

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER ALLOCATION COMMITTEE
MINUTES**

**March 9, 2016
9:00 A.M.**

On March 9, 2016, the Water Allocation Committee (WAC) met in the Ground Floor Hearing Room at the Archdale Building in Raleigh, North Carolina.

WAC Members in Attendance:

Chairman Tommy Craven
Mr. Gerard Carroll
Mr. Steve Tedder
Mr. Manning Puette
Mr. Charles "Boots" Elam
Mr. E. O. Ferrell

Additional EMC Members in Attendance:

Dr. Lawrence Raymond

Others Present:

Ms. Jennie Hauser, Attorney General's Office

I. Preliminary Matters:

In accordance to North Carolina General Statute § 138A-15, Chairman Craven asked if any WAC member knew of any known conflict of interest or appearance of conflict with respect to any item on the March 9, 2016 WAC agenda and none of the members stated that there was a conflict. The January minutes needed to be approved. A motion was made to approve the minutes. A second was made of the motion. The January minutes were unanimously approved.

II. Information Item

A. Interbasin Transfer Update (Kim Nimmer, Division of Water Resources)

Presentation Description:

Ms. Nimmer stated that there is currently one interbasin transfer request in process for Union County. The Union County request is for a new interbasin transfer certificate to transfer 23 MGD from the Yadkin River Basin to Rocky River Basin to meet their projected demands through 2050. The presentation provided an update on where the request was in the IBT process. In January, the EMC Steering Committee voted to delegate the EMC's authority to the Department of Environmental Quality to determine the adequacy of environmental documents prepared for IBT certificates. The final EIS was posted in the state clearinghouse for a 30-day review that ended February 11. There was one comment submitted and the DOA determined no further environmental review action was needed. A Record of Decision was prepared by DEQ and is awaiting signature. The draft petition was submitted by the applicant on February 23rd. DWR staff were completing their review and preparing comments on the petition to provide back to the applicant within the next week or two. At the May or July WAC/EMC meetings, DWR will seek a Draft Determination on the petition submitted by Union County for an IBT certification, and request the assignment of a hearing officer.

Questions/Comments:

Mr. Tedder asked if there were going to be three public hearings. He asked if this was more than normal. Ms. Nimmer said that the law requires at least two but that one in Anson County was scheduled to make sure that the processes was transparent.

Mr. Puette asked what conservation measures the applicant has put in place. Harold Brady said that in the draft application, there are conservation measures in place.

Mr. Ferrell asked if leak detection was included. Mr. Brady said that he was unsure if they included it. Tom Fransen stated that the draft certificate includes a finding of facts. The WAC has the ability to require items be included in the finding of facts. The leak detection is included in the finding of fact, because they look at the local water supply plans for unaccounted water.

Mr. Carroll asked if this application has generated controversy. Ms. Nimmer stated that it is a little early in the process to determine if there will be controversy.

Mr. Tedder stated that it might not be controversial as the water is moving between sub-basins all within the Yadkin basin.

Chairman Craven stated that a per capita usage might be more useful in determining water efficiency.

Mr. Puette, the hearing officer, stated that there was not a great deal of controversy aside from the Conservation Fund. He agreed that efficiency and conservation be a part of the certificate.

Ms. Nimmer stated that it would be possible to require a water conservation plan and a drought management plan in the IBT certificate's conditions.

B. Ideas for Addressing Water Supply Impediments/Challenges (Tom Fransen, Division of Water Resources)

Mr. Tedder stated that there has been a lot of great information presented about the difficulties faced by municipalities in meeting their water needs. The talking points presented by Tom Fransen outlined recommendations for making the process easier and more efficient. The permitting program would require statutory and rule changes, but Mr. Tedder thinks that it will be necessary at some point to streamline the process. The Commission could request that a statewide capacity use study be conducted and create more capacity use designations where needed. He stated that this is the only thing that the commission could do without legislative action.

Chairman Craven asked if Mr. Tedder thought the statewide capacity use report would be an on-going report outlining needs and trends? Mr. Fransen stated that it would take many years to do a capacity use study building on what Mr. Bill Holman and Mr. Richard Whisnant did for the General Assembly. The basin wide plans now include both water quality and quantity and are done on a more frequent scale. As the plans come up, water supply issues will be included in these reports, although they will not be statewide but rather by river basin.

Mr. Tedder asked if the capacity use study could be done in sections, beginning with areas where there is a clearer need first? Mr. Fransen stated that capacity use is relatively flexible to solve particular problems like in the coastal plain whereas regulation is often one-size-fits-all.

