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**Comments for the Environmental Management Commission
Regarding the Proposed Falls Lake Rules**

Submitted by Karen Rindge, Executive Director
WakeUP Wake County
August 13, 2010

Thank you for giving the public the opportunity to provide comments on the proposed Falls Lake rules. WakeUP Wake County is a nonpartisan group representing 3,000 citizens concerned about rapid growth and Wake County's future. We are voters, business people, educators, homemakers, grandparents, students and more who want to ensure that our communities are healthy and competitive in the long run. We formed four years ago as a voice for taxpayers who believe we need to plan well for growth.

Wake County is growing significantly. The Triangle region will add 1.2 million people in the next two decades, posing an increased burden on our drinking water supplies. The Raleigh metro region is the second fastest growing in the nation, resulting in even greater dependence upon Falls Lake to provide clean water to downstream residents. We simply cannot afford to NOT act – to clean Falls. Half a million people – and many more to come – depend upon it.

WakeUP very much appreciates the hard work of the EMC, NC DENR and municipal staff and officials in developing these draft rules. We are pleased to see your commitment to cleaning Falls Lake.

WakeUP Wake County offers these comments:

Given expected growth, we have an opportunity to change how we develop in order to protect and treat water by keeping stormwater on site. Despite advances in Low Impact Development (LID), the rules fail to emphasize its use. The rules direct new development to focus on antiquated structural controls like detention basins, while only making LID optional. This is a major missed opportunity. **On-site stormwater capture and filtration to attain original hydrology should be required in all new development in the watershed.** Total water volume requires controls in order to minimize stream bank erosion. Aside from causing erosion, water volume flowing off properties also carries nutrients. LID is the most cost effective way to control volume.

Stage I should be implemented on a much shorter timeframe than proposed (WakeUP has urged a shorter implementation timeframe throughout the rules process). The data shows the lower lake is much cleaner than the upper, thus much easier to achieve nutrient reduction goals. There is no reason to push the cleanup process out many years given that the goal only goes back to 2006 pollution levels. Considering how impaired the lake is, we should act without delay. WakeUP recommends Stage I cleanup in 5 years and views even the seven year option as a significant compromise.

Stage I should require higher reductions in phosphorus (going beyond 2006 levels).

Municipalities could achieve greater phosphorus reductions easily and without cost by banning the use of lawn fertilizers with phosphorus. Municipalities could benefit by receiving credit for these reductions. Postponing all stricter reductions to Stage II will only make achieving them tougher in the long run.

Stage II is also critical, and we endorse the proposed rules for addressing both upper and lower Falls. We cannot abandon the upper lake given how polluted it already is. Nutrient reduction targets for the lake are supposed to be achieved within 25 years, but the rules already concede any hard requirements on this. The rules build in too much flexibility for local and state governments and provide opportunity to adjust action. The rules should not be changed to allow a halting of the clean up process while performing a re-analysis of the model. New data can be reviewed by the EMC, but Stage II must proceed. The rules must clean up the entire lake because:

- Pollution won't stay in one part of the lake, so stopping with just the lower lake will not get the job done over the long run.
- We need to plan now for the impact of future development, so rules will help businesses and local governments plan wisely. The lake's impaired condition could have been avoided if upstream municipalities planned development better fifteen years ago.
- People swim, fish, and boat in the upper lake; fish and wildlife live there. Federal law requires that people and wildlife who use the lake must be protected.
- Delaying action to clean the upper lake will simply increase the financial burden for upstream governments in future years. What's more, federal standards and requirements will likely get tougher, not easier.
- Durham took strong action years ago to ensure their water-supply watershed for Lake Michie was protected. The city has an obligation to take responsibility for its past irresponsible development decisions permitting widespread development in the Falls watershed.
- Previous government officials were alerted to the risks of developing in the Falls watershed. The Cadmus Report, among others, spelled out the results of traditional development and high impervious surface percentages on the water quality of Falls Lake. Nonetheless, decisions for intense development were made upstream, despite known consequences.

While the state's cost estimate of \$1.5 billion has upstream governments concerned and opposing needed cleanup actions, it's critical to consider several points on the costs before rejecting action because of cost outcries:

- **The \$1.5 billion cost estimate is a worst-case, conservative estimate.** And the cost would be shared by many parties – public and private. Just how much? Our nonprofit Falls coalition estimated that using 2010 population numbers, **the \$1.5 billion would cost each resident**

living in the watershed just 72 cents per day (over the 25 year period). This projected per-resident estimate assumes no population growth, which there will be, meaning even less per person. Even the worst-case cleanup estimate is a fair investment for clean water.

- **Downstream water users bear increasing costs to cleanup Falls.** Raleigh Public Utilities' costs have already escalated due to expensive filtration and increased applications of chemicals. Raleigh has projected sizable costs for increasing treatment, potentially half a billion dollars. These costs will be born by Wake taxpayers who are not responsible for pollution in the upper watershed.
- **Local governments could and should push redevelopment of urban properties, which would improve current stormwater runoff and share costs with developers.** Let's promote good development practices as development occurs. Urban infill in place of greenfield projects could be cheaper for developers, if a lower percentage of nutrient reductions is required, which ultimately saves local governments retrofit costs.
- **Technology for stormwater capture/filtration is improving and the costs are coming down,** especially because municipalities all over the country are driving the demand for it. When the Neuse Basin requirements were established in 1993, Raleigh was concerned that the standards were unattainable, but by 1998 Raleigh was able to meet the standards as technology improved. What's more, federal requirements will likely change, driving new technologies to meet tougher standards.

The timeframe for implementing point source upgrades in Stage II should be moved up. Under the current rules, wastewater treatment plants do not need to achieve full reductions until 2036 – the very end of the 25 year plan. In order to achieve nitrogen and phosphorus reductions, point source upgrades are critical. Point source upgrades should be moved up several years to around 2028.

NCDOT requirements are different -- this doesn't make sense and is not equitable treatment. NCDOT should be held to same nutrient reduction standards as local governments and developers.

The timeframe for agriculture achieving full nutrient reduction goals is too long. Reductions for agriculture – especially for fence-outs – should be achieved in Stage I. Overall nutrient targets for the agriculture cannot be met in the long run unless the implementation dates are moved up.

While septic system pollution is not part of rules addressing Chlorophyll A, local governments that institute programs to upgrade failing septic systems should be able to get Existing Development credit. Septic systems are the main cause for beach closures in Falls Lake, and are a significant and growing source of run-off.

New Development nutrient reduction percentages should be increased. Before the purchase of credits is permitted, the percentage of nitrogen and phosphorus that must be reduced should be increased. Again, the use of LID measures to control volume and increase natural filtration should be

required to help meet reduction goals. **Credits should be a last resort for new development.**

Another option that the New Development rules should consider is **banning mass grading as a significant step for reducing run-off.** When mass graded, Triassic soils in the Falls Watershed fail to percolate and are notoriously impervious.

Hundreds of Wake citizens have signed a petition and sent in public comments calling for strong Falls Lake rules and faster timeframe for achieving goals. These citizens understand that **Falls Lake rules are truly about the future for our community, and taking responsibility today, rather than passing problems to future generations.**

Thank you very much for the opportunity to submit comments.