**NORTH CAROLINA**

**ENVIRONMENTAL MANAGEMENT COMMISSION**

**Minutes of July 12, 2018 Meeting**

The North Carolina Environmental Management Commission met on Thursday, July 12, 2018 in the Ground Floor Hearing Room of the Archdale Building in Raleigh, NC.

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

The meeting was called to order at 9:05 a.m. with Chairman Solomon presiding. He provided the notice required by N.C.G.S. §138A-15(e). Mr. George Pettus recused himself regarding matters of public safety. Chairman Solomon stated he would turn the Pender County IBT matter over to Vice Chairman Wilsey. No other conflicts of interest or appearances of conflicts of interests were identified at this time.

**Present:** 13 – John D. Solomon, Chairman; Julie A. Wilsey, Vice Chair; Steve Keen; Dr. Suzanne Lazorick; Dr. Stan Meiburg; Dr. Albert R. Rubin; Manning W. Puette; George H. Pettus; Charles Elam; Marion Deerhake; Charles Carter; Shannon M. Arata; David W. Anderson.

Commissioner Gillespie and Commissioner Carroll were not able to attend.

**Others Present:** Commission Counsel Philip Reynolds; Secretary of State Elaine Marshall

1. **Preliminary Matters**
   1. Swearing-In of New Commissioners, Shannon M. Arata and George H. Pettus
   2. Approval of minutes from Commission Meeting on May 10, 2018 (attached)
   3. Initiatives Update: River Basin and Environment-Infrastructure

**Chairman Solomon** welcomed Elaine Marshall, Secretary of State, who conducted the Swearing-In of **Commissioners Arata and Pettus**. **Chairman Solomon** thanked Secretary Marshall for her attendance and service to the Commission.

**Chairman Solomon** reviewed the three approaches the Commission seeks to take when considering the matters before it: (1) seek to be open and transparent; (2) make decisions fact-based, rather than biased or on opinion; and (3) take on issues that are right; find common ground and move forward with action. He further commented that yesterday’s DWR’s 303(d) presentation was well-done, that DEQ, Waste Management and Air Quality staff are moving decisions along and doing well.

**Chairman Solomon** asked **Commissioner Deerhake** for her report on the River Basin.

**Commissioner Deerhake** said she enjoyed her trip to the southwest river basin, including the Savannah and Little River. She met many local constituents and was able to reassure them the Commission was considering their concerns. **Chairman Solomon** agreed that water quality issues are being addressed, and he thanked **Commissioner Deerhake** for her report and the information it provided.

**Chairman Solomon** said that the main concern for environmental infrastructure is how to keep up with the funding for it; **Commissioner Keen** had an idea regarding the state water infrastructure, and **Chairman Solomon** said that the Commission should consider that there may be unintended consequences to any actions concerning infrastructure, suggest the Commission put together a white paper on these issues.

**Chairman Solomon** said new committee assignments were made yesterday, and while not a wholesale rotation, it will aid the complete change anticipated for next summer.

**Vice Chair Wilsey** moved the Commission accept the May 10, 2018 Minutes as presented; **Commissioner Lazorick** seconded and the minutes were accepted by unanimous vote.

1. **Action Items**

**18-36 Request Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on Periodic Rule Readoption and Amendments for 15A NCAC 13B .0800 Septage Management Rules**

Jessica Montie explained that DWM was seeking approval of the proposed rule revisions, regulatory impact analysis, and to proceed to public hearing on amendments to 15A NCAC 13B .0800 Septage Management Rules which were proposed for readoption pursuant to G.S. 150B-21.3A. Ms. Montie described the purpose of the rules, and gave an overview of the regulatory impact analysis, the amendments to the rules, and the rule schedule. Ms. Montie requested that the EMC approve the proposed rule revisions, regulatory impact analysis, and proceeding to public hearing on periodic rule readoption and amendments for 15A NCAC 13B .0800 Septage Management Rules.

**Chairman Solomon** thanked Ms. Montie for her presentation to the Commission. He expressed concern at the potential cost of all-weather roads. Ms. Montie stated that she is unaware any are needed now, but the provision for such a road needs to be made for the future.

