

The Governor's Water Law Review Committee
September 5, 2003

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| Present: | Mr. Steve Spitz | Dr. Bob Becker |
| | Mr. Ken Hill | Mr. Gene McCall |
| | Mr. Dean Moss | Mr. Fred Richardson |
| | The Honorable Thayer Rivers | Mr. Lynn Stovall |
| | Mr. John Tiencken | The Honorable Frank E. Willis |
| | Mr. Lynn Youmans | Ms. Elizabeth Hagood |
| | Mr. Mike McShane | |

Present by Phone: The Honorable John Few

Guests: Mr. Joey Holleman, The State
Mr. Jacob Jordan, The AP
Ms. Jenny Costa Honeycutt, USC Law School
Dr. Bud Badr, DNR
Mr. Danny Johnson, DNR
Mr. David Baize, DHEC
Mr. Alton Boozer, DHEC
Mr. Alfred H. Vang, DNR
Mr. Hank Stallworth, DNR

Call to Order/Welcome: The September 5, 2003 meeting was called to order by Chairman Steve Spitz at 10:45 a.m. In compliance with the provisions of Section 30-4-80(e), (Freedom of Information Act), notification of this meeting was given to all persons, organizations, local news media, and other news media which have requested such notification.

Introduction of Committee Members: Each Committee member introduced himself and gave a brief overview of his background. Mr. Spitz read a portion of the Executive Order giving the Committee the right to conduct a comprehensive review of South Carolina's water laws and recommend changes that would improve those laws.

The Honorable Thayer Rivers represents Hampton and Jasper counties in the General Assembly. He is a lawyer in Ridgeland representing landowners, various environmental organizations, and others.

Mr. Lynn Youmans is from Hampton County where he is a farmer. One of his primary interests is to make sure that South Carolina gets its fair share of water in any dealings with Georgia. He chairs the Water Committee for the S.C. Farm Bureau and also co-chairs the Land, Water and Conservation Division Advisory Committee of the Department of Natural Resources (DNR). He serves on various other committees dealing with the environment and wildlife.

Mr. Frank Willis is Mayor of the City of Florence. Last year during the drought, he created and now chairs the Pee Dee River Coalition. The Pee Dee River Coalition has members from the town of Cheraw near the North Carolina line to the City of Georgetown on the coast that represent some 70 different organizations that have an interest in the Pee Dee River. They have intervened with the Federal Energy Regulatory Commission regarding relicensing of the Alcoa and Progress Energy hydropower facilities on the Yadkin River in North Carolina.

Mr. Lynn Stovall is the general manager of the Greenville Water System. He has been with the Greenville Water System for nearly 30 years and is concerned about the interests of the drinking water community.

Mr. Dean Moss is the general manager of the Beaufort Jasper Water and Sewer Authority, which takes its water from the Savannah River. Along with Mr. Youmans and Representative Rivers, he is very concerned about the relationship between South Carolina and Georgia. His background is in master planning and water resources. He worked in the western U.S. in water resources management and has been with BJWSA for 17 years.

Mr. Gene McCall is an engineer and a lawyer. While in school in Kansas studying law, he developed an interest in water law. Kansas converted from a riparian system to the appropriation doctrine in 1945. He grew up in the Coastal Plain of North Carolina just over the line from South Carolina. He now practices environmental law in Greenville.

Mr. Ken Hill is a forester by profession and worked in that industry for 37 years. He retired and now manages American Forest Management's environmental group. As chair of the S.C. Forestry Commission, he was instrumental in the formulation of the forestry BMPs.

Mr. Fred Richardson is the Director of the Grand Strand Water and Sewer Authority. He began his career with the Department of Health and Environmental Control (DHEC). After leaving DHEC, he went into the chemical business and then to the GSW&SA. For the past 19 years, he has worked in the water supply arena. His interests are in that area--particularly how it relates to the tourism economy of the Grand Strand area.

Mr. Gerrit Jobsis is with the Coastal Conservation League and was representing Committee member Dana Beach who was at another Governor's task force meeting. The Coastal Conservation League is principally interested in quality of life issues. Mr. Jobsis's background is in hydropower relicensing, which he has been involved with for the last 15 years. He serves as vice president of the Catawba-Wateree Relicensing Coalition and Board, which is a group of interested parties in Charlotte. He is on the steering committee of another group which includes about 120 environmental groups throughout the country that are involved in hydropower relicensing.

Dr. Bob Becker is the Director of the Strom Thurmond Institute of Government and Public Affairs at Clemson University. The Institute houses the S.C. Water Resources Center which focuses largely on reservoir and upper watershed issues. They are also involved in the Catawba Basin Project in collaboration with the University of North Carolina-Charlotte dealing with

riparian enhancement. The Institute also examines questions of pricing, allocation models, and interbasin transfer models.

Mr. John Tiencken is President and CEO of the Santee Cooper Public Service Authority. Santee Cooper began as a hydroelectric utility but that is no longer their major source of power. They are at the end of the funnel for the Santee River Basin, capturing 15,000 miles of drainage area above Lakes Marion and Moultrie. Santee Cooper has both recreational and operational interests in hydropower and downstream interests. They operate a regional water system serving Berkeley County and parts of Dorchester County and are looking at regional water systems to serve areas around the upper lake, Lake Marion.

Ms. Elizabeth Hagood is from Charleston. She is the Chair of the DHEC Board and her background is through the private conservation world. She formerly was the Director of the Lowcountry Open Land Trust.

