

Notes from the 3-5-10 Watershed Alliance Meeting

Ministry Incubator

Attending:

David Emmerling (Pamlico-Tar River Foundation), John Shaw (WakeUP Wake County), David Kelly (Environmental Defense Fund), Rick Gaskins (Catawba Riverkeeper Foundation), Heather Deck (Pamlico-Tar River Foundation), Tess Sanders (White Oak-New Riverkeeper Foundation Alliance), Sheena Woods (White Oak-New Riverkeeper Alliance), Kay Bond (Southern Environmental Law Center), William Krueger (Southern Environmental Law Center), Peter Raabe (American Rivers), Lynnette Batt (American Rivers), Hope Taylor (Clean Water For North Carolina), Hubert Lee (Clean Water For North Carolina), Alissa Bierma (Neuse Riverkeeper Foundation), Grady McCallie (NC Conservation Network), Dan Conrad (NC Conservation Network), Jen Hoverstad (NC Conservation Network), Nicole Stewart (NC Conservation Network)

On call:

Dan Crawford (Conservation Council of NC), Robin Smith (Conservation Council of NC), Brittany Iery (New River Foundation), Doug Spring (Cape Fear River Watch), Caroline Douglas (Southwings), Tom Duckwall (Friends of the Deep River), Donna Lisenby (Watauga Riverkeeper), Eric Chance (Watauga Riverkeeper), Dean Naujoks (Yadkin Riverkeeper Inc)

Water Allocation (David Kelly):

David and a couple others met with Rep Allen to get her lay of land: She doesn't see a comprehensive legislation moving forward in 2010 (and is skeptical about 2011/2012). She thinks that a more step by step approach is the best strategy. She noted that she's getting the most push back from the private well owners, ground water private property folks, and agricultural interests.

David noted that folks also met with Jennifer Bumgarner from the Governor's office. When our folks noted that DENR has said they don't a formal position on this because they haven't been given a position to take, Jennifer replied that that was ridiculous and that of course they can have their own position.

EDF is working with a consultant to do economic analysis work to determine what the future economy of NC looks like with comprehensive water laws v what it looks like without rational planning (in order to show impact on growth).

The water allocation group has a recurring monthly call. And, as the session gears up they will likely meet every 2 weeks.

Grady noted that if cities/industry in the next 2-3 months decide that this is a problem that should be/can be solved – then there's a real chance we could see substantial action this year. If they don't focus on it then not much happens.

Peter noted that we are dealing with external factors as well, such as 'what is focus of legislature when they come back?' If they have nothing else to do then bill like this could come up/move.

David noted that there is active legislation in General Assembly, so in some fashion we will be engaged.

Sedimentation:

Muddy Water Watch (Dean Naujoks)

Muddy Water Watch has been an ongoing project for two years and has seen 1,000 people go through the program. With 2010 being such a short session – lawmakers are going to try and get out of session as quickly as possible b/c of elections. Stand alone legislation probably not a reality for this session. However, the video/photo contest (originally planned for a mid-march roll out) will likely go live in the summer/fall and roll into the 2011 long session. In the meantime, groups are working to redefine the campaign around non-legislative solutions.

The Riverkeepers have created a list of priorities they would like to see on sedimentation. To see this list, email Dean.

Stormwater Construction General Permit (Kay Bond)

Kay gave an update on the Stormwater Construction General Permit. On October 1 SELC sent comments from the community on the General Permit for construction sites. The comments asked for: 1) no new permitted discharges through General Permit for impaired waters, 2) public notice of sediment and erosion control plans, 3) better enforcement, and 4) early adoption of Effluent Limit Guideline for turbidity. On December 1 the new ELG came out. EPA made DENR give them the full 90 days to review the permit (to make sure the ELG was final – so new turbidity standard was set). DENR went ahead and issued the new permit which is only effective until Aug 2, 2011. The new turbidity guideline is 280ntu and is in place for sites that are 20 acres or more by 2011 and 10 acres or more by 2014.

The ELG also clarified DWQ's relationship with DLR – but there still some opportunity to work with DWQ over next year and half.

