

Cities settle water usage from Catawba River: Limits for Kannapolis and Concord turn their legal uproar into water under the bridge.

By Bruce Henderson, The Charlotte Observer, N.C.

Jan. 21--A bitter fight over water from the Catawba River ended Tuesday night as Concord and Kannapolis agreed to take less water during droughts and Catawba communities voted to stop their legal appeals.

What was supposed to be a three-year process for the two cities stretched to about a decade. But, said Concord Mayor Scott Padgett, "We have assured our citizens that we're going to have an adequate water supply in the future."

The Cabarrus County cities' search for new water sources erupted during 2006, soon after a four-year drought had wrung the Charlotte region dry.

Kannapolis and Concord asked for state permission to pipe water from the Catawba into their water-poor Rocky River basin. Catawba River communities in both Carolinas hotly protested, saying the move would rob them of water needed for their own growth.

A state environmental panel allowed the Cabarrus County cities in 2007 to pull up to 10million gallons a day from the Catawba and the neighboring Yadkin River. A coalition of 18 Catawba communities, and the Catawba Riverkeeper Foundation, filed an appeal before a state administrative court.

In votes Tuesday night, elected officials on both sides of the conflict -- including Concord, Kannapolis and the Catawba basin city of Hickory -- agreed to stop the fighting. Elected officials in other Catawba communities also were expected to sign.

Concord and Kannapolis agreed to limit their withdrawals during drought. Depending upon the severity of the dry spell, they will take 6million to 9million gallons a day.

"It's encouraging that so many groups would get together to protect the river and a vital resource for the region," Riverkeeper David Merryman said.

The cities will take no more than 3 million gallons a day from the Catawba until mid-2015, and only after they first withdraw 5million gallons daily from the Yadkin. They also agreed to water conservation measures that Padgett said they have spent recent years putting in place.

Concord hasn't begun tapping the Catawba, despite the state's 2007 approval. Contracts for water purchases, likely through Charlotte-Mecklenburg Utilities, must be negotiated and lines connected.

In Hickory, Mayor Rudy Wright said the agreement lets Catawba communities redirect their time and money from fighting Concord and Kannapolis to economic development and other priorities.

"We remain committed to protecting the Catawba River and have been pleased with the cooperation within this basin," he said in a statement. "We have laid the groundwork for future actions to collectively promote the interests of Catawba Valley residents."

But the fight over the Catawba isn't over.

Prompted by the conflict, South Carolina sued North Carolina over water rights to the river. That case, which involves the city of Charlotte and Duke Energy, is still before the U.S. Supreme Court. Staff Writer Meghan Cooke contributed.

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Water war led to rewrite of state law

By Larry Clark | Hickory Daily Record
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HICKORY - The dispute over pumping water from the Catawba River to Cabarrus County may be one of a kind.

"It will be more difficult for anyone to get another transfer," said Hickory Mayor Rudy Wright when a compromise to end the water war was approved Tuesday night.

Hickory is part of a coalition of municipalities along the river that approved a plan to end litigation and give Concord and Kannapolis access to the Catawba.

The dispute that erupted in 2006 spurred legislation that places stringent regulations on transferring water from one river system to another.

Initially, the state Environmental Management Commission approved a request from Concord and Kannapolis to draw up to 26 million gallons a day from the Catawba River and 10 million gallons a day from the Yadkin River.

That set off a storm of protest from Hickory and municipalities and counties that use the Catawba as their main water source.

They formed Protect the Catawba Coalition to challenge the state ruling.

The Environmental Management Commission amended its decision to allow Kannapolis and Concord 10 million gallons a day each from the Catawba and Yadkin.

That did not satisfy the coalition and environmental groups, including the Catawba Riverkeeper Foundation.

The coalition and Riverkeeper filed lawsuits to stop the transfer in 2007. The actions were consolidated.

Concord and Kannapolis jumped into the fray on the side of the state.

After three years and combined expenses of \$2 million, the two sides agreed to a settlement.

In the meantime, the General Assembly stepped in with sweeping legislation in an effort to prevent another water war.