**Commissioner Carter** asked if the Commission is overstepping its authority to change the rules. **Chairman Solomon** replied that Rules Review Commission is dictating the changes to the Commission.

**Commissioner Pettus** remarked that technicians may not have degrees (per the wording of the amendment) but they have the training for the work.

Michael Scott, Director for DWM stated his department has tried to address this issue by reaching out to specialists in waste. He has reservations about work being conducted by people without credentials.

The commissioners asked Ms. Montie regarding the wording on p.10, section 834h, line 21: it is confusing, and should be changed to read “permits shall not be transferrable.”

**Commissioner Meiburg** moved the Commission approve Proposed Rule Revisions, Regulatory Impact Analysis, to proceed to public hearing for rule readoption for the amendments to the 15A NCAC 13B .0800 Septage Management Rules with the provision of the wording change proposed. **Commissioner Rubin** seconded, mentioning that this is very important rule because over half the population of NC uses these systems. The motion passed by unanimous vote.

**18-37 Request Approval of Proposed Rule Revisions, Regulatory Impact Analysis, and to Proceed to Public Hearing on New Rules for 15A NCAC 13B .2000 Coal Combustion Residuals Management**

Ms. Lorscheider described the purpose of the rules, and gave an overview and comparison of the federal and state laws and proposed rules regarding management of coal combustion residuals, the regulatory impact analysis, and the rule schedule. Ms. Lorscheider requested that the EMC approve the proposed new rules, regulatory impact analysis, and proceeding to public hearing on 15A NCAC 13B .2000 Coal Combustion Residuals Management.

**Chairman Solomon** pointed out that during the gap in the timeline presented by Ms. Lorscheider (DEQ-DWM), the WIIN Act and its result in 2017 was that all changes in Congressional acts would affect CAMA and other regulatory rulings. Stakeholder meetings were held in 2018. Ms. Lorscheider stated that gases are being monitored, hydrogen sulfide being the most prevalent. Ed Mussler (DEQ-DWM) informed the Commission that hydrogen sulfide, while the odor threshold is very low, is toxic as well and can be a health problem to people and workers on-site. The biggest concern is drywall dumps and the subsequent smell. Michael Abraczinskas, Director, DAQ commented that the air quality rule applies as well.

The recommendation was for EMC approval of the rule revisions and to proceed to public hearing; **Chairman Solomon** asked for further discussion.

There was discussion regarding landfills in reference to these rule revisions on whether there is enough flexibility for owners and designers in the revisions. Ms. Lorscheider assured the Commission there is flexibility, and there are provisions made for alternate liners if necessary. There was discussion of the gas issue. The Commission indicated there needs to be clarity for public hearings, and specificity as it pertains to the coal ash issue as well. **Chairman Solomon** said that all actions being considered for public hearing should be included, so there is no duplication of effort. Ms. Lorscheider responded that staff would formulate a message for public hearings so that it would be general to management of coal ash, rather than addressing only specific issues.

**Commissioner Meiburg** stated that several actions on coal ash can be confusing for the general public. He asked if there is a timeline or framework published for clarity. Sheila Holman (Assistant Secretary-DEQ) said the department is working on communication items placed on the website for communities, and she thanked the Commission for their comments.

Ms. Lorscheider stated that dams are not included in this particular set of rule revisions; only landfills were referenced, not corrective action at CCR landfills and not impoundment because it is under CAMA law. Mrs. Holman stated there is a timeline for corrective action for landfills. Mr. Scott clarified that there is a one- to three-year timeline for corrective remedy for landfills, and that the department is careful to insure adequate assessment data.

There was a question on the definition of CCR unit in the wording, “dam” is not included, and it can be confusing. **Commissioner Arata** stated the language needs to be specified to this rule.

**Commissioner Deerhake** inquired as to the 2L rule on radium. **Chairman Solomon** replied that the radium issue will go to the groundwater committee for consideration.

**Chairman Solomon** requested the Commission save the landfill discussion for item number (3) on the Action Items, then vote on both items (2) and (3) at the same time.

