

Environmental Management Commission

Water Allocation Committee

Minutes

July 8, 2020

9:00 a.m.

On July 8, 2020 the Water Allocation Committee met virtually on WebEX.

WAC Members in Attendance:

John McAdams (WAC Chairman)
David Anderson (WAC Vice-Chair)
Pat Harris
Dr. Stan Meiburg (EMC Chairman)
JD Solomon
Dr. Donald van der Vaart
Steve Keen

Others Present:

Marion Deerhake
Philip Reynolds (Attorney General's office)

I. Preliminary Matters:

In accordance with North Carolina General Statute §138A-15, Chairman McAdams asked if any WAC member knew of a conflict of interest or the appearance of conflict with respect to items on the July 8, 2020 WAC agenda; none of the committee members identified a conflict. Chairman McAdams asked if there were any comments or corrections regarding the minutes from the January 8, 2020 meeting.

There were no comments or corrections for the meeting minutes. Chairman McAdams had a roll call vote and the committee unanimously approved the minutes from the previous January 8, 2020 meeting. Chairman McAdams asked if anyone would like to add to the agenda. There were no comments. Chairman McAdams turned the presentation over to Harold Brady, Presenter.

II. Information Items:

A. IBT Program Overview (Harold Brady, DWR)

Interbasin Transfer (IBT) Definition: The withdrawal of surface water from one river basin and discharge of all or any part of the water in a river basin different from the origin. The purpose of the Interbasin Transfer Law is to ensure it is good public policy to move water from one river basin into another.

§ 143-215.22L Regulation of surface water transfers.

(a) Certificate Required. - No person, without first obtaining a certificate from the Commission, may: Initiate a transfer of 2,000,000 gallons of water or more per day, calculated as a daily average of a calendar month and not to exceed 3,000,000 gallons per day in any one day, from one river basin to another.

Increase the amount of an existing transfer of water from one river basin to another by twenty-five percent (25%) or more above the average daily amount transferred during the year ending 1 July 1993 if the total transfer including the increase is 2,000,000 gallons or more per day.

Increase an existing transfer of water from one river basin to another above the amount approved by the Commission in a certificate issued under G.S. 162A-7 prior to 1 July 1993.

(n)(7) Except as provided in this subdivision, a provision that the applicant will not resell the water that would be transferred pursuant to the certificate to another public water system.

The amount of a transfer is determined by the amount of water moved from the source basin to the receiving basin, less the amount of water returned to the source basin and consumptive use in the source basin.

It's the withdrawal of surface water from one river basin to another basin. The purpose of the law is that is to have good public policy to move water from one river basin to another. What requires a certificate? It's based on a water user transferring 2 million gallons per day, at a daily average of calendar month, not to exceed a calendar month. The certificate does not allow the permittee to sell the transferred water.

There were two examples shown to illustrate an IBT. He noted the amount is determined by the amount of water removed from the source basin and not returned to the source basin- the net transfer of water, not the gross.

Mr. Brady went on to point out that this was from 1991, and the IBT map does not match up with the conventional river basin map. How do the IBT boundaries match up to the HUC boundaries? The presenter went on to show a map of how the IBT boundaries line up to the HUC boundaries. He noted the major differences were in the Piedmont and coastal regions.

Over 130 public water systems have surface water transfers. 80% are under 1 million gallons per day (MGD). Nine IBT Certificates have been issued. There is a "Grandfathered allowance" for systems that were transferring over 2 MGD prior to July 1993. There are a handful of water systems transferring between 1-2 MGD. There are currently 9 transfers related to IBT certificates: Piedmont Triad Regional Water Authority; Charlotte Water; Cities of Concord and Kannapolis; Greenville Utilities Commission (also with the Towns of Farmville, Winterville, and Green Co.); Brunswick County; Towns of Cary and Apex; Kerr Lake Regional Water System; Pender County Utilities and Towns of Burgaw, Topsail Beach, Surf City, and Wallace and Utilities, Inc.; and Union County and the Town of Wingate.

