

**Part III: Transcript of Afternoon Public Hearing,
August 8, 2000**

**Transcript of Afternoon Public Hearing
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Hearing Officer: Leo Green

My name is Leo Green, and I am a member of the North Carolina Environmental Management Commission. I have been designated to preside at this hearing along with Ryan Turner and Bob Cook, also members of the EMC. Bob is not with us today. This public hearing is being held in compliance with state rule making requirements. The Public Notice for this hearing was sent to municipalities, counties, sanitary districts, consulting engineers, environmental groups, conservation organizations, appropriate state agencies, and interested individuals. The Notice will be recorded as part of this hearing.

The purpose of the hearing is to obtain public comment on adoption of 15A NCAC 2E .0501 through .0507, amendment of 15A NCAC 2E .0106 & .0107, and repeal of 15A NCAC 2E .0102, .0103, .0201, .0202 and .0205. No official action will be taken during this hearing since the record will be left open until September 15, 2000. This will afford an opportunity for anyone who wishes to submit additional written comments. After that time, the summary of views expressed by the public and the staff recommendations will be presented to the Environmental Management Commission for final action before being presented to the Rules Review Commission.

Each person who registers and indicates a desire to make a statement will be recognized and given an opportunity to present that statement. Any person who has not previously indicated a desire to make a statement will be given the opportunity to do so after all registered speakers have been heard. All presentations will be limited to five minutes or less. If you have a prepared statement, we would like a copy as you come forward to speak.

I will call the persons who have indicated they wish to speak to the podium one at a time. To assure that our records are complete, please indicate clearly your name and whom you are representing.

As previously stated, this hearing is to obtain public comment. This is not an adversarial procedure; therefore, questions from the audience to persons making presentations will not be allowed. However, the Hearing Officers may question participants for purposes of clarification and will receive, in writing, any questions from members of the audience who wish to direct a question to a staff member or speaker.

We are dealing with ground water management issues in this hearing which are of great importance to the economic welfare of North Carolina. We appreciate your attendance today and we will listen carefully to your comments.

Before we go into it I would like to recognize two state representatives that are here with us, Mr. Russell Tucker and Joe Tolson. We appreciate your interest in this process.

Nat Wilson with the Division of Water Resources will now present the proposed rule changes.

[Verbal comments by Nat Wilson, Division of Water Resources follow]

My name is Nat Wilson. I am the lead hydrogeologist with the Division of Water Resources.

The proposed CCPCUA includes the following fifteen counties: Beaufort, Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Martin, Onslow, Pamlico, Pitt, Washington, Wayne and Wilson. Water supplies for the western part of this region come from the Cretaceous aquifer system, primarily from the Black Creek and Upper Cape Fear aquifers. Water levels in these aquifers have been dropping at high rates of one to eight feet per year for several decades. Dewatering is known to be occurring in some areas – this is where water levels have fallen below the top of the aquifer – we know this condition harms the ability of the aquifer to transmit water. Beginning in early 1998 we began meeting with people representing public and private water systems, industries, agricultural interests, consulting engineers and geologists, municipal and county governments, and the legislature to discuss how to achieve a reliable water supply for this area.

One outcome of these discussions was our three-point strategy. The Division believes it is important to review these proposed rules in the context of our three-point strategy of monitoring, planning & regulation:

1. monitoring – an adequate ground water level monitoring network must be operated, maintained, and improved as needed to provide accurate data on the amount and rate of ground water level declines;
2. planning – the solution to the water supply problems in the Central Coastal Plain will involve careful management of Cretaceous aquifer water to use its sustainable yield while developing other water sources to meet additional needs; and

3. regulation – the Water Use Act of 1967 provides a basis for regulating water withdrawals by permit in areas where water use is exceeding the capacity of water supply.

The EMC approved a rule and we held a public hearing on that rule a year ago. Public comments called for a rule that spells things out in more detail. So, starting in February of this year and lasting through the first week in April 2000, a group of stakeholders met weekly to write the rules before you today. On May 11, 1999 the EMC approved those draft rules (with just a few modifications) for public hearing (today's meeting). I will list some of the provisions in the rule and refer you to the rule text for further information:

The rule additions and changes before you today provide for permitting of ground water use by persons using more than 100,000 gallons per day. Existing withdrawals will continue under interim status until permits are issued or denied. All municipal, industrial, and agricultural water users will follow standard water conservation measures to assure efficient use of water. Permit holders will report water use rates to allow the total demand on the aquifers to be better understood. Ground water users from 10,000 to 100,000 gallons per day will not need permits, but must register and report annual water use. Surface water users of more than 10,000 gallons per day must register and report annual water use. Agricultural water users not required to obtain a permit may report water use through confidential NCDA or USDA surveys rather than the Division of Water Resources. Temporary permits allow more time for compliance with permit conditions if events occur beyond the control of the permittee. Water use permit holders may transfer or sell water to other users within permitted amounts.

Four Cretaceous aquifer zones are defined in the rule: Dewatering, Saltwater Encroachment, Declining Water Level, and those parts of Edgecombe, Wilson, Wayne and Duplin counties outside of the named zones. Permittees in the salt water water encroachment and dewatering zones face 75% reductions in water use from the Cretaceous aquifers over three successive 25% reduction phases in the 6th, 11th, and 16th year after the effective date of the rule. Permittees in the declining water level zone face 30% reduction in water use from the Cretaceous aquifers over three successive 10% reduction phases occurring in the 6th, 11th, and 16th year after the effective date of the rule. Stable water use is required from the Cretaceous aquifers for permittees in the western parts of Edgecombe, Wilson, Wayne and Duplin counties, outside of the other three zones. The EMC can adjust the zone map and reduction amounts in the 6th, 11th, and 16th year based on current aquifer conditions.

Intermittent water users who use water less than 60 days a year or who use less than 15 million gallons per year will not be required to reduce water use in the three reduction phases. The rule provides for initial permits that can allow for increasing withdrawals during the first 6-year period to provide for growth in demand as supplemental water supplies are being planned and implemented. The purpose of this rule is to assure that the capacity of aquifers to yield water for future needs is protected. To meet future water needs, additional water sources must be developed to complement the Cretaceous aquifers.

I will now turn the meeting back over to Mr. Leo Green. Thank you.

Hearing Officer: Leo Green

Our first speaker this afternoon is Judy Brown.

[Verbal comments by Judy Brown, Assistant County Manager, Duplin County follow]

Thank you for the opportunity to appear before you today regarding the proposed Capacity Use Rules. I am Judy Brown, Assistant County Manager for Duplin County.

Duplin County has seven water districts. They are separately created entities of government with taxing authority. One of the districts has just been declared “substantially complete” for construction of water lines. One district has not even begun construction. Bottom line-----we do not have an “approved base rate” for these two districts.

