

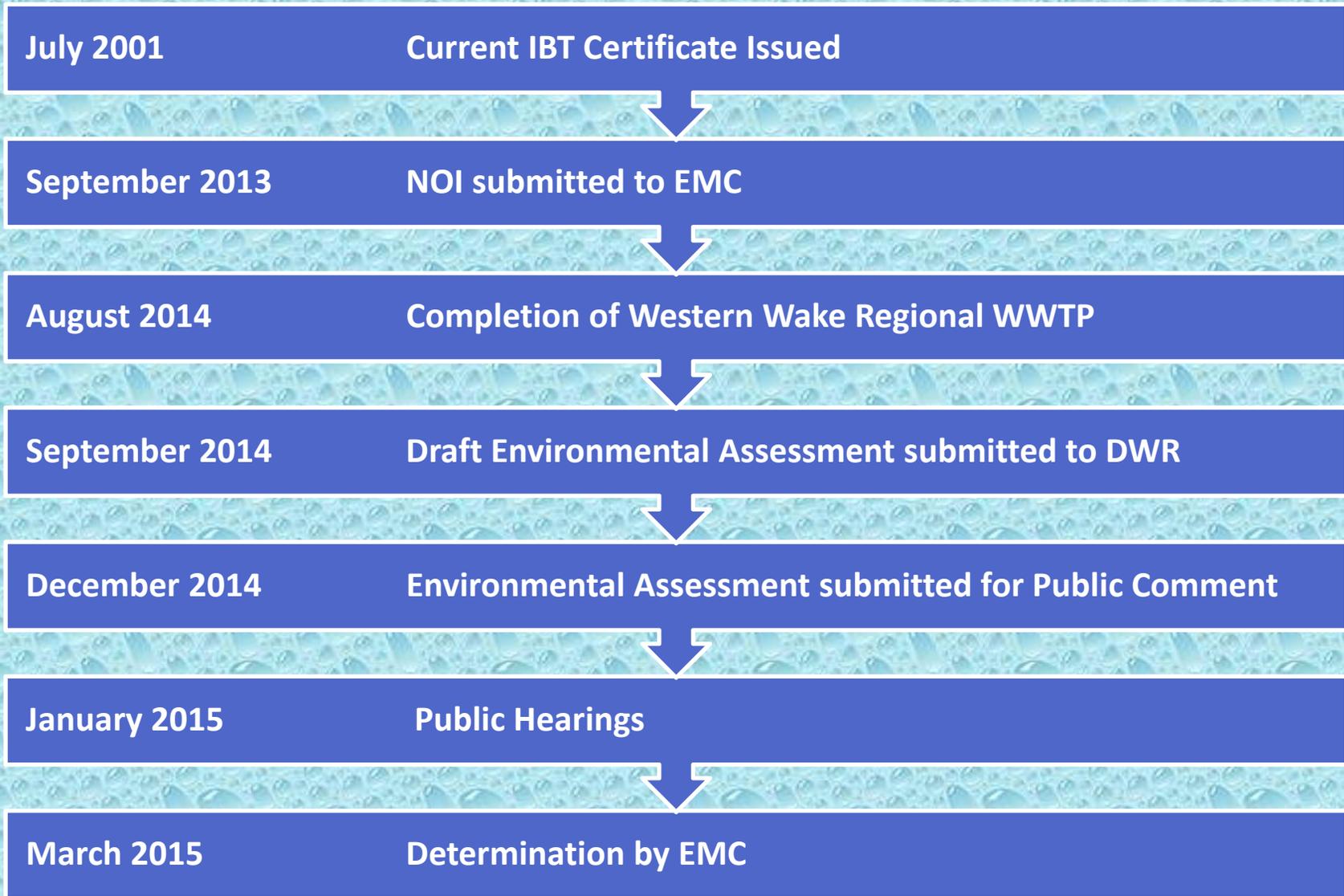
Proposed IBT Certificate Modification for the
Towns of Cary, Apex, Morrisville and Wake County
EMC Determination Process
January 2015

- **Three** Requests Currently in Process
 - Cary/Apex/Wake County
 - Modification, following G.S. 143-215.22L(v)
 - Union County
 - New Certificate, following G.S. 143-215.22L(c-n)
 - Kerr Lake Regional Water System
 - New Certificate (increase of grandfathered transfer), following change to G.S. 143-215.22L(w) (from Session Law 2014-120)

