



# CIVITAS

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August 14, 2017

The Honorable Phil Berger, Senate President Pro Tempore  
The Honorable Tim Moore, Speaker of the House  
North Carolina General Assembly  
Legislative Building  
16 West Jones Street  
Raleigh, NC 27601

Dear Senator Berger and Representative Moore;

I am writing to ask that you consider moving legislation allocating funds for upgrades to public water systems in the lower Cape Fear region, which rely on water from the Cape Fear River. These funds would enable them to quickly move on installing advanced filtration equipment to their system. This allocation should be leveraged with legislation authorizing funds from the “Connect NC Bond” to be used in this effort.

I know you are fully aware of the circumstances that have impacted the lower Cape Fear region and have received a request from Governor Roy Cooper for millions in funding to be given to state agencies that are at the heart of the problem and slow response. Spending money for a solution is a much more effective and direct way to respond. This money should come out of either reserves or reversions and would not be recurring, unlike the money requested by Gov. Cooper.

While you are aware of the problem, you may not be aware of actions Civitas has already taken. On July 28, 2017, we sent Chemours, North Carolina Department of Environmental Quality (NCDEQ) and the Environmental Protection Agency (EPA) a written notice of illegal conduct under the Clean Water Act (CWA). If the NCDEQ has not adequately addressed these claims within 60 days of notification as required by law; Civitas may legally, in accordance with the filing of the above notice, file a lawsuit in federal court under the CWA for illegal acts.

We were heartened to learn that shortly after sending our letter, the US Attorney’s Office for the Eastern District of North Carolina subpoenaed NCDEQ records relating to this matter. Additionally, on August 3, 2017 the Cape Fear Public Utility Authority (CFPUA) sent their own notice of Intent to Bring Citizen Suit letter triggering the 60-day period for potentially filing a suit to enforce the Clean Water Act (CWA).

In light of these actions, , we are confident we may soon see some progress, even if slow.

The actions we have taken to date were necessitated by a lack of action and transparency from the Cooper administration. In addition, we have noted that none of the usual environmental

activists' groups, which backed Cooper in his run for governor, seemed interested in pressuring his administration to act.

While Civitas is not usually in the habit of calling for additional state spending, we feel these actions can be taken in a responsible way with little impact on the NC taxpayer or future budgets.

These funds should be distributed through a responsible entity such as the state treasurer's office to ensure funds are used on solutions and not bureaucracy.

In addition to the allocation of funds, the legislation should include a modification/suspension of pertinent state contracting and purchasing laws to allow for the impacted public utilities to utilize an expedited process to address the current public health threat.

Our call for the legislature to act is also necessitated by the fact that the Cooper administration may be under federal investigation for their actions in this matter. They also continue to mishandle this matter while spending state resources and money on matters not directly ensuring the immediate safety of our citizens and the clean water they expect and deserve:

- The diversion of NCDEQ personnel to a new "Office of Innovation" by Secretary Michael S. Regan
- Actively supporting and announcing "we (NC) are all in.." on the Paris Agreement after announcement by US government of withdrawal from the agreement
- Maintaining an Environmental Education section instead of staffing regulatory positions
- NCDEQ using funds to hold public forums on offshore oil drilling, an issue controlled by the federal government, which the governor has already directed they oppose.
- Diversion of over \$850k in recurring funds to the NCDOJ when department has lawyers capable of representing the department.
- No direct assistance to impacted areas by the administration.

If you should have any questions or would like to discuss the matter more, please contact me.

Respectfully,



Col Francis X. De Luca USMCR(Ret)