



**MINUTES  
ENVIRONMENTAL REVIEW COMMISSION  
October 31, 2007**

The Environmental Review Commission met Wednesday, October 31, 2007 at 9:30 a.m. in Room 544 of the Legislative Office Building. Co-Chairperson Charlie Albertson presided.

Members present were Co-Chairperson Albertson, Co-Chairperson Lucy Allen, Co-Co-Chairperson Pryor Gibson, Senator Stan Bingham, Senator Katie Dorsett, Senator James Forrester, Representative Pricey Harrison, Senator Eleanor Kinnaird, Representative Ruth Samuelson, Senator A.B. Swindell, Representative Edith Warren and Senator David Weinstein. Staff present were Commission Counsel George Givens, Assistant Counsel Jeffery Hudson, Assistant Counsel Jennifer McGinnis, Commission Analyst Jennifer Mundt, Research Assistant Mariah Matheson and Commission Clerk Jessica Kozma Bennett.

A meeting notice was distributed to staff, members and outside parties via regular mail and electronically and is included as an attachment in these minutes as **Exhibit A**. A reminder was sent electronically on October 29. The meeting agenda and visitor's registration sheets are attachments to these minutes and referred as **Exhibit B** and **Exhibit C**.

Co-Chairperson Albertson called the meeting to order at 9:35 a.m. and welcomed members after dealing with technical issues with the microphones. Senator Albertson then called on Commission Counsel Givens to introduce members to the staff, give the history and review current agenda of the Commission. After giving an introduction of staff and Commission history, Mr. Givens welcomed new members to the Commission, Reps. Samuelson and Womble and explained "read only" items passed to members.

Mr. Givens said the meeting would focus primarily on drought issues and added that the Commission is tasked with studying the following two issues related to solid waste: the franchising of solid waste facilities and the transportation of solid waste by barges. The Commission has previously worked with both issues. Mr. Givens stated that a consultant may be retained by the Commission through the University of North Carolina at Chapel Hill's School of Government, and suggested to the Commission that Commission staff be allowed to have scoping sessions in order to develop a contract to study water resources allocation. After announcing November 27 as the date of the next meeting, Mr. Givens asked for visitors to sign in and for Commission members to fill out their reimbursement forms. Mr. Givens also noted Commission staff held a planning meeting Thursday, October 19.

Mr. Givens walked the Commission through several distributed items, including a packet of "read only" reports and a list of "Studies to be Conducted by the Environmental Review Commission" (**Exhibits D and E**). An interim manual with authorizing

legislation, membership contact information and summaries of ratified environmental and natural resources legislation was also distributed to members (**Exhibit F**).

Co-Chairperson Albertson then called on members for comments. Co-Chairperson Allen said the meeting planning was excellent and that she had received good comments on the planning of the meeting. Co-Chairperson Gibson said he suspected some issues would exceed allotted times and that water issues needed to be addressed with “realistic solutions.”

Dr. David Moreau, Chairman of the Environment Management Commission, was recognized by the Co-Chairperson to report on the commission’s activities from January to October of this year. Three reports were distributed to members, and are **Exhibits G, H and I** in the attachments (reports are from May, July and October of this year). Also distributed was a “Stormwater Management Program Annual Report” (**Exhibit J**).

An outline of Dr. Moreau’s presentation is also included in the attachment and is marked **Exhibit K**.

Senator Weinstein asked Dr. Moreau what plans were adopted in the event that the current drought continues or worsens. Dr. Moreau said there was “adequate” authority to address issues and noted that although restricting outdoor use of water may bring a 25 percent reduction in consumption, there still is no way to control water usage in individual homes. Senator Weinstein followed up and asked what would happen if the lakes completely dried up. Dr. Moreau replied that water managers play a game against nature, and that managers face the current problem of getting timely information of what the actual risks cities are facing. He continued saying that if a municipality has 100 days of water that city is in “good shape.” Down below a 60 day supply, he said, is troublesome.

Representative Allen suggested that there needs to be one comprehensive body to work with issues regarding the drought.

Co-Chairperson Albertson then recognized Thomas Reeder of the North Carolina Department of Environment and Natural Resources (NCDENR) to address implementation of stormwater runoff rules and programs. A report distributed to members is in the attachments and is marked as **Exhibit L**. Mr. Reeder told the Commission a recently compiled report given to members was created because stormwater is the number one water quality problem in North Carolina. He stated that coastal counties have had more issues with stormwater control and the existing coastal rules regarding stormwater management have proven to be less effective.