Proposed Project Description

Primary Applicant:	Towns of Cary, Apex, and Morrisville and Wake County	
Source Basin:	Haw	
Receiving Basins:	Neuse, Cape Fear	
Existing IBT Certificate:	24 MGD (max day)	
Average Daily over Maximum Month IBT <u>request</u> based on 2045 demand:		
Existing IBT Certificate Equivalent:	22 MGD	
Existing IBT (2013 data):	16 MGD	
	Haw to Neuse (2013 data):	15.95 MGD
	Haw to Cape Fear (2013 data):	0.05 MGD
Total Requested IBT:	33 MGD	
	Haw to Neuse:	31 MGD
	Haw to Cape Fear:	2 MGD

Project Timeline



Public Hearings

- Required Hearing
 - January 7 @ 6:30: Town of Apex Public Works Building
- Additional Hearing
 - January 22 @ 6:30: City of Fayetteville - City Hall
- Hearing Officer: Mr. Evan Kane
- Public Comment Period for Hearings:
 - January 7 – February 6
- <http://www.ncwater.org/?page=473>

§ 143-215.22L.(v)

SESSION LAW 2013-388

The Commission or the Department may make any of the following modifications to a certificate:

- a. Correction of typographical errors.
- b. Clarification of existing conditions or language.
- c. Updates, requested by the certificate holder, to a conservation plan, drought management plan, or compliance and monitoring plan.
- d. Modifications requested by the certificate holder to reflect altered requirements due to the amendment of this section.

Role of EMC in Modification Process

§ 143-215.22L.(v)

- Upon determining that the documentation submitted by the certificate holder is adequate to satisfy the requirements of this subsection, the Department shall publish a notice of the request for modification in the North Carolina Register and shall hold a public hearing at a location convenient to both the source and receiving river basins.
- The Department shall provide written notice of the request for the modification and the public hearing in the Environmental Bulletin, a newspaper of general circulation in the source river basin, a newspaper of general circulation in the receiving river basin, and as provided in subdivision (3) of subsection (c) of this section.
- The Department shall accept comments on the requested modification for a minimum of 30 days following the public hearing.

Modification Process (Cont.)

§ 143-215.22L.(v)

- The Commission or the Department may require the certificate holder to provide any additional information or documentation it deems reasonably necessary in order to make a final determination.
- The Commission shall make a final determination whether to grant the requested modification based on the factors set out in subsection (k) of this section, information provided by the certificate holder, and any other information the Commission deems relevant. The Commission shall state in writing its findings of fact and conclusions of law with regard to each factor.

Findings of Fact

§ 143-215.22L.(k)

- The EMC may grant the modification request in whole or in part, or deny it, and may require mitigation measures to minimize detrimental effects. In making this determination, the EMC is required to specifically consider:
 - The necessity, reasonableness, and beneficial effects of transfer amount
 - Detrimental effects on the source river basin
 - Detrimental effects on the receiving basin
 - Reasonable alternatives to the proposed transfer
 - Use of impounded storage
 - Purposes and water storage allocations in a US Army Corps of Engineers multipurpose reservoir
 - Compare the water system service area to the locations of both the source and receiving basins
 - Any other facts or circumstances

Modification Process (Cont.)

- The Commission shall grant the requested modification if it finds that the certificate holder has established by a preponderance of the evidence that the requested modification satisfies the requirements of subsection (m) of this section. The Commission may grant the requested modification in whole or in part, or deny the request, and may impose such limitations and conditions on the modified certificate as it deems necessary and relevant to the modification.
- The Commission shall not grant a request for modification if the modification would result in the transfer of water to an additional major river basin.

§ 143-215.22L.(m)

- (m) Final Determination: Burden and Standard of Proof; Specific Findings. – The Commission shall grant a certificate for a water transfer if the Commission finds that the applicant has established by a preponderance of the evidence all of the following:
 - (1) The benefits of the proposed transfer outweigh the detriments of the proposed transfer. In making this determination, the Commission shall be guided by the approved environmental document and the policy set out in subsection (t) of this section.
 - (2) The detriments have been or will be mitigated to the maximum degree practicable.
 - (3) The amount of the transfer does not exceed the amount of the projected shortfall under the applicant's water supply plan after first taking into account all other sources of water that are available to the applicant.
 - (4) There are no reasonable alternatives to the proposed transfer.

Contact Information

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The logo for the Division of Water Resources (DWR) features the letters 'DWR' in a bold, blue, sans-serif font. A stylized blue wave graphic is positioned behind the letters, and a white, curled corner effect is visible on the right side of the logo.

Division of Water Resources