

Minutes of North Carolina
Environmental Management Commission

July 13, 2017 Meeting

The North Carolina Environmental Management Commission met on Thursday, July 13, 2017 at 9:00 a.m. in the Ground Floor Hearing Room in the Archdale Building, Raleigh, NC.

Meeting Called to Order: J. D. Solomon, Chairman

The meeting was called to order at 9:00 a.m. with Chairman Solomon 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.

Present: 15 - John D. Solomon, Chairman, David Anderson, Gerard Carroll, Charlie Carter, Marion Deerhake, Charles Elam, Mitch Gillespie, Steve Keen, Dr. Suzanne Lazorick, Dr. Stan Meiburg, Bill Puette, Dr. Bob Rubin, Butch Smith, Julie Wilsey, Richard Whisnant

Others Present: Commission Counsel Jennie Hauser

Chairman Solomon introduced Secretary of State Elaine Marshall who swore in all the new and reappointed Commissioners: Charlie Carter, Marion Deerhake, Mitch Gillespie, Steve Keen, Dr. Suzanne Lazorick, Dr. Stan Meiburg and Richard Whisnant. He welcomed the returning members and, also the new members.

Assistant Secretary of the Environment, Sheila Holman spoke on behalf of Secretary Regan. She welcomed the new Commissioners and noted she had previously worked with some of them. She thanked all the new members and the existing members from the Department's perspective. The work ahead is important for protecting the public health and the environment in North Carolina. She commended them on their willingness to serve. She thanked them again for their service and consider her, division directors and their staff as resources.

Chairman Solomon mentioned the four members who were not reappointed: Vice-Chair Kevin Martin, Steve Tedder, Tommy Craven and E. O. Ferrell. All made major contributions to the Commission.

Chairman Solomon read the evaluations of the Statement of Economic Interests for each new member into the record. These evaluations are attached as Exhibit A to these minutes.

I. Approval of Minutes

Chairman asked for approval of the minutes from the Commission's March 9, 2017 meeting. **Commissioner Wilsey** made a motion to approve the minutes and **Commissioner Carroll** seconded the motion, and the motion passed unanimously.

Chairman Solomon indicated according to the Commission's bylaws they are required to elect a Vice-Chairman to serve for the next two years and nominated Commissioner Wilsey for the position of Vice-Chairman. **Dr. Rubin** made a motion to elect **Commissioner Wilsey** as Vice-Chairman of the Commission. **Commissioner Elam** seconded the motion and the motion passed unanimously.

II. Action Items

- **17-24 Request for Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on Session Law 2013-413 (H74) Readoption of Air Quality Rules 15A NCAC 02Q Sections .0100 through .0500, .0800, and .0900**
- **Request**

Joelle Burleson, Division of Air Quality (DAQ) Rules Development Branch Supervisor, presented this action item.

Pursuant to S.L. 2013-413, rules in several sections are proposed for readoption with primarily minor administrative updates and repeal of one rule that is no longer needed. Ms. Burleson indicated that the sections included in the Group 2 package are as follows: Section .0100 – General Provisions; Section .0200 – Permit Fees; Section .0300 – Construction and Operation Permits; Section .0400 – Acid Rain Procedures; Section .0500 – Title V Procedures; Section .0800 – Exclusionary Rules; and Section .0900 – Permit Exemptions. Preliminary draft rules were provided to stakeholders on March 6, 2017 and the comment period ended on March 20, 2017. The DAQ revised rules based on comments received during the stakeholder comment period. She described the three categories which are 1)

Title V rules, 2) non-Title V and 3) other the contents of those categories contained in Group 2. She also explained what was contained in each of those groups.

Commissioner Carter commended DAQ staff for the work conducted during the readoption process. He also inquired for hearing date(s) and hearing officer(s). **Chairman Solomon** expressed concern about terminology mismatches among rule groupings. He would like to see QA/QC processes incorporated to reduce errors. Ms. Burleson stated that the DAQ recognizes there's a need to QA/QC rules as they proceed through the rulemaking process. The DAQ is making every effort to ensure rules passing through rulemaking are quality controlled. However, if potential errors arise, there will be a "clean-up" for overlapping rules in different groups at the end of the readoption process. **Commissioner Carter** stated that he believes rules in the readoption process are on a reasonable path forward for catching errors.

- Motion(s)

Commissioner Carroll made a motion to approve the package of proposed rule re-adoptions and regulatory impact analysis, authorize a public hearing(s) on the proposed rules and regulatory impact analysis, and that the **Chairman** appoint a member(s) of the Commission to serve as hearing officer(s). **Commissioner Smith** seconded the motion and the motion passed unanimously.

Chairman Solomon inquired plans for hearings on the proposed revisions and instructed staff that more than one hearing on the proposed revisions should be held. Ms. Burleson noted that there's another item on the agenda that could have a public hearing at the same time.

