

**NORTH CAROLINA ENVIRONMENTAL  
MANAGEMENT COMMISSION**

**WATER ALLOCATION COMMITTEE  
MEETING AGENDA**

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

**Time: 9:00 a.m. – 10:00 a.m.  
Wednesday, July 8, 2015**

Executive Order Number One mandates that the Chair inquire as to whether any member knows of any conflict of interest or appearance of conflict with respect to matters before the Commission. If any member knows of a conflict of interest or appearance of conflict, please so state at this time.

Tommy Craven, Chairman, Presiding

Water Allocation Committee Members: Tommy Craven (Chairman), Gerard Carroll, Daniel Dawson, Steve Tedder, Clyde “Butch” Smith, Manning Puette, Charles “Boots” Elam

Others: Julie Wilsey, Dr. Albert Rubin, Dr. Lawrence W. Raymond, J.D. Soloman

**I. Preliminary Matters**

1. Call to Order

- Chairman Craven introduced the new commission member Charles Elam, who took his seat July 2015.

2. Approval of minutes from the May minutes

- The minutes from the May meeting were approved.

3. Revisions or additions to the agenda

- There were no revisions or additions to the agenda.

**II. Information Items**

A. Water Permitting Alternatives

Dan McLawhorn, Raleigh

**Presentation Description**

Mr. Dan McLawhorn talked about solutions to challenges of water supply permitting. He gave recommendations on regulated riparianism withdrawal permitting across the state, including capacity area

use designation. Further, Mr. McLawhorn suggested the state should have regional water planning by basin, no stand-alone ecological flows component and a review of the interbasin transfer laws. Mr. McLawhorn suggested that state, federal, and local governments work closely on implementing laws to protect the future water supply systems and river basins.

#### Questions/Comments

Mr. Dawson asked if the capacity use permits Mr. McLawhorn proposes would consider existing or new withdrawals. Mr. McLawhorn explained that capacity use areas designations exist in our state and are based on registration. One of the issues the division has to decide is whether the registration is based on history of use, or the amount of use that is identified when the facility is built. Future expansion plans may not be included, but they are generally being grandfathered. Mr. McLawhorn said there are people who may not have been interacting with the division at all, particularly on the agricultural side.

Mr. Dawson asked if this will affect prior appropriations like out west. Mr. McLawhorn stated there is very limited water to own water resources in North Carolina and one has to own the facility from which the water is taken and/or lease it to make payments to the federal government for the Corp of Engineers' facilities. Otherwise, local governments can't get into the prior appropriations scheme. Riparian rights cannot be bargained or sold in North Carolina and they are transferred with the property to which they are attached.

Mr. Craven stated that in the September meeting committee members will hear presentations from staff on items of interest from the New Hanover Public Utilities District and Greenville Utilities about what the hurdles are for groundwater communities. The goal is for the committee to analyze the data and come up with a plan of action to assist with permitting water supplies in this state.

B. Ecological Flows Peer Review Report

Fred Tarver, DWR

#### Presentation Description:

Mr. Fred Tarver with the Division of Water Resources Water Planning Section gave an overview on the Peer Review Report of the Science Advisory Board Ecological Flows document, which was produced in 2014. Session Law 2010-143 gave DENR authorization to develop basin hydrologic models, and identify where ecological flows might be adversely impacted. The Division of Water Resources was directed to assemble the Ecological Flows Science Advisory Board to come up with a recommendation on ecological flows across the state.

Mr. Tedder stated he was curious if something was peer reviewed why one wouldn't provide the entire document. He wondered why it was not put forward as opposed to targeted questions.

Mr. Tarver stated the entire document was provided to the peer reviewers because the link was provided. The questions were meant to help guide the reviewers and to address specific concerns from Clearing House. The effort wasn't to constrain the review to questions. Hopefully the appendices were reviewed as well.

Mr. Tedder asked if they were provided a copy of the EMC position. Mr. Tarver stated no.

Mr. Tedder stated that any document or report is different based on whether it's the report itself or the peer review. He stated that some people wondered if this was really a peer review by the group that actually participated. He stated that he happened to be one of those people. Mr. Tedder stated that he went through the peer review and the document in detail, and if he had to come up with a one sentence conclusion it was that the report is not ready for prime time. There were too many flaws, too many weaknesses, too much missing information, and too much need for data. The report states that clearly and the peer review states

this very clearly.

Mr. Tedder stated the board doesn't have data on 90 percent of streams the report covers. He stated that the process went on for 3 years and 28 meetings and it's hard to keep people's attention focused on the matter at hand. He stated the peer review group needs to look at science as opposed to the report first and additional work and analysis needs to be done.

Mr. Tarver stated that the way statute is written the burden is on the department to come up with the characterizations and the ecological flows. The board's role was to assist the department in this effort.

Mr. Dawson asked for more back ground information to help him understand the instream council which started in 2004.

Mr. Tarver stated he didn't recall what that would have been. In 2010, there was legislation asking for the board to be created.

Mr. Dawson stated he thinks it would be helpful to identify where these recommendations are coming from and questioned if this is consistent with the current General Assembly directions. He stated that a liaison with the General Assembly would be useful. He stated that the report doesn't give a list of the members of either of the two groups and suggested it would be helpful if we identify where this information is coming from, where these recommendations are coming from, and where the peer reviews coming from.

Mr. Craven stated they will make sure the participants get placed into the official record of the committee.