Certified Inspector Rule (Robin Smith)

Robin gave an update on the certified inspector issue. The SCC drafted a resolution that was signed and passed by SCC. Next step is to get into short session (hope it to have it introduced through ERC and that they will champion the bill). There is a meeting with ERC on 5/17 to present and ask for their support. (NC is one of few states that don't have definition for qualified inspector – so have good qualifying data).

Robin noted that the hope is that this will also go through the EMC at the same time so Colleen Sullins will put into general permit language (not sure if this will happen). If this does happen in 2010/2011 then we'll want to have sister language that would give same authority to DWQ.

-SCC formed a new Technical Advisory Council, which be addressing: 1) rulemaking that would result with s1020 (neuse basin/falls lake); 2) trout buffers; 3) 1997 plan of action; 4) revisions to design manual – geographical diversification; 5) how DOT estimates peak flow; 6) how to incorporate language from ELG into Sediment Pollution Control Act; 7) and what constitutes stabilization of site.

Next TAC meeting is scheduled for 3/23 at 10AM.

Short reports:

Statewide triennial review (Grady) The last triennial review was submitted to the EPA in 2007 – so it is time to submit a new set of water quality standards. Changes in metal standards – would get tighter. New limits are actually below limits of detection. This is very controversial for local governments. DWQ wants help estimating benefits in economic terms in tightening these standards, but Grady noted that he's not sure if the Watershed Alliance has the technical capacity to do this. Grady noted that if anyone has information/wants to get involved to please contact him. If the triennial review is approved next week then the comment period will likely be April – May.

Grady noted that the triennial review also has a lowering of chlorophyll A standard and codification of current practice for monitoring chlorophyll A. EMC hasn't dealt with yet but it's on their agenda for next week. DENR's argument is that NC is better off using chlorophyll A; while EPA is trying to get states to use nitrogen and phosphorus standards. Grady noted that we need to decide what to do: support them on tightening chlorophyll A standards and/or telling them to ditch chlorophyll A standards and get on the national

Grady noted that we need to decide what to do: support them on tightening chlorophyll A standards and/or telling them to ditch chlorophyll A standards and get on the national bandwagon to use nitrogen and phosphorus standards.

Water infrastructure (Peter)

The green reserve (\$6 billion) has now become habit forming at federal level. And NC has to spend 20% of federal money and state matching funds on green infrastructure, energy efficiency, etc.

At the state level, DENR is very interested in set aside and would love to see it used to fullest extent possible. They had to fund every project that came in to meet the 20%. They begged us to drum up projects – so if you have a green roof or rain gardens to deal with nutrient run-off in your watershed that you'd love to see installed talk to your city manager.

DENR is going through process for allocating money for this. Public comment period on 3/17. **Peter will draft comments for this and welcomes sign ons.**

Grady noted that staff could be willing to give the Watershed Alliance a presentation on how this program work. Rick noted that a training would be helpful.

River Restoration (Lynnette)

American River is going to get 3-5 projects going off the ground (dam removals or culvert replacements). They have put together a dam removal task force and want to open up the task force to our groups (quarterly meetings), which will guide AR's river restoration projects and wider approach to getting barriers out of streams/rivers.

AR is currently working on removing the Goldsboro dam, which is used as an emergency water supply. Hoping will be good example project to remove dam but keep water supply through creative engineering. If anyone has other projects, please get in touch with Lynnette.

Buffer mitigation rules (Heather)

PCS needed changes to the mitigation rules in order for them to meet mitigation obligations. DWQ was supposed to come up with flexible option policy. In September 2009 the consolidated buffer rule came up in the WQC (with substantial changes to buffer rules).

Our small group is working on draft comments now (scheduled to go to the EMC and then to public comment). So far, we've got some good changes to the draft rule. **Heather will send the draft comments out to ask groups to sign on.** There's a chance the issue could come up in the May meeting, which would mean the rules go out at the end of this year.

The small group is also looking at stream/buffer mitigation rules as a whole and EEP's role in doing mitigation-type projects (is it an appropriate role for them).

Peter noted that Rep. Harrison and Sen. Clodfelter are looking to introduce legislation in short-session on this. He thinks it is unlikely that it'll be good policy, as he has concerns with how mitigation program is run overall. He noted that we may want to think about comprehensive mitigation reform – starting with avoidance.

