impaired lakes and both fail to discuss the trends of declining water quality throughout the Catawba River basin. In the September 2004 Catawba River Basinwide Water Quality Plan, the North Carolina Division of Water Quality ("DWQ") identified Lake Rhodhiss as impaired in its support of aquatic life and Lake Wylie as impaired by eutrophication. These recent impairment designations illustrate the present and increasing challenge the Catawba River basin faces in supporting its own growing population. Neither document addresses these impairment designations nor discusses the potential impact of the IBT on the trend of declining water quality that they represent.

d.) The IBT Petition and DEIS Are Incomplete

The IBT Petition and the DEIS are incomplete for the following reasons:

- i.** Neither document provides a determination of the safe yield from the Catawba River basin. The documents provide the safe yield for the Rocky River and then completely omit the same information for the Catawba. Without a safe yield determination, the impact to the Catawba River basin was not properly nor meaningfully evaluated.
- ii.** Neither document fully analyzes the impacts of the proposed IBT on South Carolina.
- iii.** The IBT Petition does not investigate or analyze the harm or increased operational costs that the IBT might have on other drinking water operators in the Catawba River basin. In 2002 and more recently, the Hickory, Valdese and Lenoir area experienced taste and odor problems in public drinking water supplies as a result of declining water quality in Lake Rhodhiss and Lake Hickory. A removal of up to 38 MGD of clean water from the Catawba River could lower lake levels in the upper Catawba reservoirs, further concentrating pollutants in less clean water. The IBT could impose substantial treatment costs on Hickory, Valdese, Lenoir and other drinking water providers in the upper basin. The IBT Petition ignores these potential impacts and uses a unidirectional analysis, only considering the benefit of the IBT to Concord and Kannapolis. The petition process requires a multi-directional analysis, one that considers the benefit to Concord and Kannapolis and as well as an estimation of the resultant harm to Hickory, Valdese, Lenoir and other Catawba drinking water providers.
- iv.** Neither document analyzes the potential for the transfer of non-native, invasive species from source to receiving basin or the impacts that these species may have on endangered, threatened, or sensitive species. Lake Norman and Lake James are currently infested with hydrilla. Upstream, Lake Lookout is infested with parrot feather. Additionally, a population of the endangered Carolina heelsplitter is present in Goose Creek and Duck Creek, both of which ultimately discharge into the Rocky River. Because the proposed IBT calls for transferring raw water from Lake Norman to Lake Howell, the IBT could not only spread invasive species but also allow them to threaten protected species.

- v. Both the IBT Petition and DEIS rely on old CHEOPS model results from the CMU 2001 Environmental Assessment on increasing CMU's water withdrawal from Mountain Island Lake not Lake Norman; therefore, the initial modeling analysis was not designed to evaluate the environmental impacts to Lake Norman. The attempt to adapt this modeling exercise to a lake it was not originally calibrated for is not acceptable. Additionally, neither document addresses the public comments submitted in response to that Environmental Assessment. Those comments are relevant to the environmental impact of the proposed IBT. Specifically, the documents fail to address comments the U.S. Fish and Wildlife Service submitted to FERC expressing concern over the impact of an increase in water withdrawals on downstream water resources, endangered species, candidate species, species of concern and critical habitat in the Catawba River basin. (See Exhibit A).
- vi. Both the IBT Petition and the DEIS fail to include the underlying assumptions and methodology of the CHEOPS model. The DEIS states that it includes details of its CHEOPS analysis in Appendix C. However, neither Appendix C nor any other appendix includes any information related to the CHEOPS analysis. Concord and Kannapolis should openly and explicitly identify the assumptions of their analysis and the methodology supporting their conclusions or at least provide the public with easy access to this information. By obfuscating the basis of their conclusions, the cities have presented the public with incomplete documents and an unfair burden to find the missing information on its own.
- vii. Secondary impacts were not evaluated or included in the DEIS, making the petition fatally flawed. On page 11, the application states:

“Eighteen MGD of raw water would be transferred from Lake Norman that would pump through a new raw water main and discharge into Lake Howell in Cabarrus County and Kannapolis Lake in Rowan County.”

Currently there exists no connection for distribution of raw water from either of the two Charlotte Mecklenburg Utilities (CMU) pump stations on Lake Norman or Mountain Island Lake nor from any CMU service lines pumping raw water to water treatment facilities located in west Charlotte. The petition requests EMC approval for a preferred alternative that would result in enormous secondary impacts from construction of a raw water distribution line through Charlotte, Huntersville and Kannapolis capable of delivering 18 MGD and pumping water up and across a watershed ridge line to receiving lakes more than 30 miles away from the source basin. No preliminary routing, cost or construction information was provided much less a full disclosure of the potential environmental impacts that would result from such a massive construction project.

Because the documents are incomplete, the public cannot adequately assess, scrutinize or comment on the IBT Petition or DEIS. More importantly, EMC cannot make a fully informed decision on whether to certify the IBT.

e.) The IBT Petition and DEIS Over Estimate the Need for Water

Concord and Kannapolis provide an illusory assessment of their need. There is a clear and important distinction between critical water needs and discretionary, perhaps even wasteful water use. By its own admission and included in its application, Concord states that in its service area, "lawn watering accounts for 60 percent of residential water use." Concord and Kannapolis calculate their need for the IBT without separating these kinds of discretionary uses from critical water needs such as providing water for hospital and fire department use. It is wrong to include grass watering, which is purely for ornamental and aesthetic appreciation, in calculating water needs. The Catawba River basin's water should not be expected to help keep the grass green in front of strip malls in Concord and Kannapolis. Because Concord and Kannapolis fail to separate critical water needs from ornamental needs, the Catawba Riverkeeper Foundation feels their future water demand calculations grossly overestimate their actual need for water.

f.) Concord and Kannapolis Use Data to Their Advantage

The most disconcerting element of the IBT request is that Concord and Kannapolis justify the need for an IBT from the Catawba River basin in large part on the shortfall of water these cities experienced during the height of the drought in 2002, yet they use old data that does not include this year as evidence that a 38 MGD IBT will have no significant impact on the Catawba River basin. The cities use the worst case year (2002) to justify their need and then use an entirely different year (2000) to state that there would be no impact to the Catawba River basin during drought conditions. They cherry pick two different years in such a way that it makes their need seem much more pronounced and the impact to the Catawba River basin much less significant. This approach causes their entire justification as well as the conclusion that there will be no impact to the Catawba River basin to be undetermined at best and grossly incorrect at worst.

3. The Certification Process is Improper

a.) The EIS Has Not Served as a Decision-Making Tool

The certification process is improper because the DEIS violates both the North Carolina State Environmental Policy Act ("SEPA") and the National Environmental Policy Act ("NEPA"), on which SEPA is based.³

"The primary purpose of an EIS is to serve as a decision-making tool.⁴ An EIS "should provide a full and fair discussion of significant environmental impacts and should inform decision-makers and the public of the reasonable alternatives."⁵ Moreover, an EIS "is more than a disclosure document."⁶ It "shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made."⁷

The Catawba Riverkeeper Foundation seriously questions whether Concord and Kannapolis have honestly prepared a decision-making tool rather than merely a disclosure document. Materials in the December 2003 DEIS suggest that the cities choose the proposed IBT as the preferred

³ See *e.g. Washington County, et al. v. Dep't of the Navy*, 357 F.Supp.2d 861 (E.D.N.C. 2005).

⁴ 1 N.C. Admin. Code 25.0601.

⁵ *Id.*

⁶ 40 C.F.R. § 1502.1 (2005).

⁷ 40 C.F.R. § 1502.2(g).

alternative well before completing the final EIS, not to mention before completing the December 2003 or revised DEIS.

In Appendix D of the December 2003 DEIS, an undated water resources information brochure developed and published by the city of Concord states,

“We continue to pursue a long-term solution to our water needs by applying for an interbasin certificate which will allow us to access water from the Catawba and Yadkin Rivers. We anticipate receiving the State’s approval for this certificate next year.”

