

**NORTH CAROLINA**  
**ENVIRONMENTAL MANAGEMENT COMMISSION**

**Minutes of the November 18, 2021 Meeting<sup>1,2</sup>**

*The North Carolina Environmental Management Commission occurred in the Ground Floor Hearing Room of the Archdale Building at 512 N. Salisbury St, Raleigh, NC. Commissioners, staff, and scheduled speakers attended in-person. Limited seating was available to the public. Face coverings were required for employees and visitors. Meeting audio and presentations were broadcast via the state web conferencing link posted on the Environmental Management Commission website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission>*

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**Meeting called to Order: Robin Smith, Chair**

The meeting was called to order with **Chair Smith** presiding. She provided the notice required by N.C.G.S. § 138A-15(e).

**Commissioner Monast** indicated that she had discussed her ability to participate in the Optima declaratory ruling with Counsel Reynolds and was advised that she didn't have a conflict of interest. Commissioner Monast stated that she would provide more information when the declaratory ruling item was presented.

**Present:** 14 – Robin W. Smith (Chair), Dr. Suzanne Lazorick (Vice-Chair), David W. Anderson, Yvonne Bailey, Shannon Arata, Charles Carter, Donna Davis, Marion Deerpake, Christopher Duggan, Steve Keen, Jennifer Kelvington, John McAdams, Maggie Monast, J.D. Solomon

**Commissioner Harris** did not attend.

**Others Present:** Commission Counsel Phillip T. Reynolds

**I. Preliminary Matters**

1. Approval of minutes from Commission meetings on July 13, 2021 and the September 9, 2021 (attached).

**Chair Smith** asked if there were any comments on the draft minutes for the July 13 and September 9<sup>th</sup> EMC meetings. Commissioner McAdams noted a correction to the July 13<sup>th</sup> minutes that there was a name missing in item 1, 2<sup>nd</sup> line which was Clean Air Carolina and the North Carolina Federation. **Commissioner McAdams** moved to approve the July 13, 2021 minutes with the correction. **Commissioner Arata** seconded the motion. With no further discussion, **Chairman Smith** called for a vote and the motion passed. The September 9<sup>th</sup> minutes were held over for approval at the January 13, 2022 meeting.

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<sup>1</sup> These minutes are in draft form until approved by the Commission.

<sup>2</sup> A link to the audio recording of the November 18, 2021 Commission meeting can be found here: <https://www.youtube.com/watch?v=kHj2zu6J2DY>

## **Action Items**

### **21-30 Request Approval to Proceed to Public Notice and Hearing on Amendments to 15A NCAC 13B Rule .0832 “General Provisions” for Septage Management**

Adam Ulishney, of the Division of Waste Management, presented the amendment to 15A NCAC 13B Rule .0832 “General Provisions” pertaining to septage management. Mr. Ulishney began with an overview of the general permitting requirements and a brief summary of the rule change, which would amend the permit length for subsequent permits for septage land application sites and septage detention and treatment facilities, from five years to ten years, while confirming that the proposed amendment does not affect the annual permits for septage management firms, or the initial permit length of one year for SLAS and SDTF permits.

Mr. Ulishney continued by stating that a Regulatory Impact Analysis, as approved by OSBM, determined that no fiscal note was necessary because the proposed amendment would have little to no impact on the regulated community, local government, or state government, and that it would have no substantial economic impact. The Regulatory Impact Analysis also described the impacts of the change to permit length implemented by the Session Law, for information purposes. A proposed rule-making schedule was provided with the earliest date for a Public Hearing being December 30, 2021, and that the anticipated effective date would be pending legislative review. In closing, Mr. Ulishney requested approval to proceed to public hearing and comment for amendments to 15A NCAC 13B Rule .0832 “General Provisions” for septage management and the regulatory impact analysis.

Following Mr. Ulishney’s presentation, **Commissioner Bailey** made a motion that the EMC approve 15A NCAC 13B Rule .0832 “General Provisions” for Septage Management and the Regulatory Impact Analysis to proceed to public hearing and comment.

**Commissioner McAdams** seconded the motion and the motion passed unanimously.

### **21-31 Request Approval of Hearing Officer’s Report, Regulatory Impact Analysis, and Adoption of Rule Amendments for 15A NCAC 02N “Underground Storage Tanks”**

Ruth Strauss, of the Division of Waste Management, presented the rule amendments for 15A NCAC 02N “Underground Storage Tanks”. Ms. Strauss began with an overview of the purpose of the rule in question and a summary of the proposed rule changes. Ms. Strauss stated that a Regulatory Impact Analysis, as approved by OSBM, determined that no fiscal note was necessary because the proposed rule changes reduced the cost burden on the regulated community and on state and local governments. A public hearing was held in August of 2021 and no comments were received following the hearing or during the public comment period.