- **17-25 Request for Approval of Hearing Officer's Report on Rule Revisions and Regulatory Impact Analysis to the PM2.5 Increment Baseline for the Prevention of Significant Deterioration (PSD) Rule**

- **Request**

Mr. Patrick Knowlson, DAQ presented this action item. A public hearing was held in Raleigh on May 18, 2017 on the 15A NCAC 02D .0530, Prevention of Significant Deterioration rule. **Commissioner Carter**, was appointed and acted as the hearing officer

during the hearing. On October 20, 2010, EPA promulgated key components for making PSD permitting determinations for fine particle pollution (PM2.5) - increments, significant impact levels (SILs), and a significant monitoring concentration (SMC). The EMC approved the amended PSD and NSR rules on July 11, 2013.

On September 14, 2016, EPA published its partial approval and disapproval of North Carolina's state implementation plan (SIP) submittal. EPA disapproved the PM2.5 increment provisions set forth in NC's SIP submittal with respect to PM2.5-related changes to 15A NCAC 02D .0530 at Paragraphs (e), (q), and (v). These paragraphs pertain to major and minor source baseline dates and baseline area. This disapproval triggers the requirement for EPA to promulgate a Federal Implementation Plan (FIP) no later than two years from the date of the disapproval unless the State corrects the deficiencies through a SIP revision and EPA approves the SIP revision before EPA promulgates such a FIP. Rule 15A NCAC 02D .0530, Prevention of Significant Deterioration is proposed for amendment to incorporate by reference, the revisions to §51.166 of the Clean Air Act of July 1, 2014. Those revisions include the PM2.5 increments in the October 20, 2010 final rule, the clarification that condensable particulate matter be included in the measurements of PM2.5 and PM10 in the October 25, 2012 final rule, and the removal of the vacated significant impact level (SIL) and significant monitoring concentration (SMC) provisions in the December 9, 2013 final rule.

A regulatory impact analysis was submitted to the Office of State Budget and Management (OSBM). OSBM reviewed the Division of Air Quality's proposed change to rule 15A NCAC 02D .0530 in accordance with G.S. 150B-21.4. OSBM determined the rule changes have little to no impact on state or local governments and no substantial economic impact. One comment was received on the proposed rule during the comment period. EPA comments that they reviewed the proposed rule and did not have any comments. No changes were made to the proposed rule as presented in Chapter IV of the hearing record.

Commissioner Carter noted that this rule brings North Carolina back in line with the federal standards. **Chairman Solomon** wanted clarification about the history of the PSD rule and the regulatory impact analysis. **Commissioner Carter** stated that the EPA

disapproval was based on baseline date. This date affects how the rule is applied to areas across the state. It makes sense to align with the federal standard. Mr. Knowlson stated that the regulatory impact analysis was based on the original rulemaking before the disapproval, with the exception that it incorporates two court decisions made during the original comment period.

Counsel Jennie Hauser wanted clarification about whether the fiscal analysis should be classified as a “fiscal note” or “regulatory impact analysis”. Mr. Knowlson stated that this rule doesn’t impact state funds so it’s classified as a regulatory impact analysis.

- Motion(s)

Commissioner Carter made a motion to approve the Hearing Officer’s Report on rule revisions and regulatory impact analysis to the PM2.5 increment baseline for the PSD rule. **Commissioner Elam** seconded the motion. The motion passed unanimously.

- **17-26 Request for Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on Adoption of Final Emission Guidelines for Sewage Sludge Incinerators**

- Request

Mr. Mark Cuilla, DAQ Title V Permitting Supervisor, presented this action item.

The proposed amendments to the SIP simply update Rule 15A NCAC 02D .1204 to mirror the Federal Plan and the identical EG requirements. The four subject facilities in the state are currently complying with the Federal Plan in place while DAQ undergoes this rulemaking process. One facility is under the purview of the Western North Carolina Local Program, while the other three are under the purview of DAQ. The DAQ has requested delegation in a parallel process with EPA, of which, is currently under review in Atlanta, Georgia. Once the delegation request is finalized, North Carolina will be the enforcer of the federal plan.

Commissioner Rubin asked whether the facilities location to a local program is regulated or if it’s based on sources that might receive sludge. Mr. Cuilla stated that local programs have jurisdiction for facilities within their county boundary. Facilities may receive waste from outside depending on location of the facility.

Commissioner Rubin asked for clarification about local program jurisdiction for waste products received outside their boundary. Mr. Cuilla stated that local programs only have jurisdiction for facilities within their county boundary.

- Motion(s)

Commissioner Carter made a motion to approve the proposed rule revisions, regulatory impact analysis, and to proceed to public hearing on adoption of final emission guidelines for sewage sludge incinerators. **Commissioner Carroll** seconded. The motion passed unanimously.

Chairman Solomon inquired as to plans for hearings on the proposed rule revisions and opened the floor for discussion. He also noted the intention to combine this hearing with the 17-24 agenda item hearing. **Commissioner Carter** recommended Winston Salem for the hearing since the incinerators are in the western portion of the state. Mr. Cuilla stated that the DAQ suggests having 2 hearings on the same evening with the same hearing officer. **Commissioner Meiburg** stated that he is willing to be the hearing officer. **Chairman Solomon** asked whether there should be an additional hearing in Raleigh for the rules readoption. Mr. Abraczinskas stated that the second group of rules for readoption is non-controversial, and supports having one hearing.

Chairman Solomon suggested that there should be one public hearing in Winston Salem for SSI and the second group of rules for readoption. However, the Commission will adjust the number of hearings accordingly for future rule readoption packages. No Commissioner dissented with the suggestion.

