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MEMORANDUM

TO: MR. THOMAS FOLEY, ALBEMARLE COUNTY EXECUTIVE

FROM: THOMAS L. FREDERICK, EXECUTIVE DIRECTOR
RIVANNA WATER & SEWER AUTHORITY

SUBJECT: LEGISLATIVE REQUEST

DATE: DECEMBER 23, 2015

In early October 2015, the Rivanna Water & Sewer Authority (RWSA) learned through its membership in the Virginia Association of Municipal Wastewater Agencies (VAMWA) that representatives for a proposed new industry in Chesterfield County had drafted a bill and proposed to introduce it in the 2016 Session of the legislature that would be very adverse to the financial interests of the RWSA and therefore adverse to the citizens of Albemarle County who pay for public sewer service through the Albemarle County Service Authority. The proposal was to authorize the State Water Control Board to take away "unused" nutrient (nitrogen and phosphorus) allocations from permitted clean water discharges from wastewater facilities to provide a pool of nutrient allocations to give away to new development.

In 2005 the State Water Control Board established nutrient allocations for all wastewater facilities in the Chesapeake Bay watershed based upon protection of water quality in the Bay and its tributaries. These allocations have been an enormous success as the wastewater sector in Virginia is now the only sector in compliance with Bay goals, succeeding through capital intensive wastewater facility upgrades and the operation of the Virginia Nutrient Credit Exchange Association, which today serves as a model across the country for nutrient trading. RWSA has substantially upgraded its Moores Creek facility and is selling credits on that Exchange.

The 2005 allocations recognized the public investments that localities and authorities in Virginia had made by establishing the allocations based upon plant capacity instead of current use, providing a vehicle for future growth. The proposed legislation would take that capacity to give away to new industry, creating an incentive for new industry to build its own new treatment facilities while leaving excess capacity in public facilities stranded, at greater cost to public utilities. RWSA receives approximately \$125,000 per year in revenue through the Exchange, which would be taken away by such legislation, forcing RWSA to raise its wastewater wholesale rates. Further, our organization recently worked with the County's Economic Development office on an excellent sustainable way to address wastewater from a proposed new brewery. Although the brewery did not select to build here, the legislation being proposed would seriously "tie the hands" of RWSA to prepare similar proposals in the future.

VAMWA has actively worked with the Virginia Manufacturers' Association and the representatives of the proposed industry to understand its legitimate concerns about the 2005 allocations and believes the Commonwealth would be better served for the legislature to create a study panel that would work throughout 2016 to balance the needs of all players, including RWSA. We believe the study panel option has significant potential to pass the legislature as a reasonable compromise, but its potential rests in part on legislators hearing from localities that "take away" legislation will be strongly opposed. The Charlottesville City Council has made this issue one of its legislative priorities, and we strongly encourage the Albemarle County Board of Supervisors to do the same.

Please let me know if you have any questions, or if the Supervisors desire that we make a presentation or answer questions.

C: RWSA Board of Directors

Rich Gullick, Ph. D.

Mr. Kurt Krueger, Esq.

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