

Central Coastal Plain Capacity Use Area Rules Hearing Officers' Report



North Carolina
Department of Environment and Natural Resources
Division of Water Resources
Environmental Management Commission

November 2000

Central Coastal Plain Capacity Use Area Rules Hearing Officers' Report

Public Hearings

Afternoon and Evening Sessions on August 8, 2000

Global TransPark Authority Education and Training Center, Kinston

North Carolina

Department of Environment and Natural Resources

Division of Water Resources

Environmental Management Commission

November 2000

**Central Coastal Plain Capacity Use Area Rules
Hearing Officers' Report**

Table of Contents

Part I:	Recommended Final Central Coastal Plain Capacity Use Area Rules
	Recommended Changespage I-1
	Signature Page 4
	Final Rule Language 5
	CCPCUA Cretaceous Aquifer Zones Map..... 15
Part II:	Summary Table of Comments and Responses
	Table of Commentspage II-1
	Responses 24
Part III:	Transcript of Afternoon Public Hearing, August 8, 2000
	Judy Brown..... page III-4
	Arliss Albertson..... 5
	David Yaeck 8
	Keith Starner..... 9
	Denny Garner 11
	Mark Loomis 14
	Woody Brinson..... 16
	Horace Phillips 17
	Richard Hicks 18
	Marion Smith..... 20
	Ed Andrews 23
	Harold Herring 24
	Harold Blizzard 25
	Scott Stevens 27
	Helen Boyette 27
	Curtis Consolvo 29
	Tripp Pittman..... 29
	Wayne Malone 31
	Ralph Heath 31
Part IV:	Transcript of Evening Public Hearing, August 8, 2000
	James Taylor..... page IV-4

Mitch Peele	6
Todd Bollick	10
Admiral Paul Busick	10
Tony Ballance.....	15
Brent Turner	16
Landis Davis.....	18
Jean Hood	20
Jerry Bean.....	22
Richard Spruill	24
David Pittman.....	26
Sondra Ipock Riggs	29
Arthur Kennedy	30
Steve Hines.....	33
Ed Andrews	34

Part V: **Written Comments Received**

Melvin Albritton.....	page V-1
Frederick Allen.....	2
Edwin Andrews	7
General David Barker.....	18
Keith Beavers	21
Harold Blizzard	22
Dan Boone	24
Helen Boyette	25
Woody Brinson.....	26
Rose Burlington.....	29
Paul E. Busick	31
CEC/NC • PENC	34
Eddie Coltrain.....	35
Ken Cornatzer.....	37
Chester Ellis	39
Tom Ellis, May 9, 2000.....	40
Tom Ellis, September 12, 2000	45
Harold Herring	50
Richard N. Hicks, Town of Farmville	52
Richard N. Hicks, CCPCUA Association	57
Stephen F. Hines.....	66
David G. Hyatt	67

Honorable W.J. Igoe.....	69
Arthur L. Kennedy	70
Clifford Lee	72
Jerry Lee	73
Harry E. LeGrand.....	75
Mark Loomis	77
Senator R. L. Martin.....	79
Bob Murphy	81
William H. Perkins, Jr.	83
Paul H. Pittman.....	85
James E. Scoggins	87
Marion Smith.....	89
Honorable Ralph M. Smith	90
William Lee Smith, III	92
Richard K. Spruill & Ralph C. Heath.....	94
Jimmy Summers	98
Eelco H. Tinga, Jr.....	100
Jeffery B. Turner	101
Larry B. Wooten.....	103
Mike Worthington	107
David C. Yaeck	110

Part VI:

Attachments

Notice of Public Hearing.....	Part VI-1
Combined List of Registered Attendees for August 8, 2000 Public Hearings	3
Water Use Act of 1967	7

**Part I: Recommended Final Central Coastal Plain Capacity
Use Area Rules**

Central Coastal Plain Capacity Use Area Rules Recommended Changes

Introduction

The Environmental Management Commission, having accepted the proposed Central Coastal Plain Capacity Use Area Rules language, authorized the Division of Water Resources on May 15, 2000 to proceed with the public comment process as described in North Carolina General Statute 150B. The Division prepared the properly formatted, June 23, 2000 rules and published the text in the North Carolina Register on July 17, 2000. The Division accepted oral and written comments during the public comment period (July 17, 2000 to September 15, 2000). Those are reproduced in parts III, IV and V later in this report. The summary of public comments and responses to those comments are included in Part II. Parts III and IV are the transcripts of the two public hearings held at the Global TransPark Authority's Education and Training Center near Kinston. Part V includes all written comments received on or before September 15, 2000.