There have been major changes to IBT law since 1991. Significant changes include IBT basin definitions established in 1991 (N.C.G.S. §143-215.22G), IBT Law established in 1993 (N.C.G.S. §143-215.22I) to require a certificate for transfers over 2 MGD, allowing DEQ to grant approval for emergency transfers and assess civil penalties if systems fail to apply for a certificate. An amendment to the IBT law in 1998 (N.C.G.S. §143-215.22I) required transfers to not violate anti-degradation policy, preparation of an environmental document for any petition, and required inclusion of a drought management plan. The major amendment to IBT law in 2007 (N.C.G.S. §143-215.22L) stated a certificate holder may not resell water transferred under an IBT certificate unless the other system is listed on the IBT certificate is held to the same requirements as the certificate holder. The 2007 revisions also required the inclusion of a water conservation plan that is the most stringent in the source basin. Another amendment to IBT law in 2013 (SL 2013-388) required the amount of water transferred under an IBT certificate to be calculated as the average day of a calendar month instead of maximum day withdrawals, detailed the process to follow for a modification of an existing IBT certificate, and established an expedited process for requesting an IBT certificate for applicants in Central Coastal Plain Capacity Use Area (CCPCUA) and coastal counties.

The IBT Process has three phases. In phase I the applicant submits a Notice of Intent (NOI) to file a petition. The 30-day notice of public meetings leads to 3+ public meetings held within 90 days of filing the NOI, and public comments are accepted for 30 days after the meeting. Phase II of this process includes the applicant submitting a draft environmental document (EIS or EA). Following review of the draft environmental document by DEQ staff, there is a 30-day notice for a public hearing, then the public hearing takes place with comments accepted for 30 days after the hearing. Written response to comments is prepared and the adequacy of the environmental document is determined (DEQ issues a ROD for an EIS and a FONSI for an EA). Finally, in Phase III the applicant submits a petition for an IBT certificate to the EMC. During this phase there are settlement discussions if requested. The EMC issues a Draft Determination within 90 days of receiving the petition and the adequacy determination of the environmental document. The public notice of the EMC's draft determination and 30-day notice for public hearings is provided, and there are 2+ public hearings held within 60 days of issuing the draft determination. Public comments are accepted for 30 days after last hearing and written response to comments is prepared along with a hearing officer's report. Finally, the EMC issues its final determination on whether to grant the certificate.

The EMC shall specifically consider:

1. The necessity, reasonableness, and proposed uses of water transferred.
2. Present and reasonably foreseeable detrimental effects on the source basin.
3. Cumulative effects on the source major river basin of any water transfer or consumptive water use currently authorized or projected in a Local Water Supply Plan.
4. Present and reasonably foreseeable beneficial and detrimental effects on the receiving basin.
5. The availability of reasonable alternatives to the proposed transfer.
6. Use of impoundment storage capacity, if applicable.
7. Purposes and water storage allocations in a US Army Corps of Engineers multipurpose reservoir.

8. Whether the service area of the applicant is located in both the source and receiving basin.
9. Any other facts or circumstances reasonably necessary.

Specific conditions required by statute: submittal of a Water Conservation Plan, Drought Management Plan, and Compliance and Monitoring Plan for Division approval. Also, submittal of Quarterly Monitoring Reports, ability of the EMC to reopen, amend, and modify the certificate, if necessary, and no selling of transferred water to water systems that are not co-applicants on the certificate. The EMC may impose additional conditions as necessary.

Questions and Discussion:

Mr. Solomon asked: How many river basins do we have, how many IBT basins? The presenter stated there are 18 river basins, 38 IBT basins, and the HUC units are unsure, but more than 38. Mr. Solomon then inquired about the discrepancy for why these boundaries don't match up due to a history of lawsuits. The presenter points out that there aren't "stark differences" but differences throughout the state nonetheless.

Dr. Meiburg asked: The legislature changed the boundaries, correct? The presenter answered yes, it would be an act of the general assembly. Mr. Solomon pointed out that it does come up on a regular basis that these boundaries are different. Mr. Solomon also inquired as to whether or not we have our notification list requirements "ironed out" due to issues with Union County IBT transfer notification.

