

## Summary of Water Allocation Committee Meeting

July 7, 2004, 3 PM  
Conference Room #3, 14<sup>th</sup> Floor, Archdale Building  
Raleigh, NC

### Agenda

#### Status Reports

##### I. Southern Coastal Plain Capacity Use Investigation

In December 2002 the Water Allocation committee requested that the Division of Water Resources undertake a capacity use investigation of the Southern Coastal Plain over a one and a half year period extending through June 2004. Jeff Lautier of the Division of Water Resources (DWR) presented this report.

#### Main Points

- Large cones of depression have formed in the Upper Cape Fear and Black Creek aquifers as a result of ground water withdrawals made by the Smithfield Foods Inc. facility near Tarheel. Upper Cape Fear water levels are recovering because of cutbacks in withdrawals. Evidence of Black Creek aquifer dewatering exists beneath the Smithfield Foods plant site and possibly beneath the Town of Tarheel.
- Elevated chloride concentrations in the Smithfield Foods well field indicate localized upconing of salt water trapped in the underlying basement rock.
- Large cones of depression have formed in the Upper Cape Fear and Black Creek aquifers as a result of ground water withdrawals made by Elizabethtown and the Town of White Lake well fields. There is strong evidence of Upper Cape Fear and Black Creek water levels recovering because of the cessation of pumping at the Alamac Knit Fabrics facility in Elizabethtown.
- There are slow but steady Black Creek aquifer water level declines in the Lumberton area. These are not a concern at present, but may become a problem in the future.

#### Recommendations

- Continued monitoring well network improvements are necessary in this region to allow the Division to track water level conditions in all

the aquifers.

- Capacity use designation is not necessary at this time. Ground water depletion is a concern, but the few pumping centers result in a more localized problem. There is no evidence of salt-water intrusion or dewatering on a regional basis as is evident in the North Carolina Central Coastal Plain.
- The Division recommends that the EMC support a cooperative agreement between the Division of Water Resources and the Lumber River Council of Governments and their local stakeholders. Draft versions of this agreement have included the following:
  - Improvement of the monitoring well network at a rate of \$150,000 per year
  - One year deadline for Smithfield Foods Inc. to develop a plan for sustainable water sources
  - Alternative water sources planning assistance
  - 2005 agricultural water use survey with periodic updates
  - Conservation and reuse strategies for each sector of water supply
  - Regional water supply plan

In a future meeting of the WAC, DWR will present for discussion a draft of the cooperative agreement between the Division of Water Resources and the Lumber River Council of Governments and their local stakeholders.

## **II. Charlotte Mecklenburg Interbasin Transfer (IBT)**

Marc Bernstein of the Office of the Attorney General presented his opinion related to a request that he research the legal aspects of a possible request by Charlotte Mecklenburg to remove condition #3 of its IBT certificate. Condition #3 removes the Goose Creek watershed from the IBT, placing a moratorium on new IBT water lines in the watershed until the impacts on the federally endangered Carolina Heelsplitter are evaluated. Mr. Bernstein was asked to evaluate how the federal Endangered Species Act (ESA) might apply in this case.

Mr. Bernstein reported that there are two sections of the ESA that could conceivably be invoked. Section 7 requires interagency consultation for a federal action. In this case the federal action would be an approval by the Federal Energy Regulatory Commission (FERC), which regulates the source reservoir in the Catawba River Basin. Mr. Bernstein informed the Committee that all necessary approvals by FERC have been given and no interagency consultation was requested by the US Fish and Wildlife Service (USFWS) at that time. Therefore, it is not likely that Section 7 would be invoked in this case.

The second possibility would be to invoke Section 9 of the ESA, which prohibits any party from "taking" an endangered species. The possibility is that the development that may occur as a result of the transfer into the Goose Creek watershed may cause a taking of the mussel in violation of Section 9. Mr. Bernstein informed that if the Environmental Management Commission (EMC) were to lift the moratorium as requested, it is unlikely the EMC could be held liable for any takings that followed.

Two options were mentioned for reducing the EMC's potential liability. The first option is for the State to apply for an Incidental Take Permit issued by USFWS under Section 10 of the ESA. Mr. Bernstein advised that this option is probably not necessary and did not recommend pursuing the permit. The second option is to include in the vehicle by which the moratorium were to be lifted, language that indicates that the State action is to be construed consistently with the ESA and does not authorize any party to take any action prohibited by the ESA.

At this time, no action on this matter by the WAC was necessary since Charlotte Mecklenburg has not yet requested the action.

### **III. Cary, Apex, Morrisville, Holly Springs, Wake Co IBT**

Phil Fragapane of DWR presented an update on the status of Condition #1 of IBT certificate, which requires that by the end of 2010, the certificate holder will return wastewater to the source Cape Fear basin according to provisions in the condition.

#### Main Points

- Implementation of Western Wake Regional Wastewater Treatment Facilities is on track for returning reclaimed water to the Cape Fear by 2011.
- Partners Apex, Cary, Fuquay-Varina, Holly Springs, Morrisville, and Wake County are near completion of 2-phase study, with 3<sup>rd</sup> phase to include mussel survey and CSI mitigation plans.
- Apex, Cary, and Morrisville are in the approval process to enter interlocal agreement to begin implementation of selected alternative, which for the three systems is a new water reclamation facility discharging to Cape Fear River downstream of Buckhorn Dam.
- The facility may treat both for discharge and reuse, primarily in Cape Fear Basin. The agreement is to be in place by August 1. The next step is the preparation of 201 Facilities Plan, EIS, other agreements.
- Fuquay-Varina is not participating in next phase, as it is planning to send its wastewater to Harnett County (Cape Fear River Basin).
- Holly Springs is not to participate as they have other short-term wastewater options. Holly Springs is still evaluating the possibility of securing capacity in discharge permit to Cape Fear in order to their WWTP from Utley Creek (Cape Fear River Basin) to the Cape Fear near Buckhorn Dam.

- There are short-term plans to send wastewater to Durham County WWTP which discharges to Northeast Creek (Cape Fear River Basin), beginning as early as January 2005.