- **17- 27 Request Approval to Proceed to Public Notice and Hearing with Proposed Amendments to 15A NCAC 02R and Fiscal Note**

- Request

Tim Baumgartner, Acting Director of Mitigation Services (DMS) and Jim Stanfill, DMS Asset Manager, presented this action item.

He began by introducing the division's mission, history and its services of providing the development community with stream, buffer, wetland and nutrient offset mitigation when private bank credits are unavailable.

Jim Stanfill continued the presentation beginning with the minor amendments which include technical and formatting changes, updates to reflect current basinwide restoration planning practices, a focus on functional uplift and consistency with basinwide restoration plans. The major amendments are to the rate schedules in 02R beginning with a description of the current Actual Cost Methodology (ACM) for the nutrient offset program.

Commissioner Smith asked about whether new EPA standards on navigable waters would affect this. Mr. Stanfill responded that it may affect the number of streams that require mitigation but probably won't change mitigation costs. **Commissioner Smith** stated that costs differ across the state. Mr. Stanfill said the premium watershed rates address that by establishing rates for areas that are more expensive. **Commissioner Smith** asked about selection of contractors and if there was a list. Mr. Stanfill responded that DMS uses a competitive bid and RFP process and outsources work to the private sector including banks, full-delivery providers and the service industry that supports them.

Commissioner Smith asked if the private sector has a limit on what they can charge [for mitigation]. Mr. Stanfill said there is not a limit on what they charge, that DMS uses its discretion to reject bids that are unreasonable. **Chairman Solomon** wanted to clarify that the discussion is assuming "business as usual," but if the need goes away the costs could increase. Mr. Stanfill said it could affect costs. **Chairman Solomon** said based on the stakeholders and financials is this the best you think and foresee for the future. Mr. Stanfill stated that stakeholders and providers like this [proposal]. **Commissioner Meiburg** commended the focus on functional uplift and asked about approval of private banks. Mr. Stanfill responded that DMS was completely, separate from that process which is governed by the US Army Corps of Engineers and the Division of Water Resources.

Chairman Solomon said this did come from the Water Quality Committee and it did shock the WQC last time. This is proposed to go out on public notice and for public hearing and is not a final action as the Commission will see this again. He said new members could recuse themselves if they don't feel qualified to vote- or can vote no. Mr. Stanfill stated that there are no private banks that offer these services in NC [*for coastal wetlands*]. DMS has done two coastal wetlands sites a long time ago and they were on state-owned land. Once you have acquired the land, the costs are not extreme. The low number of payments makes it hard to answer what the costs are. Vice-**Chairman Wilsey** indicated this item was heard at the May

WQC committee. They had a lot of comments and staff worked with stakeholders during development of the rules. The WQC noted there would be questions during the comment period and the hearings on the coastal marsh component. The WQC approved proceeding to public notice. **Chairman Solomon** clarified that the coastal wetland rate was not driving the cost of the program, but there will be the perception that number is the issue.

Mr. Stanfill said currently we are positive equity in terms of liabilities and assets. Today we could work out a solution, but in the near future as those assets decline, that solution will go away.

There was discussion of going out with a range of options for coastal fees, but Counsel stated it would be less problematic to proceed with the rule as proposed. Staff can modify the fiscal note later based on public comment. The Commission requested that DMS include language in the public notice that the EMC is looking for comments on the coastal wetland fee.

- Motion(s)

Chairman Wilsey stated that the motion from committee was to proceed to public notice and hearing with proposed amendments to 15A NCAC 02R with a Fiscal Note. **Commissioner Carroll** offered to second it. There was discussion of an amendment to address perception. **Chairman Solomon** stated public perception is an issue but that a vote on the motion is needed. **Commissioner Carroll** supports going out to get the public's input on this proposal. After further discussion of the coastal wetland rate, the vote was 10 in favor and 5 opposed. **Chairman Solomon** requested **Commissioners Wilsey** and **Whisnant** serve as hearing officers at a coastal and a Raleigh hearing respectively.

- **17-28 Request Approval to Proceed to Public Notice with Periodic Review of Existing Rules Report for 15A NCAC 02N, 02O, and 02P**

- Request

Andria Merritt, DWM/Underground Storage Tank Section, presented this action item. Ms. Merritt noted some updates had been made for 02N and 02O since the last meeting of the Groundwater and Waste Management Committee. The reason for the updates was because June 1st was the effective date for amendments that were made to both of those subchapters. The amendments included the repeal of 15A NCAC 02N .0103 and 15A NCAC 02O .0309 and .0310,

so those rules were removed from the reports. Also, the effective date listed in the report for sections .0100 through .0800 of 02N was updated to June 1, 2017. Ms. Merritt then presented a timeline, as it pertained to their rule review process, before closing with their request to proceed to public comment.

- Motion(s)

A motion was made by **Commissioner Puette** to approve the initial determinations in the Periodic Review of Existing Rules Report for three Subchapters: 15A NCAC 02N, 15A NCAC 02O and 15A NCAC 02P to proceed to public notice. **Commissioner Keen** seconded. The motion passed unanimously.