In Mr. Reeder's presentation, members saw two slides of a coastal creek, one taken in 1988 and another taken in 2005. He explained to members that the shellfish beds died out between the dates of the two photographs. Saying that the only environmental stressor in the area was low density residential development, he added that residential development was usually not a tremendous stressor. Concluding his presentation, Mr. Reeder said that 1100 acres of shellfish beds are lost to stormwater runoff, that existing rules are old and outdated, that rules differing between the State’s municipalities were inconsistent and that the coastal areas needed better stormwater protections.

Mr. Reeder continued saying that the EMC had implemented a program where the State assists with an individual municipality’s stormwater programs. Co-Chairperson Albertson called for questions from Commission members. Representative Allen asked of the relationship between drainage in upper basins and pollution problems. Mr. Reeder

replied that there was not a connection. Co-Chairperson Albertson said that there was not enough battle when changing rules on the coast. Mr. Givens suggested there may be a way to work on the problem during the next long session.

Co-Chairperson Albertson recognized Mr. Jim D. Simons, State geologist and Director of Land Resources for DENR to discuss the report on the Implementation of the Sedimentation Pollution Control Act of 1973. Mr. Simons opened his presentation (see **Exhibit M** in the attachments) noting that progress had occurred this year and that there were revised guidelines for erosion controls. These guidelines are online, he continued, and measures are “showing up in the field.” He continued saying that four new county programs were implemented over the last year in Caldwell, Iredell, Lincoln, and Henderson counties.

Mr. Simons continued saying that the drought had affected sedimentation programs because the lack of rain has a negative effect on vegetation. Co-Chairperson Albertson asked if there were questions from Commission members. With little discussion, Co-Chairperson Albertson thanked Mr. Simon and recognized Dr. Ryan Boyles, Associate State Climatologist for the State Climate Office at North Carolina State University. Beginning his presentation (See **Exhibit N** in the attachments), Dr. Boyles explained to the Commission that the State had endured exceptional conditions with both the lack of rain and the extreme heat. In his presentation, Dr. Boyles noted that in April water reservoirs were full and that his presentation would show the evolution of the drought.

Continuing on, Dr. Boyles explained to the Commission that a typical North Carolina summer **had** weather pressure systems passing from Bermuda through the State. However, this summer the pressure that typically flows across North Carolina instead arrived in Texas, creating massive flooding this summer in many parts Texas. Dr. Boyles noted that weather patterns are difficult to predict unless in a close timeframe and that summer conditions are more difficult to chart than winter patterns.

Regarding winter weather patterns for the state, Dr. Boyles said that the effects of La Nina would make for a winter drier than usual and through next spring below average rainfall is expected.

Points noted during Dr. Boyle's presentation were that rainfall should be expected to be less than normal in the near future, eliminating water deficits would take 30 to 45 inches and that indicators appeared to be drier than normal. He added that problems could about next summer resulting from the current lack of precipitation but the State would see some recovery. Albeit, though, not a full recovery, he said. Co-Chairperson Albertson asked for questions and comments by the Commission. Representative Gibson asked to explain how rainfall is predicted for a season. Dr. Boyles said that precipitation is a 33/33/33 slide and the bell curve of the slide for the next summer is shifted to the dry side. Representative Gibson followed up asking if the jet stream predictions from La Nina would create warmer than usual temperatures. Dr. Boyles said that predictions would lean to the warm side but he did not have the same confidence in this forecast as with the precipitation forecast.

Co-Chairperson Albertson said that better water conservation was needed. Following, Representative Harrison asked Dr. Boyles to explain La Nina, which Dr. Boyles explained that La Nina is cooler than normal sea-surface temperatures in central and eastern tropical Pacific Ocean and impacts global weather patterns.

Mr. Givens asked Dr. Boyles to explain the prediction for a “big” year of hurricanes. Mr. Boyles said he did not “put any weight” in hurricane predictions. Senator Kinnaird commented that many hurricanes were predicted for the Carolina coast but instead veered southward. Senator Albertson thanked Dr. Boyles and recognized Mr. J. Wayne Munden, Head of Technical Services Branch for Public Water Supply Section of NCDENR to explain the State’s water shortage tier system.

Mr. Munden opened his presentation and explained that the tier system was implemented in 2002 and measures the drought’s effects on water systems. He continued saying that tiers are determined by regional engineers who closely watch water resources.

A document entitled “Description of Tiered Water Supply Systems” was distributed to Commission members and is an attachment to the minutes, marked **Exhibit O**.

Senator Swindell asked what happens to wildlife living close to and rely on water reservoirs. Co-Chairperson Allen asked if Mr. Munden knew how much water was pumped from streams into ponds in North Carolina. Mr. Munden replied that he did not have such information. Representative Harrison told the Commission that a city council member in her district told her that the days of supply heard often in the media did not mean exactly calendar days. Mr. Munden explained that the supply days cited were based on an average day of use, noting that a year ago Raleigh used 70 or 80 million gallons a day, but now, in the wake of water restrictions that use has dropped to 50 to 60 million gallons a day. Hence, the city supply for water may be extended from what it would have been one year ago. He added that the city determines water volume and percentage of remaining water.