Counsel Reynolds: We are looking at having the appropriate boundaries, not sure where we're at with regards to the PIO maintaining a specific list of all those [news]papers. However, the court "did side with us" about the Union County case but we can't leave anything to chance.

Mr. Solomon: We got lucky 3 times on that. It reminds me of that when I see these lines. Some public hearings are keyed off of gradient, down gradient and within the basin.

Mr. Keen: Go back to the previous slide to look at the lines for IBT. This question concerns both pictures: Looking at IBTs, some of the border lines are crossing counties, in particular Wayne County. Neuse River and Contentnea Creek- 10-1, 10-2. Let's assume the municipality has to cross that line to provide water to a sanitary district that is in another IBT. They're just assuming that the county seat, Goldsboro, draws their water from the river as their source. They're going to sell water to a sanitary district is reducing wells and so on. So how do you treat that in the previous slide when you do your numbers?

Mr. Brady: We are dealing solely with surface water with IBT. When Goldsboro withdraws water from the Neuse River and supports its service area in 10-1, but when it moves water over to 10-2, that would be a transfer. Whoever owns the pipe that crosses basin boundaries, would be responsible for getting the IBT certificate. A lot of systems across the state operate like this. There are about 130 like this in NC. Most of these are below the 2 million gallon a day threshold. Most of those have a grandfather allowance from when the IBT law was established in 1993. Mr. Keen: Follow up question, the stakeholders are notified whenever something is going to change. Who are the stakeholders? Are they all the municipalities plus the sanitary districts that have been established?

Mr. Brady: Yes, it's established in the statute where all the notifications would go. Not sure if there's a more extensive program in the state with such an extensive notification list. Source basin, receiving basin newspaper in the counties get notifications, along with water systems, and an extensive list.

Mr. Keen: How does DEQ internally handle groundwater and waste management if there's sewer involved? Is there a process for the different divisions within DEQ?

Mr. Brady: There is discussion. For example, with the Brunswick County IBT certificate, they used groundwater as one of their sources. They have groundwater sources, so it played into the calculation of how much water must be transferred. It will reduce the demand for transfer of surface water because of the groundwater. However, the groundwater doesn't go into the calculation for the amount of water transferred under an IBT certificate, it's solely surface water.

Mr. Keen: Do you think the saltwater intrusion on coastal county areas will impact this?

Mr. Brady: Statute is clear for keeping these separate.

— — — Mr. Brady goes back to his presentation

Slide: Water Transfers in NC

130 basins that move water, estimated looking at LWSP. Most of these are below 1 mgd. 9 water systems that have IBT certificates.

Brady: The 9 systems that have IBT certificates: Piedmont Triad, Randleman project in 1991, Charlotte in 2002, Concord and Kannapolis in 2007, Greenville Utilities in 2010, Brunswick County in 2013, Cary/Apex in 2015 (as well as late 80s), Kerr Lake in 2015, Union County in 2017, and Pender County in 2018. We expect an NOI from Fuquay-Varina in the next month before the September meeting.

Slide: IBT Transfer Law:

Has gone through lots of discussion in the GA. Major discussions:

1991, Delineation of IBT boundaries

1993, Current transfer law was established (over 2 million a day)

1998, Required an inclusion of environmental document along with Drought Management

2007, Reselling of transfer water and inclusion of water conservation plan.

2013, Calculation changed: Max day to an average day. (9:28)

Slide IBT Process: Flow chart

Dr. Meiburg: It sounds like there is a fair amount of constraint on the timeline of the EMC about issuing the draft determination. And I imagine there's some back and forth about "adequacy." The EMC is not required to make a decision until the adequacy is bound and determined, is that correct?

Mr. Brady: Yes, that is correct. The adequacy comes first before making that determination. We try to complete "step 2" before going on to "step 3." With the Department issuing either a ROD (Record of

Decision) for an EIS or a FONSI (Finding of No Significant Impact) for an EA- there's a lot that goes back and forth.

