

**Minutes from the Catawba/Wateree Basin Advisory Commission Meeting
August 18, 2006**

Senator Hayes called the meeting to order at approximately 10:05. Introduction to the Carolina Raptor Center was given by staff.— Allen Barhart. Senator Hayes noted 1-year anniversary of Commission and that Senator Clodfelter will be the next chairman.

Approval of minutes from previous meeting- John Morris submitted written additions to the minutes about interstate compacts, in particular the fact that there are a number of river basin compacts and commissions involving water withdrawals from multiple reservoirs (a chain of lakes) located in more than one state. These comments also provided additional information and observations about FERC involvement, federal preemption of water quality issues and the history of interstate compacts. A motion was passed to add this information and approve the meeting minutes as amended.

A surface water withdrawal legislation subcommittee update was given by Donna Lisenby (Catawba Riverkeeper Foundation). Last meeting Senator Hayes appointed her and Nick Stegall (City of Rock Hill) to co-chair a committee to improve the language of the proposed SC Surface Water Withdrawal and Reporting Act. The committee has met twice and includes business, industry and homeowners. So far there has been good participation –including representatives of Duke Energy, Progress Energy, Farm Bureau, Springs Industry and others. Committee members have reviewed bill exemptions, definitions, and the preamble. Definitions will include safe yield (the maximum amount of water that can be withdrawn that does not cause damage) and consumptive use. A consensus process will be used to encourage full public participation. The committee is operating under ground rules whereby the bill introduced is the default and proposed changes must have full consensus to change the bill. Twenty people usually attend the committee meetings and they will continue to meet monthly to reach a consensus version of the bill with the goal of being able to introduce it in January. The Meetings are held in Columbia.

Mark Hollis pointed out that this will be a statewide bill and not just for the Catawba-Wateree basin.

Jasper County and members from lower SC are interested in an agreement with GA establishing a policy of 50/50 use from the Savannah River (currently GA withdraws considerably more water than SC). The upstate representatives to the committee want collaborative information sharing and planning with NC.

Senator Clodfelter stated that if we depend on a common system we need to stay connected. He asked if the committee should have a liaison connection with

NC so that they can keep track of the bill (possibly useful for when NC changes their legislation). He wants NC legislation to be similar to that of SC with the same definition of safe yield etc.

Senator Shaheen expressed support for the idea and moved that the committee request an official NC liaison. It was also suggested that NC have a SC liaison when they start working on their bill. Motion for request for a NC liaison and a SC liaison was approved. John Morris and Robin Smith will work with NC staff to find the right person.

Senator Hayes hopes revised bill will be submitted in January.

Senator Clodfelter feels it is important for NC to have someone attend the committee meetings. And John Morris mentioned that he may have some suggestions for the committee.

Donna Lisenby asked for comments and suggestions regarding the legislation.

Update on Relicensing of Duke Projects in the Catawba Basin:

Mark Hollis introduced Jeff Lineberger, manager of hydropower relicensing to update the Commission. Jeff pointed out that 3 years ago 160 people started in a negotiation process. Which wound up at a good place in terms of the final agreement, that the majority of stakeholders signed. Based on a show of hands, about half of the Commission meeting attendees participated in the process.

Now the process is in Duke Energy's (Duke's) hands; they will file the license application and Final Agreement (FA) with the FERC. He stated Duke's understanding that they have the responsibility to manage a public trust resource. Jeff provided a handout explaining the balance achieved among different interests including lake levels, aquatic species habitat, water quality and water supply management. A new license would allow Duke to continue operating the present facilities for 30 to 50 years, therefore the application is voluminous and has to account for many things as well as balance the various interests. The parties that signed the final agreement will reconvene in September to see if changes are needed. If modifications are needed the parties will have to sign a revised FA by December.

