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MINUTES ENVIRONMENTAL REVIEW COMMISSION 15 November 2006

The Environmental Review Commission (ERC) met on Wednesday 15 November 2006 at 9:30 a.m. in Room 1228 of the Legislative Building. Representative Pryor Gibson presided.

The following members were present: Senators Albertson, Bingham, Clodfelter, Dorsett, Forrester, Kinnaird and Weinstein; and Representatives Gibson, Hackney, Harrell, Harrison, Justice, McComas and Warren. Mr. George Givens, Commission Counsel; Jeffrey Hudson, Assistant Commission Counsel; Jennifer McGinnis, Assistant Commission Counsel; Susan Iddings, Assistant Commission Counsel; Jennifer Mundt, Commission Analyst; and Dot Waugaman, Commission Clerk, were also present.

On 31 October 2006, notice was sent to members and interested parties via e-mail and regular mail. A copy of the notice is included in the attachments to these minutes as **Exhibit A**. Copies of the agenda for the meeting and visitor registration sheets are included in the attachments as **Exhibits B** and **C**.

Representative Gibson called the meeting to order and asked George Givens to present his report and explain the agenda items. Mr. Givens pointed out that a package of two groups of reports with an explanation memorandum from Ms. Jennifer Mundt was at their desks (see **Exhibit D**). The first group of six reports consists of reports that have been submitted to the Commission since the last meeting that are designated as Read Only. They include the annual report of the Coastal Habitat Protection Plan Program, 2005-2006 (see **Exhibit D-1**); report to the General Assembly on the Inactive Hazardous Sites Program, dated October 2006 (see **Exhibit D-2**); 2006 semiannual report for the Pilot Program for Inspections of Animal Waste Management Systems, dated October 2006 (see **Exhibit D-3**); annual report on Basinwide Water Quality Management Plans, dated October 2006 (see **Exhibit D-4**); annual report on the Dry-Cleaning Solvent Cleanup Act Program, dated October 2006 (see **Exhibit D-5**); and annual report on Implementation of Stormwater Rules and Programs, dated October 2006 (see **Exhibit D-6**). The second group of reports was also submitted to the Commission since the last meeting. Those reports relate to items on the agenda. They are placed in the minutes according to the agenda item to which they relate. Mr. Givens added that also at their desks was a document entitled, "Status of Reports to the ERC Required by Law", dated 14 November 2006 (see **Exhibit E**). The only reports being held are those relating to Parks and Recreation issues. They will be distributed at a meeting when parks and recreation issues are discussed sometime before the convening of the 2007 session.

Mr. Givens noted that the public-staff planning meeting for this meeting was held at 10:00 a.m. on 13 October 2006. He then reviewed the agenda for Commission members. In regard to Agenda Item #12, he reported he has heard from some people who want to be heard on the issue and therefore the agenda item will appear again at the January meeting. He added that the Nutrient Offset Payment Working Group has met once and will meet again on Wednesday 22 November at 10:00 a.m. The group is working on a Request for Proposals for a consultant to assist with a study of the issue. The next meeting of the ERC will be Wednesday 13 December 2006 in Room 1228 of the Legislative Building. One of the items on the agenda will be issues related to abandoned manufactured or mobile homes. Another will be a report on the Sedimentation Control and Pollution Control Act. The Utilities Commission is scheduled to complete its study and report to the ERC on renewable energy portfolio standards at that meeting, and Leaking Underground Storage Tank program will also be discussed.

Representative Gibson recognized Mr. Givens to report on the proposed merger of the organization and functions of the Ecosystem Enhancement Program (EEP) with the Clean Water Management Trust Fund (CWMTF) as required by Part 16 of the 2006 studies bill. Mr. Givens said Transportation Oversight staff members are working on a Request for Proposals (RFP) to hire a consultant as is authorized by the legislation. The Transportation Oversight Committee met the previous day and approved the draft RFP. It is before the ERC for approval today. The staff recommendation is

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that it be approved subject to technical and scheduling modifications necessary as it is perfected. Transportation Oversight and ERC staff will work together to select the consultant who will be charged with preparing a fair and balanced report.

Representative Gibson recognized Ms. Lisa Hollowell, Senior Fiscal Analyst, Fiscal Research Division, North Carolina General Assembly, to outline the RFP with particular focus on the scope of the work to be performed by the consultant (see **Exhibit F** for a copy of the draft RFP).

Senator Clodfelter asked if the study could be done by existing staff and how much the outside consultant would cost. Representative Gibson remarked that with the complexity of this and other issues staff is dealing with, and the short time frame required, current staff is unable to fit it into their work schedules. Mr. Givens replied that the study has been postponed for a year because the 2005 studies bill did not pass, and that the same language was in the 2006 studies bill which did pass, including the authorization to hire a consultant.

Senator Weinstein moved that the Commission approve the draft Request for Proposals for a consultant to assist the Commission and the Joint Legislative Transportation Oversight Committee (JLTOC) in the joint study of the merger of the organization and functions of the Ecological Enhancement Program with the Clean Water Management Trust Fund, subject to technical and scheduling modifications by the staff, and to authorize the Commission Counsel to work with the staff of the JLTOC in the selection of a consultant from among the proposals received. The motion includes the following understandings: (1) that the employment of the consultant is subject to approval by the Legislative Services Commission; (2) that the consultant will be paid from funds available to the Commission and the JLTOC through the Legislative Services Commission; (3) that the consultant will report its findings and recommendations in time for the 2007 session to consider the recommendations; and (4) that the Commission will review the cost and work schedule of the consultant at its December or January meeting. The motion carried.

Representative Gibson recognized Ms. Robin Smith, Assistant Secretary for Environment, DENR, for a report on recent action by the Environmental Management Commission (EMC) on the Clean Air Mercury Rule (see **Exhibit G** for a copy of the rule as recommended by the hearing officers to the full EMC at their 9 November 2006 meeting). The EMC did adopt the rule. In the process they made a couple of minor changes that affected only the reporting requirement, but it did not alter the rule at all.

Ms. Smith explained the background of the rule. The U.S. Environmental Protection Agency adopted a mercury rule addressing emissions from power plants. Part of the rule set a national cap for mercury emissions. A cap was then assigned to each state individually. Under the federal rule, North Carolina has a cap for mercury emissions that our power plants will have to comply with by 2018. Within the cap for each state, the federal program allows for cap and trade. Essentially, the power companies across the country have the opportunity to meet the emissions allocations under the state caps, either by actually reducing their mercury emissions, or by trading for credits in a national cap and trade program. If a given utility was not able to actually reduce their emissions to the limit of the allocations within their state cap, they could buy credits in the national cap and trade program to offset their shortfalls. There has been a lot of concern nationally about addressing mercury with a cap and trade program, because such a program would allow some utilities to achieve their reductions not by actually controlling mercury but by buying credits that would leave hotspots. Across the country, a number of states (approximately 20) have looked at adopting more stringent rules than the federal rule that is allowed under the federal regulatory program. The biggest concern in those states has been how and whether to participate in the national cap and trade program for mercury credits.

