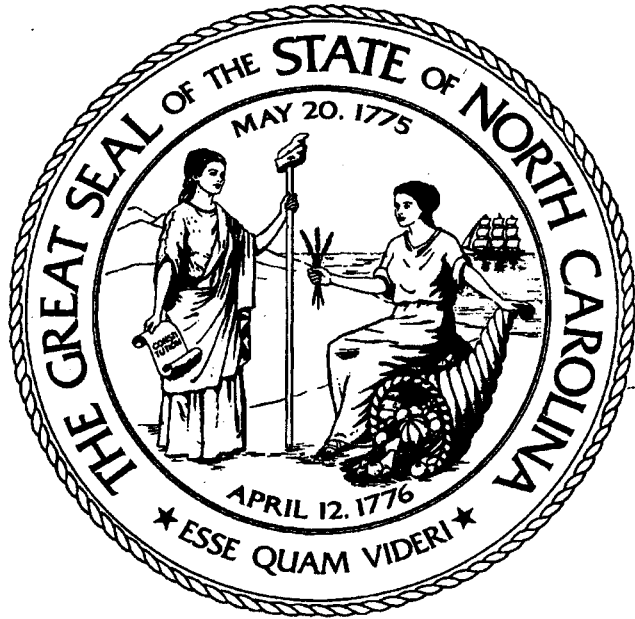


**JOINT LEGISLATIVE COMMISSION
ON MUNICIPAL INCORPORATIONS**



**REPORT TO THE
GENERAL ASSEMBLY
OF NORTH CAROLINA
Proposed Town of Fontana Dam
March 16, 2009**

REPORT TO THE GENERAL ASSEMBLY

Proposed Incorporation of the Town of Fontana Dam March 16, 2009

The Joint Legislative Commission on Municipal Incorporations was created in 1986 by the General Assembly to conduct an independent review and evaluation of proposed municipal incorporations. This evaluation, to be conducted in accordance with a statutory set of objective criteria, is designed to allow the General Assembly to see the feasibility of the proposed new municipality. The Commission consists of four members of the General Assembly, one city official, and one county official. A list of members appears as Appendix A.

The statutory criteria require a review of community support (a petition is required), population, land development, nearness to other urban areas, and ability to provide municipal services at a reasonable tax rate. A copy of the statutes authorizing the Commission and setting up the review standards is attached as Appendix B.

The Commission received a petition proposing the incorporation of the Town of Fontana Dam in Graham County on November 10, 2009. A copy of the petition is attached as Appendix C.

The petition was reviewed by Commission staff, who determined that the petition on its face failed to meet the minimum requirements provided in G.S. 120-167 as to permanent population (at least 100 persons) and population density (at least 250 persons per square mile). According to the Fontana Dam petition, the population of the community is estimated to be 25 to 30 persons and the population density is 25 persons per ½ square mile. As a result of staff's review, the Commission did not ask the Division of Community Assistance of the Department of Commerce to further evaluate the petition to determine if it met the requirements of G.S. 120-163 through G.S. 120-170.

On March 16, 2009, the Commission met to discuss the Fontana Dam petition. The Commission determined that the petition on its face failed to meet the minimum statutory requirements related to population and population density. Therefore, the Commission voted unanimously to give the petition from Fontana Dam a negative recommendation.

The Commission finds that the proposed Town of Fontana Dam does not meet the standards required by Article 20 of Chapter 120 of the General Statutes, specifically the provisions of G.S. 120-167, population and population density, and therefore the Commission does not recommend incorporation of the area as the Town of Fontana Dam.

