

North Carolina General Assembly

ENVIRONMENTAL REVIEW COMMISSION MINUTES

9:30 a.m., Tuesday, November 25, 2008
Room 544, Legislative Office Building
Raleigh, North Carolina

The Environmental Review Commission met at 9:30 a.m. on Tuesday, November 25, 2008 in Room 544 of the Legislative Office Building. Co-Chairman Pryor Gibson presided. Co-Chairman Gibson called the meeting order at 9:45 a.m.

Welcome and Attendance

Members present were Co-Chairman Charlie Albertson; Co-Chairman Lucy Allen; Co-Chairman Pryor Gibson, III; Co-Chairman Daniel Clodfelter; Senator Stan Bingham; Senator Katie Dorsett; Senator Eleanor Kinniard; Senator A.B. Swindell; Senator Fletcher Hartsell, Advisory member; Representative Pricey Harrison; Representative Carolyn Justice; Representative Edith Warren; Representative Larry Womble; Representative Charles C. Thomas, Advisory member; Representative Russell E. Tucker, and Representative Ruth Samuelson. Commission staffs in attendance are Commission Counsel, George Givens; Assistant Counsel Jennifer McGinnis, Commission Analyst Jennifer Mundt; Research Assistant Mariah Matheson, and Commission Clerk, Daladier C. Miller, Acting Commission Clerk.

Report to the Commission and Explanation of Agenda Items.

Mr. George Givens, Commission Counsel noted that the following reports on the agenda have been submitted by DEHNR, are being distributed as read-only items, and may be re-distributed in connection with an agenda item at a future meeting of the Commission, depending upon the level of interest in the reports:

Mr. Givens stated that if anyone would like to have copies of the read-only reports, they should contact Ms. Mariah Matheson at (919) 733-2578.

Part C:

Item 7). Annual report on the compliance/enforcement of water quality laws for facilities that discharge into surface waters. 1 October 2008. Statutory Authority: G.S. 143-215.10M.

Item 8). Annual report on permitting and inspecting animal waste Management systems/Animal Waste Compliance Report. Statutory Authority: G.S. 143-215.8B (d).

Item 9). Annual report on Basinwide Water Quality Management Plans. October 1, 2008. Statutory Authority: G.S. 143-215 8B (d).

Item 10) Annual report on implementation of the sedimentation Pollution Control Act of 1973. October 1, 2008. Statutory Authority: G.S. 113A-67.

Mr. Givens called attention to Part G, item number 15, of the agenda; Alcoa Power Generating Inc./Stanley County Documents, which reads: The Commission Counsel has requested that Alcoa Power Generating Inc., provide certain information to the Commission in connection with the study of impacts on the State of the potential issuance of a new 50-year license by the Federal Energy Regulatory Commission to Alcoa Power Generating, Inc. (Authority: S.L. 2008-137, Secs. 1 and 2).

In response, on October 17, 2008 Stanley County submitted briefing informational document, including an executive summary and exhibits, and October 20, 2008 Alcoa Power Generating, Inc. submitted briefing document and exhibits. Because of the size of these documents, they are being made available only electronically via the Commission website. A separate folder has been established or created for the purpose. The URL for this folder is <http://ncleg.net/gascripts/DocumentSites/browseDocsite.asp?nID+12>

Approval of Minutes for November 25, 2008

Representative Alice Underhill moved for approval of the minutes. The minutes were approved by unanimous vote.

Presentation of the Draft 2008 Report of the Water Allocation Study (S.L. 2007-518, Sec. 1. (a) as amended by S.L. 2008-10) and issues related to increasing water supply and reservoir construction (S.L. 2008-143, Sec. 6).

Mr. Richard Whisnant, Principal Investigator, Associate Professor of Public Law and Government was recognized by Co-Chairman, Pryor Gibson to discuss the Draft 2008 Report of the Water Allocation Study Team to the North Carolina Environmental Review Commission. He noted that the Water Allocation Study Team recommends that the General Assembly take the following measures in 2009 in order to put North Carolina in a more secure position with respect to its water supply: (a copy of this report is including in the minutes as **Exhibit B**.

- Clearly state policy goals to guide administrative and judicial decisions.
- Establish a permit for large water withdrawals.
- Conform existing laws to each other and to policy goals.
- Establish proactive, adaptive, river basin water supply planning.
- Simplify and integrate water-funding information.

- Address critical research and study needs.
- Ensure that water infrastructure is maintained.
- Reward and spread best practices and leadership efforts in water efficiency.
- Create more storage.

