**ENVIRONMENTAL MANAGEMENT COMMISSION**

**WATER QUALITY COMMITTEE MEETING SUMMARY**

**March 9, 2016**

**Archdale Building-Ground Floor Hearing Room**

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| **BRIEF**   |  | | --- | | The Water Quality Committee (WQC) of the Environmental Management Commission (EMC) at the March 9, 2016 meeting:   * approved the draft summary of the January 13, 2016 WQC meeting. * granted a Major Variance from the Neuse Riparian Area Protection rule to RL Properties, LLC for an office building and associated infrastructure on Centre Pointe Drive in Cary, North Carolina and to ITB Holdings, LLC for a Mixed-use Commercial Development at 2912 Wake Forest Road in Raleigh, North Carolina. * was made aware of the [2015 Annual Water Supply Watershed Ordinance Approvals, Universal Stormwater Management Program Ordinance Approvals, and Phase II Program Implementation Delegations](https://ncdenr.s3.amazonaws.com/s3fs-public/Environmental%20Management%20Commission/Water_Quality_Committee_Meetings/2016/March_Attachments/Ventaloro_2015%20Annual%20Report%20WSWP%20Phase%202.pdf) Report and the Water Quality Special Orders of Consent and Civil Penalty Assessments Report. * was informed of the North Carolina’s 2016 303(d) List of Impaired Waters and the progress on implementing the agriculture requirements as part of the nutrient management strategies for the Neuse, Tar-Pamlico, Falls and Jordan Lake watersheds. | |

**WQC Members in Attendance:**

Mr. Steve Tedder, (WQC Chairman)

Mr. Steve Rowlan, (EMC Chairman)

Dr. Lawrence W. Raymond

Mr. Charles Elam

Mr. Thomas Craven

Mr. Gerald Carroll

**WQC Members not in Attendance:**

Mr. Kevin Martin

Dr. Albert Rubin

**Others Present:**

Ms. Jennie Hauser, Attorney General Office

Mr. Charles Carter, EMC

Mr. David Anderson, EMC

Mr. William “Bill” Puette, EMC

Ms. Julie Wisely, EMC

Mr. Jay Zimmerman, Director, DWR

**I. Preliminary Matters**

Mr. Craven recused himself from making a decision on the action item #4 on the March 9, 2016 WQC agenda.

**II. Agenda Items**

**1.**[**2015 Annual Report on Water Supply Watershed Ordinance Approvals, Universal Stormwater Management Program Ordinance Approvals, and Phase II Program Implementation Delegations**](https://ncdenr.s3.amazonaws.com/s3fs-public/Environmental%20Management%20Commission/Water_Quality_Committee_Meetings/2016/March_Attachments/Ventaloro_2015%20Annual%20Report%20WSWP%20Phase%202.pdf)

The Division of Energy, Mining, and Land Resources (DEMLR) staff did not give a presentation on this report but was present at the WQC meeting to answer questions.

**2. Water Quality**[**Special Orders by Consent**](https://ncdenr.s3.amazonaws.com/s3fs-public/Environmental%20Management%20Commission/Water_Quality_Committee_Meetings/2016/March_Attachments/DWR%20Active%20SOCs%20%282-10-2016%29.pdf)**and**[**Civil Penalty Assessments**](https://ncdenr.s3.amazonaws.com/s3fs-public/Environmental%20Management%20Commission/Water_Quality_Committee_Meetings/2016/March_Attachments/DWR%20Civil%20Penalty%20Assessments%201-15-2016%20-%202-10-2016.pdf)

WQC Chairman Steve Tedder did not give a presentation for this item. However, he did mention that staff will bring active water quality special orders by consent and civil penalty assessments to future WQC meetings.

