

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

**November 13, 2019
Archdale Building-Ground Floor Hearing Room
1:00 PM – 3:00 PM**

In the event the previously scheduled Committee meeting adjourns prior to the estimated adjournment time, the other Committee meeting may be called to order, by the Chairman, fifteen minutes after the previous meeting adjourned.

Meeting audio and presentations will be broadcast via the state web conferencing link posted on the Environmental Management Commission website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission>

Items marked with an asterisk () will be presented orally at the meeting only upon a request by a Committee member and can be approved where required as a group. Also, items marked with a less-than sign (<) have no agenda item pages in the package.*

Marion Deerhake, Chairman, Presiding

I. Preliminary Matters

1. Call to Order and Notice of NCGS 163A-159(e).....Chairman Deerhake

North Carolina General Statute 163A-159(e) mandates that the Chair inquire as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the Environmental Management Commission’s Water Quality Committee. If any member knows of a conflict of interest or appearance of conflict, please so state at this time.

2. Approval of [Draft September 11, 2019 Water Quality Committee \(WQC\) Meeting Minutes](#)

II. Action Items

1. Request for a Major Variance from the Neuse River Riparian Area Protection Rule by Mr. Leo Cruz for the construction of a pool at a Single-Family Residence at 1624 Crystal Creek Drive, Durham NC – (Action Item) (Paul Wojoski, DWR 401 & Buffer Permitting Unit)

A request has been received for the Water Quality Committee to grant a Major Variance from the Neuse Riparian Area Protection Rules to Mr. Leo Cruz for the construction of a recreational pool at an existing single-family residence. The proposed project would permanently impact 383 square feet of Zone 1 and 203 square feet of Zone 2 of the buffer at 1624 Crystal Creek Drive, Durham, NC. To mitigate the buffer impact, the applicant proposes

to undertake permittee-responsible mitigation by planting native hardwood species in Zone 1 and Zone 2 of the buffer on his property. The applicant also proposes to install splash pads on the home's downspouts to provide diffuse flow and treatment for previously untreated stormwater runoff. Based on the information submitted, Division of Water Resources (DWR) staff presents this request for a Major Variance from the Neuse Riparian Area Protection Rule pursuant to the requirements in 15A NCAC 02B .0233. (Attachments enclosed: [Variance Application](#), [Final Decision Document and Findings of Fact](#), and [PowerPoint Presentation](#))

2. Proposed Removal of EPA Disapproved Swamp Designation and Portion of Management Strategy from a Section of Cape Fear River, NC – (Action Item) (Pamela Behm, DWR Modeling and Assessment Branch and Elizabeth Kountis, DWR Classification, Standards and Rules Review Branch)

In January 2019, DWR received a petition for rulemaking from Cape Fear River Watch and Waterkeeper Alliance in care of the Southern Environmental Law Center. The petition requested that the EMC "...remove the supplemental swamp waters classification from the lower Cape Fear River." DWR staff concluded that the removal of the Swamp designation from a section of the Lower Cape Fear River in 15A NCAC 02B .0311 would impact the management strategy for that same section of the river in 15A NCAC 02B .0227 that accompanied the Swamp designation during the reclassification process for it. At its July 2019 meeting, the EMC granted the petition for rulemaking. At the September 2019 WQC meeting, DWR staff presented draft proposed rules for .0311 and .0227. After consideration, the Committee passed the following motion: "We 'defer' action on this item until the next WQC meeting and in the meantime, we ask the Division to come back to the WQC at our next meeting with a discussion on the context and possible strategies for addressing the impairment in that stream segment." At the November 2019 WQC meeting, DWR staff will 1) provide additional background and context on the impairments in the Lower Cape Fear, 2) outline an approach to developing a management strategy with possible options, and 3) present again the draft proposed rules for .0311 and .0227 for action. (Attachments enclosed: [Memorandum](#), [15A NCAC 02B .0311](#), [15A NCAC 02B .0227](#), and [PowerPoint Presentation](#))

3. Request to Proceed to the EMC for Public Hearing for the Consolidation of the Metropolitan Sewerage District of Buncombe County and the Cane Creek Water and Sewer District per NCGS 162A-68.5 - (Action Item) (Christyn Fertenbaugh, DWR Pretreatment, Emergency Response, and Collection Systems Branch)

DWR received a request for the inclusion of the Cane Creek Water and Sewer District (CCWSD), located in Henderson County, into the Metropolitan Sewerage District of Buncombe County (MSD). In accordance with NCGS 162A-68.5, the petition requests that the EMC approve a public hearing to be held in Henderson County; therefore, DWR staff will be first appearing before the WQC for consideration to move this petition to the full EMC. DWR staff have reviewed the submitted documentation and have concluded that enough information has been provided by both MSD and CCWSD to proceed for approval for public hearing in accordance with the statute. (Attachments enclosed: [MSD CCWSD package for EMC WQC](#),

[Cane Creek MSD Inclusion Impact Analysis, Session Law 2019-127/House Bill 758, and PowerPoint Presentation](#))

III. *November EMC Agenda items

- 1. *Request Approval of 2020 303(d) Listing and Delisting Methodology (Pam Behm, DWR Modeling and Assessment Branch)**

IV. Information Items

- 1. Annual Progress Reports on the Neuse and Tar-Pamlico Agricultural Rules – (Jim Hawhee, DWR Non-Point Source Branch)**

The Neuse and Tar-Pamlico Agriculture Rules (15A NCAC 02B .0238 and .0256) require their respective Basin Oversight Committees to report to the EMC regarding annual implementation progress. These reports demonstrate agriculture’s ongoing collective compliance with each rule. The reports estimate cumulative nitrogen loss reductions from crop agriculture of 53% in the Neuse basin and 58% in the Tar-Pamlico basin relative to the baseline time-period of each strategy. These reductions are slightly down in relation to those achieved last year, which were the highest reported to date. A qualitative evaluation of indicators also shows no increased risk of phosphorus loss in the Tar-Pamlico basin. (Attachments enclosed: [2019 Annual Progress Report \(Crop Year 2018\) on the Neuse Agricultural Rule \(15A NCAC 02B .0238\)](#), [2019 Annual Progress Report \(Crop Year 2018\) on the Tar-Pamlico Agricultural Rule \(15A NCAC 02B .0256\)](#), and [PowerPoint Presentation](#))

- 2. Future Committee Interests – WQC Chairman Marion Deerhake** will seek Commissioners’ input on WQC goals, future agenda topics, and long-term interests

- 3.<Director’s Remarks (Linda Culpepper, DWR)**

V.< Closing Comments.....WQC Chairman, Marion Deerhake

Adjournment: The next Water Quality Committee meeting is scheduled to meet in the Archdale Building, Ground Floor Hearing Room, on January 8, 2020. The time will be determined as the date approaches.

Linda Culpepper (DWR Director)