Also in Appendix D of the December 2003 DEIS, a fact sheet developed and published by the city of Kannapolis states,

“City officials also continue working with the city of Concord to pursue new raw and treated water options from the Yadkin and Catawba rivers as well as future connections with the city of Charlotte. Both cities have contracted with an outside consultant to conduct the environmental assessments necessary to begin the process of applying to the State for interbasin transfers (IBT). Receipt of an IBT is expected in 2004.”

These statements, which Concord and Kannapolis made before they completed the first DEIS in December 2003, demonstrate that both cities had concluded that an IBT from the Catawba River basin was the solution to their water shortage problem from the beginning of the decision-making process and that they have not used the DEIS as a decision-making tool.

Moreover, because the DEIS is incomplete, non-cumulative and unreliable, the document not only fails to provide a “full and fair discussion of significant environmental impacts” but also fails to genuinely “inform decision-makers and the public of the reasonable alternatives” to the proposed IBT. These failures are further evidence that Concord and Kannapolis have prepared nothing more than a disclosure document in an attempt to justify a preordained decision.

The DEIS, therefore, violates both SEPA and NEPA. As a result of the cities’ cursory approach to preparing the DEIS and failure to meet the standards of both SEPA and NEPA, the certification process for the proposed IBT is improper.

b.) The Present Certification Process Violates the North Carolina Administrative Procedure Act.

The present certification process is also improper because it is a new rule adopted in violation of the North Carolina Administrative Procedure Act (“NCAPA”). NCAPA requires an agency to notify the public and hold a public hearing if one is timely requested and accept public comments for at least 60 days before making any changes to its rules.⁸ NCAPA defines a “rule” as “any agency regulation, standard, or statement of general applicability that . . . describes the procedure or practice requirements of an agency.”⁹

⁸ N.C. Gen. Stat. §§ 150B-18, 150 B-21 (2005).

⁹ N.C. Gen. Stat. § 150B-2(8a).

The certification process depicted in the Division of Water Resources' ("DWR") flow chart titled "Interbasin Certification Process"¹⁰ is a rule within the meaning of NCAPA. DWR itself presents the certification process as a rule by providing the flow chart as one of the links on its website under the subtitle "Rules, Policies, & Regulations."¹¹ Moreover, the certification process clearly "describes the procedure" the DWR follows and requires all applicants to follow during the IBT certification process. Therefore, the certification process is a rule that DWR may not change without complying with the requirements of NCAPA.

DWR adopted the new certification process in violation of NCAPA. On June 24, 2005, after EMC held the public hearings on June 22 and 23, 2005, DWR posted a new flow chart in place of the old one.¹² In the previous flow chart, an applicant prepares its IBT petition and EIS before EMC holds the public hearing and seeks public comment on these finished documents (see Exhibit B). In the new flow chart, EMC holds the public hearing and seeks public comment on the IBT petition and the DEIS at the same time (see Exhibit C).

The new flow chart reflects the present process DWR and EMC are following for the Concord and Kannapolis IBT certification. This process is not only different from the process DWR previously followed for other IBT certifications but also from the process DWR published on its website up until and including the days EMC held the public hearings. Because the new process allows EMC to seek public comment only on the DEIES and before the public has the opportunity to review a final EIS, it improperly denies the public of the opportunity to effectively comment on the proposed IBT and to sufficiently and meaningfully inform EMC's certification decision. As a result, it is a dramatically different process that greatly reduces the opportunity for public input.

Because the certification process is (1) a rule within the meaning of NCAPA and (2) a rule that DWR changed without following the public notice requirements of NCAPA, the present certification process is not only improper but also illegal.

c.) EMC Cannot Make a Proper Decision

The certification process is improper because EMC does not have sufficient information to make the proper decision on whether to grant certification. Under the North Carolina statute governing the regulation of surface water transfers, EMC may not grant a certificate for a water transfer unless the applicant establishes and EMC concludes, based upon findings of fact made in the EIS that "the benefits of the proposed transfer outweigh the detriments of the proposed transfer."¹³

Here, the DEIS is incomplete, non-cumulative, and contains unreliable conclusions. Unless the final EIS addresses all of these faults, EMC cannot properly weigh the benefits of the proposed

¹⁰ Division of Water Resources, North Carolina Department of Environment and Natural Resources, *Interbasin Transfer Certification Process*, http://www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/process.php (last modified Jan. 15, 2004).

¹¹ Division of Water Resources, North Carolina Department of Environment and Natural Resources, *Interbasin Transfer Certification*, http://www.ncwater.org/Permits_and_Registration/Interbasin_Transfer/ (last modified June, 24, 2005).

¹² Although DWR changed the last modified date on its main Interbasin Certification Process page, it has not yet changed the date on the flow chart page.

¹³ N.C.Gen. Stat. § 143-215.221.

transfer against the detriments based on the findings of fact in the EIS. In that case, the certification process would be improper because any conclusion EMC makes would be arbitrary, capricious and not meeting the standard of law.

d.) The Certification Process is Improper Because it Has Not Included South Carolina or the U.S. Fish and Wildlife Service

Finally, the IBT certification process is improper because it seems that neither the State of South Carolina nor the U.S. Fish and Wildlife Service have been involved. The proposed IBT could result in significant impacts to the State of South Carolina as well as to federally protected threatened and endangered species. The Catawba Riverkeeper Foundation would like to know whether Concord and Kannapolis notified and provided any of the following stakeholders the opportunity to comment: the South Carolina Department of Health and Environmental Control, South Carolina drinking and wastewater operators in the Catawba River basin and the U.S. Fish and Wildlife Service. Additionally, the Catawba Riverkeeper Foundation would like to know whether the United States Environmental Protection Agency has been involved in what appears to us to be a procedurally improper application and a grossly flawed environmental impact analysis.

4. Conclusion

Because the application seeks approval for an IBT that meets the needs of Concord and Kannapolis for the next 30 years, it is the functional equivalent of a 30-year permit request in advance of relicensing processes occurring in both the Catawba and Yadkin Pee Dee River basins. The Catawba Riverkeeper Foundation believes this is the equivalent of a "water grab" before new flow requirements are required by the FERC relicensing processes.

The minimum flows required in relicensing could significantly change the amount of Catawba River water available to the 14 counties and 22 municipalities that operate drinking water and wastewater facilities within the Catawba River basin. This water should be reserved for Catawba River basin operators, not given to cities and counties far outside the basin before current studies determine the cumulative impacts to water quality and water quantity. There is great concern over whether the Catawba River basin can withstand the negative impacts of its own growing population much less be expected to provide for the needs of growing populations outside the basin.

It is critically important to take an integrated regional view of the way the Catawba River system is managed to assure that adequate water resources will be available to support aquatic resources, wildlife, recreation, drinking water needs, power production and the equitable growth of reliant communities besides just Concord and Kannapolis. The drought of 2002 demonstrated how important it is to take a step back and consider some other management model than "first come first served."

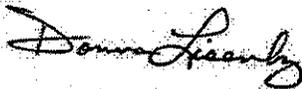
For the reasons stated above, the Catawba Riverkeeper Foundation requests that EMC deny Concord and Kannapolis their request for IBT certification. However, if EMC finds that outright

denial is inappropriate, we ask that it considers taking one of the following alternatives in decreasing order of preference:

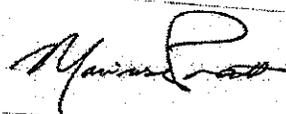
1. Require the applicant to reapply using new data and an updated model after the new FERC license terms are established;
2. Require the applicant to reapply using new data and an updated model after the relicensing studies are complete;

Thank you for considering the Catawba Riverkeeper Foundation's comments on the IBT Petition and DEIS.

Sincerely,



Donna Marie Lisenby
Catawba Riverkeeper®



Marirose J. Pratt
Legal Intern

Exhibit A



United States Department of the Interior

OFFICE OF THE SOLICITOR
Washington, D.C. 20240

AUG 26 2002

FILED
OFFICE OF THE SECRETARY
02 AUG 26 PM 12:05
FEDERAL ENERGY
REGULATORY COMMISSION

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20240

Re: Catawba-Wataree Hydroelectric Project, FERC No. 2232-407, COMMENTS in
Response to Notice of Availability of Environmental Assessment

Dear Ms. Salas:

The Department of the Interior (Department) has reviewed the environmental assessment that was developed by the Federal Energy Regulatory Commission (Commission) in response to Duke Energy Corporation's Application for Amendment of License for the Catawba-Wataree Hydroelectric Project, FERC No. 2232-407. This environmental assessment was developed to assist the Commission in determining whether it should amend Duke Energy Corporation's (Duke Energy) license to allow the Charlotte-Mecklenburg Utilities District to increase its water withdrawals at the Catawba River Raw Water Pump Station, which is located on Mountain Island Lake.

