

**Part IV: Transcript of Evening Public Hearing,
August 8, 2000**

Transcript of Evening Public Hearing
August 8, 2000

Hearing Officer: Ryan Turner

My name is Ryan Turner and I am a member of the North Carolina Environmental Management Commission. I have been designated to preside at this hearing along with Leo Green and Bob Cook, both members of the EMC. Bob Cook couldn't be with us tonight.

This public hearing is being held in compliance with state rulemaking 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 and .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 EMC for final action before being presented to the Rules Review Commission and the General Assembly.

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 5 minutes or less and please don't feel constrained to take the full 5 minutes if you don't need it. 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 and then I will call up the next person in line so that you can get prepared to follow the person in front of you. 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 and we appreciate your attendance today and will listen carefully to your comments.

Now, Nat Wilson with the Division of Water Resources will 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. Ryan Turner. Thank you.

Hearing Officer: Ryan Turner

The first person to speak this evening is James Taylor followed by Mitch Peele.

[Written copy of verbal comments by James Taylor, Southeastern Wayne Sanitary District follow]


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

Thank you for the opportunity to speak concerning the State's proposed Capacity Use Rule. My name is James Taylor and I am a member of Southeastern Wayne Sanitary District. Our Board is very much concerned with the future of our drinking water supplies.

We are also very much concerned with the public health aspects of the proposed rule. The proposed rule, although perhaps necessary, will tend to increase the cost of providing central water services to our customers. Rates are already high. Significant ^{future} further increases in rates will tend to turn customers off our central water systems and back on private wells. Statistics tell us one-third of private wells are subject to contamination. Often these private wells may obtain water from the same aquifer as our public wells. The loss of customers drives rates increasingly higher. We must be very careful the proposed rule does not contribute to the dismantling of public water systems in favor of a proliferation of private wells which could further adversely impact, not favorably impact, our aquifers.

State funding to assist compliance with any mandate is essential and must be provided simultaneously with the adoption of any new rules.

Thank you.



James Taylor
Southeastern Wayne Sanitary District

Hearing Officer: Ryan Turner

Mitch Peele followed by Todd Bollick.

[Written copy of verbal comments by **Mitch Peele**, North Carolina Farm Bureau Federation follow]

Testimony on Proposed Central Coastal Plain Capacity Use Area Rule
August 8, 2000
North Carolina Farm Bureau Federation

Good evening. I am Mitch Peele with the North Carolina Farm Bureau Federation - our state's largest general farm organization. We constantly strive to protect and improve the quality of life for North Carolina farmers and rural families. The rules being proposed for the Central Coastal Plain Capacity Use Area have the potential to greatly affect farmers' quality of life and their ability to produce our state and nation's food and fiber.

NC farmers have faced unparalleled despair in recent years, from last year's drought and later flooding, to record low commodity prices, to the loss of much of their tobacco allotment. Existing agricultural operations are dependent on having sufficient water supplies. As farmers struggle to survive in this next century, they must explore new agricultural opportunities - all of which depend on having access to ample water supplies. Through hydroponics you can now grow crops without soil, but no one can produce crops without water. So farmers want to protect their water now and for the future. With that, we support the goal of taking steps now to manage these finite resources. However, we may not necessarily agree with everything that the State is proposing to accomplish this goal.

Farm Bureau served as one of the stakeholders that were charged with developing a rule for the Central Coastal Plain Capacity Use Area. This stakeholder effort resulted in several improvements to the proposed rule over the previous version proposed more than a year ago. Some of the improvements include: removing surface water from the permitting requirements, exempting intermittent users from the mandatory water use reductions, and allowing farmers other options for reporting their water use.

Although these improvements have been made to the proposed rule, we continue to have concerns regarding some parts in the proposed rule that could still significantly affect farmers. As the rule is currently proposed, the mandatory reductions in water use by as much as 75% over 15 years, may not affect many farmers - but the possibility does exist. Rather than prescribing these reductions over large areas that cover several counties, we propose that the state narrow the scope of these reduction zones to the parts of the aquifer that are actually showing an adverse affect. If data show that the water level is static or increasing in a particular area, there is no reason to subject them to these drastic reductions. Similarly, the scope of the entire proposed capacity use area could be redefined to focus on the most problematic parts of the identified counties.

The rule also requires well intakes to be no lower than the top of the uppermost confined aquifer. This requirement would essentially serve as a defacto prohibition on water use in areas where the water level has fallen below the top of the aquifer already, unless costly well modifications occur or unless alternate water supplies are captured. Farmers can't afford to seek and capture alternate water supplies. This requirement could be extremely costly and is simply not necessary.

Lastly, this rule must not stifle agricultural opportunities in the future. Some farmers will be able to explore alternative water supplies. But, this will not be possible in all cases. Those with the least ability to seek and use alternate sources of water must not be further penalized beyond what nature and the agricultural economy has done to them already.

Knowledge of this water supply problem should have been discussed with the stakeholders several years ago. Had we all known about this problem much sooner and been given a chance to voluntarily address it, we probably would not need to be here today testifying on this proposed rule. But, instead we are confronted with another regulatory program. Some progress has been made, but with a few additional revisions to the rule, which we will discuss further in our ^{written} testimony, the

Environmental Management Commission can produce a fair and reasonable tool that the State can administer and that will protect ground water resources for future use.