- **17-29 Request to Proceed to Public Comment and Hearing for 15A NCAC 02T Section .1500**

- Request

Scott Bullock, DWM/Underground Storage Tank Section, presented this action item. The Fiscal Note was approved by OSBM on May 11, 2017. It indicated minor impact to state government with the reduction in permit fees collected while showing a cost benefit to the private sector, in the amount of \$137,000, for each land farm that would enter closure. Mr. Bullock explained that changing the closure/cleanup for soil to a risk-based closure/cleanup requirement requires rule changes to modify certain closure/cleanup requirements applicable to soil remediation permitting. If approved, this change will be protective of human health and the environment and will lower costs to some stakeholders. Mr. Bullock then presented a timeline, as it pertained to their rule review process, before closing with the Division of Waste Management's request to proceed to public comment and hearing with 15A NCAC 02T .1500 with proposed changes and fiscal note. In addition, the Division also requested that Division staff, specifically Carin Kromm, act as the hearing officer.

Commissioner Meiburg asked Mr. Bullock to go over the risk based levels again as to how those are determined. Mr. Bullock answered; that the standards used are the same, across the state, and are based on soil to groundwater ratio, which measures the potential for contamination to leach into the groundwater, or residential level; whichever is lower.

Discussion with questions and comments continued with the Commissioners and Mr. Bullock.

- Motions

Commissioner Puette then moved for adoption of the request to proceed to public comment and hearing for rule 15A NCAC 02T .1500 Soil Remediation and Fiscal Note and **Commissioner Rubin** seconded the motion. The vote was unanimous.

Chairman Solomon suggested Commissioner Keen as a hearing officer and stated they would continue to discuss the matter of hearing officers after the meeting.

17-30 Request a 30-Day Waiver and Approval to Proceed to Public Comment and Hearing on Proposed Temporary Rule Amendments in 15A NCAC 2L Section .0400 as Required by SL 2011-57

Before the presentation, **Chairman Solomon** asked about the 30-day waiver being requested and Mr. Scott Bullock, DWM Underground Storage Tanks Section, confirmed that the waiver pertained to the dissolution of the non-commercial underground storage tank fund. Mr. Bullock explained that the reason for the 30-day waiver was due to the strict timeline of Session Law 2017-57, which gave a deadline of October 1, 2017. Therefore a 30-day waiver was requested to meet that timeline.

Chairman Solomon requested a vote on the matter because approval of the 30-day waiver was required before going forward. **Commissioner Puette** made the motion for the 30-day waiver to be granted and **Commissioner Rubin** seconded the motion. The motion passed unanimously.

- Request

Mr. Bullock presented this action item and explained that Senate Bill 257 Section 13.19 required the EMC to adopt temporary rules implementing Section 14.16B of Session Law 2015-241 by October 1, 2017.

Mr. Bullock presented the schedule that showed how they would meet the October 1st deadline as well as some later dates.

Commissioner Meiburg asked about classifying high risk or low risk sites-

Mr. Bullock responded that, based on Session Law 2015-241, noncommercial sites would have to be classified as high risk or low risk. Prior to that time noncommercial and commercial sites were lumped together with the same criteria. So, in response, the Division did a noncommercial study, using home heating oil tanks, to determine what the degree of impact. A state survey was conducted and it was discovered that the maximum potential impact for water supply wells would be for those within about 75 feet of a release. As a measure of safety for the temporary rules, the distance will be 150 feet. Also, a property will be considered high risk if free product, using vapor intrusion calculations, was present within 30 feet of a property boundary.

Commissioner Keen asked Mr. Bullock if, when going through the study on the commercial piece, did the Division work with the Department of Transportation on land acquisitions that may be contaminated from underground storage tanks? Mr. Bullock responded that they did not.

Commissioner Keen addressed **Chairman Solomon** conveying his thoughts regarding DOT moving roads and acquiring properties with underground storage tanks. **Commissioner Keen** asked if these acquired properties had contaminated soil, couldn't it impact the value of the properties?

Commissioner Deerhake mentioned concerns related to the current rule language structure, specifically in rules .0404 and .0405. He stated that correcting the rule language before public comment and the Rules Review Commission, based on **Commissioner Deerhake's** comments would be the preferred approach.

Counsel Jennifer Hauser, stated that changes to the rule could be made at the current time. **Commissioner Deerhake** described the proposed changes to Mr. Bullock and he made the necessary rule language changes and added the subject "responsible party" to rule .0405. **Chairman Solomon** asked Mr. Bullock to read the necessary rule changes back to the Commission.

Commissioner Gillespie remarked that he would prefer the rule coordinator look at the rule changes as he was uncomfortable with the idea of a member suggesting changes when the rules that are being discussed are not visible, in their entirety, to all members of the Commission at the time the changes are being made. Director Michael Scott confirmed that the last paragraph of rule .0404 would not change.

- Motions

Commissioner Puette made the motion that, with the changes made today, adding "and" into the list under 15A NCAC 2L .0404(a) and clarifying the Responsible Party requirement to comply with 15A NCAC 2L .0405, to allow the proposed temporary rule amendments in 15A NCAC 2L Section .0400 as required by SL 2011-57 to go to public comment and hearing. **Commissioner Rubin** seconded the motion. The motion passed unanimously.