Text Changes

Comments about specific rule language and general statements about conditions or types of use offered as public comments have led the Division to recommend the following language changes:

A policy statement is added to .0501.

.0501 DECLARATION AND DELINEATION OF CENTRAL COASTAL PLAIN CAPACITY USE AREA

The area encompassed by the following 15 North Carolina counties and adjoining creeks, streams, and rivers is hereby declared and delineated as the Central Coastal Plain Capacity Use Area: Beaufort, Carteret, Craven, Duplin, Edgecombe, Greene, Jones, Lenoir, Martin, Onslow, Pamlico, Pitt, Washington, Wayne and Wilson. The Environmental Management Commission finds that the use of ground water requires coordination and limited regulation in this delineated area for protection of the public interest. **The intent of this Section is to protect the long term productivity of aquifers within the designated area and to allow the use of ground water for beneficial uses at rates which do not exceed the recharge rate of the aquifers within the designated area.**

Text is changed in .0502(b) so as to allow for different methods for withdrawal of ground water. Text is also changed in .0502(b)(1) to allow 180 days rather than 60 days for users to submit their initial application for water use permit.

.0502 WITHDRAWAL PERMITS

(b) No person shall withdraw ground water after the effective date of this Rule in excess of 100,000 gallons per day **by a well, group of wells operated as a system, or sump** for any purpose unless such person shall first obtain a water use permit from the Director. Existing withdrawals of ground water as of the effective date of this Rule and proposed withdrawals previously approved for funding appropriated pursuant to the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" or other local, state or federally funded projects as of the effective date of this Rule shall be allowed to proceed with construction or to continue to operate under interim status until a permit has been issued or denied by the Director.

provided that persons withdrawing in excess of 100,000 gallons per day **by a well, group of wells operated as a system, or sump** comply with the following requirements:

- (1) Persons conducting withdrawals in the Capacity Use Area that require a permit shall submit a permit application to the Division of Water Resources within 180 days of the effective date of this Rule.

The rule had required that water use from Cretaceous aquifers in the western portions of Duplin, Wayne, Wilson and Edgecombe counties (the unnamed Cretaceous Zone) not be increased. Further review of hydrologic data indicates that this portion of the aquifer is unconfined or poorly confined and has a greater recharge potential than other portions of the aquifer. Therefore, provisions .0503(6)(a)(iv), .0503(6)(b)(iv), .0503(6)(c)(iv) are deleted. If the effect of increased use in this area is a larger impact area, then the Declining Water Level Zone boundary may need to be changed in the future to encompass these problems.

.0503(6) PRESCRIBED WATER USE REDUCTIONS IN CRETACEOUS AQUIFER ZONES

(a)

(deleted) (iv) At the end of the Phase I, permittees who are located in the Cretaceous zone, but outside of the salt water encroachment, dewatering, or declining water level zones will be required not to exceed annual water use from Cretaceous aquifers as established by their approved base rate.

(b)

(deleted) (iv) At the end of the Phase II, permittees who are located in the Cretaceous zone, but outside of the salt water encroachment, dewatering, or declining water level zones will be required not to exceed annual water use from Cretaceous aquifers as established by their approved base rate.

(c)

(deleted) (iv) At the end of the Phase III, permittees who are located in the Cretaceous zone, but outside of the salt water encroachment, dewatering, or declining water level zones will be required not to exceed annual water use from Cretaceous aquifers as established by their approved base rate.