Hearing Officer: Ryan Turner

Todd Bollick followed by Paul Busick.

[Verbal comments by Todd Bollick, Town of Bethel follow]

My name is Todd Bollick and I am from the Town of Bethel which is in northern Pitt County. Our town is a member of the Central Coastal Plain Capacity Use Area Association. In the session this afternoon our Chairman, Richard Hicks gave a presentation, we agree with and fully support his comments. We would like to add our little bit.

Bethel, like everybody else here, agrees that we do have a problem with water withdrawal from the Cretaceous aquifers and we do need to work to resolve it. We also feel that the rule that is proposed now is a starting point and not a finished solution. The things that we would like to see included are: we would like to see the proposed cost addressed as it appears in the rule. It appears to be grossly underestimated. The cost to communities and water users is going to be far greater than what it shows. Our community for one, I don't know if we can afford it. It is nice to conserve water as it is all natural resources, but we need to conserve the communities that use this water. To conserve the water and not have anybody left to use it, that is going to defeat it.

Thank you.

Hearing Officer: Ryan Turner

Paul Busick followed by Tony Ballance.

[Written copy of verbal comments by Admiral Paul Busick, President, North Carolina Global Transpark Authority follow]

*Comments by Admiral Paul E. Busick
President & Executive Director, N.C. Global TransPark Authority
Public Hearing on Proposed Capacity Use Rule
GTP Education & Training Center, August 8, 2000*

MY NAME IS PAUL BUSICK, AND I AM THE PRESIDENT AND EXECUTIVE DIRECTOR OF THE NORTH CAROLINA GLOBAL TRANSPARK AUTHORITY.

BEFORE PROCEEDING, I WOULD LIKE TO WELCOME THE DIVISION OF WATER RESOURCES AND EACH OF YOU TO THE GTP TODAY. WE ARE PROUD OF THE REGIONAL ROLE THIS NEW EDUCATION AND TRAINING CENTER CAN PLAY IN SITUATIONS LIKE THIS – JUST AS WE ARE PROUD OF THE INSTRUCTION THAT WILL TAKE PLACE HERE... AND JUST AS WE ARE PROUD OF THE OTHER DEVELOPMENTS TAKING PLACE ELSEWHERE ON OUR SITE.

I CERTAINLY WISH TO THANK JOHN MORRIS, HIS STAFF AND THE OTHER PEOPLE WHO HAVE WORKED MANY HOURS TO DEVELOP THE PROPOSED RULE UPON WHICH WE ARE COMMENTING TODAY. THE GTP AUTHORITY WAS REPRESENTED ON THE STAKEHOLDERS' GROUP THAT WAS CONSULTED DURING THE DRAFTING PROCESS. WHILE COMPLETE CONSENSUS IS YET TO BE REACHED, THE PROCESS OF INVOLVEMENT THAT YOU HAVE INITIATED HOLDS THE BEST OPPORTUNITY FOR REACHING A SOLUTION THAT WORKS FOR ALL INVOLVED.

THIS IS AN IMPORTANT PUBLIC POLICY ISSUE – AMONG THE MOST IMPORTANT OF THOSE FACING US AS WE PLAN FOR THE FUTURE.

AND IT IS CLEAR THAT THE DIVISION OF WATER RESOURCES IS FACING THREE CHALLENGING TASKS.

THE FIRST OF THESE TASKS INVOLVES THE PROTECTION OF THE AQUIFERS IN EASTERN NORTH CAROLINA. CERTAINLY, NONE OF US WISHES TO CONTEMPLATE LIFE IN THIS REGION IF PERMANENT DAMAGE IS DONE TO THOSE VALUABLE RESOURCES.

THE SECOND TASK INVOLVES DEVELOPING REGIONAL OR BASIN-WIDE ALTERNATIVE WATER SOURCES AS WITHDRAWALS FROM THE AQUIFERS ARE REDUCED.

THE THIRD TASK INVOLVES DEVELOPING PRACTICAL APPROACHES TO WATER CONSERVATION AND TO IMPLEMENTING WATER RE-USE FOR APPLICATIONS SUCH AS IRRIGATION AND FIRE PROTECTION.

CHANGES IN THE PROGRAM AND ATMOSPHERE SURROUNDING TOBACCO HAVE JERKED THE RUG FROM UNDER EASTERN NORTH CAROLINA'S TRADITIONAL SOURCE OF INCOME...AND THE REGION IS STILL REELING FROM THE

TRIPLE WHAMMY OF TWO HURRICANES AND MASSIVE FLOODING LAST YEAR. IT CAN ILL AFFORD ANOTHER SETBACK.

CLEARLY, NEITHER THE WATER SUPPLY FOR THE REGION NOR ITS ECONOMIC WELL BEING CAN BE DEALT WITH AS SEPARATE ISSUES.

I JOIN THE OTHER SPEAKERS I'VE HEARD TODAY IN SAYING THAT WE ARE SUPPORTIVE OF THE OBJECTIVES OF THE PROPOSED CAPACITY USE RULE.