**18-38 Request Approval to proceed to Public Hearing on Proposed Adoption of a Dam Safety, Coal Combustion Residual Rule, 15A NCAC 02K .0224, and he Associated Regulatory Impact Analysis**

Andrew Brooks explained that DEMLR was seeking approval of the proposed rules and associated regulatory impact analysis to proceed to public hearing on proposed rule 15A NCAC 02K.0224 *Additional Requirements for Dams that Impound Coal Combustion Residuals*.  Mr. Brooks described the purpose of the rule, and gave an overview and comparison of the federal and state laws and the proposed rule regarding dam safety and impoundments for coal combustion residuals, the regulatory impact analysis, and the rule schedule.  Mr. Brooks requested that the EMC approve proceeding to public hearing on the proposed adoption of the Dam Safety Coal Combustion Residual Rule, 15A NCAC 02K .0224, and the associated regulatory impact analysis.

**Chairman Solomon** asked if all due diligence was done regarding dams in this proposal. Mr. Brooks (DEQ-DEMLR) replied that it was. **Commissioner Carter** noted that none of the PowerPoint presentations and handouts had dates on them. He stated that they all should have dates so the record can show when information was given, as well as when action by EMC was taken on the information. Mrs. Holman agreed, and stated that materials will have dates on them in future for accuracy of record.

**Chairman Solomon** affirmed that motions on both items 2 and 3, will be done at the same time. He asked that the commissioners be given time to review the motions as amended. There was about a 10 minutes break for the audience so the commission could review the amended motions.

After review, **Commissioner Meiburg** moved the EMC accept the CCR motion of item 2, 18-37. **Commissioner Rubin** seconded. **Chairman Solomon** asked if there was further discussion. The commissioners discussed addressing use, and asked that DEMLR change the regulation wording to remove the word “dam” to reflect the regulation applies to landfills, and that the definition of “unit” is changing, not the definition of “dam.” There was further discussion of this request. Counsel advised that this proceeding to public hearing should be completed. The requested approval and proceeding to public hearing passed by unanimous vote.

**Commissioner Meiburg** moved to proceed to public hearings to be scheduled for the 15A NCAC 13B .2000 rules (Agenda Item 18-37) and the 15A NCAC 02K .0224 rule (Agenda Item 18-38) be held jointly, with a correction to the definition of “CCR Unit” in Rule .0224(a)(2) to remove the word “dam” in the first sentence. This motion was seconded by Commissioner Wilsey. The motion passed by unanimous vote.

**Commissioner Puette** moved to combine the public hearings for the CCR and dam safety. **Commissioner Rubin** seconded, and the motion carried by unanimous vote.

**18-39 Request Approval of Hearing Officer’s Report, Regulatory Impact Analysis, Amendments and Readoption of 15A NCAC 02S .0101, .0102, .0201, .0202, .0301, .0501-.0503, and .0506-.0509 Dry-Cleaning Solvent Cleanup Fund**

Peter Doorn (DEQ-DWM) explained that DWM was seeking approval of the Hearing Officer’s Report, the Regulatory Impact Analysis, and the amendments and readoption of the 15A NCAC 02S Rules (Dry-cleaning Rules) which were proposed for readoption pursuant to G.S. 150B-21.3A. Mr. Doorn described the development of the regulatory impact analysis (RIA), the public involvement activities, and comments received. Since the two public comments received did not require any changes to the RIA or the rules, Mr. Doorn requested that the EMC approve the Hearing Officer’s report, RIA, and the readoption of the 15A NCAC 02S rules.

**Chairman Solomon** asked **Commissioner Anderson** for any comment on the public meeting, and **Commissioner Anderson** commented that there were no comments and little interest in the public meeting.

Mr. Doorn stated that regarding the dry-cleaning solvent cleanup, only two email comments were submitted, but there were no follow-up emails, so no changes were suggested or made. **Commissioner Anderson** moved that EMC accept the report and move to public hearings. **Commissioner Carter** seconded, and the motion passed by unanimous vote.

**Chairman Solomon** said, for expedient handling of the agenda, the Commission will move to item number 5, and he would recuse himself and leave the room, turning the chairmanship to Vice Chairman Wilsey for presentation, motion and vote.