APPENDIX A

**JOINT LEGISLATIVE COMMISSION ON
MUNICIPAL INCORPORATIONS
2008-2010
Membership**

President Pro Tem's Appointments

Senator Fletcher Hartsell
P. O. Box 368
Concord, NC 28026-0368

Senator Vernon Malone
2124 Lyndhurst Dr.
Raleigh, NC 27610

Mr. Steven Raper
P. O. Box 1180
Rocky Mount, NC 27802-1180
(252) 972-1325

Staff

Gayle L. Moses, Staff Attorney
Bill Drafting Division

Oliver Bass
Dept of Commerce, Division of
Community Assistance
733-2853

Lee Nichols
Dept of Commerce, Division of
Community Assistance
733-2853

Speaker's Appointments

Representative Becky Carney
P. O. Box 32873
Charlotte, NC 28232

Representative William Wainwright
P. O. Box 941
Havelock, NC 28532

Mr. Mike Cross
Chatham County Commissioner
388 Cross Point Road
New Hill, NC 27562

Legislative Assistant

Delta Prince
2125 Legislature Building
Raleigh, NC
919-733-5649

APPENDIX B

Article 20.

Joint Legislative Commission on Municipal Incorporations.

Part 1. Organization.

§ 120-158. Creation of Commission.

(a) There is created the Joint Legislative Commission on Municipal Incorporations, referred to in this Article as "Commission".

(b) The Commission shall consist of six members, appointed as follows:

- (1) Two Senators appointed by the President Pro Tempore of the Senate;
- (2) Two House members appointed by the Speaker;
- (3) One city manager or elected city official, appointed by the President Pro Tempore of the Senate from a list of three eligible persons nominated by the North Carolina League of Municipalities; and
- (4) One county commissioner or county manager, appointed by the Speaker from a list of three eligible persons nominated by the North Carolina Association of County Commissioners. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1991, c. 739, s. 17.)

§ 120-159. Terms.

Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member's continued eligibility for the category. The Commission shall elect a chairman from its membership for a one-year term. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-160. Compensation.

Members of the Commission who are members of the General Assembly shall receive subsistence and travel allowances as provided by G.S. 120-3.1. Members who are State officers or employees shall receive subsistence and travel allowances as provided by G.S. 138-6. All other members shall receive per diem, subsistence, and travel allowances as provided by G.S. 138-5. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-161. Facilities and staff.

The Commission may meet in the Legislative Building or the Legislative Office Building. Staff for the Commission shall be provided by the Legislative Services Commission. The Commission may contract with the Institute of Government, the Local Government Commission, the Department of Environment and Natural Resources, or other agencies as may be necessary in completing any required studies, within the funds appropriated to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989, c. 727, s. 218(82); 1997-443, s. 11A.119(a).)

§ 120-162. Reserved for future codification purposes.

Part 2. Procedure for Incorporation Review.

§ 120-163. Petition.

(a) The process of seeking the recommendation of the Commission is commenced by filing with the Commission a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Commission the verified petition from the county board of elections.

(e) A petition must be submitted to the Commission at least 60 days prior to convening of the next regular session of the General Assembly in order for the Commission to make a recommendation to that session. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 1; 2001-353, s. 6.)

§ 120-164. Notification.

(a) Not later than five days before submitting the petition to the Commission, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and
- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Commission.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Commission, notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Commission. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-165. Initial inquiry.

(a) The Commission shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Commission shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-166. Additional criteria; nearness to another municipality.

(a) The Commission may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. For purposes of this section, "municipality" means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Commission shall adopt policies to implement this subdivision;
- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation; or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Commission but the annexation petition was not approved. (1985

(Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25; 1998-150, s. 2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-35, s. 2.)

§ 120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 2.)

§ 120-168. Additional criteria; development.

The Commission may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 3.)

§ 120-169. Additional criteria; area unincorporated.

The Commission may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2005-35, s. 3.)

§ 120-169.1. Additional criteria; level of development, services; financial impact on other local governments.

(a) Repealed by Session Laws 1999-458, s. 4.

(b) Services. – The Commission may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c).

(c) The Commission in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality. (1998-150, s. 3; 1999-458, s. 4.)

§ 120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-171. Procedures if findings made.

(a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings.

If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-172. Referendum.

Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of fifty percent (50%) of registered voters the Commission shall not recommend a referendum. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-173. Modification of petition.