Mr. Tarver stated the members of the science advisory board were published in the document itself. The contact with IFC was Kevin Mayes from Texas and he was apprehensive about divulging names of peer review personnel.

Mr. Tarver stated that he could follow up to see if the reviewers wanted to voluntary divulge their information.

Mr. Dawson suggested that they peer reviewers should be identified in order to consider their recommendations.

Mr. Craven stated that the report has a number of fundamental flaws. He stated that the first paragraph says there are none and the second paragraph seems to retract that. There is a lack of info regarding coastal plain streams, headwater streams and large rivers.

Mr. Tedder asked if there are other situations in the state that currently exist to see how this would impact various regions of the state if applied. He asked what other kinds of intakes currently exist, not just the ones that may be planned in the near future, in order to see how this would affect other regions of the state if applied as per the document.

Mr. Fransen stated that this is a planning tool to measure cumulative impacts and was never intended for use as a condition in a permit. He stated that the important thing to remember is this is a planning tool and a way to measure the cumulative impacts from a planning basis. When you start talking about individual projects, like an individual intake on a reservoir or river, we were never proposing this as the way that you would have to manage the flows for a particular project. Those would require site-specific studies. The division could run the models as a flow-by criteria but it was never intended for permitting.

Mr. Tedder stated that a planning tool may eventually turn into a regulatory tool. He questioned how you

define planning tool.

Mr. Fransen stated that the division would have to go through the process of creating flow standards. The division would have to do capacity use, a permitting program or something to create a standard by which it becomes then regulatory. He stated the division is not going to get involved in water withdrawal permitting at this point in time.

Mr. Dawson asked what the bill number is so he could look it up.

Mr. Fransen answered Session Law 2010-143.

Mr. Craven stated there was certainly no endorsement as part of this committee's action. He thanked City of Raleigh for their thoughtful response that they shared with the committee and asked to make sure it gets into the official record.

#### C. Interbasin Transfer Updates

Kim Nimmer, DWR

##### Presentation Description:

Ms. Kim Nimmer with the DWR Water Planning Section gave updates on the status of Interbasin transfer requests. The division currently has two requests that are in process, one is at the end, and the other at the beginning. The first request is from Kerr Lake Regional Water system and this is for a new certificate to transfer water from the Roanoke to the Tar, Fishing Creek and Neuse basins and increase the current grandfathered transfer amount, of 10 million gallons a day (mgd) to 14.2 through 2045. The second request is from Union County for a new certificate to transfer water from the Yadkin to the Rocky River Basin. The total requested demand is 23 mgd through 2050.

##### Questions/Comments:

Mr. Carroll asked if there were any closing comments from the committee members and there were none.

##### III. Closing Comments:

Mr. Craven adjourned the meeting at 9:58 a.m.

## Addendum to Water Allocation Committee meeting minutes from July 8, 2015

### Instream Flow Council Peer Review Members

1. Kevin Mayes, Chair  
Aquatic Biologist  
Texas Parks and Wildlife Department
2. Todd Richards  
Fisheries Biologist  
Massachusetts Division of Fisheries & Wildlife
3. Scott Smith  
Regional Fisheries Manager  
Virginia Dept. of Game and Inland Fisheries
4. Martin "Martye" Griffin  
Statewide Waterway Science and Policy Expert  
Wisconsin Department of Natural Resources

### Ecological Flows Science Advisory Board Members

1. Academic Research  
Amy Pickle, Nicolas Institute for Environmental Policy Solutions, Duke University
2. Agriculture  
Dr. Jeff Hinshaw, NC State University  
Alternate – David Williams, NC Division of Soil and Water Conservation
3. Electric Public Utilities  
Hugh Barwick, Duke Energy Carolinas  
Alternate – Thomas Thompson, Duke Energy Carolinas
4. Environmental Non-Governmental Organizations  
Sam Pearsall, Environmental Defense Fund  
Alternate – Rebecca Benner, The Nature Conservancy
5. Local Governments  
Linda Diebolt, Hazen & Sawyer  
Alternate – Rusty Rozzelle, Mecklenburg County Land Use and Environmental Services

6. NC American Water Works Association (AWWA-WEA)  
Jaime Henkels Robinson, CH2M HILL
7. NC Division of Water Resources (DWR)  
Fred Tarver  
Alternate – Ian McMillan
8. NC Division of Water Quality (DWQ) (integrated into NC DWR in August 2013)  
No representation past August 2013
9. NC Environmental Management Commission (EMC)  
No representation past August 2013
10. NC Forestry Association (NCFA)  
Bill Swartley, Forestry Non-Point Source Branch, NC Forest Service – Department of  
Agriculture & Consumer Services  
Alternates – Peter Caldwell, USDA Forest Service & Tom Gerow, NC Forest Service -  
Department of Agriculture & Consumer Services
11. NC Natural Heritage Program (NHP)  
Judy Ratcliffe
12. NC Marine Fisheries Commission (MFC)  
Dr. Bob Christian, East Carolina University  
Alternate – Kevin Hart, NC Division of Coastal Management
13. NC Wildlife Resources Commission (WRC)  
Chris Goudreau  
Alternate – Vann Stancil
14. US Geological Survey (USGS)  
Tom Cuffney, USGS - Raleigh  
Alternate – Holly Weyers, USGS-Raleigh
15. US Fish and Wildlife Service (USFWS)  
Mark Cantrell, Asheville Field Office  
Alternate – Sarah McRae, Raleigh Field Office
16. US National Marine Fisheries Service (NMFS)  
Fritz Rohde