Mr. Givens asked if a tier system was devised in North Carolina, which Mr. Munden acknowledged it did. Co-Chairperson Albertson thanked Mr. Munden.

Mr. Franklin Freeman, Governor Mike Easley’s Senior Assistant for Governmental Affairs was recognized by Co-Chairperson Albertson to deliver the Governor’s report to the Commission. Mr. Freeman began by noting that the drought was worse than a prior significant drought that occurred in the 1950s. The Governor’s office, he said, responded to the early drought in Western North Carolina by having regular meetings to monitor its severity. In May, he continued, the Governor’s office asked State agencies to conserve water by stopping any non-essential water use. Because of this, State cars were no longer washed and ornamental watering ceased. The drought continued moving east, he said, and by August 23 the State as a whole had gone into drought. As the drought worsened, he said, an agricultural disaster was called by the United States Department of Agriculture.

Mr. Freeman then explained that federal grants may be available for farms and smaller agricultural businesses, but that the grants are dependent on pending legislation in Congress. To date, he continued, there is no grant money to assist farmers covering losses. Mr. Freeman said that if a pending Iraqi funding bill passes, the grant money would also pass. He then revisited the timeline of the Governors’ actions regarding the drought, saying that on September 7 the Governor’s office sent a letter to all local officials requesting they activate local shortage response plans and implement steps for conservation. He continued that the Governor’s office then requested enactment of further restrictions such as banning outdoor watering.

As of last week, Mr. Freeman reported the Governor's office challenged all citizens to cut water usage by 50 percent. If the drought worsens and continues, the Governor's office may move toward a disaster declaration. Consequences of the Governor's actions included raising our emergency response listing to Level 3, DENR creating a list of local systems including their water needs and options, and the creation of a database to track water systems on a daily and weekly basis. Local officials were also called to implement shortage plans, and DENR and local systems are working with the Department of Commerce and each other, Mr. Freeman reported.

Co-Chairperson Albertson called for questions from members. Senator Forrester asked if power plants were major water users, which Mr. Freeman replied they were but that the Governor's office talked with members of the Utility Commission and collaboration between the state and local utilities had successfully helped in conservation efforts.

Senator Bingham asked if the State required water-smart items such as low-flow showerheads in new residential construction. Mr. Freeman said he did not know.

Co-Chairperson Gibson asked what, if projections hold true, would the State do to prepare for further drought; he followed asking what the legislature needed to do to prepare for the drought. He then commented that he did not feel confident in assistance from the federal government.

Mr. Freeman replied that educating residents of the State was important, and reiterated that when the drought reaches a point compromising public health or public safety the Governor would declare a disaster. Mr. Freeman continued saying he was hopeful current efforts would encourage cities and counties to ratchet down on customers, adding that the people of North Carolina would never have had an experience like this in memory. Co-Chairperson Gibson asked what consequences would happen to the State's business, especially agribusiness. He then asked that Mr. Freeman "paint a financial picture for our appropriations brothers and sisters."

Mr. Freeman replied that North Carolina was not alone in the drought, and that financial experts were needed to answer questions regarding its financial impact.

Commission Counsel Givens asked if there is legal authority to place mandatory limits on usage and did the State have to wait to have that authority. Mr. Freeman answered that he did think a wait for that authority would be necessary, and that the Governor does not have the power to ration water. However, he humorously added, the Governor does have the authority to close forests and woodlands to hunting during a drought.

Counsel Givens then asked if the Governor's office was working to develop a body of regulation, which Mr. Freeman replied that the office was working with several coordinated groups. He continued saying that there is a need to provide statewide connectivity. Representative Warren said she felt the state was far from achieving that, which Mr. Freeman agreed.

Co-Chairperson Gibson asked if the Governor could declare a disaster from a health and safety standpoint, did that empower him to do some things from an economic standpoint. Mr. Freeman said that any budgetary shortfalls the Governor has the authority to manage and move money to keep the budget balanced. A balanced budget is required by North Carolina statutes.

Mr. Freeman continued saying that the State Budget Office is working to monitor whether revenue was “slipping” on a weekly basis.

Counsel Givens commented that the State could do this until an emergency situation. He added that a judgment call needs to be made before getting to this point.