Dr. Van der Vaart: How often has a request been denied in your memory?

Mr. Brady: There have been none denied since I've been in the Department. There haven't been any that have been denied. To clarify- it goes through years of process. So if it can last through years at process, it probably won't be denied because it's gone through years of the process. That's not to say it couldn't happen, there's a lot of flexibility given by the statute.

Dr. Van der Vaart: Has there ever been one that has been turned over in court?

Counsel Reynolds: We have had IBTs modified on appeal, some have been modified as a result of litigation. Some by direct court order. There is a lot of mediation "baked in" to the process. I do know conditions have been added to certificates by action of the commission. That action has been imposed to mitigate impacts. That can change at any time and as you are aware, the IBT certificate process is a quasi-judicial process. So, it'd be a decision made on the record, but it doesn't mean the commission can't ask for supplemental documents to make their decision.

Mr. Soloman: I've been on both sides of this as a consultant and an EMC member. The hardest thing for the commission to decide- this is a million-dollar process for applicants. It takes many years. By the time we get through that environmental document, there's a lot on both sides. It's not easy. If we're going to do IBTs and we're serious about them, maybe they should cost a lot. There's not a lot to change them because it gets expensive. It's not a casual thing, it's a major thing, especially for Fuquay-Varina. This can be very expensive and these small communities don't have the money to go all the way to the U.S. Supreme Court.

Dr. Meiburg: This is not unique to NC. Also, it speaks to Commissioner Soloman's other point- occasionally people end up in places they didn't intent to go. There's a big deal with Atlanta- and the state said "No you can't create IBT" and they created unintended consequences. You can take an ecosystem view of these things, but people's fears is another matter. It's interesting to see how positions of individuals change based on their circumstances. Just an observation.

Chairman McAdams: Thank you, do you want to go on Harold?

Mr. Brady: Almost to the end. Commonly, we see the transfer amount that is requested change from when the NOI is submitted to later in the process. Typically, that volume does change as a result of this process. Slide: 9 Finding of Facts

Mr. Brady: This is what we ask individuals who are commenting, during the various public comment periods available throughout the process, to address their comments to one of these 9 findings of fact.

Mr. Brady, continued: Three plans are required: water conservation plan, drought management plan, and a compliance and monitoring plan. Quarterly monitoring reports are required. The EMC can reopen, amend, and modify the certificate if necessary. Finally, there's no selling of water to water systems that are not listed as co-applicants on the IBT certificate. The EMC can impose other conditions as necessary.

Chairman McAdams: This is very important. I didn't know that Fuquay-Varina is expected to request an IBT. I have some questions. But first, anyone else have questions?

Dr. van der Vaart: Is it possible that a receiving basin could have an alternative, create an impoundment, or increase freeboard on existing lakes? Does the Army Corps get involved?

Mr. Brady: We consider this by looking at what the receiving basin is able to supply itself before going outside to another source. We looked at that with Union County.

Dr. van der Vaart: There is a way of weighing cost with environmental considerations, but we aren't always the authority on some of those options, right? We don't have control over all of those options. Particularly with the Army Corp and their authority.

Mr. Brady: The ACE has four projects in the state, two of which are involved with an IBT: Jordan and Kerr. Beyond that they would certainly have involvement if you were to create a new impoundment with a 401 certificate. By going through this process, the applicant must document that they don't have the available supply within the receiving basin to support the demand they anticipate. Either that, or they already have the infrastructure should already be set up and moved to the receiving basin.

Dr. van der Vaart: So, they've already gone through and looked at options like creating an impoundment?

Mr. Brady: Absolutely, we'll go through those options and evaluating alternatives while working up the environmental document.

Ms. Deerhake: As a visitor to this committee, thanks. Are there any constraints put on the receiving community on how their water can be used that's withdrawn under the IBT? Are there limits for how they use it like recreational water parks or anything like that?

