

**Environmental Management Commission
Water Allocation Committee
Minutes**

**March 7, 2018
9:00 a.m.**

On March 7, 2018, the Water Allocation Committee or WAC met in the Ground Floor Hearing Room at the Archdale Building in Raleigh, North Carolina.

WAC Members in Attendance:

JD Solomon, EMC Chair (Acting WAC Chair)

David W. Anderson

Charles Carter

Mitch Gillespie

Bill Puette

Others Present:

Jerry Carroll

Marion Deerhake

Dr. Stan Meiburg

Dr. Albert Rubin

Philip Reynolds, Attorney General's office

I. Preliminary Matters:

In accordance with North Carolina General Statute §138A-15, Chairman Solomon asked if any WAC member knew of a known conflict of interest or appearance of conflict with respect to items on the March 7, 2018 WAC agenda; none of the committee members identified a conflict. At Chairman Solomon's request, Mr. Anderson made a motion to approve the January 10, 2018 meeting minutes. The motion was seconded by Mr. Puette and the January 10, 2018 minutes were unanimously approved.

II. Informational Items:

**A. The Central Coastal Plain Capacity Use Area 2018 Assessment Plan
(Nat Wilson, N.C. DWR)**

The Central Coastal Plain Capacity Use Area (CCPCUA) consists of 15 coastal counties where permits are required for groundwater use greater than 100,000 gallons per day and registration is required for groundwater use between 10,000-100,000 gallons per day. Currently there are 305 permit holders and 69 annual registrations. Groundwater use reduction zones were established to address declining groundwater levels, dewatering, and saltwater encroachment. Water users were required to reduce withdrawals by 30%-75% between 2002 and 2018, over three reduction phases. These reduction requirements affect 54 of the 305 permits.

State administrative rule 15A NCAC 2E .0503(7) requires an analysis of aquifer data in 2008, 2013, and 2018, which coincides with each withdrawal reduction stage. As a result of the 2013 assessment, the EMC took no action to change reduction zone boundaries or rule language. Additionally, DWR began using temporary permits where aquifer conditions met specific requirements. Temporary permits were allowed to relax reduction standards in some situations where sustainable use of the aquifer was seen. Temporary permit status can be removed if aquifer conditions don't continue to meet criteria. An overview of the 2018 assessment plan was provided. The draft plan will be available by the end of March, public comments will be accepted through June 1st, a public meeting may be scheduled depending on comments received, and the final assessment document will be available for the July WAC meeting. The WAC will need to vote on report recommendations.

Commissioner Meiburg asked whether the Division expects dramatically different results in 2018 than were observed in the 2013 assessment. Mr. Wilson answered a similar outcome is expected. The Division is continuing to see improvement in aquifer conditions.

Chairman Solomon asked where this rule is in the rule review process. Mr. Wilson answered that the rule was found to be of public interest but it has not come forward for re-adoption yet. Chairman Solomon then asked whether the process for temporary permits should be included in the rule; Mr. Wilson responded that is something to consider. Chairman Solomon asked how much growth had there been from baseline numbers. Mr. Wilson answered that the growth will be met by alternate sources of water. DWR is tracking water usage in different aquifers. There is capacity to support the region's growth and faster growth rates. Many systems in the region are small but have conservation programs in place. CCPCUA mostly addresses public/residential water supply systems, rather than industrial users. The rules originated to extend groundwater supplies and encourage alternate sources of water.

Commissioner Puette asked what are the alternate sources of water. Mr. Wilson responded that surface water is the primary alternate source, with the largest intake on the Neuse River near Kinston. Greenville Utilities is also making more use of water from the Tar River. More recently sources have also been developed on the Roanoke River near Williamston. Shallow aquifers that recharge more quickly are also used to supplement water supplies. A varied approach has been used, with some utilities acting individually and some joining together. Chairman Solomon pointed out the issue of water blending where surface water and groundwater sources are mixed and treatment byproducts may become a concern.

Commissioner Gillespie asked whether permit holders have met the groundwater use reduction requirements under the CCPCUA rules? Mr. Wilson replied that they have, and on August 1, 2018 there will be the next reduction step. Permit holders currently are collectively withdrawing less than will be required in the next reduction phase.

Commissioner Gillespie then stated that in 2008 when he was a member of the General Assembly, he barely voted for the CCPCUA reductions because of the restrictions imposed on business and associated water use; however, he ended up voting for it. He went on to ask that since the 2013 assessment demonstrated that the regional aquifers were recharging, would it be appropriate to begin considering a lifting of CCPCUA restrictions? Now in 2018, should the program be continued or should other alternatives be considered that aren't as burdensome on business but still preserve the aquifer? Chairman Solomon agreed that protection of the aquifer needs to continue, considering Savannah, GA as an example of what can go wrong when coastal groundwater resources aren't protected. If CCPCUA has been successful in preventing a similar problem from occurring on the NC coast, then how do we move forward? Should we continue implementing the same program or consider something else?