Senator Dorsett asked if there were any “creative” ways of bringing water into the State. Mr. Freeman responded that he was not aware of any new ways to bring water into North Carolina and that water laws to do so were complicated. Senator Dorsett followed up by questioning why there should not be, questioning also whether the State’s Congressional delegation should be approached as well as opening conversations about solving the drought with other states. Mr. Freeman agreed that conversations with other states should ensue.

Senator Bingham readdressed the issue of water-smart items in new construction, adding that there were presently no concerns with new construction. Co-Chairperson Albertson said that he thought this should be a wake up call for each of us with the projected growth of North Carolina.

The presiding chairperson then called on Stephanie G. McGarrah, Assistant Secretary for Policy, Research and Strategic Planning for the State Department of Commerce. Ms. McGarrah was called out of sequence with the agenda due to the meeting moving slightly ahead of schedule.

Ms. McGarrah was called to report on the Status of the Commerce and Economic Task Force and she opened reporting that the task force had contacted 50 large water users across North Carolina. She continued saying that the group is currently in the process of contacting more facilities. Working with these large companies, she added, many companies have begun conservation efforts and have also given their employees additional information to conserve both at work and at home. She then noted that all county economic organizations were working to inform businesses of the drought, and that there were five State agencies working on the task force.

Co-Chairperson Albertson called for questions. Co-Chairperson Gibson asked if there could be one State-offered resource for businesses suffering from the drought, continuing there are more than 200,000 businesses in North Carolina that do not know if they are eligible for assistance. He lastly questioned if there was a database to track such information. Ms. McGarrah said that the Commerce Service Center is able to put people in contact with State agency officials dealing with the drought issue. Going through the center, she continued, puts callers in touch with Commerce, DENR and other agencies.

The meeting was recessed at 12 noon for a 45 minute lunch break.

The meeting reconvened at 12:59 p.m. Co-Chairperson Albertson recognized Department of Agriculture and Consumer Services Commissioner Steve Troxler. Commissioner Troxler began immediately discussing drought’s impact on agriculture, noting that there were significant drops in production due to the drought as and a late frost that occurred earlier this year. He told the Commission that tobacco had weathered better than other crops but tobacco was still down 90 pounds per acre yield. Drought and high temperatures were to blame he continued, and poor quality is the result of blistering heat and no water to quell the dryness. The green industry, which includes tree farmers, nurseries, landscaping companies among others, experienced an \$8.6 billion impact due to the drought. Revenues among the green industry, he reported, were down 40 percent and

the green labor force was also down 40 percent. Economic consequences of the drought would trickle down through business, he said.

A hand out prepared by the Commissioner's office was distributed to Commission members and is in the attachments as **Exhibit P**.

Another of the Commissioner's concerns from the drought is the impact on life stock growers, noting that meat production had already dropped 45 percent lower than in previous years. He said he feared that some herders would get out of the industry because of the drought. Up to \$80 million dollars are lost due to the drought, he said, and currently there is decreased activity at cattle markets.

Commissioner Troxler continued his comments sharing what his Department had accomplished so far in dealing with the drought's consequences. For one, DACS website is now tailored with information for visitors to help deal with the drought, he reported. He continued saying that the Department had received funding from the Golden Leaf Foundation to assist growers with hay and "alternative costs," including transportation. The Commissioner also reported that an Ag Partners Program was formed to also offset costs of bringing hay to North Carolina. He said the Department will do an assessment on how many types of forage moved into North Carolina and that increased demand of hay resulting from drought conditions will affect cattle prices.

Lastly, Commissioner Troxler noted that agriculture in North Carolina had suffered three strikes: drought, record temperatures, and an early year frost. Put together, he said, the impact was just as devastating as a major hurricane.

Co-Chairperson Albertson called for questions from the Commission and Senator Bingham asked whether farmers who have already paid for fertilizers could possibly go bankrupt. Commissioner Troxler answered that it takes six months to a year for disaster money to show up at for a farmer. Farmers, he said, are pushed to manage risk before risky weather happens. He ended his response by stating that farmers unable to get through current conditions could potentially lose their businesses. The Commissioner ended his presentation pointing out that farms were equally as dry of water as municipalities.

Co-Chairperson Albertson recognized Robin W. Smith, Assistant Secretary for Environmental in DENR. Ms. Smith began her report discussing how local governments were responding to the drought, and included policy gaps between government bodies and the overall policy for local governments as well as the State.

A handout distributed to Commission members is in the attachments and is marked **Exhibit Q**.