Following the comment period, the Division made a technical change to rule language in 15A NCAC 02N .0406(2) to remove existing rule language that inappropriately suggested the EMC was amending a federal rule. The change did not affect the meaning of the rule. A proposed

rulemaking schedule was also presented indicating that the anticipated effective date would be pending legislative review. In closing, Ms. Strauss requested approval of the hearing officer's report, regulatory impact analysis, and adoption of rule amendments for 15A NCAC 02N "Underground Storage Tanks", including the technical correction to 15A NCAC 02N .0406(2). There was some additional discussion for clarification, during which **Commissioner Monast** and **Commissioner Solomon** commented that they would like to see additional detail on fiscal impacts in future regulatory impact analyses, where possible.

**Commissioner Bailey** made a motion that the EMC approve the Hearing Officer's Report, Regulatory Impact Analysis, and adopt the rule revisions for 15A NCAC 02N "Underground Storage Tanks," with the technical correction as presented. **Commissioner Solomon** seconded the motion and the motion passed unanimously.

### **21-32 Request Approval of Hearing Officer's Report on Proposed Rule Re-adoptions to 15A NCAC 02E Water Use Registration and Allocation Rules**

Linwood Peele, DWR Water Supply Planning Branch presented this item. He stated that the rules proposed for re-adoption were .0100 General Provisions, .0300 Registration of Water Withdrawals and Transfers, .0500 Central Coastal Plain Capacity Use Area, and .0600 Water Use During Droughts and Water Supply Emergencies. A brief history of the rule re-adoption process was presented. During the public comment period of May 3, 2021 - July 2, 2021, Hearing Officer **Commissioner David Anderson** held a virtual public hearing on May 20, 2021, with 13 attendees and one person spoke. DWR received five individual written comments during the comment period which included proposed additions and changes to the rule language, general comments on purpose and intent of these rules, and general comments on procedural processes for the permitting and registration. All comments were summarized with responses in the Hearing Officer's Report; DWR presented the recommended changes to the rule text in .0301, .0502, and .0507, in response to the comments received and they presented a subset of comments received but not recommended for rule changes.

The next step in the rule re-adoption process is that the proposed rules are due to the Rules Review Commission by November 22, 2021 for the commission's review and approval. If the Rules Review Commission approves the proposed rules at their December 16, 2021 meeting, the proposed rules will become effective January 1, 2022. The Division requested that the Environmental Management Commission approve the Hearing Officer's Report and re-adopt the proposed rules to 15A NCAC 02E Water Use Registration and Allocation Rules.

**Commissioner Solomon** asked about the definition of recharge rate and the EPA definition refers to natural or man-made. Gabrielle Chianese responded that the definition was meant to indicate a generic addition of water, that the definition intentionally did not address whether it was natural or manmade.

**Commissioner Solomon** asked **Commissioner Anderson**, the hearing officer, whether the requirements would place an undue hardship on the agricultural community. **Commissioner Anderson** responded that there wouldn't be.

**Vice-Chair Lazorick** asked what the smallest permitted user was like. Ms. Chianese responded that annual registration was required for 10,000 gallons per day. The smallest users tend to be agriculture and some small municipalities. There are agricultural, industrial, public supply, golf course irrigation, aquaculture and mine dewatering users.

**Vice-Chair Lazorick** asked about the proposed changes to the intermittent user definition and whether the intent was that for 60 days a user could withdraw as much water as they want without limit. Gabrielle Chianese responded that DWR had some concern about changing the word from "or" to "and" that only a small handful of people were affected. Agriculture, which typically falls under this, was not pumping excessively since it costs money to operate the pumps, so farmers want to be as efficient as possible.

**Commissioner Deerhake** asked whether the Department considered potential impacts to groundwater quality from a permitted withdrawal under .502(c)(3) because that was not captured under the list. **Commissioner Deerhake** also asked if there were other potential groundwater quality impacts that were not captured in this language that the EMC needed to think about in the future and Gabrielle Chianese responded possibly yes.