Cost method (Grady)

Cost method is the rule that will set the price that EEP will charge for nutrient credits. It will set up a formula that will change over time to make sure money they take in from developers will cover work they do. If you want more information, Alissa Bierma and Joe Rudek are leading on this.

Water reclamation (Grady)

Water reclamation is a package of rules that let local governments with wastewater treatment plants use effluent in other ways (such as piping to use on golf courses, dumping into wetlands, etc.). The comment period closes at the end of April. Grady isn't sure if anyone in the community is planning to take lead on sending in comments. Kay noted that SELC will be commenting on the wetlands augmentation piece; but they can't look at the full set of comprehensive rules. **SELC will circulate their comments for sign-on.** Tess can help and noted that nothing else in the package of rules struck her as terrible.

Natural gas (Grady)

There are coal deposits in Chatham, Lee and, Moore counties and it is believed (by USGS) that there is natural gas under them. Possibly enough gas to excite the petroleum industry. The process of removing the natural gas requires pumping water laden with toxic chemicals into the land to break up rock, which leads to horrible ground and surface water impacts. Currently, NC doesn't have laws to deal with this. There is some potential legislative interest to pass a set of rules that would at a minimum allow the state to take some of money that would come in and enact some helpful environmental regulations around this. The Sierra Club has gone to presentations. Peter and Grady got pulled into briefing that DLR was doing. Regulations would end up being state-wide (if they went through legislature this year). Grady noted that he's not sure what's going to happen though.

Grady will follow-up with Watershed Alliance members who have an interest in this issue.

Falls Lake (Alissa)

A draft of the Falls Lake rule will go before the EMC and WQC. There are some concerns because local governments have been having conversations outside of the stakeholder group. The current focus is on making sure the rules are strong. Grady noted that there are mandatory retrofits in the Jordan rules which will be part of the Falls Lake rules as well (an important precedent). **Currently the campaign needs public comments. If folks want to help get in touch with Alissa.**

Thermal Discharges (Hope)

CWFNC has been concerned about the impact of big base-load power plants and other thermal discharges (like Blue Ridge Paper Products). About one-half of the power plants in NC have discharge variances. The other half is exempt b/c they are “industrial pollutant ponds.” Which means there is a whole class of waters that are not subject to the Clean Water Act according to NC. <Hope passed out a table that shows discharges that affect the French broad, Catawba, Yadkin, Neuse, Cape Fear, and others that involve amazingly high temps – some don’t have temp limits on effluent.>

CWFNC is proposing to go to the EPA Office of the Inspector General to ask them to take a look at how NC is handling thermal discharges. **Hope has a letter. If folks want to get involved, please email her. And/or please send any other cases that CWFNC should include.**

In addition, a CWFNC report that shows how many millions of gallons are evaporated each day from power plant discharges is almost done. You can email Hope for it. Rick cautioned that we should check the calculations before going public with the report (as we don’t want to put out numbers that are incorrect and/or are lower than industry’s own numbers).

Titan (Doug)

The Stop Titan Group is still waiting to see if the Titan air permit is going to come out. They have filed an injunction to stop the air permit. In addition, the group is beginning to play for a rally (goal - 1,000 people), likely in Raleigh targeting the Governor. There are no details at this point. If folks have ideas for a rally, please email Doug.

Hog monitoring & CAFOs (Heather)

Larry filed a 60-day letter of intent to sue on a farm in Neuse River basin. SELC and WaterKeeper Alliance are helping. The rest of the groups involved are monitoring/looking for clean water regulations and other mismanagements of CAFOs. The group is looking to hold a public health forum in fall. And, Tess is going to put together a user-friendly website similar to MWW so folks can upload info/photos/etc. Regarding the legislative piece (the hog monitoring rules which became known in the legislature last year as the “I hate the EMC” rules), we don’t think the rule is going to come up in the short session (thankfully). However, the rules went through public comment already (ended last July) and have been sitting with the EMC hearing officers since. We believe that they don’t want the rules to go anywhere. But, if nothing happens

to the rules by July, 2010 – then we may just repetition. Heather and Larry are going to talk with Chair Smith to figure out where he thinks/wants the rules will go.