Five of the seven districts that have been completed have a bond payment that equals approximately \$1.2 million per year. If Duplin County has to show a reduction in water consumption of 30% from its “approved base rate,” it could affect the districts ability to repay its debt service. I question whether the Commission has the authority to implement regulations that will have a negative affect on the districts’ ability to make its debt payment. If the County were to look as a reduction in its “approved base rate” by not allowing additional customers to connect to the existing water systems, I do believe there would be an outcry from the citizens that this would be “taxation without representation.”

Duplin County was one of the many counties that was devastated by Hurricane Floyd. We are still in a recovery mode. There were approximately 800 homes partially or totally

flooded. Duplin County is still recovering from the natural disaster. Many of these homes had private wells that were contaminated from the flood waters. We have encouraged our citizens to participate in a public water supply system so that they would have safe, potable water. I have a concern that if you implement these rules and do not provide 100% grant funds for the counties affected by it to implement them and find alternative water sources that we will have to raise the rates. To implement these rules and regulations at this time without 100% funding from the State will result in financial jeopardy for these districts.

While it is recognized that some type of rules may be necessary to protect our ground water resources, we solicit your careful review of these rules and regulations. The citizens of Duplin County have been encouraged to connect to public water supply systems. They have been encouraged to do so in order that they would have safe, potable water. If these rules and regulations are implemented, it could result in higher water costs. Higher water costs could result in some citizens coming off the public water supply and going back to private wells. Is this what we really want? Do we want citizens opting to use private wells rather than public water sources?

I submit to you a copy of my written comments to be made a part of your public hearing.

Again, thank you for the opportunity to speak on behalf of the citizens of Duplin County.

Hearing Officer: Leo Green

Our next speaker is Arliss Albertson and following him is David Yaeck.

**[Written copy of verbal comments by Arliss Albertson, Duplin County
Commissioner follow]**

August 8, 2000
Capacity Use Rules Public Hearing
Kinston, NC

My name is Arliss Albertson. I am a member of the Duplin County Board of Commissioners. Thank you for this opportunity to comment on the State's proposed Capacity Use Rules.

Duplin County has long considered itself blessed with its abundant groundwater resources. The County's rural nature illustrated by its population of approximately 45,000 persons spread over the County's 818 square miles in combination with its deep, thick aquifers were thought to assure all of our citizens with bountiful quantities of groundwater for today and far into the future. **THINGS ARE APPARENTLY ABOUT TO CHANGE.**

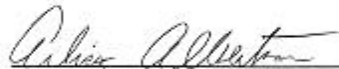
Access to these groundwater resources will be severely restricted by the proposed Capacity Use Rules. We understand there is a problem with declining water levels in the central coastal plain; however, we believe these problems are most apparent east of Duplin County in areas with larger populations and with significantly greater groundwater withdrawals over relatively small geographical areas that have been occurring for years. Duplin County has not typically seen this problem.

Much of Duplin County has pumping levels from high capacity wells approximately 200 feet above aquifer tops. Water level declines have often been less than a foot per year and have typically been less than two feet per

year over most of the County. The proposed Capacity Use Rule will limit withdrawals in the western half of the County to its "approved base rate" while requiring a 30% reduction from its "approved base rate" in the eastern half of the County. For a rural County with abundant groundwater resources and a lack of scientific data indicating regional water declines, the proposed rule has simply gone too far.

Withdrawals in the western half of the County should not be subject to a base rate except and unless compelling evidence of declining water levels is identified which indicates the County's continued use of the resource is in jeopardy.

We believe the County has been blessed with an abundant natural resource that holds tremendous potential for positive public health impacts through its use as a supply for safe drinking water. We believe the greatest threat for use and development of this resource at this time comes not from declining water levels, but from over regulation via the proposed Capacity Use Rules. The Rules must provide the County with the opportunity to further utilize and develop its highest quality groundwaters consistent with their reasonable use and in absence of evident regional water level declines that represent near term threats to the groundwater's continued availability. The concept of a "base rate" for withdrawals in the western half of Duplin County should be eliminated.



Arliss Albertson
Duplin County Board of Commissioners

Hearing Officer: Leo Green

Our next speaker is David Yaeck and following him is Keith Starner.

[Verbal comments by David Yaeck, Neuse River Foundation follow]

I appreciate the opportunity to place upon the record comments regarding the proposed CCPCUA. My name is David C. Yaeck, a semi-retired water resources professional now residing in New Bern, who served as Neuse River Foundation alternate on the Stakeholders' group formed to address the regulatory issues involved in the development of the proposed Capacity Use Area. I also served as chairman of the Ground Water Advisory Committee to the Delaware River Basin Commission for 18 years during which period similar issues were addressed and regulations developed in portions of New York, New Jersey, Pennsylvania, and Delaware.

A review of the available ground water database indicates an imbalance between supply and demand with the demand side of the equation outweighing available supply in portions of the defined 15-county area underlain by the Cretaceous aquifer system. Continued over drafting also increases the threat of saltwater intrusion and attendant water quality concerns.

In the interest of brevity, I have confined my comments to specific lines and paragraphs in the June 23 draft of the proposed rule. I will file more detailed written comments by the September 15 deadline.

Line 54, Page 4: The failure to set a firm cutoff date for proposed withdrawals from the CUA prior to implementation of the permit process leaves the door open for accelerated activity by those who would seek to circumvent the intent of the CUA designation by placing "one last straw" into the Cretaceous aquifer system. This round of activity injects an additional element in the planning process required for the development of alternative sources of water supply.

Lines 7 and 13, Page 5: The Stakeholders' group recommended adverse impacts of ground water withdrawals in the CUA to be prohibited. To permit any degradation of the ground water by allowing a "minimized" impact is unconscionable. Further, line 10 of the same page identifies encroachment of salt water as an adverse impact that should be avoided or minimized. This standard directly conflicts with the standard reflected in lines 58 and 59 on page 6 that states, "Withdrawals of water that cause changes in water quality such that available uses of the resource are adversely affected will not be permitted."

Line 22, Page 6: In the interest of providing the best database available, the word “certification” should be substituted for the word “statement”.

Line 48, Page 8 and Line 7, Page 9: Regarding the acceptability of any water use data on a confidential basis is not in accord with any aspect of sound water resources management. Section 5 of Article 14 of the North Carolina State Constitution declares, “It shall be the policy of this state to conserve and protect its lands and waters for the benefit of all its citizenry”.

To grant special consideration to a limited number of that citizenry is in conflict with that constitutional amendment adopted in 1972. Further, a complete and accurate database is paramount to present and future integrated land and water resources planning efforts by the private and public sectors. To restrict access to this vital data element is not in the best interests of the residents of North Carolina.

Line 1, Page 9: Language should be added to this subparagraph requiring the registrant to identify location of both new and existing wells by latitude/longitude for entry into the state water use data system.

In closing, I acknowledge the resolution of the water supply issue in the 15-county region is not without cost. However, as past president of the 1500-member Water Works Operators’ Association of Pennsylvania, I can with certainty advance the theory that the American Public has yet to realize the true cost of water.