By January 15, 2007 Duke will deposit funds in escrow accounts, \$4 million in NC and \$5.2 million in SC, to allow agencies to purchase lands for conservation and recreation. Duke is confident that there is a good agreement and Duke will stand behind it. On June 30 Low Inflow Protocol (LIP) goes into effect. The Drought Management Advisory Committee will begin meeting soon and water users will be reviewing their local drought plans for consistency with the LIP. Jeff stated that he is particularly proud of the Water Management Group concept that evolved during relicensing discussions. Water withdrawers and Duke will work together and contribute funds to support actions to improve water quantity

management under the new license. The goal is to protect the water supply for the future. He estimates that the combined contributions to the Water Management Fund from Duke and water withdrawers will be about \$500,000 per year.

On September 1 wildlife agencies will reevaluate what goes on around hydro stations regarding safety and recreation, designation of exclusion zones, sirens etc. There is a groundwater monitoring component that will be reviewed and used to revise the LIP plan. Regarding water management, there has been unprecedented cooperation with water suppliers, who will contribute to fund initiatives to protect water quantity and quality and help make sure water is available in 40-50 years. March 1, 2008 Duke Energy will reevaluate recreation needs for Lake James area, in NC. Duke has a good working relationship with NC Wildlife Resources Commission, who currently maintains 33 access areas for improved boating and fishing. Duke Energy and NCWRC are negotiating to continue this arrangement under the new license.

Additional water quality testing is underway this summer to understand the ability to improve water quality using existing equipment. Duke will test all equipment to measure D.O. increases to better predict how equipment will perform for water quality certifications. Many things still going on; have moved from negotiation to actually doing things. Based on the handout provided, the schedule of additional work after Final Agreement (FA) is signed is as follows:

- By August 22, 2006- FA parties comment on Draft Explanatory Statement to prepare FA for filing with the FERC.
- By August 31, 2006- Duke files License Application and signed FA with the FERC
- By October 2006- FA parties decide if any rebalancing is needed, and revise and file FA accordingly
- By November 15, 2006- FA parties sign any revised FA and Duke files revised FA with the FERC
- By June 30, 2007- Local governments revise drought response plans and ordinances to support Low Inflow Protocol
- By September 1, 2007- Duke, NCWRC and SCDNR identify any boater/swimmer exclusion zones around dams and develop plan to implement.
- By December 31, 2007- Duke updates its FERC Public Safety Plans and files for FERC acceptance.
- By December 31, 2007 Duke, Water Management Group, and Drought Management Advisory Group revise plan for groundwater monitors.
- By January 2008- Water suppliers and Duke finalize charter for Water Management Group and begin meeting.
- By March 1, 2008- NCDENR, Duke and Crescent Resources identify any potential trails or public access additions within/adjoining conservation easement areas in NC.

- By August 31, 2008- NCWRC and Duke renew maintenance agreement for NC access areas.
- Prior to filing applications for 401 Water Quality Certifications-Duke to add detail as needed to Water Quality Monitoring Plan and Flow and Water Quality Improvement Plan based on 2006 testing and engineering designs.

Senator Sheheen asked about the water management group. Jeff Linberger responded that the group will address and support water shortage response planning, evaluation of water intake elevations and the ability to lower intakes in the future to increase available supply, sedimentation issues; public education and possibly water quality issues. Currently they are working under general guidelines emphasizing open communication and will be developing a charter to determine how the plan will be implemented.

Senator Clodfelter asked David Baize why SC did not sign the FA. David said it was a legal issue concerning DHEC's regulatory role. He also asked Robin Smith about the FA. She indicated that NCDENR liked the document and signed it.

In response to concern expressed by Susan Hamrick-Jones and others, Jeff Lineberger indicated that Duke and water suppliers have addressed security issues around dams and water intakes. Lineberger indicated that public water systems have primary responsibility for security at their intake locations. The water management group may address this issue; however, complete security is impossible.

