

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

**July 8, 2015  
Archdale Building-Ground Floor Hearing Room  
2:30 PM – 4:30 PM**

**BRIEF**

The Water Quality Committee (WQC) of the Environmental Management Commission (EMC) at the July 8, 2015 meeting:

- agreed to hear from Division of Water Resources (DWR) staff on the Tar-Pamlico Phase IV Agreement and the Tar-Pamlico River Basin Water Resources Plan at the July 9, 2015 EMC meeting.
- granted approval of variances to the Tar-Pamlico Riparian Area Protection Rule and Neuse Riparian Area Protection Rule for a sunroom addition and deck to an existing single-family home at 734 Old Pamlico Beach Road in Belhaven, NC and roadway and loading dock expansion and perimeter Fence at 3612 Powhatan Road in Clayton, NC, respectively.
- heard an update on Minimum Criteria Design Team for stormwater.

**WQC Members in Attendance:**

Mr. Steve Tedder (Chairman)  
Mr. Gerard P. Carroll, EMC Chairman  
Dr. Albert Rubin  
Mr. Thomas Craven  
Dr. Lawrence W. Raymond  
Mr. Charles Elam  
Mr. Kevin Martin  
Mr. Clyde Smith, Jr.

**Others Present:**

Ms. Jennie Hauser, Attorney General Office  
Mr. Charles Carter, EMC  
Mr. Daniel Dawson, EMC  
Mr. William Puette, EMC  
Mr. J.D. Solomon, EMC  
Mr. Jay Zimmerman, Division of Water Resources Director

**I. Preliminary Matters:**

On the July 8, 2015 WQC agenda, Mr. Kevin Martin recused himself from items number 3 and 4 and Dr. Rubin recused himself from item 4, as well.

## **II. Agenda Items**

### **1. Request to Send the Final Draft of the Tar-Pamlico River Basin Water Resources Plan to the EMC for Approval**

#### **Description:**

General Statutes 143-215(b) and 143-355(m) mandate the development of a basinwide water quality management plan for each of the state's river basins and a state water supply plan, respectively. Staff will present highlights from data and recommendations included in the Tar-Pamlico River Basin Water Resources Plan developed in 2014. The 2014 Plan is the fifth update of the Tar-Pamlico Basin Plan and the first to include both water quality and water quantity information. DWR staff will request approval to take the Tar-Pamlico River Basin Water Resources Plan to the full EMC.

**Discussion:** Chairman Tedder mentioned that this item was heard at the previous [WQC] meeting [on May 13, 2015] and that staff had made some minor tweaks to the plan. He offered for the WQC's consideration two options on how to handle the item: 1) hear the item today or 2) entertain a motion to hear the item at the full EMC meeting [tomorrow].

**Motion:** Chairman Tedder motioned to move this item to the full EMC meeting. Mr. Elam seconded the motion and the WQC unanimously approved it.

### **2. Request to Send the Final Draft of the Tar-Pamlico Phase IV Agreement to the EMC for Approval**

#### **Description:**

The first phase of the Tar-Pamlico Agreement was initiated in 1990 in response to nutrient-driven water quality impairments in the Pamlico Estuary and its Nutrient Sensitive Waters designation. The "Agreement" launched, and remains an important part of, the overall Tar-Pamlico nutrient management strategy. It establishes the performance goals for the 30 percent reduction in nitrogen loading and no increase in loading of phosphorous from a baseline year of 1991. An association of point source dischargers, the Tar-Pamlico Basin Association, receives collective annual end-of-pipe nitrogen and phosphorus loading caps. In the event that either cap is exceeded, the Association will fund agricultural practices at a predetermined cost-effectiveness rate to offset those exceedances through the NC Agriculture Cost Share Program. The Phase IV Agreement is the next iteration of a nutrient control Agreement for point source discharges in the Tar-Pamlico River Basin. Phase IV incorporates modifications negotiated during Phase III including updates to the Association membership and inclusion of individual load allocations in member's NPDES permits. DWR staff will provide an overview of the final draft and request approval to take the Agreement to the full EMC.

**Discussion:** Chairman Tedder mentioned that this item was heard at the previous [WQC] meeting [on May 13, 2015] and that staff had made some minor tweaks to the agreement. He offered for the WQC's consideration two options on how to handle the item: 1) hear the item today or 2) entertain a motion to hear the item at the full EMC meeting [tomorrow].

**Motion:** Chairman Tedder motioned to move this item to the full EMC meeting. Mr. Elam seconded the motion and the WQC unanimously approved it.