In North Carolina, the EMC has struggled with the issue for about 18 months. Much of the struggle had to do with how to use the cap and trade program. There was a strong sentiment that we wanted to get the largest amount of actual mercury reductions in North Carolina that we could achieve without relying on the trading program. There was discussion over the last 18 months about the feasibility of achieving up to 90 percent reductions in mercury emissions without trading, but there was also a great

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deal of uncertainty over what is achievable. How much could be reduced depends on many factors such as how much mercury is in the coal that an individual utility is using, what types of mercury control equipment is installed, along with a number of other variables. There is no good mercury emissions data in existence to rely on, so decisions have been based on modeling and estimates of what reductions will be achieved by installing different types of equipment. The uncertainty has the utilities nervous about their ability to reach certain targets. At the end of the process, the Division of Air Quality had looked at estimating emissions reductions that could be achieved in North Carolina based first on the clean smokestacks controls.

It is known that the installation of the technologies to control for NO_x and SO₂ emissions in the state would reduce some mercury emissions. DENR estimates that by 2013, five years ahead of any mandatory emissions reductions under the federal rule, North Carolina is expected to achieve about 73 percent reductions in mercury emissions in the state from power plants based on the installations of clean smokestacks controls. However, additional reductions would be required to reach the federal cap. The rule ultimately sets a numerical target for the second phase reductions. The EMC adopted a narrative standard that requires the utilities to return to the Commission in 2013 with a mercury control plan for their entire system.

The plans will have to address the clean smokestacks units as well as any units that remain uncontrolled, and propose a plan for installing additional mercury control technology to achieve the maximum level of actual reductions that is technically and economically feasible in North Carolina without reliance on the trading program. The EMC will have to approve the plans. It also requires controls on all units with an exception for very small units. It may not be technically and economically feasible to control the very small units because there would not be sufficient mercury reduction from those units to justify the cost of the technology. If the EMC found that that to be true, and also found that allowing a particular unit to function without controls would not create a localized problem with respect to human health and the environment, they could allow that unit to remain uncontrolled as long as the utility achieved additional reductions from another unit in their system. If by 2018 when these plans have been approved and the utilities have installed all their mercury control equipment in compliance with their approved plan, it turns out that they have not quite met the level of emissions reduction required to fall under the federal cap, they could use the national cap and trade program to buy credits to offset the difference. The point of the rule is to make the effort to obtain the maximum actual feasible reductions before participating in the trading program.

It was a difficult rulemaking process, but agreement has been achieved with the utilities in the past three weeks. The agreement on the rule met the utilities' concerns that even with all the controls installed they would still not be able to reach the reductions needed. It met the environmental concerns of the EMC and the environmental community that they not go to a cap and trade program that would allow for localized mercury impact unless there was no other option.

Senator Clodfelter asked if our utilities reach their reductions and would be able to reduce the emissions even more they would be able to sell their credits to other utilities. Ms. Smith answered that presumably they would. She added that the way the rule is written, the utilities do not need to stop when they reach the federal cap. If it turns out 4-5 years from now that the control equipment is actually more efficient than currently thought, and they can exceed the level of reductions required under the federal cap, they are expected to sell their credits to other utilities.

Senator Albertson asked if Ms. Smith has a map showing the mercury hotspots. She replied she does not, but that she would get the information for the committee.

Senator Clodfelter asked if the state could put any limitations on where we buy and sell our credits to protect our environment. Ms. Smith said because the trading program is a federal program, we cannot have that kind of control. She added that the state could adopt standards for North Carolina power plants and affect what their standards are in the state before they can take advantage of the trading program. Mr. Givens commented that there are some court case incidents that would suggest that a state's attempt to manipulate the trading program process would be considered interference with

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the federal plan and would therefore be unconstitutional. With the smokestacks program, the utilities voluntarily agreed to surrender all their smokestacks credits to the state, but the General Assembly actually has control of those and presumably will have them sequestered forever. Senator Clodfelter asked if there was any discussion about what to do if credits were donated. Ms. Smith said she did not believe there had been, and added that she does not believe this could function as the smokestacks program did because in that situation the state was ahead of any federal program. In this case, there is a federal cap and trade program established and functioning under federal rules. **Mr. Givens said the issue would be worth another look.**

Senator Forrester asked if this program would mean there would be no more coal fired electric plants built in the state. Ms. Smith replied that the rule is written with a growth allowance. The rule takes the state cap that EPA set and subtracts from that cap a certain percentage to put in a new growth account. That amount then comes out of what was allocated to the existing units and their mercury allocations. The actual level of emissions reductions that existing units have to reach is tighter because DENR has taken a percentage off the top to put in a growth account for potential energy source development.

Senator Kinnaird commented that because of the properties of mercury versus NOx and SOx2, she believes there should not be a cap and trade program. Senator Albertson added that the report shows that we need to be developing alternative sources of energy, energy efficiency and energy conservation in the state.

Mr. Givens told the ERC that the rule will now go to the Rules Review Commission, and either will or will not be subject to legislative review during the 2007 session depending on that review.

Mr. Givens also announced that procedurally, in regard to the RFPs (see above), the statute requires that the RFPs be approved by the Legislative Services Commission (the Speaker of the House and the President *Pro Tempore* of the Senate).

Representative Gibson recognized Mr. Paul Crissman, Head, Planning and Program Management Branch, Solid Waste Section, Division of Waste Management (DWM), DENR, to report on a survey of solid waste management regulations of other states and on issues related to the processing of solid waste management permits by the Division of Solid Waste. The moratorium bill passed during the 2006 session directed the study of solid waste.

Mr. Crissman first answered questions from the previous meeting (see **Exhibit H** for a copy of his PowerPoint presentation and **Exhibit I** for a map showing states with tip fee surcharges). He also shared two studies on illegal dumping and the causes of illegal dumping (see **Exhibit J** and **Exhibit K**). The two primary causes of illegal dumping are (1) lack of access or a collection program and (2) lack of a local enforcement program. The North Carolina experience supports the studies with one additional comment: there seems to be a local custom of illegal dumping in some specific areas of the state.

The states studied have some things in common: they are seaboard states and neighbor states. They are the states from which we expect to receive waste if we become a host state for waste, or they are states that are host states that currently receive waste from states that we would expect to receive waste from. Besides the questions shown in the PowerPoint presentation, the study is looking at whether or not there are bans on certain types of waste and what types of articles are banned, what types of wastes are accepted, and what screening processes are used. A meeting was held yesterday to determine what data they still need to collect.

Mr. Crissman said he believes the existing landfills are performing well. The current system is not broken. There are no base liners that they are aware of that leak today. We know the monitoring systems work. There have been some problems with some of the leachate collection systems, with some of the leachate collection ponds, and some sabotage at a landfill. The moratorium gives us a chance to look at our rules in comparison with other states, and in comparison with our performance. We have

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experience in the state with lined landfills. We have a history of working with local governments. There are some big landfills, some with over 1,000,000 tons a year, and there are some very small ones.

