

**A REVIEW**  
**by the**  
**High Rock Lake Association Inc.**

of

Issues with State Take-Over of The Yadkin Project  
as outlined & Proposed in Senate Bill 967

A study of his bill ([Click for pdf of Senate Bill 967](#)) reveals several areas that demand explanation from our Legislators.

- PRECEDENT
- CITIZEN ADVANTAGES
- LOSS OF COUNTY TAX REVENUE
- TAXPAYER COST BURDEN
- TAXPAYER ASSUMPTION OF ENVIROMENTAL PROBLEMS
- GREEN ENERGY
- ACCOUNTIBILITY
- NEED FOR SCRUTINY

The following is a detailed review of the Bill's language as it relates to each of these major points:

**PRECEDENT ??**

Where in our United States of America is there any precedent for a State to take-over (Nationalize) private facilities and to go into the electrical generation business?

Who considers the Yadkin Rivers four lakes and their respective dams to be "An Instrumentality of Navigation"? That's how the author of SB967 describes High Rock, Tuckertown, Badin, and Falls Reservoirs. The High Rock Lake Association Inc. (HRLA) believes these lakes are one of the crown jewels of North Carolina, providing environmental, recreational, economic, and esthetic benefits to the people of North Carolina and beyond. Property owners around these lakes are from all over the US, recognition of the quality of these waters. Why do we need change to these lakes, especially as we have completed a six year period of negotiating changes for Alcoa's license renewal that will enhance and improve what we now have.

**CITIZEN ADVANTAGES ??**

Will the creation of a state empowered "Authority" to take-over this 38 mile stretch of river and lakes to operate the hydro-electric facilities improve the lakes for the public, or offer cheaper power? The HRLA does not think so. To the contrary, the HRLA is scared that the proposed Authority ( the author of SB967 prefers to call it "The Yadkin Trust") will cause the lakes to be another victim of financial fraud that we are seeing ruin the economy of our country.

From the perspective of people who use the lakes, the Bill offers vague promises of changes similar to those contained in the Alcoa Relicensing Settlement Agreement that has been submitted to FERC; but none of the specifics contained in the RSA.

The Senate Bill would make the sale and generation of electrical power be outside the regulatory authority of The North Carolina Utilities Commission; although the proposed Authority would have the authority to sell electricity to utilities both in and outside the State.

We encourage everyone to study the SB967 and consider the questions it raises. Following is a discussion of the Bill, and our thoughts on the Bill's proposals.

**LOSS OF COUNTY TAX REVENUE**

County payments are the lowest priority. Counties do not share in any revenue stream or Authority "profits".

- The Bill (SB967 §77-134) specifies "Any net earnings.....shall be remitted semiannually to the State Treasurer for deposit to the General Fund of the State.
- There will be no revenue based payments to the Counties bordering the Yadkin River, as has been widely discussed.
- All property owned by the Authority will be exempted from TAXATION (SB967 §77-136). The Trust will pay annually an amount equal to the tax revenue in each county or tax jurisdiction on the date the Authority acquires the property, IF the Authority has any operating profit after debt service, operating expenses, and all other obligations. County officials: see paragraph above on Debt Service! Also take note that the amount is fixed forever, no more annual re-evaluations or tax rate adjustments. Adjust your county budget accordingly if this Bill should pass.

## **TAXPAYER COST BURDEN**

Debt and Debt Service – It's HUGE. Acquiring, upgrading and putting into service as proposed by this Bill will likely require a half BILLION dollars (\$500,000,000.00). It sounds like the State of North Carolina is afflicted with the same intentions as the current Federal Government, spend without limits! Interest and fees on a half Billion dollars spread over the 40 years proposed would amount to another ONE BILLION DOLLARS; for a TOTAL OVER 40 YEARS of APPROXIMATELY 1.5 BILLION DOLLARS. That's about 40 Million a year for debt service. Add in another 20-25 million a year it takes to operate the Project ( that's what it costs Alcoa, it may take the State twice that amount. Now you are talking about 60 to 80 million a year just to break even. Given the revenue figures Alcoa has provided the Federal Energy Commission of an average annual revenue of 42 million dollars annually, we may be facing a deficit of up to 40 million dollars a year. The tax payers will be asked to make up this deficit.

The Bill's author was also careful to insert language that prevents the State from interfering with the debt holders in the event the "Trust" defaults on it's financial obligations. Our guess is the folks who lobbied for this Bill required that clause, so their long range plans could not be upset by the State when they plan to take control of the project upon the "Trust's" inevitable financial default.