She explained to the Commission several aspects of how statutes relate to local governments. Local governments are largely responsible to create and enforce drought restrictions, she said, and the State does have a role but only when in an emergency. Before an emergency arises the State serves local governments in an advisory, non-regulatory role. Water plans have to be updated every five years, and those updates have to include current and projected use, where water sources are and how those sources would meet increasing or decreasing demand. DENR, she continued, receives and reviews plans in conflicts such as a situation where two municipalities use the same water source. To clarify: water supply plans are for public water systems and investor-owned utilities with more than 1000 users. When in a drought, local governments make decisions on conservation and there currently is no clear way for the State to enforce

requirements. Also, according to Ms Smith, there is no way for the State to penalize local governments that ignore drought issues or even compel local governments to implement conservation measures.

But, she added, after the 2002 drought, Co-Chairperson Albertson amended statutes to include a water shortage response plan in their utilities water plans. Local water plans then are compiled and become the State's water plan. In a drought, individual local governments make decisions about what levels of water conservation are necessary. Also in response to the 2002 drought, the Environmental Management Commission adopted rules for local conservation standards. Those rules are in place in case a local government does not adopt their own rules.

Co-Chairperson Albertson asked if local governments were required to have a plan, which Ms. Smith answered that they were required to have a Water Shortage Response Plan. If they do not have a plan, she said, there is a basic set of rules set by the State for that government to follow. Noting that droughts of different levels affect water systems in different ways, because of those differences local governments can better address their own needs and varying levels of vulnerability. Such vulnerability comes from several conditions beyond water levels, for example, where a municipality may draw their water varies and could yield different conditions.

Ms. Smith continued saying that the current drought concern will continue at least through the spring. She then explained the Drought Management Advisory Council, telling the Commission that the Council keeps up with weekly drought map charts, noting changes from week to week. Weekly meetings began in August. Council stakeholders include the National Weather Service, U. S. Geological Survey and State agencies. Ms. Smith noted that the Council had access to "a lot of expertise." She continued saying that DENR works with water systems with the most significant levels of risk, including Siler City and Rocky Mount, both classified as Tier 1 water systems and are in inter-connection projects to assist their extremely low water reserves. DENR staff works with the water-compromised municipalities to find the quickest and least expensive way to meet water needs. Lastly, Ms. Smith explained that the Council has weekly telephone calls with the Army Corps of Engineers and utility companies to discuss the drought. She closed saying that her Department "was busy but not in a regulatory way."

Reiterating what she and previous speakers said, Ms. Smith said the State had no authority lest the Governor declare an emergency. The Governor, she continued, has tried to increase the frequency of his message, saying that there is a statewide problem and residents of North Carolina as well as local governments need to look out for their neighbors. She said the Governor is offering local governments lots of encouragement in the event the winter fulfills its dry predictions. Cities and counties, she added, have responded positively.

Some consequences of the State and local government relationship, Smith said, have created gaps. Local decisions are driven by local conditions, she said, and that an area not afflicted by the drought may not be as quick to issue restrictions in the wake of a statewide drought. That there are no consistent statewide thresholds between municipalities, counties and regions is another issue. Watering restrictions may not be issued by region, for example, because there is no authority to do so. And this is, she said, even if several municipalities within that region are suffering from drought. Another issue is that because of current statutes, water conservation is limited to being treated as a



drought response and not for ongoing conservation. A component of this issue is the lack of regulation for privately used wells. That few water systems have fee structures encouraging conservation is another issue that could potentially be dealt with, she continued. Lastly, Ms. Smith commented that agricultural water users have to report water usage to the state but only after crossing a one million gallon threshold. Ms. Smith said the threshold was too high. The industrial threshold, she noted, is only 100,000 gallons and with such a high threshold is it difficult to accurately determine how much water is needed for farms.

Co-Chairperson Albertson asked if there were any changes that could be made. Ms. Smith said there is a need to decide what the right relationship is between State and local governments when in a time of drought. She stated that people are surprised that the State doesn't get real time reporting on water levels. Co-Chairperson Albertson asked about people putting in wells, and Ms. Smith said she believed more wells are being drilled in this drought compared to the drought of 2002.

Co-Chairperson Albertson asked whether more wells would continue to be drilled as the drought continued. Ms. Smith replied that she would not be surprised but also noted that several wells had gone dry this year.

Co-Chairperson Albertson recognized Senator Swindell who said that for several years he was a part of the Roanoke River Basin Bi-State Commission and that initially the Commission had several "great" meetings. However, he continued, the Commission was not meeting as before, and Senator Swindell encouraged the Department to contact authorities in Virginia to become active again. Counsel Givens said that the Catawba /Wateree River Basin Advisory Commission was the most active, and that South Carolina authorities asked to participate in the Yadkin/Pee Dee River Basin Advisory Commission. Counsel Givens stated it was difficult to get appointees in place and that in some cases it takes three to four years to get a Commission in place, up, and running. Senator Swindell commented that the Commission began "like a ball of fire" and that the Commission needed to be vigorous about having groups meet regularly. Counsel Givens said that this was an issue the Environmental Review Commission could look at and that legislative appointments were easier to create than non-legislative appointments.