With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-174. Deadline for recommendations.

If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§§ 120-175 through 120-179. Reserved for future codification purposes.

MCKINNEY & TALLANT, P.A.
Attorneys at Law
40 Court Street
Robbinsville, North Carolina 28771

ZEYLAND G. MCKINNEY, JR.
MACK D. TALLANT
ERIC W. STILES
CRYSTAL BRYSON

Phone (828) 479-2442
Fax (828) 479-6747

MAILING ADDRESS
P. O. BOX 1549
ROBBINSVILLE, NC 28771

November 5, 2008

Gayle Moses
Staff Attorney
401 Legislative Office Building
300 North Salisbury Street
Raleigh, NC 27603

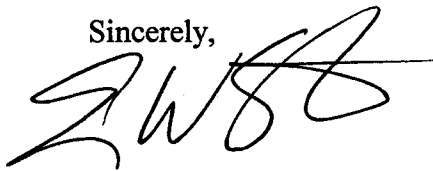
Re: Petition for Incorporation

Dear Ms. Moses,

Please find enclosed the Petition of the members of the Fontana Dam, North Carolina community for municipal incorporation. Please forward this petition to the Joint Legislative Commission on Municipal Incorporations for their review. If there are any questions, please call.

Thank you.

Sincerely,



Eric W. Stiles
Attorney at Law

/dbb

enc

cc: Randy Jordan

PETITION FOR MUNICIPAL INCORPORATION

A. Proposed name of the township: Fontana Dam, North Carolina

B. Services to be provided by the proposed municipality:

- 1) Solid Waste Collection/Disposal
- 2) Street Construction
- 3) Police Protection
- 4) Water Distribution
- 5) Street Maintenance
- 6) Fire Protection

C. Individuals to serve as the interim governing board:

- 1) Tammie Dees
- 2) TIM GAMBLE
- 3) CRAG LITZ
- 4) Vanessa Litz
- 5) Debbie Rich

D. Estimated Population: 25 to 30 persons

E. Assessed Valuation: \$10,437,524.01

F. Degree of Development: 80 %

G. Population Density: 25 persons per 1/2 square mile

H. Recommendations as to the form of government and manner of elections:

- a) Name of Governing Body; Number of Members. The governing body of the town of Fontana Dam is the Town Council, which consists of at least three members, and no more than five members. There shall be at least two Council members and one mayor.
- b) Manner of Elections of Town Council. The qualified voters of the town of Fontana Dam voting at large shall elect the members of the Town Council.
- c) Terms of Office of Town Council Members: Town Council members shall be for two year terms which shall run concurrently.
- d) Term of Office for the Town Mayor: The Mayor shall be the town councilman that receives the largest number of votes in the municipal election and shall serve a term of two years, which shall run concurrently with the other two Council Member Terms. In the vent of a tie, or the councilmen receiving the larges number of votes declines to serve as

Mayor, the Mayor shall then be elected by a majority vote of the council
from its membership.

- I. Fontana Dam shall have a budget ordinance with an ad valorem tax levy of at least five cents on the one hundred dollar valuation of all taxable property within its corporate limits.
- J. Fontana Dam shall provide the following services: Police Protection, Fire Protection, Solid Waste Collection/Disposal, Street Maintenance, and Street Construction.
- K. The proposed municipality does not contain any non-contiguous areas.

PROPOSED CHARTER

Section 1. The Charter of the Town of Fontana Dam.