Mr. Brady: They are required to submit water conservation and drought management plans. The water conservation plan would have to be at least as stringent as the most stringent water conservation plan in the source basin. So, they have to at least measure up to the most stringent already in the source basin. If there's a lawn watering stipulation in the source basin, the receiving basin would have to also measure up to that requirement.

Ms. Deerhake: So there are not any explicit restrictions for commercial water parks?

Mr. Brady: No, there are no explicit conditions on that. Certainly, if it came to light that that was an intended purpose, the EMC could impose a condition on that project.

Mr. Keen: This follows up with regulations for water use. Goldsboro sells to a sanitary district within the same IBT, but the sanitary district is buying water from the municipality. The sanitary district has a restriction that you can't irrigate for the regulation. There's only voluntary annexation, in the district, the town annexes on a voluntary basis, property. The sanitary district says you can't use the water for irrigation, but the city requires heavy landscaping for commercial use. Therefore, because the land is annexed by the city and falls under the city regulation for the landscaping- is the sanitary district more restrictive?

Mr. Brady: And they would be applying for a certificate?

Mr. Keen: No, they're not applying for a certificate. They are transferring within a sanitary district water and sewer, and the municipality is getting water from the Neuse River, and the sanitary district is charging the municipality. The city requires heavy landscaping.

Mr. Brady: Without there being a certificate, just a surface water transfer, there's not an ability that I know of. There would be a contract between the municipality that is selling the water to the water purchaser.

Mr. Keen: Just trying to see if the sanitary district is more restrictive in usage than the city.

Mr. Brady: It sounds like by that scenario they would be more restrictive, and if that municipality came for an IBT certificate, we would be looking at making sure they meet or exceed the most restrictive restrictions in the source basin.

Dr. Meiburg: Looking through an environmental lens, the IBT can be a better solution than a puddle reservoir that disrupts the in-stream flows. Often overlooked in this discussion is the ecological consideration, many people will look within their own basin. In doing so you can have more disruptive ecological side effects than doing an interbasin transfer.

Chairman McAdams: There will be a lot to learn as we approach a new IBT. I'd like to ask a question now. I hope it illustrates some aspects of this program. The City of Durham's water source is the Neuse River, but it exists on a ridge. Half the users are not in the Neuse, but the Cape Fear. As the map displays, I think half is 10-1, half is in 2-1. For the 9 IBT transfer certificates, Durham is not mentioned, perhaps it's grandfathered. Certainly, it has done a lot of growing, so things have changed. So what happened?

Mr. Brady: Durham has a large capacity for transfer. This was in the ground when the statute was established in 1993. I believe their transfer is 48 mgd. Durham has a large grandfathered capacity because they had that infrastructure in the ground at the time.

Chairman McAdams: So their total consumption is less than 48 mgd.

Mr. Brady: I'd have to check, but yes it's below 48.

Chairman McAdams: If they get to transferring, something approaching 90% of that amount, then it would be time to look at an application for increasing that certificate?

Mr. Brady: We use the 80% threshold for the allowance of available supply. If a water system gets close to that number, we go back to them to revisit the grandfathered allowance. If they need to increase the water quantity, they'd have to apply for an IBT certificate. This happened with the Kerr Lake transfer. Durham is a good example; we'll be talking about that in just a minute.

Chairman McAdams: My other question, in general, are a lot of our basins approaching their limit for capacity for IBT?

Mr. Brady: On a basin level?

Chairman McAdams: Yes.

Mr. Brady: That's a hard one to answer right there. I'm not the best person to ask for that one.

Chairman McAdams: If the answer was yes, then more people would be aware of it. So I'll take that as a "probably not." Any other questions?

Ms. Harris: Three plans: the water conservation, drought management, and compliance and monitoring. Is it safe to assume that these plans impact both the receiving and the source basin? Do each of these plans have a threshold that if certain things are met that it impacts the daily transfer of water once this permit is operating?

Mr. Brady: These plans directly impact the service area of the water system. This could be entirely within the receiving basin. But it usually entails the source basin as well. The plans are an effort to reduce the demand from the source, and in turn reduce the transfer. It's discussed in the environmental documents to look at alternatives to a transfer. But we strive to have high water conservation measures in place to reduce your demand so it's not even an alternative.