Chairman Craven stated that the annual report should be less detailed than a basin plan. Rather, it should be a summary of areas that might be facing water shortages or other areas that have issues emerging.

Mr. Fransen stated that another basin planner has been hired. One of her tasks is to create a process for creating a higher-level statewide water summary.

Mr. Elam wanted to discuss unaccounted for water. He asked where he and the commission could go to find information on the state's unaccounted for water issues. Mr. Linwood Peele (DWR) stated that on the municipality level, you can find individual Local Water Supply Plans on line but there is not a statewide report. The AWWA used to have percentages, but they have gone away from that. They now discuss the issue in terms of revenue and nonrevenue water. Mr. Peele offered to send them either a link to the plans or a spreadsheet with all of the data listed to give them an idea of the range. The western part of the state has the greatest issues due to elevation. The real problem with unaccounted for water is associated with aging infrastructure.

Mr. Elam stated that the commission may be allocating more water than is actually needed to systems, and if these municipalities fixed their leaks, they wouldn't need the additional water. Mr. Peele stated that for many systems, industry put in the infrastructure years ago and have since closed, leaving the burden of replacing aging infrastructure on residential users. Therefore, fixing the infrastructure for many of these smaller systems would be cost prohibitive.

Mr. Tedder stated that on the positive side, water leaks from underground pipes go back to the aquifer or local stream. Mr. Peele stated that it is a negative impact on systems that need the water. Aging infrastructure is a key issue for unaccounted water for water systems.

Mr. Tedder stated that there are many statutes and rules that have been on the books for 30 years, and these need to be looked at to make the program more efficient.

Chairman Craven discussed the comments from the League of Municipalities and the AWWA with regard to interbasin transfers, especially in cases of emergency. Mr. Craven asked what the process is for emergency interbasin transfers. Mr. Fransen stated that there is a section of the statute that allows the Secretary of the Department to approve an emergency transfer without a public hearing, although there is a required small public comment period. The way it has been treated is that the system would need to go on mandatory conservation first as policy. This has only happened once with Greensboro, but it was not carried out. Municipalities would like some flexibility to transfer water between themselves without going through the Department in case of drought or other emergencies. It is not really structured for that right now. Many members of the General Assembly feel that during drought, transfers should be turned off rather than increased. Mr. Craven asked how long the current emergency interbasin transfer process takes. Mr. Fransen stated 2 to 4 weeks. He also stated that it was created for drought rather than other disruption issues. Mr. Craven asked how a non-drought related emergency interbasin transfer would be approached. Mr. Fransen stated that if there was an immediate need, his recommendation to the Secretary would be use their enforcement discretion and get the paperwork done so there would be no disruption of service to the municipality.

Mr. Tedder asked when these rules are supposed to be reviewed as per House Bill 74. Mr. Fransen said 2017. However, most of the IBT policy and process are under statute, and will therefore not be up for review under the rules review process.

Chairman Craven stated that other recommendations were straight forward and are things that the commission considers like encouraging river basin-based water supply planning to resolve and minimize problems.

Mr. Tedder stated that at least there is a process for IBT unlike pulling water from a water source. It takes decades and systems are getting nowhere. It appears that there are tremendous obstacles for impoundments, especially when they want to build a dam. They may want to consider petitions for rulemaking as long as they are consistent with the statutes. If they want to make progress now in helping systems, the committee should be asking the EMC to direct staff to create a statewide capacity use study.

Chairman Craven asked if there was a department ombudsman to help municipalities move through the process? Mr. Fransen stated that Harold Brady with DWR is supposed to help people move through the process. Mr.

Fransen stated that most of the frustration of municipalities stems from federal regulations rather than state regulations.

Chairman Craven asked Mr. Fransen to flush out what a statewide capacity use study would look like. If the committee members have ideas to please share them directly with the staff. He would like to see it at the next committee meeting.

Mr. Carroll would like to see something in writing from the Department for why Greenville is having issues and recommendations for what could be done to help them complete the process in a reasonably efficient way. The issue was added as an agenda item for the next meeting. Chairman Craven asked that Greenville be notified of the item and to ask for any input that they might have.

I. Closing Comments: Chairman Craven

Chairman Craven asked for a motion to adjourn the meeting. The motion was seconded and the vote to adjourn the meeting passed unanimously. There were no additional comments by the members or staff. Chairman Craven adjourned the meeting.