Regarding Poultry (Heather)

Heather noted that we (nor DWQ) don't know where the poultry operations are, how many they are, or anything about how they manage poultry waste. DWQ and EPA Region III are currently looking at permitting. EPA Region IV says no to permitting since they don't have to discharge. A FOI request has been sent to EPA to figure out what's going on. Poultry is the next big CAFO issue (Sanderson farms (Zaxby, etc) – wants to site in NC and process 1 million chickens a week).

Aquifer storage recovery (Tess)

The bill went to study last session. Sandy Sands made a report to ONWASA. It's with the ERC – made significant process with ERC Water and Wastewater Resources Committee – breaking up into four working groups. Hopeful that one of these working groups will study Aquifer Storage Recovery (ASR). He wants something to come out of EMC by May. Grady and Tess will visit with ERC chairs.

Yadkin – Alcoa (Dean)

The legal case is going extremely well (as far as they are concerned). They are currently in mediation.

The Alcoa Bill (H1099) has a lot of stuff in it. Most of stuff that was in that bill passed in a different bill (S1020) at the end of the 2010 session. House wouldn't take up the alcoa/concord-kannapolis portions of the bill.

Already have the Governor on board. And all the Congressional lawmakers are either on our side or not willing to support alcoa.

Dean noted that this bill is going to move this year (not sure what it's going to look like) with or without the environmental community. And that it'd be great to get folks help to work on this. Hoping to get into common agenda.

Sludge (Elaine)

The issue is coming to the forefront in Alamance County and so HRA is getting involved and hoping to pass new ordinances for notification. Elaine noted that if folks haven't looked at this issue in your watershed that you may want to at least find out where sludge fields are and see how those relate to possibly impaired waters. Rick noted there is a septic tanks map on DENR site. Elaine also noted that they are Fighting stericycle again and are currently calling for a public hearing. EPA has new rules that will restrict the permanent levels of these heavy metals and other chemicals. Stericycle trying to get permit in so they don't have to meet standards until much later so trying to stop them from doing that.

Climate Change (Elaine)

In Chatham County they are looking to pass a resolution supporting local actions to reduce, mitigate, and adapt to climate change. Not many of these have been passed and no good models for language to use. May prove helpful for others to use in the future. Elaine has draft resolution if folks want to see it/pursuing contact Elaine.

Two resources: 1) EDF's report on global warming in NC (online); and 2) Governmental report on climate change: www.climatechange.nc.gov.

Clean Water Lobby Day (Nicole)

The group picked the 2010 Clean Water Lobby Day: Wednesday, 6/23

Nicole will pull together call to talk about issues/clean water lobby day in general soon.

Other updates:

Operation Medicine Cabinet (Tess)

Donna and Tess have both done Operation Medicine Cabinet and are looking to go statewide with it. Good news is that their allies (AG, SBI, DEA, and Safe Kids) are so excited about the project that they are starting to take it statewide without them and have put together a state-wide coalition to work on this. This group will likely look for policy to solve the cause of the problem. However if they guide the message then there will be no environmental focus to bill.

Tess has the Operation Medicine Cabinet campaign proposal that she can send if folks are interested. The State-Wide Week is March 14-20 for prescription drug drop off days.

Coal ash (Rick) –

CRF is starting to pick on the Charlotte/Meck utilities saying “why don’t you even have back-up plan if the water gets contaminated (from a coal ash spill).” In addition, CRF called for a hearing and the state noted they don’t have money for public hearings.

IBT – Catawba (Rick)

The Concord/Kannapolis suit has been pretty much settled. CRF decided to settle with an agreement that the cities of C/K have to implement a reduction of 10-6 million gallons in times of drought – and they have to use water from the Yadkin before they can water from the Catawba. One thing that could come back to bite other allies (towns) – C/K agreed to water conservation measures (that other municipalities have said aren’t possible). Now can point to C/K to say “they are doing it – why can’t you?”

Donna noted that the Supreme Court Case is moving along.

Next Steps

Nicole will email to schedule our next meeting (before session).