

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

**Archdale Building-Ground Floor Hearing Room
March 13, 2013**

BRIEF

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

- approved sending the 2014 (303) (d) Listing Methodology to the EMC for approval.
- approved sending the Major Variance request by LBJ/Cary Associates, LLC for a daycare facility in Cary, NC back to staff to clarify how, if it does, meet all the variance criteria of Neuse Riparian Area Protection Rules (15A NCAC 02B .0233).
- approved DWQ's approval of minor modifications to approved Major Variances.
- heard an update on the initial assessment of nutrient reduction by agriculture operations in the Falls Lake and Jordan Lake watersheds.

WQC Members in Attendance:

Dr. Charles H. Peterson (Chairman)
Dr. Ernest Larkin
Mr. Steve Tedder
Mr. Benne Hutson
Mr. Tom Ellis
Mr. Kevin Martin
Mr. William Less Hall, Jr.
Mr. Stephen T. Smith
Ms. Amy Pickle

WQC Members Not in Attendance:

Mr. Dickson Phillips III
Mr. Jeffrey Morse

Others Present:

Mr. Chuck Wakild, DWQ Director
Mr. Ted Bush, DWQ Deputy Director
Mr. Frank Crawley, Attorney General Office
Mr. Marvin Cavanaugh, Sr. EMC

There were no conflicts of interests with any of the DWQ items on the March 13, 2013 Water Quality Committee meeting expressed by any of the Water Quality Committee members present at the meeting.

1. Request Permission to Proceed to the Environmental Management Commission for Approval of 2014 303(d) Listing Methodology – (Action Item) (Kathy Stecker)

Description

Section 303(d) of the 1972 Federal Clean Water Act requires states to submit a list of waters that do not meet water quality standards to the United States Environmental Protection Agency for approval by April 1 of even-numbered years. In November 2012, the Environmental Management Commission decided to approve future 303(d) Listing Methodologies, beginning with the 2014 cycle. The Division of Water Quality (DWQ) accepted comments on the Listing Methodology. DWQ staff summarized comments and responses, information included in a new comprehensive assessment document, and proposed revisions to the 303(d) Listing Methodology in response to the comments. DWQ requested that the WQC grant permission to proceed to the EMC for approval of the proposed 2014 303(d) Listing Methodology.

Discussion

Mr. Hutson suggested that the existing outreach process in the comprehensive document be amended to create broader opportunity for submittal of information and data.

Motion

Mr. Tedder motioned that the WQC move forward with the 2014 303(d) Listing Methodology and Dr. Larkin seconded the motion. The WQC unanimously passed the motion.

2. Request for a Major Variance from the Neuse River Riparian Area Protection Rules by LBJ/Cary Associates, LLC for a daycare facility at SW Cary Parkway/Old Apex Road in Cary, NC – (Action Item) (Karen Higgins)

Description

LBJ / Cary Associates, LLC has requested that the WQC grant a Major Variance from the Neuse Riparian Area Protection Rules (15A NCAC 02B .0233) for a daycare facility at the intersection of SW Cary Parkway and Old Apex Road in Cary, NC. The proposed daycare facility will impact 8,047 square feet of Zone 1 and 7,140 square feet of Zone 2. The applicant is proposing to purchase 34,851 buffer mitigation credits and to treat the stormwater through a stormwater wetland. DWQ staff support this major variance request; however, DWQ recognizes that the applicant does not comply with 15A NCAC 02B .0233(9) (a) (i) (E) since the applicant purchased the property after the effective date of the rule. DWQ requested that the WQC grant the variance with the following conditions being met: 1) the applicant will buy mitigation for the impacts to the riparian buffer zones by purchasing credits from a private mitigation bank and 2) the applicant will obtain a DWQ approved stormwater plan.

Discussion

Some of the WQC members expressed uneasiness in supporting the variance request because the property does not comply with the variance requirements of the Neuse Riparian Area Protection rules.

Motion

Mr. Hutson motioned to remand the variance request to DWQ staff with instructions to report back with further findings that satisfy the requirements of 15A NCAC 02B .0233 9 (a). Mr. Tedder seconded this motion. The WQC unanimously passed this motion.

3. Request to Approve Delegation to DWQ of Minor Modifications to Approved Major Variances – (Action Item) (Karen Higgins)

Description

On February 12, 2003, DWQ presented a request to the WQC to allow DWQ staff to approve minor modifications to approved major variances from the state Riparian Buffer rules if certain criteria were met. The request was approved by the WQC; however, a delegation document was never finalized. DWQ requested that the WQC reaffirm approval of delegation.

Discussion

None

Motion

Mr. Tedder motioned to reaffirm delegation to DWQ for approval of minor modifications to approved major variances, and Mr. Martin seconded this motion. The motion was amended to note that the DWQ will report on how many modifications it approved and detail how the modification met the 4 criteria established in the delegation memo on an annual basis. The WQC unanimously passed this motion.

4. Initial Assessment of Nutrient Reductions by Agriculture Operations in Falls Lake & Jordan Lake Watersheds – (Information Item) (John Huisman) and (Julie Henshaw, DSWC)

Description

The Falls and Jordan Lake Agriculture Rules (15A NCAC 02B .0280, and .0264, respectively) require their respective Watershed Oversight Committees (WOCs) to: 1) collect data needed to conduct initial nutrient loss accounting for the baseline and the most current year feasible, 2) perform this accounting, and 3) determine the extent to which agricultural operations have achieved the nitrogen loss goals and phosphorus loss trend indicators established for each watershed. Separate nitrogen loss estimates are developed for cropland and pastureland. The tracking and accounting methods for nitrogen and phosphorus loss from agricultural lands in these watersheds were approved by the WQC in July 2011 (Jordan) and March 2012 (Falls). DWQ and the Division of Soil and Water Conservation (DSWC) staffs presented the findings for the Jordan and Falls WOCs.

Discussion

Mr. Martin asked if there was anything in the Falls or Jordan Rules that prevented farmers from exercising their ability to sell credits to banks. Mr. Huisman explained that there is ongoing discussion between DWQ and the Watershed Oversight committee about the WQC's role in approving trades as addressed in the rules but pointed out that farmers are currently allowed to sell credits to banks.

The March 13, 2013 Water Quality Committee meeting summary was prepared by Adriene Weaver and reviewed by Kathy Stecker, Karen Higgins, John Huisman and Julie Henshaw.