



North Carolina  
Coastal Federation

35 years .....  
working together for a healthy coast

## **North Carolina Coastal Federation Comments to House Select Committee on River Quality**

September 28, 2017

Thank you Chairman Davis and members of the committee.

My name is Tracy Skrabal. I am the coastal scientist for the North Carolina Coastal Federation's southeast regional office in New Hanover County. On behalf of the Coastal Federation and its 15,000 supporters I want to thank Rep. Davis and the rest of the committee for the invitation to speak to you today.

The Coastal Federation focuses on protecting and restoring the N.C. coast. For 35 years, the federation has been in the field restoring miles of coastline; training and educating students, adults and communities to take actions that result in cleaner coastal waters and advocating for an accessible, healthy, productive coast.

At Rep. Davis' direction, my comments – which I promise are short - and the comments of Dr. Lee Ferguson who you will hear from in a moment, will focus on the issue of contaminants in our surface waters. I will provide you with some suggestions about how you can address this challenge, not only in the Cape Fear River but in all drinking water supplies.

The federation is not, of course, the only community organization working on this issue. As you may know, Cape Fear River Watch has been doing very effective work in protecting and preserving the river's water quality for years and is one of the main community organizations citizens rely on for information about GenX. I hope you will consider inviting its River Keeper, Kemp Burdette, to speak to the committee some time soon.

Now, before Dr. Ferguson speaks, I want to outline the federation's priorities for any legislative response to the GenX issue.

First, any legislative response should ensure that what happened in the Cape Fear River with GenX never occurs again in any N.C. river or drinking water supply.

As you will hear from Dr. Ferguson, GenX is only one contaminant out of many others that may be in N.C. drinking water supplies.

We must make sure that contaminants like GenX that might make drinking water supplies unsafe never go undetected in our water supply for months or even years at a time.

Achieving that goal will require the development of a permanent, well-funded water monitoring program that allows regulators, local governments and the general public to have the information they need to be confident we know what is in our water and are taking the appropriate steps to ensure it is clean and safe.

As Dr. Ferguson will outline, there are states and countries that are making the investments necessary to reach this goal. We believe N.C. should join them, not only for the Cape Fear but also for all rivers and other waters that are used for public consumption.

Without investments in a robust, sophisticated and permanent water monitoring system, we simply cannot assure the public that the risks posed by GenX or other chemicals like it are not also occurring in other water supplies and communities.

In addition to a robust monitoring system, we believe N.C. needs an easily accessible, transparent system so that all stakeholders in drinking water safety – regulators, water treatment authorities, researchers and especially the public – can understand what is in our water. This kind of transparency is crucial to rebuilding the public's confidence in our drinking water and preventing what happened in the Cape Fear from occurring again.

Dr. Ferguson has helped us at the federation understand that addressing the issue of contaminants will not be easy. Many chemicals present in our water today have not been studied sufficiently to understand the full suite of existing industrial compounds existing in our waters at any time, and what if any risk they pose to human health, or at what levels.

As a result, ensuring that our drinking water is safe will require difficult choices and priority setting by regulators and other stakeholders. An increased commitment to research on these emerging industrial contaminants in the environment, and on the toxicological effects of these compounds, is a critical need at this time.

The federation believes that it is imperative that the process for understanding these challenges and making the right policy decisions necessary to protect our drinking water must be transparent and open to the public. Again, we believe that this transparency is essential to restoring and maintaining the public's confidence in our drinking water.

Finally, with the GenX issue, N.C. has an opportunity to take important steps to protect its public water supplies. And there is no question but that it has the legal authority to do so.

Under the federal Clean Water Act, “existing uses” of rivers and other public water supplies must be protected. Under the law, drinking water is, of course, an “existing use.”

What this means is that anything that degrades an "existing use" is illegal. Our state has adopted what’s called an “Antidegradation Policy” to enforce this federal requirement. Federal and state laws make it clear that this “antidegradation policy” is a narrative water quality standard that has the same legal standing as any specific, numerical water quality standard. It can’t be violated.

In this process, the burden is on the applicant who requests permission to put polluted effluent into a river like the Cape Fear to demonstrate it will not violate any water quality standards. This includes meeting the “antidegradation policy” I just described.

To ensure that “existing uses” such as drinking water supplies are protected, these industrial users must disclose on their wastewater discharge permit applications if they have any potential pollutants in their proposed discharges that could violate water quality standards, including antidegradation standards. Not only that, but they must also disclose the potential risks associated with these compounds, including any potential harm that might result to the existing environment and human health.

If there is uncertainty about whether the polluted effluent will meet the standard, the State has the legal responsibility to deny a permit that potentially results in a violation of the antidegradation standard.

The undetected, years-long presence of chemicals like GenX in a public water supply that serves millions of people should be a wake-up call to everyone in N.C. that gets their drinking water from a river or creek.

We believe what has occurred in the Cape Fear River requires a comprehensive review of the hundreds of permit application records for existing industrial discharges to drinking water supplies that are now permitted in N.C.

This review should determine if each applicant has sufficiently answered questions in these applications about contaminants that might be found in their waste streams based upon their industrial processes. The review should also examine if permit limits are sufficient to protect drinking water supplies from those contaminants. This review can either be done by the State itself, or by hiring an independent expert consultant to audit these public records on these applications.

The federation is confident that sufficient investment in water quality monitoring, dedicated scientific research on these emerging compounds, open sharing of the results of that monitoring and associated research, a transparent process for acting

on those results and vigorous enforcement of the Clean Water Act will go a long way to ensuring the safety and public confidence in our drinking water.

Thank you again for the opportunity to speak to you today.

Now, Mr. Chairman, with your permission, I will ask Dr. Lee Ferguson to make his presentation to the committee.