The Bill exempts the State from interfering in the operation of the Project in any way that would impair the Trust from meeting all debt obligations. That will exempt the operations from being responsive to drought conditions, lake levels, etc. if generation is needed for revenue to meet debt service obligations. That is EXACTLY why High Rock Lake was drained in the summer of 2002, as Alcoa strove to meet its financial goals. The proposed new license terms would not allow Alcoa to do that again.

## **TAXPAYER ASSUMPTION OF ENVIROMENTAL PROBLEMS**

It appears SB967 intends for the Trust to acquire Alcoa lands outside the boundaries of the hydro-electric project, and to assume responsibility for toxic waste remediation in Stanly County and throughout the river basin.

This Bill presumes to establish "The Yadkin River Trust" as a State Entity processing broad powers, including environmentally related power and authority that would exceed the power of the United States Environmental Protection Agency of the North Carolina Department of Environmental and Natural Recourses.

- SB967 § 77-124(c) (2) requires remediation of contamination at Badin works to levels "over and above current law". Who pays for that? That sounds like a big time annuity for a bunch of lawyers!
- SB967 § 77-124(c)(3) Requires establishing a remediation fund for environmental testing and remediation of hazardous waste sites in the Yadkin River Basin. Given the Yadkin River Basin is over 4,000 square miles, we wonder just how many waste sites that includes and what is the estimate for the cost of testing and remediation.
- SB967 § 77-124 (c) Paragraph 1 requires environmental testing of all properties in Stanley County ever owned by Alcoa or its subsidiaries. Then Paragraph 3 excludes testing of any properties in the Yadkin River Basin owned by Alcoa or its subsidiaries. **Which is it?**

**We do not need another Environmental Agency to pay for with NC Tax Dollars !!!**

Land around lakes may become property of the proposed Authority. Alcoa currently owns a lot of land above the boundary of the hydroelectric project. Will the Authority acquire those lands also? If it does, how will those lands be used? Will they be sold to help with debt service? The Bill does not address this issue.

## **GREEN ENERGY**

Hydropower is a primary source of "Green" energy. It utilizes a renewable natural resource without actually consuming water. That's especially important as our water supplies become more precious. The Yadkin Project makes an important contribution to the national power grid. We should all be concerned about the cost of electrical energy. Stop and think about which entity will be able to produce the lowest cost energy; Alcoa or The Yadkin River Trust?

- With Alcoa, we are talking about a corporation that has amortized most of its investment. The Project is debt free. The operations are very streamlined, being managed out of Alcoa's Operation Center in Tennessee. Alcoa's cost per KW is extremely low. That means they can sell to the national grid at a very competitive price.
- On the other hand, The Authority will be saddled with a huge debt structure. Just debt service cost alone will be equal to current Project Revenue. The Authority will not have the advantage of an operations center and skilled staffing, and will have to create an operations center and staffing from scratch. This probably means much more overhead and annual expenses than Alcoa has. Who pays for all this? The consumer, thru the higher utility bills passed along from the utilities who buy power from The Yadkin Trust.
  - Adding to both the capital cost and the annual expense of this new Authority would be the need to establish an operations and marketing facility. That facility would have to be staffed with operations, sales, and marketing experts to take the place of people who now work in corporate level positions in Alcoa outside the State of North Carolina. We are not sure this overhead expense can be justified by the relatively small hydropower production of the Yadkin Project.

## **ACCOUNTIBILITY**

We wonder why the author felt a need to include an Article that spelled out "public officers and public bodies of the State" and other entities, such as "Banking Associations" could invest in the debt of the Authority "properly and legally"? see SB967 §77-125.(o)

It's also interesting that § 77-131 absolves any Director or Officer of the Trust of any personal liability or accountability.

The NC Water Rights Committee, on its website complains:

"The State Utilities Commission cannot regulate APCI as it is able to do with other users of hydropower. State water regulations do not apply evenly to APCI in other respects either. In fact, should Alcoa receive the 50-year license under the application it submitted, it will be allowed a larger allotment of water to use in its operations than currently permitted, while other counties south of Stanly remain under drought restrictions."

However, §77-124(a)(3) specifically states: The Trust and its activities shall not be governed by the North Carolina Utilities Commission. So, where is the change and accountability the State claims is needed?

## **NEED FOR SCRUTINY**

The proposal to establish this Authority deserves much closer scrutiny than it has received so far. Just the name "The Yadkin Trust" is designed to mislead the public. There is NOTHING to trust about this proposal.

The real reason for this proposal needs to be discovered; not just high sounding hype about the "Rights of the People". This is not about our rights, we already have those with the way we now enjoy the water in these four wonderful lakes. The Mayor of Albemarle has it right, it's about **GREED**.