B. Legislative Reporting Process Improvements (JD Solomon, Chair)

Chairman Solomon stated that Senate bill 16 (Session Law 2017-211) provided heightened EMC oversight of certain reports with significant public interest and authorized by the General Assembly for the Department of Environmental Quality to produce. The EMC will now review and provide reports to the Environmental Review Commission (ERC) for those reports deemed to be of significant public interest. There are 26 reports found to meet the criteria. DEQ has asked what will be the process for the EMC review of these reports. EMC needs to provide some guidance to DEQ. The two main criteria that have been identified for determining whether a report is of significant public interest and needs EMC review are: 1) if the topic is of legislative interest or anticipated to be addressed in an upcoming session of the General Assembly, and 2) if the topic has state budget ramifications.

The anticipated outcomes resulting from the enhanced EMC oversight of certain DEQ-produced reports include improved quality of the reports, the opportunity for the EMC to work more closely on significant actions with DEQ, and improved commissioner knowledge of current significant environmental issues. Chairman Solomon explained that the first year of this initiative will be a pilot program, during which the EMC will conduct a deep review of six reports. The EMC will review in advance and won't delay DEQ deadlines for submitting the reports to the General Assembly. A summary of the pilot year experience will be provided, most likely to the Water Allocation Committee. Where possible, a summary letter to the ERC will be attached to reports reviewed by the EMC.

Commissioner Gillespie stated that he thought what Chairman Solomon outlined seemed like a reasonable approach. However, he felt the criteria should be expanded for how to determine which DEQ reports are of significant public interest. Commissioner Meiburg further emphasized the importance of distinguishing between important and significant reports.

C. IBT Program Update (Kim Nimmer, N.C. DWR)

Kim Nimmer provided a brief update on the IBT program. There is currently one IBT certificate request from Pender County to transfer up to 14.5 MGD from the Cape Fear

River IBT basin to the Northeast Cape Fear River, New River, and South River IBT basins to meet projected demands through 2045. A timeline of the major milestones for the IBT request was presented, starting when Pender County submitted their Notice of Intent (NOI) to file a Petition in March 2016. The Petition was finalized by the applicant at the end of November 2017. In December, the Petition and related documents were published for public review through State Clearinghouse along with a 30-day notice for a public hearing. The public hearing was originally scheduled for January 18, 2018 in Burgaw but had to be rescheduled due to adverse weather in Raleigh. The hearing has been rescheduled for March 22, 2018; Commissioner Keen will be the hearing officer. It is anticipated that a final determination on whether to grant the IBT certificate will be requested at the July or September 2018 EMC meeting.

Ms. Nimmer presented the nine findings of fact that are required by statute for the EMC to consider when making a final determination on whether to grant an IBT certificate. Ms. Nimmer addressed other statutory requirements of the EMC in reaching its final determination, including the sources of information to consider and specific findings that the commission must make. The statutorily required conditions and limitations that must be placed on IBT certificates were also presented, along with the ability of the EMC to impose additional conditions, as deemed necessary.

Chairman Solomon asked for clarification on the section of the statute followed by Pender County for their IBT certificate request. Ms. Nimmer clarified that Pender County is following subsection (w) of the statute, which outlines requirements to be followed by coastal counties, and provides an abbreviated process for applicants that meet the criteria in subsection (w). Chairman Solomon also asked counsel Philip Reynolds to comment on conditions that can be placed on IBT certificates. Mr. Reynolds emphasized that there is a subsection of the statute that requires certain conditions to be placed on certificates, while also providing flexibility for the commission to include additional conditions, as deemed necessary. Mr. Reynolds drew a distinction between conditions that must be included under statute and those conditions that may be included.

Commissioner Gillespie asked whether there is something that can be done before an applicant submits an NOI to prevent the need for an IBT certificate? Is DEQ using basin wide plans or some other mechanism to monitor areas of the state with greater water supply needs? Could the Water Infrastructure Authority play a part in helping to support other water supply options for systems? Tom Fransen (DWR Water Planning Section Chief) responded that when most water systems learn about the time, process, and cost associated with applying for an IBT certificate, they start looking for other alternatives to meet their projected water demand. The small number of IBT certificates that have been issued reflects that it isn't a popular option. As part of the Local Water Supply Planning process, DWR reviews which systems have IBT certificates or are transferring smaller volumes of water without the need for a certificate and whether systems are heading in the direction of needing to increase their capacity and may need to request an IBT certificate or otherwise increase their supply. Increased regionalization in the future may provide capacity assurances and resiliency against drought for smaller systems, but may also lead to more interbasin transfers.

Commissioner Meiburg agreed that some water systems will be better served by regionalization and interconnections, even if there is an IBT involved. North Carolina has more small water systems than any other state in the southeast, which creates interesting dilemmas.

Commissioner Deerhake had a question for Mr. Wilson about whether the state is monitoring the change in saltwater intrusion in the coastal area. Mr. Wilson replied yes, the state is monitoring that interface and results will be included in the 2018 CCPCUA assessment report.

III. Concluding Remarks:

Chairman Solomon asked if there was anything else that needed to be discussed or if there were other comments. There were no additional comments by the committee members or staff. The meeting was adjourned.