THE GTP IS A BIG, LONG-TERM ECONOMIC DEVELOPMENT PROJECT BEING BUILT IN A AREA THAT BADLY NEEDS MORE ECONOMIC OPPORTUNITY. WE REALIZE THAT THE PROJECT AND THE SURROUNDING REGION MUST BE DEVELOPED IN A RESPONSIBLE, SUSTAINABLE MANNER.

HOWEVER, I ALSO JOIN OTHERS WHO SPOKE TODAY IN SAYING THAT THE DEVELOPMENT OF ALTERNATIVE WATER RESOURCES MUST GO HAND-IN-HAND WITH THE ADOPTION AND IMPLEMENTATION OF RULES RESTRICTING THE USE OF WATER FROM THE CRETACEOUS AQUIFERS. OVERALL, WE NEED TO GROW THE REGION... AND HAVING AN ADEQUATE SUPPLY OF WATER WILL BE CRUCIAL TO OUR HOPES FOR SUCCESS.

BALANCING THE PROTECTION OF OUR NATURAL RESOURCES WITH THE NEED TO STIMULATE GROWTH IS NEVER EASY, BUT IN THIS CASE, IT'S PARTICULARLY COMPLEX. AND THAT MAKES IT CRITICALLY IMPORTANT THAT THE STATE'S WATER RESOURCE AGENCY PLAY THE LEAD ROLE IN ~~BOTH~~ ^{ALL} ASPECTS OF THE CHALLENGE.

AND THE STATE WILL ALSO NEED TO PROVIDE LEADERSHIP WHEN IT COMES TO FINDING PRACTICAL MEANS FOR HELPING LOCAL GOVERNMENTS ADDRESS THE COSTS OF DEVELOPING ALTERNATIVE WATER SOURCES.

FURTHERMORE, AS LONG TERM SOLUTIONS ARE DEVELOPED, ACHIEVING SUCCESS WILL NOT REST SOLELY WITH THE IMMEDIATELY AFFECTED AREA, BUT WITH ALL THE UPSTREAM AND DOWNSTREAM POPULACE AS WELL.

FINALLY, I WISH TO NOTE THAT THE GLOBAL TRANSPARK CAREFULLY STUDIED WATER SUPPLY ISSUES DURING THE PROJECT'S PLANNING AND ENVIRONMENTAL PHASES. AND WE HAVE ALWAYS BEEN COMMITTED TO DEVELOPING THIS PROJECT IN A FASHION THAT IS "WATER SMART."

WE ARE ANXIOUS TO WORK WITH PLANNERS, REGULATORS, INDUSTRIES, ACADEMIC EXPERTS AND ENVIRONMENTAL GROUPS TO EXPLORE WAYS THAT THE GTP CAN PLAY A ROLE IN LEADING THE WAY TOWARDS A BETTER FUTURE FOR

EASTERN NORTH CAROLINA. WE CAN – AND WILL – DO SO BY SERVING AS AN EXAMPLE OF THE BEST WATER MANAGEMENT POLICIES AND PRACTICES. BUT WE ARE MINDFUL THAT THE “RIGHT” SOLUTIONS WILL BE THOSE THAT ENCOMPASS A REGIONAL AND STATEWIDE APPROACH, AND WE WILL WORK WITH YOU TOWARDS THOSE ENDS.

I THANK YOU FOR THIS OPPORTUNITY TO COMMENT. THE GTP AUTHORITY WILL PROVIDE ADDITIONAL COMMENTS FOR THE RECORD, AND I LOOK FORWARD TO CONTINUING TO WORK COOPERATIVELY TO FIND ANSWERS TO THE WATER SUPPLY CHALLENGES FACING NORTH CAROLINA. AGAIN, I WANT TO WELCOME YOU TO THE GTP.

Hearing Officer: Ryan Turner

Tony Ballance followed by Brent Turner.

[Written copy of verbal comments by **Tony Ballance**, Balance Farms, Inc follow]

Tony Ballance
Ballance Farms Inc
1362 Black Creek Rd.
Fremont, NC 27830

Nat Wilson
Division of Water Resources
DENR
1611 Mail Service Center
Raleigh, NC 27699-1611

August 8, 2000

Dear Mr. Wilson

Let me begin by stating that I commend the EMC for taking action to protect our ground water supplies, through a capacity use initiative. Good planning as was implemented in the Castle Hayne Aquifer is essential to maintaining a water source for the future. As a farmer I am very much in agreement that these aquifers need to be maintained so that rural communities without access to suitable surface water sources will be insured of an abundant supply of drinking water for the future.

However, is it really necessary to start out this planning for the future with a broadly scoped and mandatory rule that not only targets problem areas such as municipalities and industry, but Agriculture, which you as a group have indicated that you believe is not a problem? Could a voluntary initiative directed at the smaller group of consistently large volume water users achieve the same ends without such a broad and ultimately expensive rule?