On behalf of the U.S. Fish and Wildlife Service (Service), the Department submits the following comments on the Commission's environmental assessment.

Concerns Regarding Endangered Species

The Commission's environmental assessment fails to adequately address the impacts of the proposed action on endangered species, candidate species, species of concern and critical habitat. The Catawba River contains a diverse and abundant aquatic community, and the Service is concerned that the amendment and its associated water withdrawal will negatively impact these species and their associated habitat. In particular, the Service is concerned about the proposed withdrawal's potential impacts on the following aquatic and terrestrial species:

Carolina heelsplitter. The environmental assessment erroneously states that "there is no evidence to confirm that the Carolina heelsplitter is or is not present" in the vicinity of the proposed action, and that an increased water withdrawal would have "little effect on mussel habitat." See Environmental Assessment at 4-36. The Commission came to this conclusion, however, without requiring Duke Energy to survey for the presence of the Carolina heelsplitter. There is historical evidence that the Carolina heelsplitter has been found in the Catawba River system. While the species' range has been seriously reduced by impoundments and the general deterioration of habitat and water quality, six surviving populations remain and one of these

populations is found in Goose Creek, which is located within the Charlotte-Mecklenburg Utilities District. In light of the Carolina heelsplitter's status as an endangered species, the Commission should have required a thorough survey of the area of affect.

The Service is extremely concerned about the potential impacts of the proposed water withdrawal on this species. The low numbers of individuals and the restricted range of the surviving populations make the Carolina heelsplitter extremely vulnerable to extirpation. Additionally, existing and potential land use in the surrounding areas threaten the habitat and water quality of the existing Carolina heelsplitter populations by increasing the discharge and runoff of silt, sediments and pollutants. The Service is also concerned about the rapid development of the areas surrounding the Charlotte-Mecklenburg Utility District; such rapid development has led to excessive storm-water runoff, which has had an adverse impact on the stability of the river's and streams' banks and channels.

Moreover, the environmental assessment fails to sufficiently address the impacts of the proposed action on the Carolina heelsplitter's critical habitat. In July 2002, the Service designated critical habitat for the Carolina heelsplitter. See 67 Fed. Reg. at 44,502-44,522. Two of these designated critical habitat units are within the area affected by the proposed action. These critical habitat units are part of the currently-occupied range of the Carolina heelsplitter, and these units provide the physical and biological habitat elements necessary for the life cycle needs of the species. In accordance with the recovery goals and criteria outlined in the recovery plan for the Carolina heelsplitter, the protection of these units are essential to the conservation of the species. The Commission's environmental assessment should have discussed the potential impacts that the proposed water withdrawal will have on these critical habitat units.

Finally, the Service believes that the Commission should initiate consultation as required by 50 C.F.R. Part 402. These regulations require federal agencies to consult with the Service on any prospective action that "may affect" listed species or critical habitat. See 50 C.F.R. §§ 402.11 and 402.14. Because the proposed water withdrawal may detrimentally affect the Carolina heelsplitter and its habitat, the Service recommends that the Commission initiate consultation and thoroughly assess the direct, cumulative and secondary effects that are associated with the withdrawal. Moreover, the Service recommends that the Commission assess whether the construction activity associated with the withdrawal is substantial enough to warrant the preparation of a biological assessment. A federal agency is required to prepare a biological assessment for "major construction activities." See 50 C.F.R. § 402.12. It is not clear from the Commission's environmental assessment whether the Commission conducted this necessary analysis.

Schweinitz's sunflower. The environmental assessment concludes that the Schweinitz's sunflower "would not be adversely affected by the proposed action." See Environmental Assessment at 4-37. It is unclear from the environmental assessment, however, whether the habitat that surrounds the proposed action has been assessed for the presence of the Schweinitz's sunflower. Without a thorough assessment of the area surrounding the proposed action, the

Commission cannot conclude that this species will not be impacted by the proposed water withdrawal.

Georgia aster. The environmental assessment fails to discuss the proposed action's potential impacts on the Georgia aster, a species that is currently a candidate for listing as endangered. The Georgia aster occurs in an area that is likely to be affected by the proposed action. The Service therefore recommends that the Commission's environmental assessment be revised to include a discussion of the impacts of the proposed action on this species. The Service further recommends that the Commission confer with the Service if the Commission determines that the Georgia aster may be affected by the proposed action.

Concerns Related to the Sufficiency of the Commission's Environmental Analysis

The Service has general concerns as to whether the Commission's environmental analysis satisfies the requirements of the National Environmental Policy Act (NEPA). In particular, the Service is concerned that the proposed action may constitute a "major Federal action significantly affecting the quality of the human environment" and may therefore warrant the preparation of an environmental impact statement (EIS). The Commission has concluded that the proposed water withdrawal does not constitute a "major Federal action," but provides little support for this determination. The Service is concerned that the impacts of the proposed water withdrawal may be significant enough to rise to the level of a "major Federal action" and may therefore warrant a more thorough environmental analysis.

The Service is also concerned about the cumulative and secondary impacts of the actions that Duke Energy has been taking in the vicinity of the Catawba-Watersee Project. In particular, the Service is concerned about the impacts that the proposed interbasin transfer and the proposed wastewater treatment facility will have on the fish and wildlife resources in the Project area. Duke Energy, the Charlotte-Mecklenburg Utilities District and the Commission appear to be considering each of these actions separately.¹ In so doing, however, they fail to sufficiently acknowledge that these actions, when considered in the aggregate, may have significant impacts on fish and wildlife resources and their related habitat. An increased water withdrawal will require an increase in transmission and distribution facilities, and an expanded discharge will result in an increase in wastewater collection and treatment. These interrelated actions should be analyzed collectively so as to ensure that their environmental impacts are sufficiently addressed.

Specific Comments and Concerns

In addition to the general comments set forth above, the Service would like to take this

¹ For example, the interbasin transfer of the water proposed for withdrawal was analyzed in a separate environmental document, as was the construction and use of the Three-County Regional Water Reclamation Facility. See Environmental Assessment at 4-40.

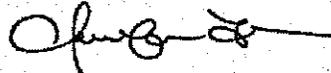
opportunity to articulate the following specific concerns:

- The Service questions the use of daily average flow levels as a means of estimating impacts on aquatic habitat. Even short-term low flows may have a significant effect on aquatic species, especially on benthic macro invertebrates. Moreover, the Service recommends that an instream flow study be conducted. The data from such a study would allow for a more thorough analysis of the effects that the proposed water withdrawal will have on future flow requirements. Also, instream flows will be a topic of concern when the Project is up for relicensing, and an instream flow study will help determine the flow patterns necessary to restore habitat diversity and maintain a healthy riverine ecosystem.
- In August 2001, the Service submitted a comprehensive plan entitled "Santee-Cooper Diadromous Fish Passage Restoration Plan," which addresses rebuilding the populations of the basin's diadromous fish. The environmental assessment did not discuss this plan and did not address how the proposed increase in water withdrawal will affect the goals and objectives of the plan.
- The environmental assessment fails to adequately address the impact that increased wastewater discharge will have on Sugar Creek.

Conclusion

Thank you for considering the Service's comments on the Commission's environmental assessment. If you have questions about this submission, please contact Mr. Mark Cantrell at 828-258-3939, extension 227.