Thank you for the opportunity to place these brief comments on the record. Should you have any questions, I will be happy to respond.

Hearing Officer: Leo Green

Keith Starner and following him is Denny Garner. I’d also like to recognize another representative here with us, Ms. Edith Warren. We appreciate your interest.

[Verbal comments by Keith Starner, North Carolina Rural Water Association follow]

The North Carolina Rural Water Association has 90 member water systems in the proposed CCPCUA. Sammy Boyette represented NCRWA on the stakeholders group that developed the proposed rule.

NCRWA agrees that the Cretaceous aquifers are under stress and concur that there should be a rule that will regulate withdrawal and protect the aquifers in the CCPCUA. Since the stakeholders developed the proposed rule, several concerns in the details of the rules have been brought to our attention. We will submit written detailed comments on the rule during the comment period.

We urge you to consider the economic impact on the CCPCUA. The area is trying to recover from the flood of 1999 and is losing much of its income from agriculture. The rule must take into account that developing alternate resources for many of the water systems is going to be very costly. Many of the systems currently are at their debt servicing limit. They must repay their current loans and may not have the financial resources to finance the cost of alternative water supplies.

We believe the fiscal note grossly underestimates the cost to the citizens as this rule is implemented. The rule does not require systems to find alternative sources in a three phase reduction over a sixteen year period. However, many systems must face the capital cost of the total reduction in the first six years of the rule. We think the cost estimated in the fiscal note is a small percentage of the true cost of implementation.

We do not think water users should be able to sell a portion of their permitted allocation. They should be able to sell water they do not need, but not transfer a portion of their permitted allocation for profit.

If a system can demonstrate that current or additional withdrawals will not have an adverse impact on the aquifer in their area they should be able to avoid the mandated reductions set forth in the rules according to the map defining the different zones in the CCPCUA.

Requiring a system to be able to measure their water levels within one tenth of a foot in many cases is not feasible. We think accuracy within one half foot is more reasonable.

We would like to take this opportunity to applaud the Director of Water Resources, Mr. John Morris and his staff who have worked with our association to develop the proposed rule. Much has been accomplished to date, however, I believe we must continue to work during this public comment period to further improve upon the proposed rule to ensure it treats everyone fairly, allows the continued use of the aquifers to their greatest potential and to protect the aquifers for future use.

Hearing Officer: Leo Green

Next is Denny Garner and following him is Mark Loomis.

[Written copy of verbal comments by Denny Garner, Greene County Commissioner follow]

August 8, 2000
Capacity Use Rules Public Hearing
Kinston, NC

My name is Denny Garner. I am Chairman of the Greene County Board of Commissioners. I appreciate the opportunity to comment on the proposed Capacity Use Rules. Our Board is very concerned with how the proposed rules will impact Greene County.

Wells in Greene County represent the source of water for the County's public water systems. These systems provide over 95% of our residents with the opportunity to access clean, safe drinking water.

The proposed Capacity Use Rules designate Greene County within the "Dewatering zone." The term "dewatering" indicates water levels are below the top of the aquifer. Pumping levels throughout the County are typically approximately 60 feet above the top of the aquifer. A more appropriate classification would be the "Declining water levels zone."

The proposed rules will require Greene County to reduce its current usage from 1.6 MGD to 0.4 MGD over the next 16 years. Alternate water sources in Greene County are not obvious. Contentnea Creek is the primary stream in the County and its ability to provide potable drinking water is very doubtful.

The County consists of approximately 265 square miles of surface area. Recharge to the deeper aquifers in the County may be preliminarily

- estimated at approximately 1.06 MGD based on a conservative presumptive recharge rate of 4,000 gpd/sq. mi. The 75% reduction over 16 years proposed by the Capacity Use Rules for Greene County appears punitive. Re-classification of the County to the "Declining water levels zone" appears more reasonable.

The great majority of the Counties within the Capacity Use Area appear to have significant alternative water sources. Greene County's alternative sources are not as apparent. If the proposed rule is successful in stabilizing or reversing declining water levels, Greene County merits consideration of reasonable increases in withdrawals due to its apparent lack of alternative supplies. We would like the proposed rules to provide the Director the authority to modify the proposed reductions in cases where alternative supplies are not available.

In summary, Greene County recognizes the problem of declining water levels within the Central Coastal Plain and agrees something should be done to address the problem. We also believe the problem is not as severe in Greene County as some of the other areas with significantly larger withdrawals. We are therefore not in agreement with the County's designation within the "Dewatering zone" or the proposed 75% reduction for Greene County over the next 16 years, particularly in view of our apparent lack of alternative water sources. In order for Greene County to support the rule, the rule must provide sufficient latitude to allow people to continue to live in the County.

Thank you for this opportunity to speak.

Hearing Officer: Leo Green

Next is Mark Loomis and following him is Woody Brinson.

[Written copy of verbal comments by Mark Loomis, Carolina Classics Catfish follow]

**Central Coastal Plains Capacity Use Water – Proposed Rules
Minority Report – The Aquaculture Community**

Since water is so vital to what we as fish farmers do, we are obviously very concerned about declining water levels and vitally interested in being good stewards of the resource. We do not disagree with the data presented suggesting impending problems with the underground aquifers, but we have grave concerns regarding the methods employed in the Proposed Rules. The data clearly show that the declining water levels are specifically occurring at the locations of large continuous water users in growing metropolitan areas. Eastern North Carolina has historically struggled behind the rest of the state economically, and every effort should be made to avoid placing needless restrictions on commerce in the region. Therefore, the rule-making process should take the time to carefully study all factors in this water equation, then carefully craft rules that focus on large continuous users who are responsible for the water level declines, and avoid onerous rules that would needlessly restrict those not responsible. Unfortunately, the Proposed Rules are instead a hastily-arrived-at set of blanket restrictions that will, in our industry's case, severely cripple a small, growing crop in North Carolina which provides a much needed farming alternative to swine and tobacco.

Catfish and Hybrid Striped Bass are grown in shallow earthen ponds, usually from four to ten acres each. These are filled from deep wells initially, and then only require water seasonally to replace evaporation. Most farms are small, about 30 water acres each, providing supplemental income for rural families. There are currently 37 catfish farmers representing about 1400 acres and 23 Hybrid Bass farmers with about 400 acres. The world market for aquaculture products is growing. This type of farming represents an opportunity for small Eastern North Carolina farmers to earn a living in an environmentally sound, aesthetically pleasing use of their farms. Our concern is that the proposed rules would sharply curtail the growth and thereby the viability of our entire industry.

