

**North Carolina Environmental Management Commission -
Water Allocation Committee
Meeting Summary**

512 N. Salisbury Street
Ground Floor Hearing Room, Archdale Building
Raleigh, NC

11:30 a.m.-12:30 p.m.
Wednesday, March 7, 2012

Water Allocation Committee (WAC):

Commissioner Mayor Darryl D. Moss, Chair
Commissioner Stephen Smith, EMC Chair
Commissioner Donnie Brewer
Commissioner Marvin S. Cavanaugh, Sr.
Commissioner Steve Keen
Commissioner David H. Moreau
Commissioner Jeffrey Morse
Commissioner Dickson Phillips, III
Commissioner Clyde E. Smith, Jr.
Commissioner Steve Tedder

Item I. Preliminary Matters

1. Committee Chairman, Commissioner Mayor Darryl D. Moss, called the meeting to order. Pursuant to Executive Order Number One, the committee chairman called upon committee members to evaluate the matters to come before the committee and to identify any known conflict of interest or the appearance of a conflict of interest. There were no conflicts of interest.

2. Minutes and Agenda

The Committee approved the minutes of the November meeting as a true and accurate summary of the proceedings. The agenda for the November meeting included three information items: an interbasin transfer update, a Central Coastal Plain Capacity Use Area (CCPCUA) report and an outline of Session Law 2011-374 (House Bill 609).

Item II. Information Items

1. Capacity Use Area Designations

Tom Fransen gave an update on the capacity use designations and some background on how they were adopted. Chairman Smith said that hydraulic fracturing could introduce a new capacity use area (CUA). Mayor Moss said it is always good to prepare for what could happen.

The Water Use Act came from the General Assembly's work in 1967. This was the start of environmental law in North Carolina. A new emphasis was placed on prevention of damage. An idea of water and air belonging to the people emerged. The act was broken into 10 segments and has been fairly constant ever since.

The act gave the commission the authority to delineate CUA's. There either has to be a problem or a threat of a problem. The commission would then direct the department to do an investigation. The

department would have to define the problem, look at alternatives and talk about how to manage the problem. The commission would initiate a rule-making process if there is a resolvable issue. The department would be required to conduct public hearings and then proceed with rule-making.

Under a CUA, there is an ability to limit the withdrawals at 10,000 gallons per day (gpd), but mostly at 100,000 or more gpd. The act lays out how the department would issue or deny a permit at 100,000 gpd of withdrawals. The department would look at the characteristics of streams, aquifers, and reasonable use. The permits are usually issued for no longer than 10 years. It is possible to issue permits for longer than 10 for water plants. The permit cannot be transferred and it can require people to meter their water use. There is a provision for grandfathering in people. There is criminal, civil and injunctive relief authority if the department needs to use it. The user has to include a map and file it with Secretary of State's office. There is a provision that allows the department to perform inspections. There are two definitions: consumptive use and non-consumptive use. The act talks about quality and quantity, but the current focus of the act is on quantity because there are more stringent regulations for water quality since the act was passed.

The commission's main role is to declare and delineate CUA's. The commission, department, or a third party can make a request for rule-making. The department performs the capacity use investigation, works through the rule-making process, and then the department becomes the manager of CUA. A voluntary CUA is in place in the Eno River Basin.

Fifteen counties make up the Central Coastal Plain Capacity Use Area (CCPCUA). Individuals must register if they use 10, 000 gpd or more and obtain a withdrawal permit for more than 100,000 gpd of ground water. The rules became effective in 2002, after a long rule-making process. There is now recovery in the CCPCUA, which proves the rules are working. The rules only regulate the cretaceous aquifers. Dr. Moreau stated that the act was first adopted because of Texas Gulf mining operations.

Adjournment

There being no further business, **Chairman Mayor Darryl D. Moss**, dismissed the assembly at 12:03 p.m.