In December, DWM will come to the ERC with recommendations. One recommendation consists of a list of rules that need to be written. A second is the idea of designating sensitive areas such as a brown water recharge area, or a groundwater recharge area. Some states have a specific defined regulatory response for sensitive areas. The defined response may be a double liner with a leak protection system. A third option would be to have an open-ended response for a sensitive area. The response would be a design or site-specific response, subject to the applicant's design. That would require a legislative change because the Rules Review Committee will not allow DWM the flexibility in their rules to have an open ended response. Another recommendation would be to require a full environmental impact statement for every proposed landfill.

Many states also require a transportation study. One of the major complaints and frustrations of landfill neighbors is the transportation of the waste to the landfill. DENR has no regulatory control or influence over anything outside the landfill. Another suggestion could be expanding the list of location restrictions based on certain criteria.

The study is comprehensive. It is being done by DSWM staff at the cost of time. The existing permit backlog is growing for a couple of reasons: permits are growing in complexity and frequency, and the public is more vigorously and contentiously involved than they used to be. It is difficult to recruit people to do permit work and the budget shortfalls have contributed to the problem.

Representative Gibson recognized Ms. Sara Evans, Manager, Recycling and Local Assistance Branch, Division of Waste Management, Department for Environmental Protection, Environmental and Public Protection Cabinet, Commonwealth of Kentucky, to discuss the Kentucky solid waste tipping fee surcharge and solid waste management programs (see **Exhibit L** for a copy of her PowerPoint presentation). Ms. Evans said Kentucky faced some of the same problems North Carolina is now facing, and they have had successful outcomes. She added that their permit backlog has decreased from three years in 2002 to a currently backlog of two months.

Representative Gibson recognized Mr. Richard Whisnant, Associate Professor of Public Law and Government, UNC-CH School of Government, to discuss legal limits and policy options (see **Exhibit M**). Mr. Whisnant said the one thing that can be done to keep on safe constitutional ground is to focus on local and state benefits of whatever it is that is being proposed to do. He said the state needs to consider if the current tipping fee fully covers all the costs of solid waste disposal. He spoke about conflicting interests between local and state and regional jurisdictions.

Representative Gibson recognized Mr. Paul Meyer, Assistant General Counsel, North Carolina Association of County Commissioners, to speak on local government perspectives on solid waste management. Mr. Meyer made three points. For many reasons, landfills have become a viable economic development option. The problem then becomes a revenue problem, not a solid waste problem. The siting of landfills is a necessary component for the disposal of trash in the state. Local governments play an interesting role. They are both owners and operators of landfill facilities and may be franchisors. Until there are more cost effective technologies, landfills will continue to play a significant role in terms of trash disposal and overall economic development. Market forces dictate that less populous areas and less valued land will lead to lower disposal costs. It is inevitable that due to low cost land and low cost labor in North Carolina, landfills and trash will be coming to this state. Further complicating this, the state has a large list of fiscally strapped county governments. Some of the counties that have triggered the current situation are Columbus County (23% poverty rate in the county—5th highest in the state, 12% of their budget is spent on Medicaid), Scotland County (21% poverty rate, 10% of their budget is spent on Medicaid), and Hyde County (16% poverty rate, and 5% of their budget goes to Medicaid).

With no other economic development options, landfills become a viable solution. However, it is a long and arduous process for local governments to enter into landfill agreements. The receipt of host fees by local governments is a standard practice throughout the country. The money is used to recoup

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some of the costs related to the landfill. Camden County has done everything right; however, they are receiving a significant amount of heat for their decision to bring a large landfill to their county. Imposing a state tipping excise tax could actually hurt the counties that are trying to survive economically because the companies will use the existence of a state excise tax to negotiate a lower local host fee. In fact, some of the existing contracts between private industry and local government have a clause that says if there is a state imposed excise tax, the local government will absorb the fee.

Although counties look at landfills as a way to help economic development, county leaders are also concerned with the environment and public health. Conventional wisdom says that because a local government receives host fees they will turn their backs on environmental and public health concerns; however, that is not the case. No county wants to destroy the groundwater quality in their county or damage the natural resources in their jurisdictions. They do not want to deter future economic development. Many local governments already hire additional inspectors at landfills because they acknowledge that DENR does not have the resources and staff to conduct the inspections. Mr. Meyer said the state should not become an active franchisor of solid waste facilities. There is a significant local role in land use and franchising as well as the development of landfills. He added that as North Carolina becomes more fully populated, and fully urbanized, the need for landfill capacity will continue to grow, and large regional landfills could very well be a necessary solution to that problem.

Mr. Meyer ended his presentation by saying that counties should not be prevented from exercising local autonomy over what their citizens want and need. There is a state interest, but it should not result in elimination of local control and local participation in the process.

Representative Gibson recognized Mr. Edward Repa, Director, Environmental Program, National Solid Wastes Management Association, to speak to the private solid waste management industry perspectives on solid waste management. Mr. Repa brought materials concerning the interstate movement of municipal solid waste (see **Exhibit N**). He said his Association works with the federal government in developing regulations. He first discussed the safety of the landfills. Modern landfills are well-designed and engineered facilities that are located, designed and operated to insure environmental protection. In the mid-1980s, as a result of the Federal Resource Conservation and Recovery Act (RCRA), the EPA put together the Subtitle D regulations, which are under 40 CFR part 258, and which the state adopted. The purpose of the federal rules was to set a minimum standard so that no matter where a landfill was sited, and no matter what a state did, the rules would insure protection of the environment and human health. The federal rules require liners, leachate collection systems, groundwater monitoring, financial assurance, closure and post-closure care for the facilities and if there is a problem, the responsible party is required to perform corrective actions. The RCRA regulations have forced the closing of old smaller landfills because they could not meet the requirements.

Since the rules have been in place, no new landfills have had any problems in protecting groundwater and the environment. This includes sensitive areas. Although coastal areas have been a problem because of the high water table, there have been over 20 years experience operating the landfills without a groundwater contamination problem. The Association looks for new technologies to assure environmental protection around landfills, including new materials for liners and leachate collection systems. Some states have bioreactor landfills in which the waste decomposes more quickly than in traditional landfills. In the 1980s, the average tipping fee was \$8 a ton; today it is \$34 a ton. This increase in cost is a result of concern for the environment.

Over 39 million tons or about 10 percent of waste generated across the country moves between states for disposal. There are basically 207 waste interactions—trades between one state and another. Almost 70% of the interactions are between neighboring states. Only three states do not dispose of waste outside their borders. North Carolina, for example, ships over 1 million tons of waste out of state for disposal. Sixty-two counties in North Carolina ship some of their waste out of state, not all to neighboring states. The landfill problem is not an engineering problem, it is a political problem. The counties have been looking at landfills as a way to help increase their revenues, take care of their waste, and also help them finance schools, fire departments and police departments.

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Representative Gibson recognized Mr. Jim Stephenson, Program Analyst, North Carolina Coastal Federation, to speak on behalf of the Coastal Federation, the Sierra Club and the Conservation Council of North Carolina (see **Exhibit O**). Mr. Stephenson spoke to the issue of DENR regulation of mega-landfills and made seven recommendations for the Commission to consider. He added that the coastal plain is particularly vulnerable to mega landfills. He showed a graph that demonstrated the heights of the proposed mega landfills in relation to the Cape Hatteras Lighthouse at 208 feet. All but one of the landfills was planned to be higher than the Cape Hatteras Lighthouse.