Update on proposed Concord Kannapolis Interbasin Transfer (IBT): John Morris (NC Division of Water Resources) apologized for errors made in modeling included in the Final EIS. Modeling done for the FEIS overstated the IBT amounts and there was some unit conversion problems. They have strong organizational value for accuracy and are considering Impacts to water use, lake levels, flow etc. They have been relying on one engineer to run the model, but have added 2 more engineers' work on it and have also asked DevineTarbell & Associates (Duke's Consultant) to review the new (CHEOPS) modeling. Long range water supply plan that Duke did was taken into consideration. The NC Environmental Management Commission (EMC) has extended the comment period until to the end of September; and will have another public meeting September 7, 2006 from 5:00-8:00 PM at the Old Rock School Auditorium (400 West Main St.) in Valdese, NC. In their process the NC EMC takes concerns of people in the basin seriously.

Regarding the history of IBT regulation in NC the Commission has approved only three: one in the triangle area associated with allocations of water Jordan Lake; one in the piedmont triad area associated with Randleman Reservoir; and Charlotte Mecklenburg Utility's certificate for transferring water from the Catawba River. These approvals were not rubber-stamped. The EMC made modifications in requests and added conditions dealing with limitations of filling lakes, included

reopeners, etc. The NCEMC will likely do the same with the Concord Kannapolis IBT request, and will likely be very conservative. By the end of August the technical document will be corrected; by the end of October to the first of November the three hearing officers will re-examine all information from meetings and hearings, as well as technical information, to make recommendations to the EMC. The recommendations will be made public for comment.

John pointed out that the water permitting bill in SC, currently has no mandatory public notice or hearings and no requirement for an environmental impact analysis. NC regulations require all three of those things for certification of an IBT. He recommended that the SC bill should require those things. The public should be involved before decisions are made. Senator Hayes agreed that this is good idea.

Donna Lisenby said those requirements could be put in the bill or DHEC can include public review and comment as part of the regulatory process to implement the law.

Senator Clodfelter pointed out that NC public hearing requirements emphasizes notifying downstream users but not upstream users presuming that there are no upstream impacts, but that is not true. He stated his opinion that the process should be amended to include upstream users. The river basin definition includes all parts including outside of the state.

John Morris stated that all water users in the Catawba basin are considered. Duke led the effort as part of relicensing by developing detailed 50 year projections of water use. The results of the study are built into the computer model that is used for analyzing the effects of IBTs. This study also provides an additional set of projections to which other estimates can be compared. Concord Kannapolis IBT analysis looks at the next 30 years. The IBT analysis also used the worst-case drought and considers all basin large water users including those in SC. NC is well aware of upstream concerns.

Susan Hamrick Jones – 3 other IBTs approved; why is upcoming meeting in Valdese a meeting vs. hearing. John Morris explained that the hearing officers decided on the format. The meeting will give people a chance to comment on the corrected information. They are also soliciting written comments. Hamrick Jones asked if requirements are different for a hearing vs. meeting? Morris encouraged people to provide written comments. The meeting will not have a transcript as a hearing would; however, hearing officers will attend. Hamrick Jones encouraged legislature to amend the requirements to include upstream users. Senator Clodfelter recommended having another hearing (have had 2 hearings).

Gary Faulkenberry thanked John Morris for extending comment period and having another meeting. He pointed out that downstream people have concerns and recommended that a meeting be held for people in South Carolina. He

thought if citizens have chance to attend the meeting it will be good for relations. Faulkenbury asked if the principals of safe yield be used in latest analysis? John Morris stated that a safe yield is easy to do for a single reservoir, but is very difficult with a large system; looking at 50 yrs in the future, considering growth etc. The water supply study, funded by Duke, looked at growth, what will happen in a drought; changes in lake levels etc. as a way of looking at the yield of the Catawba system.

Jeff Lineberger stated that Duke and FERC also review any new intake placed in project boundary-in terms of quantity. A 404 permit might also be required from the Corps of Engineers for construction only.