- **17-31 Request for Approval of Initial Determinations for Public Comment for 15A NCAC 02L Rule Review**

- Request

Jeff Manning, Water Planning Section presented his action item. The report was report recommended for approval by the Groundwater and Waste Management Committee from the May meetings for the groundwater standards and classifications rules for .0100 and .0200 and .0300 sections and sections .0400 and .0500 for the Division of Waste Management's (DWM) underground storage tank rules. There are 66 rules in the report and with a recommendation that 43 rules to be categorized at necessary with substantive with public interest, 21 rules to be necessary without substantive public interest and 2 rules to be unnecessary.

- Motion

Commissioner Carroll made a motion that the Commission approve the initial determinations and send it out to public comment. **Vice Chair Wilsey** seconded the motion. There was no discussion and the motion passed.

- **17-32 Request to Proceed to Public Notice and Hearings with Proposed Rule Re-adoptions and Amendments to 15A NCAC 02T and 02U**

- Request

Jeff Manning presented this action item. These rules have been brought back and forth through the Rules Review Commission, department review, Water Quality Committee, EMC and Stakeholder group meetings for a couple years. Recently there were Stakeholder information sessions held in April 2017. In May of 2017 it came back to the WQC and was

approved. After the May WQC, it went back to the RRC for pre-review, and more comments and changes were incorporated in June 2017 for 2 of the 4 subchapters. These were for clarity and ambiguity purposes. The changes were shown in comment boxes with explanations of each change, or the rule text shown as strikethrough/underline for deletions/additions.

- Motion

Vice-Chair Wilsey made a motion that the Commission approve to proceed to public notice and hearings with the **draft** language in accordance with the rules re-adoption process. **Commissioner Rubin** second the motion. The vote was unanimous.

III. Concluding Remarks

- Director's Comments

Tracy Davis, Director of Division of Energy, Mineral & Land Resources

Director Davis presented legislative bill updates on Senate Bill 131 – Regulatory Reform Act of 2016. He also stated legislation that was pending before the Governor which were SB 107 - Exemptions for Dam Removal and SB 615 - NC Farm Act of 2017. He indicated that the Legislation that was not resolved by Conference Committees prior to adjournment but would be revisited during upcoming August 3 Special Legislative Session were House Bill 56, SB 16 - Business & Agency Regulatory Reform Act of 2017. He stated that legislation that appears to be dead was SB 434 – Amend Environmental Laws.

Michael Scott, Director of the Division of Waste Management

Director Scott stated that the finalizing of the State budget resulted in several changes for Division of Waste Management programs. The Mercury Switch Program in the Hazardous Waste section was extended through 2021 within section 13.21 of the budget bill. He indicated that the budget included a solid waste disposal tax study and previous legislation included a solid waste capacity study that was due in March of 2018. DWM will continue to evaluate the federal coal combustion residual rule with DWR and DEMLR and will be updating the Commission on the suggested next steps regarding rule development.

Michael Abraczinskas, Director of Division of Air Quality

Director Abraczinskas stated that Michael Pjetraj had been named the acting Deputy Director of DAQ. As acting Deputy Director, Michael will provide administrative oversight of DAQ's four Central Office Sections and the DAQ Business Office, and support our daily technical, policy and operational challenges. Director Abraczinskas discussed several updates:

- United States Environmental Protection Agency (USEPA) strengthened its primary and secondary National Ambient Air Quality Standards (NAAQS) for ground-level ozone on October 1, 2015.
- The ozone monitoring season has been expanded by one month to ensure compliance with the 2008 and 2015 ozone NAAQS, and to ensure citizens are alerted when ozone reaches levels of concern. The ozone season for 2017 started March 1st.
- The USEPA intends to provide final air quality designations by October 1, 2017.

He indicated that DAQ is providing comments for the USEPA's proposal to deny the northeastern states Section 176A petition by April 13, 2017. The DAQ's comments support the denial and will contain supporting material that NC has met the 2008 ozone standard "Good Neighbor" SIP provision. The DAQ is providing comments on preliminary interstate ozone transport modeling for the 2015 ozone standard by April 6th. The concern is with USEPA's technical analysis of 2023 future year emissions projections for electric generating units (EGU's).

- **Jay Zimmerman, Director of Division of Water Resources**

Tom Fransen, Section Chief for DWR's Water Planning section provided the update Highlights from the budget bill include: a requirement to study alternative technologies for in situ approaches to nutrient management in the Falls and Jordan Lake; and funding for required testing or sampling activities required to support permit applications for the trial to begin in September 2017. By April 1, 2018 recommendations for the fiscal or legislative actions are due, pertaining to DWR's study of the feasibility and cost-effectiveness of the acquisition by the State of North Carolina of one or more dredges. Also, DOT and DEQ shall jointly perform a cost-benefit analysis of the State providing dredging services versus

the State Utilizing private contractors to dredge. In regards to pending legislation, HB 56, and SB 434, updates can be seen on the director's comments link here: https://ncdenr.s3.amazonaws.com/s3fs-public/Directors_Comments_13July2017.pdf. For the 1,4 Dioxane, DWR has worked with Dr. Knappe at NCSU to evaluate concentrations of 1,4 Dioxane in 2014-15 in the Cape Fear River, and DWR continues to work with local governments on their efforts to reduce the introduction of the chemical into waterbodies. More details can be found in the director's written comments. DWR is continuing work with EPA to evaluate current concentrations of perfluorooctanoic acid and perfluorooctanesulfonic acid (PFOA/PFOS) and successor chemicals such as GenX in the Cape Fear River. DHHS is developing initial health advisory goals in consultation with federal agencies: EPA, Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC). A web page has been created and placed on NCDEQ's website for all information related to GenX.