The following specific points contained in the Current Proposed Rules are a grave concern to us:

- Reduction targets are to be adjusted in response to water level stabilization (.0503 (g)). Our question is, stabilization of water levels where? The data clearly depict the areas of water level decline are centered on large municipal users. State monitoring wells do not point to aquaculture as a source of water level declines. The largest fish farm in the state with 270 water acres is located about 6 ½ miles from a USGS well. Water level monitoring began at this site back in 1984. The farm began operating in 1986. No decline is noted in the aquifer according to this monitoring well. Why should aquaculture be saddled with reduction targets determined by what happens in large, rapidly growing metropolitan areas?
- Aquaculture is about as efficient with water use as technology currently allows. Pumping costs are a major expense ^{for catfish farmers} which provides a large incentive to maximize water use efficiency.
- Aquaculturists do not price their own product and therefore are unable to pass along costs to end users. The costs associated with complying with the Proposed Rules must therefore be borne by the small farmers themselves (whom the data show are not overtaxing the aquifers), as opposed to municipalities who can spread their costs around to thousands of end users. Costs potentially incurred to users include the following:

- 1) Cost of modifying current wells to facilitate measuring water levels, per .0502 (g)(2)
 - 2) Purchase of water meters and cost of plumbing them in existing water lines. .0502 (g)(1)
 - 3) Installation of monitoring wells. .0502 (i)
 - 4) Considerable time to carry out the *daily* monitoring and reporting which will necessitate that already busy growers either hire an outside firm or cause them to neglect important production practices. This type of paperwork can be overwhelming to farmers. .0502 (g)(1)
 - 5) Expensive engineering consultants would be required to help determine screen depths, size and capacity of pumps, Latitude and Longitude locations, depth to top of gravel packs, developing water conservation plans, etc. .0502 (d)(1&2), .0502 (d)(5)(B)
- There are no acceptable alternate water sources. Our industry has received a clear message from the FDA to move away from surface water due to pollutants entering the food chain. We already prefer to use the aquifers that are less suitable for drinking water, where they are available, because we *need* the calcium and chloride.
 - *Most* of our growers would be disqualified from the mandatory reduction requirements (.0503 (b)), since they are categorized as intermittent users as defined in .0507 (13). There is an inequity in this, however. Some growers construct conservative wells and must pump for more days. This causes them to fail the intermittent user definition. This could have been avoided by instead digging a very large well, and withdrawing the same amount of water. Specific incidences can be cited upon request. Therefore, if a farmer is forced to withdraw extra water during an unusually dry season, they are no longer an intermittent user and withdrawal reductions go into effect, according to current reading of the rule.
 - Many farmers begin with very small acreage and small water supplies with plans to grow. The proposed rule is a roadblock for these farmers' growth plans, both in terms of adding new wells and in trying to stay within the definition of an intermittent user.
 - The public comment period may cause a problem for new growers from neighbors who don't understand the nature of our business. .0502 (e)

The Department of Water Resources tries to reassure our industry that we will not be saddled with the same requirements as municipalities and industry. We don't doubt their intentions, but are concerned with the ambiguity of this promise. Looking down the corridors of time, we are concerned with how these rules will affect our children under different administration.

The problems associated with drawdown did not happen overnight---these drawdowns have occurred and have been monitored for years. We therefore do not understand why there is a sudden rush to make rules on this issue, and we advocate more time for careful study, in order to be sure that rules are prudently adopted that address the problem without unnecessarily burdening Eastern North Carolina's economy. We do know this: the source of the problem stems from large continuous users near population centers. We believe that the rules should focus on those users. An exemption should be granted for aquaculture, because the permitting, construction, and reporting requirements would needlessly restrict an industry that does not represent a drawdown on the aquifers. The Proposed Rules would effectively halt a positive new farming alternative for Eastern North Carolina family farmers.

Hearing Officer: Leo Green

Next is Woody Brinson and following him is Horace Phillips.

[Verbal comments by Woody Brinson, Economic Development Director, Duplin County follow]

I am Woody Brinson and I am the Economic Development Director for Duplin County. Also this year, I have served as chairman of the NC Ease, which is a 16 county marketing economic development group of which 11 of the 16 member counties are affected by these proposed rules. I do not have written comments available today, but we will be submitting additional comments before the September 15 deadline in writing.

Yes, we recognize there is a problem in certain areas of the region. Yes, we also recognize there are certain problems in other areas of the state of North Carolina which are not being addressed. As I stated to John Morris in a meeting several weeks ago, while being in western North Carolina during the week of July 4th I saw him and some of his staff on a television program in which one of the staff members admitted there was problems in western North Carolina. There are problems in Greensboro. An industry that is located in Greensboro and also in Duplin County relocated jobs to Duplin County several years ago because of water problems in Greensboro, not problems in Duplin County. Also, I would say like several previous speakers the question of the fiscal analysis, it states that approximately \$78 million is needed to correct the problem and find alternative sources. We have heard from consulting engineers that the problem is probably five and six fold times that, over \$400-500 million will be needed in the 15 counties. Once again, this is a situation of the state imposing regulations upon local governments without a funding source. The main issue I would address as economic development director is the question of impacts on our industries and on the jobs in our 15 county region. Our existing industries need to be competitive. If we impose regulations upon them for conservation measures that are not being imposed on their competition, whether it is in state or out of state or out of the country, it puts them at a competitive disadvantage. We must work with our existing industries to be competitive and help them find financial resources. Also, when we start talking about conservation measures they are not as identified within the proposed regulations as soundly as they are concerning public water systems. This needs to be addressed much more clearly than is proposed in the regulations. Also, the issue of expansion of our existing businesses. If they are in a no growth or declining water level area, how can we expect them to expand and create new jobs and better paying jobs if they have got to cut back on their water consumption and it put them at a financial disadvantage. This must be addressed if we want eastern North Carolina to continue to grow and provide good jobs. Also, when you look at the fiscal analysis and other data, the question of where did the figures come from for industries and agriculture when most of them are not metered. We have talked with

the major industries of Duplin County that are on their own water system and we haven't found one yet that has a metered system. So how in the world do we know how much they are drawing down, the impact they are having, if there are no meters like there is at a public well. And then the question of recruitment, as I have stated to the staff before, we in Duplin County and I know of other counties in the 15 county region have already been cut by some industrial prospects just because of the proposed regulations and they see no future growth if they do come here. The other thing I would mention is another Environmental Management Regulation concerning ozone has been proposed to look at only specific areas of towns and counties. In Duplin County only one township is affected by those regulations, yet these groundwater regulations affect all 18 townships. Here again these need to be looked at much closer or are the guidelines on the proposed map way to broad and do we need to center in on just specific locations that are experiencing problems. Another issue that I would address is we have been told that these studies have been going on for about 20 years, why all of a sudden must they be implemented immediately without full, detailed scientific data being determined. As was addressed earlier and was also recognized at a meeting back in March when a presentation was made by John Morris and his staff to the legislators. This is the same area that was heavily impacted by Hurricane Floyd. It is also the same area that has seen its tobacco allotments cut by 53%. It is also the same area that has been under a livestock moratorium and without our culture the backbone of our region being able to grow, we have got to find new jobs and water may be necessary. We look at how the proposed regulations are recommended for proposal and we find that a cookie cutter approach is being made to all 15 counties, that one size fits all within certain regions. We question that this is the proper approach. Our jobs, our incomes are at stake and we ask that these be looked at very closely as stated by previous speakers. There are certain areas that have major problems, but there are other areas such as Duplin County and Greene County and the western region that have very little impact and we question the scientific data being truly accurate and the fiscal analysis being accurate either. We thank you for the opportunity and we will be submitting written reports/comments before the September 15 deadline.

