

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER QUALITY COMMITTEE MEETING SUMMARY**

**January 13, 2016
Archdale Building-Ground Floor Hearing Room**

BRIEF

The Water Quality Committee (WQC) of the Environmental Management Commission (EMC) at the January 13, 2016 meeting:

- approved the draft summary of the November 4, 2015 WQC meeting.
- granted an ‘After the Fact’ Major Variance from the Tar Pamlico Riparian Area Protection rule to Mr. Daniel E. Whitford for a shelter and storage shield at 748 Downs Shore Driver in Blounts Creek, NC.
- approved to send proposal of Coastal Region, Piedmont Region, and Western Region for purposes of regulating isolated wetlands permitting to the EMC.
- heard about the progress made on implementation of the Falls Lake Nutrient Strategy, evaluation changes in loading and lake water quality progress, and advances in science and control technology.

WQC Members in Attendance:

Mr. Steve Tedder, (WQC Chairman)
Mr. Gerard P. Carroll, (EMC Chairman)
Dr. Albert Rubin
Dr. Lawrence W. Raymond
Mr. Charles Elam
Mr. Thomas Craven
Mr. Kevin Martin

Others Present:

Ms. Jennie Hauser, Attorney General Office
Mr. Charles Carter, EMC
Mr. David Anderson, EMC
Mr. William “Bill” Puette, EMC
Mr. E.O. Ferrell, EMC
Ms. Julie Wisely, EMC
Mr. Jay Zimmerman, Division of Water Resources, Director
Mr. Thomas Fransen, Division of Water Resources, Water Planning Section Chief

I. Preliminary Matters:

None of the WQC members recused himself from making a decision on the action items on the January 13, 2016 WQC agenda.

II. Agenda Items

1. Request for an After-the-Fact Major Variance from the Tar-Pamlico Riparian Area Protection Rule by Daniel E. Whitford for a Shelter and Storage Shed at 748 Downs Shore Drive in Blounts Creek, NC

Description:

Jennifer Burdette with the Division of Water Resources (DWR) requested that the WQC grant Daniel E. Whitford an after-the-fact Major Variance from the Tar-Pamlico Riparian Area Protection Rules for a shelter and storage shed at 748 Downs Shore Drive in Blounts Creek, NC that was built in Zone 1 and Zone 2 of the buffer. The applicant is proposing mitigation to offset the buffer impacts and treatment of stormwater runoff from the two existing structures and the proposed house. The applicant has met evaluation criteria 15A NCAC 02B .0259(9)(a)(ii-iii) but not criteria 15A NCAC 02B .0259 (9)(a)(i).

Discussion:

Mr. Martin asked when the lot was recorded. Ms. Burdette said it was platted prior to the existing rules.

Motion:

Mr. Martin made a motion to approve DWR's recommendation to grant the major variance request with required mitigation of 780 ft² without applying the locational ratio of the state's Consolidated Buffer Mitigation Rule and the proposed stormwater management plan. The motion was seconded by another WQC member. Mr. Craven did not approve of this motion.

AGENDA ACTION ITEM #2 HAS BEEN REMOVED

2. Request to Proceed to Environmental Management Commission for Approval to Send Draft 15A NCAC 2B, 2H, 2T, and 2U Subchapter rules to Public Notice and Hearing – (Action Item) (Jeff Manning, DWR)

DWR staff will request the WQC's approval to proceed to the EMC for public notice and hearing with drafts of the 2B, 2H, 2T, and 2U water quality rules for the purpose of readoption in accordance Session Law 2013-413 (H74). Once approved by the WQC, staff will begin the regulatory impact analysis. Once the regulatory impact analysis is completed, staff will bring the draft rules to the full EMC to seek approval to send the draft rules to public notice and hearing. (Attachments enclosed: Draft Summary Tables for 15A NCAC Subchapters 2B, 2H, 2T and 2U and PowerPoint Presentation)

3. Request Approval of a Coastal Region, Piedmont Region and Mountain Region for purposes of regulating impacts to isolated wetlands

Description:

Karen Higgins with DWR announced a directive of Session Law 2015-286 for the EMC to establish a Coastal Region, Piedmont Region and Mountain Region for purposes of regulating impacts to isolated wetlands under Title 15A NCAC 02H .1305(d)(2). DWR staff provided an overview of the proposed regions and requested approval to take the proposed Coastal Region, Piedmont Region and Mountain Region to the full EMC.

