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| HEARING OFFICERS' REPORT AND RECOMMENDATIONS July 20, 2006 | Western Wake Regional Wastewater Management Facilities Project April 2006 Draft Environmental Impact Statement |
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TO: Daniel Blaisdell, Division of Water Quality

FROM: Linda Culpepper^{pc} and Jill Pafford^p, Hearing Officers

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I. INTRODUCTION

COMMUNICATIONS & INFORMATION

The Division of Water Quality (DWQ) held a public hearing on Thursday, June 15, 2006 at the Apex Town Hall to receive comments from the community regarding the April 2006 Draft Environmental Impact Statement (Draft EIS) the Western Wake Partners (the WWP) have submitted as part of the review process for the Western Wake Regional Wastewater Management Facilities Project (Project). The public record remained open through June 30, 2006 allowing additional time for written comments to be submitted.

Approximately one hundred thirty-three citizens attended the hearing. Forty-four people made oral comments and were allowed three minutes each to speak. Thirty-six expressed concerns about various aspects of the Project and/or the Draft EIS. Six voiced support for the Project and/or the Draft EIS. Two made comments about the Project that were neither in opposition or support. One hundred fourteen written comments were received, with four in support of the Project, one hundred nine in opposition to specific aspects of the Draft EIS and/or opposition to the Project, and one neither in opposition or support. Several of those submitting comments also spoke at the public hearing. A few people submitted more than one written comment, including additional comments regarding the Town of Cary's management of a sewage release of about 7.9 million gallons of sewage into Swift Creek which began June 23, 2006.

II. BACKGROUND

On September 13, 2000, the Towns of Cary, Apex, and Morrisville and Wake County (for RTP South) petitioned the Environmental Management Commission (EMC) for an increase in the existing Cary/Apex interbasin transfer (IBT) certificate from 16.0 to 27.0 million gallons per day, incidental to their proposed increased withdrawals from Jordan Lake and discharge of treated wastewater to tributaries of the Neuse River. Public hearings on the proposed transfer increase were held in Raleigh on March 5, 2001 and in Fayetteville on March 6, 2001 pursuant to G.S. 143-215.221. The original hearing officer's report was prepared in April of 2001 and mailed to members of the EMC on



May 2, 2001. A revised hearing officer's report was prepared in June of 2001 and mailed to members of the EMC on July 3, 2001.

The EMC considered the petitioner's request at its regular meeting on July 12, 2001. Based on the hearing record and the recommendation of the hearing officers, the Commission, on July 12, 2001, concluded that (1) the benefits of the proposed transfer outweigh the detriments of the proposed transfer, and (2) the detriments of the proposed transfer will be mitigated to a reasonable degree. The Commission granted the petition of the Towns of Cary, Apex, Morrisville, and Wake County (with modification) to increase their transfer of water from the Haw River basin to the Neuse River basin. The permitted transfer amount was to be 24 million gallons per day (mgd) on a maximum day basis. The certificate was effective immediately, but subject to several conditions, including: the holders of this certificate, after 2010, shall return water supplied from the Haw River basin used in the Neuse River Basin to either the Haw or Cape Fear River basins as described below:

- (a) Any water used in the Neuse Basin in excess of 16 million gallons per day adjusted on an average daily basis shall be returned.
- (b) Water used for consumptive purposes in the Neuse Basin will not be subject to this condition.

[Language taken from the Environmental Management Commission Certificate Authorizing the Towns of Cary, Apex, and Morrisville and Wake County to Increase Their Transfer of Water from the Haw River basin to the Neuse River basin under the Provisions of G.S. 143-215.221 – IBT Certificate]

In May 2002, Apex, Cary, Fuquay-Varina, Holly Springs, Morrisville, and Wake County formally agreed to jointly commission the Western Wake County Regional Wastewater Treatment Studies project. The proposed project was indicated as being commissioned by each of the local governments to address one, or more of, the following issues:

- The need for additional capacity to serve growing areas in western Wake County;
- The required return of treated wastewater to the Cape Fear Basin by January 1, 2011 in accordance with the terms of the IBT Certificate issued to Apex, Cary, Morrisville, and Wake County (for RTP South);
- The recommendation by DWQ for Holly Springs to relocate its discharge from Utle Creek due to nutrient enrichment concerns;
- An expressed preference by State regulatory agencies for regional wastewater management planning; and
- The amount of time available for an optimistic permitting, design, and construction schedule and the time when most of the participating local governments will operate at capacity at their existing water reclamation facilities being approximately equal. In

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addition, some local governments will exceed the capacity of their existing wastewater treatment facilities before January 1, 2011.

