



**Environmental Law & Policy Clinic
Box 90360
Durham, NC 27708-0360**

Ryke Longest, Director
Telephone: (919) 613-7169
Toll Free: (888) 600-7274
Fax: (919) 613-7262

August 16, 2010

John Huisman
NC DWQ
1617 Mail Service Center
Raleigh, NC 27699-1617

By e-mail to: john.huisman@ncdenr.gov

RE: Comments on proposed rules for Falls Lake

Dear John,

By July 1 1983, all waters of the United States were supposed to be fishable and swimmable. These were the straightforward goals of Congress when it enacted the Clean Water Act amendments. In 1981, the Falls dam was completed and the EMC has taken a number of actions since then to curb nutrient inputs to Falls lake since. In addition numerous non-regulatory strategies have been applied to try and prevent the decline in water quality. These measures have not worked. As proposed by some stakeholders, we could take longer deciding how to clean up Falls Lake, than we took actually making it dirty.

As written, the rules call for the "Stage II" plan to achieve just half the required reductions by 2036. The rules set no end date to bring Falls Lake into compliance with water quality standards. The EMC is without authority to bless by rule an indefinite state of non-attainment. The draft proposal effectively reclassifies the lake to a lower designated use. In effect, the upper end of the lake is now going to be de facto classified as a treatment system to protect the center stretch and the lower portion of the lake.

Writing off the next couple of decades violates the Clean Water Act. To do a use attainability analysis, the EMC must observe the procedural requirements of the Act. The upper portions are used for fishing, swimming and boating now. No part of Falls Lake can legally be reclassified to a standard lower than 'fishable and swimmable.'

I write to urge you to issue final rules that provide for cleanup of the entire lake, including the most polluted upper end of the lake. Fight the temptation to put off the hard work for the next generation to accomplish. In 2036, this region will be facing much greater population pressure. By 2030, the City of Raleigh alone will have grown beyond 600,000 people if current trends continue. The demand on the water source will become critical even as the threat to its use explodes.

August 16, 2010

Page 2

Setting ambitious goals is the key to success in water quality. The Clean Water Act requires the State to act to restore water quality, not just study it and report on its progress. While controlling pollution will cost sums of money; uncontrolled pollution imposes even greater costs further down the line. Had local government leaders in the 1980's and early 1990's done more, we would be facing lower costs now. At that time, they were concerned that restrictions would do too much to squelch development. Instead, growth was even higher than they ever imagined. Now actual reductions of loadings are required, not indefinite timetables for incremental progress.

We know that the answer to Falls Lake's problems is not more of the same. During the grueling process ahead, there will be many proposing to change the rule to allow more time to do more of the same; followed by a cost benefit study; which would then be followed by more of the same. More of the same got us where we are now. Kicking the can down the road may be politically expedient, but it is not the directive of the EMC. Rather, it is the policy of this state to protect its lands and waters for the benefit of all its citizens.

Very Truly Yours,

/S/

Ryke Longest, Director
Environmental Law and Policy Clinic

cc: Alissa Bierma