

**Environmental Management Commission  
Water Allocation Committee  
Minutes  
January 13, 2021  
9:00 a.m.**

On January 13, 2021 the Water Allocation Committee or WAC, met virtually on WebEx.

**WAC Members in Attendance:**

John McAdams (WAC Chairman)

David Anderson (Vice-Chair)

Mitch Gillespie

Steve Keen

Pat Harris

Dr. Stan Meiburg (EMC Chairman)

JD Solomon

Dr. Donald van der Vaart

**Others Present:**

Marion Deerhake

Philip Reynolds (Attorney General's Office)

**I. Preliminary Matters (Chairman McAdams)**

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 January 13, 2021 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 November 18, 2020 meeting. There were no comments or corrections. Dr. van der Vaart made a motion to approve the November 18, 2020 meeting minutes. The motion was seconded by Mr. Keen and the November 18, 2020 minutes were unanimously approved.

**II. Action Item**

**A. Request Approval to Proceed to the EMC with Water Use Registration and Allocation Rules in 15A NCAC 02E (Linwood Peele, DWR)**

The schedule for approving the updated Water Use Registration and Allocation rules was presented by Mr. Peele. The Water Allocation Committee was first presented with the draft rules for Sections .0100, .0300, .0500, & .0600. Once the Water Allocation Committee approves the draft rules, they will move to the EMC for approval to go to public notice and hearings. There will be a 3-month public comment period and comments will be reviewed from July-September 2021. In January 2022, the EMC will be asked to adopt the rules. In February 2022, the Rules Review Commission will review and have an opportunity to approve the new rules. March 1, 2022 is the proposed effective date for the rules.

Most of the proposed changes to the rules were minor: updated agency name, rule and statute citations, minor edits for clarification, and corrected punctuation and format errors. More substantive revisions included clarifications and updates to selected rule language and removal of unnecessary language. A summary of key revisions by rule section includes:

- **.0100** (General Provisions) had no changes.
- **.0300** (Registration of Water Withdrawals and Transfers) updated agency names and addresses, removed language already codified and removed incorrect reporting requirements already codified.
- **.0500** (Central Coastal Plain Capacity Use Area) had minor changes, including formatting and removal of some unnecessary language (.02E .0503, 02E .0506), and added 3 definitions about aquifer recharge, Cretaceous aquifer system zones, and recharge rate (.02E .0507).
- **.0600** (Water Use During Droughts and Water Supply Emergencies) changes included alphabetized definitions, updated language for clarification, and updated rule cross-reference.

Mr. Gillespie inquired about local governments being able to be stricter than the state's requirements. Through brief discussion, it was pointed out that local governments have been allowed to require unique modifications in their Water Shortage Response Plan (Water Use During Droughts and Water Supply Emergencies), however this is not a change to the original rule.

Mr. Anderson made a motion to approve the Water Use Registration and Allocation rule drafts to proceed to the EMC for approval to go to public notice and hearings. The motion was seconded by Ms. Harris. The motion passed unanimously.

After the motion was approved, Mr. Gillespie followed up about the IBT sub-basin report mandated for production by the General Assembly. Mr. Gillespie asked for a copy of the report and a brief summary of the report. Mr. Peele shared that the report reviewed data related to the five IBT certificates that have been approved by the EMC in the past ten years. Of those, only two were a sub-basin to sub-basin transfer: Union County and Pender County. The cost of the five IBT certificates highlighted in the report (excluding legal costs) ranged from about \$200,000-\$600,000. The recommendation on the report is to keep the regulatory process the same, but should there be changes, offered a truncated process similar to the existing Coastal provision. However, the Department will make the final decision on any recommendations in the report. Mr. Peele noted there is often work conducted by the applicant prior to the submittal of a Notice of Intent (NOI) that isn't included in the cost analysis, but there is a generalized cost estimate provided in the table of the report.

Mr. Gillespie pointed out an excerpt from the rules allowing local government to require stricter rules than the state during Drought and Water Supply Emergency. Mr. Peele pointed out that this is part of the default rules, however the modification is for a format change rather than a content change of the actual rule.

### **III. Information Item**

#### **A. Fuquay-Varina Interbasin Transfer (IBT) Update (Harold Brady, DWR)**

Mr. Brady provided a presentation on the proposed Interbasin Transfer Certificate for the Town of Fuquay-Varina. The source basin is the Cape Fear River and the receiving basin is the Neuse River. Mr. Brady first outlined the public meetings (Chatham County, Cary, and Fayetteville), all held in person in outdoor parking lots during October 2020. There were about 28 public comments received during the 30-day public comment period following the meetings; two-thirds of the comments were against the project. Comments were received from local government, nonprofits, and private citizens. Mr. Brady pointed out that the concerns from in-person public meetings were well reflected in the written comments; however, the verbal comments have not been fully evaluated yet. Most comments pointed out a lack of information, likely due to the fact that the public meetings were held before the preparation of the environmental impact statement (EIS) document. Also, some comments questioned the need for an IBT certificate. Water quality, fisheries and wildlife, and mitigation issues were also commonly mentioned in the comments. Overall, the topics of concern included lack of information, lack of a defined purpose and need, reasonable alternatives, and water quality issues. Also included in the topics of concern from public comments were the impacts on fish and wildlife; mitigation measures and conditions; indirect, secondary, and cumulative growth (particularly with the receiving basin); regional coordination issues, and climate change and drought concerns.

Still ahead in this IBT process is the preparation of the EIS document. This includes the development of the purpose and need statement and conducting an alternatives analysis for the Draft Environmental Impact Statement. DEQ will review this EIS internally and submit the Draft EIS to the State Environmental Clearinghouse for larger agency and public review.

Mr. Keen asked if Mr. Brady was planning on providing an overview of this IBT Certificate request to the Water Quality Committee as well since there were public comments pertaining to water quality concerns. Mr. Brady said he would reach out to the Water Quality Committee Chair to discuss.

Chairman McAdams requested a review of the issues and concerns raised during previous IBT Certificate processes. EMC Counsel Philip Reynolds said that such a discussion should take place during a future Water Allocation Committee meeting. Mr. Reynolds supported a future discussion of this topic and stated the Attorney General's Office could help inform the WAC about past issues and lessons learned.

Chairman Meiburg inquired about which specific local governments submitted comments on this IBT Certificate. Mr. Brady noted Cumberland County and perhaps Lee or Harnett County. Some downstream cities offered comment, and a few upstream areas such as Moore County and Town of Cary. In general, commenters were opposed to the concept of the IBT. Mr. Brady went on to point out that this IBT Certificate in general has generated more public comment at this stage of the process than he has seen in the past.

#### **IV. Concluding Remarks (Chairman McAdams)**

Chairman McAdams asked if there was anything else that needed to be discussed or if there were other comments. There were no additional comments by committee members or staff. The meeting was adjourned.