

****INFORMATION IN THIS MEMORANDUM WILL CHANGE
UPON RECEIPT OF CASWELL COUNTY RESOLUTION****

MEMORANDUM

TO: Alan Clark
THROUGH: Dianne Reid
FROM: Elizabeth Kountis
DATE: April 7, 2011
SUBJECT: **Proposed Reclassification of the Haw River in Alamance, Caswell, Guilford and Rockingham Counties (Cape Fear River Basin) from Class WS-V to Class WS-IV CA and WS-IV**

The Division of Water Quality (DWQ) is requesting that the Environmental Management Commission (EMC) grant staff permission to proceed to public notice with a proposed reclassification for an existing emergency intake on the Haw River. During the drought of 2002, the City of Greensboro (City) received permission from the Division of Environmental Health and funding from the Division of Water Resources to construct and use an emergency intake on the Haw River. The intake, which is a permanent structure, was utilized from October 2007 through April 2008. Continued use of the intake as an emergency intake requires the reclassification of the surface waters draining to the intake, and thus, this proposal serves the public interest per Executive Order #70.

The waters draining to the intake meet water supply quality water standards according to DWQ studies and are currently classified as WS-V. At the time that the City requested the reclassification, this segment of the Haw River was classified C and the City requested that the intake be reclassified to WS-V in order to recognize it as a potable water supply intake. DWQ waited for the rulemaking associated with the Jordan Lake rules to be completed prior to taking current actions on this reclassification due to the complexity involved in those rules. Under current regulations, the source must be classified as a WS-I, WS-II, WS-III, or WS-IV to be used as a public water supply; therefore, the WS-V promulgated by the Jordan rules cannot be used for this intake and an evaluation was done to determine the appropriate WS classification.

A WS-III classification was considered for the intake due to the type and amount of existing development and discharges in the watershed draining to the intake, the WS-III classification of Lake Townsend (which receives the intake's water), and the adjacent WS-III and WS-II classified watersheds. However, other state regulatory programs applicable to the waters draining to the intake were also considered, including the Jordan Lake rules that apply to the entirety of the proposed watershed and the Phase 2 Stormwater Program that applies to approximately 40% of the proposed watershed, either via the delegation criteria or the "tipped in" criteria. Review of these existing regulations as well as local governments' regulations led to the proposed WS-IV designation for these waters.

The proposed Critical Area (CA) will extend along the river from the intake, which is located approximately 650 feet upstream of Guilford County Road 2712, to a point approximately 0.5 miles upstream of the intake and includes approximately 316 acres of land. There are no named tributaries to the Haw River in the proposed CA, which is located entirely within Guilford County. The proposed Protected Area (PA) extends along the river from a point approximately 0.5 miles upstream of the intake to a point approximately 0.6 mile downstream of U.S. Route 29 and includes approximately 18,501 acres of land. The proposed PA includes two entire named tributaries, as well as the lower portion of one named tributary, to the Haw River. The PA is located within Rockingham, Guilford, Alamance and Caswell Counties. These four local governments and the percentage of the proposed watershed within the jurisdiction of each of these governments are as follows: Rockingham County (57%), Guilford County (33%), Alamance County (5%), and Caswell County (4%).

If reclassified, development and discharge restrictions will apply. WS-IV regulations apply to the area 10 miles upstream of and draining to a river intake. Regarding development activities, a low density option and a high density option are available to local government ordinances for new developments that disturb one or more acres (Table 1). Phase II and Jordan Lake requirements are also presented for comparison purposes in Table 1.

Rockingham, Guilford, and Caswell County are currently implementing the Jordan buffer requirements in the proposed WS-IV watershed. Alamance County is not currently implementing the Jordan buffer requirements and will be required to do so upon reclassification.

Table 1. Development Requirements of Existing and Proposed Classifications

Classification	Low Density Development Option	High Density Development Option	Setbacks/Buffers*
Phase II (Existing)	1 DU / 0.5 acre or 24% BUA	NA	30'/NA
Jordan Lake (Existing)	NA	NA	NA/50'
WS-IV Critical Area (Proposed)	1 DU / 0.5 acre or 24% BUA	24-50%	30'(low density) and 100'(high density)/NA
WS-IV Protected Area (Proposed)	1 DU / 0.5 acre or 24% BUA <u>Optional:</u> 3 DU / 1.0 acre or 36% BUA w/o curb & gutter street system	24-70% BUA <u>Optional:</u> 3 DU / 1.0 acre or 36% BUA w/o curb & gutter street system	30'(low density) and 100'(high density)/NA

DU = Dwelling Unit; BUA = Built Upon Area; *Requirements for Jordan Lake buffers trump Phase II and WS setbacks

Other requirements, which apply only in the CA, are additional treatment for new industrial process wastewater discharges and no new landfills.

There are three NPDES wastewater discharges (a mobile home park, a subdivision, and a wastewater treatment plant) and two permitted animal operations in the proposed WS-IV watershed; none of these operations would be impacted by regulations associated with this reclassification. In addition, there are no land application sites in the proposed watershed's CA. There are no known planned dischargers and developments in the proposed reclassification area, and no known plans for existing dischargers to become process industrial dischargers in the area, according to local county and Winston-Salem Regional Office DWQ staff. The proposed area is rural in character, with forested, residential, and agricultural lands.

Under the WS rules, the local governments with jurisdiction in the proposed watershed have 270 days after the reclassification effective date to modify their water supply watershed protection ordinances. Mr. Cy Stober (Piedmont Triad Council of Governments) is working with the counties to secure the resolutions. Resolutions have been received from Alamance, Guilford and Rockingham Counties, but not Caswell County. As a reminder, the purpose of a resolution is to indicate whether or not a potentially impacted local government will implement the water supply rules within its jurisdiction once a reclassification becomes effective; if they will not implement the program, then the state would implement the program.

The draft fiscal analysis' quantifiable results revealed a one-time cost of approximately \$12,540 to be split between Alamance, Guilford, and Rockingham Counties and the state. Given that a resolution from Caswell County has not been received for this proposal, the cost to the state of NC to convey local program deficiency, initiate enforcement, assess penalties, and ultimately administer the watershed protection rules within the proposed water supply watershed area in this county was considered. The cost for those activities is primarily based on the average number of new development projects annually within the entirety of this county, and as stated above, there are no known planned new developments in the proposed reclassification area. The cost to the state to conduct these activities in the Caswell County portion of the watershed is estimated to be approximately \$2,900. The administration of those rules in the Rockingham, Guilford and Alamance County portions of the watershed is estimated to cost these local governments about \$2,500, \$4,640, and \$2,500, respectively.

Staff recommends sending this item to the March 2011 WQC meeting to request permission to proceed to the full EMC at its May meeting. The proposed effective date of this reclassification is estimated to be March 1, 2012. Local governments would have until December 1, 2012 to get their ordinances in compliance with the resulting WS regulations, and this action would be required after the Jordan Lake rule buffer and new development regulation implementation dates of early 2011 and mid-2012, respectively.