Sincerely,



Jennifer L. Frozema
Attorney-Advisor
Office of the Solicitor

Exhibit B

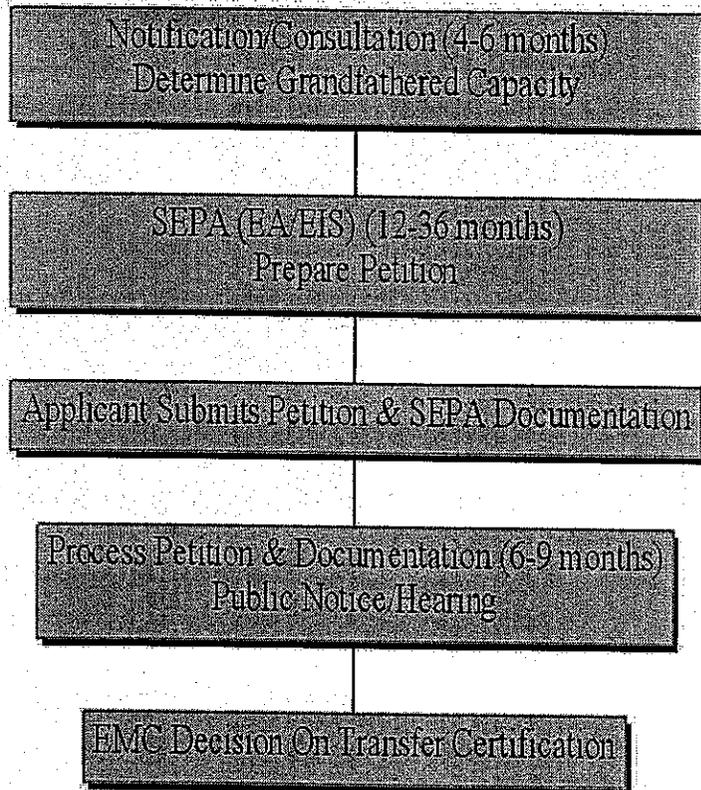
North Carolina Department of Environment and Natural Resources

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Interbasin Transfer Certification Process



NC Division of Water Resources, [DENR](#) - 1611 Mail Service Center - Raleigh, NC
27699-1611
Phone: (919)733-4064 - Fax: (919)733-3558

Last Modified:
01.15.2004

Exhibit C

North Carolina Department of Environment and Natural Resources

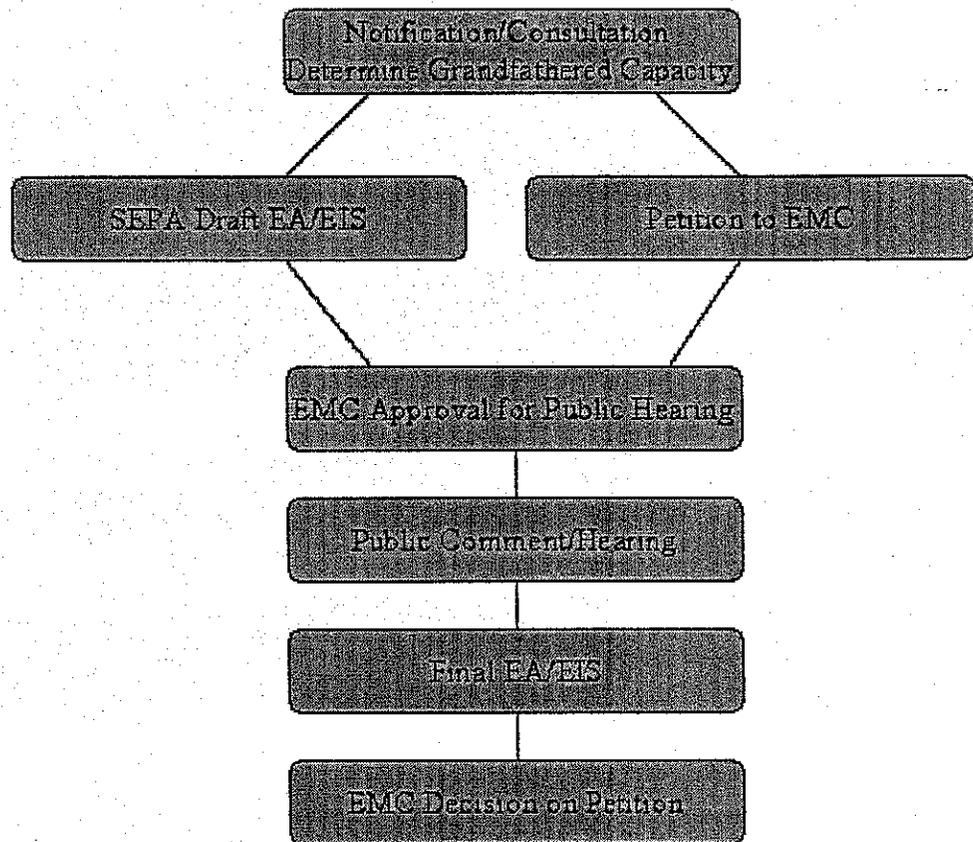
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Last Modified:
01.15.2004

Catawba RIVERKEEPER®

Catawba Riverkeeper Foundation, Inc.
421 Minuet Ln. #205 Charlotte NC 28217-2784
Phone: 704.679.9494 Fax: 704.679.9559
www.catawbariverkeeper.org

July 26, 2005

Mr. Phil Fragapane
Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

Subject: Concord Kannapolis Petition for Interbasin Transfer

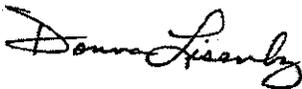
Dear Mr. Fragapane:

Please find attached an article that was printed in The Salisbury Post on July 12, 2005 titled "Landis readies for move to buy water from Kannapolis." The Catawba Riverkeeper Foundation was unaware of this sale. We do not recall Kannapolis mentioning the sale in either the IBT Petition or the DEIS.

In case you were also unaware of the sale, we wanted to bring the article to your attention. Could explain how Kannapolis can not have enough water to support its own population but is able to afford to sell water to an adjacent municipality?

Thank you for taking the time to consider this issue. We look forward to your response.

Sincerely,



Donna Marie Lisenby
Catawba Riverkeeper®

Landis readies for move to buy water from Kannapolis

By Jonathan Weaver

Salisbury Post

LANDIS — Town officials are moving forward with plans to shut down the water plant in preparation to buy water from Kannapolis.

The town board unanimously voted on Monday to plan for the construction of a new pump station, complete a study of the water system and purchase water from Kannapolis.

Town Engineer Mike Aquesta of EarthTech gave the board an outline of projects that would culminate with the closing of the town's water plant.

The water system study will take place within the next month, followed by an analysis and report to the board, Aquesta said.

Officials stressed that doing hydrant flow and pressure tests may cause water discoloration, especially in the south end of town.

Residents who see a problem with their water can call Landis Public Works at 704-857-0131.

After the study, the new above ground pump station will be designed and permits obtained.

In the meantime, officials would be in the process of shutting down the town's water plant.

That would include severing the finished water and sewer lines from the plant, draining clearwells and cleaning out and backfilling the sludge lagoon.

The final step in the process — the removal of all plant equipment — is set to be completed by December of this year, according to Aquesta's projections.

Construction of the new pump station, which will have two pumps and room for a third, is set for January 2006, with a tentative completion date of June 2006.

Landis will begin purchasing water from Kannapolis at a rate of \$2.10 per 1,000 gallons beginning Nov. 1, 2005, and the town will use the existing pump station until the new one is built.

The town likely will be able to use part of an Environmental Protection Agency grant to construct the new pump station, Aquesta said.

The grant totaled \$250,000 and the town contributed \$200,000.

Also on Monday, board members:

- * Voted to allow Public Works Director Steve Rowland to begin street and sidewalk improvements.

Rowland has a list of problem areas and plans to do asphalt overlays on South Beaver Street from Ryder Avenue to Buford Drive; Turner Street from East Mills Street to Dial Street; and the corner at Airport Road and Woodfield Drive.

Sidewalk work will include repairs at the 100 block of West Rice Street, West Ryder Avenue, South Chapel Street and North and South Main streets.

- * Approved a no parking zone on West Rice Street between South Zion and South Meriah streets.

- * Approved a four-way stop at the intersection of West Hoke Street and South Valley Street.

- * Discussed Alderman Will Beaver's letter to the editor that ran in Monday's edition of the Salisbury Post.

