



Michael F. Easley, Governor

William G. Ross Jr., Secretary
North Carolina Department of Environment and Natural Resources

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Division of Water Quality

July 2, 2008

TO: 401 Water Quality Certification Mailing List

FROM: John Dorney, Program and Policy Development Unit
Cyndi Karoly, 401 Oversight and Express Permits Unit
Brian Wrenn, Transportation Permitting Unit
John Hennessy, Non-Point Source Assistance and Compliance

RE: Update on permitting programs for Waters of the State administered by the Division of Water Quality

The purpose of this memo is to inform you of several items in relation to surface waters programs administered by the Division of Water Quality (DWQ). If you have any questions regarding specific items, please contact the staff members referenced within each topic.

I. Public Notice for FERC License – Duke Power Catawba Wateree Hydroelectric Project; FERD No. 2232, DWQ # 2008-0915, Catawba County and others

NORTH CAROLINA DIVISION OF WATER QUALITY

PUBLIC NOTICE is hereby given that Duke Energy Carolinas, LLC North Carolina, has applied to the North Carolina Division of Water Quality for a Water Quality Certification pursuant to Section 401 of the Federal Clean Water Act and Water Quality Commission rules in 15A NCAC 2H 1300. The activity for this Certification is sought to relicense hydroelectric plants on the Catawba River at Bridgewater Development, Rhodhiss Development, Oxford Development, Lookout Shoals Development, Cowans Ford Development, Mountain Island Development and Wylie Development in Burke Caldwell, Catawba, Iredell, Lincoln, and Gaston Counties. The application refers to water quality-related provisions of the Catawba-Wateree Comprehensive Relicensing Agreement (CRA) dated December 22, 2006 as proposed conditions of the 401 Water Quality Certification. The application discusses water quality-related improvements that are planned to the hydroelectric facilities including improved flows in bypassed reaches, dissolved oxygen enhancements in several discharges, water quality monitoring and compensatory flow mitigation.

The public is invited to comment on the above-mentioned application to the Division of Water Quality. Comments shall be in writing and shall be received by the Division no later than July 30, 2008. Comments should be sent to the N.C. Division of Water Quality, Non-Discharge Branch, 2321 Crabtree Boulevard, Suite 250, Raleigh, NC 27604, Attn: John Dorney (919-733-9646 Fax: 919-733-6893). A copy of the application is on file at the Division office at 2090 US Highway 70, Swannanoa, NC 28778 (Asheville Regional Office fax 828-299-7043) during normal business hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, and may be inspected by the public.

II. Final version of NC Wetland Assessment Method (NC WAM) released by US Army Corps of Engineers and NC Division of Water Quality

NC WAM is a rapid, wetland functional assessment method developed by an interagency team of state and federal wetland scientists and regulators since 2003. On May 21, 2007, the Division and US Army Corps of Engineers released the draft manual for public comment. The Wetland Functional Assessment Team met in October 2007 to address all the comments received and develop a final version of the manual entitled "N.C. Wetland Assessment Method (NC WAM) User Manual, Version 1, April 30, 2008." The final version of the NC WAM manual is now complete and available on DWQ's web site under the Public Notice section and at the US Army Corps of Engineers web site as well. As noted in the May 2007 Public Notice, the implementation process

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for use of the method is still being developed and will be released for public comment by this fall. The Corps, DWQ, DOT and EPA have scheduled three internal training sessions for this fall on the manual in order to have an initial group of state and federal agency staff trained on the method. Until a critical mass of these staff are trained and the implementation process is completed, NC WAM should not be used since training is crucial in assuring that the data are collected and analyzed properly. If NC WAM is used for permitting purposes, the Corps, EPA and DWQ will need to agree that the data are being collected and analyzed properly by adequately trained individuals. Also as noted in the May 2007 Public Notice, NC WAM (when fully implemented after training) will be the standard wetland evaluation method in North Carolina. The agencies are releasing the final version of the manual at this time in order that the regulated community can begin to become familiar with it. Also the Corps in their June 3, 2008 Public Notice regarding the Framework for Mitigation Banks (see below) have stated that the NC WAM dichotomous key is the preferred method for evaluating and reporting wetland types across the state.

III. Proposed Framework for Mitigation Banks released by US Army Corps of Engineers and NC Division of Water Quality

On June 3, 2008, the US Army Corps of Engineers released a document on their website (<http://www.saw.usace.army.mil/WETLANDS/Notices/2008/PNforMitigationChanges6-3-2008.pdf>) entitled "Revised Framework for Mitigation Review in NC" – April 23, 2008 as prepared by the Interagency Review Team (IRT). The Division of Water Quality participated in the IRT discussions and supports the proposed Framework and will utilize it as a working draft until public comments are received and addressed. Please send any comments in care of John Dorney, Wetland Program Development Unit, Parkview Building, 2321 Crabtree Blvd., Raleigh, NC 27604 or via email to john.Dorney@ncmail.net by August 15, 2008. The Division will review all comments and make them available to fellow IRT members in order to address them in a revised Framework document as needed.

IV. Draft version of Headwater Wetland Study released for public comment

The Division of Water Quality has just completed a three year, in-depth study of headwater forest wetlands in the piedmont and coastal plain. A draft report is available on DWQ's website in the Public Notice section. The Division is also in the process of conducting similar wetland monitoring work for other types of wetlands across the state. A major, overall goal of this wetland monitoring is to produce similar analyses of wetlands across the state for a variety of purposes including wetland permitting and mitigation. For instance, the report on headwater forests found that headwater forests have water within one foot of the surface on average for about 75% of the growing season. This criterion could then be used to determine hydrological success for headwater forest mitigation sites. Therefore, the Division hereby requests a thorough review of this initial report since it will be used throughout the wetland regulatory program and will provide a prototype for future analyses of other wetland types. Please provide any comments in writing to Virginia Baker or Rick Savage, Wetland Program Development Unit, Parkview Building, 2321 Crabtree Blvd., Raleigh, NC 27604 or via email to Virginia, baker@ncmail.net or rick.savage@ncmail.net by August 15, 2008. Division staff will review all comments and then produce a final, revised report on headwater forest wetlands in North Carolina and then begin to use the results of this analysis in our regulatory and mitigation programs.

V. Final version of Dam Removal Mitigation Guidance

On February 25, 2008, the Division (in coordination with the US Army Corps of Engineers) sought comment on a proposed revised dam removal mitigation guidance ("Determining Appropriate Compensatory Mitigation Credit for Dam Removal Projects in North Carolina". The state and federal agencies that developed that draft guidance met and discussed the comments and then developed a final guidance dated June 19, 2008. This guidance is available on our website in the Public Notice section and can now be used by the regulated community to use for compensatory mitigation proposals.

Cc: Paul Rawls
Regional Wetland Contacts
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Rick Savage
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