Mr. John Runkle, General Counsel of the Conservation Council of North Carolina, spoke from the perspective of the environmental advocacy community. He told the ERC that in his private practice he has represented over 20 private groups that have opposed landfills or wanted to modify landfills. Presently he is representing citizen groups and landowners in Camden, Hyde, Duplin, Brunswick, Scotland, Bladen and Richmond Counties. The reason the groups are opposing or wanting to modify the proposed landfills is that landfills have effects on their neighbors, the near community and some regionally. In the last 20 years, there have been two troublesome trends. The first is that landfills are getting larger. The proposed Camden landfill is six times as large as the next largest landfill, the Charlotte Motor Speedway Landfill. It would take 10,000 tons per day, much of it barged into the City of Chesapeake. The City of Chesapeake has sued Camden County Commissioners because the landfill would affect all the truck traffic and barge traffic through their town, and the landfill sits in their watershed next to a state park. Secondly, as the landfills are getting larger, the owners and operators are now relying more on the LLC form of organization, with a growing concern for assuring that financial resources would be available in case of the need to remedy a landfill problem. He stated that the entity operating the landfill needs to be able to be financially responsible.

Representative Gibson recognized Ms. Joyce Hartman, a realtor from Camden County who was representing herself and her family, to speak on the community perspective of large landfills. Ms. Hartman brought some photographs of the area showing standing water after a fairly simple rain storm in August (see **Exhibit P**) and a map of the Camden County landfill area (see **Exhibit Q**). She thanked the members for the moratorium that allowed the County to look more closely at the issue. Last week, a new group of County Commissioners decided to postpone a vote on the extension of the franchise agreement. When the former County Commissioners were approached by the waste company to purchase the land and make a franchise agreement, the citizens of Camden County were not informed. Appropriate legal notices were not given to adjacent landowners. It is important to have policies and procedures put in place and enforced to protect the citizens.

The land bought for the landfill is former converted wetland, converted into farmland between 30 and 50 years ago. The area is extremely sensitive. The water table in the northeastern part of Camden County is two feet below ground level. Runoff from routine storms will be an issue. Because of Ms. Hartman's family's proximity to the landfill, they were invited to special public meetings by the landfill applicant to ask questions and express concerns. One meeting detailed the latest and greatest landfill liner that would be used. At another meeting, they were divided into groups of five or six and at her table, a state employee was there to answer her questions about the proposed landfill. The employee had not had a tour of the site for the landfill and could not answer questions about its proximity to houses.

Ms. Hartman said the moratorium has given citizens time to reassess the situation. She ended her remarks by stating she hopes that the ERC will put into place some protocols for local governments to follow so no other citizens have to experience what the citizens of Camden County have experienced.

Senator Forrester commented that any LLC that owns a landfill should be required to have a 100-year bond for \$10 billion to assure their liability is covered. He also asked Mr. Crissman about fuel generation plants in which solid waste is burned for fuel energy. Mr. Crissman said the plants were found to be too expensive to build and operate. It provides an inconsistent and irregular fuel supply which is difficult to maintain and manage. New Hanover County is still keeping their facility active, but it is extremely expensive to operate. It does significantly reduce what has to be placed in a landfill, but it is more expensive.

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Senator Kinnaird asked why a full environmental impact statement has not been required for landfills. Mr. Crissman said landfills are exempt from the State Environmental Policy Act (SEPA). Mr. Givens said it was exempted in legislation to allow a particular landfill to be permitted more quickly. Senator Kinnaird suggested the Commission look at changing that exemption. She added that the General Assembly must provide enough funds for the Solid Waste Section to do its job. **She also asked for information about the Rules Revision lawsuit.**

Representative Harrison asked if there is enough staff for regular monitoring of landfill sites. Mr. Crissman replied they are behind on inspections this year. Staffing in general is a growing problem. With a staff of 42 in the section, 36 are devoted to traditional solid waste. A series of budget reductions have reduced the staff by six positions compounded by the need to hold on filling vacant positions during the very tight budget years. There has also been a growing workload and an growing number of increasingly complex facilities to inspect. The public is also becoming more aware of environmental concerns and has higher expectations. Division staff also has to respond to complaints. Mr. Crissman asked Mr. Mark Poindexter, head of the Inspections Branch, to comment on a new task which requires mapping of risk assessments within a 1500 foot radius of landfills. Staff members are also working with counties that have a large poultry population to plan for disposal of a large number of birds in case of an avian flu epidemic. Staffing level, workload change, and complexity of the 1500 facilities that require inspections have caused the backlog. Representative Harrison asked if they would need statutory authorization to impose a permit fee. Mr. Crissman replied they would.

Senator Clodfelter asked Mr. Meyer if it could be said that since counties are authorized by statute to operate certain public enterprises for the purpose of serving their citizens, but also that anything counties are authorized to operate to serve citizens as a public enterprise can be franchised to a private operator to operate, the General Assembly could take the policy position that the counties' authority to franchise extends only as far as they can operate a public enterprise to serve their own citizens. What counties are now purporting to do with their franchises is to begin to authorize the operation of private business entities that are not intended to serve the purposes of serving only their citizens. The only franchising counties (or cities) are authorized to do is in substitution of local government offering the service directly to their citizens. Mr. Meyer responded that there could be more than one interpretation of the phrase "serve your citizens." It could mean that they could derive revenues with which other general governmental functions could be provided. He added that any of the landfills that bring waste from other jurisdictions would also include the home county. Senator Clodfelter suggested counties have authority to franchise for the service of their county, but beyond that, the state would have to approve a franchising permit.

Mr. Givens commented that the franchise statute was created solely for the purpose of getting at the importation of out of state waste without calling it that. It was done specifically with respect to the Kernersville landfill. He added that the only reason there has not been a constitutional challenge is because the franchise grants are so large that they have excluded potential plaintiffs. Senator Clodfelter said he believes the state could be a plaintiff in the situation. It is probably unconstitutional to grant a franchise under the perpetuities and monopoly clause for the purposes Mr. Meyer discussed. He added that if the discussion is about landfills that are not local service landfills, the policy should come from the state, not local governments. Representative Gibson commented that the franchise statute was constructed to protect those entities that do not have the expertise to take on an issue that is as complex and complicated as landfills or water treatment. Mr. Meyer said that fewer and fewer counties and cities are feeling competent to run these types of facilities, and they are turning to entities that do have the professional expertise.

Representative Gibson asked how long it takes to fully permit a landfill. Mr. Crissman replied that it takes five to seven years for the full planning and building of the landfill.

Senator Albertson asked about what happens to areas where the landfills have been sited. Mr. Runkle responded that property values decrease significantly. In some locations in the state, residences have been bought by the local governments because no one would buy or rent them. People do not want to live around landfills. In contrast, Mr. Repa said the end use determines what the property values are.

