

Catawba/Wateree Basin Advisory Commission Meeting April 21, 2006

The meeting was held at the Tega Club House at Tega Cay, SC. The meeting was called to order by Senator Wes Hayes (Chairman) at 10:05 am.

The minutes from the meeting on January 13, 2006, were approved, with one correction of a name as requested by Tim Mead.

Sally Knowles from SCDHEC gave an overview of other interstate basin commissions. A copy of the PowerPoint presentation is attached. Most interstate basin commissions are pursuant to interstate compacts, joint legislative acts of the member states and Congress, and have technical and administrative staff. Discussion followed. Some points of discussion were:

- * Q: Do the commissions take priority over EPA? A: Most interstate commissions are treated as states by EPA. But depending on the individual arrangements, the interstate commission could supercede an individual state agency action.
- * Q: Would an interstate commission add an additional permitting layer? A: If the interstate compact granted the commission regulatory and permitting authority, there could be an additional permitting layer.
- * Q: Are any of the other commissions similar to the Catawba/Wateree, *i.e.* do they contain a chain of lakes? A: No.
- * Q: Why were many of the interstate commissions formed? Most predated the Federal Clean Water Act (FCWA) so this was a way to have similar water quality standards and controls within one basin. That isn't needed now with the FCWA and EPA oversight. All interstate commissions address water quality but few address water quantity, a significant issue for the Catawba/Wateree. Typically, unless states want to get into issues regulated by the federal government, there is no need for an interstate compact. Compacts are often used when states don't like federal process adequately addresses their concerns and will impart additional regulatory authority.

David Baize from SCDHEC gave a presentation on proposed South Carolina legislation S. 1159. This bill amends the South Carolina Surface Water Withdrawal and Reporting Act to require a permit for certain surface water withdrawals. It also incorporates the Interbasin Transfer Act. Senator Hayes, sponsor of the bill, indicated that it would likely not pass this year, but he would reintroduce it next year.

- * Q: At what level would existing users be grandfathered? A: The permit quantity would be based on historical use.
- * One current water user thinks the intent of bill is good, but is concerned with the details such as safe yield and minimum flows. He is concerned that public process necessary for the bill and permitting is subject to interpretation. He is concerned about what may be considered reasonable use. He is also concerned how issues which may be seen as competing such as fisheries, water quality, and economic development, will be considered.
- * A comment was made that Duke's study for FERC relicensing identifies water needs for next 50 yrs. Are those numbers realistic; projections must be reasonable to get a handle on water needs. Mr. Baize responded to this statement that capacity limits must be recognized.

- * Q: If this bill becomes law would the Duke model be used to determine minimum flow needs? A: 7Q10 would be used as the baseline and then there would be a process to determine if another minimum flow, perhaps higher than 7Q10 , was more appropriate.
- * A comment was made that an advisory group should establish growth projections for different geographic areas and use this information to determine water needs for the future.
- * Q: Will all withdrawals require a permit; will there be a threshold? A: There will be a trigger of 3 million gallons per month, the same trigger for surface water withdrawal reporting. Other states have permitting triggers; these triggers also protect existing users.
- * Q: Does South Carolina currently have an interbasin transfer permit requirement. A: Yes.
- * Q: Does the bill require a permit for withdrawal even if the water is returned to the same river? A: Yes, but whether or not the use is consumptive will be taken into consideration. If most water is returned, *i.e.* the use is non-consumptive, it would be easier to permit than total consumption. But there must also be consideration to where the water will be returned.
- * Q: Since reservoirs increase water storage could we build more storage? A: The permitting process for new reservoirs could be very long and arduous.
- * Q: Would projections be made with additional storage or existing storage? A: We are looking at existing storage.
- * A comment was made that both states would have to be aware of the relationship between state and federal laws. State permitting would not overrule FERC or other federal laws. But federal law does not cover water withdrawals.

There was considerable further discussion on projecting water needs, denying permits if there could be an impact in the future, and determining current withdrawal limits based on projections.

John Morris from NCDENR apprised the Commission on NC's position on using Duke's CHEOPS model and LIP Protocol. He has confidence in the CHEOPS model but does see a few shortcomings. It takes a long time to run and is very data intensive but is the best model for Catawba. Ed Bruce from Duke stated that the CHEOPS time steps can be modified to speed up model run time. CHEOPS was designed for specifically relicensing; states may want to modify it to be more flexible for water use purposes. With regard to enforcing the LIP, current withdrawers are bound by signing Duke's Agreement in Principle and Final Agreement. If NC were to issue an interbasin transfer permit from within Duke's project boundary, NC would condition the permit that it must also meet the LIP. North Carolina can manage droughts under House Bill 1215. All local governments must have drought management plans in place. These plans could help achieve compliance with the LIP. Senator Clodfelter suggested that perhaps the NC drought bill could be amended to say in the Catawba basin, local governments must comply with Duke's LIP.