**Commissioner Deerhake** observed that the sentence structure in .0502(d)(3) did not seem to be correct. She indicated that it was not a description of information that needs to be included, but it was an activity to be performed. It seemed to be the wrong sentence structure or out of context and did not flow for future reference. Gabrielle Chianese noted her comment and responded that staff would review the sentence structure.

**Chair Smith** asked about the definition of an intermittent user and the significance of someone to be categorized as an intermittent user. Gabrielle Chianese responded that it did not eliminate the requirement to obtain a permit, however, it would exclude them from having to implement any water reductions.

**Commissioner Anderson** made the motion to approve the hearing officer's report and rules to send to the Rules Review Commission. **Commissioner Davis** seconded the motion and the motion passed unanimously.

### **21-33 Request Approval of Hearing Officer's Report on Proposed Rule Amendments to 15A NCAC 02L .0202 Groundwater Quality Standards**

Bridget Shelton (DWR) presented an overview of the proposed amendments that went out to public comment and hearing, a summary of the public hearing and comments received, and the recommended rule changes after the comment period. These recommended changes included adding language to 15A NCAC 02L .0202(c) and .0202(g) and removing the proposed

groundwater quality standard for PFOS and PFOA from the rulemaking. DWR requested that the Commission approve the Hearing Officer's report and fiscal note on proposed rule amendments to 15A NCAC 02L .0202 Groundwater Quality Standards. Discussion followed amongst **Commissioners Solomon, Bailey, Arata, and Chair Smith** regarding adding rule language to require a timeline to establish an IMAC. **Chair Smith** suggested adding language to the rule that would require the Division to report to the Commission updates on IMAC requests received and the status of these requests.

**Commissioner Bailey** made a motion to approve the Hearing Officer's report and fiscal note on proposed rule amendments to 15A NCAC 02L .0202 Groundwater Quality Standards. **Vice-Chair Lazorick** seconded. **Commissioner Arata** offered a friendly amendment to the motion to request to add language as discussed that requires the Director to report to the Commission on an annual basis an update on the status of IMAC requests. **Commissioner Bailey** and **Vice-Chair Lazorick** accepted the friendly amendment and the motion passed.

#### **21-34 Request Review of Public Input and Request Approval of the 2021 Coastal Habitat Protection Plan**

Anne Deaton, DMF and Jimmy Johnson, APNEP presented the outcomes of the 30-day public comment period which included results for the on-line survey; comments submitted by way of the DEQ Public Comment email; and comments provided during the five public meetings that were held by the MFC's standing advisory committees. Mr. Johnson first reviewed the survey results which indicated strong support overall for the 2021 CHPP Amendment. He reviewed the emailed comments received which included two petitions with over 1200 respondents also strongly supporting the amendment. It was noted that a handful of emails expressed concern over some specific issues, but in general were supportive of the amendment. Mr. Johnson reviewed the motions from the advisory committees. All five advisory committees to the MFC approved the amendment and all five noted the need for a public/private partnership to be assembled to help with implementing the recommendations and help in any way possible with additional fundraising efforts.

Ms. Deaton described the recommended actions that were adjusted due to comments received from the public. There were four recommended actions that had wording changes and one recommended action that was added as a result of comments received. The recommended actions with adjusted wording were recommendations 4.1, 4.4, 4.7 and 4.8. The added recommended action was included in chapter 9 and recommended action 9.1. The changes to RA 4.1 and 4.4 had to do with the need for additional funding and funding sources. The changes to RA 4.7 and 4.8 dealt with changing the focus of the recommendation to the EMC. Recommended action 9.1 has to do with the formation of the public/private partnership by DEQ.

**Commissioner Bailey** made a motion for the EMC to "approve the 2021 CHPP Amendment to the Habitat Protection Plan". **Commissioner Deerhake** seconded and the motion passed unanimously.

**21-35 Request for Approval to Proceed to Public Hearing on the Amendments to the Title V Rules, 15A NCAC 02Q .0103 and .0500 and Accompanying Regulatory Impact Analysis (553)**

Mr. Knowlson, DAQ presented the proposed rule amendments to the Title V rules in 15A NCAC 02Q .0103 and .0500, which were proposed to address comments received from EPA during the fourth review of the State's Title V program. Mr. Knowlson provided an overview of the comments and proposed revisions. The changes were primarily administrative in nature to correct typographical and rule reference errors and align the rules with Part 70 federal requirements and current DAQ practices. Due to the nature of the changes, no economic impact is expected. The Office of State Budget and Management (OSBM) determined the amendments have little to no impact on state or local governments and no substantial economic impact and approved the regulatory impact analysis (RIA). Additional clarification was provided regarding the changes pertaining to federally- and state-enforceable only conditions. The hearing record will be presented at the May EMC meeting.

