## Agenda Item: 10-41 Request Consideration of the Hearing Officer's Recommendation on North Fork New River Outstanding Resource Waters (ORW) Reclassification in Ashe and Watauga Counties (New River Basin)

## **Description:**

At its September 2009 meeting, the EMC approved a proposal to reclassify the North Fork New River to ORW to proceed to a public hearing. A public hearing was held on March 16, 2010 in Jefferson, NC, and the comment period closed on April 30, 2010. A total of 38 people attended the public hearing. Public comments received in response to the proposed reclassification are documented in the attached Hearing Officer report were (3 comments at the public hearing; 8 written comments received during the comment period plus a large number of supportive emails). The public comments received were supporting the ORW with allowances for considerations for discharger options. The comments agreed with altering the proposed rule to allow new and expanded dischargers in a restricted area with applicability of stringent permit limits, in order to best manage the area resources.

After consideration of the comments and the characteristics of the watershed, it is the recommendation of the hearing officer that the reclassification of the North Fork New River watershed as proposed be reconsidered to take into account the comments from the public hearing. In doing so, the watershed will remain proposed as ORW, with the exception of Buffalo Creek, a portion of the North Fork New River from the confluence of Buffalo Creek to the confluence of Big Horse Creek, a portion of Big Horse Creek from the confluence of the North Fork New River to the confluence of Little Horse Creek, and Old Field Branch (Grass Branch) which is recommended to be designated as High Quality Waters (HQW). Claybank Creek and Little Buffalo Creek remain proposed as C Tr +, with the "+" indicating that a management strategy consisting of the HQW rules, would apply in order to protect the downstream "excellent" rated waters. In making this recommendation, the hearing officer has considered the requirements of General Statutes 150B 21.2, 143.214.1 and Rules within 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards), 15A NCAC 2B .0224 for High Quality Waters, and 15A NCAC 2B .0225 for Outstanding Resource Waters, the most recent data that reveal excellent water quality in the proposed reclassification area and the public's comments.

## **Recommendation:**

It is the recommendation of the Hearing Officer that the proposed reclassification, as presented in the Hearing Officer Report attached, be adopted by the EMC. If reclassified as proposed, and approved by the Rules Review Commission in October 2010, the effective date for this reclassification will be November 1, 2010.