February 9, 2015

The Honorable Patrick L. McCrory  
Governor of North Carolina  
20301 Mail Service Center  
Raleigh, NC 27699

Re:  Evaluation of Statement of Economic Interest Filed By Mr. John D. Solomon  
State Ethics Commission

Dear Governor McCrory:

I am in receipt of Mr. John D. Solomon’s 2014 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I 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 State Water Infrastructure Authority (“Authority”) was established within the Department of Natural Resources to review the criteria for making loans and grants under G.S. 159G-23; develop guidelines and priorities for making such loans and grants; and rank and select the applications eligible to receive those grants and loans. In addition, the Authority is authorized to assess the role of public-private partnerships in the future provision of utility services and the application of the river basin approach to utility planning. The Authority is further tasked with developing a master plan for meeting the State’s water infrastructure needs; analyzing the adequacy of projected funding and recommending ways to maximize various funding sources.

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.

Mr. Solomon fills the role of a professional engineer in the private sector familiar with wastewater systems. He is a Vice President for CH2M HILL, an engineering firm providing a wide spectrum of services including engineering and environmental consulting on wastewater infrastructure and water resources management. Therefore, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should CH2M HILL or its clients have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.
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).

Further, G.S. 138A-7(d) restricts each member of the State Ethics Commission from being a candidate for State or Federal office or an employee of the State, a local school system, or a community college. In addition, Commission members may not serve as a member of any other State board. Finally, Commission members are restricted from holding office in any political party above the precinct level or from participating in or contributing to the political campaign of any person who is a “covered person” under the State Government Ethics Act or any person who is a candidate for such a position.

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 my evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,

Pamela B. Cashwell
Assistant Director

cc: Mr. John D. Solomon
    Mr. Kim Colson, Chair

Attachment: Ethics Education Flyer