If you feel that voluntary measures are not sufficient, then the rules focus and intent should be tightly focused on the problem areas first. Agricultural water users have not been identified as a problem. Therefore, I cannot see the justification, which as the rule is written now, would require farmers to install flow measuring devices on wells, much less irrigation systems (which are predominately surface water pumps), when adequate information can be based on NCDA and USDA statistics.

In closing, the rule must not inhibit the potential for agricultural growth in Eastern NC, or place unneeded financial burdens upon farmers who's livelihood depends on an abundant, and local water source.

Sincerely

Tony Ballance

Hearing Officer: Ryan Turner

Brent Turner followed by Landis Davis.

[Verbal comments by Brent Turner, Guilford Mills, Inc follow]

My name is Brent Turner. I am the Director of Engineering for the Automotive Business Unit of Guilford Mills. I thank you for the opportunity of letting me come and speak today.

We represent an industry and I wanted to read a statement that says Guilford Mills believes that ground water resources in the coastal plain are very valuable and they need to be protected. We do believe that sustainable use of ground water resources is a worthy goal. We also believe that continued economic growth and development in the coastal plain is a worthy goal. It is a belief at Guilford Mills that the proposed rules of this community do not adequately address manufacturing facilities in the affected area. We believe the proposed rules will add a burden to growing companies in the area while allowing businesses that are not providing economic growth to shoulder less of the load in this conservation effort. We do feel that the water usage can be reduced even while a company is growing. This could be done through improvements in processes as well as other conservation techniques. Guilford Mills recommends that the definition for approved base rate in Section .0507(1) of the proposed rule change be changed as follows: the definition of approved base rate should contain a provision that allows facilities to use a production unit base rate versus a total volume rate. For example, the industrial facility could choose to have an approved base rate set on X numbers of gallons per pound of production for the time periods listed in the proposed rule. This base rate would be used in other sections of the rule to determine required water and efficiency improvements. The advantages of this are discussed below: as proposed in the rule currently it potentially limits the growth of certain industries and facilities in the affected areas. The proposed rule requires phased annual water reduction based on an approved base rate. The approved base rate does not take into account production levels of industrial facilities, companies that are growing and creating additional economic opportunities in the area are penalized with that growth compared to a company that is not growing and not creating the additional economic opportunities. As a result a growing company may choose to locate additional production capacity at facilities outside the area. On the other hand the company may be faced to remove its manufacturing capabilities in the area. We believe that the production base rate in a subsequent annual water usage efficiency improvement requirements will be a more equitable way of providing a sustainable use of ground water to the area. In this way growing companies would be assured that the burden of reducing water use and increasing water use efficiency would be shared by other industries and entities in the area. In addition it would not provide incentives for companies to move production and jobs out of the area in order to meet annual water reduction requirements. All facilities would be encouraged to improve the matter of efficiency starting at the 1st phase of the

program. One of the components that I wanted to add that Mr. Wilson said and I wrote down, it says that ensured efficient use of water and we don't see how not addressing growing companies can do that. We feel that we can grow and be better at reducing our water consumption but it's not fair to reduce our growth and where a company that cuts its manufacturing to half and moves it out of the area will benefit because they will be divided by the rules that you have set forth. We feel by doing a base rate on manufacturing production by unit, by pound, by yard, by some measurement means needs to be addressed to these rules that way the growing industries will have an incentive to stay and just become better water users.

I appreciate the time.
Thank you.

Hearing Officer: Ryan Turner

Landis Davis followed by Jean Hood.

[Written copy of verbal comments by Landis Davis, Belfast-Patetown Sanitary District, Wayne County follow]

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

Good evening. My name is Landis Davis. I am a board member of Belfast-Patetown Sanitary District in Wayne County. I am here tonight to make comments on the proposed Capacity Use Rule.

I understand the aquifers from which many of us in the Coastal Plain receive our drinking water are currently being over used. The extent of the over use appears to be a question.

Our Board is concerned about the necessity to implement rules prior to having a thorough, clear understanding of the extent of the problem. An initial information gathering phase could provide an improved basis from which future rules could be developed. Rules that restrict the use of our groundwater could have serious adverse economic consequences. In view of the numerous challenges we already face from existing debts, past Hurricanes, the failing rural economy, and anticipated future regulatory requirements it is absolutely essential we not be further impacted by rules which have been prepared to address a problem that is not well understood.

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We cannot afford a rule that puts any additional burden on this area. We must address the problem, but we must be sure we address only the problem and not create any unnecessary hardships. A better understanding of the problem would lead to a better rule.

Thank you for the opportunity to comment.


Landis Davis, Chairman
Belfast-Patetown Sanitary District

Hearing Officer: Ryan Turner

Jean Hood followed by Jerry Bean.

[Written copy of verbal comments by **Jean Hood**, Chairman, Southwestern Wayne Sanitary District follow]

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

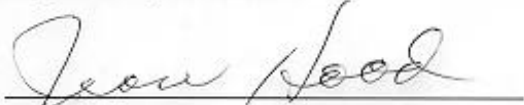
Good evening. My name is Jean Hood and I'm here to speak on behalf of Southwestern Wayne Sanitary District. I appreciate the opportunity to comment tonight concerning the proposed Capacity Use Rule and the effects it will have on our region.