Hearing Officer: Leo Green

Next is Horace Phillips followed by Richard Hicks. I'd also like to recognize another representative, Ms. Marion McLawhorn. Thank you.

[Verbal comments by Horace Phillips, Jones County Commissioner follow]

Good evening, I am Horace Phillips, chairman of the County Commissioners for Jones County and I would like to thank the board for the opportunity to make some brief comments. I will be brief because much of what's been said you get repetitious after a while and I don't want to keep saying the same things over and over.

Jones County is a small agriculture county of about 9,500 people. We have a public water system that serves about 3,200 people. We do pump out of the Black Creek Aquifer, we are part of the Cretaceous System that we are speaking about here today. We are one of the 15 counties and our static water levels do drop about 3 feet per year, which is not really dramatic. We use about 600,000 to 700,000 gallons a day. Our water system is about 25 years old. We have been told from day one to put your wells in the western part of the county by the engineers, that is where the good water is and that is what we have been doing generally for all of those years. Now we got the flip -- we can pump out of the Castle Hayne in the Pollocksville/Maysville area but we've got to reconstruct and it costs money. We just went through Hurricane Floyd and about a third of our county was under water and we still have people living out of their homes, we are trying to get people back in their homes. We do not want to raise the tax rates nor do we want to raise water rates right now. It all gets down to money and if the legislators proposing these rules on us will provide the grants to do it, we will be happy to get on with the project.

Hearing Officer: Leo Green

Richard Hicks followed by Marion Smith.

[Verbal comments by Richard Hicks, Manager, Town of Farmville follow]

Richard Hicks, Town Manager, Town of Farmville. I am also speaking as newly elected chairman of a newly formed association of water users that are impacted by these rules in this 15 county region. We currently have about 45 of the existing users that will have joined this association and have had quite a few others express interest. If I say something right I am speaking as chairman of the association, if I say something wrong I am speaking as Town Manager of Farmville.

I think we all recognize that there is a problem with the source for water and I think we are all pretty confident that there are going to be some rules to follow this public hearing. In talking with John Morris on several occasions, I think one of his concerns were in the initial stages that the stakeholders were not involved. There was a list of stakeholders that was formed, they met, they went through the rules and I can't even remember the

exact number there, but I would mention to you this evening I think you found your stakeholders, they are all here. One thing I would like to point out is we'd like you to consider not rushing into the rules. I think that is where you are going and that is probably what is going to happen but I think you have finally got everybody's interest, you have everybody's attention. We think there are some changes that need to be made to the rules. We think those can be some very positive changes and we think we have enough people interested and enough people that are concerned now, myself personally I think it is time to move a little slower. I would hate to see a set of rules adopted just because someone higher up thinks they need to be done prior to him leaving office.

There are 2 issues that I think need to be addressed. I think #1 this is a water supply issue. I think you have heard comments on that. I think the other big issue is that this is an economic impact issue. I will sort of use Farmville as an example. We just recently or are still in the process of trying to recover from Hurricane Floyd. We are an agricultural community and as all of you know agriculture has taken a big hit and will continue to in the future. The Town of Farmville discharges into the Neuse River. We just faced a significant reduction in the amount of nitrogen that could be discharged into the Neuse River. That was with significant cost to our customers. We are also in the electric business facing deregulation which we think is going to be another significant cost and impact on our customers and citizens of Farmville. Somehow or another, Farmville ended up being a non-attainment area for ozone regulations. We are the only portion of Pitt County that received this designation and it is only because a monitoring station is in Farmville. Again, I say it is a major economic issue because all these issues that we are having to face are going to put the cost to our customers and citizens beyond what we think they are capable of paying when you add all these up. We would like you to consider several items in closing here. Our newly formed organization has worked with John Morris and his staff and we appreciate his help and his willingness to come to Farmville and sit down and talk to us. We think there are some changes that need to be made as Woody Brinson said a while ago one size does not fit all. We think we have some changes that would benefit everybody and will still meet your needs in what you are proposing. So we ask that when the rules come before the EMC that you do seriously consider our proposed changes. We also again ask you to be aware of the cost and time elements involved. If you look at the Town of Farmville we don't anticipate finding an alternative water source within Pitt County and I think as alternative water sources are studied and you have to go to something like surface water I am not sure you can study, design, get the various state permits and get everything approved and constructed within 6 years. I think that may pose a serious problem. The 3rd item we ask you to consider is please support our efforts for funding. As was mentioned a while ago I think the state

fiscal note estimated about \$78 million for this cost and we feel like it is going to be more like \$400-600 million. We think that is a very realistic figure. Again please support our efforts and anything you can do to obtain funding for this, whether it is state or federal. Then finally we ask that you continue to look at the scientific data. We think there are quite a few areas in the aquifer that are not acting like the current study says they are. We think you need to look at those areas, we need more monitoring wells, need more data and we ask that you take a very serious look at that. Again, thank you for the opportunity to speak.

Hearing Officer: Leo Green

Marion Smith followed by Ed Andrews.

[Written copy of verbal comments by Marion Smith, Executive Director, Neuse River Foundation follow]

**Central Coastal Plain Capacity Use Area Rule
Public Hearing Comments - August 8, 2000**

**By: Marion Smith, Executive Director
Neuse River Foundation, Inc.
Post Office Box 15451
New Bern, North Carolina 28561**

We appreciate the opportunity to appear before you today and submit comments on our concerns about the proposed regulations. As one of the "stakeholders" who participated in the review and recommendations for this regulatory program, we have invested significant time and resources in studying the issues related to the proposed regulatory program.

Our mission is to protect water quality in the Neuse River and its tributaries. However, we recognize that any program restricting withdrawal from the aquifer system will force water users and water suppliers in our river basin - who must seek additional water supply sources - to consider water withdrawal from the Neuse River system. Water quality and water quantities are concerns that cannot be separated. Despite the current stresses on the Neuse River this is an inevitable consequence of circumstances that led to the over-pumping of the Black Creek Aquifer. This aquifer system is a major source of drinking water for most of the commercial and private water users in the lower Neuse region. While our primary goal is to protect the Neuse, we cannot be good stewards of that resource and ignore the problems of other natural resources like our aquifers. So our focus in participating in this process is to insure that the proposed rule represent a sound approach to the long term conservation and use for all of the water resources on which future generations and we must rely.