**Vice Chair Wilsey** called the Commission back to order. Counsel Reynolds advised the Commission that the following proceedings would be quasi-judicial, and as **Chairman Solomon** recused himself and no other conflicts were identified, all other commissioners were to understand that unbiased review is necessary for the proceedings. If bias is determined, individual members would be subject to civil suit. **Commissioner Elam** said that even though he lives in Pender County, after Counsel Reynolds’ explanation as to quasi-judicial procedure, he could indeed give unbiased judgment based on the facts presented.

**18-40 Request Final Determination for an Interbasin Transfer Certificate for Pender County (Quasi-Judicial)**

Kim Nimmer, DEQ-DWR, presented. Pender County submitted a petition for an Interbasin Transfer (IBT) certificate to transfer up to 14.5 million gallons per day (mgd) from the Cape Fear River IBT basin to the South River, New River, and Northeast Cape Fear River IBT basins. The transfer amount is based on water use demand projections through 2045. In addition to Pender County, other co-applicants for the IBT certificate include the Towns of Burgaw, Topsail Beach, Surf City, and Wallace as well as Utilities, Inc (for water service to the Belvedere Plantation and Olde Pointe developments). Hydrologic modeling that was conducted as part of the Environmental Assessment indicated that the proposed IBT certificate will not significantly change Cape Fear River elevations above or below Lock & Dam #1, downstream river flows, or water quality. Modeling results indicate the potential for additional low flow/lower stage days to occur. However, the predicted stage always remains above the dam crest elevation, allowing for continuous access to the fish ladder for passage at Lock & Dam #1. Modeling results further indicate that in-stream flow patterns will not be significantly impacted, which protects in-stream aquatic habitat, aquatic resources and water quality. The only other water supply intake downstream of Lock & Dam #1 is for International Paper, which also supplies water to the Town of Riegelwood, is not projected to be affected by the proposed IBT.

Seven alternatives were considered for meeting Pender County’s projected water demands through 2045. The preferred alternative would increase the amount of the transfer (currently below 2 mgd) to 14.5 mgd from the Cape Fear River IBT basin to the three receiving basins. There is an existing water treatment plant as well as existing transmission infrastructure, which is expanding into parts of Pender County currently not served by Pender County Utilities where residents are on private groundwater wells. The other alternatives considered either did not meet the projected water supply needs for Pender County through 2045, had greater environmental impacts, and/or were costlier than the recommended alternative. The Commission held one public hearing on the petition for an IBT certificate. The hearing was held on March 22, 2018 in the Town of Burgaw; a 30-day public comment period followed the hearing. Of the six, combined oral and written public comments received, one comment opposed the proposed IBT while the other five comments were in support of the proposed IBT certificate.

Based on the nine findings of fact and conclusions of law that were presented for consideration, DWR requested that the Commission grant the requested IBT certificate to Pender County and its co-applicants to transfer up to 14.5 mgd from the Cape Fear River IBT Basin to the South River, New River, and Northeast Cape Fear River IBT basins.

Issues discussed by EMC

Comments by **Commissioner Meiburg** following the presentation included acknowledging that in granting an IBT certificate, the Commission is accommodating growth. The question was raised regarding how reasonable alternatives are defined. A comment was also offered that while Pender County will continue relying on decentralized wastewater treatment, there will come a time where centralized treatment will likely be needed. As the county plans for growth, the hope was expressed that the county will plan for all conditions in which growth will occur, especially anticipating risks associated with climate change and extreme weather events.

**Commissioner Puette** asked about the history of other applicants submitting water conservation and drought management plans, and whether those plans have been submitted in a timely manner. Ms. Nimmer responded that a relatively recent change to the statute requires the submittal of water conservation and drought management plans. Therefore, many of the earlier IBT certificates that were issued did not include such plans because they were not required. For certificates that have been issued since the statutory requirement, there has been great success in obtaining the plans in a timely manner. In the case of Pender County, the applicant was requested to submit the plans earlier in the process, and the plans were circulated for public review along with the petition.