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Multi-million homes are being built around landfills in California, Illinois, Indiana, and Virginia. He added that the Archdiocese of Chicago allowed landfilling on their property so they could convert land that was not usable into something that could be used as a cemetery. Ms. Hartman commented that what drives property value is a person's perception of the landfill. A landfill that is 75 feet tall is much different than a landfill that is 280 feet tall. Different kinds of waste also make a difference.

Senator Albertson asked if a landfill donor state can be required to have a recycling program comparable or superior to North Carolina's recycling program. Mr. Whisnant replied that Virginia had tried to use that criterion, but the court struck the Virginia law down because Virginia had said out of state waste could not be trusted to be of the same waste quality as Virginia's, and therefore they would require more stringent inspection on all incoming waste. The Fourth Circuit said if the state did that, it is discriminating against out of state waste and inspections must be done in the least restrictive method possible. The Court suggested if Virginia had determined how each individual state's waste would be handled, it might pass legal muster. Operationally, that approach sounds very difficult. It is not as clear that a state cannot do anything to enforce its standards. If you are going to have standards, you have to be as unrestrictive as possible so as to not burden interstate commerce unduly.

Senator Albertson asked if the fees charged are more for a more expensively constructed landfill over a less expensively constructed landfill. Mr. Crissman said the permit charge would be the same to review the permit, but the construction and design costs of a double-lined landfill would be more. The costs associated with the construction, design and operation may be more, so there would be increased costs associated with disposal; however, a fee cost or a tax would not be affected. Different fees are charged at different places based on the cost of construction.

Representative McComas asked Mr. Crissman about the proposed Brunswick County landfill, whether the industrial waste that the landfill is being proposed to handle is considered hazardous waste in Europe. Mr. Ed Mussler, Chief of the Permitting Section, said they are not far enough along in the permitting process to answer the question. Representative McComas asked if, after getting a permit to one type of waste, a company decides to handle another type of waste, they would need to go through the permitting process again. Mr. Mussler said they would.

Representative McComas referred to Senator Clodfelter's question concerning the authority of the counties to franchise for larger areas than their jurisdiction. He said in Brunswick County, the County Commissioners are unanimous in their opposition to the landfill; however, a small local government is granting the franchise. Mr. Givens said the unit of local government that has the zoning jurisdiction over the property in question has the franchise authority. In the Brunswick County situation, there was either a satellite annexation or an ETJ that affected that particular piece of property and put it under the Town of Navassa instead of Brunswick County.

Representative Justice asked whether a local government could stop development of a landfill. Mr. Whisnant replied that local government has to approve it before it comes to the state for permitting. If the Board of Commissioners does not want to grant the approval because it does not meet the county's land use ordinances or for whatever reason, the Commissioners would not have to grant the approval. Representative Justice asked if all the soils along the coast are hydric. Mr. Stephenson replied that not all soils in the coastal plain are, but there are areas where there are hydric soils that supported wetlands at one time. Representative Justice asked Mr. Crissman if there is a restriction for hydric soils. Mr. Crissman commented that there is some question if there is a state law that would allow a local government to supersede a state environmental law. Mr. Givens said he recalled that state law provides for a uniform system of solid waste regulation perhaps relating to hazardous waste only. He added that the SEPA exemption for landfills was passed in 1983 as a special provision in the budget bill.

Senator Clodfelter asked about solid waste that is on its way to the landfill. He asked if a fee could be imposed based on the distance the waste has to be transported because there is a direct correlation between the transportation of the waste and how much litter shows up on the roadsides. Mr. Whisnant said that probably has been tried, but he will have to research to find out when and where. He added that constitutionally, it would be a gray area and would be difficult to predict what a court would

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decide. He added that if a good basis for local or state benefits or environmental benefits such as litter control existed, it would make a good argument in front of the court.

Ms. Evans said that in Kentucky it was recognized in the late 1960s that hosting a solid waste facility could have an impact on the roads, so counties were given the authority to impose a fee of 6.25 percent of gross receipts on the revenues of that particular facility. The money so collected could be used for litter abatement and other solid waste management programs.

Senator Clodfelter asked Ms. Evans what Kentucky did in three years' time to cut costs for cleanup from \$54 a bag to \$12 a bag and increase by ten times the number of bags picked up. Ms. Evans replied that prior to the funding being distributed by the cabinet department, the funding for litter cleanup came from the county governments. They would then report to the state what they were spending. When the money was transferred from the Department of Transportation to the Department of Environmental Protection, the fund was administered to the counties with strict standards attached. Prior to the legislation, the counties could conduct cleanups when it was determined to be necessary. Now they are required to do the equivalent of three road cleanups for every mile of road in their county every year. Senator Clodfelter asked Mr. Meyer if the counties would agree to do that. Mr. Meyer replied they would be willing to discuss the idea.

Representative Gibson asked how the \$1.75 tipping fee was passed by the legislature. Ms. Evans said it was largely driven by the counties, since they are the ones that are responsible for cleaning up illegal dumps and abandoned landfills. The only counties that benefited from host agreements were the 26 counties that hosted a landfill (out of 120 total counties in the state). She added that the private solid waste haulers supported the fee because of their concerns with the permit backlog and abandoned landfills.

Senator Bingham asked Ms. Evans if the volume of imported waste stayed the same through the process of raising the tipping fee. She replied that it did remain steady, although there was a quadrupling of imported waste through the 1990s and into 2001. The higher fees perhaps affected the importation. It did not increase; it stayed the same, whereas prior to that time it had increased. Senator Bingham asked if the state has looked into accepting only biodegradables in landfills. Ms. Evans said the end users who make products from recycled materials are not as enthusiastic about accepting only biodegradables because that affects the amount of material available for them to use in making their products. **Staff said they would look into the possibility.**

Representative Harrison asked if Kentucky has bans on specific items such as aluminum cans, plastics or other items from landfills. Ms. Evans replied the only landfill bans Kentucky has is on whole tires. She added that they are trying to encourage the recycling of electronics by providing options for disposal to forestall the possibility of illegal dumping when they are banned.

Mr. Crissman asked to add something to the question of workforce retention and staffing of the Solid Waste Section. He said that 30 percent of their staff is either at retirement age or within less than 2 years of retirement age. Therefore there will be a significant challenge with retention and transition in the near term.

The Commission took a lunch break at 12:40 p.m. and reconvened at 1:30 p.m.

Representative Gibson recognized Ms. Miriam S. Perry, Director, Public Transportation Division (PTD), Department of Transportation (DOT), to make an annual report on development and implementation of a plan to reduce vehicle miles traveled by State employees and vehicle emissions resulting from job-related travel, including commuting to and from work, and an annual report on development and implementation of a plan to reduce vehicle miles traveled by private sector employees and vehicle emissions resulting from job-related travel, including commuting to and from work (see **Exhibit R**).