Mr. Mike McShane lives in Charleston and was recently appointed by the Governor as Chairman of the DNR Board.

Developing a Website: The Chairman suggested the development of a Governor's Water Law Review Committee website so the public would know the purpose of the Committee, its membership, and its mission. The DNR has agreed to give the Committee support in developing this website.

Chairman Spitz would like for the website to include the *Governor's State Water Law Review Committee Report and Recommendations* from 1982, the *State Water Plan*, the present objectives of the Water Law Review Committee, and the draft *South Carolina Water Law* put together by Ms. Mullen Taylor. Chairman Spitz would like for the website to include subcommittee members and a place for the public to comment.

Mr. McCall stated the website and the listserv are great ideas as they will educate the public and the Committee. Mr. McCall noted that another group that needs to be educated is the judicial branch adding there haven't been any real significant water law cases in many years.

Chairman Spitz stated he believes that is why the Honorable Judge Few was appointed to the Committee.

Chairman Spitz suggested that the next question is one of educating the Committee members due to their different backgrounds, noting that all have dealt with the subject of water, but in different ways.

Mr. Jobsis suggested that the Committee needed to discuss its goals. A preliminary assessment of what the Committee wants to accomplish will guide it to the changes that it plans to make.

Chairman Spitz stated several concerns have already been identified. The first is how the State deals with issues regarding neighboring states; the second is the examination of internal issues.

Ms. Hagood added that the key to working within a limited timeframe is to take time in the beginning to identify the mission so that every subcommittee works toward that mission. A clear vision helps reconcile points quickly. After establishing a mission, the Committee will be more efficient at identifying specific components they need to address.

Mr. Tiencken pointed out that all seem to agree that work on interstate water compacts is very important. But beyond that, what are the deficiencies in existing laws or existing policies?

Mr. Youmans suggested that the Committee should review the 1982 Water Law Committee Report. The *South Carolina Water Plan* was published five years ago and went through peer review. It is in the process of being updated.

Chairman Spitz suggested that the Committee discuss what the State should do and not who should do it. The issue of who should do what opens another level of questions that will be difficult for this Committee to deal with. Those are decisions for the Governor and the General Assembly. The Committee should leave it at a policy level and not get into the specifics of who does what.

Mr. Richardson added that this group should look at “internal” issues, such as sustaining our water resources to the fair benefit of everyone in South Carolina. The Committee should look at how to address water problems now and not wait until we are in the middle of the next drought to do so. The plan and program should address those internal issues before addressing external issues.

Chairman Spitz suggested looking at what other states are doing on data collection, recommendations from the Governor’s Quality of Life Task Force which also had a short time to develop recommendations, and the reason the Governor put the Committee together. He noted that when there is a shortage of water there will be internal and external problems.

Dr. Becker noted that he has always been amazed that we always talk about when the shortage comes. Some of the models that deal with scarce resources are rarely applied to this situation, and he suggested relating it to market values. States have not looked traditionally at market mechanisms to handle valued, scarce resources.

Establishing Subcommittees: Chairman Spitz introduced the idea of forming subcommittees. He asked the members to consider how many subcommittees will be needed and who would like to serve on which ones.

Mr. Youmans suggested a need for subcommittees on 1) Georgia/North Carolina; 2) enhancing supplies (impoundments—where they could be put and whether they should be private or public or a joint effort); 3) discussing the need for surface water permits in South Carolina; and 4) distribution of treated or raw water.

Chairman Spitz was concerned that five or six subcommittees would spread the group too thinly. He added that the core vision/mission statements were needed before establishing

subcommittees.

Mr. Jobsis stated the subcommittees suggested so far may come under one subcommittee, water supply.

Mr. Stovall commented that there seemed to be two main topics, external and internal. External breaks into two parts: North Carolina and Georgia. Internal breaks into three: instream use, off stream use (that doesn't designate its purpose), and new source development, conservation, and drought.

Mr. McCall suggested that there might not be enough time to address all of these issues thoroughly. The complications of our current water law system, meshed with the Drought Response Act and the Interbasin Transfer Act, is something that remains to be addressed.

Chairman Spitz commented that equitable apportionment between states involves external issues and internal issues. The U.S. Supreme Court and neighboring states look very hard at how water is used inside your state. So, when you get to the question of equitability, there is a connection. All this is connected—surface water to ground water and external to internal. This is a complex problem and that's the reason why so many states are now starting to struggle with this issue.

Chairman Spitz asked Ms. Hagood, Representative Rivers, and Mr. McShane to work on the Committee's vision /mission statement. He will also work on this.

Dr. Badr, Chief of the Hydrology Section of the Land, Water and Conservation Division of the DNR, provided a powerpoint presentation on the status of water in South Carolina and the near disaster of the drought.

Chairman Spitz suggested that Saturday presentations may be needed to educate the Committee. For example, it might be appropriate to invite someone from Georgia or North Carolina to talk about water issues here instead of in court. It might be of interest to this Committee to look at what other states on the eastern seaboard are doing.

Next Meeting Date

10 o'clock a.m., Tuesday, October 7, 2003.

The next meeting of the Governor's Water Law Review Committee will be Tuesday, October 7, 2003, at the Cohen Campbell (Styx) Fish Hatchery.

Adjournment: The meeting adjourned at 12:35 p.m.