With the extraordinary growth and development that has, is and will occur in our river basin, water supplies have become a critical problem that we have belatedly begun to deal with. Yet, having said that, I believe that if we plan and conserve wisely we have water resources that can handle current and future need. But in order to effectively deal with increasing demands we must become much more aggressive in recognizing the limitations of our resources and develop conservation plans that prevent the type of destruction that is currently threatening the Black Creek Aquifer.

Other states have faced similar problems and developed water budgets that promote a fair allocation to all users while protecting the environmental integrity of their water resources. In order for that to occur, the state must have accurate records of water use. While we have reasonably good data on surface water withdrawal, and fair data on surface water quality, we have an extraordinarily poor data set on our aquifer system. We know salt-water intrusion is occurring, but lack any understanding of how quickly it is moving. Well fields have had to go deeper and deeper to maintain sufficient pressure and they often occur in such concentrated areas that these "cones of depression" have resulted. We lack sufficient understanding of how or whether they can recover. The only thing we know for certain is that we are currently on a course that can lead to sufficient damage that would make it impossible for us to have the benefit of their high quality drinking water in the future.

While we do not believe the proposed regulations move us far enough or fast enough to do what needs to be done in the Central Coastal Plain, they are a small step in the right direction. However, we do have serious concerns with certain provisions.

In Section.0505 (c) - a "confidential" reporting provision for agricultural users with the option to report through other agencies defeats the purpose for which this registration (for withdrawals over 10,000 gallons per day) is intended. As we deal with increasing demands on this resource, we must be able to develop water budgets in order to fairly and equitably allocate for the needs of all user groups. Singling out only one user group for whom secret report are allowed is not in the best interest of the public or the resource we intend to protect. Further we question whether or not such a provision is legal under the existing applicable statutes.

The Public Records law has a general exemption covering "trade secret" information. It currently reads as follows:

§ 132-1.2. Confidential information

Nothing in this Chapter shall be construed to require or authorize a public agency or its subdivision to disclose any information that:

- (1) Meets all of the following conditions:
 - a. Constitutes a "trade secret" as defined in G.S. 66-152(3).
 - b. Is the property of a private "person" as defined in G.S. 66-152(2).
 - c. Is disclosed or furnished to the public agency in connection with the owner's performance of a public contract or in connection with a bid, application, proposal, industrial development project, or in compliance with laws, regulations, rules, or ordinances of the United States, the State, or political subdivisions of the State.
 - d. Is designated or indicated as "confidential" or as a "trade secret" at the time of its initial disclosure to the public agency.

The "trade secret" definition at G. S. 66-152(3) is:

- (3) "Trade secret" means business or technical information, including but not limited to a formula, ~~pattern~~, program, device, compilation of information, method, technique, or process that: ~~patent~~
 - a. Derives independent actual or potential commercial value from not being generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use; and
 - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

We submit that the quantity of irrigation water used by an agricultural enterprise has absolutely no independent commercial value arising from the secrecy of the information and therefore cannot be considered a "trade secret" under the Public Records Act.

The Capacity Use statute authorizes rules requiring the submission of water use reports and doesn't add any extra layer of trade secret protection or confidentiality. The statute says:

G.S. 143-215.14. Rules within capacity use areas; scope and procedures

- (a) Following the declaration of a capacity use area by the Commission, it shall prepare proposed rules to be applied in said area, containing such of the following provisions as the Commission finds appropriate concerning the use of surface waters or ground waters or both:

(1) Provisions requiring water users within the area to submit reports not more frequently than at 30-day intervals concerning quantity of water used or withdrawn, sources of water and the nature of the use thereof.

This provision doesn't override the trade secret protection in the Public Records Act, but indicates that simple records of water use are not generally considered secret. Other industries have long provided such records without asserting confidentiality. These rules should not contain any additional confidentiality provision because all legitimate interests in confidentiality are already provided by the Public Records Act. In our view these Rules cannot add to or subtract from the Public Records Act. We do not believe the EMC has authority to adopt rules that make something confidential if the Public Records Act makes it a public record subject to disclosure.

Finally, I would argue that this provision is not even in the best interest of agricultural water users. Adequate water supply is critical to crop and animal production. Agriculture is important to the economy of the Central Coastal Plane, if they are to protect their future interest their records should be as complete and as public as the water use information submitted by other users.

Hearing Officer: Leo Green

Ed Andrews followed by Harold Herring.

[Verbal comments by Ed Andrews, Edwin Andrews Associates follow]

Commissioner Green, Commissioner Turner, Director, thank you for this opportunity.

I have four comments that are very general in nature. Really these have to do with some conceptual framework of the rules. First one that I have is I see a need and what was lacking in 15A NCAC 2L was a system of prioritization. You don't have a best use for the Cretaceous water and in other states that I have worked where they have capacity use or groundwater withdrawal controls, they have defined best use as human consumption, as an example. I think the inclusion is somewhere in Section .0503 of a system of prioritization. It would help the region to utilize the rules more effectively to optimize the rules. That is the first point. The second point is that in looking for alternate sources and beginning to investigate how these rules can apply to given counties, I found that the use of the Cretaceous aquifer system as a simple system presents a problem. You defined in the hydrogeologic framework that the Pee Dee, Black Creek and Upper Cape Fear essentially comprised the Cretaceous aquifer system. I think it would be wise in Section .0507 of the definitions to define each of the aquifers within the aquifer system so that hydrogeologists and engineers can use those. For example, if the Black Creek is not being overdrawn in a given county an area with a declining water level, then perhaps the

Black Creek portion of the Cretaceous aquifer system could be used as a water resource as an alternate source. I think it would really give a tool, but breaking it down to its components for hydrogeologists and engineers to find alternate sources that are not being adversely impacted. The 3rd point is I think there needs to be an appeals process, such as expressed by Greene County earlier. The provisions to be able to define again using the specific aquifers definition, that a given area may not be within the definitions of the rule as being adversely impacted. A particular portion of the cretaceous aquifer could be used as part of the solution and there needs to be a mechanism by which people can present an appeal to the Division of Water Resource. The 4th point and that is sort of off the wall is the concept of primacy and I have mentioned this before in talking with staff. Perhaps some of the governmental entities, counties or local governments could look at adopting these rules like they did the watershed rules for use and implementation under the EMC's guidance on a local basis. This would help them provide some flexibility for economic development. If they decide that a given industry needs the water, they have more of a local impact, more of a local feel, perhaps they can make decisions that would be more attuned to the needs of the region.

Thank you.

Hearing Officer: Leo Green

Harold Herring followed by Harold Blizzard.