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Last summer the DOT revised the process by which they allocate Federal Highway Administration congestion mitigation and air quality funds. They provided an allocation by formula to all Metropolitan Planning Organizations (MPOs) and Rural Planning Organizations (RPOs) that were in non-attainment areas. It was the responsibility of the MPOs and RPOs to solicit local applications for the **CMAT** funds. There were 37 transit projects state-wide that were selected to receive **CMAT** funding. The funds are being used to expand express commuter service in Charlotte from neighboring cities, to convert transit vans in Chatham County from gas to biodiesel, and to initiate new transit service in Greensboro to provide service to area colleges and universities. To support this effort, the Public Transportation Division submitted an application (**TO WHOM**). It was approved for funding to support a commuter assistance program manager and to develop a state-wide transit awareness campaign. They are in the process of evaluating proposals received through a formal solicitation process for a firm to work with their Public Information Office on developing a state-wide transit awareness campaign. The position will be posted shortly and Ms. Perry hopes to have the position filled within six to eight weeks.

The PTD continues to operate the state-wide rural vanpool program. They are in the process of completing the evaluation of the proposals received for actual operation of the state-wide rural vanpool program. There are currently 31 vans in the state—from Transylvania County to Hyde County—and they hope to expand to 50 vanpools within the first year of the contract period.

Representative Gibson asked if there is any information on the federal-state interface relating to the programs. Ms. Perry said under the reauthorization bill, there is an emphasis on more coordinated planning and delivery of services, recognizing there will never be enough federal money or state money to meet the demand. NCDOT has initiated a program to encourage smaller transit systems in rural areas to team up with fixed route systems in their areas. They are trying to move the smaller transportation systems operating in individual counties to more regional transportation systems that recognize regional travel patterns. PTD's emphasis has been on coordinated delivery of transit services and DOT has followed suit. Representative Gibson asked if there is coordination between what the Public Transportation Division is doing and what some of the internal human resources offices within state government are doing about teleworking. Ms. Perry replied that teleworking policies are being tightened up in her Division.

Representative Gibson recognized Mr. Dexter Matthews, Director of the Division of Waste Management (DWM), DENR, to update the Commission on the cleanup activities as a result of the fire at Environmental Quality Industrial Services of North Carolina, Inc. (EQ) that occurred 5-7 October 2006. EQ was one of 11 permitted commercial hazardous waste management facilities in North Carolina and is subject to the permitting standards of the federal Resource Conservation and Recovery Act (RCRA). It is also under compliance monitoring under the state's Resident Inspector's Program.

The DWM has had one to two staff members on the EQ site to monitor all activities during daylight hours since the fire was extinguished and various agencies completed their investigations of the causes of the incident. No nighttime activities have been allowed on the site. EQ is providing 24 hour security guards with hourly checks of the entire facility, documented in writing. Berms have been maintained around the site and all precipitation has been collected in tanks. On 25 October, the Division suspended the portions of EQ's permit that allowed hazardous waste operations at the site, using the state's imminent hazard authority. That suspension remains in effect today. The other parts of the permit that allow cleanup of the site, financial assurance and so forth, remain in place. The DWM has allowed EQ to process and ship non-hazardous waste that was on site at the time of the fire to an off-site location. The waste is being sent to the Upper Piedmont Environmental Landfill in Person County.

The waste residue from the fire has been characterized for purposes of disposal. It has been contained in 32 covered roll-off boxes. Formal approval has been issued for off-site shipment of 25 of the roll-offs to a hazardous waste landfill in Michigan. The hazardous waste in the remaining roll-offs was to have been shipped to a hazardous waste incinerator in Ohio. However, as of the previous day, the off-site shipment has been halted because the DOT weight limits were exceeded on some of the roll-offs. The concrete pad that served as the containment area for the facility where burned wastes were stored has been pressure washed a number of times with wash water being stored pending analysis and

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shipment off-site. Final evaluation of the pad is pending final approval of the post-incident site investigation plan. DWM is currently reviewing EQ's post-incident site investigation sampling and analysis plan prior to approving EQ to begin a detailed assessment of the on-site impact of the fire. Once the residue from the fire itself has been removed from the site, there will be further assessment to see if there is remaining contamination of soils that needs remediation. Off-site sampling data is being compiled and analyzed by the Division of Air Quality, the Division of Waste Management, and the Division of Public Health from approximately 35 locations, including air, groundwater, surface water, soil, external surfaces, and interiors of residences, schools and churches. The results of the off-site sampling are expected to be announced on Friday 17 November.

On 24 October, four plaintiffs obtained a protective order in Federal District Court that temporarily halted assessment and remediation activity on the site. DWM worked with the involved parties to have that order vacated by allowing the plaintiffs to take some samples from the site for one day. DWM will be defending the decision to suspend permitted hazardous waste operations at the facility before an Administrative Law Judge. The pre-hearing statements on that matter are due Monday 27 November.

In addition, the formation of the Governor's Hazardous Materials Task Force, co-chaired by Dempsey Benton, Chief Deputy Secretary, DENR, and Doug Hoell, Director of the Division of Emergency Management, Department of Crime Control and Public Safety, was announced on 17 October. The task force has met twice. DWM made a number of recommendations to the taskforce at their meeting the previous day. Some of the areas they recommended enhancing in the Hazardous Waste Regulations are to look at additional financial assurance requirements specifically for immediate response activities and to fund the agencies to do sampling off-site. They have also called for strengthening the requirements for the contingency plan with local fire responders. The current plan is that DWM gets a statement from the applicant stating that the contingency plan has been sent to local authorities such as hospitals, police departments and fire departments. DWM wants to strengthen the requirement so that they receive concurrence as a part of the application for any commercial hazardous waste treatment, storage or disposal facility to assure that local authorities have seen it and concurred that they have the right type of personnel and equipment to respond to an event. They want the concurrence to be renewed on an annual basis.

DWM is also looking at enhancing the public notification and public participation requirements by requiring that letters be sent out to any property owner within a one-quarter mile radius of the facility for any permit action that the agency would be taking. Another recommended enhancement is increasing the security requirements by requiring 24-hour-a-day, 7-day-a-week security by the owner-operator at the facility. They want to use changing land use patterns around commercial hazardous waste treatment, storage and disposal facilities to determine the number of inspections required by the resident inspectors program. They also recommend shortening the permit period for commercial facilities from 10 years to 5 years as well as a number of specific technical requirements to strengthen the containment separation and construction standards at commercial hazardous waste facilities. They are also looking at regulating 10-day transfer sites and requiring a permit for transporters to store waste for ten days. Currently, there can be a great deal of waste on a particular site that is not required to be permitted, and not subject to a number of requirements of treatment, storage and disposal facilities, so they recommend initiating rulemaking in that particular area. These recommendations were gone over in greater detail before the Governor's Hazardous Waste Task Force.

Representative Gibson recognized Ms. Liz Cannon, Chief of the Hazardous Waste Section, DWM, DENR, to present two annual reports: the first on the NC Hazardous Waste Management Plan (see **Exhibit S**) and the other on the Resident Inspectors Program (see **Exhibit T**).