Representative Harrison asked whether private wells should be part of water planning at the State level, and whether there was a lack of statutory authority to do so. Ms. Smith replied that there is a question about managing wells in a regulatory program. Representative Harrison followed up asking if there is any regulation to discourage wildlife extinction due to drought. Ms. Smith answered saying major federal impoundments and hydro-managed systems have mandatory release guarantees to provide a minimum flow for aquatic life. Smaller systems, however, have seen streams and ponds dry up. Representative Harrison asked if this related to only endangered species. Ms. Smith answered that it related to all wildlife concerned.

Representative Harrison followed up again saying she heard that utilities were responsible for 80 percent of water consumption. Counsel Givens commented that regarding a study of an Interbasin Transfer Bill, it would be recommended that allocation of surface waters would include all surface waters that come from groundwater. Authorizing legislation would allow the State to do that, he continued, but there would be property rights issues with private wells on private lots.

Representative Bingham said that in his district recently several poultry farms were formed, and that he heard nearby wells had depleted as a result. Ms. Smith replied that any operation requiring significant water would look at the water source in advance. However, she did say it could happen giving an example of two dry wells in Greensboro whose water was depleted from usage by a nearby golf course.

Representative Gibson asked if anything had happened with a water lawsuit in South Carolina. Ms. Smith replied that the case has been appealed to the South Carolina Supreme Court. The court has asked North Carolina to answer its complaint over a decision by the Environmental Management Commission to allow the Charlotte suburban communities of Concord and Kannapolis an additional 10 million gallons a day from its water source: the Catawba River basin. South Carolina's complaint alleges that North Carolina acted so despite South Carolina's consumption of water from the same water basin. The State's answer to the Supreme Court is requested in a month after the State asked for an extension. Representative Gibson followed up asking how the State can measure new well drilling. Ms. Smith said that a well permitting program was adopted in the 2006 session, but its effective date is not until July 1, 2008. She added that some local governments have their own independent well permitting programs.

Representative Gibson again followed up saying there is "no consistent threshold, no consistent approach, no ability to assess significant risk," and asked whether DENR is asking for additional authority to address these issues. Ms. Smith replied that is an issue that the Legislature needs to review, and whether there is currently enough authority for the State to successfully deal with local governments in a drought that affects safety and public health. Representative Gibson said he realized that we were heading for hundreds of hours of mediation in the future. Lastly, he asked Counsel Givens when the Water Resources Study would be complete, and if there was a timeline of what's coming from the study. Counsel Givens said that he did not have a date but would look into finding a date.

Representative Allen was recognized and said that the sooner staff was authorized to hold scoping meetings the sooner such reports would be underway.

Co-Chairperson Albertson recognized Jeffrey Hughes but before his presentation began Counsel Givens asked to discuss Representative Allen's previous remark. Counsel Givens noted that Representative Allen had recognized that staff needed to have approval to hold scoping sessions. A motion subsequently followed.

Representative Allen moved that the counsel be authorized to receive public comment on the scope and direction of allocation of water resources that the Commission is directed to undertake by Section 1 of S.L. 2007-518. The motion passed unanimously and Mr. Hughes began his report.

A hands-on report entitled "Water Pricing and the Drought" was distributed to members and is included in these minutes as **Exhibit R**.

Mr. Hughes said that local governments have wide latitudes in pricing water and sewer, and that modifying water and sewer rates is much easier than modifying tax rates. Because of this, he continued, local governments can use prices to encourage types of behavior. As revenue drops, he said, many local governments will have to raise water rates. Investor owned utilities are different from governments, whereas such utilities have to receive approval for rate increases from the Utilities Commission.

Mr. Hughes continued saying there were handicaps for local governments. There is a tremendous pressure on utilities, he said, and that the strong leadership the Governor has taken has helped local governments prepare to increase rates. Another obstacle is that infrastructure is highly capital intensive: if usage drops 30 percent, revenue drops 30 percent. However, expenditures remain the same and capital investments suffer. Another obstacle is that stemming from public pressure, many utilities operate a very slim margin. When a public utility is noted in the media for having too much money in the bank public outcry automatically ensues. But this, Mr. Hughes said, is the time for utilities to have a “rainy” day fund. Unfortunately, he said, most do not. Mr. Hughes continued his presentation noting variables in water supply and demand. Some homes particularly in suburban areas can use as many as 15 to 30 thousand gallons of water in one month’s time. This consumption can be easily cut to between five and ten thousand, he said.