[Written copy of verbal comments by **Harold Herring**, Assistant Director of Public Utilities, City of Kinston follow]

Harold Herring, Assistant Director of Public Utilities
Representing Neuse Regional Water & Sewer Authority

1. We represent the following:
 - Lagrange
 - Pink Hill
 - Kinston
 - Deep Run
 - Deep Run Water Corporation
 - North Lenoir Water Corporation
 - Lenoir County
 - Global Transpark
2. We realize there is a problem with our aquifer declining and that the days of cheap water is coming to an end.
3. Not totally against the rules but feel they need to be further defined and studied for this scientific data and economic impact.
4. We have been severely impacted by Hurricanes Bertha, Fran, Dennis, and Floyd and feel there are more to come. We are already economically stressed by these storms as well as reductions in our farming operations of Lenoir County.
5. We are all severely impacted by our aged wastewater collections system and their need improvements.
6. We will be impacted even more by the new collection system rules, new stormwater rules, nitrogen reduction rules, and who knows what others are to come.
7. We feel if the rule is imposed that the state should provide assistance for funding by grants in order to help us maintain reasonable water rates.
8. Over the past 18 months we have formed the Neuse Regional Water & Sewer Authority and have hired engineers to assist us in an alternative source of water that paid is estimated at \$55 million.
9. This cost will cause our water rates to more than double.
10. We need help to encourage industries east of Interstate 95 not to discourage them due to farming operations.
11. We feel that more time is needed for this initial implementation.

Hearing Officer: Leo Green

Harold Blizzard followed by Scott Stevens.

[Verbal comments by Harold Blizzard, Craven County Manager follow]

My name is Harold Blizzard, Craven County Manager.

The first thing that came to my mind as I decided to speak today is something all of you have heard before, it goes something like water, water everywhere but not a drop to drink. It was only less than a year ago that most of the people in eastern North Carolina could have said the same thing and what I wonder is will we be saying the same thing in 16 years, water, water everywhere, but not a drop to drink. The cities and counties to be affected by these proposed rules recognize the problem with overuse, we realize that something has to be done. However, this problem didn't occur overnight, instead it has taken many years and it will take many more years to get it corrected but I say that it won't be done in 6 years, it won't be done in 11 years, nor will it be done in 16 years. The problem should be better defined. I think that the state's data that these rules are based on are unreliable. I think the monitoring and all the information, it's okay but I really don't think it's as scientific as it really should be, I think there should be better data. I think also the so-called stakeholder group that worked with the state in developing these rules is not truly representative of the people that will be impacted by this. As Richard Hicks spoke to you a minute ago, there is an organization that has been formed called the Capacity Use Association. This is the group that represents those that will be affected. Look at the stakeholders group that worked with the state and tell me how many that are in the Capacity Use Association are on that stakeholders group. As was mentioned earlier by someone also, the fiscal note as was prepared by DWR I believe also is something of a joke, there is absolutely no doubt that the report drastically underestimates the capital cost for transition to alternate water sources. I believe the new rules need to fairly and accurately address the problem with the least cost to the users. Larger water users should have greater reduction requirements, withdrawal limitations should vary according to the extent of adverse impact. The impact the proposed rules will have on these cities, towns, and counties will be tremendous. The rules should be more understanding of the people and the overall hardship it will place on them in the coming years. I would like to commend John Morris for his willingness to meet with the true stakeholders group to hear our concerns and at least consider some modifications to the proposed rules. Again we agree that the Cretaceous should be protected but not at any cost unless of course the state wants to foot the bill.

Thank you.

Hearing Officer: Leo Green

Scott Stevens followed by Helen Boyette.

[Verbal comments by Scott Stevens, City Engineer, Kinston follow]

Good afternoon, my name is Scott Stephens and I am the City Engineer for Kinston.

I am not here to dispute the need for the proposed capacity use area rules. We believe that we must develop alternative sources of water for the 15 county region. My concern is with the cost of alternative sources. In Lenoir County we have been studying the alternative sources of water for the past 18 months. To be in compliance of the rules in year 16 we are choosing to build a surface water treatment plant. The estimated cost of this treatment plant and water distribution mains is approximately \$60 million for Lenoir County alone. Spread this cost over the 15 county region and the cost to comply with the proposed rules could well exceed \$400-500 million. Since July of 1998 the City of Kinston has increased our water and sewer rates by approximately 41%. To finance our share of the proposed water treatment facility will require additional rate increases of 50-100%. Add this to the devastation created by Hurricanes Fran and Floyd, the loss of tobacco income, the air quality issues, the electric deregulation costs, the cost of the Neuse River rules that affect both our wastewater treatment plants and our urban stormwater runoff and combine that with a slow growth rate for the Kinston area and eastern North Carolina and we wonder how much more adverse economic impact this area can stand. While the remainder of the state seems to be enjoying a tremendous growth and prosperity, eastern North Carolina appears to be getting hit time and time again. Designation as a capacity use area will hurt recruitment of new industry into this area. Solutions and money to implement those solutions must be made available. What we would like to request as the rules are put into place is a study of the costs of compliance and alternatives for this region. Additionally, we are requesting that this proposed capacity use area be given priority for financial assistance from the state to help comply with these rules.

Thank you for the opportunity to speak.

Hearing Officer: Leo Green

Helen Boyette followed by Curtis Consolvo.

[Verbal comments by Helen Boyette, Chinquapin Water Association, Duplin County follow]

I am Helen Boyette and I come from Duplin County and I am in agreement with what my Duplin County people have mentioned before me.

I have read the proposed rules under Title 15A and I would just like to make a few comments. I think when you are establishing these rules we need to concern ourselves about using common sense. The hurricane affected our area and we have had a lot of other problems besides water that we have to be concerned with. Agricultural restraints and restrictions on our hog lagoons has been another problem. We need state assistance to maintain reasonable water rates. The water should be equally shared among the people at reasonable costs and all individuals should adopt conservative measures. I don't think anybody ever mentioned how you measure how much water there is available. When we consider God's gift to mankind, rain, how do we measure it and where does that enter in to all the statistics that we have. There are alternative water sources. Maybe we need to convert our sea water to drinking water. We need to recycle water such as your sewer systems, your hog lagoons, and a lot of the industries can recycle their waters to be used. We will have direct purchase of water from other sources, we may need to develop some new wells and there again I will say that we need conservation for all individuals in the water and that includes all individuals. Now what I read in the regulations is fine, but there is some of the things that I did not read and this is what I am coming to now. You have all power given to the director who alone can choose whether or not a withdrawal will cause adverse impact, who alone can choose to allow a need for the greater amount of the aquifer systems while providing the applicant to demonstrate to the satisfaction that a new well is needed, who alone grants and dismisses permits, who goes to work and tells you what the civil penalties should be, and who alone collects the fees for registration of water withdrawals and transfer. I ask is this not too much power being put into one head. I don't think the legislators, when they passed this law decided that we should have a dictatorial individual and in my opinion instead of having one individual a committee should be formed and then this director could ask the chairman of the committee. I think we had one individual that is going to make all the decisions, there can be bias developed, I am not saying that this individual will do it but he can be persuaded possibly to show favoritism to different people. The other thing is you are talking about penalties and you are talking about permits, no where do I see where the cost of the permits are going to be, no where do I see what the penalties are going to be for different situations and not only that, when the money is collected how is it going to be spent, where are we going to use it. These are things I think should be listed in the rules as well as the rules that everybody needs to follow.

