

**ENVIRONMENTAL MANAGEMENT COMMISSION
WATER QUALITY COMMITTEE MEETING SUMMARY**

November 13, 2013

Archdale Building-Ground Floor Hearing Room

BRIEF

At the November 13, 2013 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- received a copy of the 2013 Annual Water Supply Watershed Ordinance Approvals, Universal Stormwater Management Ordinance Approvals, and Phase II Program Implementation Delegations Report,
- agreed to recommend denial of the petition to reclassify the Dan River from Class WS-IV to Class C to the EMC,
- agreed to send the WS-IV (Protected Area/Critical Area) reclassification proposal for the Green River (including Lake Adger) in Polk County to the EMC for consideration,
- approved a major variance (with conditions) for a single family residence at 8909 Oxboro Court in Raleigh, NC from the Neuse River Area Protection rules,
- agreed to send the Town of Hillsborough request for delegation authority regarding the Neuse River Buffer rules to the EMC for approval, and
- heard updates on the 2013 Annual Report for the Coastal Habitat Protection Plan and the North Carolina Nutrient Criteria Development Plan.

WQC Members in Attendance:

Mr. Steve Tedder (Chairman)
Mr. David Anderson
Mr. William Puette
Dr. Albert Rubin
Mr. Benne Hutson
Mr. Kevin Martin

Others Present:

Mr. Tom Reeder, DWR Director
Ms. Mary Lucasse, Attorney General Office
Ms. Julie Wisely, EMC
Mr. Tommy Craven, EMC
Mr. Gerard Carroll, EMC

The Water Quality Committee (WQC) members did not recuse themselves from making a decision on any action item on the WQC agenda.

1. 2013 Annual Water Supply Watershed Ordinance Approvals, Universal Stormwater Management Ordinance Approvals, and Phase II Program Implementation Delegations Report – (Julie Ventaloro)

There was no presentation given for this item, but staff was present to answer questions.

The WQC did not discuss this agenda item.

2. Consideration of a Petition for Rulemaking to Reclassify a Portion of the Dan River to Class C – (Action Item) (Elizabeth Kountis)

Description

In accordance with 15A NCAC 02I .0500 and at the request of the Environmental Management Commission Chairman, the WQC reviewed a petition for rulemaking to develop a recommendation for the full EMC to consider. The WQC heard presentations with regard to the petition, from: Caswell County - the petitioner, a representative of entities opposed to the petition, and the Division of Water Resources (DWR) staff. DWR's presentation included a recommendation to deny the petition for the WQC to consider.

Discussion

During the discussion it was brought out that farmers are exempt from the WS-IV regulations. Also revealed was that projects that disturb at least 1 acre of land will require a Sediment and Erosion Control Plan and are subject to the WS-IV regulations. Mr. Hutson asked Caswell County if it submitted the petition on the grounds that the approval of the WS-IV reclassification violated the standards for administrative action under the state Administrative Procedures Act. Caswell County replied no.

Motion

Mr. Martin made a motion to send to the EMC a recommendation to deny the petition based on several reasons provided by DWR staff. Dr. Rubin seconded the motion and the WQC unanimously voted in favor of the motion.

3. Proposed Reclassification of a Segment of the Green River (including Lake Adger) in Polk County (Broad River Basin) to Class WS-IV Critical Area (CA) and WS-IV (Protected Area or PA) - (Action Item) (Elizabeth Kountis)

Description

Polk County requested the reclassification of a segment of the Green River in Polk County (Broad River Basin). The subject portion of the Green River would be reclassified from Class C to Class WS-IV CA and WS-IV (PA). This proposal would permit Polk County to put a new water intake in Lake Adger for use as a permanent water supply and to meet future local water demands. These waters meet the existing criteria for the proposed reclassification according to 2011 DWR studies. The WQC was asked to approve this reclassification request and the associated fiscal note in order for staff to proceed to the full EMC for approval of the fiscal note and for permission to send the proposed reclassification and fiscal note out to public hearing.

Discussion

Mr. Hutson asked staff if it had already participated in discussions with communities in Polk County to make sure that there are not some citizens that might oppose the reclassification proposal. Staff said that it has had some discussions but it will not be until the public hearing happens that it will know well who does or does not support the proposal. Dr. Rubin asked staff how it reaches out to the residents in an affected watershed to make sure they are aware of the reclassification proposal and associated hearing

process. Staff noted examples of outreach tools used for reaching out to residents including local libraries and newspapers, listservs, email notification, and postal mail.