Mr. Soloman: Cary/Apex IBT has some of the best conservation in the state. Fayetteville PWC, which is downstream, who said they needed so much water, wasn't required to have the same amount of conservation downstream. So it's incumbent on the applicant to have the best practice. So they don't have to have the same standards. Downstream isn't held to the same standard.

Mr. Brady: That's true. Those folks (Fayetteville) aren't asking for a certificate.

Dr. van der Vaart: Does the decision that establishes a hydrologic connection between groundwater and surface water impact your calculations going forward?

Mr. Brady: I am aware of that, but with that I'd be leaning on department council or the Attorney General's office to look deeper into that decision to give us guidance on that.

Dr. van der Vaart: Is that where hydrogeologists are these days?

Mr. Brady: I imagine they'll go to the hydrogeologists to answer these questions.

Chairman McAdams: This has been a very valuable discussion. Time to move on.

B. Water Withdrawal Request from the Eno River by the City of Durham (Harold Brady, DWR)

Mr. Brady gave a background to provide a reference for why this is being presented. Low flow conditions in this river go back to the 1970s. In 1987, there was a capacity use investigation. A formal capacity use area (CUA) was established due to low flows in the Eno. During the public hearing, there was a development of a water management operations plan to avoid a formal CUA. The department as well as primary water users and the EMC agreed. Primary water users voluntarily agreed to the withdrawal restrictions and flow requirements in the Eno River to protect users and the environment. The role of the department is to provide monitoring and oversight to this plan. Then they included language from the plan that if an issue should arise then there would but a CUA established. To be clear: this has never had to happen and things have gone well. Chairman McAdams, Chairman Meiburg, and counsel have requested this informational item.

City of Durham is proposing to withdraw water from the Eno River to refill Teer Quarry just north of I-85, but it's in the city. Durham has an existing emergency intake on the Eno, but is requesting an intake that will be used for high flow skimming. High flow skimming takes a percentage of water only during high flows. This is a complicated project with many other issues. However, Durham and the Department wanted to resolve this issue as early as possible. The presenter showed a map of the area in discussion with Durham and Teer Quarry.

So, what does the Water Management Operations Plan say about withdrawals? City of Durham is allowed to withdraw up to 5 million gallons a day due to current conditions. Median flow is 49 cfs, the plan currently allows to withdraw somewhat during low flows. In this case, the long-term contract is considered the Jordan Lake allocation of 16.5 mgd. There is no explicit guidance for withdrawals exceeding that median flow of 49 cfs. The purpose of the plan is for drought and low flow conditions.

Durham's proposal is working with resource agencies like DWR, WRC, and U.S. Fish & Wildlife Service.

Condition 1- Falls lake, downstream (and City of Raleigh water source) must be at or above its "guide curve." Withdrawal rates exceeding the 5 mgd, would require a flow-by rate of 49 cfs or more. Using these measurements from USGS gage at US Hwy 501, 0.5 miles upstream.

Condition 2- When water level in the quarry is below 254 feet, the City of Durham can withdraw 20% of the water, leaving 80% flow-by. When it's above the 254 mark, it's a 90% flow-by.

Condition 3- It was an understanding among the resource agencies, as well as Durham, if they want to exceed 21.5 mgd (16.5 Jordan Lake allocation + 5 mgd from Water Management Operations Plan) they would need to garner agreements from the primary water users that are listed in the water management operations plan: Hillsborough, Orange/Alamance, Piedmont Minerals, and Orange County. Durham was able to get those resolutions from those primary water users that they either agreed or they had no objections for the City of Durham.

Mr. Keen: High end users in those municipalities in the service industry, particularly in the medical field, (i.e. dialysis). These high-end water users during a drought period. How can we have these high-end stakeholders involved in the process to determine these municipal resolutions?