During the board comments portion of the meeting, Mayor Mike Mahaley read portions of Beaver's letter, which criticized the recent 4-cent property tax increase and included a section about the promise of no forced annexation.

That promise was made by Beaver, Mahaley and Alderman Tony Corriher in 2003 when the three ran as write-in candidates for the board.

Mahaley noted that Beaver cast votes in favor of the involuntary annexation ordinance that would have taken in several hundred acres along N.C. 153 and Cannon Farm Road.

A lawsuit was filed by a group of homeowners in the affected area, and the town recently rescinded the ordinance.

Mahaley told Beaver that he wished complaints or criticism would be brought up at meetings rather than in the newspaper.

"We need to quit this," the mayor said. "This town has accomplished a lot."

Beaver didn't respond.

Auction to be held Thursday

Landis will hold a public auction Thursday at 4 p.m. at Public Works, W. Blume Street.

Items up for bid include a 1991 Ford F-150 truck, a 1995 Chevrolet Caprice patrol car, computer and office equipment and tools.

Contact Jonathan Weaver at 704-797-4266 or jweaver@salisburypost.com.

©2005, The Salisbury Post

Subject: Proposal to Transfer Water to Concord and Kannapolis from the Catawba River basin
From: <POSCONN@peoplepc.com>
Date: Sun, 24 Jul 2005 09:37:48 -0400
To: <phil.fragapane@ncmail.net>

Dear Mr. Fraqapane:

This letter is regarding the requests from Concord and Kannapolis to transfer 38 million gallons of water from the Catawba River basin. I have concerns that this should happen. There seems to be a need for a more detailed investigation related to the effects and impact upon all of the Catawba River basin and Lake James. I also suggest that if allowed, the quantities should be time phased in, and that Concord and Kannapolis should be prohibited from selling any of the water.

Sincerely,

Michael Thomas
Burke County, NC

Subject: Petition for 48 million gallons of water per day
From: Jean Garrison <jeang28655@yahoo.com>
Date: Tue, 26 Jul 2005 13:57:22 -0700 (PDT)
To: phil.fragapane@ncmail.net

7/26/05

After reading the article "**Request Could Leave Lake James All Dried Up**", I feel compelled to offer comments. I have been a resident of Morganton in Burke County for my entire life to this point, and as recently as 2002, I remember the drought here that forced restrictions on local citizens including No Swimming, and No Boating. Many years ago I recall Lake James being around 165 feet deep at least at the spillway as well as most of the lake which is almost 2/3 in Burke County and 1/3 in McDowell County. During this recent drought, we saw daily how "**DRIED UP**" our lake was. Many areas that were normally under water were in fact '**DRY**'. The lake had begun to go away. This lake has been a part of our community for over 70 years, and I should point out that in 2002, we were not allowing as much as 48 million gallons of water a day to be sent to communities that are more than **TRIPLE** our population! **If Concord and Kannapolis need water, they need to find another way other than drying up our beautiful lake. We here have just completed very extensive "Zoning Changes" to allow for orderly growth along Lake James and not allow uncontrolled growth as is the case at Lake Norman. Why can't Concord and Kannapolis petition Lake Norman for 48 million gallons of water, after all, Lake Norman is three or four times larger that Lake James and much closer than we are. Please do not allow Lake James to potentially become a pond due to this request. Concord and Kannapolis are large enough communities and have considerable size to find a better way to provide water to their citizens than to IMPOSE on us and ruin our most needed resource!**

Thank You,

Richard Garrison

Morganton, NC 28655

Subject: Catawba River
From: "Jim Pearson" <jimpearson@tefronusa.net>
Date: Tue, 26 Jul 2005 07:30:31 -0400
To: <phil.fragapane@ncmail.net>

Mr. Fraqapane

I find it very disturbing that Concord would be allowed to take 38 million gallons of water a day from the Catawba River.

We have a beautiful city here in Morganton and the Lake James area is a big part of that beauty. I am afraid that allowing all that water would cause harm to the deltaic balance that the Morganton Lake James area has. There are very few industries in this area any more and we have great hopes that the retirement industry will help to boost our economy. If we damage the environment at Lake James we could lose this industry also.

Thanks for you time.

Jim Pearson
jimpearson@tefronusa.net
Alba-Waldensain/Tefron USA
201 St. Germain Ave.
Valdese, NC 28690
828-879-6519
828-238-2629

BOARD:
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C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment.

BUREAU OF WATER

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AUG 1 2005
DIVISION OF WATER RESOURCES

July 27, 2005

Phil Fragapane
Division of Water Resources
North Carolina Department of Environment and Natural Resources
1611 Mail Service Center
Raleigh, NC 27699-1611

Re: Proposed IBT for Concord and Kannapolis

Dear Mr. Fragapane:

The Department has recently become aware via a third party of the above referenced IBT Public Notice. Due to the potential significant impact of the proposed transfer to the State of South Carolina, additional time is needed to provide a thorough review of the Environmental Impact Statement. Therefore, the Department is requesting an additional 30 days beyond the current deadline until September 12, 2005 in order to submit comments concerning the proposed IBT.

Should you have any questions or comments, please call me at (803) 898-3544.

Sincerely,

A handwritten signature in cursive script that reads 'SM Clarke'.

Shawn Clarke, P.E., Manager
Water Supply and Recreational Waters Section
Water Facilities Permitting Division

cc: Alton Boozer, Bureau of Water
Sally Knowles, Bureau of Water
Larry Turner, Water Quality Modeling Section
Mark Giffin, Watershed and Planning Section

Subject: Fwd: RE: Request by Concord and Kannapolis
From: Linda Harwood <harwood7782@yahoo.com>
Date: Fri, 29 Jul 2005 06:43:59 -0700 (PDT)
To: phil.fragapane@ncmail.net

Linda Harwood <harwood7782@yahoo.com> wrote:

Date: Fri, 29 Jul 2005 06:42:38 -0700 (PDT)
From: Linda Harwood <harwood7782@yahoo.com>
Subject: RE: Request by Concord and Kannapolis
To: fragapane@ncmail.net

Phil Fragapane:

I just read with much interest an article in the local paper of McDowell County about a request from Concord and Kannapolis for a transfer of 48 million gallons of water a day from the Catawba River basin and Yadkin river basin.

I am just a concerned citizen of McDowell County and strongly oppose this request. During the drought in 2002 Lake James did not have enough water for anyone in the county to put a boat in the water. A lot of wells in the county went dry as well. Depleting the water supply in the Catawba River basin would be a grave mistake if approved by the N.C. Environmental Commission.

I agree that the Concord area is growing rapidly, but will it be at the expense of western counties, which also are growing, but at a much slower pace.

I am adamantly opposed to this request by Concord and Kannapolis.

Sincerely,

Linda Harwood
119 Carpenter Rd.
Marion, NC 28752

Start your day with Yahoo! - make it your home page

Start your day with Yahoo! - make it your home page

Subject: RE: lake james
From: Wncan47@aol.com
Date: Fri, 29 Jul 2005 15:53:46 EDT
To: phil.fragapane@ncmail.net

hi. I'm Neil Cantor from Lenoir N C. I have never seen a lake more pristine than James. its so clear you can see the bottom at about 20 or more feet. I think they want 38 million gallons for people who will use it to water their lawns. by the way, you have any idea the surface area of the lake? i know you are not the one wanting the water but gee, i know of a few wells in the area and i think they are still maintained by Mid-South Water Systems located in Sherrills Ford N C. if my figures are more or less correct, 38,000,000 gallons will take the level down between 2 to 3 feet. The lakes area is 6812 acres and i think it holds roughly at full pond 14 billion gallons . I know this is a large amount of H2O and 38 million is very small but there would be after effects. How will the water be drawn off? C-130s and choppers with bags? With planes the wildlife would be disturbed plus the agitation of the plane going in for its load would make large wakes and start eroding the shoreline. I have seen planes plus helicopters take on water long ago when I fought fire for the state so I know what happens. Why not let them get the water from Norman, Hickory or Rhodhiss? Are they too polluted for use? I know the water in Lake James is not as contaminated as the other three so they would not have to dose it high with chlorine and fluoride. I say no to taking a single pint from Lake James, simply because there is no other lake near where i am that is pure enough to keep walleye, smallmouth bass and some trout in its confines. Thank you for your time.