Motion

Mr. Martin made a motion that the WQC move the reclassification proposal to the EMC for consideration. Mr. Puette seconded the motion and the WQC unanimously voted in favor of the motion.

4. Request for a Major Variance from the Neuse Riparian Area Protection Rules by Byron and Jessica Trimmer for a deck expansion to an existing single family residence at 8909 Oxbridge Court in Raleigh, NC – (Action Item) (Jennifer Burdette)

Description

A request has been received for the WQC to grant a Major Variance from the Neuse River Riparian Area Protection Rules (15A NCAC 2B 0.233) to Byron and Jessica Trimmer for deck expansion to an existing single family residence at 8909 Oxbridge Court in Raleigh, NC. Due to the presence of an unnamed tributary to Hare Snipe Creek running along the back of the residence, the proposed deck expansion will need to encroach into Zone One of the riparian buffer. The applicant is proposing mitigation and installation of a rain garden to offset more than the proposed buffer impacts. Although DWR recognizes that the applicant does not comply with the evaluation criteria 15A NCAC 02B .0233(9) (a) (i) (A) & (E), DWR supports this major variance request.

Discussion

Mr. Martin commented that the proposed rain garden addition would be a substantial improvement to water quality conditions in the area. Mr. Hutson asked what the added cost would be to the homeowners minus the cost of the deck expansion. Staff said that the homeowners will install the rain garden themselves. However, they would pay for the buffer mitigation and the filing of the restrictive covenant.

Motion

Mr. Martin made a motion to approve the major variance with the conditions recommended by DWR. Mr. Anderson seconded the motion and the WQC unanimously voted in favor of the motion.

5. Request Permission to Proceed to the EMC for Approval of Delegation of the Neuse River Buffer Program to the Town of Hillsborough – (Action Item) (Jennifer Burdette)

Description

A request has been received for the EMC and WQC to grant delegation of the Neuse Buffer Rules (15A NCAC 02B .0233 and .0242) to the Town of Hillsborough. DWR staff requested permission to proceed to the November 2013 EMC meeting with a recommendation for approval of the Town's delegation request.

Discussion

None

Motion

Mr. Martin made a motion to move the delegation to the EMC for final approval. Mr. Puette seconded the motion and the WQC unanimously voted in favor of the motion.

6. Update on Coastal Habitat Protection Plan 2013 Annual Report - (Information Item) (Matt Matthews)

Description

The Fisheries Reform Act of 1997 requires an Annual Report be submitted to the Environmental Review Commission and the Joint Legislative Commission on Seafood and Aquaculture regarding activities directly related to NC's Coastal Habitat Protection Plan (CHPP). The report is due in September of each year. The CHPP Steering Committee, a committee with a membership of two commissioners from the EMC, CRC, MFC and WRC, has approved this CHPP Annual Report for the year 2013. Normally, each of the respective commissions would have been asked to approve the report before it was sent to the General Assembly. Due to the timing of the changes to the commissions following the legislative session, that approval could not be obtained prior to the deadline for submission to the General Assembly. The report has been submitted to the General Assembly and this item is simply an update to the EMC.

Discussion

Dr. Rubin asked how does the CHPP mesh with the Coastal Zone Management Plan 6217 requirements. Staff was unable to come up with specific instances; however, staff assured WQC that there are pieces of the CHPP that mesh with the CZM program.

7. Update on the North Carolina Nutrient Criteria Development Plan – (Information Item) (Dianne Reid)

Description

Staff presented the status of updating the plan per North Carolina's Clean Water Act Section 106 Workplan agreement including a summary of the September 25th Commenters' Meeting that was held in Raleigh. Additional comments were accepted through November 8th. All comments will be used to finalize the plan. A copy of the presentation and last draft are located at: <http://portal.ncdenr.org/web/wq/ps/mtu/nutrientcriteria>.

Discussion

Mr. Hutson noted that the North Carolina Nutrient Criteria Development Plan will come to EMC/WQC for information as it moves forward. Also Mr. Hutson asked how much control will North Carolina have over the Catawba River if South Carolina develops nitrogen and phosphorus standards for the main stem of Catawba. DWR staff said that SC already has standards for N and P. SC is developing a TMDL for nutrients, and it is possible that North Carolina NPDES permitting program would have to consider if its discharges are going to be consistent with the TMDL at the North Carolina South Carolina state line.

Closing Comments

Chairman Tedder

Summary completed by Adriene Weaver and reviewed and approved by DWR staff by December 5, 2013