

**PUBLIC MEETING FOR INFORMATION EXCHANGE
ON THE
DRAFT CONSTRUCTION GENERAL PERMIT**

June 6, 2011
Archdale Building

Attendees

Guests

Ryke Longest, Duke University School of Law
Grady McCallie, NC Conservation Network
Shannon Arata, NC Conservation Network
David Harris, DOT

DENR Staff

Bradley Bennett	Boyd DeVane
Cyndi Karoly	Mell Nevils
Gray Hauser	Natalie Landry
John Hennessy	Karen Higgins
Susan Massengale	Brian Lowther
Katie Merritt	Jennifer Jones
Bethany Georgoulas	

Boyd DeVane opened the meeting with introductions of guests and DENR staff. He noted the small number in attendance. Mell Nevils suggested that it could be a result of the widespread, up-front involvement with numerous interest groups in the process.

Boyd handed out a "Proposed Major Changes" paper and then gave a PowerPoint presentation on the major changes included in the Draft permit. (Presentation is available on DWQ website.) He asked if anyone would like to make a statement about the Draft permit. The following two people spoke:

Ryke Longest

Ryke said that he was going to submit written comments but he would like to make a few statements now. He first thanked the Department for having the public involvement elements during the development process. He explained that he served with the Environmental Law and Policy Clinic of Duke University. He noted that he first wanted to encourage the agencies to "stand strong" because there will be people who will try to deter this process. He said that the seven-day ground cover provision was a significant positive step toward improving the waters of this state. He suggested that the Department should have a reopener clause and not wait until five years to start implementing federal turbidity requirements. He noted the importance of the MOU that was going to be developed by the Division of Land Resources and the Division of Water Quality. He also said that the public should be involved in the development of that MOU. He suggested that it was very important that the Division of Land Resources keep the Division of Water Quality aware of any observed sites that could adversely affect stream health, even in situations that may not rise to the need of enforcement. He said that, even though a general permit is available, he felt there are clearly situations where an individual NPDES

permit is needed. He suggested that individual permits may be needed for projects upstream of threatened and endangered species, impaired streams and streams that now have good biota, such as native freshwater mussels. He said that the larger the acreage of a project, the more difficult it is to protect adjacent streams and suggested that individual permits should be used for large projects. He concluded that EPA recognized the importance of protecting streams from turbidity and that he believed that they will continue to focus on sediment issues.

Grady McCallie

Grady first noted that the environmental organizations did appreciate the efforts made by the Department to involve the public in the development of this permit. He noted that the quicker ground cover and the greater protection for certain streams will be a very valuable addition to the overall protection program. He said that he was disappointed that the MOU was not being presented for public review at this time. He said that the Clean Water Act did require that the permit protect water quality and that since the enforcement issues that will be included in the MOU are not available for consideration, it is impossible to assure that the standards will be met. He said that he was also concerned about the requirement that self-inspection records be only kept on site and available upon request. He said that if the records were to be submitted to the agency, then people, like those in his organization, could have access, which they do not now have. He said that the requirement that the records be kept for inspection for only one year after the permit is closed was of concern. He thought the federal regulations required keeping records three years. He also said that it would be difficult to enforce on the self-inspection data without that data being first submitted to DWQ. He said that the inclusion of the date of ground cover applications should be in the Inspection Reports to enable DWQ enforcement based on those records. He noted that the provisions in the Draft Permit to “grandfather” existing permits would result in poor implementation in many cases. His concern is that with existing and potential extensions to the time for an un-built project to be permitted, and the fact that this permit was good for five years, would greatly extend the time for implementation of improved turbidity and ground-cover requirements. He said that since much of the General Permit requires DLR enforcement, that having conditions in this permit that only DWQ can enforce would cause problems. His concern is that inspectors from the DLR may not have authority to enforce some conditions and it was therefore critical that the permit clearly gives authority to DWQ to enforce all aspects of the permit. He said that a more explicit “reopener” condition should be also added to the permit to enable the agencies to apply any more-stringent provisions that are needed, such as the adoption of a federal numeric effluent standard. He suggested that we put a specific time line on the extension of conditions of an individual permit. He commented on the specifications for sizing of pits for holding concrete washout water. He voiced concern that the design storm was not mentioned and that with more frequent and larger storms there could be overflow events

Closing

Boyd thanked those in attendance and especially thanked David Harris and Grady McCallie for their service in the development process for this Draft.