Subject: Water transfer from Catawba River basin
From: "Rod Birdsong" <chamber@wnclink.com>
Date: Tue, 2 Aug 2005 13:49:42 -0400
To: <phil.fragapane@ncmail.net>
CC: "Bob & Anne Long" <bayshorebob@verizon.net>, "Mitch Gillespie" <Mitchg@ncleg.net>, "Keith Presnell" <keithp@ncleg.net>, "Ken Harris" <ken@harrisrealty.org>, "Chuck Abernathy" <meda@mcdowell.main.nc.us>, "Chip Cross" <cross_4@charter.net>

TO: Mr. Phil Fragapane
N.C. Dept of Environment & Natural Resources
Division of Water Resources

**RE: Request by Concord and Kannapolis for water transfer
of 38 million gpd from Catawba River basin**

Mr. Fragapane:

This is to urge the NC Division of Water Resources to take all necessary steps to provide environmental and economic impact studies for Lake James prior to any decision being reached concerning the requested water transfer to the Concord area.

Any transfer that will permanently lower the water level in Lake James would not only affect the property values of numerous homes in McDowell and Burke counties, but could be detrimental to fish and wildlife habitats, restrict recreational opportunities, and especially would create an unacceptable impact on the outstanding scenic beauty of the lake. These risks are of great importance to us.

I will appreciate direction from you as to appropriate means by which our organization can continue to express our serious concerns in this matter.

Thank you,
Rod Birdsong

cc: Rep. Mitch Gillespie, NC General Assembly
Sen. Keith Presnell, NC General Assembly
Chip Cross, President, McDowell Chamber of Commerce
Chuck Abernathy, Manager, McDowell County
Ken Harris, Chair, Lake James State Park Advisory Committee
Bob Long, Member, Lake James Environmental Assoc.

Rod Birdsong, Executive Director
McDowell Chamber of Commerce
1170 W. Tate St., Marion NC 28752
Tel. 828-652-4240 / Fax 828-659-9620

Visit us on the web at www.mcdowellchamber.com
To unsubscribe, please send email to chamber@wnclink.com.

Subject: [Fwd: Concord/Kanapolis IBT]
From: Tom Fransen <Tom.Fransen@ncmail.net>
Date: Mon, 08 Aug 2005 13:32:08 -0400
To: Phil Fragapane <phil.fragapane@ncmail.net>

Subject: Concord/Kanapolis IBT
From: "Danny Johnson" <JohnsonD@dnr.sc.gov>
Date: Fri, 5 Aug 2005 14:28:35 -0400
To: "Tom Fransen" <Tom.Fransen@ncmail.net>

Tom,

As follow-up to our recent conversation in Badin regarding the subject IBT, I've re-discussed the matter with Bud and our Division Director, and the consensus opinion is that the transfer is not large enough to be of concern to us. Besides, we get it back in the Pee Dee where we may need it more anyway. So, we have considered the proposed transfer and do not feel we are sufficiently aggrieved to warrant commenting on the permit application. Thanks for the info on it.

Danny

Tom Fransen <Tom.Fransen@ncmail.net>
River Basin Management Section Chief
North Carolina Department of Environment and Natural Resources
Division of Water Resources

Concord/Kanapolis IBT **Content-Type:** message/rfc822
 Content-Encoding: 7bit

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AUG 11 2005

To: Phil Fragapane, Division of Water Resources, DENR, 1611 Mail Service Center, Raleigh, NC 27699-1611 or Phil.Fragapane@ncmail.net **DIVISION OF WATER RESOURCES**

From: George S. Butler, President of the Lake View Shores (LVS) Owners' Association

Date: August 6, 2005

Subject: Comments concerning the Cities of Concord and Kannapolis Interbasin Transfer (IBT) Proposal

Lake James is developing rapidly. The **Lake View Shores Owners' Association**, represents several home and property owners on Lake James. Because of our significant financial investment, we have an important stake in being represented in this process.

Unless there is a firm standard for minimum water level of 1194 feet on Lake James, we oppose approval of the proposed IBT. Our reasons are:

- The impact analysis did not use valid scientific comparisons. It used water supply data from the year 2000 and water demand data from the year 2002 as well as essentially ignoring the possible impact above Lake Norman in the Catawba "chain."
- In 2002, those living on Lake James experienced serious drought conditions which affected water quality and quantity. We were 8 feet below full pond. Boat ramps and the state park swimming area were closed. Many private and commercial docks were damaged resulting in significant expense to their owners. This low level may have also affected our wells because the water table was so low.
- Increasing the total amount of usable water for all concerned may require lowering water intake pipes in Lake Hickory, Norman, etc., and correcting the excessive silt problem that is occurring in the west end of Lake James.
- It is unclear who will pay the extra costs to provide water to Concord and Kannapolis (lowering water intake pipes downstream of Lake James, dredging out the silt if necessary), or if property/homeowners on Lake James will be compensated for any loss they experience as a result of such transfer (i.e., dock repairs, lower property values, dry water wells, etc.)
- McDowell county's most valuable resource is Lake James. A water diversion to benefit other counties could undermine the economic development strategy of this county (namely, tourism). McDowell County has suffered severe unemployment as manufacturing plants have cut back and closed all together.

- A system wide approach/plan for adequate water is necessary before piecemeal changes are approved for water needed several years in the future. Also, the FERC process with Duke Power is currently underway, and could have a significant impact on future water demands put on Lake James.
- It cannot be emphasized enough: Before water transfers occur during extreme drought conditions, downstream users must be doing everything possible to conserve their water, e.g., no lawn/garden watering, car washing, street washing, pool filling, etc.
- It is unknown:
 - How many more requests will be granted if approval is granted to Concord and Kannapolis?
 - Will this beautiful resource be ruined as a result?
 - At what point will Lake James be drained dry?

Thank you for your consideration of our concerns in making your decision.



George S. Butler, President
Lake View Shores Owners' Association
255 Magnolia Drive
Nebo, NC 28761

Subject: Concord/Kannapolis IBT Request
From: "Gwen P Straub" <gwenpstraub@verizon.net>
Date: Sun, 07 Aug 2005 23:11:29 -0400
To: <phil.fragapane@ncmail.net>

Mr. Fragapane:

The cities of Concord and Kannapolis have requested from the N.C. Environmental Commission a transfer of 48 MGD from the Catawba and Yadkin River Basins into the Rocky River sub-basin. This is twice as much water as their expected shortfall of 24 MGD by 2035. To transfer more water than they need is unwise. The temptation to profit from the sale of the excess water is too great for most cities. Plans to sell water to the city of Landis are already moving ahead.

As I understand it, the original petition for the IBT said nothing about these municipalities selling water to Landis. When a city makes money selling water to its citizens or to other cities, there is no incentive to conserve. Moreover, it greedily eyes more development and growth to bring more profit. Some cities' future budgets depend on the profit from water sales. (.50 on every \$1.00 is routine in some states) It is imperative that North Carolina discourage revenue generated in this manner because it will result in loss of water quantity and quality as well as our magnificent natural lands.

If you approve the transfer, I urge you to phase it in over the years to meet their immediate needs only - and prohibit the sale of excess water.

My main concern is the environmental impacts of the transfer. The draft EIS predicts no significant impacts or changes in hydrology to the rivers or Lake James. Some of us are not so sure and request that you use a drought year with which to model. What amount of dryness would require the lowering of Lake James to sustain the downstream river flow? Presently, I must oppose approval of the proposed IBT because there is no standard for minimum water levels in Lake James. I am a homeowner in Nebo overlooking the lake. The economy of this area depends on its health and beauty. We must be vigilant that no direct, indirect or cumulative impacts damage either. We need more information, more comprehensive assessments, more studies before supporting a transfer of water of such magnitude as is requested here.

Please include my comments in the public record on this matter. Thank you.

