

**MINUTES  
ENVIRONMENTAL REVIEW COMMISSION  
September 28, 2011**

The Environmental Review Commission (ERC or Commission) met on Wednesday September 28, 2011 at 9:30 a.m. in Room 544 of the Legislative Office Building. Representative Gillespie presided.

The following members were present: Senators David Rouzer, Chair, Rep. Mitch Gillespie Co-Chair, Representative Ruth Samuelson, Co-Chair, Senator Stan Bingham, Senator Dan Clodfelter, Senator Don East, Senator Fletcher Hartsell, Senator Brent Jackson, Senator Bill Rabon, Representative William Brisson, Representative Joe Hackney, Representative Pat McElraft, and Representative Chuck McGrady. Mr. Jeff Hudson, Ms. Jennifer McGinnis, and Ms. Susan Iddings, Commission Counsels; Ms. Jennifer Mundt, Commission Analyst; Ms. Mariah Matheson, Research Assistant; and Ms. Cindy Hobbs, Commission Clerk, Sargent-at-Arms Bill Bass, Garland Shephard, Jessie Hayes, Ernie Sherrill, Dedrick Anders and Steve Wilson. Attachment #1 and #2.

On September 19, 2011, notice was sent to members and interested parties via e-mail. A copy of the notice is included in the attachments to these minutes as Attachment #3. Copies of the agenda for the meeting and visitor registration sheets are included in the attachments to these minutes as Attachment #4 and Attachment #5, respectively.

**Call to order and introductory remarks**

Representative Gillespie called the meeting to order and welcomed members, staff, and visitors in attendance. He recognized his Co-Chairs, Senator Rouzer and Representative Samuelson, for introductory remarks. Senator Rouzer and Representative Samuelson also welcomed members, staff, and visitors in attendance. Representative Gillespie asked the members of the Commission and staff of the Commission to introduce themselves. He also introduced the Sergeant-at-Arms, Bill Bass, Garland Shephard, Jessie Hayes, Ernie Sherrill, Dedrick Anders, and Steve Wilson, and the Commission Clerks, Susan Phillips, Sarah Neunzig, and Cindy Hobbs. Representative Gillespie recognized Mr. Jeff Hudson, Commission Counsel, to provide an overview of the meeting agenda. Mr. Hudson reviewed the agenda and brought to the members' attention the following handouts: Summaries of Substantive Environmental and Natural Resources Ratified Legislation: 2011 Regular Session, 2011 General Assembly and the September 28, 2011 memorandum of reports received by the Commission. Copies of these handouts are included in the attachments to these minutes as Attachment #6 and Attachment #7, respectively. Representative Gillespie brought to the members' attention a handout that he had provided; the handout contains language from H773, the Studies Bill (not enacted), that would have directed the Department of Environment and Natural Resources to study implementation of the State and federal rules related to emissions of toxic air pollutants. A copy of this handout is included in the attachments to these minutes as Attachment #8.

**Report on the State Air Toxics Program**

Representative Gillespie recognized Ms. Sheila C. Holman, Director, Division of Air Quality (DAQ), Department of Environment and Natural Resources (DENR) to provide a report on the State Air Toxics Program. Ms. Holman provided information on the history of the State and federal programs for regulating toxic air pollutants, the amount of toxic air pollutants emitted by sources in North Carolina annually, the differences between the State and federal programs, examples of how sources of toxic air pollutants have complied with State regulations, and a comparison of the North Carolina air toxics program with the South Carolina and Virginia programs. A copy of Ms. Holman's PowerPoint

presentation is included in the attachments to these minutes as Attachment #9. Ms. Holman received a number of questions and requests for further information about the State air toxics program. These questions and requests included the following:

#### Senator Bingham

- Provide a list of regulated toxins, quantities emitted, and areas in which they're emitted. Specifically, the 25% that are not regulated or the small quantity toxins that don't meet the threshold.
- What is the worldwide tonnage? For example: mobile sources, coal-fired power plants, China's emissions, etc.

#### Senator East

- How do we know that DAQ is being effective?
- How much reduction have we seen as a result of the toxics program?
- Total cost to the State for administering the program?
  - Representative Gillespie directed staff of the Fiscal Research Division to provide this information.
- Are auto manufacturers and tire re-cappers heavy polluters?