**Commissioner Deerhake** asked about a source water protection plan and the timing for requiring it to be required as part of the IBT certificate since rule making is currently underway regarding source water protection plans. Ms. Nimmer responded that DWR’s Public Water Supply Section has been advising water systems to hold off on developing source water protection plans until the rule making process has been completed. Ms. Nimmer also clarified that there is no requirement in the IBT certificate to submit a source water protection plan. **Commissioner Deerhake** asked whether as a result of the rulemaking IBT certificate holders will retroactively be required to submit source water protection plans. Ms. Nimmer responded that there is no connection between obtaining an IBT certificate and the requirements to submit a source water protection plan. EMC Counsel Phillip Reynolds also clarified that rulemaking for source water protection plans does not fall under the purview of the EMC but rather the Commission for Public Health.

**Vice-Chair Wilsey** wanted to clarify whether the IBT certificate will specify how much of the 14.5 mgd will be going to each of the three receiving basins, or if the certificate will grant the authority to transfer the total amount without specifying how much each basin will receive. Ms. Nimmer agreed that the certificate would indicate the total transfer amount.

**Commissioner Keen** stated that having reviewed the complete record to include the hearing officer’s report, notice of intent, the Environmental Assessment including public comments, the Finding of No Significant Impact, and presentations by staff he wanted to make a motion in two parts. **Commissioner Keen** moved that the Commission approve the Environmental Assessment document and the Finding of No Significant Impact and approve and adopt the finding of fact as presented in the hearing officer’s report. **Commissioner Keen** further moved that based on the complete record, the Commission grant the requested transfer and adopt the proposed decision contained in the hearing officer’s report, which contains the determinations required under subsection (m) of 143-215.22L. **Commissioner Pettus** seconded the two part motion. In discussion following the motion, **Commissioner Meiburg** asked **Commissioner Keen** about the alternatives considered and wanted to confirm whether in his opinion as hearing officer the most reasonable alternative was selected as the preferred alternative. **Commissioner Keen** confirmed that based on the information presented, he felt it was the most reasonable alternative.

Following the brief discussion, a vote was taken and the motion passed unanimously followed by a break for lunch.

(The Commission reconvened at 12:40 p.m.) with Chairman Solomon presiding.

**18-41 Request for EMC to Approve the Hearing Officers’ Recommendations on Rules 15A NCAC 02T and 02U**

Jeff Manning indicated there are 100 rules in the subchapter 02T for non-discharge wastewater and surface water rules, governing programs that deal with sewer systems, disposal systems, treatment works, residual and residue disposal utilization systems, animal waste management systems and treatment of contaminated soils. There are 34 rules in the 02U reclaimed waters rules subchapter, and they all govern one program.

Mr. Manning indicated these rules have been under examination and work since the rule review in 2014, with stakeholder meetings and committee review. In 2017 there were three public hearings, with 1,375 public comments during the process and 10 meetings with the hearing officers. Detailed responses to those comments are included in the Hearing Officers’ report. Provided these are approved today, the Rules Review Commission will review them in August and they would potentially go into effect September 1, 2018. He summarized the four additional recommendations in the Hearing Officers’ report.

After EMC approval, these recommendations will be submitted to the Rules Review Commission (RRC). There was a typographical error on p. 330 (Attachment B) of the Hearing Officer’s report which will be corrected before submission. Mr. Manning asked that the EMC adopt and re-adopt the rules of 15A NCAC 02T and 02U and the associated Regulatory Impact Analyses, the Hearing Officers’ report, as well as approve the Hearing Officers’ four additional recommendations in the Report.

**Commissioner Rubin** commended the work of the staff in creating a spreadsheet of all the comments from public hearings given to the Hearing Officers as it made tracking and addressing of the comments easy, and he suggested that such a spreadsheet be available after all public hearings/public comments of future EMC action.