- **Committee Chairs**

(AQC) **Chairman Carter** stated that the Air Quality Committee did meet and had a good meeting, approved one item that will come to the Commission at the September meeting for action to proceed to public hearing on emission guidelines for existing commercial and industrial solid waste incinerators. They will have two more that will be coming shortly on re-designation of air quality rules on HB 74 and the IM program and changes which will reduce the number of counties that are subject to the IM program by the 26 counties.

(GWWMC) **Chairman Puette** indicated that the Groundwater & Waste Management Committee had two items on the agenda. One was the temporary rule in 15A NCAC 13A will come back in September approval.

Chairman Solomon reported for the Water Allocation Committee and stated that they had two good presentations on the Water Energy Nexus.

(WQC) **Chairman Wilsey** indicated that they had three information items at the Water Quality Committee. It would be good to go back and look at the two presentations

particularly the 319 non-point source grant program- Staff provided information on the Gen-X issue that is going on in the Cape Fear area, and will have more information in the Committee meeting next month. Brunswick, Pender and Hanover counties have been very complimentary with the response they received from DEQ and DHHS.

- Counsel

Counsel Jennie Hauser stated that the brief was filed on behalf of the Department and the Commission on June 26, 2017 on the Fayetteville vs EMC matter which involves the IBT for Cary and Apex. The petitioners', primarily the Town of Fayetteville and some of the towns further downstream, brief is due on August 28, and the Special Superior Court Judge who's been assigned to hear this case will hear this on the September 13-14 in Fayetteville. That's the same date as the EMC meeting so other folks from the AG's office who helped with the litigation will be handling that and she will be with the EMC. The multi-page document is a memo that is in response to questions that were raised by members of the Commission back in January regarding the Triennial Review. Counsel Hauser hit a couple of points the Department filed that Triennial Review in April of 2015 and EPA's response to the Department came significantly beyond the 90-day time limit allowed in EPA's rules, that 40 CFR Section 131.21. On pages two and three, there's a list of seven questions that were submitted from the Commission. Focusing primarily around whether or not, EPA had lost some of its authority to act, because it acted in such a late fashion. Another point was whether or not EPA had the ability to look at the action levels that were included in the rules, that had been put forward when they had not previously taken any action regarding the action levels, and whether that kept them from being able to take action in this instance. Following the list of questions were brief answers where the questions were grouped together. Following that was a more in-depth analysis citing some legal authority to match the opinion. Counsel Hauser indicated it was her opinion, that she was able to come to after having done all the research required for this, that EPA is not precluded from taking action, even though it's action was very late; because you cannot divest EPA of the authority that's been given to it by Congress to act. The dates given in the rules, the Courts have looked at as dates for which EPA should strive to act under those actions for provision rather than as a deadline or some sort of jurisdictional authority. With regards to the action

level language, what the state had done, in this instance was to adopt a new, metals standards in trying to preserve its action level language within that new standard. Because they took that action to open up that new standard, the EPA continues to have the ability to look into that standard. The state doesn't have the ability to tell the EPA, that they can't take any action with regard to that standard, even though it predated what is commonly known as the Alaska Rule whereby EPA said which state you can transition your old standards up under the new standard. Now that North Carolina has acted to move toward a different standard, all the components of that standard were subject to EPA review. Counsel Hauser stated to the Commission that if they had any questions after reading the minutes, she would be happy to discuss it with them.

- Chairman

Chairman Solomon stated that this was a major issue and he thanked Jennie and her staff for putting this together which he knows took some time. He thanked her for their continued support and her staff, and they were very much appreciated.

- Commission Members

Commissioner Deerhake thanked everyone for the warm welcome and looked forward to working with everyone. She wanted to take a moment to remember Dr. Robert Cook who was a former member of the Commission. He was the gubernatorial Agricultural appointee in the 2000s who passed away about a week ago unexpectedly. He made valuable contributions to the Commission and the state through his service.

Commissioner Keen expressed his gratitude in returning to the Commission and he was looking forward to serving for four years and engaging in any form to move North Carolina forward to cleaner air, cleaner water and everything.

Commissioners Gillespie, Dr. Meiburg and Whisnant all expressed their gratitude expressed their thanks for the warm welcome and all looked forward to working with everyone.