ARTICLE I “ INCORPORATION AND CORPORATE POWERS”

Section 1.1. Incorporation and Corporate Powers. The inhabitants of the Town of Fontana Dam are a body corporate and politic under the name of the “Town of Fontana Dam. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

ARTICLE II

Section 2.1. Corporate Boundaries. The corporate boundaries of the Town of Fontana Dam shall be as follows until changed in accordance with law:

A tract of land located at Fontana Village in the Yellow Creek Township of Graham County, State of North Carolina, approximately 1.25 miles southwest of Fontana Dam, and more particularly described as follows:

BEGINNING at a metal marker (Coordinates: N 646,225; E 559,660) on the west side of Fontana Village at a common corner of the land of the United States of America (Tennessee Valley Authority), the land of the Whiting Manufacturing Company and the land previously transferred in fee by the Authority to the U.S. Department of Agriculture under the designation of Tract XTFR-4. From the initial point with the boundary line of the land in custody of the Tennessee Valley Authority, N 67-32 E 2,818 feet passing a metal marker at 552 feet and a metal marker at the east edge of a road at 1193 feet to a metal marker; thence, N 25-15 E 2,429 feet passing a metal marker at 1831 feet to a metal marker; thence, N 77-06 E 1,603 feet crossing State Highway 28 at approximately 65 feet to a metal marker; thence, S 45-31 E 1,480 feet to a metal marker; thence, S 22-32 E 846 feet recrossing State Highway 28 at approximately 775 feet to a metal marker; thence, S 56-26 W 3,594 feet to a metal marker; thence, S 85-25 W 602 feet to a metal marker; thence, S 77-16 W 1,470 feet to a metal marker; thence, due south, 303 feet to a metal marker; thence, N 89-28 W 1,504 feet to a metal marker; thence, N 03-26 W 836 feet to the point of BEGINNING, containing 288.5 acres, more or less.

The positions of corners and directions of lines are referred to the North Carolina Coordinate System.

ARTICLE III “GOVERNING BODY”

Section 3.1. Name of Governing Body; Number of Members. The governing body of the Town of Fontana Dam is the Town Council, which consists of at least three members, but no more than five members, two of which will be Councilmen and one Mayor.

Section 3.2 Manner of Election of Town Council. The qualified voters of the Town of Fontana Dam voting at large shall elect the members of the Town Council.

Section 3.3. Terms of Office. Members of the Town Council are elected to two year terms which shall run concurrently.

Section 3.4. Mayor; Term of Office. The Mayor shall be the Councilman who receives the largest number of voters in the municipal election and shall serve a term of two years. In the event of a tie, or the Councilman receiving the largest number of votes declines to serve as Mayor, the Mayor shall be elected by a majority vote of the council from its membership.

ARTICLE IV "ELECTIONS"

Section 4.1. Conduct of Town Elections. The Town Council shall be elected according to the nonpartisan plurality method and the results determined as provided in G.S. 163-292.

Section 4.2. Administration of Elections. Elections shall be administered as provided in G.S. 163-285.

ARTICLE V "ADMINISTRATION"

5.1. Manger Form of Government. The Town of Fontana Dam shall operate under the council-manager form of government as provided by Part 2 of Article 7 of Chapter 160A of the General Statutes.

ARTICLE VI "TAXATION FOR FISCAL YEAR 2008-09"

Section 6.1. Budget for Fiscal Year 2008-09. The newly incorporated Town of Fontana Dam is authorized to adopt a budget and levy property taxes for the 2008-09 fiscal year. In adopting the budget and levying taxes late in the fiscal year 2008-09, the Town's governing body need not follow the schedule set forth in the Local Government Budget and Fiscal Control Act, but shall observe the sequence of actions in the spirit of the act insofar as practical.

ARTICLE VII "INTERIM TOWN COUNCIL"

Section 7.1. For the period from ratification of this charter until the date of the organizational meeting after the 2009 municipal election provided by G.S. 160A-68, the following persons shall serve as the interim council:

Tammy Dees- Mayor and Councilmember

Tim Gamble- Councilmember
Craig Litz- Councilmember
Vanessa Litz- Councilmember
Debbie Rich- Councilmember

Section 7.2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the __ day of _____, 2008.