**Chairman Solomon** posed a procedural question regarding splitting the approval vote into two different motions: (1) adoption and (2) addressing changes and additional recommendations from the Hearing Officers’ report. **Commissioner Anderson** stated he would abstain from voting on the first proposed motion due to his association with poultry. After Counsel Reynolds explained the difference between the two motions, and that recusal after the discussion would need to be explained on record, **Commissioner Anderson** withdrew his abstention, stating that he is satisfied that there is no conflict. There was discussion of incomplete statements in the Hearing Officers’ report, as well as the use of the term “animal mortality” versus “animal carcass”. **Commissioner Deerhake** said the terminology is used in the statute, and the “incomplete” statement is actually referring to a listing which is quite lengthy and unnecessary to be cited fully in this context. There was also discussion of the setback measure and reference to agricultural setbacks, wastes, and who regulates which wastes, the rules and clarification. Nathaniel Thornburg said DWM is working on a flowchart to present to the public to explain who regulates what so homeowners, businesses and project managers go to the correct permitting agency. **Commissioner Rubin** said that DWM is very good in assisting people to identify beneficial cases and the permitting process.

**Commissioner Rubin** moved that EMC adopt/re-adopt the Rules with the revision on p. 330. **Vice Chair Wilsey** seconded, and the motion passed by unanimous vote.

Counsel Reynolds advised the Commission that the Hearing Officers’ report has already been accepted, and the recommendations are included. **Commissioner Rubin** said this issue is brought up at every public hearing. **Commissioner Deerhake** asked that DEQ show what actions are needed on additional recommendations. **Chairman Solomon** said he would leave it to Mrs. Holman and Bill Lane, DEQ General Counsel and DEQ staff to identify further actions. **Chairman Solomon** then thanked the Hearing Officers, DEQ staff and Mr. Manning for their work on these issues, as much effort was involved.

**18-42 Request Approval of Hearing Offer’s Report and Issuance of Water Quality Special Order by Consent (SOC) S18-004 to Address Seeps from Coal Ash Basins at Duke Energy Carolinas’ Belews Creek and Buck Steam Stations**

**Chairman Solomon** stated **Commissioners Lazorick and Keen** needed to leave shortly; they both left the Hearing Room at that juncture. **Chairman Solomon** reminded the Commissioners this is a quasi-judicial action, and asked **Counsel Reynolds** to review quasi-judicial judgment. **Counsel Reynolds** reminded the Commissioners to examine the matter of facts as presented on record, to give a fair and unbiased judgment, and if they know of any conflict of interest which would introduce bias, they must recuse themselves from judgment, as it is quasi-judicial action.

A public hearing was held in Guilford County on May 23, 2018. **Commissioner Gillespie** was the hearing officer.

Jeff Poupart of the Division of Water Resources introduced this matter as the second of a series of Special Orders by Consent (SOCs) that would be presented for consideration by the Commission concerning seeps from coal ash basins at Duke Energy power generation facilities – in this case, from those at the Belews Creek and Buck Steam Stations.  Seeps exist at most of the Duke Energy sites, but it is difficult to include them in NPDES permits due to their transient nature.  Non-constructed seeps at these facilities receive coverage under the SOC in exchange for an accelerated schedule for decanting of wastewater in the basins.  This activity should eliminate or substantially reduce the numbers of seeps at these two facilities.

Minor changes were made to the SOC subsequent to the receipt of public comments.  Those changes are noted in the materials provided to the Commission.  The SOC includes an $84,000.00 upfront penalty as settlement of past violations and contains stipulated penalties for violation of SOC terms.

There was discussion on the SOC Appendix A, which specified relief needed. **Chairman Solomon** stated that **Commissioner Gillespie** visited the sites and recommended the SOC be adopted as written. **Commissioner Meiburg** specified there are two types of seeps. Mr. Poupart specified once the sites are decanted, any water still emanating would be tested and would be treated as contaminated groundwater and handled accordingly. He also said the public hearing was held equidistant from the affected sites. There was discussion as to the starting times of public hearings and the general consensus was that a 6 pm start time made for best attendance.

There was considerable discussion of dispensation criteria, the date of the original SOC signature and when it was posted. The Hearing Officer was satisfied by the staff response that the change was in the original SOC draft.

**Commissioner Rubin** moved to approve the Hearing Officer’s report for SOC S18-004; **Commissioner Carter** seconded, and the motion carried by unanimous vote.

1. **Information Items**

**18-03**   **Update on Readoption of Nutrient Strategy Rules for Neuse and Tar Pamlico River Basins**

**Chairman Solomon** said the comment period for the Nutrient Strategy Rules for Neuse and Tar Pamlico River Basins committee item was extended to July 31, 2018. The committee is trying to move that to public hearing in September 2018.