**3. Request for a Major Variance from the Neuse Riparian Area Protection Rule by RL  
Properties, LLC for an Office Building and Associated Infrastructure on Center Pointe Drive in Cary, NC**

**Description**Jennifer Burdette with Division of Water Resources (DWR) requested that the WQC grant a Major Variance from the Neuse Riparian Area Protection Rules to RL Properties, LLC for an office building and associated infrastructure on lot 5 of Parkway Pointe Office Park on Center Pointe Drive in Cary, NC.  The applicant is proposing mitigation to offset the buffer impacts and treatment of stormwater runoff from the site.  Based on the information submitted, DWR supports this request for a Major Variance from the Neuse Riparian Area Protection Rules because all of the requirements in 15A NCAC 02B .0233 are met.

**Discussion**Mr. Craven asked staff to ensure that stormwater runoff from the parking area and the dumpster goes back to the bioretention area. Staff said that they asked for this to happen.

**Motion**Mr. Elam made a motion to approve the major variance with the following conditions recommended by DWR: purchase of 18,658 ft2 buffer mitigation credits is required, applicant provides a stormwater plan, and secure approval from city of Cary prior to the authorization of the buffer impacts. Mr. Craven seconded the motion, and the members of the WQC unanimously approved the variance and associated conditions.

**4. Request for a Major Variance from the Neuse Riparian Area Protection Rule by ITB Holdings, LLC for a Mixed-use Commercial Development at 2912 Wake Forest Road in Raleigh, NC**

**Description**Jennifer Burdette with DWR requested that the WQC to grant a Major Variance from the Neuse Riparian Area Protection Rules to ITB Holdings, LLC for redevelopment of former industrial facility to a mixed-use commercial development at 2912 Wake Forest Road in Raleigh, NC.  The applicant is proposing mitigation to offset the buffer impacts and treatment of stormwater runoff from the site.  Based on the information submitted, DWR supports this request for a Major Variance from the Neuse Riparian Area Protection Rules because all of the requirements in 15A NCAC 02B .0233 are met.

**Discussion**Ms. Jeannie Hauser, General Counsel to the WQC, for the record, that in accordance with NCGS 138A-38 (a)(6) Mr. Craven is to be counted for purposes of quorum, but shall not participate in the decision on the Major Variance Request for the ITB Holdings for the redevelopment project at 2912 Wake Forest Road in Raleigh, NC. Dr. Raymond asked if adequate sizing of the sand filter is ensured by the design. Staff said because this is a redevelopment project only treatment of additional impervious area is required and the sand filter can handle this.

**Motion**Dr. Raymond made a motion to approve staff’s recommendation to grant a major variance from the Neuse Riparian Area Protection Rules to ITB Holdings, LLC including the following conditions: purchase of 92,202 ft2 buffer mitigation credits is required, treat stormwater runoff from development in accordance with Phase II NPDES and Nutrient Sensitive Waters stormwater requirements, and secure approval from city of Raleigh prior to the authorization of the buffer impacts. Mr. Elam seconded the motion, and the members of the WQC unanimously approved the variance and associated conditions.

**(ITEM REMOVED FROM AGENDA)**  
**5. Request to Send Report on In Situ Strategies for Mitigation of Water Quality Impairments in North Carolina to the Environmental Management Commission - (Action Item) (Rich Gannon, DWR)**

This report was requested by the NC General Assembly to evaluate currently available in situ strategies to help mitigate water quality impairments.  The NC Department of Environmental Quality and the NC Environmental Management Commission (EMC) were directed to assess potential efficacy of such strategies under Session Law (SL) 2015-241 14.5 (d). Division staff have compiled information based on this request using material from US Environmental Protection Agency Clean Lakes Program, North American Lake Management Society, NC Lake Management Society, internet searches, and individual leads. DWR staff request approval to take the report to the full EMC.