The Hazardous Waste Section is funded by federal funds (70 percent) and fees collected from the regulated universe as well as from state appropriations. It provides for a staff of 56 and a budget of \$4.5-5 million. The functions of the program are to permit hazardous waste facilities, conduct inspections of generators of hazardous waste and permittees, to undertake enforcement action against violators, and to oversee the closure and cleanup of the permitted facilities as well as to provide administrative support functions. The universe is composed of generators (the entities who create the waste), and the

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treatment, storage and disposal facilities who manage the waste after it is generated. Treatment, storage and disposal facilities are divided into commercial facilities, facilities that are operating businesses, and facilities that used to have land disposal of hazardous waste and are now closed and are being cleaned up. A large quantity generator of hazardous waste is a generator who creates more than 220 pounds per month. Large quantity generators are inspected every other year and more frequently if violations are found. Small quantity generators create between 200 and 220 pounds of hazardous waste per month. Exempt small quantity generators create less than 200 pounds of hazardous waste per month. In addition to the core functions, the Section provides technical and compliance assistance to the regulated community, responds to complaints, manages a financial assurance program for closure and cleanup, assists in emergency response, and maintains a database that tracks and records all their activities.

The Resident Inspector Program is a subset of the overall Hazardous Waste Program. It was established in the early 1990s by the General Assembly to provide closer regulatory oversight of companies that receive and process waste for a fee. The program is self-supporting from fees from the commercial facilities located in North Carolina. For the last fiscal year, the receipts totaled \$295,000. It supports two inspectors, one supervisor and one administrative assistant. During the last fiscal year, the 11 facilities in the state received 30,000 tons of hazardous waste. Hazardous waste generation rates rise and fall with the economy. When the economy is booming, generation goes up. When the economy is down, generation rates fall. The largest facility in the state is Clean Harbors in Reidsville. It received 10,560 tons of waste last year. The smallest ones are four safety clean facilities that receive on an average of 300-400 tons per year. EQ is the second largest facility in terms of receipts, receiving 7,345 tons of hazardous waste in 2005-2006.

The number of inspections required in these facilities is determined by a formula set out in regulations. The formula considers the capacity of the facility, the nature of the hazardous waste managed, and the types of treatment. All the activities are given a score and the facility is classified as a Class 1, 2 or 3, with Class 1 being the least risky. Class 1 facilities are subject to two inspections a month, Class 2, 4 inspections a month, and Class 3, 6 inspections a month. Last year, 49 inspections were conducted at EQ. Two compliance orders with penalty were ordered and one notice of violation the previous year, but there were many other minor deviations from the regulations that the inspector corrected immediately while on site. Compliance rates at the facilities tend to be high.

Based on experience, HWS believe there are two root causes of non-compliance at these facilities. One is a change in personnel, when the person on duty on inspection day is not completely familiar with the requirements. The other is a similar matter. When the company has recently changed procedures, deviations from the procedures often will be found. The recent events at EQ and the subsequent investigations, the Governor's Task Force, and the review by the Chemical Safety Board will give the Section more information on how the program can be improved so that events such as occurred at EQ in October will not be repeated.

Representative Gibson asked if the Governor's Task Force will address the situation of assuring that the surrounding cities and counties will have the information they need to respond to a problem at a hazardous waste site. Mr. Matthews replied he expected so, because representatives of cities and counties are represented on the Task Force. He added that all the facilities and the zoning around the facilities have been mapped so local governments and services will know what they need to know to protect the citizens. He said that the key is to increase the interaction between the facilities and the local responders so the local responders are aware of the types of materials at the facilities on a regular basis.

Mr. Givens asked if some of the recommendations of the Governor's Task Force would require legislation. Mr. Matthews replied they would look at each of the recommendations to identify which ones would. The final report to the Governor is due 15 December. ***Mr. Givens commented there is no hazardous waste disposal capacity in the state. He added he was part of a search 17 years ago to look for a place to site one but no appropriate site was located. Therefore the state is a net exporter of hazardous waste. He commented that if we are successful in excluding out-of-state trash from being landfilled here, other states might use whatever mechanism they could to keep us from using their hazardous waste disposal sites and we would have a problem.***

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Representative Harrison asked what happens to the hazardous waste that requires disposal. Mr. Givens replied that a landfill in Alabama gets a lot of it. Mr. Matthews added that a great deal of hazardous waste generated within the state is treated to make it non-hazardous.

Representative Gibson recognized Mr. Todd Bennett, Environmental Engineer, Animal Feeding Operation Unit, Aquifer Protection Section, DWQ, DENR, to give the annual report on permitting and inspecting animal waste management systems (see **Exhibit U** for a copy of his PowerPoint presentation and **Exhibit V** for a copy of the annual report). He noted that in drier years there were fewer violations, probably because the waste is easier to manage with less rain. Inspections by both DWQ and the Division of Soil and Water Conservation (DSWC) consist of looking at the records, the facility, the conditions of the fields, and the conditions of the structures on site. The DWQ is more concerned with enforcement and issue violations; Soil and Water Conservation more with technical assistance. In response to a question from Representative Harrison, Mr. Givens said there was a pilot program in two to four counties for several years in which the Soil and Water Conservation did both inspections. There is a report of the pilot program in the packet (see **Exhibit D-3**).

Representative Hackney asked if any of the 18 discharges to surface water were of great magnitude. Mr. Bennett replied the discharges were in the 1,000 to 10,000 gallon range.

Representative Justice asked if there would be a problem if a farm does not have enough land to spray waste to get ready for impending storms. Mr. Bennett replied that the facilities are required to follow the permit which spells out exactly under what conditions they can apply waste to fields. If the conditions are not suitable for those applications, the farmer is responsible for finding another way to reduce lagoon levels. Farmers can call DWQ for assistance in finding alternative solutions, such as pump and haul. **Representative Justice asked for the opportunity for ERC to discuss an early adoption program proposal to protect the health of the people who work in the facilities as well as the health of the livestock. She cited an article from the Associated Press on 12 October that reported the recent outbreak of e-coli from contaminated spinach was an example of the potential for devastating effects of failing to control livestock waste. Representative Gibson conferred with Senator Albertson who agreed that it should be calendared at later meeting.**

Senator Albertson asked for the number of gallons of discharges into surface waters from hog lagoons and for numbers of gallons of discharges from municipalities. Mr. Bennett said he would provide that information.

Representative Gibson recognized Mr. Tom Belnick, Environmental Specialist, Point Source Branch, Surface Water Protection Section, DWQ, DENR, to give the annual report on compliance with and enforcement of water quality laws for facilities that discharge into surface waters (see **Exhibit W** for a copy of his PowerPoint presentation and **Exhibit X** for a copy of the annual report). He focused on two programs: the Non-Polluting Discharge Enforcement System (NPDES) and some of the results for the sewer collection program to reduce sanitary sewer overflows (SSOs). The compliance figures of almost 90 percent for the NPDES are impressive, because one non-compliant report in a year means the facility is reported as out of compliance for the entire year. The purpose of the permits is to encourage the facilities to become more proactive to spills. It requires more inspections of their sewer lines, the development of better operations maintenance plans, and more pro-activity in regard to repairs and capital improvements requirements over the next ten years. Rainfall also has an effect on overflows. There are still sewer blockages due to fats, oils and greases in sewer lines. Mr. Belnick said he believes there will be an increase in civil penalties assessed in the future for major overflows that reach surface waters.