Mr. Brady: In this case, I believe they would be supported by the City of Hillsborough. They would be supplied by the city with finished water and not be withdrawing water directly from the Eno River. Their demands should be baked into the demands for both the current and projected demands for the city of Hillsborough.

Mr. Keen: So when defining a drought period, the cities have already flushed out the concerns of the high end water users?

Mr. Brady: Yes, they would be doing that on their end of the projected demands.

Mr. Keen: Thank you.

Dr. Meiburg: This seems like an appealing concept. You take these excessive flows while there is an abundance of water and store it for when there are droughts. My question is: is there concern, a lot of time we are focused on low flows, understandable. Is there any concern about the impact to reduce the high flows? Is there something that gets looked at during the consideration?

Mr. Brady: Absolutely. The City of Durham modeled how many days it would take to fill and refill the Teer quarry. By having this percentage, by going over 21.5 mgd, the days were reduced. Once the quarry is full, the high flow would continue flowing downstream. 21.5 mgd withdrawals that go on for 60 or more days.

Dr. Meiburg: What's the capacity of the Teer Quarry?

Mr. Brady: I do not know that off the top of my head. It is significant capacity.

Dr. Meiburg: Thank you.

Chairman McAdams: I think this is a well thought out proposal. I think it's important and significant that this has been achieved. Any other questions? Not an action item, just an information item. Chairman McAdams thanks Mr. Brady for his presentations.

C. Update on Rule Readoption Timeline for 15A NCAC 02E – Water Use Registration and Allocation (Nat Wilson, DWR)

The periodic review of the rules 15A NCAC 02E from December 2016 after action by EMC in September of 2016. 02E has 5 sections with a total of 27 rules. The .0100 has a couple general provisions. The .0300 rule is titled Registration of Water Withdrawals and Transfers. The .0400 rule is Regulation of Surface Water Transfers. The .0500 rule is Central Coastal Plan Capacity Use Area. The .0600 rule is Water Use During Droughts and Water Supply Emergencies. During that review process, all rules were placed in the category of substantial public interest. We are recommending that the Rules Review Commission impose a deadline of May 21, 2023 for EMC to readopt all Sections of 02E Sections, 1-6. In 2019, we did a Rules Review Commission pre-review. We sent them our rules and they reviewed them and sent back comments. This revealed previous deficiencies, due to their age. The division plans to bring these proposed rule sections to the committee soon. Some will take longer to develop and rewrite. We are envisioning 2 schedules: .0100, .0300, .0500, and .0600 will proceed beginning this January 2021, with the request to go to the EMC. In March 2021, we will request to go to public notice/public comment from mid-April through June 2021. Then the EMC will adopt the rules in January of 2022. The Rules Review Commission will hopefully have an effective date of March 1, 2022. The alternate schedule for .0400, we anticipate it to take longer, so we are requesting delaying the move to go to WAC until January of 2022. Request to go to public notice in March of 2022, and then public comment period between April and June of 2022. The EMC would adopt that set of rules by January 2023. The Rules Review Commission would approve by February and the effective date would be by March 1, 2023. Thereby we would meet the readoption deadline of May 1, 2023 with each of those tracks.

Chairman McAdams: Do we have questions?

Dr. Meiburg: In your presentation you mentioned the Rule Review Commission found more deficiencies than previously thought. Can you elaborate on what that was?

Mr. Wilson: In large part, the comments were formatting issues and different ways of saying what was commonly set in rules back when they were put in place and how that has changed. There were some organizational changes, so we thought it behooved us to do some rearranging. The right-hand side of

this slide are pretty close to being ready to go. As you can imagine, work on them has slowed down due to the current situation [Covid-19 pandemic]. I don't think we were surprised by the Rules Review Commission's findings. The extent of their comments were significant, so it took us a little longer to go through those.

Chairman McAdams: Thank you, we are aware the rules review is coming at us. This concludes the agenda items for this committee. Any other questions for Nat?

No Comments

III. Concluding Remarks:

Chairman McAdams: This concludes the agenda items for our committee meeting. Are there any other comments? Thank you for the presentations.

Adjournment