**18-04 Update on Emerging Compounds**

Mrs. Holman welcomed **Commissioner Pettus** and **Commissioner Arata** to the EMC, saying she was looking forward to working with them. She thanked the commissioners who have served as hearing officers for the varied rulings presented today, and thanked **Chairman Solomon** for stepping in on the SOC for Belews Creek, knowing **Commissioner Gillespie** would not be present today, and for his leadership in this matter.

She reported that she and Connie Brower, with DWR, attended the National PFAS Summit in Washington, DC May 22 and 23, representing DEQ, and Mina Sheehee, DHHS, as well as Karen Beck from Department of Agriculture and Consumer Services. A key announcement was from Administrator Pruitt of EPA who said EPA plans to take the following actions: (1) Under the Safe Drinking Water Act, the agency will begin the process to establish an MCL drinking water safety standard for PFOA and PFAS, the legacy C8 compounds; (2) they will explore if those compounds should be listed as hazardous substances under CIRCLA; (3) they will establish groundwater cleanup standards for PFOA and PFAS by fall of this year; and finally, they will establish toxicological values, commonly known as a reference dose for GenX and PFBS by summer 2018. The agency announced they would be having community meetings across the country to hear from citizens impacted by perflorinated compounds, the first of which was held in New Hampshire in late June. They have meetings scheduled in Pennsylvania, Colorado and Michigan for this month, and the department is working on having a community meeting here in North Carolina probably the week of August 13. As those meetings are calendared, those dates will be shared with the Commission. She asked if any commissioners had questions about the Summit. In response to **Commissioner Rubin**’s comment regarding the connection between widespread contamination and establishment of an MCL, Mrs. Holman replied that connection was not discussed at the Summit. However, there is evidence of widespread contamination of PFOA and PFS, as those two legacy compounds have been monitored. **Commissioner Deerhake** commented that the presentation by DAQ was very informative, and she asked if the Summit addressed air emissions. Mrs. Holman responded that air emissions were discussed, and it is a complex issue. DEQ-DAQ is working with states all across the country, particularly around the issues raised by the Chemours plant. The EPA is helpful in looking at testing and there is a commitment to look at the whole perflorinated family. The toxicological report by ATSDR for PFOA and PFS as published was news, and **Commissioner Rubin** asked if it was discussed at the Summit. Mrs. Holman replied it was discussed and the report has been sent for public comment for 30 days (which ended July 23) focuses on short-term exposure for air, up to 364 days, but the prior health advisory issued by the EPA included lifetime drinking exposure for water.

The DAQ had a response from Chemours to the April 6 60-Day Notice of Intent to Modify the Air Quality Permit. Based on the rounds of questions and responses to and from Chemours, DEQ proceeded to file on June 11 a proposed order with the Bladen County Superior Court, which covered a variety of requirements: (1) A 97% reduction of facility-wide air emissions of GenX by August 31, and 99% reduction by December 31, 2019; (2) conducting re-testing of private wells on a quarterly, semi-annual or annual basis, depending on the concentration of GenX found in the well from the initial round of testing; (3) providing permanent alternative water supplies or water treatment systems to households impacted by groundwater contamination; (4) conducting toxicity studies related to human health and aquatic life impacted by emissions from the facility; and (5) notifying and coordinating with downstream public water utilities when an event occurs at the facility has the potential to cause a discharge of GenX compounds in the Cape Fear River above the health goal, along with other requirements. The public comment period on the proposed order to Chemours closed yesterday. There were around 100 comments, and now those comments are under review to see if there are any changes needed to the proposed order. Chemours filed a status report with the Court. The company installed the carbon absorption units in May, which would result in a 40% reduction of GenX emissions. The company has since applied for a permit for installation at the RTO, and the equipment should be operational by late 2019, which would lead to that 99% reduction in GenX emissions.