Mr. Hughes walked the Commission through a map called “Rate Structures and Pricing Signals in North Carolina” (**See Exhibit R**). The map shows consumption compared to price in municipalities across North Carolina. Historically, he said, utilities that give block rates or decreased prices also had higher consumption. He also noted what he considered a misconception: that having low water rates made for successful management of the utility. A water manager “wears water on their sleeve,” he said. He continued saying that one would see mixed success no matter what people pay for water.

Local governments in North Carolina take in \$1.8 billion a year in water revenues, Mr. Hughes said, continuing that pricing water was not an exact science. Saying that water consumption was not like purchasing a typical grocery item such as iced cream, rather, people are disconnected from understanding their own water consumption as well as the consumption of their respective municipality’s water system. Also disconnected from understanding their water usage are those who pay for water through paying rent and those receiving water from wells. People also, he said, will receive their water bill and may not look at the bill again for weeks, until actually paying the bill. Even then, seldom are consumers given enough information to understand their personal consumption on their bill.

Mr. Hughes then presented options for utilities in the future. In the short term, he said, a positive option is to track water usage, which he said typically is not done by public utilities. The town of Cary, he said, has taken the lead in informing its residents of their water consumption. Once a consumer is educated on water usage, responses can be targeted. Consumers have a better chance of cutting discretionary use when educated on how much they are using. He does not, he continued, suggest using a block rate pricing structure. Lower rates, he said, often led to higher consumption and an inability to improve or add infrastructure. Mr. Hughes also suggested to the Commission that public utilities also set up stabilization funds to create and maintain a healthy fund balance. He added that public utilities would likely have to raise rates to offset revenue declines stemming from the drought.

Co-Chairperson Albertson asked Commission members for questions. Senator Swindell commented to the Commission of his concern to treat business fairly. Senator Swindell noted that the largest employer in Rocky Mount is also a large water user. He continued saying that he was also concerned about rate increases and how they would affect the elderly.

Mr. Hughes replied saying that when dealing with large industries there are ways to lower consumption. When working with an industry that uses 100,000 gallons, for example, one way for that company to conserve is cutting discretionary use. One benefit for the utility is that companies typically have a consistent rate of service for that industry, so any water infrastructure is well measured as well as revenues from the company. Because the industry uses a consistent amount of water compared to households, of which water consumption fluctuates because of seasons and other reasons, proportionately serving the household is more expensive than the company for the utility. He noted an industry in Rocky Mount that implemented a conservation program and now has a 25 percent reduction in usage by reusing treated water. Mr. Hughes also said that relief funds could be created to assist those economically unable to pay an increased water bill.

Co-Chairperson Albertson thanked Mr. Hughes and recognized Kimberly S. Hibbard, Associate General Counsel for the North Carolina League of Municipalities. Ms. Hibbard gave a five-minute report and began her report noting that most water systems are city- or county-owned. League representatives are trying to assist municipal officials to make informed decisions and stay in contact with pertinent contacts. In October, she said, League representatives met with agents from DENR as well as representatives from cities with a Tier 1 drought rating. The League is also creating partnerships to appropriately deal with the drought, and have had open discussions about what water supplies are available.

Eighty percent of the State's municipalities are under some kind of water restrictions, Ms. Hibbard said, and overall the League is pleased with consumers' responses. After a recent rain quelled fears among consumers, local governments realized—as the wake of the drought was far from gone—that long-term efforts were necessary. Some municipalities were responding positively to restrictions. In Charlotte, she noted, water consumption is down 25 percent.

Ms. Hibbard continued saying that towns with adequate water supply are still under restrictions because they may be called on to supply other areas. She noted that Burlington has placed restrictions and that Wilson is helping Rocky Mount supplement its water supply.

Co-Chairperson Albertson thanked Ms. Hibbard and recognized Mr. Paul Meyer, Assistant General Counsel for the North Carolina Association of County Commissioners. Mr. Meyer began noting that counties were also in the water business like municipalities, but held no where near as many public utilities as municipalities. Half the counties in North Carolina have placed water restrictions, he continued, with mandatory restrictions in the west and central North Carolina and volunteer restrictions in the less embattled east. County planners are preparing for worst-case scenarios and are looking for new water sources, Mr. Meyer said. He followed saying it was difficult to enforce restrictions as there is now no way to stop what people consume inside their homes.

Commenting on wells, Mr. Meyer said that counties are unable to regulate, and that under current statutes there is no authority over or restrictions against drilling new wells. Co-Chairperson Albertson thanked Mr. Meyer and then recognized Mr. Gary Hunt, Director of the Division of Pollution Prevention and Environmental Assistance with DENR.

