



REQUEST FOR BOARD ACTION

ITEM NO. 13.

DATE OF MEETING: April 20, 2009

REQUESTED BY: Michael G. Mack, Director, PCU

SHORT TITLE: Resolution by the Board of Commissioners directing PCU staff on the design of the Surface Water Treatment Plant.

BACKGROUND: Over the last several months, the staff of PCU has been providing information and updates on the Water Treatment Plant project such as the projected water demand of the plant by 2015, possible cost savings to upsize the plant production capacity during this phase of construction, and the regulatory hurdles that could and would be encountered. On March 19, PCU staff accompanied Brenan Buckley of CDM to meet with representatives of NCDENR - Division of Water Resources to conduct "fact finding" concerning the Pender County Water Treatment Plant project and the issue of Interbasin Transfer Certification for surface water transfers. We presented details about the WTP project and why we selected surface water as our raw water supply over the uncertain sustainability and already heavily regulated ground water supplies. We also presented a proposed schedule to DWR of the how long we projected (based on the information available to us prior to the meeting) the certification process to take. CDM estimated the entire process to take 60 weeks. In return, the DWR staff provided the following facts:

In 1993, the Legislature adopted the Regulation of Surface Water Transfers Act (G.S. 143-215.22I). The statute was subsequently modified under Senate Bill 947 in 1997 and Senate Bill 1299 in September, 1998. The intention of the law is to regulate large surface water transfers between river basins by requiring a certificate from the Environmental Management Commission (EMC). To date, there are only four (4) approved Interbasin Transfer Certificates in the State of North Carolina and only three (3) have been approved in the last 15 years.

In general, a transfer certificate is required for a new transfer of 2 million gallons per day (MGD) or more from one river basin to another river basin. However, if a transfer facility existed or was under construction on July 1, 1993, a certificate is not required up to the full capacity of that facility to transfer water, regardless of the transfer amount.

The amount of a transfer is determined as the amount of water moved from the source basin to the receiving basin, less the amount of water returned to the source basin. Therefore, any water consumption or loss that occurs in the receiving basin would be considered a transfer, even if the

remaining wastewater is discharged back to the source basin. If out-of-basin losses are 2 MGD or greater, then certification would be required.

This includes transfers of surface water from one defined river basin or sub-basin to another defined river basin or sub-basin.

An environmental assessment must be prepared for all petitions for certification. The determination of whether an environmental impact statement (EIS) is also required will be made in accordance with Article 1 of Chapter 113A of the General Statutes. We were informed that we would probably be required to prepare an EIS for our application. Applicants must provide a description of the transfer facilities, the proposed water uses, water conservation measures to assure efficient use, and any other information necessary for the EMC to fully evaluate the request. The statute requires extensive public notice and public hearings.

A certificate will be granted for a transfer if the applicant establishes and the EMC concludes by a preponderance of the evidence that (i) the benefits of the proposed transfer outweigh the detriments of the transfer, and, (ii) the detriments have been or will be mitigated to a reasonable degree. The EMC may grant the petition in whole or in part, or deny it, and may require mitigation measures to minimize detrimental effects. The statute also provides for civil penalties of up to \$10,000 for failing to obtain a certificate where one is required or for violating the terms of a certificate.

In short, we were told that Pender County's water treatment plant project, if larger than 2 mgd, would require an IBT certificate. In addition, the EMC did not intend for the IBT certification process to be a quick or easy process and that we could anticipate it taking five (5) years and approximately \$1 million in studies and engineering fees to complete the petition process with **no** guarantee of attaining the certificate.

However, Senate Bill 833 and companion House Bill 802 were both introduced on Wednesday, March 25, 2009 in Raleigh. The Bills are to "delineate the boundaries of the River Basins in North Carolina for the purpose of aligning the River Basin Planning Programs of the Division of Water Resources (DWR) and the Division of Water Quality (DWQ) in the Department of Environment and Natural Resources, as recommended by the 2008 report of the Water Allocation Study to the Environmental Review Commission".

Currently the regulations require an IBT certificate for the "transfers of surface water from one defined river basin or sub-basin to another defined river basin or sub-basin." Pender County encompasses four (4) sub-basins (Cape Fear River, South River, Northeast Cape Fear River, and New River) of the "Major" Cape Fear River Basin (see attached Maps) and is being required to receive an IBT certificate in order to remove more than 2 million gallons per day from the Cape Fear River Sub-Basin and transfer it to any of the other sub-basins in the County. Unfortunately, the Cape Fear River Sub-Basin in Pender County only includes a very small area of the County (specifically where the Water Treatment Plant site is to be located). All of the County's water demands are currently in the Northeast Cape Fear River (Rocky Point) and New River (Topsail Township) sub-basins. Water will also be required in the South River sub-basin in the future to serve the Moore's Creek and Columbia-Union Water and Sewer Districts.

If these Bills are ratified as drafted, the definition of "River Basin" will no longer include the 21 Sub-Basins of the 17 "Major" river basins within North Carolina. Currently there are 38 "river basins" in

North Carolina that include the 17 "Major" river basins and 21 "Sub-Basins" by definition. These bills would align the River Basin Planning Programs of NCDENR by removing the 21 Sub-Basins from inclusion in the IBT rules, thereby removing the IBT certificate requirement from Pender County's Surface Water Treatment Plant for upsizing over 2 mgd.

SPECIFIC ACTION REQUESTED: The Pender County Board of Commissioners is requested to direct PCU staff on building a 2 MGD surface treatment plant with a contingency, based upon cost, legislative changes, and future Board approval, to upsize to a 4 or 6 MGD Surface Water Treatment Plant.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RB

RESOLUTION

NOW, THEREFORE BE IT RESOLVED that the Pender County Board of Commissioners directs the staff of PCU through the engineering firm of CDM to design and construct a 2 MGD surface treatment plant with a contingency, based upon cost, legislative changes, and future Board approval, to upsize to a 4 or 6 MGD Surface Water Treatment Plant.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman

4/20/09
Date

ATTEST

4/20/09
Date