One person stated that there is a lot of fear about negative impacts from the IBT and it is important that people be made aware of the level of analysis that goes into the decisionmaking. It is a quality of life issue. There is a lack of knowledge in York Co. John Morse stated that they are addressing that issue in the revised document and considering impacts of the proposed IBT during future droughts compared to current conditions.

Senator Shaheen asked if a consensus is reached, can we, as a committee, suggest an additional meeting or hearing? He recommended and moved that the Commission request that an additional hearing be held; the move was seconded. A short document will be sent to NCDENR. Regarding another hearing to be held, Senator Clodfelter suggested checking to see if hearing requirements are adequate.

Senator Shaheen asked where in the permitting process are they? John Morris stated that they were 5 years into the process. Two public hearings have been held. The EMC has extended the comment period to September 30, 2006. Also the modeling errors have been corrected. After all the comments are reviewed the hearing officers will provide recommendations to EMC. There is no preliminary permit. An IBT certificate only pertains to the transfer of water all other usual permits are still required. In this case construction of new facilities is not required right away since initially Concord Kannapolis intends to purchase water from CMU using existing facilities.

Hamrick-Jones asked what the process is for Canada's largest bottled water facility to withdraw water, since it has a facility in NC. How is that regulated if they sell bottled water outside of the basin, is it an IBT? John Morse explained that the river basin planning process includes 50-year projections for all types of water use, considers increased demand; then constructs a hydrologic model. This model piggybacked on Dukes model which shows impacts to reservoir levels and river flows. NC interbasin transfer statutes address water supply. NC regulations provide for designation of Capacity Use Areas where the water supply is stressed. In designated CUAs a permit is needed. Otherwise there is

no permitting requirement for water withdrawals. Currently, a bottled water withdrawal would not need a permit.

John Morris observed that a petition could be submitted to the EMC to request that the Catawba be designated as a Capacity Use Area (requiring permits for water withdrawals); this would be a rulemaking process and certain criteria would have to be met.

In response to the question are IBTs permanent once issued or could they be changed, John Morris stated that IBT certificates typically have a reopener so they could be revisited if new information becomes available or if an error was made.

Hamrick-Jones suggested that the State should look harder at long term issues and maybe limit the term of IBT certificates. Morris responded that that could be a suggested change to the legislation but that the reopener provisions included by the EMC provides an opportunity to revisit certification.

Senator Clodfelter-suggested that IBT permits should be limited to the life of current water supply plans.

Growth forecasting in the Catawba Basin Mike McLaurin (Centralina COG) and Mike Vead (Catawba Regional COG) provided a handout of their presentations.

Mike McLaurin

The Catawba River is the economic engine for the area; hydropower, industry, domestic uses etc. NC population projections used 2000 census as baseline and 1970 census for background. These were broken down into census tracts and the percentage of population in the Catawba basin was determined for each county. They also used Regional Travel Demand 2030 projections where they were available and state demographer projections to 2030. The 2000-2030 projections were inflated to 2050, considering growth trends. As a check they compared Mecklenburg totals with CMUD 2050 projections. They estimated total populations and growth rates. Individual county growth rate graphs were presented on handout. NC growth rates for the entire basin from 1970-2000 was 42% total with an annual growth rate of 1.2%. Growth rates from 2000-2050 are projected to be 143% total, with an annual growth rate of 1.8%. The NC basin population in 1970 was 800,000; 2000 population about 1.15 million; 2050 projected population about 2.8 million.

John Morris asked if those the numbers Duke used? Mike Vead said he didn't think so- only certain counties in Catawba basin.

Mike Vead

SC methodology used actual 1970 – 2000 census numbers for each county to determine growth rate. He established a 2005 population estimate for each county using residential building permit data. He determined the growth rate

between 1970 and 2005 for each county and then projected 2050 population using the average of each county's growth rate between 1970 and 2005 multiplied by its 2005 population. His analysis focused on five counties that have appreciable populations.