President of the Senate

Speaker of the House

GRAHAM COUNTY BOARD OF ELECTIONS

P.O. BOX 1239
ROBBINSVILLE, NC 28771
P: (828) 479-7969/F: (828) 479-4264
GRAHAMCO.BOE@NCMAIL.NET

July 8, 2008

Petition for Municipal

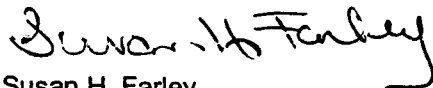
Eric W. Stiles
McKinney & Tallant
P.O. Box 1549
Robbinsville, NC 28771

Attention: Eric W. Stiles

Dear Eric W. Stiles:

This letter is to inform you of the status of petition "Fontana Dam, NC Incorporation in Graham County. Pursuant to North Carolina law, the entire petition has been checked against the registration records of the Graham County Board of Elections and that 25 names out of 26 signatures have been determined to be qualified. Attached is a list of names that will be certified.

Thank you,



Susan H. Farley
Director
Graham County Board of Elections

McKINNEY & TALLANT, P.A.

Attorneys at Law

40 Court Street

Robbinsville, North Carolina 28771

ZEYLAND G. McKINNEY, JR.

MACK D. TALLANT

ERIC W. STILES

(828) 479-2442

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MAILING ADDRESS

P. O. BOX 1549

ROBBINSVILLE, NC 28771

November 19, 2008.

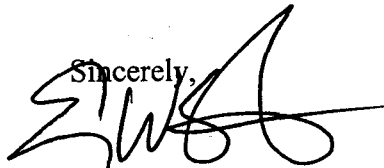
Gayle Moses
Staff Attorney
401 Legislative Office Building
300 North Salisbury Street
Raleigh, NC 27603

Re: Petition for Incorporation of Fontana Dam

Dear Mrs. Moses,

Please find enclosed the Amendment to the Petition for Municipal Incorporation providing the suggested form of government for Fontana Dam. Also, find enclosed the letters sent to the Town of Lake Santeetlah and the Town of Robbinsville, which provided notice of the residents of Fontana Dam's intention to file a petition for municipal incorporation. Also, find enclosed the Affidavit of Publication indicating that notice was published once a week for two consecutive weeks that the residents of Fontana Dam intended to file a petition for municipal incorporation. Finally, find enclosed the letter from the Graham County Board of Elections indicating that there are seventy-three registered voters in the Fontana Dam community. This should be all of the information that you requested that I submit to you to accompany the petition. If there are any questions, please call. Thank you.

Sincerely,



Eric W. Stiles

Attorney at Law.

Enc.

GRAHAM COUNTY BOARD OF ELECTIONS

18 Court Street
P.O. Box 1239
Robbinsville, NC 28771

Phone: 828-479-7969
Fax: 828-479-4264
Email: Grahamco.boe@ncmail.net

November 19, 2008

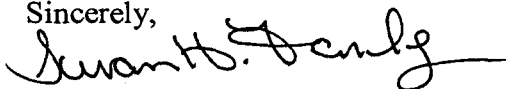
Zeyland G. McKinney
Mack D. Tallant
Eric W. Stiles

Re: Verification of Voter Numbers

Dear Mr. Stiles:

As requested I am attesting that there are currently Seventy Three people that are "Registered Voters" in Fontana Dam, NC.

Sincerely,



Susan H. Farley
Director of Elections

AMENDMENT TO THE PETITION FOR INCORPORATION OF
FONTANA DAM, NORTH CAROLINA

Now come the petitioning members of the Fontana Dam Community and amend Paragraph H of their petition to provide the additional information as follows:

H. Recommendations as to the form of government and manner of elections:

- a) Manger Form of Government. The Town of Fontana Dam shall operate under the council-manager form of government as provided by Part 2 of Article 7 of Chapter 160A of the General Statutes
- b) Name of Governing Body; Number of Members. The governing body of the town of Fontana Dam is the Town Council, which consists of at least three members, and no more than five members. There shall be at least two Council members and one mayor.
- c) Manner of Elections of Town Council. The qualified voters of the town of Fontana Dam voting at large shall elect the members of the Town Council.
- d) Terms of Office of Town Council Members: Town Council members shall be for two year terms which shall run concurrently.
- e) Term of Office for the Town Mayor: The Mayor shall be the town councilman that receives the largest number of votes in the municipal election and shall serve a term of two years, which shall run concurrently with the other two Council Member Terms. In the vent of a tie, or the councilmen receiving the larges number of votes declines to serve as Mayor, the Mayor shall then be elected by a majority vote of the council from its membership.