Representative Justice asked if there is any way to force municipalities to use the moneys collected from sewer enterprise funds for maintenance of the sewer lines instead of putting the proceeds into their general funds.

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Senator Albertson asked how much waste needs to be spilled before the event is labeled a discharge. Mr. Belnick replied a spill to land of over 1,000 gallons must be reported. Any spill that reaches surface waters must be reported.

Representative Gibson recognized Mr. William Holman, Chairman of the State Water Infrastructure Commission and Executive Director, Clean Water Management Trust Fund (CWMTF), to give the annual report of the State Water Infrastructure Commission on its activities and findings, including recommendations of the Commission that require action by the General Assembly (see **Exhibit Y** for a copy of the recommendations to the Governor and **Exhibit Z** for the report of the Infrastructure Commission to the Governor). Mr. Holman commented on the good work done through the CWMTF and thanked the General Assembly for the investments made by the legislature through its lifetime.

Mr. Holman said the General Assembly created the State Water Infrastructure Commission in 2005 as part of a rewrite of the state's water financing laws. There are 13 people on the Commission, representatives from DENR, Commerce, Association of County Commissioners, League of Municipalities, engineers, and the General Assembly. The state has a lot of aging infrastructure, a lot of growth, and it is difficult to keep up with the need for infrastructure. The federal government's role in financing drinking water and waste water infrastructure is declining. There are still North Carolinians who lack indoor plumbing, failing or no septic tanks, and unsafe drinking water. He next presented the recommendations from the Commission. Local governments and local rate payers will share most of the burden for water, waste water and stormwater. For a variety of reasons, the Commission believes the state should continue to play an important role in helping local communities address the infrastructure needs, particularly in the Tier 1 counties.

Senator Kinnaid commended and thanked Mr. Holman for his work with the Commission and the Clean Water Management Trust Fund, as he has taken a position with Duke University beginning in January of 2007.

Representative Gibson recognized Mr. Manley Wilder, Director, Division of Soil and Water Conservation (DSWC), DENR, to report on the evaluation, training and qualification requirements for approval as an animal waste management systems technical specialist (see **Exhibit AA** for a copy of his PowerPoint presentation and **Exhibit BB** for a copy of the report). He described conservation partnerships as federal, state, local and private. At the federal level is the Natural Resources Conservation Service in the U. S. Department of Agriculture; at the state level it is DSWC; at the local level it is the Soil and Water Conservation District employees; and at the private level it involves a variety of people such as technical service providers.

In regard to the recommendation to consider legislation, Mr. Wilder requested the General Assembly wait until he has heard back from the PE Board to see what they will recommend as a result of DSWC's request for a review of the determination on specific practices.

Mr. Givens told Commission members he handed out a memorandum from Mr. Richard Phillips, PE, concerning "District Technician Job Approval Authority" for their information. Mr. Phillips asked to be on the agenda, and Mr. Givens said the item may be on the January 2007 agenda. Senator Kinnaid asked that the item be placed at the beginning of the January agenda.

Representative Gibson recognized and welcomed two new members of the House, Representative-elect Braxton from Lenoir County and Representative-elect Brissom from Bladen County.

The meeting adjourned at 3:40 p.m.

Representative Pryor Gibson, Co-Chair, Presiding

Senator Charlie Albertson, Co-Chair

Dot Waugaman, Commission Assistant

Senator Daniel Clodfelter, Co-Chair

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LIST OF EXHIBITS

Exhibit A	Notice of Meeting dated 31 October 2006
Exhibit B	Agenda of Meeting
Exhibit C	List of Attendees
Exhibit D	Package of Reports with memorandum from Jennifer Mundt dated 15 November 2006
D-1	Annual Report of the Coastal Habitat Protection Plan Program, 2005-2006, dated September 2006
D-2	Report to the North Carolina General Assembly on the Inactive Hazardous Sites Program, dated October 2006
D-3	2006 Semiannual report for the Pilot Program for Inspections of Animal Waste Management Systems, transmitted 3 October 2006
D-4	Annual Report on Basinwide Water Quality Management Plans, transmitted 1 October 2006
D-5	Annual Report on the Dry-Cleaning Solvent Cleanup Act Program, transmitted 1 October 2006
D-6	Annual Report on Implementation of Stormwater Rules and Programs, transmitted 1 October 2006
Exhibit E	Status of reports to the ERC Required by Law, dated 14 November 2006
Exhibit F	DRAFT Request for Proposals for Report on the study of the merger of the Ecological Enhancement Program and the Clean Water Management Trust Fund, dated 18 November 2006
Exhibit G	Chapter II, 15A NCAC 02D .2501 proposed rules for Mercury Rules for Electric Generators
Exhibit H	Solid Waste Section Moratorium Study, State of Kentucky
Exhibit I	EPA Illegal Dumping Prevention Guidebook, dated March 1998 - Survey
Exhibit J	Illegal Dumping Prevention Guidebook, dated March 1998
Exhibit K	Map showing States with Tip Fee Surcharges
Exhibit L	PowerPoint presentation by Sara Evans, 15 November 2006
Exhibit M	Memorandum from Richard Whisnant, School of Government, UNC-CH – dated 15 November 2006, re Legal limits and policy possibilities for NC solid waste disposal facilities
Exhibit N	Materials from National Solid Wastes Management Association
Exhibit O	Remarks of Jim Stephenson on behalf of the NC Coastal Federation, Sierra Club and Conservation Council of NC, dated 15 November 2006
Exhibit P	Photographs of Camden County Landfill Site
Exhibit Q	Map of Camden County Landfill Site and Surroundings
Exhibit R	Report on Implementation of Senate Bill 953

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- Exhibit S** Hazardous Waste Program 2006 Annual Report, dated 1 October 2006
- Exhibit T** Resident Inspectors Program 2006 Annual Report, dated 14 November 2006
- Exhibit U** PowerPoint presentation by Todd Bennett on the Animal Waste Compliance Report
- Exhibit V** Animal Waste Management Annual Report, July 1, 2005-June 30, 2006, transmitted 15 October 2006
- Exhibit W** PowerPoint presentation by Tom Belnick on the Compliance and Enforcement of Water Quality Laws for Facilities that Discharge into Surface Waters
- Exhibit X** Status Report on Individually Permitted Discharging Systems Beginning July 1 2005 and Ending June 30, 2006
- Exhibit Y** Recommendations to Governor Michael F. Easley and Members of the General Assembly of North Carolina from the North Carolina Water Infrastructure Commission
- Exhibit Z** Report and Recommendations from State Water Infrastructure Commission, dated 1 November 2006
- Exhibit AA** PowerPoint presentation by Manley Wilder on the Evaluation of the Training and Qualification Requirements for Approval as an Animal Waste Management Systems Technical Specialist
- Exhibit BB** Report on the Evaluation of Training and Qualification Requirements of Animal Waste Technical Specialists, dated 15 November 2006
- Exhibit CC** Memorandum from Richard L. Phillips, PE, Guilford Soil and Water Conservation District, to Environmental Review Commission re District Technician Job Approval Authority, prepared for 15 November 2006 meeting of the ERC