

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT  
COMMISSION

**Minutes of February 16, 2016 Meeting**

The North Carolina Environmental Management Commission met on Thursday, February 16, 2016 in the main floor hearing room in the Archdale Building, Raleigh, NC. Commissioners present were:

Steven J. Rowlan, Chairman  
David Anderson  
Charlie Carter  
Gerard P. Carroll  
Tommy Craven  
E. O. Ferrell  
Kevin Martin  
Bill Puette  
Larry Raymond  
Bob Rubin  
John D. Solomon  
Steve Tedder  
Julie Wilsey

**Commissioner Smith** and **Commissioner Elam** were absent from this meeting.

Commission Counsel Jennie Hauser was also present.

- **Preliminary Matters**

The meeting was called to order at 9:00 a.m. with Chairman Rowlan presiding. He provided the notice required by N.C.G.S. §138A-15(e). No conflicts of interest or appearances of conflicts of interests were identified at this time.

- **Approval of Minutes**

The Chair expressed thanks for the fine job **Commissioner Carroll** had done as Chair of the Commission for the past year. **Chairman Rowlan** indicated that the agenda item 16-10 had been removed from the agenda.

**Commissioner Carter** stated that the item was removed due to a Supreme Court decision.

**Agenda Item: 16-11 Presentation of Hearing Officers Report and Recommendation to Adopt Proposed Amendments to 15A NCAC 2L.0106 (Groundwater Corrective Action)**

Jon Risgaard, Division of Water Resources gave an overview of the status of the rulemaking process for this

agenda item.

Mr. Risgaard discussed the hearing officer's report and indicated the hearing officer, **Commissioner Carroll's** recommendation. This item was before the Commission on May 14, 2015, and they approved these rules to go to public comment. The Environmental Management had three public hearings on December 16, 2015 at 6:00 pm in Charlotte, NC, on December 17, 2015 at 6:00 pm in Raleigh, NC, and on January 5, 2016 at 6:00 pm in Wilmington, NC. **Commissioner Charles Carter** served as hearing officer for the hearings.

Mr. Risgaard expressed thanks to Evan Kane who was primarily responsible for shepherding the rules through the public process. He drafted the majority of the hearing officer's report. The hearing officer's report included responses, comments and responses to those comments they received during the process. The recommendation is to amend the rules as they were proposed. Mr. Risgaard discussed comments prior to public record of the hearing, comments received during the hearing and various legislation and reports that were part of the rulemaking process.

He indicated that the corrective action rule 15A NCAC 2L .0106 establishes the cleanup requirements for groundwater contamination. The rules as currently written address immediate abatement of sources of pollution, assessment and remediation action required. The actions required are dependent on whether a permit was issued or not for that activity and the date the permit was issued.

He further stated that the reason they were there was in 2014 the Coal Ash Management Act directed the EMC to review the compliance boundary and corrective action provisions of 2L and address clarity and look at internal consistency. The EMC was also directed to report to the Environmental Review Commission by December 1, 2014 with their findings and recommendations for further action. As part of that session law the EMC formed an Ad Hoc Committee to look at the compliance boundary rules. The recommendations of that committee went to the ERC and they proceeded with the rulemaking. As part of the report to the ERC, the Commission concluded that there were several issues in the rules that needed clarification.

After further discussion **Commissioner Carroll** made a motion to adopt the rule changes. **Commissioner Martin** seconded the motion.

**Commissioner Puette** had questions and comments regarding clarity. **Commissioner Carroll** withdrew his motion so that they could further discuss and work out the details of comments from Commissioner Puette and other Commissioners.

**Commissioner Puette** indicated putting a period in the third line of paragraph (j) and add corrective action plans for purpose of paragraph (c) or (e) exceptions that's provided in paragraph k, l, m, r, or f of this rule.

**Counsel Jennie Hauser** commented to **Commissioner Puette** that he stated that in the third line of the

existing paragraph (j), the line which is no. 31 would be “level of the standards. Corrective action plans prepared pursuant to (c) or (e) may request an exception as provided in paragraphs”, and then it would continue on. **Commissioner Puette** agreed and stated this was intended as a clarification.

**Commissioner Martin** made a motion to approve staff's recommendations and **Commissioner Puette's** revisions to that one section (j). **Commissioner Carroll** seconded the motion.

**Counsel Jennie Hauser** asked if the motion would also include approval of the fiscal analysis.

**Commissioner Martin** replied, “Yes” and **Commissioner Carroll** also agreed since he seconded the motion.

**Chairman Rowlan** asked for any comments on the question and for the vote. There were no other comments and the motion passed unanimously.

With no further business before the Commission, the Chairman adjourned the meeting at 3:00 p.m.  
Approved this day 14th of January 2016.

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Steven J. Rowlan, Chairman of the EMC