Sincerely,

Gwen P. Straub
27 Magnolia Drive
Nebo, N.C. 28761

Maynard Taylor, Chairman
Wayne F. Abele, Sr., Vice Chairman
Wesley Abele, Commissioner
Jack Carroll, Commissioner
Ruth Ann Suttle, Commissioner



Ron Lewis, Manager
Vicki Craig, Clerk to the Board
Dan Kuehnert, Attorney

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AUG 8 2005

Burke County

DIVISION OF WATER RESOURCES

RESOLUTION IN OPPOSITION TO AN INTERBASIN TRANSFER

WHEREAS, the County of Burke is located in the upper Catawba Basin and has portions of Lake James, Lake Rhodhiss, and Lake Hickory, as well as approximately eighteen miles of free flowing Catawba River within the county boundaries, and

WHEREAS, the County of Burke has long been recognized as promoting excellence in stewardship of our natural resources, maintaining high environmental standards, and for providing leadership at the local level through both regulatory frameworks and partnerships with public and private sectors, and

WHEREAS, it is in the interest of Burke County residents and property owners to ensure that adequate water is available in the river and impoundments for health, safety, drinking, commerce, and recreational pursuits, and

WHEREAS, drought conditions in the historic and recent past have meant water shortages for counties and municipalities in the Catawba River Basin, and

WHEREAS, the County of Burke is currently working with Duke Power and numerous other stakeholders in the Catawba River Basin from both North and South Carolina to establish the terms of the next hydropower license, to be issued by the Federal Energy Regulatory Commission, for dams throughout the basin that will further define future water needs for the population within the basin, and

WHEREAS, the relicensing of the Catawba River Basin hydropower facilities is nearing completion and will be providing useful data about water quality and quantity that should be considered before any interbasin transfer request is approved, and

WHEREAS, approval of any interbasin transfer requests to remove water prior to the evaluation of future water needs within the Catawba River Basin itself would create an unacceptable precedent which could lead to even more future withdrawals that fail to consider the needs of our citizens.

NOW, THEREFORE, BE IT RESOLVED THAT the Burke County Board of Commissioners does hereby respectfully request that the interbasin transfer

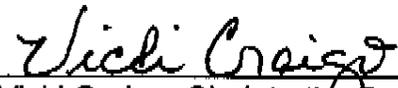
petition submitted by the cities of Concord and Kannapolis not be considered until information from the relicensing process concerning the long-term water needs of citizens located within the Catawba River Basin have been accounted for. Furthermore, a policy determining the process for future interbasin transfer requests should be established in a manner that is acceptable to local governments that are already dependent on the Catawba River for their current and future water needs.

DULY adopted this 2nd day of August 2005.



Maynard Taylor, Chairman
Burke County Board of Commissioners

Attest:



Vicki Craigo, Clerk to the Board



PLEASE DON'T DRAIN LAKE LAMES

Subject: PLEASE DON'T DRAIN LAKE LAMES

From: "RIK'S CORVETTE PARTS" <RIKSVET@RIKSVET.COM>

Date: Wed, 10 Aug 2005 20:26:07 -0700

To: phil.fragapane@ncmail.net

Dear Mr Fragapane,

Please do not approve the request to send the water from Lake James to the Concord-Kannapolis area. We treasure our beautiful lake, and would hate to see it compromised because of development in another area. Low water levels from past droughts have caused enough damage to the land and to residential docks and structures, we do not need the chance it could happen even worse if the water level is low to begin with. SAVE LAKE JAMES!!

Thank you for your time.

Sincerely,

Rik & Laurie Craig

Morganton NC

(828) 443-7909

Y



Western Piedmont Council of Governments

736 Fourth Street SW, Hickory, NC 28602

P. O. Box 9026, Hickory, NC 28603

828-322-9191 - Fax: 828-322-5991 - www.wpcog.org

Over 30 Years of Regional Leadership

August 10, 2005

Mr. Phil Fragapane
Division of Water Resources
NC DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

Subject: Comments on the interbasin transfer petition for the cities of Concord and Kannapolis

Dear Mr. Fragapane,

The Catawba River Study Committee consists of individuals representing local governments, nonprofit organizations and businesses from Alexander, Burke, Caldwell and Catawba Counties in western North Carolina. This Committee, which is staffed by the Western Piedmont Council of Governments (WPCOG), serves in an advisory role for 28 local governments within the Hickory Metro on issues including water quality, water safety and recreation, and land use within the upper Catawba River basin.

Residents within this region depend on the Catawba River for water supply, electricity and recreation. Concerning the proposed interbasin transfer request made by the Cities of Concord and Kannapolis, the Committee has concerns that water withdrawals of the magnitude under current consideration could affect the ability of currently permitted local governments' to meet the region's future consumptive and nonconsumptive needs. Therefore, based on the Committee's review and discussion of the draft environmental impact statement and interbasin transfer request, the Committee offers the following comments and requests on the interbasin transfer proposed by Concord and Kannapolis.

1. The decision on whether to grant the petition request should be delayed until the current relicensing studies have been completed by Duke Power Company. Duke Power is currently evaluating the water supply needs for the basin over the next 50 years. Because we anticipate that enhanced flows to support recreation and aquatic life will be required under the terms of the new license, we believe it is advisable to determine what the actual negotiated flow requirements will be so the CHEOPS Model can provide state staff and the Environmental Management Commission (EMC) with more certainty regarding future long-term water needs within the basin.
2. It is unclear whether the staff analysis and resultant environmental impact statement adequately addresses the impacts of a severe drought on water supply, similar in magnitude to that experienced by the state just a couple of years ago. We would urge state staff to ensure that this and future water supply forecasts for the Catawba River take a very conservative approach in lieu of the challenges many water providers found themselves facing not long ago.
3. The Committee requests that the EMC direct staff with the Division of Water Resources to develop policies and regulations for eventual EMC consideration that provide guidance statewide on how future interbasin transfer requests will be evaluated. The current evaluation and issuance of such requests on a first-come, first-serve basis appears to provide a poor framework for making decisions regarding a finite natural resource.

Thank you for the opportunity to comment on this petition.

Sincerely,

R. Douglas Taylor
Executive Director

cc: Hickory Metro Local Governments

*R. Douglas Taylor, Executive Director · Alden E. Starnes, Chairman · Nicky E. Setzer, Vice -Chairman · Kitty W. Barnes, Secretary · Bruce E. Meisner, Treasurer
Jack F. Roberts, Past Chairman · At-Large Members: Wayne F. Abele, Sr. · Carl W. Evans, Sr. · Granville W. Morrow · W. Darrell Robertson*

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Subject: Concord & Kannapolis Request on Water Transfer from Catawba & Yadkin River Basins
From: ROBERT D STONE <likeastonejoybob@sbcglobal.net>
Date: Thu, 11 Aug 2005 20:56:17 -0700 (PDT)
To: phil.fragapane@ncmail.net

August 11, 2005

Mr. Fragapane, thank you for encouraging comments on the requested transfer of water from the Catawba & Yadkin River Basins.

The people and public who enjoy, live on, and depend on Lake James, the Catawba, and Yadkin River Basins are "planning for the future" (to quote Henry Waldroup) just as much as the towns of Concord and Kannapolis. The present, as well as the future of one of the only remaining water recreational resources in Burke, McDowell, and Catawba counties would be seriously compromised by a request such as this. There is no good reason that these cities *have to* expand, particularly at the expense of "quality of life" issues, recreational opportunities for our state's citizens, and in some cases, as in the recent drought, economic loss. A reduction in water levels would make future situations even worse. The request for significant quantities of water by Concord, Kannapolis, and most any other city for that matter, (1) is speculative, (2) seeks to lock in a commitment years in advance with no chance for reversal at a later date, (3) overlooks other ways to improve their infrastructure, economic base, and city vision beyond mere expansion, (4) simply takes without giving back, and in some cases, even profits from selling the water to other communities, (5) perpetuates a dangerous precedent, (6) promotes a false sense of urgency at the expense of thorough impact studies, and (7) compromises a resource that already is used and valued by our citizens. The public loses out when the current and planned state parks on Lake James are threatened; when families, fishermen, boaters, swimmers, wildlife and fish find their environment diminished; when the beauty and peacefulness of water settings are replaced by brown shorelines and dead trees. I trust that the North Carolina Department of Environment and Natural Resources will protect the interests of our citizens in their right to enjoy some of the best things in life.