**Commissioner Solomon** asked whether OSBM agreed with the concluding portion of the RIA that states the changes have no appreciable economic impact, or health or environmental benefits. Mr. Knowlson responded that OSBM conducted a thorough review of the RIA and posted the approved RIA on their website. He also clarified that the changes were proposed to align the rules with existing practices, which was why no economic impact or environmental benefit is expected. Technically an RIA was not required for these changes, but DAQ always prepares an RIA.

**Commissioner Arata** added that there were two main topics regarding these amendments that were discussed at the September AQC meeting: 1) as mentioned, the Hazlehurst petition and changes regarding the state-enforceable and EPA-enforceable conditions; and 2) the public participation process as it related to the DEQ's public participation plan and limited English proficiency plans. **Commissioner Arata** asked for additional information regarding the second item when these rules come back to the EMC.

**Commissioner Carter** stated concern with removing the federally-enforceable only conditions. Mr. Mark Cuilla, DAQ Permitting Section Chief, responded that the Hazlehurst petition deemed that Title V permits should only contain what is federally-enforceable rather than what is federally-enforceable only and made the distinction with the 112(r) general duty clause which is identified in DAQ's general conditions as being federally-enforceable only. **Commissioner Carter** stated support for taking the rules to notice.

**Commissioner Kelvington** asked how permit holders will see their permits change, whether there will be any changes to the protections under the permit shield, or to the annual reporting for the regulated community (e.g., relating to fugitive emissions reported in the emissions inventory). Mr. Cuilla responded that the permit holder will not see changes to their permits as a result of these rules, but rather changes as a result of the program review. The permits will be rearranged slightly, lists moved, acronyms and regulatory citations in the general conditions will be corrected where necessary, and the 112(r) general duty clause condition will be removed. The permit holder will

have the same protections under the permit shield, and the DAQ does not expect these rule changes to affect emissions inventory reporting.

**Commissioner Kelvington** asked about the cost to the permitting section to make these changes and whether it will take place during the renewal of the permit. Mr. Cuilla confirmed that most is shell language used for all permits, so the section will be implementing them immediately upon making the changes. DAQ determined no cost to the regulated community because the changes would not affect how applicants submit permit applications or their wait times, but rather how DAQ processes and designs permits. **Commissioner Kelvington** asked about the state's authority in enforcing the federally-enforceable only requirements. Mr. Cuilla stated it is DAQ's understanding that the general duty clause is beyond the state's purview, but DAQ has full authority to enforce everything else in the permits.

**Commissioner Carter** asked again about the revised definition of "federally-enforceable", which includes EPA, the Administrator and citizens, but does not include the state. Mr. Cuilla clarified that the definition of "Administrator" pulls in the State as the Administrator of the Title V program. Mr. Knowlson added that the definition of Administrator means the DAQ, except as specified in paragraphs (a) and (b), where the EPA may retain delegation.

**Commissioner Deerhake** asked if this number of changes is common in a program review and if DAQ would not normally address such amendments separately. Mr. Cuilla stated that this review had roughly the same detail as in previous years. **Commissioner Deerhake** asked if EPA needs the EMC to adopt these changes before giving a final determination on retaining program authority and confirming that the State's Title V program is in good standing with EPA. Mr. Cuilla responded that the program is in good standing and there isn't a deadline for making necessary rule changes. The rule revisions can proceed under the normal rulemaking process and the program recommendations can be made as DAQ is able. Upon adoption of the rule amendments, the rules will again be sent to EPA for approval.

**Commissioner Lazorick** stated that it seems a URL change should be able to be fixed without a rulemaking. **Chair Smith** stated she believes it would be considered an exception to the definition of a rule and a technical change the DAQ could make without further action. Mr. Knowlson clarified that there is a set process in the APA for this, which will be covered in the next agenda item.

**Chair Smith** asked for a motion. **Commissioner Arata** made a motion for the EMC to approve the Title V Rule amendments and accompanying RIA to proceed to public hearing. **Commissioner Carter** seconded the motion and the motion passed unanimously.