The Project proposes a single regional water reclamation facility to be constructed to provide wastewater treatment services for the towns of Apex, Cary, Morrisville, and RTP South. Holly Springs will continue to treat wastewater at the Utley Creek Wastewater Treatment Plant (WWTP), and the entire discharge from the Utley Creek WWTP will be removed from Harris Lake and conveyed to a common outfall that will serve the Western Wake Regional Water Reclamation Facility (WRF) and the Utley Creek WWTP. The common outfall will discharge treated effluent to the Cape Fear River downstream of Buckhorn Dam.

The proposed Project is stated to be implemented in two phases:

- The Phase 1 facilities, which must be operational by January 1, 2011, will provide treatment capacity of 18 million gallons per day (mgd) at the WRF, and a discharge capacity of 24 mgd to the Cape Fear River below Buckhorn Dam. The capacity of these facilities will meet the needs of the Project Partners until 2020. The Phase 1 facilities include the following infrastructure:
 - 31 mgd peak flow capacity at West Cary Pumping Station (PS)
 - 36 inch force main from West Cary PS
 - 40 mgd peak flow capacity at Beaver Creek PS
 - 42 inch force main from Beaver Creek PS
 - 18 mgd maximum month capacity at WRF
 - 48 inch effluent force main
 - Effluent discharge structure and 60 inch diffuser in Cape Fear River
- The Phase 2 facilities, which are projected to be online by July 1, 2020, will provide treatment capacity of 30 mgd at the WRF and a discharge capacity of 38 mgd to the Cape Fear River below Buckhorn Dam. These flows will be sufficient as shown in the current land use plans but additional growth could occur. If wastewater discharge beyond the 38 mgd are required, the partners will request an NPDES permit modification in accordance with rules and regulations. The capacity of these facilities will meet the needs of the Project Partners until 2030. The Phase 2 facilities include the following infrastructure:
 - 44 mgd peak flow capacity at West Cary PS
 - Parallel 24 inch force main from West Cary PS
 - 58 mgd peak flow capacity at Beaver Creek PS
 - Parallel 36 inch force main from Beaver Creek PS
 - 30 mgd maximum month capacity at WRF
 - Parallel 42 inch effluent force main

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[Language taken from the Western Wake Regional Wastewater Management Facilities Draft Environmental Impact Statement, April 2006]

III. DISCUSSION OF COMMENTS RECEIVED

Many of the written and oral comments received acknowledged overall support for the Project to serve wastewater treatment aspects of the planned growth within the service area, and to satisfy the IBT agreement entered by local municipalities. The concerns raised in the comments focused mainly on the site selection process, the location of the WRF and the impact of high pressure lines conveying raw wastewater generated from the towns served by the Project.

Specific concerns included, in no particular order:

- pipeline leakage may go undetected due to the remote areas considered for pipeline placement.
- poor track record of monitoring current sewage lines, which results in numerous sewage releases, specifically by the Town of Cary.
- potential changes to regulatory program requirements, that may allow mixtures of treated and non-treated wastewater to be discharged to surface waters under certain circumstances.
- residents along the pipeline rely on groundwater and surface water for human and animal consumption as well as agricultural irrigation. No mitigation plans are described to address potential water supply and land restoration if the pipeline leaks.
- the preferred WRF location in New Hill is adjacent to or in close proximity to historic sites, churches, and rest homes. The preferred site is also in a predominately minority, economically disadvantaged community.
- the New Hill location is not currently allowed to participate in use of the wastewater treatment service. If the community were to eventually be annexed (probably no sooner than 10 years) to allow the opportunity to participate, the residents will have to pay an estimated \$4,000 - \$10,000 per household to hook up to the sewer line.
- lack of representation of New Hill residences in the project planning process. Local governments did not seek their involvement and Wake County representatives abdicated their role to the other partners. Citizens cited little public involvement opportunities and difficulty in accessing public records created by local government regarding the project.
- the site selection process was flawed and calculations used are not correct. The process did not follow the criteria established. Cost estimates in the Draft EIS are not correct and/or incomplete. Future land use plans for the preferred location were not addressed. Census data does not reflect the area of impact around the facility.
- draft EIS does not address impacts on the New Hill community. Secondary and Cumulative Impact Master Mitigation Plans developed by the WWP do not include areas beyond the participating towns' individual jurisdictions.

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- DENR only has information on three sites, although 29 sites were initially studied.
- the New Hill community has endured many significant impacts by other large projects.
- the potential project impact on Chatham county residents is unclear.

Specific supportive comments included, in no particular order:

- selection of the WRF location is consistent with recommendations of the 1997 Water/Sewer Plan completed by Wake County and acknowledges there is an effort to address orderly planned growth.
- concerns regarding the high number of well and septage permit denials in the western Wake County area; this project would help alleviate the need for additional permit requests.
- influent into the Cape Fear River Basin (effluent from the WRF) will help meet the future needs of the City of Fayetteville and other communities with intakes lower in the Cape Fear River basin.