Sincerely, Robert D. Stone, 2065 Waterford Way, Morganton, NC 28655

115730

WSACC

WATER & SEWER AUTHORITY
OF CABARRUS COUNTY

Office: 232 Davidson Hwy.
Concord, NC 28027

Mail to: P.O. Box 428
Concord, NC 28026-0428

Phone: 704.786.1783
Fax: 704.795.1564

August 16, 2005

The Honorable Michael Easley
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

AUG 17 2005

RE: Resolution of Support to the City of Concord and the City of Kannapolis for Obtaining an Interbasin Transfer

Dear Governor Easley:

Enclosed please find the certified copy of the Resolution of Support to the City of Concord (Concord) and the City of Kannapolis (Kannapolis) for Obtaining an Interbasin Transfer (IBT) Certificate (Resolution), which was addressed in your letter of July 25, 2005, from Michael M. Quickel, Chairman of the Board of Directors of the Water and Sewer Authority of Cabarrus County (WSACC). The certified copy of the Resolution was inadvertently left out of the mailing.

I apologize for any inconvenience this may have created.

Very respectfully,

Jamie Y. Small
Jamie Y. Small
Secretary-Treasurer

jys

Enclosure

cc: WSACC Board of Directors
Coleman M. Keeter
Central Files

**RESOLUTION OF SUPPORT TO
THE CITY OF CONCORD AND THE CITY OF KANNAPOLIS
FOR OBTAINING AN INTERBASIN TRANSFER CERTIFICATE**

WHEREAS, the Water and Sewer Authority of Cabarrus County (WSACC) was formed by a collective effort of Cabarrus County (the "County", the City of Concord ("Concord"), the City of Kannapolis ("Kannapolis"), the Town of Harrisburg ("Harrisburg") and the Town of Mt. Pleasant ("Mt. Pleasant) (collectively the "Jurisdictions"); and

WHEREAS, the Jurisdictions executed an agreement on February 18, 1993, designating WSACC as the lead planning agency for water and sewer planning purposes within Cabarrus County; and

WHEREAS, WSACC is a regional authority serving the needs and interests of the Jurisdictions and is contracted for the preparation of a water and wastewater master plan, which identifies and projects the future water needs of the Jurisdictions; and

WHEREAS, WSACC is knowledgeable of the fact that Concord and Kannapolis have made a unified request to the North Carolina Environmental Management Commission (NCEMC) for an Interbasin Transfer (IBT) Certificate from the Yadkin and Catawba River Basins; and

WHEREAS, WSACC has supported the efforts of Concord and Kannapolis in obtaining an IBT, which will ensure an adequate water supply for Cabarrus County's future needs; and

WHEREAS, WSACC is aware of the opportunity and need to share its support for the IBT with local political representatives as well as contacts within State government during the extended public comment period and until such time the IBT is obtained.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Water and Sewer Authority of Cabarrus County that:

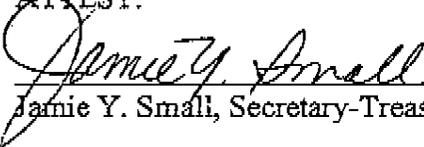
The Board supports the unified efforts of Concord and Kannapolis in obtaining the IBT from the Yadkin and Catawba River Basins to ensure an adequate water supply for Cabarrus County's needs.

Adopted this the 21 day of July, 2005.



Michael M. Quickel, Chairman

ATTEST:

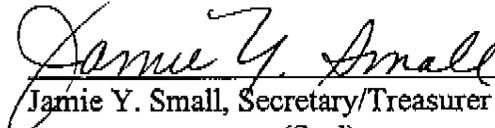


Jamie Y. Small, Secretary-Treasurer

CERTIFICATE OF RECORDING OFFICER

The undersigned duly qualified and acting Secretary-Treasurer of the Water and Sewer Authority of Cabarrus County (WSACC) does hereby certify: That the attached resolution is a true and correct copy of a resolution supporting an Interbasin Transfer Certificate for the City of Concord and the City of Kannapolis, as regularly adopted at a legally convened meeting of WSACC duly held on the 21st day of July, 2005, and, further, that such resolution will be fully recorded in the journal of proceedings and records in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 16th day of August, 2005.



Jamie Y. Small, Secretary/Treasurer
(Seal)

RECEIVED

SEP 27 2005

DIVISION OF WATER RESOURCES

CITY OF MORGANTON NORTH CAROLINA

RESOLUTION IN OPPOSITION TO AN INTERBASIN TRANSFER

WHEREAS, the City of Morganton is located in the upper Catawba Basin and has portions of Lake James, Lake Rhodhiss and Lake Hickory, as well as approximately eighteen miles of free flowing Catawba River within the county boundaries, and

WHEREAS, the City of Morganton has long been recognized as promoting excellence in stewardship of our natural resources, maintaining high environmental standards and for providing leadership at the local level through both regulatory frameworks and partnerships with public and private sectors, and

WHEREAS, it is in the interest of City of Morganton residents and property owners to ensure that adequate water is available in the river and impoundments for health, safety, drinking, commerce and recreational pursuits, and

WHEREAS, drought conditions in the historic and recent past have meant water shortages for counties and municipalities in the Catawba River Basin, and

WHEREAS, the City of Morganton is currently working with Duke Power and numerous other stakeholders in the Catawba River Basin from both North and South Carolina to establish the terms of the next hydropower license, to be issued by the Federal Energy Regulatory Commission, for dams throughout the basin that will further define future water needs for the population within the basin, and

WHEREAS, the relicensing of the Catawba River Basin hydropower facilities is nearing completion and will be providing useful data about water quality and quantity that should be considered before any interbasin transfer request is approved, and

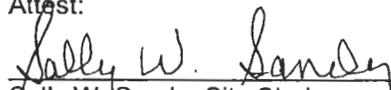
WHEREAS, approval of any interbasin transfer requests to remove water prior to the evaluation of future water needs within the Catawba River Basin itself would create an unacceptable precedent which could lead to even more future withdrawals that fail to consider the needs of our citizens.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Morganton City Council does here by respectfully request that the interbasin transfer petition submitted by the cities of Concord and Kannapolis not be considered until information from the relicensing process concerning the long-term water needs of citizens located within the Catawba River Basin have been accounted for. Furthermore, a policy determining the process for future interbasin transfer requests should be established in a manner that is acceptable to local governments that are already dependent on the Catawba River for their current and future water needs.

DULY adopted this 12th day of September 2005.


Mel L. Cohen, Mayor

Attest:


Sally W. Sandy, City Clerk



Phil Fragapane
NC Division of Water Resources, DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

RE: Concord Kannapolis Interbasin Transfer Environmental Impact Statement

Dear Mr. Fragapane:

We are disappointed that additional time was not provided for us to give the draft Environmental Impact Statement (EIS) the thorough review that we believe it requires. We were not notified directly of the draft EIS, and learned about it from the Catawba Riverkeeper Foundation, Inc. Because an extension of the deadline will not be allowed, we can only offer these brief comments. Items that must be addressed include the following:

- The interbasin transfer (IBT) should not be approved until the relicensing of all the hydroelectric dams in the Yadkin and Catawba basins has been completed by the Federal Energy Regulatory Commission (FERC). These licenses will determine water quantity needs related to required minimum flow releases from dams in North Carolina and South Carolina.
- The conclusions of the draft EIS are questionable because the drought of record was not used in determining the impact of the proposed IBT on the Catawba basin.
- The volume of the proposed IBT should be evaluated along with all of the existing IBTs to determine the overall cumulative effect in the Catawba basin.

In conclusion, the Department does not have sufficient information to support the IBT as proposed. We would like the opportunity to review any revisions that are made to the draft EIS.

Please contact Shawn Clarke at 803-898-3544 if you have any questions.

Sincerely,

Alton C. Boozer, Chief
Bureau of Water

cc: Joe Rucker, P.E.
Sally Knowles
Shawn Clarke
Mark Giffin