**(ITEM REMOVED FROM AGENDA)**  
**6. Request Approval to Send a Study of the State’s Riparian Buffer Protection Program pursuant to Session Law 2015-246 to the EMC – (Action Item) (Karen Higgins, DWR)**

Session Law 2015-246 (13.2.)(a) directed the Environmental Management Commission, with the assistance of the Department of Environment and Natural Resources, to examine ways to provide regulatory relief from the impacts of riparian buffer rules adopted to implement the State’s Riparian Buffer Protection Program for parcels of land that were platted on or before the effective date of the applicable riparian buffer rule.  DWR staff have drafted a study and request approval to take it to the full EMC.

**7. Nutrient Management Strategy Agriculture Rule Requirements**

**Description**John Huisman with DWR provided an overview of the Agriculture Rule requirements in place as part of the nutrient management strategies for the Neuse and Tar-Pamlico River Basins as well as the Falls and Jordan Lake watersheds. This included background on how the rules were developed, how they differ across strategies, and how the requirements are implemented and funding sources used.  DWR staff reviewed the nitrogen and phosphorus accounting methods used to estimate nutrient reductions from agriculture and provided an update on rule implementation progress in each of the four watersheds.

**Discussion**Chairman Tedder asked had any requests for state funds been made to the legislature by the state’s Department of the Agriculture & Consumer Services since 2007 to offset reductions in North Carolina Agricultural Cost Share program funding for Best Management Practices implementation. Mr. Huisman replied that the Division of Soil and Water Conservation staff has been looking for funding. EMC Chairman Rowlan asked if the purpose of the study was to determine how much nitrogen is gained or lost in those particular watersheds. Mr. Huisman said it is the best estimate of nitrogen loss from the edge of the field. EMC Chairman Rowlan asked who uses the information collected and what is it used for. Mr. Huisman said it is collected on behalf of the watershed oversight committee to the EMC to show implementation of the Division’s agriculture rule requirements by the agricultural community. He went on to say the Division’s agriculture rule requires a report to be development to show progress on the implementation of the rule. Chairman Tedder asked what the top five best management practices used within the agriculture program. Mr. Huisman said that cropland conversion, grassed waterways, conservation tillage, field boarders, livestock exclusion and buffers.

**Motion**Not applicable

**8. Water Quality Impacts of Riparian Buffers – (Information Item) (Michael R. Burchell, NC State University)**

**Description**A presentation on the benefits of riparian buffers and their impact on water quality was made.

**Discussion**

**Motion**Not applicable

**9. Update on North Carolina’s 2016 List of Impaired Waters under Clean Water Act Section 303(d)**

**Description**  
Jeff Manning with DWR gave a presentation on the 303(d) list. Section 303(d) of the federal Clean Water Act requires states to submit a list of waters that do not meet the State’s water quality standards.  The list is required to be submitted to EPA for their review and approval by April 1 of every even-numbered year.   The EMC directs the Listing Methodology that the state uses to determine impairment.  In addition, the EMC approves the standards that the state uses to determine exceedance of water quality standards. Once the state develops the list, it is provided for public comments.  The state staff addresses comments it receives, makes corrections if necessary, then submits the list to EPA by the federal deadline of April 1.  The 2016 303(d) list is currently out for public comment.

**Discussion**WQC Chairman Tedder asked if there is a length of time that a water quality parameter of a waterbody must be impaired in determining whether a Total Maximum Discharge Load (TMDL) is needed for the waterbody. Mr. Manning replied that there is no number on how long the stream must be impaired. Chairman Tedder mentioned that North Carolina’s water quality standards for metals has changed from the dissolved form to total form. He asked how will streams on the 303(d) list that are impaired for a dissolved metal standard be removed from list. Mr. Manning replied that more data would be needed to prove that a water is not impaired for the metal(s) in question. Chairman Tedder asked if background conditions are considered when assessing waters for impairment. Mr. Manning said no, not for overall assessment, but background conditions can be for justification to remove waters from the 303(d) list.

**Motion**Not applicable

**III. Closing Comments - Chairman Tedder**

Summary prepared by Jennifer Burdette, John Huisman, Jeff Manning, and Adriene Weaver