

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER ALLOCATION COMMITTEE
MINUTES**

**May 11, 2016
9:00 A.M.**

On May 11, 2016, the Water Allocation Committee (WAC) met in the Ground Floor Hearing Room of the Archdale Building in Raleigh, North Carolina.

WAC Members in Attendance:

Vice-Chair David Anderson
Mr. Tommy Craven
Mr. Manning Puette
Ms. Julie Wilsey

Others Present:

Mr. Gerard Carroll
Dr. Lawerence Raymond
Ms. Jennie Hauser, Attorney General's Office

I. Preliminary Matters:

In accordance with North Carolina General Statute § 138A-15, Vice-Chairman Anderson asked if any WAC member knew of any known conflict of interest or appearance of conflict with respect to any item on the May 11, 2016 WAC agenda and none of the members stated that there was a conflict. The March meeting minutes needed approval. A motion was made to approve the minutes; a second was made of the motion. The March 9, 2016 minutes were unanimously approved.

II. Information Items:

A. Update on Greenville Utilities Commission (Harold Brady, NC Division of Water Resources)

Presentation Description:

Mr. Brady discussed the current status of Greenville Utilities Commission. A timeline of activities of the GUC as well as major events were presented.

Questions/Comments:

There were no questions.

B. Statewide Capacity Use Study Feasibility (Tom Fransen, NC Division of Water Resources)

Presentation Description:

An overview of the Capacity Use Areas (CUA) Law and the strengths and weaknesses of the Water Use Act were discussed. Success stories of the capacity use areas in the Coastal Plain were presented. The role and history of the Commission in capacity use designation were also presented. Steps for designating a capacity use area including public hearings, rules, and permitting, as well as the role of the Department were discussed.

Questions/Comments:

Vice-Chair Anderson asked if there was a group or company that has disagreed with the Capacity Use laws and if it was controversial. Mr. Fransen stated that the controversy occurs during the rule making process. There are two sides in general: those who would like the guarantee of water that comes with permits and those who do not want any additional rules. In terms of the CUA, Nat Wilson (DWR, Supervisor of the Ground Water Management Branch) said that there were some controversies in the Coastal Plain, but that the Division was

able to work through them. Mr. Carroll asked how the Central Coastal Plain Capacity Use Area supplemented the loss of groundwater use. Mr. Fransen stated that the systems moved to different aquifers or went to surface water. Greenville partnered with surrounding areas to supply surface water. Mr. Fransen said that dewatering the aquifer was causing saltwater encroachment and land subsidence that was leading to a loss of storage capacity in the underlying aquifer. DWR was able to work with the systems to help defer a crisis and get ahead of the problem. Mr. Puette asked how many of the permits were for groundwater and how many were for surface water. Mr. Fransen stated that they are all groundwater permits. Mr. Puette then asked if there was any overlap with IBT due to the shift to surface water. Mr. Fransen said that the IBT statute gave a special provision to those shifting from groundwater to surface water.

Ms. Wilsey then stated that the purpose of the presentation was supposed to be whether we should have a statewide capacity use area. Mr. Fransen stated that we do not need one at this time, but rather should include something in the river basin plans that would say whether there were going to be problems in each respective basin. Vice-chair Anderson asked if there were controversies surrounding a statewide capacity use area. Mr. Fransen said that since NC does not have a permitting system, there are those who would like it and those who wouldn't. His recommendations were a compromise between the two. Mr. Carroll asked if there was anything that the EMC or the Department could do to enable Greenville to conclude their planning efforts. Mr. Brady stated that he communicated with David Springer (Greenville Utilities Commission) about where they are and where they are looking to go. Mr. Brady said that GUC was reevaluating their population projections and whether they even needed to move forward with the proposed expansion of their water treatment plant. The next step will be known when GUC is finished with their revised demand projections.

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

Presentation Description:

Ms. Nimmer stated that there are currently two interbasin transfer request in process. Pender County has submitted a request for a new certificate to transfer 15 million gallons per day (mgd) from the Cape Fear River IBT Basin to the South River IBT Basin, Northeast Cape Fear River IBT Basin, and New River IBT Basin. The reasons for the request by Pender County and the IBT process that will be followed were discussed. There will be co-applicants to the certificate as well, that are moving from groundwater to surface water.

There is also the on-going request from Union County to transfer up to 23 mgd from the Yadkin River IBT Basin to Rocky River IBT Basin to meet their projected demands through 2050. The presentation provided a history and an update on where the request was in the IBT process. At the January EMC meeting, the Commission delegated its authority to the Department to issue the Record of Decision (ROD) for the Environmental Impact Statement. The Secretary signed the ROD in April, allowing the process to move forward. Union County submitted its final petition for an IBT certificate in April. At the July EMC meeting, staff will request the draft determination on whether to issue the IBT certificate and the assignment of a hearing officer for public hearings on the draft certificate. Union County offered to present a webinar to provide a more in-depth discussion of the IBT since there are so many new Commission members. Following the Commission's draft determination on issuing the IBT certificate, three public hearings will be conducted, two in the source river basin and one in the receiving basin. After public comments have been reviewed, a hearing officer's report will be prepared for the Commission's consideration in making a final determination on whether to grant the certificate.

Questions/Comments:

Mr. Carroll asked if this will be a controversial IBT. Ms. Nimmer stated that every IBT has the potential to be controversial. She stated that a portion of the water being transferred will be returning to the source basin, but there is always the possibility of people being opposed to the transfer. Mr. Puette asked about the differences in the processes being followed between the Pender and Union County certificate requests. Ms. Nimmer stated that Union County was following the full process outlined in the IBT statute, while Pender County was following a sub-section of the statute dictating the requirements for coastal counties, which abbreviates parts of the full process. Ms. Wilsey asked if the webinar would be available to the public. Ms. Hauser stated that it would be posted for the public. Vice-Chairman Anderson asked what the interest was in the webinar from committee

members. He stated that he would like to have the webinar in order to better understand the details of the proposed Union County transfer. Vice-Chairman Anderson asked if there was opposition to having the webinar. Mr. Craven stated that there is a process in place for IBT requests and was wondering if the committee would be setting a precedent by allowing the applicant to provide a webinar to the committee, outside of the process outlined in the IBT statute. Ms. Hauser stated that in order to be even-handed, they may need to also allow other webinars in the future, if offered by other applicants. Mr. Craven stated that he would rather rely on the process that already exists and rely on the hearing officer's report in reaching a decision on the certificate. Ms. Nimmer reiterated that there would not be a hearing officer's report at the July meeting, that the draft determination at the July meeting would take place along with the assignment of a hearing officer, and before public hearings and the preparation of the hearing officer's report. Mr. Craven stated that before making the final decision, the WAC and EMC would have the hearing officer's report. Vice-Chairman Anderson asked if the committee would like to have the webinar. Ms. Wilsey made a motion not to ask for the webinar and to stay with the regular process. The motion was seconded and approved unanimously.

III. Concluding Remarks (Vice-Chairman Anderson):

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