McKINNEY & TALLANT, P.A.

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**ZEYLAND G. McKINNEY, JR.
MACK D. TALLANT
ERIC W. STILES**

**(828) 479-2442
Fax: (828) 479-6747**

**MAILING ADDRESS
P. O. BOX 1549
ROBBINSVILLE, NC 28771**

July 11, 2008.

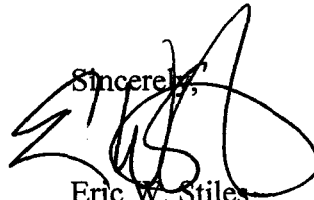
Town of Lake Santeetlah
Graham County, NC

VIA FAX: 479-9378

To Whom It May Concern:

Please take notice and be advised that the residents of the Fontana Dam Community will be submitting a petition to the North Carolina Joint Legislative Commission on Municipal Incorporations. The citizens of Fontana Dam are petitioning the General Assembly for the right to incorporate Fontana Dam into a township.

Sincerely,



Eric W. Stiles
Attorney at Law.

McKINNEY & TALLANT, P.A.

**Attorneys at Law
40 Court Street
Robbinsville, North Carolina 28771**

**ZEYLAND G. McKINNEY, JR.
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ROBBINSVILLE, NC 28771**

July 11, 2008.

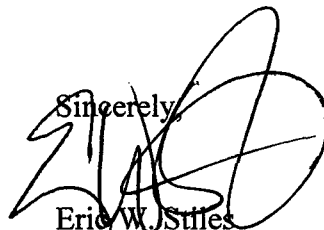
Town of Robbinsville
Post Office Box 126
Robbinsville, NC 28771

VIA FAX: 479-9272

To Whom It May Concern:

Please take notice and be advised that the residents of the Fontana Dam Community will be submitting a petition to the North Carolina Joint Legislative Commission on Municipal Incorporations. The citizens of Fontana Dam are petitioning the General Assembly for the right to incorporate Fontana Dam into a township.

Sincerely,



Eric W. Stiles
Attorney at Law.

Received
2/3/09

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December 4, 2008.

Gayle Moses
Staff Attorney
401 Legislative Office Building
300 North Salisbury Street
Raleigh, NC 27603

RE: Incorporation Petition of Fontana Dam

Mrs. Moses,

This letter is intended to provide some background information regarding the Fontana Dam Community, which has recently submitted a petition for municipal incorporation. The following paragraphs will set forth distinctive facts pertaining to Fontana Dam and the reasons why our request for incorporation should be granted.

First of all, the area that we seek to incorporate already has the basic infrastructure of a town. We are not simply trying to incorporate an area consisting of twenty-five or thirty homes. In fact, the area is an organized and developed community comprised of businesses, residences, and recreational areas. The area has been operated and maintained by the residents since 1945 without any governmental assistance.

The community already has several miles of common roads and streets that are used by the residents and the general public. These are maintained, paved, and improved by the residents without any assistance from the state or federal government. We do not receive any funding, taxes, or other such incentives to provide this service.

The community also maintains its own electrical system for the entire area. While we do not produce our own electricity, we do maintain and improve several miles of power transmission lines, power poles, and other basic structures needed to provide electricity to the residents and businesses located in Fontana Dam. Once again, the maintenance and improvement of the electrical system is funded and performed solely by the residents. We do not receive any funding or support from the state or federal government to provide this service.