Results for SC portion of basin: 1970 basin population of 153,400; 2000 basin population of 246,300; 2050 basin population of 568,727. 1970-2000 basin wide growth rate of 61% or 2.1% annually; 2000-2050 basin wide growth rate of 131% or 2.6% annually. Vead feels that the 2050 projection represents reasonable data. Graphs of growth trends for Chester, Fairfield and Kershaw Counties, Lancaster County, and York County were provided in the handout. Overall Catawba Basin summary: Basin wide population totals have increased steadily since 1970; Since 2000, Mecklenburg county and the surrounding counties have begun to experience accelerated perhaps even historic rates of growth; the 1970 population estimate for the basin was 953,400; by 2000, the basin's population had increased to 1,396,300; by 2050; the basin's population is projected to have reached 3,368,727. Mike made the following additional observations: Based on building permit data from 2000-2005, he is seeing historic growth. Population growth poses significant challenges to maintaining what we have. We will need to change land uses (typical developments) and develop with natural resource protection in mind and change to stricter zoning which might prevent detrimental impacts to vital natural resources. If mass transit is not developed we will be in trouble from an air quality perspective and also traffic congestion. We need to develop water quality buffers, keep sediment on site through erosion and sediment controls and fund enforcement of ordinances. Intergovernmental cooperation must be much better. These challenges are manageable if we make changes and manage growth..

Senator Clodfelter asked if there is a correlation between population density and water use, e.g., 2xpeople=2x water? We can't get 2x water from Mountain Island Lake. Mike McLaurin mentioned that people can use toilets that use less water. In NC Robin Smith commented that water use has actually increased more than population due to watering lawns etc.

Lunch

Overview of Marine Commissions Jerry Campbell (Mountain Island Lake) and Joe Stowe (Lake Wylie)

Jerry Campbell-Introduced commission members Pam Beck and Dan Duval and a handout highlighting Commission accomplishments was provided. Mountain Island Lake Marine Commission was established through a Joint Resolution of Gaston, Lincoln and Mecklenburg counties consistent with enabling legislation approved by the state in 1997. The Commission's authority includes all matters relating to or affecting the use of Mountain Island Lake and it's shoreline to 1,000 feet from full pond level. The commission strives to preserve and protect water quality, property, wildlife, and to protect and promote public safety for matters

relating to and affecting the use of Mountain Island Lake in the best interest of all the citizens and property owners in all three counties. Senator Clodfelter has been a supporter of the Commission. Major accomplishments highlighted in presentation:

- Conducted annual Blue Fin award recognizing citizens for voluntary work to improve water quality and environmental awareness on Mountain Island Lake. Awards went to Fred Hutchinson (2005), Pam Beck (2004) and Donna Lisenby (2003).
- Supported Mount Holly application to the Clean Water Management Trust Fund to acquire land along Mountain Island Lake.
- Coordinated and conducted "River Sweeps" in coordination with Mount Holly and Duke Energy.
- Updated the Marine Commission brochure explaining safety regulations on the Lake
- Completed work on the Neck Road Boating access road resulting in an improved road design allowing boating launching to be more evenly distributed on the lake.
- Held a Holiday Safety Press briefing at 3 local Television Station's News Department reporters at the Riverbend Access area prior to the July 4, 2006 Holiday in an effort to promote safety and encourage personal responsibility while boating on the lake.
- Worked with the news media to provide information to the public on safety during floods.
- Investigated the feasibility of extending the Nance Cove no-wake zone
- Clarified the FERC closure regulations for boat landing access areas in times of emergencies (flood or drought).
- Made presentations to Gaston, Lincoln and Mecklenburg County's Boards of Commissioners regarding the Commission's operational plans, related expenditures and accomplishments.
- Conducted MILMC/LWMC joint meetings and participated in presentations to local officials concerning the IBT proposed by the cities of Concord and Kannapolis.
- Developed and implemented a "Basic Operational Plan" (BOP) for the Commission to outline and track activities.