Testing of rainwater and private wells continues, providing filtration systems, as does monitoring of air stack emissions. Over 1000 wells have been tested; over 200 were above the health goal for GenX, and those households have been provided bottled water. There is a granulated activated carbon pilot program underway in the area; there are 6 sites where units have been installed in homes, and the raw water is tested after the first and second passes through the units, and the results are promising as to the removal of GenX and PFAS compounds from the water. Regarding permanent water supply, the company has sent a proposal to the DWM and the division is in the process of reviewing that plan. DWR continues weekly testing in the Cape Fear River and the downstream drinking water supply. The results show the levels are well below the health goal.

The General Assembly passed some funding for emerging compounds, such as: $450,000 has been received by Cape Fear Public Utility Authority for ongoing testing of PFAS compounds in the water, as well as testing for different treatment systems, evaluation of different treatment systems; the UNC Collaboratory received $5 million for a variety of efforts, including statewide testing and non-targeted analysis of PFAS compounds. DEQ received $1.3 million non-recurring which has been repurposed from in situ nutrient management techniques in Jordan Lake, for example, to address emerging compounds, and appropriating $537,000 to purchase a mass-spectrometer for targeted analyses. DWR received an appropriation recurring $1 million to address sampling and analyses of emerging compounds and to address permitting backlogs.

The Secretaries’ Science Advisory Board met June 18, and Chairman Bartram is currently out of the country. The SSAB received a report from DHHS regarding Benchmark Dose Modeling which looked at the various GenX health studies. SSAB is to look at the point of departure in calculating a reference dose for GenX, in particular whether they should recommend a specific point of departure or a range, taking into consideration the uncertainty factors at its August 20 meeting. They heard a report from EPA regarding the announcement at the Summit of its intent to issue toxicological values for GenX late this summer. In late June, EPA released that report for peer review, and they anticipate releasing the report in September 2018.

**Chairman Solomon** inquired as to the impact on NPDES and Julie Grzyb (DEQ-DWQ) said the criteria set by EPA are to be used in the permit.

Assistant Secretary Holman reported that a preliminary fish sampling study was done in Marshwood Lake, a manmade lake near the Chemours plant. Three species of fish were tested: redear sunfish, largemouth bass and blue catfish. The test did not have levels that necessitate a fish advisory. Of the three, only the redear sunfish, and was found to have GenX. PFAS were found in the largemouth bass and redear sunfish, 4 other PFAS in the largemouth bass and blue catfish; there was GenX in the sediment and 16 different perfluorinated compounds were found in the spring water and surface water. When asked the question if DEQ would do its own analysis of the findings, Mrs. Holman replied it would.

**Directors’ Comments**

(The directors discussed their comments, that was published with the agenda and details of those comments can be found at: <https://files.nc.gov/ncdeq/Environmental+Management+Commission/EMC-2018/July_2018/Directors_Comments_for_July2018.pdf>)

Interim Director Toby Vinson, Division of Energy, Mineral and Land Resources

Michael Scott, Director of Division of Waste Management

Director Michael Abraczinskas, Division of Air Quality Division

Deputy Director Jim Gregson reported for Interim Director Linda Culpepper

**Committee Chairs and Commissioners**

**Commissioner Rubin** gave the Water Quality Committee report.

**Commissioner Puette** gave the Groundwater & Waste Management Committee report.

**Commissioner Pettus** said he was impressed by the members and staff.

**Commissioner Meiburg** gave the Air Quality Committee report.

**Commissioner Deerhake** welcomed the new members.

**Commissioner Carter** commented that the EMC look at the water quality program. The rules make sense to preserve existing buffers, but the Commission needs to look at urban development buffers where there are none. Rural areas have buffers in place, but there are not buffers in place in urban areas, and the rules make it very difficult for development in urban areas.

**Commissioner Arata** thanked the members for their welcome.

**Commissioner Anderson** welcomed Commissioners Arata and Pettus, and offered no further comment.

**Vice Chair Wilsey** said **Commissioner Arata** did a good job on the Water Allocation Committee.

Counsel Reynolds offered no comment.

**Chairman Solomon** said there are applications in place to appoint new chairs of committees.

With no further business before the Commission, the Chairman adjourned the meeting at 2:45 p.m.

Approved this 13th day of September 2018.

J. D. Solomon, Chairman of the EMC