The community has also constructed and maintains its own sewage plant and disposal system and water system for all of the residents, visitors, businesses, and for government

controlled areas. These services are also financed and maintained solely by the community. Incorporation would allow us to continue to provide these services and provide a means to more accurately disperse these costs on a pro rata basis to the residents and businesses located in the community.

Other examples of services that are already in place and that are financed and maintained by the community are a solid waste pick up and disposal system, public boating access areas, and marina. These services are also maintained and paid for by the residents without any governmental assistance. As with all of the services provided by the community, it is imperative that we be allowed to incorporate in order to form a tax system with which to finance the burden of providing these services.

The community also has its own zip code and post office that serve the residents and the Tennessee Valley Authority. Fontana Dam and visitor center is located in close proximity to the community and receives water, sewage, and garbage disposal services at the expense of the residents.

We understand that you are concerned with the fact that we only have twenty-five to thirty permanent residents located in the community. However, this number does not reflect the fact that the area that we seek to incorporate is home to the Fontana Village Resort. ~~The Resort which is open to the general public, has over one hundred thousand visitors annually. During the year these visitors use and enjoy the utilities and services that we provide at our own expense without assistance from the state or the federal government and without any basis from which to generate tax revenues to finance such services.~~

Fontana Village Resort generates hundreds of thousands of dollars each year in revenues. It also owns a majority of the structures located in the community. Therefore, this will provide a substantial tax base to fund the town once it is incorporated. Incorporation will allow the residents and businesses of the community to carry the expense of the maintenance of the community and of the services it provides to the residents and to the general public.

Fontana Village Resort is also one of the largest employers in Graham County. Each day several hundred employees depend upon the continuation of the services being provided by the community for their employment. If the community is not allowed to incorporate, and thereby institute a tax system to finance the services provided, it is very likely that the residents and businesses will not be able to sustain the costs of these services. If we are not allowed to incorporate the result could be the loss of hundreds of jobs to residents of Graham and Swain counties.

Another reason that incorporation of the Fontana Dam community is imperative is the fact that it will allow us access to federal and state grants and funding. This will allow us to better the community and provide additional benefits to the general public and residents of this state. By allowing the community to incorporate it will strengthen the economy and assist in improving the overall quality of life for many North Carolina residents by introducing much needed funding into the rural area.

A final reason that incorporation should be allowed is the extreme remoteness of the area. The Fontana Dam community is located over twenty-five miles from the nearest incorporated town. Unless we are allowed to incorporate there is very little chance that the area will attract any other business or industry opportunities for the community. Incorporation would allow us to attract other sources of employment for the residents and thereby improve the economy of Graham County.

I hope that this letter provides you with more insight as to why we have filed our petition seeking to form a municipal incorporation. The reasons stated in this letter are only a few examples of the unique situation that we have in the Fontana Dam community. It is a community that has the ability to thrive and grow with a little assistance. If you have any questions, or if additional information would be helpful, please let me know.

Sincerely,

Eric W. Stiles
Attorney at Law.

**NORTH CAROLINA
GRAHAM COUNTY**

AFFIDAVIT OF PUBLICATION

before the undersigned, Nancy Waldroup, a Notary Public of Graham County North Carolina, duly commissioned, qualified and authorized by law to administer oaths, personally appeared, Barbara Bonnette, who, being duly sworn, avers and says: that she is the Typesetter of *The Graham Star*, engaged in the publication of a newspaper known as *The Graham Star*, published, issued and entered as periodical mail in the Town of Robbinsville, in Graham County, in the state of North Carolina. That she is authorized to make this affidavit and sworn statement: That the notice or other legal advertisement — a true copy of which is attached hereto — was published in *The Graham Star* on the following dates July 17 + 24, 2008 and that *The Graham Star* in which such notice, paper, document or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This 17th day of Nov., 2008.

Barbara Bonnette
Barbara Bonnette

Sworn to and subscribed before me this 17th day of Nov., 2008.

Nancy Waldroup
(Notary Public)
My commission expires ~~My Commission Expires October 25, 2009~~