Mr. Hunt began his report saying he wanted to end the day's meeting on an "up" note discussing positive conservation efforts. Citing his prior experience with the 2002 drought, Mr. Hunt began explaining the 2002 Hydro- Alluvial Cycle, where many conservation efforts successfully led to lower water usage among businesses during and after the drought. He then explained a photograph of workers in a Spaghetti production plant racing Spaghettios across a floor powered by the pressure of two-inch hoses to show reckless waste of water. He continued saying that his Division works with larger businesses to show how water use can be reduced through water audits and working cooperatively between the Division and the business.

A handout was distributed for this report and is contained in the attachments as **Exhibit S**.

Mr. Hunt continued saying that business can set up better maintenance procedures for immediate reductions in water usage, including checking for leaky plumbing, reminding workers to shut down unused pipes, hoses, etc., and noted that in working with some companies he had found some water lines running all day—everyday—despite that the company was not using the water continuously. He then noted companies are taking a larger interest in reused water, and that some companies are working with other companies to take the waste of one for reuse at another. There are issues with piping, he said, but ended his comment saying he felt it would work.

A Stewardship Initiative among high-water using companies has successfully grown since its onset, and more than 100 companies now participated with a savings of 1 billion gallons so far. Mr. Hunt then said that companies realize conserving water reduces costs but also has less impact on the environment.

Mr. Hunt's Division is also having meetings across the State, he continued, and is working with the Commerce Department to help the State's largest water users to conserve. Hits to his website have increased tremendously, he said, and Water Conservation Teams are in place and offering training with companies.

Lastly he noted that a Water Reduction Partner Program had expanded to 37 counties, and as an example said that Buncombe County had in place a conservation measure where if a company does not employ conservation measures they pay a higher rate for water. Through the program more than 200 audits were completed for companies with a total savings of 219 gallons. The program is expanding, and the Triangle J Council of Governments had recently started participating in the program.

Co-Chairperson Albertson then recognized Ms. Erica Peterson, Executive Vice President and Chief Executive Officer of the North Carolina AgriBusiness Council, Inc. Ms. Peterson began her report thanking the Commission for the "lengthy discussion" and saying that the drought was a critical issue for agribusiness. She then said that agriculture is the State's largest business with \$68 billion in revenue and employing 20 percent of the State's workers.

Ms. Peterson continued that she would focus her discussion on the consumer product side, and said that many agribusinesses are required to use a certain amount of water, creating water waste. She said that was the reverse of what she had heard in the day's discussion, and said she understood that many standards for water usage had to do with consumer safety and sanitation. But many of the rules were written years ago, she continued, and perhaps needed looking at again.

Citing a different example, Ms. Peterson said she knew of a company that was told by their water-providing municipality that the company had to successfully employ a 25 percent water reduction. The company did, and the municipality then ordered a 50 percent reduction. The company then had to haul 70 truckloads of water in a day to meet its production demands as well as those demands placed on it by the municipality, and release the water into the local reservoir only to have to draw the water back into the plant. This forced the company to pay for hauling the water in and then pay the municipality for consumption of water not produced by the municipality. She concluded her report noting that drought issues now needed to be looked at from a “regional perspective” and that the State will have continued water problems as its population grows.

Co-Chairperson Albertson called for questions and hearing none recognized Ms. Louise R. Hodges, President of the Green Industry Council. A document produced by the Green Industry Council was passed to Commission members and is marked as **Exhibit T** in the attachments.

Before Ms. Hodges began her report Commission Counsel Givens told the Commission that 10 to 12 other groups were invited to give comments and some had submitted written statements. Those statements, he continued, are distributed and are now part of the public record for the meeting. **(See Exhibits U, V, W)**

Ms. Hodges began her report defining the industry, saying the green industry included nursery, landscaping, lawn maintenance, arborists, Christmas tree and golf course businesses and has a yearly State revenue of \$8.6 billion and roughly 151,000 employees. But the drought, she continued, had taken its toll: creating a 40 percent loss in revenue and a 30 percent layoff in employees. She said that the industry was a steward of conservation, and that the industry was very much in support of year-round water conservations. Anecdotally she added over-watering was common and in her experience replacing 95 percent of sod her business replaced was overly watered.

She continued saying she hoped for collaboration with the State for educational and certification programs. She also said that she had spoken with a water official in Greensboro who said that handheld shrubbery watering only accounted for two percent of that municipalities’ water consumption.

She closed her report and Co-Chairperson Albertson asked of questions. Representative Harrison thanked staff for a “great” agenda. Co-Chairperson Albertson then adjourned the meeting at 2:40 p.m.

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Co-Chair Charlie Albertson  
Presiding

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Co-Chair Lucy Allen

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Jessica Kozma Bennett

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Co-Chair Pryor Gibson