Chairman Solomon commented that the Commission had a few procedural matters to talk about which one was fiscal notes, the issue being should fiscal notes be done before they leave the committees. He indicated that they may come up with a way that the Department Head with the Committee Chair may make a very meaningful decision before it gets to the Committee to either have the fiscal note done or not. Chairman stated that they talked about standing agenda titles and Counsel had given them some good guidance for that and he didn't think it required a bylaw change. Regarding the 30-day waivers, he discussed it with several people and he wanted all to make sure that when they see emergencies come up, he doesn't want anyone to feel like they are doing anything wrong by waiving the 30-day process. However, he is committed to the 30-day waiver because it helps the public and helps the Commission get their thoughts together. He indicated that there needed to be more clarity about the power to waive it as a normal course of our business. Counsel Hauser is going to need feedback from Committees requiring waivers. He indicated that he had spoken to most of them regarding the Committee assignments, which will not be permanent and subject to change. He will be looking at their continuity given the number of rules, re-adoptions and other issues they will be dealing with. Secondly there are a lot of new members and he explained the reasons for the vice chairs of each committee. He stated that the three criteria were: consistency from a leadership perspective; developing a succession plan where all feel comfortable; and getting to where they have the most interest. **Chairman Solomon** welcomed everybody and his final word was they started the year out with the new administration and kudos to the entire Commission for keeping things running smoothly and moving forward.

With no further business before the Commission, the Chairman adjourned at 2:05 p.m. on July 13, 2017.

Approved this day 14th of September 2017.



J. D. Solomon, Chairman of the EMC

EXHIBIT A

Evaluations of Statement of Economic Interest

- Charles S. Carter
- Marion Deerhake
- Hon. Robert M. Gillespie
- Steve P. Keen
- Dr. Suzanne Lazorick
- Dr. Albert Stanley Meiburg
- Richard Whisnant



STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER
RALEIGH, NC 27699-1324
WWW.ETHICSCOMMISSION.NC.GOV

ROBERT L. FARMER
CHAIRMAN

PERRY Y. NEWSON
EXECUTIVE DIRECTOR

August 22, 2013

The Honorable Thom Tillis
Speaker of the House of Representatives
16 W. Jones Street, Room 2304
Raleigh, NC 27601

Via email

Re: Evaluation of Statement of Economic Interest Filed By Charles S. Carter
Appointee – Environmental Management Commission

Dear Speaker Tillis:

Our office is in receipt of Mr. Charles S. Carter's 2013 Statement of Economic Interest as an appointee to the Environmental Management Commission ("Commission"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

The Honorable Thom Tillis
August 22, 2013
Page 2 of 2

Mr. Carter fills the role of an at large member on the Commission. He is an attorney with the law firm of Nexsen Pruet, PLLC. Mr. Carter practices in the areas of environmental law, administrative, local government, and other areas as well. Mr. Carter should exercise appropriate caution in the performance of his public duties should Nexsen Pruet or its clients come before the Commission for official action or otherwise seek to conduct business with the Commission. This would include recusing himself to the extent that those interests would influence or could reasonably appear to influence his actions.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Lisa S. Johnson
Paralegal, SEI Unit

cc: Mr. Charles S. Carter
Mr. Stephen Smith, Board Chair
Lois Thomas, Ethics Liaison

Attachment: Ethics Education Flyer



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

June 30, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

Re: Evaluation of Statements of Economic Interest Filed By Ms. Marion E. Deerhake
Prospective Appointee – Environmental Management Commission

Dear Governor Cooper:

Our office is in receipt of Ms. Marion E. Deerhake's 2017 Statement of Economic Interest as a prospective appointee to the Environmental Management Commission ("Commission"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

The Honorable Roy A. Cooper, III
June 30, 2017
Page 2 of 2

Ms. Deerhake will fill the role of an individual with special training or scientific expertise in air pollution control or the effects of air pollution. She is a Senior Research Environmental Scientist with RTI International, an organization whose client list includes entities subject to regulation by the Commission. As such, she has the potential for a conflict of interest. In addition, Ms. Deerhake serves on the City of Raleigh's Stormwater Management Advisory Commission and the N.C. Water Resources Research Institute Advisory Committee. She noted that she intends to resign from both committees prior to her appointment to the Commission. In light of these interests, Ms. Deerhake should exercise appropriate caution in the performance of her public duties should RTI International or its clients come before the Commission for official action.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter
SEI Unit

cc: Ms. Marion E. Deerhake

Attachment: Ethics Education Flyer



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

July 11, 2017

The Honorable Tim Moore
Speaker of the House of Representatives
16 W. Jones Street, Room 2304
Raleigh, NC 27601-1096

Via Email

Re: Evaluation of Statements of Economic Interest Filed By **The Honorable Robert M. Gillespie**
Public Member - Environmental Management Commission

Dear Speaker Moore:

Our office is in receipt of **The Honorable Robert M. Gillespie's** 2017 Statement of Economic Interest as a public member of the **Environmental Management Commission ("Commission")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest or the potential for a conflict of interest.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

The Honorable Tim Moore
July 11, 2017
Page 2 of 2

Former Representative Gillespie will fill the role of public member on the Commission. He is a senior policy advisor in the North Carolina General Assembly.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter
SEI Unit

cc: The Honorable Robert M. Gillespie
Mr. John D. Solomon, Commission Chair
Ms. Lois Thomas, Ethics Liaison

Attachment: Ethics Education Flyer



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
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Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