Wells serving Southwestern Wayne Sanitary District have not experienced the declining water levels typical of other areas in the Central Coastal Plain, yet the proposed Capacity Use Rules propose to limit withdrawals in Southwestern Wayne Sanitary District to an "approved base rate." I question whether the State has data that justifies limiting withdrawals in Southwestern Wayne Sanitary District to an "approved base rate."

The proposed rule must address and reverse significant adverse impacts. The proposed rule should not over regulate withdrawals where significant adverse impacts are not apparent. The costs of addressing adverse impacts, although necessary, will be huge. This makes it even more important that the rule not require unnecessary expenditures where groundwater resources are sustainable. It is not logical to require alternative water sources to replace groundwater withdrawals where groundwater withdrawals are adequate and not showing significant signs of adverse impacts.

The proposed rules should be modified to allow the continued use and further development of groundwater resources in areas beyond the various zones illustrated as being adversely impacted.

Thank you for the opportunity to comment.



Jean Hood, Chairman
Southwestern Wayne Sanitary District

Hearing Officer: Ryan Turner

Jerry Bean followed by Dr. Richard Spruill.

[Written copy of verbal comments by **Jerry Bean**, Eastern Wayne Sanitary District follow]

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

My name is Jerry Bean and I am here tonight on behalf of Eastern Wayne Sanitary District.

It amazes me to read we are facing a water shortage. There is enough potential drinking water being wasted from mining activities in eastern North Carolina every day to more than meet the needs of every public water system in the proposed Capacity Use Area with lots left over. I've heard and read in the newspaper a private company has negotiated a deal with these mining companies to sell the water in anticipation of a captive market courtesy of the proposed Capacity Use Rules. We must protect our drinking water supplies. We must stop the over use of certain aquifers. We do not; however, need to pay a private company for access to what should be the public's water ~~necessary to be~~ ^{WHICH IS BEING} removed from the ground to accommodate mining.

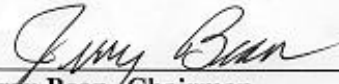
The proposed rules should require mining companies to accomplish dewatering in a manner consistent with re-use by public water systems at no charge to public water systems.

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Thank you for the opportunity to speak.



Jerry Bean, Chairman
Eastern Wayne Sanitary District

Hearing Officer: Ryan Turner

Dr. Richard Spruill followed by David Pittman.

[Verbal comments by Richard Spruill, East Carolina University follow]

Mr. Green, Mr. Turner, I appreciate this opportunity to speak to you. In the late 1970's a great citizen of Lenoir County here named Ralph Heath published a book in which he pointed out water resources in the Central Coastal Plain were already declining. The declines were the result of serious overdraft of the aquifer systems and we needed to take action with respect to these problems of decline as early as the late 1970's. I had the great honor and privilege of sitting in his hydrology class and actually passing it at North Carolina State in 1985, in which he gave a lecture giving in great detail the situation here in the Central Coastal Plain involving decline of a Cretaceous Aquifer System. Ralph retired soon after and the work continued at the US Geological Survey along with the work at the Division of Water Resources and a few scientists out here in the real world working on the effects of pumping and overpumping on our aquifer system and the feasibility of continuing development of the aquifers and the conclusion reached by all these scientists and regulatory agencies and as first put forward by Ralph Heath is a simple one, that is that since at least the 1960's water levels are declining at precipitous rates throughout the central coastal plain. They are declining for one simple reason, and that is, we are taking more water out of them than is reaching these deep, high quality aquifers. That's a significant problem and it is a problem that we have a good handle on. We know where the problems are, we know where the problem areas are. We also think we know what some of the solutions are and I will come back to that in a second.

I worked hard on the rule for the last 10 or 15 years just trying to get people to think about a rule and serve as a scientific advisor to the stakeholders group. It was a really

interesting group of people, I think all dedicated to coming up with a solution to this problem. I think the rule that is before you will effectively do a series of things. First, I think it will curtail the overdraft of the aquifers in a stepwise, time fashion aimed at what I call the safe yield of the aquifer system. I think the safe yield of the cretaceous aquifer system in the central coastal plain maybe about a fourth of the withdrawal rate currently being taken from the aquifer. I think we can curtail that overdraft in a step wise fashion with this rule. I think the rule effectively protects these vital resources in a sustainable way then and will allow us to develop the maximum amount of groundwater from these aquifers for continued growth and development of the coastal plain. I think this rule will allow effective protection which will include the mitigation or at least slowing of the rates of salt water migration towards some of our vital well fields throughout the central coastal plain, both by lateral salt water encroachment and by salt water moving upwards beneath some of our pumping centers. I think that the capacity use area rule as proposed will effectively help to reduce land subsidence. I hear a lot about the economic woes with Floyd, and my house went under with Floyd, I would like for you to think about this, if land is subsiding throughout the coastal plain in response to withdrawal of water from our aquifers can we imagine one foot of land subsidence. If you are in Greenville, the difference between a 100 year flood plain and a 500 year flood plain with respect to elevations is 5 feet, if we loose an additional foot of land surface caused by overpumping of our aquifer system just think what Floyd will do to us then. I think the rule will effectively foster research and add a research component to the development of our aquifer in the coastal plain. What we have is development, development, development. The research has come from the regulatory agencies and some scientists. Lets add a research component, but let's add something in the rule that says that the Division of Water Resources will effectively deal with the research provided by the users of this resource out here in the real world and perhaps that is missing in some places in the rule now. I think the rule, finally, effectively will force us to look at alternative sources of water.