Mr. Morris then provided an overview of NC Surface Water Permitting programs. The NC Water Use Act addresses surface and groundwater if there are multiple users and coordination is necessary to avoid water depletion. The Environmental Management Commission (EMC) can declare Capacity Use Areas and develop an administrative rule for permitting in that area. The process may be slow to get going but positive points are the process focuses regulatory attention on areas where it is most needed (where water depletion most likely) and requires development of

a custom designed water plan and permitting program. North Carolina has a ground water capacity use area in a 15 county coastal area. They were considering a surface water capacity use area for the Eno River but local governments stepped in and wanted to try to manage the water use themselves. A drawback with this program is there is no permitting for surface water withdrawals, other than interbasin transfers, unless the EMC declares a capacity use area. NC can also attempt to regulate surface water withdrawals if other department permits are needed and the NC Environmental Policy Act requires a comprehensive environmental assessment. A drawback to this approach is that this act applies only if the project wi with public money or on public lands.

Discussion followed about the differences between relying on other permitting programs to address surface water use indirectly or to have a permitting program that addresses it directly. SC recognized that existing programs had shortcomings and believes a surface water permitting program is the better way to go. NC

Senator Clodfelter offered that both states needed to move in the same direction. He believes NC needs similar legislation or at least better coordination with for SC's proposed program to work. He stated that interstate cooperation needed. SC doesn't know how much water coming in from NC. The two states need better coordination. John Morris stated that if the NC General Assembly passed a bill, DENR could effectively administer it.

Senator Hayes proposed forming an *ad hoc* committee to evaluate H. 1159 and report back to the Commission. Nick Stegall and Donna Lisenby were named as co-chairs. The Commission approved this action.

Gary Faulkenberry asked DHEC to present its position on using the CHEOPS model and the LIP. Sally Knowles responded that CHEOPS is satisfactory for purposes of FERC relicensing, but may not be appropriate for other permitting programs. SC will abide by the LIP. Dick Christie of SCDNR stated his agency is very glad to see the LIP in AIP. DNR has to evaluate additionally to ensure that it is in sync with State Water Plan.

Gary Faulkenberry commended CMU for completing a wastewater treatment plant upgrades to achieve a phosphorus reduction of 70%.

Dick Christie of SCDNR gave an overview of their role in FERC relicensing. A copy of his presentation is attached. There was no specific discussion.

Senator Hayes scheduled the next meeting. Jerry Campbell with the Mountain Island Lake Marine Commissions offered to host it and provide a lake tour. This next meeting will be scheduled for late August and the following meeting in late November or early December. Proposed agenda items for the next meeting are growth forecasting. Senator Clodfelter asked the two COGs (Catawba in SC and Centralina in NC) to make this presentation.

Bud Badr of SCDNR gave a presentation on the South Carolina State Water Plan. A copy of this presentation is attached.

Questions/comments-

Q: Does plan break down into subbasins? A: Yes 4 subbasins.

Q: If SC has had this water plan for many years, why has it taken so many years to propose permitting? A: Surface water withdrawals, other than interbasin transfers, were not seen as a problem until the recent extended drought and the talk of merchant power plants locating in SC.

This brought attention to the need to regulate consumptive water use in addition to IBTs. The plan can provide guidance for potential permitting.

There was discussion on the value of one water supply plan, shared by the two states, for the entire Catawba basin. Would a single plan be able to deal more effectively with potential new users?

Donna Lisenby, the Catawba RiverKeeper, gave a presentation on the drought in the Catawba basin. A copy of this presentation is attached. The drought has been more serious in NC but is extending into SC. The Catawba is in drought-watch mode. The SC Drought Response Committee is going to meet next week if no rain this weekend. (Note: The committee met but no drought was declared

David Baize of DHEC announced that Sally Knowles is retiring from State government May 31.

The meeting adjourned at 2:20pm.

Commissioners in Attendance

Senator Wes Hayes

Senator Dan Clodfelter

Senator Austin Allran

Representative Eldridge Emory

Representative Becky Carney

Nick Stegall

Mark Hollis

Tim Mead

Mark Farris

Jerry Campbell

Joe Stowe

Gary Faulkenberry