North Carolina has several river basins. They are formed by main rivers, such as the Catawba, tributaries and natural drainage.

Transferring water from one to another was loosely regulated before the Concord-Kannapolis plan that coalition members called a raid on one of their most precious resources.

Normally, water taken from a river system for public or industrial use makes its way back to the river in the form of runoff or treated wastewater.

An interbasin transfer, however, permanently removes water from one river system and puts it in another. An "IBT" adds more water to the receiving system than it normally contains.

Environmentalists say a significant transfer can create problems for both systems.

The new law mandates a public hearing process, environmental impact statements, a drought plan, commercial and residential impact determinations and — perhaps most important — proof that an IBT is necessary and the party wanting to transfer the water has no other option.

The coalition claimed Concord and Kannapolis had a viable alternative, the Yadkin River Basin that Riverkeeper members said is bigger than the Catawba.

The litigants landed in Administrative Court that was to decide if the state acted properly.

Facing more expenses, the sides agreed to mediate the dispute.

Concord and Kannapolis got water. The coalition cut the transfer by more than half. And the state has a new law that gives the primary users of a river system preference in water transfer petitions.

The compromise reflects the new law.

"The agreement provides a model for water conservation and efficiency measures that ... could help protect all the state's rivers," said Julie Youngman, for the Southern Environmental Law Center that represented Riverkeeper.

Groups drop water battle

By Mike Conley | The McDowell News
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The war over the Catawba River basin's water, McDowell County's top story from 2006 and one of the biggest controversies in the state's recent history, is coming to an end. On Tuesday, the Hickory City Council voted unanimously to end a three-year confrontation over the taking of water from the Catawba River basin and sending it to the cities of Concord and Kannapolis. The vote accepts a settlement between a coalition of local governments along the Catawba River basin and Concord and Kannapolis.

In 2005, Concord and Kannapolis asked the state's Environmental Management Commission for permission to transfer an average of 22 million gallons a day from the Catawba and Yadkin basins. As much as 36 million gallons a day could come from both basins. The vast majority of the water would come from the Catawba basin and none of it would be put back, under the original request.

Officials from Concord and Kannapolis said they needed more because of a serious shortage in their water supply that's expected for the next 30 years. But people in McDowell and other Catawba basin counties said their future was being sacrificed to help out these two cities. Taking so much water could cause environmental damage and also hurt the economy of counties that depend on the Catawba's lakes for tourism dollars, they said.

In early 2007, the N.C. Environmental Management Commission granted Concord and Kannapolis permission to pump as much as 10 million gallons a day from the Catawba River basin. The action did not satisfy the local governments in the Catawba basin and environmental groups who were opposed to what became known as the interbasin transfer or IBT. The governments and environmental groups came together to form the Protect the Catawba Coalition. Both the city of Marion and McDowell County were part of the coalition.

On Tuesday, the coalition and the Catawba Riverkeeper Foundation Inc. announced they had reached an agreement with the cities of Concord and Kannapolis to resolve

the appeal of the IBT. The agreement states that Concord and Kannapolis will get 3 million gallons a day from the Catawba basin through 2015. After that, the two cities must draw 5 million gallons per day from the Yadkin before the amount from the Catawba can be increased.

Under ideal conditions, Concord and Kannapolis can take up to 10 million gallons a day from the Catawba. Drought conditions would lessen the amount to as low as 6 million gallons. The settlement also imposes mandatory conservation regarding both river basins, limits waterline approvals and specifies maximizing the storage of water in existing reservoirs when possible.

Local officials said their boards would have to approve this settlement as well. "The settlement, as I understand it, has been agreed to by Kannapolis and Concord," said County Manager Chuck Abernathy. "The cities and the counties would have to approve it. As cities and counties approve it, the strength of the coalition goes down. The commissioners have been briefed on it."

Abernathy said continuing the legal fight over the IBT would have been "very, very expensive" and a victory was not certain. McDowell County invested \$20,000 over a three-year period as part of the coalition's fight. The money went to legal fees and efforts to get new legislation passed.