July 7, 2017

The Honorable Tim Moore
Speaker of the House of Representatives
16 W. Jones Street, Room 2304
Raleigh, NC 27601-1096

Via Email

Re: Evaluation of Statements of Economic Interest Filed By Mr. Steve P. Keen
Public Member - Environmental Management Commission

Dear Speaker Moore:

Our office is in receipt of Mr. Steve P. Keen's 2017 Statement of Economic Interest as a public member of the Environmental Management Commission ("Commission"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

The Honorable Tim Moore
July 7, 2017
Page 2 of 2

Mr. Keen will fill the role of public member on the Commission. He is the Vice President of Community Development for Cardinal Innovations Healthcare. His spouse is an elected member of the Fork Township Sanitary District. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should issues concerning the Fork Township Sanitary District come before the Commission for official action.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter
SEI Unit

cc: Mr. Steve P. Keen
Mr. John D. Solomon, Commission Chair
Ms. Lois Thomas, Ethics Liaison

Attachment: Ethics Education Flyer



STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER
RALEIGH, NC 27699-1324
WWW.ETHICSCOMMISSION.NC.GOV

May 10, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

**Re: Evaluation of Statement of Economic Interest Filed By Dr. Suzanne Lazorick
Prospective Appointee – Environmental Management Commission**

Dear Governor Cooper:

Our office is in receipt of **Dr. Suzanne Lazorick's** 2017 Statement of Economic Interest as a prospective appointee to the **Environmental Management Commission ("the Commission")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest or the potential for a conflict of interest.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Dr. Lazorick will fill the role of a licensed physician on the Commission. She is an Associate Professor at East Carolina University and provides physician services at Vidant Beaufort Hospital.

The Honorable Roy A. Cooper, III
May 10, 2017
Page 2 of 2

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Beth Carpenter
SEI Unit

cc: Dr. Suzanne Lazorick

Attachment: Ethics Education Flyer



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
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Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

June 22, 2017

The Honorable Roy A. Cooper, III

Via Email

Governor of North Carolina

20301 Mail Service Center

Raleigh, NC 27699-0301

Re: Evaluation of Statement of Economic Interest Filed By Dr. Albert S. Meiburg

Prospective Appointee – Environmental Management Commission

Dear Governor Cooper:

Our office is in receipt of Dr. Albert S. Meiburg's 2017 Statement of Economic Interest as a prospective appointee to the Environmental Management Commission ("the Commission"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest but did find the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

The Honorable Roy A. Cooper, III

June 22, 2017

Page 2 of 2

Dr. Meiburg will fill the role of a member with special training or scientific expertise in hydrology, water pollution control on the Commission. He is Director of Graduate Studies in Sustainability at Wake Forest University. In addition, Dr. Meiburg is the owner of Meiburg Leadership Consulting, LLC, a privately held company, however he reports that this business is inactive as of 2014. Therefore, he has a potential conflict of interest, and should exercise appropriate caution in the performance of his duties should his company come before the Commission for official action.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact me if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act. My telephone number is 919-814-3600.

Sincerely,



Gretchen D. Aycock

SEI Attorney

Enclosure: Ethics Education Flyer

cc: Dr. Albert Meiburg, Filer



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 733-7173
Fax: (919) 715-0135

KIM WESTBROOK STRACH
Executive Director

June 22, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

Re: Evaluation of Statement of Economic Interest Filed By Professor Richard B. Whisnant

Prospective Appointee – Environmental Management Commission

Dear Governor Cooper:

Our office is in receipt of Professor Richard B. Whisnant's 2017 Statement of Economic Interest as a prospective appointee to the Environmental Management Commission ("the Commission"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest or the potential for a conflict of interest.

The Environmental Management Commission is responsible for adopting rules for the protection, preservation and enhancement of the State's air and water resources, including adopting rules and regulations regarding air and water quality standards, emission control standards, and classifications for air contaminant sources. In addition, the Commission has the authority to grant, modify, and revoke permits controlling sources of air and water pollution, oversee and supervise local air pollution control programs, and conduct investigations. The Commission also has the authority to declare, delineate and modify capacity use areas, approve and disapprove applications for and halt dam construction, and has jurisdiction and supervision over the maintenance, operation and inspection of dams. The Commission governs underground storage tanks, including the certification of persons who inspect and test tanks, and has jurisdiction and supervision over oil pollution, dry-cleaning solvent use, contamination and remediation. The Commission administers the State's authority under the federal Clean Water Act, approves Coastal Habitat Protection Plans, and advises and assists local governments regarding floodways.

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The Honorable Roy A. Cooper, III

June 22, 2017

Page 2 of 2

Professor Whisnant will fill the role of a member with special training or scientific expertise in freshwater, estuarine, marine biological or ecological sciences. He is a Professor at the University of North Carolina at Chapel Hill.

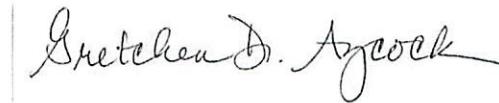
In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact me if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act. My telephone number is 919-814-3600.

Sincerely,



Gretchen D. Aycock

SEI Attorney

Enclosure: Ethics Education Flyer

cc: Professor Richard B. Whisnant, Filer