Mr. Whisnant called attention to four scenarios. They are as follows:

1. Private firm buys old intake and consumes or exports water, even while downstream industries or water systems are running dry.
2. Private firm pumps groundwater and uses or exports it, even while adjoining farmer's wells dry up.
3. City is unaware of its precarious water supply and leaky pipes until it fails to deliver on promises to new development.
4. Strong population and commercial growth in the headquarters leaves a water system no or few options for additional supply. **(See Exhibit B, Pages 4 through 7 of the Draft Report for details).**

Co-Chairman Gibson recognized Mr. William Holman, Principal Investigator, and Visiting Senior Fellow at Nicholas Institute for Environmental Policy Solutions continued to discuss the Draft 2008 Report of the Water Allocation Study Team. Mr. Holman began by thanking the General Assembly for authorizing the study. He also gave an overview of nine recommendations for the upcoming Legislative Session **(See Exhibit B, Pages 33 through 49 of the Draft Report).**

Update on Water Quantity issues, Including the Report of Drought Management Advisory Council (G.S. 143-355.1 (g) and Progress in Water Supply Planning (G.S. 143-355 (n)).

Co-Chairman called upon Mr. Thomas Reeder, Director of the Division of Water Resources, Department of Environment and Natural Resources (DENR) to give a report. Mr. Reeder gave an overview on the following items: **(See Exhibit C and for details).**

- Drought Update
- Implementation of 2008 Drought Bill
- Daily Water Withdrawals in North Carolina
- Water Supply River Basin Planning
- Activity of Bi-State Commissioners
- Upcoming Interbasin Transfers (IBTs)

Report of the State Water Infrastructure Commission on its Activities and Findings (G.S. 159G-67).

Ms. Jean Crews-Klein, Vice President of Business and Natural Resource Development, Klein Consulting, was recognized to give a report of the State Water Infrastructure Commission on its Activities and Findings **(See Exhibit D for details).**

- Infrastructure Financing
- Drought Preparation and Water Resource Management
- Reclaimed Water
- Regionalization
- Continued Funding for the SWIC

Report on Contaminated Wells in Montgomery, Moore, and Richmond Counties

Mr. S. Art Barnhardt, Regional Supervisor of the Fayetteville Regional Office, Aquifer Protection Section, Division of Water Quality, DENR was recognized by the Co-Chairman Gibson to give a report on Contaminated Wells in Montgomery, Moore, and Richmond Counties (See Exhibit E for details).

Discussion of the Desirability of Abolishing the Existing Environmental Regulatory Commissions and Replacing Them with a New, Full-Time Environmental Regulatory Commission Modeled on the Utilities Commission (S.L. 2008-181, Sec. 6.4).

Mr. John McAllister, Vice President of Governmental Affairs, North Carolina Chamber and Mr. Thomas G. Bean, Legislative Liaison for North Carolina Wildlife Federation discussed the desirability of abolishing the Existing Environmental Regulatory Commission and replacing them with a new full-time Environmental Regulatory Commission Modeled on the Utilities Commission (See Exhibit F for details).

Update on the Pilot Program to Retrofit School Buses to Reduce Diesel Emissions in Non-Attainment Areas (S.L., 2007-465, Sec. 4(b))

Ms. Anne S. Galamb, Environmental Specialist for the Technical Services Section, Division of Air Quality, DENR gave an update on the Pilot Program to Retrofit School Buses to Reduce Diesel Emissions in Non-Attainment Areas. (See Exhibit G for details).

Report on the Implementation of Animal Waste Management Performance Standards for Swine Farms, the Lagoon Conversion Program, and the Swine Farm Waste Management System Conversion Account (S.L. 2007-523, Sec. 2 (f))

Co-Chairman Gibson recognized Ms. Patricia K. Harris, Director of the Division of Soil and Water Conservation, DENR who gave a report on the Lagoon Conversion Program (See Exhibit H for details). The following items were discussed:

- Lagoon Conversion Program
- Rulemaking To Implement Provisions of S B 1465
- Selection Timeline
- Round 1 Applications
- Producer Concerns
- Existing Lagoon Guidance

- Super Soils USA, Inc., Centralized Composting System
- Super Soils USA, Inc. on Farm Solids Separation and Liquid Treatment
- Super Soils USA, Inc. On Farm Solids Separations Separation and Liquid Treatment

Schedule of Future Meetings:

<u>Commission Meeting</u>	<u>Location</u>	<u>Staff Planning Meeting</u>	<u>Location</u>
Thursday, 18 December 2008	1228 LB	Tuesday 2 December 2008	605 LOB
Thursday 15 January 2009	643 LOB	Tuesday 6 January 2009	605 LOB
Thursday 22 January 2009	544 LOB	Tuesday 6 January 2009	605 LOB

The meeting adjourned at 2:30 p.m.

Co-Chair Lucy Allen

Co-Chair Dan Clodfelter

Co-Chair Pryor Gibson

Daladier Miller, Acting Commission Clerk