I want to say that there are solutions to the problems out there. We can use water over again, we can utilize other aquifers, we can store water underground, we can use surface water in conjunction with our ground water. I believe that the rule is necessary to protect our vital ground water and fresh ground water resources. The rule is based on enough scientific data. We know where the problem is, we have known since the 70's where the problem areas are, we know effectively where those areas are. It's time for us to start taking some action. What I hear from our interaction with all the people out here in the real world are concerns that mainly center around cost. I am convinced that we have not really looked at cost very well. It will, let's all remember this, cost us to develop our

water resources in the future because our demands are increasing. There is going to be a certain cost for developing water resources. I am not sure that we really have a handle on how much more it will cost us to develop those water resources to meet our needs in the future in the face of the rule. I think it will be more. What I point out that we are not in a crisis situation yet, we don't have a crisis in the coastal plain, we are trying to prevent a crisis. I am convinced that the cost of dealing with this situation now will be significantly less than the cost of dealing with this situation when the crisis occurs down the road.

Finally, I would like to point out that over the last couple of years, I have developed great confidence in the scientific staff of the Division of Water Resources. I think that they can effectively administer a good rule and I think they produced a good rule for us. Our tasks should be to work together to make this good rule an excellent rule.

Thank you.

Hearing Officer: Ryan Turner

David Pittman followed by Sondra Riggs.

[Written copy of verbal comments by David Pittman, Northwestern Wayne Sanitary District follow]

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

I appreciate the opportunity to speak tonight regarding the proposed Capacity Use Rule. My name is David Pittman and I am a board member of Northwestern Wayne Sanitary District. Our Board is very concerned about ensuring that we preserve our water supply as a valuable resource for future generations.

We are being told declining water levels in the Central Coastal Plain are a major problem. Yet we must have good clean, safe drinking water in order to live here. The issues being discussed here tonight are complex and the pathways to solutions unclear and subject to argument.

One thing is clear. The groundwater provided by our deeper aquifers is of excellent quality courtesy of a treatment process provided by Mother Nature that has involved elaborate chemical and physical processes requiring hundreds and thousands of years. What we use in a matter of seconds or minutes and discard without second thought is not easily duplicated or replaced.

✓ The water from our deeper aquifers has won National Awards for its quality and taste. This water is special. It is too special to be used to irrigate lawns. It is too special to wash down floors at animal houses or driveways. It is too special to be assigned a value based solely on its pumping costs by industry, agriculture or public water systems. Its best use is for drinking

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water purposes. It merits being priced based on its highest use. That value appears to be approximately 0.89 cents per liter at the local convenience store. Public water systems often provide 1,000 gallons of water for a similar price.

All of us require and deserve safe drinking water. An ample supply should be available to each of us regardless of income. After all, safe drinking water is essential to support life. An ample quantity should and must be available at a low cost, affordable by all.

The random use of water over and above the quantity necessary to support basic essential activities represents a waste and abuse of our resource. The proposed Capacity Use Rule requires local governments to discontinue declining water rates for higher consumption and implement flat rates or increasing rates. The proposed rule does not go far enough in this direction. The use of water over and above the quantity necessary for essential activities **SHOULD BE PRICED TO REFLECT ITS HIGHEST USE - DRINKING WATER**. This price is currently \$1.00 per gallon - **NOT** \$1.00 per one thousand gallons. Said in another way, rate structures must be modified to economically prohibit irrigation and the random use of water.

One more comment is appropriate. If the public water systems price water to prevent irrigation, those electing to continue irrigation will likely construct private wells. Local ordinances must require irrigation wells be located within the surficial zone and not be allowed in these deeper aquifers used by our public water systems. Little will be accomplished if local

regulations fail to restrict new well construction in the deeper aquifers. The deeper aquifers must be regulated and protected as the source of water for our public water systems.

Thank you for listening.

David Pittman
Northwestern Wayne Sanitary District

Hearing Officer: Ryan Turner

Sondra Riggs followed by Arthur Kennedy.

[Verbal comments by Sondra Ipock Riggs, Jones County Commissioner follow]

Hi I am Sondra Ipock Riggs. I am a Jones County Commissioner and I am here representing Jones County. My other group was here this afternoon. I just would like to thank John. We asked him to do this 4 or 5 years ago when we heard of the decrease in the water because it really upset me, my family, my grandchildren and everyone else.

