

IN THE  
SUPREME COURT OF THE UNITED STATES

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No. 138, Original

STATE OF SOUTH CAROLINA,  
*Plaintiff,*

v.

STATE OF NORTH CAROLINA,  
*Defendant.*

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**Before the Special Master  
Hon. Kristin L. Myles**

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**PLAINTIFF STATE OF SOUTH CAROLINA'S  
FIRST SET OF INTERROGATORIES TO LIMITED INTERVENOR  
CATAWBA RIVER WATER SUPPLY PROJECT**

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Plaintiff State of South Carolina, by its attorneys, propounds upon Limited Intervenor Catawba River Water Supply Project ("CRWSP") the following written Interrogatories under the Joint Proposed Case Management Plan ("CMP") submitted by the party States to the Special Master, including the Federal Rules of Civil Procedure as incorporated therein. You are required to answer these Interrogatories separately and fully in writing under oath and to serve a copy of your answers on the undersigned within 30 days after service hereof. These Interrogatories shall be continuing in nature until the date of trial, and you are required to serve supplemental answers as additional information may become available to you as required by the rules of the CMP, including the Federal Rules of Civil Procedure as incorporated therein.

## INSTRUCTIONS

1. Should an interrogatory call for a description of information that would otherwise be responsive except for the fact that it is claimed that such information is privileged, you shall so state and identify the information or document in a degree sufficient to allow the court to rule, if necessary, on such claim of privilege or a motion to compel discovery.

If you are withholding information by claiming it is privileged or subject to protection as trial preparation material please make the claim expressly by providing a privilege log containing:

- a. a description of the information withheld;
- b. the asserted claim of privilege or protection; and
- c. all persons with knowledge of the information, including each such person's position, the entity with which each such person is employed or associated, and whether such person is an attorney.

2. If in answering these interrogatories you claim any ambiguity in either the interrogatory or an applicable definition or instruction, identify in your response the language you consider to be ambiguous and state the interpretation of the language you used to respond.

3. If you object to any portion of any interrogatory, respond to the portions to which your objection does not apply.

4. You are required to furnish all information in your possession and all information available to you. This includes all knowledge available to you, your

attorney, your employees, and/or officers and agents, by reason of inquiry including inquiry of their representatives.

5. When, after a reasonable and thorough investigation using due diligence, you are unable to answer any part of an interrogatory because of lack of information available to you, specify in full and complete detail the type of information that you claim is not available to you and what has been done by you to locate such information. In addition, specify what knowledge or belief you have concerning the unanswered portion of the interrogatory, set forth the facts upon which such knowledge or belief is based, and identify the person who has or is likely to have the information that you claim is not available.

6. If you object to answering any interrogatory, state the basis for the objection with specificity.

#### DEFINITIONS

1. "You" or "your" shall refer to Catawba River Water Supply Project.
2. "Complaint" shall refer to the Bill of Complaint filed by Plaintiff in this action dated June 7, 2007.
3. "Answer" shall refer to the Answer to Bill of Complaint filed by Defendant in this action dated November 30, 2007.
4. "Person" shall mean a natural person or an artificial person, including partnerships, corporations, proprietorships, unincorporated associations, governmental bodies, or any other legal entity.

5. "Catawba River Basin," "Catawba River," or "River" means the Catawba River Basin from its source in North Carolina to the mouth of the Santee and Cooper River systems at the Atlantic Ocean in South Carolina, including (without limitation) all tributaries, rivers, reservoirs, streams, and lakes therein.

6. These requests are to be construed as being propounded on CRWSP, including each subsidiary, and you should construe the terms "you" or "your" to refer to each subordinate entity and its respective officers, members, managers, administrative staff, attorneys, agents, and any other persons representing or acting on their behalf.

### **INTERROGATORIES**

1. Identify each and every person by name and, if known, the address and telephone number of each individual whom you know or believe to have discoverable information — along with the subjects of that information — relating to the claims set forth and/or any alleged fact in the Complaint and/or Answer, including defenses, in the above-captioned matter, including, but not limited to:

(a) the amount and uses (consumptive and non-consumptive) of water approved for transfer by North Carolina's Environmental Management Commission out of the Catawba River Basin;

(b) the extent to which North Carolina's "interbasin transfer statute," N.C. Gen. Stat. Ann. § 143-215.22G(1)(h), has implicitly permitted one or more transfers of less than 2 million gallons per day from the Catawba River Basin;

(c) the extent to which entities within North Carolina have taken advantage of N.C. Gen. Stat. Ann. § 143-215.22I(b), which authorizes transfers without a permit from the North Carolina Environmental Management Commission up to the full capacity of any facility that was existing or under construction on July 1, 1993;

(d) the extent to which use and transfers of water out of the Catawba River Basin approved by North Carolina's Environmental Management Commission exacerbate the existing natural conditions and droughts that contribute to low-flow conditions in South Carolina;

(e) the extent to which growth in the area surrounding the Catawba River Basin jeopardizes the quality of water flowing from the Catawba River;

(f) the extent to which use and transfers of water out of the Catawba River Basin to persons in North Carolina affect water quantity in the Catawba River Basin (e.g., affecting major boat landings and/or public access areas, adversely affecting electricity generation at Duke Energy Carolinas, LLC's 13 hydroelectric power generation stations located on the Catawba River Basin, adversely affecting wastewater treatment).


(g) the extent to which use and transfers of water out of the Catawba River Basin affect water quality of the Catawba River Basin (e.g., nutrient inputs to lakes from both point and nonpoint sources; sedimentation in streams and lakes from urban runoff, construction, and agriculture; lack of assimilative capacity for oxygen-consuming wastes in streams and lake coves from wastewater treatment

plant discharges; stream water quality impairment from urban stormwater runoff; health concerns associated with fecal coliform bacteria; toxicity from heavy metals and its impacts on aquatic life and water supplies, discharges of colored effluent from wastewater treatment plants; algae blooms in Lake Wateree; undrinkable tap water in the City of Camden between 1998 and 2002, etc.).

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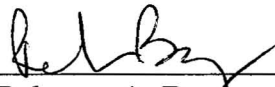
August 5, 2008

  
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## CERTIFICATE OF SERVICE

Pursuant to Rule 29.5 of the Rules of this Court, I certify that all parties required to be served have been served. On August 5, 2008, I caused copies of Plaintiff State of South Carolina's First Set of Interrogatories to Limited Intervenor Catawba River Water Supply Project to be served by first-class mail, postage prepaid, and by electronic mail (as designated) on those on the attached service list.



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