Discussion:

EMC Chairman Carroll asked about the site-specific evaluation process, as to whether it would create a hodge-podge based on different soils types, and whether it would be specific to the individual site. Ms. Higgins responded that it would be based on the soils at that specific site and yes, it could be a hodge-podge. EMC Chairman Carroll asked further about using soils as the basis for dividing the regions and what the advantages were to being in a different region. Mr. Martin responded that based on soil types identified in an area, they fall into a coastal, piedmont or mountain region and that the different regions have different application thresholds

Motion:

Mr. Martin made a motion to approve DWR's request to take the Coastal Region, Piedmont Region and Mountain Region and the site-specific evaluation to the EMC. The motion was seconded by another WQC member and unanimously approved by the WQC.

4. 2016 Status Report: Falls Lake Nutrient Strategy

Description:

John Huisman with DWR provided the WQC with an update on the implementation on the water quality progress in the Falls Lake watershed. The Falls Lake nutrient management strategy (15A NCAC 2B .0275 through .0282) is a comprehensive set of rules that went into effect in 2011 to address excess nutrient inputs to Falls Lake. The Falls Lake Purpose and Scope Rule (.0275) requires DWR to report to the EMC on specific aspects of progress in the Falls Lake watershed beginning in January 2016 and every five years thereafter. The report provides an update on the implementation status of rules, evaluates changes in nutrient loading to the lake, details progress towards achieving nutrient-related water quality standards, and addresses advancements in scientific understanding and treatment technology. Staff from several programs in the Division of Water Resources, other divisions, and the EPA contributed to the information provided in this comprehensive report.

The unprecedented nutrient reductions required by the Falls rules and the adaptive design of the rules prompted the inclusion of these 5-year check-ins to evaluate implementation progress and inform potential adjustments. The rules require all major sources of nutrients to reduce their nitrogen and phosphorus loads to Falls Lake by 40 and 77 percent, respectively, from a 2006 baseline condition. The strategy was thus designed as a staged, adaptive approach. Stage I requires presently achievable controls and approximately half of the full reduction targets, 20 and 40 percent nitrogen and phosphorus, respectively by regulated sources to meet the chlorophyll a standard in the lower lake by 2021. Stage II calls for additional reductions in the upper watershed

with the overall goal of achieving all reductions and meeting nutrient standards throughout the lake by 2041.

Discussion:

Mr. Craven asked can local governments use practices that have established nutrient reduction credits within in the two year period before DWR brings the final model program to the EMC for approval be implemented to achieve loading reductions. Mr. Huisman said that as credits are established for individual practices, even when DWR has not brought the final model program to the EMC, the local governments can move forward with voluntarily implementing existing development practices including those new measures that have been approved by the DWR Director. Mr. Craven also asked for an explanation for the fluctuation in nutrient loading from 2010 through 2013. Mr. Huisman explained that the loading fluctuations during that period is driven by flow. WQC Chairman Tedder asked whether the model used to set the Stage I and II reductions will be revisited in the future. Mr. Huisman replied yes. Mr. Craven asked if poultry was a significant industry in the upper Neuse River. Mr. Huisman replied no. EMC Chairman Carroll asked what is causing the increase (20%) in nitrogen loading. Mr. Huisman says the increase is non-point driven. In 2014 there was a 60% increase in flow relative to the 2006 baseline year and simultaneously an increase in nitrogen loading.

Motion:

Not Applicable

III. Closing Comments

Chairman Tedder

There were no closing comments by the WQC members.

Summary was prepared by Jennifer Burdette, Karen Higgins, John Huisman and Adriene Weaver