#### Representative Gillespie

- Expense of modeling and frequency? Is the modeling cost a disadvantage?
- Field trip: Facility walk-through on the process of testing.
- Provide public health statistics in comparison with other states.
- Examples of small facilities?
  - Sushma Musemore with DAQ responded that asphalt plants, concrete plants, and furniture manufacturing facilities are typical examples of small facilities in North Carolina.
- What is the trigger point for the small facilities?
- List of the applicable federal rules and State rules.
- Is measurement of toxins emitted from the property line or fence line? Does the measurement trigger disadvantage sources with smaller parcels of property? What about measuring from the source itself?

#### Representative Hackney

- Asked whether the Commission could receive information on the science behind and health benefits of the State program.

#### Senator Hartsell

- Provide list of 21 substances that are covered by the State program, but not the federal program.

#### Senator Jackson

- What toxins come specifically from agricultural activities?
- Provide a breakdown between emissions from agricultural activities or facilities, such as grain elevators and agricultural sources of soil dust and sulfur dioxide, and traditional industry.
- Provide a breakdown between toxic and non-toxic pollutants from agricultural sources.

#### Representative McElraft

- How does 38 million pounds compare to other states, not just the Southeast?

- How is that calculation made and who makes it? Per Ms. Holman, it comes from estimates provided by the sources themselves.
- What co-benefits in reductions have we received with maximum achievable control technology (MACT)?
- Doesn't the EPA take public health into consideration when doing the MACTs? Where is NC's expertise?

#### Senator Rabon

- What are some disadvantages to the State program?

#### Senator Rouzer

- How do neighboring states handle the 21 toxins?
- What was the emissions figure 20 years ago?
- What percentage do wildfires (for instance recent fire in Great Dismal Swamp) and mobile sources contribute?

#### Representative Samuelson

- What triggers the State program?
- Are there some facilities subject to the federal government and the State? How can someone be subject to the federal program and not the State?
- Does the industry have to model too often?

#### Report on the State Water Supply Plan

Representative Gillespie recognized Mr. Thomas A. Reeder, Director, Division of Water Resources (DWR), DENR to provide the annual report on the State Water Supply Plan and other information related to water resources in the State. Mr. Reeder provided information on DWR, the State Water Supply Plan, the status of hydrologic modeling in the State, the development of water supplies in the State, efforts to improve water use efficiency, interbasin transfers (IBTs), the Central Coastal Plain Capacity Use Area (CCPCUA), and drought conditions. Copies of Mr. Reeder's PowerPoint presentation and the State Water Supply Plan are included in the attachments to these minutes as Attachment #10. and Attachment #11, respectively. Mr. Reeder received a number of questions and requests for further information about water supply. These questions and requests included the following:

#### Representative Gillespie

- Is there liability to the State on being a co-applicant for a water resource project, as authorized under the legislation enacted earlier this year? Do we need language to limit NC's co-applicant liability?
  - Mr. Reeder responded that there is liability, at least in terms of non-compliance, so modifications to the legislation may be needed to address the issue. Representative Gillespie asked for a recommendation from DENR on this issue.
- Provide a presentation on the Randleman Dam litigation at a subsequent meeting.
- Provide notification to the General Assembly of IBT requests.

Senator Hartsell

- Has the Department intervened in the Randleman Dam lawsuit?
- Provide information on water rights in the State at a subsequent meeting?

**Commission discussion and announcements**

Senator Hartsell informed the Commission that he had submitted a letter to Attorney General Roy Cooper concerning the ownership of the submerged bed of the Yadkin River at the site of the Yadkin Hydroelectric Project. A copy of the letter is included in the attachments to these minutes as Attachment #12.

Representative Gillespie recognized Mr. Hudson for comments on the next meeting of the Commission. Mr. Hudson informed the Commission that the following topics would likely be on the agenda for the next meeting of the Commission: follow-up on the State air toxics program, a presentation on the science behind and health benefits of the air toxics program, a presentation from entities regulated under the air toxics program, an update on the DENR study of the use of directional and horizontal drilling and hydraulic fracturing or "fracking" for the purpose of oil and gas exploration in the State, and a report on the State Leaking Underground Storage Tank Program.

Representative Gillespie thanked the members and staff, announced the next meeting to be held would be October 12, 2011 at 9:00AM.

**Adjournment:** The meeting was adjourned at 12:10PM.

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Chair Senator David Rouzer

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Co-Chair Representative Mitch Gillespie

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Co-Chair Representative Ruth Samuelson

Attest:

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Cindy Hobbs, Committee Clerk

Attachments: #12