Public comment recommendations included:

- DENR should reject the Draft EIS.
- Municipalities should upgrade their systems to treat the wastewater in the areas of generation and then pipe the treated effluent to a central collection point, to be merged into a single effluent discharge point on the Cape Fear River. One choice for a central collection point was Progress Energy property. This proposal would also allow municipalities to locally encourage more reuse of treated effluent, decreasing the amount that would need piping. Cost savings would be incurred due to the difference in pumping treated wastewater versus raw sewage. Any potential release from the pipeline would be treated wastewater rather than raw sewage and less environmental damage to address.
- Move the sewage treatment plant another site, by using the criteria/cost analysis appropriately. One proposed site was Progress Energy land, which was obtained via eminent domain or other means for utility purposes.

IV. RECOMMENDATIONS AND CONCLUSION

The following issues should be addressed before this document should be considered a final Environmental Impact Statement for the Project:

Siting Process

- Many issues identified in the public comments address concerns with the siting process the WWP implemented. Public records provided in the comments support the citizens' concern regarding the limited official governmental

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representation and public outreach to residences around the preferred New Hill site.

Section 4.4.2 entitled *Phase II WRF Site Selection Process* describes the process used to narrow the remaining 12 potential sites generated from an original list of 29 sites. The WPP considered site-specific information and data to rank the 12 sites. Service factors were then used to ensure that the selected sites were “financially, technically and environmentally feasible with regard to service area demands and needs.” Consistent use of the criteria and the weighting factors in this part of the evaluation is not clear for all of the 12 sites. In addition, the public comments indicate there are numerous calculation errors in the total weighted scores of the 12 sites, but the Draft EIS does not have enough detail in the discussion of the weighting factors or the ensuing cost analysis to determine accuracy or errors. Therefore, we cannot conclude that the appropriate sites have been properly evaluated.

- Appendix G – Environmental Justice describes the process the WWP used to determine the impacts of the Project on minority and low income populations, citing the use of NC DENR guidance for preparing 201 Facilities Plans. The characteristics of the 2000 US census tract in which the majority of the WRF and raw wastewater pump stations are located were compared to the overall project service area to determine whether minority or low-income populations are impacted disproportionately. This approach does not appropriately evaluate the population directly impacted at the WRF location. Use of the whole census track data makes sense for defining the service area demographics, given the large scale area involved. It does not, however, adequately work for defining the WRF location demographics, given the smaller area impacted. Demographics derived from a radius around the WRF proposed site should be evaluated to appropriately describe the minority and low income status of those directly impacted by the location of the WRF. This approach, in evaluating both impact areas, more closely follows the NC DENR guidance for implementing environmental justice.
- The WWP need to further evaluate property currently owned by Progress Energy for this Project. Public records submitted indicate the WWP initiated work on additional wastewater planning efforts based on Progress Energy’s potential interest in developing some of their land. The Draft EIS should be clearer on the potential availability of Progress Energy land to host this facility, despite the reasoning that because Holly Springs will not send influent to the WRF, all sites south and east of US 1 were not considered.

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Environmental Impacts

- None of the local governments' Secondary and Cumulative Impact Master Mitigation Plans currently cover the area selected as the location for the WRF. Mitigation measures, as well as secondary and cumulative impacts, must be addressed for all areas serviced *and* those areas impacted by the Project footprint. We understand that if the towns of Apex or Holly Springs decide to annex the area of the WRF location, the location will be covered under that town's Master Mitigation Plan. However, annexation is not planned for another ten years, which is beyond the projected construction date of this facility.

- Section 6 of the Draft EIS describes an effort on behalf of the WWP to swap land with Progress Energy to offset gameland disturbances. The mitigation value of this transaction is not clear. If Progress Energy's plans for the new acreage are for property development, this swap will not result in mitigation of lost gamelands. The same rationale applies to the evaluation of other Progress Energy property including site 30. The planned future use of the property should be considered rather than simply the current land use. The Draft EIS should acknowledge or address this issue.

Influent and Effluent Pipeline

The Draft EIS should address potential impacts to property along the pipeline footprint. Operational plans that may be a part of permitting processes for the pipeline and WRF should address identified maintenance, monitoring and spill release response measures.

Public Input

The affected community has been given little opportunity for public input into the site selection process and the development of the Draft EIS to date. It is our strong recommendation that if the WWP propose changes to the Project and/or submits a revised Environmental Impact Statement, an additional public hearing or public meeting be held in a location convenient to the community to allow input into any additional information.

After hearing oral comments, reading written comments and consulting with technical experts in DENR, it is our recommendation that you do not consider the April 2006 Draft EIS as an accurate, complete and adequate document. The previous issues should be addressed before this document should be considered a final Environmental Impact Statement for the Project.

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