**H1030, 2016 Appropriations Act, Senate version.**
**Section 14.13, Development of New Comprehensive Nutrient Management Framework**
**Short summary, 6-3-16, 9 am**

- **Section 14.13** attacks North Carolina's *nutrient management strategies*, packages of rules designed to restore water quality and prevent massive fish kills in the Neuse estuary, Tar-Pamlico estuary, Jordan lake, and Falls lake. Jordan and Falls reservoirs are water sources for, respectively, over 300,000 and over 400,000 residents of the Triangle.

- The provision blocks all planned phases of the Jordan and Falls rules from now through December 2020, and repeals all four nutrient management strategies at that date, as well as repealing Catawba basin buffer protections, Randleman reservoir protections, and measures intended to protect endangered mussels in Goose Creek, east of Charlotte.

- In the meantime, the provision earmarks $2 million from the Clean Water Management Trust Fund to fund a study of the current strategies and in-lake alternatives to controlling pollution at the source, to run over the next four years. Just last month, the Environmental Management Commission (EMC) concluded, in a report required by SL2015-246 last year, that in-lake treatment doesn't work and isn't a substitute for controlling pollution upstream at the source.

- Also throwing good money after bad, the provision concedes that SolarBees didn't work, but then earmarks another $500K from the Clean Water Management Trust Fund to study whether freshwater mussels can be used to clean up Jordan and Falls reservoirs.

- The provision requires the EMC to adopt new rules based on the new in-lake study, as a part of 'rules readoption', but on a schedule that is completely inconsistent with the ongoing readoption schedule, with temporary rules in place by December 2020. The Commission is directed to run a time-consuming stakeholder process starting in December 2016, even as the provision discards the results of all four long-running stakeholder negotiations that created the current rule sets.

- The premise for the provision – that North Carolina's four nutrient management strategies have not worked and will not work – is false. The strategies *have* reduced nitrogen and phosphorus pollution input where they have been implemented, and already conditions are not as bad as they were in the estuaries in the late 1990s. If the rules are fully implemented – particularly in Jordan and Falls lakes – conditions will continue gradually to improve.

**H1030, 2016 Appropriations Act, Senate version.**
**Section 14.13, Development of New Comprehensive Nutrient Management Framework**
**Long analysis, 6-1-16, 9 am**

The Senate version of the budget bill includes a new special provision, not part of the House budget, that levels a multi-pronged attack on state programs and rules to control nitrogen and phosphorus pollution.

14.13(a) provides the premise for the attack, a false claim that North Carolina's nutrient management strategies in the Neuse, Tar-Pam, Jordan, and Falls watersheds have not worked and cannot work. To be clear, all the strategies have worked *for the pollution sources they cover* and *to the extent they have been implemented*.

The strategies in each basin include:

- Wastewater treatment upgrades
- Controls on runoff from new development
- Controls of runoff from farm fields
- Protection of riparian buffers
- (in Jordan and Falls): control of runoff from existing development

Scientists have said from the outset that, because of pollution still working its way through groundwater, and lag time to clear pollutants still cycling between estuary sediment and water, it may take a couple decades to see real improvements in the estuary. In twelve years, we have seen a significant decrease in pollution inputs from wastewater plants, and a decrease in the rate of new loading, thanks to new development and buffer rules, but it is wrong to expect this or *any alternative package of rules* to fully restore estuarine health that quickly.

Thanks to legislative interference, the Falls and Jordan rules have barely begun to be implemented; they've had no chance to work yet.

14.13(b) repeals the SolarBee project, but falsely blames it on a general failure of the rules (which the project was used as an excuse to delay) rather acknowledging the truth: it was ill-conceived and scientists said wouldn't work from the outset. The subsection rolls leftover funds to the Clean Water Management Trust Fund (CWMTF), the only aspect of this special provision that is consistent with the House budget.

14.13(c) then earmarks $2 million from the CWMTF for the Chancellor of UNC Chapel Hill to designate an entity to study in-lake treatment of pollution and the existing management strategies over the next four years, ignoring the recent finding by the NC Environmental Management Commission that no in-lake treatment technologies are likely to solve nutrient impairment in North Carolina's reservoirs, and that none are substitute for upstream controls on pollution, of the kind already called for in the Jordan and Falls rules. The subsection requires that the entity send a report back to the EMC and Department of Environmental Quality by December 2020.

Working from the 14.13(c) study, 14.13(d) requires the EMC to revise the nutrient management strategy rules as a part of rules readoption, and to adopt temporary changes sometime by December 2020. This timing is not consistent with the rules readoption schedule, under which the EMC currently is slated to

begin readoption of these rules in January 2017. The subsection also calls for the agency to convene a stakeholder process in December 2016 to inform the temporary rule.

14.13(e) repeals all the existing nutrient strategies as of December 2019. Note that this includes not only the Neuse, Tar-Pam, Jordan, and Falls strategies, but also the Catawba riparian buffer rules, the water quality protections for Randleman reservoir, and the protections that allow development to occur without running afoul of endangered species protections in the Goose Creek subbasin of the Yadkin basin.

14.13(f) launches the next SolarBee project, earmarking $500K from the Clean Water Management Trust Fund to pursue research in using freshwater mussels to clean Jordan, Falls, and other impaired lakes, requiring an interim report in March 2017 and a final report in May 2018.

14.13(g) delays all further implementation of remaining steps in the Jordan and Falls rules until they are repealed in December 2020.

14.13(h) locks in all costs for nutrient offsets at the rates currently charged in the Falls Lake watershed.

14.13(i) makes the roll-over of SolarBee funds take effect when the SolarBee contract is terminated or on July 1, 2016, whichever is earlier.