As you know the rules and regulations that Water Quality and DENR and everybody else have passed in the last 4 or 5 years, I have been opposed to 80% of it because the majority of them, me as a retired farmer and I am just not a woman that just cooks, I would drive combines and everything else like the rest of you men, but some of these rules and regulations you know were unnecessary. Now let me tell you what my theory is on this, it is the same thing as with digging up the gas tanks, they out to put the little man out of business. This is going to put the little farmers out of business and anybody else that has got a small water supply and I tell you why. I have already been contacted, I better not say the name because I don't have it on tape, it starts with an "E," has contacted us for them to come to our county and sell water. Let me tell you something this sister will never vote to buy water as much water as we are sitting on in Jones County and as the gentleman said here today, we probably have got the biggest Castle Hayne water under Jones County than anywhere in any of the other 15 counties. When I was

chairman of the Neuse River Council, John Bayer and all these people that are on the board in the back that's with me, I urged the 11 counties to join the 15 counties for all of us to hook up county line to line, I urged John and them to submit this to other counties. Let me tell you my reason for this, anybody can come into your county and put a well there and there is nothing you can do about it and they will be coming. I know all of you have heard the Neuse River on 20/20 and everything else, well I was raised on the Neuse River and most of all that is a pile of junk. I went down there swimming Sunday, there is nothing wrong with me today. We fish down there about every 3 days, but we won't get into that. What I want to tell you is another, I do not believe that the water is getting short, I do not doubt Mr. Spruill but let me tell you what our state governments fail to do, thank God he'll be getting out pretty soon, it will probably even get worse. What we need to do is implement the money to study this to give it to the towns, I've got a \$3 million grant that I can't do a darn thing with except to fix the Black Creek. We all know the Black Creek is going dry, but I still have to put wells on it and the state doesn't have sense enough to tell me to put it on the Castle Hayne. I have got to go by the same rules. You see what I am telling you and I am not the smartest person in this room, not the smartest person in the world, but I'm not the dumbest either and I have been around a long time in these politics, 38 years, and believe me there is a money making deal behind this. I have already seen it. I was in Goldsboro last Friday the 1st thing I was approached with was to start buying from this company that wanted to buy out of Aurora but don't fall for that children. There are other ways to go. Who in the devil wants to pump it from the mountains and go on the coast and pump it back, that's sick.

Thank you.

Hearing Officer: Ryan Turner

Arthur Kennedy followed by Steve Hines.

[Written copy of verbal comments by Arthur Kennedy, President, The Wooten Company follow]



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DIVISION OF
WATER RESOURCES

August 8, 2000

Mr. John Morris, Director
Division of Water Resources
NCENR
Archdale Building
Raleigh, NC 27605

Dr. David Moreau, Chairman
Groundwater Committee
Environmental Management Commission
DPT UNC-CH, CB 3140
Chapel Hill, NC 27599

RE: Central Coastal Plain Capacity Use Area Rule

Gentlemen:

The purpose of my letter is to provide support to the Division of Water Resources as it endeavors to protect the groundwater resources of eastern North Carolina. In particular, we support and endorse the proposed Central Coastal Plain Capacity Use Area Rule.

I am a native of Lenoir County and a professional engineer by training and practice. My firm has been involved in numerous water supply projects in eastern North Carolina over the past 60 years. I have personally been involved in a number of these projects during my 30-year tenure at The Wooten Company.

Being familiar with the local area, I know the pride that "home folks" take in their pure artesian well water. And, I can't imagine them not wanting to take all reasonable measures to protect, preserve, and extend the life of this valuable resource that we call the cretaceous aquifer.

While I normally think of the groundwater being used only for drinking water (residential) purposes, we, of course, need the water for commerce and industry. For all of these users we need about 8.5 to 9.0 million gallons per day in Lenoir County. In addition, the farming community utilizes this resource during the crop-growing season, but I must frankly admit I have no reasonable estimate of the volume used for farming operations.

Having been involved in numerous water supply projects over the years, the engineering community has not been oblivious to the declining water level. Because of this abundant supply, we were perhaps hoping to reach a level of equilibrium in the declining water level and thereby hoping that no protective measures were necessary. However, that has not proven to be the case as water levels continue to decline.

In the face of this declining supply, efforts have been made to quantify the rate at which groundwater is being recharged or replenished. Within the past year, well-recognized and respected hydro-geologists have estimated the recharge rate in the range of 2.0 million gallons per day for all of Lenoir County. Therefore, it is not unreasonable that the proposed Capacity Use Area Rule should require the most severely impacted areas in the Central Coastal Plain to reduce their withdrawal by 75 percent over the next 15 years. Some may say the rule swings the pendulum too far; that there is insufficient evidence to warrant such drastic action. Certainly there may be detractors trying to circumvent or otherwise evade the rule. But it is clear; some regulatory action is necessary to achieve the goal that we haven't been able or willing to achieve on our own.

Mr. John Morris and Dr. David Moreau
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Rather than try to engage in an analysis of the proposed rule, I would prefer to offer several recommendations on how to either modify the rule prior to adoption or manage the rule after adoption.