### **21-36 Request for Approval of Technical Corrections to 15A NCAC 02D .1204, Sewage Sludge Incineration Units (539)**

Mr. Knowlson presented the proposed technical corrections to the sewage sludge incineration (SSI) units rule, 15A NCAC 02D .1204, to correct rule cross reference errors in subparagraphs (f)(2), (e)(15), and (l)(3), which were identified after EPA review of a pre-hearing draft state plan for the SSI Emission Guidelines (EG) under 40 CFR Part 60, Subpart M. North Carolina General Statute (NCGS) 150B-21.5(a) does not require publication in the North Carolina Register,

a public hearing, or review by the Rules Review Commission for technical changes. The effective date is projected to be December 1, 2021.

**Commissioner Arata** added that there were no comments or questions regarding this item at the AQC meeting in September. **Commissioner Carter** asked whether DAQ could make this type of change without a formal rulemaking process.

**Commissioner Duggan** made a motion to approve the technical corrections to the Sewage Sludge Incineration Units Rule. **Commissioner Arata** seconded the motion and the motion passed unanimously.

#### **21-37 Request Approval of the 2021 White Oak River Basin Water Resources**

Robin Hoffman with DWR's Basin Planning Branch presented the 2021 White Oak River Basin Water Resources Plan. The presentation highlighted portions of the eight-chapter plan addressing water quality and quantity in this southeastern North Carolina river basin.

**Commissioner Deerhake** provided positive comments regarding the plan and associated materials. **Commissioner Keen** asked about a statement in the New River sub-basin watershed chapter explaining the potential listing of the New River on the 303(d) list due to the lack of success of the current NSW strategy. Staff responded that the language had been removed from the final draft of the document. Commissioner Bailey asked who in DEQ is responsible for coordinating the implementation of voluntary BMP and other projects intended to improve water quality in the basin. Staff responded that most voluntary measures are implemented on the local level by such stakeholders as Soil and Water Conservation Districts, municipalities, and other watershed groups in the White Oak River basin. **Commissioner Deerhake** pointed out that the three major Triangle universities also have marine sciences institutes in the White Oak basin that are working with nonpoint source pollution reductions and asked staff if they were also involved in the planning process. Staff said that they are.

**Commissioner Deerhake** made a motion to approve the 2021 White Oak River Basin Water Resources Plan and **Commissioner McAdams** seconded the motion to approve. The motion passed unanimously.

#### **21-38 Petition for Declaratory Ruling, Optima TH, LLC**

**Chair Smith** recognized Counsel Reynolds to provide background on the policy, process and law related to declaratory rulings. Counsel Reynolds provided an overview of the declaratory ruling process before giving the quasi-judicial instructions. He then introduced Ms. Susan Cooper, from Womble Bond Dickinson, representing Optima and Mr. Asher Spiller, Assistant Attorney General, on behalf of DAQ.

In response to a question from **Chair Smith**, Counsel Reynolds advised that the Commission would take up to two separate votes. One vote would be whether to grant or deny the request for a



declaratory ruling. If the Commission granted the request, the Commission would then have to take a second vote to determine how to resolve the rule interpretation issue on the merits.

Before consideration of the declaratory ruling request, **Commissioner Monast** stated that she understood the project was located at a facility with a business relationship with Smithfield Foods. **Commissioner Monast** disclosed that in her role with the Environmental Defense Fund, she had worked on environmental issues related to hog farm management and had collaborated with Smithfield Foods on other matters. **Commissioner Monast** stated that neither she nor EDF had a financial relationship with Smithfield related to this work and she didn't have direct knowledge of the specific permit issue before the Commission other than what was supplied in the declaratory ruling documents. After consulting with EMC Legal Counsel, Commissioner Monast concluded that she did not have a conflict of interest or an impermissible legal bias requiring recusal.

Ms. Susan Cooper was then recognized to present Optima TH's request for declaratory ruling. Ms. Cooper argued that the plain wording of the rule did not prohibit the use of supplemental fuel, including natural gas, purchased from a utility to increase the heating value to enhance oxidation and to achieve compliance with the rule.

Mr. Asher Spiller was then recognized to present the Division of Air Quality's argument in opposition to Optima TH's request. Mr. Spiller noted that the issue raised indicated an important question of whether a facility can comply with an emissions control standard not by controlling pollution but by unnecessarily burning additional fossil fuels.

