

Durham Chamber of Commerce Response to the Proposed Falls Lake Nutrient Rules

After listening to the North Carolina Department of Natural Resources overview of the Falls Lake Nutrient Rules and their accompanying report and recommendations, listening to the comments from the audience, as well as applying my understanding and insight of the development process in Durham, the Durham Chamber of Commerce has the following thoughts.

Before articulating our thoughts, the Durham Chamber of Commerce does want to go on record as supporting a clean environment and environmentally compatible development. Over the years, the Durham Chamber of Commerce has worked with local government rather than oppose them as they designed and promulgated environmental regulations. Durham right now has the most restrictive development regulations pertaining to storm water of any county in the state. Moreover, the City of Durham and Durham County implemented storm water control development regulations starting in the mid-1980s, far in advance of other communities in the state. As a result, city and county authorities have substantial and knowledge expertise regarding storm water controls and understand what works and what does not work. Various Durham City and County staff members provided their testimony at the June 30 public hearing and their comments deserve great attention based upon their experience and knowledge. Having said all of this, the Durham Chamber of Commerce does seek to support cost effective means to improve the quality of Falls Lake and the Jordan as well.

1. The cost benefit chart that was developed and shown at the June 30 public meeting actually showed that it was cheaper to contaminate the lake than it was to purify the water for public consumption. We also believe that the comments the speaker at the Durham public hearing made about the financial calculations involved in the cost that will accrue to Durham are more accurate than the calculations prepared by the state because of the speaker's knowledge and expertise and the foundation for comments regarding the financial impact calculations.
2. At the meeting, I learned that the water quality for the Falls Lake statistically speaking is improving, albeit at a rather slow pace, but it is improving. It was interesting to learn that the water quality of the lake within Wake County jurisdiction is deteriorating and the aerial mapping showed a significant degradation of the lake. This makes us think that Wake County needs to be a significant partner, both financially as well as organizationally, in developing and implementing proposed solutions designed to improve the quality of the lake.
3. While the state has tried to wrap this issue as a Durham problem and tried to make Durham liable for a substantial amount of the cleanup costs, in

fact the cleanup costs should be shared by all counties contributing storm water runoff to the lake as well as the Federal and State governments. Our rationale for including the Federal and State governments will become evident shortly.

4. After listening to the comments regarding the design of Falls Lake, and studying the hydrology and design of the reservoir, it becomes readily apparent that the upper portion north of I-85 is not conducive to high water quality because of the shallowness of the lake and soils composing the lake bottom. Moreover, there is a tremendous amount of organic material in the lake that was left when the reservoir was constructed that contributes to the lake's water quality issues. No one can point a finger at a "bad design" because the natural topography of the land was not altered and that resulted in upper portion of the lake being a shallow pool of water and the money was not spent to grade this area of the proposed lake to a greater depth. When the lake was built, a great deal of organic matter we left in the lake as well as this material is also contributing to the lake's less than desirable water quality. Saving money when the lake was built does seem to create long-term negative issues to the lake. It just seems natural and fair to take this consideration into account before penalizing upstream counties for natural forces that shaped the topography of Falls Lake.
5. We believe that the state is also focused too heavily upon development while underestimating the effects of agriculture, wildlife and air deposition of nutrients into the lake that travel from other regions in the country. The basis for our thoughts is that if one looks at the pollution maps that have been created by MCNC in past years, it is quite evident through various forms of aerial photography and analysis that the Midwest has been contributing to North Carolina's air and water pollution for decades. A few years ago, the City of Durham became concerned because its two reservoirs which are highly protected began to experience an increase in phosphorus and nitrogen without any readily identifiable point or non-point sources of contamination. The City Storm Water staff then looked up in the sky. The staff studied and then began to understand the role that air deposition of contaminants played in the increasing concentration of nitrogen and phosphorus in the City of Durham's two drinking water reservoirs began to play in the decline of water quality of the city's reservoirs. It is my understanding that the City of Durham is now collecting data on air deposition issues involving the water quality of our reservoirs. We are not trying to say that local storm water controls should be discarded; we are just trying to make the point that there were other sources of contamination of the storm water runoff rather than focusing too highly on development. Of course, the role of waste water plants in adding nitrogen and phosphorus to the lake is also a significant consideration.

6. The State has made the assertion at the meeting that stormwater must be controlled on a development by development basis and this is in turn making development extremely expensive. This is also an approach we feel is not as effective a solution as the State thinks. We say this because the requirement would only affect new development and even though the state is going to require more storm controls on existing development, this is a measure that will be very expensive and difficult to implement. Our thought is to allow communities the flexibility and ability to develop within their community regional or sub-basin storm water controls. These controls could then potentially allow active storm water improvement devices and mechanisms to better improve water quality for new projects and even existing projects. What we would see would be the ability to create a more economical scale of storm water control that could lead to improved water quality and better performing storm water control measures and performance. The situation becomes particularly important in urban areas with dense development such as downtown Durham and other neighborhood development areas. Under the current scenario, each development has to control their own storm water projects thus could make the project cost prohibitive. In essence the proposed state requirement would economically derail Durham's successful downtown renaissance and urban redevelopment while at the same time spurring suburban development, a public policy initiative that is not being sought by Durham or our Chamber. Urban sites are small and the development density is very intense thus making areas for retention ponds or on-site storage of storm water very expensive and difficult to develop and manage. The private sector in Durham is already beginning to develop the storm water control concepts to achieve a sub-basin stormwater control mechanisms. We hope the State will review the concept and be helpful towards the development of this concept and not a hindrance or obstacle.
7. Our Chamber is actively researching and seeking other ideas and concepts from other countries and from the private sector with regards to their stormwater control and stormwater quality improvement efforts and mechanisms. The state for decades has been focused on passive storm water control measures such as stormwater retention ponds and similarly engineered structures on individual projects without considering the larger picture. The State has consequently pushed local government to adopt the same approach since the State has the ultimate power of approving eligible and acceptable stormwater control devices. A review of active water quality improvement devices and approaches revealed a number of options; options which we do not know have been examined and considered by the state which in the end may cost less and better improve stormwater quality and overall lake quality. These devices and mechanisms may also work on a sub-basin or regional basis versus on a per project basis.

The state for decades has been very focused on passive storm water controls implemented on a project by project basis and I believe that there are other avenues to consider that may more dramatically improve the quality of the Falls and potentially the Jordan reservoir that have not been considered. It is clear based upon the review provided by the state that more creative ways of looking at solutions has not been undertaken. The cost benefit model presented by the state clearly shows this assertion. While I respect the effort and thought put into the nutrient rule regulations, I feel as though the state and the staff have looked at it at too small of a scale rather than taking the opportunity to look at the issue from a higher level and gain an appreciation as to the comprehensive aspects of this issue and the potential solutions.

In the event the state moves forward over the facts presented by Durham and the salient objections put forth by Durham, we sincerely hope that the state will involve all jurisdictions in the creation of solutions to the Falls Lake issues. This is not a Durham County, Granville County or any other county's sole responsibility-- it is the responsibility of an entire watershed region that requires federal and state support and involvement.