Also, the Commission is looking into funding for the educational state forest and considering an administrative no wake area. -what if the Commission can't get support from wildlife agencies?

Joe Stowe Presentation: The Lake Wylie Marine Commission uses same legislative format, governing body etc. as the Mountain Island Lake Commission. It serves both states including York, Mecklenburg and Gaston Counties. Seven commissioners meet monthly. They strive to keep constituents informed, including developers (such as offering suggestions for runoff control), marinas and docks owners. They conduct joint meetings with the Mountain Island Lake Commission to address issues such as the proposed Concord Kannapolis IBT. Their mascot, a remote controlled boat, is taken to gatherings and talks about

water safety and is an effective tool. The Commission also works with law enforcement agencies including SCDNR, NCDNR and the county's law enforcement agencies on items such as recovering bodies at Busterboy Bridge.

The Commission acquired hand held radios to facilitate communication and they attend monthly meetings with county agencies to address law enforcement issues. The commission also works with Duke Energy and York County Emergency Services and SCDNR; SC drownings are reported to SCDNR. The Commission provided an office, boathouse and ramp for SCDNR to facilitate quicker response. The Commission coordinates between NC and SC and keeps people informed about different laws in each state.

Donna Lisenby commented that the Lake Wylie Marine Commission was created after an accident on the lake. An interstate compact (NC and SC) created identical legislation, which was presented to U.S. Senate. Senator Clodfelter mentioned that the NC-SC boundary is not clear in one area due to the inability to locate an existing boundary marker.

David Baize announced that the SCDHEC Catawba Basin Watershed Water Quality Assessment document is available. This week the SC State Drought Committee declared 1st stage drought for the Savannah River Basin and York, Lancaster, Chester and Kershaw counties in the Catawba/Wateree Basin. This will trigger increased monitoring and allow water systems to implement conservation measures.

Pam Beck expressed concern about security at water supply intakes and the need for quick response from law enforcement. Three weeks ago the alarm went off at the Gastonia water intake, the warning speaker came on and stayed on. She called and no one ever showed up. Alarm continued and she left. Law enforcement agencies are understaffed. There is a pressing need for law enforcement at Mountain Island Lake.

Robin Smith (NCDENR) discussed workshops for land use planning to protect aquatic wildlife the will be conducted by NCDENR to help local governments to use land use planning to protect endangered species etc. The presence of endangered species can be an impediment to development. They are developing guidelines for getting through the permitting process, mitigation etc.

Jerry Campbell mentioned that there is a stakeholder committee with Rusty Rozzelle (Mecklenburg County) to discuss phase 2 stormwater permitting. He thinks it would be helpful to have information on that topic.

Senator Hayes addressed the next meeting pointing out that water quantity issues have been the main interest the past year; need direction for next meeting.

Senator Clodfelter-suggested a more detailed report on draft legislation for SC.

Senator Sheheen-would like an update on IBT
2 issues for next meeting

Jerry Campbell-can give update on efforts to educate municipalities regarding
phase 2-stormwater permitting.

Tim Mead mentioned that Mecklenburg County has developed post construction
stormwater ordinances for 6 municipalities involving citizen stakeholder
committee, developers, environmentalists etc.-update.

Senator Clodfelter wanted to know how stormwater permitting is done in SC
David Baize said he could bring in stormwater staff for a brief update on
stormwater permitting in SC.

Next meeting will concentrate on the Concord Kannapolis IBT and surface water
withdrawal legislation in SC. Brief updates can be provided for phase 2
permitting and education in NC, Mecklenburg County post-construction
ordinances, and phase 2 stormwater permitting in SC.

Susan Hamrick Jones-mentioned that Mike Struve left the Bistate Catawba River
Task Force.

Pam Beck provided information regarding the Mountain Island Lake boat tour
which was held after the meeting.

Meeting adjourned 2:45.