I thank you for having the opportunity to say something to you and I just wanted to comment about these few items. I think all the rest of the comments have been great. I appreciate being a part of it.

Hearing Officer: Leo Green

Curtis Consolvo followed by Tripp Pittman.

[Verbal comments by Curtis Consolvo, Groundwater Management Associates, Inc follow]

My name is Curtis Consolvo, I am a hydrogeologist working with Richard Spruill. We study the aquifers that serve eastern North Carolina and work with the users of those aquifers.

The Cretaceous Aquifer System is an incredible resource and we recognize that the capacity of these aquifers to store and provide water is threatened by our current withdrawal rates and in places it is already being damaged. In the time provided I am not going to try and provide details of which areas or which specific aquifers are being impacted the most or the best way to implement an equitable regulatory solution. I would just like to simply say this, that we feel the concept of the capacity use area rules is needed as the best way to keep enjoying the benefits of this resource rather than scrambling to find and provide treatment for alternative sources in the future.

Thank you.

Hearing Officer: Leo Green

Tripp Pittman followed by Wayne Malone.

[Verbal comments by Tripp Pittman, North Carolina Sierra Club follow]

My name is Tripp Pittman from Greenville and I serve as the Cleanwater Campaign Coordinator for the North Carolina Sierra Club. In addition I am an Ordained Presbyterian Minister and serve as Pastor of Nantanhala Presbyterian Church in Scotland Neck. Thank you for the opportunity to discuss proposed rules for water capacity use in the state's central coastal plain.

The North Carolina Sierra Club is a statewide organization of over 15,000 volunteers who are committed to the protection and preservation of the natural resources of our state. Recent reports about the increasing evidence of ground water supplies in eastern North Carolina have raised a sense of urgency about the importance of establishing water capacity rules, not only to protect the state's water supply capacity, but also preserve water quality. We deeply appreciate the work of everyone who has been involved in drafting the proposed rules for water capacity, however, there are a number of points about the language of the proposed rules that we feel warrant your attention. First, we are concerned about the need for public access to all information regarding any entities that withdraws over 10,000 gallons per day. The reporting provision for agricultural users in section .0505 is tantamount to a secrecy shield providing an option for confidentiality to those who withdraw more than 10,000 gallons per day. The state's water resources belongs to the people of the state and any provision which in anyway inhibits public access to information regarding the states natural resources runs counter to the publics best interest. Secondly, while we appreciate the importance of restricting the quantity of water that the various entities will be allowed to withdraw from the state supply of ground and surface water we question how the state will be able to enforce restrictions without data that supports a comprehensive water budget. In other words before any permits are issued, the state needs to have a better sense of how much water is available. In addition, permits for water use should only be issued to those who have had a clean record of compliance. The Division of Water Quality reports as well as reports given by experts from North Carolina State show that the large scale sline industry has had a major role in the completion of the states water resources. Animal facilities in the central coastal plain use over 70 million gallons of water per day. This is a tremendous amount of water and yet there is little or no provision for an industry wide approach that monitors the capacity use for the hog industry. Provisions for enforcement action are vague for repeat violators who withdraw tremendous sums of water and fail to file any reports with the state. In addition reports show that hog facilities in Bladen County and Robeson County withdraw over 1 million gallons per day. The Smithfield Foods Processing Plant alone uses over 3 million gallons per day. Such evidence as well as reports of the declining groundwater tables demonstrate the needs to include Bladen and Robeson Counties in the states provision for water capacity. Finally the setting of this meeting, The Global Transpark, raises important concerns about whether or not there is any plan in place for water capacity for such a tremendous facility in an area with depleted resources. In light of the fact that Kinston is facing a possibility of severe water shortage, there needs to be an integrated plan for both the people of Lenoir County and the Global Transpark. The Old Testament Prophet Amos said "Let justice roll down like mighty waters and righteousness like an everflowing stream." To ward against taking water for

granted and to promote the importance of using our natural resources in a way that is socially just. We appreciate the work of those involved in the rule making process as well as the responsibility of the Environmental Management Commission and we thank you for your careful attention to these concerns.

Hearing Officer: Leo Green

Wayne Malone followed by Ralph Heath.

[Verbal comments by Wayne Malone, Kinston City Council Member follow]

I am Wayne Malone on the Kinston City Council. 18 months ago I missed a meeting in the City Council, the Mayor appointed me to a WASA board. For 18 months we have been working with the North Lenoir, Deep Run, Pink Hill, La Grange, and Kinston to form a WASA, we have officially formed it. Other organizations voted and the City Council voted and we have now got a WASA.

First of all I promise you not quote the Bible. I will say that we have agreed that there is a problem. It took us a little while to realize that, to understand that, and to convince us of that. Once we were convinced there was a problem we got down to work. You have heard from other people in Kinston and Lenoir County talking about the floods and the devastation. We have a lot of elderly people in Kinston like other communities in the east and they literally can not afford \$10, \$20, \$30, or \$40 additions a month. They can't even afford the rent or their drugs. If we have a problem and we understand that, the key to this whole issue is money and with our infrastructure, falling in deregulation and our sewer system we are trying to replace to protect the Neuse River. All the costs we have, we can not afford to do this alone. We need some additional money. I am asking the legislators that are in this room, that are going to vote on this issue, to understand we can not afford it, we can not pass it on to the people.

Thank you.

Hearing Officer: Leo Green

Ralph Heath

[Verbal comments by Ralph Heath follow]

Mr. Chairman, Ladies and Gentlemen. I am probably one of the 2 or 3 people that you should blame for this whole thing we are talking about today, that is the establishment of the capacity use area. I have been concerned for many years with the declining water levels. The confined aquifers underlying the coastal plain are not quite the same as the coal mine because there is some recharge, however the recharge to these aquifers is far less than we have estimated in the past. So we are mining more water than we realize at this time. I have encouraged the Division of Water Resources to move as rapidly as they can with the establishment of the capacity use area because I realize it takes many years to identify all the alternate supplies and build the facilities to use those alternate supplies. I think that we are moving along in the right direction now. The discussions I have heard today have been extremely informative to me, in fact the reason I came down was to hear what the comments of the group were. They have been thoughtful and constructive and I have learned a great deal by being here.

Thank you.

Hearing Officer: Leo Green

We certainly appreciate all the comments that have been offered this afternoon and will assure each of you that they have been heard and they will continue to be studied as the rule making process goes through to its conclusion later this fall. We do have another hearing scheduled for 7 pm tonight here and you are certainly welcome to come back and offer comments or listen to those people. The hearing record remains open until September 15, 2000 so you may submit written comments up until that date.