Similar to the western edge of the Cretaceous aquifers as referred to above, the Peedee aquifer is poorly confined and has a higher recharge potential. Therefore, provision .0503(8) is added. This language does not allow water users to exempt withdrawals from wells screened in multiple aquifers including the Peedee from the reduction requirements.

.0503(8)

The reductions specified in Rule .0503 of this Section do not apply to wells exclusively screened or open to the Peedee aquifer.

Provision .0503(9) has been added to exempt particular wells from reduction requirements provided documentation exists that shows that ground water levels in a well do not decline as regional ground water levels decline.

.0503(9)

An applicant may submit documentation supporting the exemption of a well located in the Declining Water Level Zone from the withdrawal reductions specified in Rule .0503 of this Section. This documentation must include a record of monthly static water levels from that well over at least a three-year period, ending with the month when the request for exemption is submitted. The Director may exempt a well from reductions if the water level history shows no pattern of decline during this

three-year period. A well previously exempted from the withdrawal reductions shall become subject to the reductions if water levels begin to show a pattern of decline.

Provision .0505(c) has been amended to allow for direct submission of water use information to the North Carolina Department of Agriculture and Consumer Services.

.0505 ACCEPTABLE WITHDRAWAL METHODS THAT DO NOT REQUIRE A PERMIT

(c) Agricultural water users may either register water use with the Division of Water Resources as provided in this Rule or provide the information to the North Carolina Department of Agriculture and Consumer Services.

The definition of the Approved Base Rate .0507(1) is amended to account for that portion of a plant nursery operation where low volume micro-irrigation is used.

.0507 DEFINITIONS

- (1) Approved base rate: The larger of a person's January 1, 1997 through December 31, 1997 or August 1, 1999 through July 31, 2000 annual water use rate from the Cretaceous aquifer system, or an adjusted water use rate determined through negotiation with the Division using documentation provided by the applicant of:
- (a) water use reductions made since January 1, 1992.
 - (b) use of wells for which funding has been approved or for which plans have been approved by the Division of Environmental Health by the effective date of this Rule.
 - (c) the portion of a plant nursery operation using low volume micro-irrigation, or
 - (d) other relevant information.

The definition of the Cretaceous Aquifer System .0507(5) is changed to define the aquifers that are part of that system of aquifers. This change emphasizes the exclusion of bedrock wells from the reduction requirements.

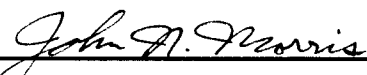
- (5) Cretaceous aquifer system: A system of aquifers in the North Carolina coastal plain that is comprised of water-bearing earth materials deposited during the Cretaceous period of geologic time. The extent of the Cretaceous Aquifer System is defined in the hydrogeological framework and includes the Peedee, Black Creek, Upper Cape Fear and Lower Cape Fear aquifers.

The definition of Intermittent Users .0507(13) is amended to include aquaculture operations. If averaged over a 5 year period, their high volume water use during filling and refilling of ponds equates to a very low daily average use (much less than 100,000 gallons per day).


- (13) Intermittent users: Persons who withdraw ground water less than 60 days per calendar year; or who withdraw less than 15 million gallons of ground water in a calendar year; or aquaculture operations licensed under the authority of GS 106-761 using water for the initial filling of ponds or refilling of ponds no more frequently than every 5 years.

Signatures

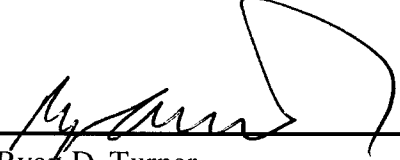
The Hearing Officers' Recommendation is to approve the final Central Coastal Plain Capacity Use Area Rules as delineated on pages I-5 through I-14 of this report. That language includes the changes from the June 23, 2000 version as described above.



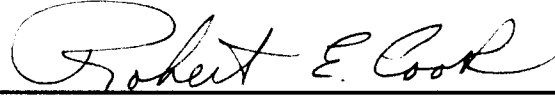
John N. Morris
Division of Water Resources



E. Leo Green, Jr.
Environmental Management Commission



Ryan D. Turner
Environmental Management Commission



Robert E. Cook
Environmental Management Commission