**3. Request for an After-the-Fact Major Variance from the Tar-Pamlico Riparian Area Protection Rule by Mohamed Ali and Deem Darar for a Sunroom Addition and Deck to an Existing Single-Family Home at 734 Old Pamlico Beach Road in Belhaven, NC**

**Description:**

Jennifer Burdette with DWR's 401 & Buffer Permitting Unit presented a request for an After-the-Fact Major Variance from the Tar-Pamlico Riparian Area Protection Rules from Mohamed Ali and Deem Darar for a sunroom addition and deck to an existing single-family residence at 734 Old Pamlico Beach Road in Belhaven, NC. Due to the existing residence's location within the riparian buffer of the Pamlico River, the addition and deck encroach into Zone One of the riparian buffer. The applicant is proposing mitigation to offset the proposed buffer impacts and maintenance of diffuse flow on the property. Although DWR staff recognize that the applicant does not comply with subcriteria 15A NCAC 02B .0259(9)(a)(i)(A), (D) & (E), evaluation criteria 15A NCAC 02B. 0259 (9)(a)(i-iii) have been met. DWR supports this major variance request.

**Discussion:**

EMC Chairman Carroll asked how much a buffer credit cost. He also asked whether the local building permit for the property was revoked after construction was completed. Staff clarified that the property expansion was in place when the applicant had been notified that the property was in violation of the building permit. Mr. Solomon asked whether staff accepted that stormwater runoff from the design storm would infiltrate without stormwater calculations. State explained that they requested a report from a licensed soil scientist to evaluate the on-site soils for potential infiltration.

**Motion:**

Mr. Elam made a motion that the WQC approve the variance with the conditions recommended by DWR staff. Dr. Rubin seconded the motion and the WQC unanimously approved the motion.

**4. Request for a Major Variance from the Neuse Riparian Area Protection Rule by Novo Nordisk Pharmaceuticals, Inc. for a Roadway and Loading Dock Expansion and Perimeter Fence at 3612 Powhatan Road in Clayton, NC**

**Description:**

Jennifer Burdette with DWR's 401 & Buffer Permitting Unit presented a request for a Major Variance from the Neuse Riparian Area Protection Rules for Novo Nordisk for a roadway and loading dock expansion and perimeter fence at their facility located at 3612 Powhatan Road in Clayton, NC. Due to the presence of an unnamed tributary to the Neuse River that bisects the facility property, the proposed roadway and load dock expansion and perimeter fence will need to encroach into Zones One and Two of the riparian buffer. The applicant is proposing mitigation to offset the proposed buffer impacts. DWR staff support this request for a Major Variance from the Neuse Riparian Area Protection Rule because all of the requirements in 15A NCAC 02B .0233 are met.

**Discussion:**

Mr. Solomon asked whether buffer credits need to be purchased. Chairman Tedder said yes.

**Motion:**

Mr. Elam made a motion that the WQC approve the variance with the conditions recommended by DWR staff. Mr. Craven seconded the motion and the WQC unanimously approved the motion.

## **5. Update on Minimum Criteria Design Team for Stormwater**

### **Description:**

Annette Lucas with Department of Energy, Mineral and Land Resources Stormwater Permitting Unit provided an update on Minimum Criteria Design (MDC) Team's work and the process going forward. Session Law 2013-82 (House Bill 480) requires the Department of Environment and Natural Resources (DENR) to convene a MDC Team that includes industry experts, engineers, environmental consultants, university faculty and other stakeholders. The purposes of the MDC Team are:

1. To consult with DENR in developing MDCs that encompass all requirements for siting, design, construction and maintenance of stormwater BMPs. The MDC shall be developed with the goal of generating state stormwater permits that comply with water quality standards. DENR shall submit its recommendations to the Environmental Review Commission by February 1, 2015.
2. To consult with the EMC in developing a fast-track permitting process for issuing state stormwater permits without a technical review when all BMPs comply with all MDCs and the permit application is prepared by a qualified individual. The EMC shall adopt a fast-track permitting rule no later than July 1, 2016.

Between February and May 2015, the MDC Team has developed the Fast-Track Stormwater Permitting Process.

### **Discussion:**

Chairman Tedder asked how an engineer plan that doesn't meet the MDC would be addressed. Ms. Lucas replied that the MDC Team has decided to leave it up to the Board of Engineer to handle such cases. Dr. Rubin asked if there were any new provisions for getting new technologies into practice. Ms. Lucas said that as part of the rules review process, [DEMLR] we are proposing to write a new rule for new stormwater technologies. Dr. Rubin asked whether they could be added to the MDC. Ms. Lucas if monitoring data for those technologies demonstrate to be appropriate and effective, then they can be added. Mr. Elam asked would the state fast-track stormwater permitting program trump a municipality's stormwater permitting program if it is more restrictive than the state. Ms. Lucas acknowledged that this is an issue. Mr. Dawson asked what the duration of permit is. Ms. Lucas replied 10 years for a high density project. He also wanted to know whether a professional engineer needed to be involved in a project that is under development. Ms. Lucas replied that the MDC requires this. Mr. Dawson also asked whether pre-application meetings were a part of the fast-track stormwater permitting process. Ms. Lucas said that this will be discussed with the regional office staff.

### **Motion:**

Not Applicable

## **III. Closing Comments**

There were no closing comments by the WQC members.

Summary was prepared by Jennifer Burdette, John Huisman, Ian McMillian, and Annette Lucas.