After commissioners' questions and discussion, **Chair Smith** stated that the Commission must first vote on whether to issue a declaratory ruling at all. **Commissioner Solomon** noted that past Chair Meiburg had found the request for declaratory ruling complete as to the request for interpretation of the rule and the record supported that this part of the petition concerned rule interpretation and did not concern permitting of the facility. Commissioner Solomon also noted that the Commission had denied declaratory ruling requests in the past because an issue had been in the courts, but in this case there was no litigation.

Commissioner Solomon moved that the Commission issue the declaratory ruling. Counsel Reynolds indicated that this was the motion to grant the declaratory hearing. **Commissioner Keen** seconded the motion. After further discussion by the Commission, Chair Smith asked for a vote on the motion. Seven voted in favor of the motion and six opposed. The motion carried.

**Chair Smith** indicated the next step in the decision-making was to reach the merits of the declaratory ruling itself and whether to accept the Division of Air Quality's rule interpretation or to accept the interpretation brought forward by the petitioner.

After further discussion and questions **Commissioner Solomon** moved to uphold the petitioner's request, but asked Counsel Reynolds to advised on the correct way to state the motion. Counsel Reynolds explained the specific rule interpretation requested by the petitioner. He stated that the petitioner asked the Commission to find that 15A NCAC 2D.0516(a) does not prohibit the use of

supplemental fuels, including natural gas purchased from a utility, to increase the heating value of flared waste biogas to enhance oxidation and to comply with 2D.0516.

**Commissioner Solomon** moved to accept the interpretation proposed by the petitioner. **Commissioner Keen** seconded the motion.

**Chair Smith** asked for a vote. Seven voted in favor of the motion and three opposed. One Commissioner did not vote. The motion carried. The entire declaratory ruling proceeding was recorded.

**21-39 Haw River Assembly and Fayetteville Public Works v. NC EMC and The City of Greensboro (OAH Case Nos. 21 EHR 01770 and 01771) – (Closed Session)**

Counsel Reynolds stated that there had been developments in litigation over the Special Order by Consent issued to the City of Greensboro earlier in the year that the Commission needed to consider. **Commissioner Deerhake** made a motion pursuant to North Carolina General Statute 143-318.11 to go into closed session to consult with Council regarding the ongoing contested case filed by Haw River Assembly and the Fayetteville Public Works Commission, OAH case numbers 21 EHR, 1770 and 1771. **Chair Smith** followed by saying the Commission would be coming back into open session to take action. **Commission Duggan** seconded the motion. Motion passed.

The Commission went back into open session at approximately 4:00 p.m. Counsel Reynolds indicated that the Commission took no votes in closed session. He stated the Commission went into closed session to discuss the ongoing litigation and a proposed settlement agreement with the petitioners and the City of Greensboro. Counsel Reynold's recommended that the Commission approve the proposed settlement agreement. Under the proposed settlement, the parties agreed that the SOC approved by the Commission in March of 2021 should be amended. In Year 1, the target value for 1,4-dioxane would be reduced from 45 to 35 and in Year 2 the target value would be reduced from 35 to 31-1/2. The amended SOC would also add a third year with a target value of 23. Proposed amendments to the SOC also included a more robust sampling, monitoring and notification regimen and a tiered stipulated penalty provision that would take both the severity and frequency of exceedances into consideration.

As presented to the Commission, the proposed settlement agreement included the changes to the SOC and the sampling plan as Exhibit B. Exhibit C to the proposed settlement agreement set out additional commitments on the part of the Commission, including a commitment to direct the Department of Environmental Quality to refine and supplement its 2016 and 2017 studies of point source discharges in the Cape Fear River Basin for a period of three years. The supplement of DEQ's study would include semi-annual progress reports with written progress reports written to the Water Quality Committee annually by DEQ for a period of three years.

**Chair Smith** asked if there were any questions or a motion. **Commissioner Deerhake** made a motion to approve the proposed settlement agreement, including amendments to the Special Order by Consent as described in attachment A to the settlement agreement and the additional

Commission commitments set out in attachment C to the settlement agreement. The first verbal progress report by DEQ should be provided to the Water Quality Committee at its July 2022 meeting with the first written report to be provided in January 2023.

**Commissioner Carter** seconded the motion. Chair Smith asked for discussion and a vote and none and the motion passed unanimously.

**Chair Smith** thanked everyone and stated that the September minutes would be delayed until January 2022.

With no further business before the Commission, the **Chair** adjourned the meeting at 4:30 p.m.

Approved this 13<sup>th</sup> day of January 13, 2022.

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Robin W. Smith, Chair  
Environmental Management Commission