"Settlements, as they tend to be, may not be perfect but they accomplish some goals," he said. "It's not perfect but the attorneys think this is in our best interest. The Riverkeeper thinks it is in our best interest."
"As a resident living in the Catawba basin, I want our water to stay here," said Commission Chairman David Walker.

However, if all the other parties are in agreement, then McDowell County would not be a good steward of the taxpayers' money by continuing to fight this costly issue, added Walker. "It is something we will have on a future agenda," he said. "We will be talking about and discuss it and see where it goes."

City Manager Bob Boyette said the settlement would be on the Marion City Council's agenda for the regular Feb. 2 meeting. The city of Marion earlier agreed to spend \$15,000 as part of the coalition. That money would be paid over a five-year period. "This proposed agreement, while not perfect, does limit the amount of the IBT from the Catawba River," said Boyette. "It is certainly a much better situation than if the coalition had failed to do anything."

The legal battle over the IBT ended up in the Administrative Court, where the state's action was reviewed and litigants could present evidence for or against the action. Prior to Tuesday's vote, Hickory City Manager Mick Berry said an Administrative Court judge probably was going to order mediation among all the parties. Therefore, the coalition and the two cities in Cabarrus County decided to go the mediation route and resolve the controversy.

"When we first started this process, we identified several objectives of our efforts to protect the Catawba River," said Hickory Mayor Rudy Wright, speaking for the coalition. "With this agreement and some key legislation regarding water transfers that resulted from our efforts, we have accomplished most of our objectives. We can now redirect our resources, time and money to economic development and other initiatives to improve the quality of life for our residents. We remain committed to protecting the Catawba River and have been pleased with the cooperation within this basin. We have laid the groundwork for future actions to collectively promote the interests of Catawba Valley residents."

To put some of the agreement's restrictions into perspective, the Catawba River basin was in "extreme" drought conditions for approximately 500 days during the most recent drought. Had Concord and Kannapolis already begun taking the 10 million gallons per day during that time, no limitations would have been placed upon that withdrawal while basin residents were also forced to restrict their water usage. Now, under the terms of the settlement, that same withdrawal would have been limited to the transfer of 7 million gallons per day for the 500-day period, according to a news release from the Catawba Riverkeeper Foundation.

Beyond flow restrictions, Concord and Kannapolis also agreed to a number of water conservation measures including, but not limited to, conservation friendly water rate structures, installing high efficiency toilets and other environmentally friendly fixtures in city facilities and promoting water efficiency requirements and regulations for new developments.

The settlement addresses the primary concerns that led the coalition and the Catawba Riverkeeper to appeal the IBT by providing additional protections. It also demonstrates the parties' ability to resolve the issue at the local level without further involvement by the state of North Carolina.

"Concord and Kannapolis have adopted many best practices to promote water conservation," said Concord Mayor Scott Padgett. "Through the settlement agreement we have defined these efforts and demonstrated we will continue to be aggressive in

protecting this vital resource."

"We are pleased to be able to reach this agreement," said Kannapolis Mayor Bob Misenheimer. "I am proud of the steps that have already been taken by our citizens to conserve water and we will continue to work to protect the integrity of the Catawba River while developing the infrastructure to meet the future needs of the residents of our communities."

Catawba Riverkeeper David Merryman approved of the settlement, saying "When coupled with the amendments that the N.C. General Assembly made in the IBT law, this agreement will ensure the future protection of the Catawba River and its environment, while assuring adequate access to water by Catawba River basin residents and our neighbors."

In addition, coalition members Morganton and Valdese approved the settlement. Coalition partners in York County, S.C., supported the plan.

The controversy of the IBT from the Catawba River sparked during public hearings in 2006, including one in Valdese that attracted more than 700 people. The McDowell Chamber of Commerce chartered a bus to take local folks to the Valdese hearing, which got pretty heated at times.

The settlement does not affect litigation by South Carolina against North Carolina opposing the transfer of water from the Catawba without South Carolina's involvement. The Catawba River basin becomes the Wateree River basin in South Carolina.