1. Provide sufficient flexibility in the rule in order to allow relief in well-documented cases where the recharge rate is greater than withdrawal.
2. Ensure that reports are made available to the public on both public and private initiatives being made to reverse the current trend.
3. Increase the frequency and scope of monitoring, if necessary, in order to better monitor groundwater conditions in the future, not only to detect those areas where the trend is being reversed, but also to identify those areas where further reductions in withdrawal need to be implemented.
4. Be prepared to amend the current rule and modify the current boundaries as subsequent data analysis may dictate.
5. Determine if the hydro-geological characteristics are different for the several aquifers and utilize this data to allocate usage according to user class and quantity and quality required.
6. To the maximum extent possible, we ask the State regulators to be objective and show no favoritism among users—public and private—in managing this valuable resource.
7. Finally, as this rule is essentially an unfunded mandate, we strongly recommend that future projects which are developed to specifically address this proposed rule, be given appropriate priority points in the awarding of grants under the Clean Water Bond Grant program.

From a very personal point of view, I must admit my naïveté on this matter as a practicing engineer in the mid-1970s. I can remember the Division of Water Resources making a plea in the early 80s for local governments to monitor their well withdrawals and report draw down levels to the State. We dutifully continued to monitor data and watch the water levels decline, but we have not acted on this information.


Gentlemen, there is a legitimate water supply problem in the Central Coastal Plain. The proposed Capacity Use Area Rule is a valid attempt to require us all to work jointly to protect, preserve, and even restore this valuable resource. The economy of eastern North Carolina, and any region of that matter, is dependent upon a reliable resource of water supply. We must take these initial steps to put ourselves on the road to recovery and restoration.

By endorsing the proposed Capacity Use Area Rule, we also making the simple petition that the State be fair and equitable in its interpretation, management, and implementation of the rule.

We appreciate the opportunity to offer these comments during this rule making process. Please keep us apprised of the success we expect this rule to have.

Sincerely,

THE WOOTEN COMPANY


Arthur L. Kennedy, PE
President

ALK:sc

Hearing Officer: Ryan Turner

Steve Hines followed by Ed Andrews.

[Verbal comments by Steve Hines, Eastern Carolina Council follow]

Mr. Speaker, Ladies and Gentlemen. I am not a professional engineer, I am not a hydrologist. I represent the nine member counties of the Eastern Carolina Council. Many of you may not know me at this time because I have just recently come aboard. I am a native of Onslow County and so therefore I have grown up and lived in one of the counties that is under consideration.

The counties that I represent in the Eastern Carolina Council are: Onslow, Duplin, Carteret, Jones, Craven, Pamlico, Lenoir, Greene and Wayne. All of these counties are located within the proposed CCPCUA. Much has been said this evening and earlier today about the potential negative impact upon these 15 counties in this proposed CCPCUA. It can not be understated that should these proposals as currently presented be enacted, it will not lead to the ultimate goal of assisting these counties in the CCPCUA, it will put restrictions at this point and time on our communities that many are ill-prepared nor capable to overcome at this time. The continuing process of redevelopment from Hurricane Floyd as well as the mass reduction in tobacco crop production, affecting all of the 15 counties, by the way, in some way shape or form, require that what additional resources are available in an area be targeted to a great extent toward the successful emergence from these economic challenges. I have heard many of the speakers today remark that our communities are aware that there is a problem as well as other comments evidencing that several of our communities are actively moving toward the development of alternative water resources. It is apparent that within the proposed CCPCUA there is now an overall awareness that there is a problem. Time is of the essence but it is time coupled with financial resources to develop alternatives that is needed. The communities of the proposed CCPCUA are similar yet they all face diverse challenges. Likewise it would be very difficult to say the least to lump all of our counties and municipalities into the same basket, each community needs and deserves the time necessary to develop, obtain financing and implement their plans for alternative water resources in their respective communities. In some of our communities water alternatives are more accessible than others. We must pledge our joint resources in enabling all our communities to develop these resources while remaining cognizant to the needs of our communities that are plagued by low wealth and low tax-based economies. Certainly water is at the very essence of our ability to have quality economic development not only in the proposed CCPCUA but throughout eastern North Carolina. I urge you to delay implementation of the proposed rules until further input can be obtained by these proposed affected communities. Rules on paper Mr. Speaker have a real impact on

people, we must ensure that the rules assist and not hurt our citizens as we move forward into the future.

Thank you.

Hearing Officer: Ryan Turner

Ed Andrews

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

Commissioner, Director. I want to thank you again for the opportunity. I made 4 points earlier this afternoon but I am not going to reiterate. One was priority, specificity, appeal process, and privacy were the 4 issues I talked about.

Now I want to talk about a specific section, get down to some nuts and bolts, as the commission needs to do in these deliberations. .0506 CCPCUA Status Reports. I think there needs to be a provision for local and regional input in development of their own reports. If they find that conditions are better than anticipated in the development of these rates, in other words, there are no adverse impacts in a given aquifer system or aquifer, then they should have the right to possibly submit a report on their own and I suggest or propose that line item six, read basically that local government, industries or permitted water users can submit regional interim reports at any time identifying significant mitigation of adverse impacts for review by the director. Seven, a determination that adverse impacts have been mitigated shall be incorporated by the director to redefine the zone mapping or result in an alteration of the prescribed water use reduction where applicable.

Thank you.

Hearing Officer: Ryan Turner

Does anybody want to speak who did not sign up? The hearing record remains open until September 15, 2000 so you may submit written comments up until that date. Thank you for showing up this evening.