

NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION

**January 13, 2022
9:00 a.m.**

EMC Agenda

Due to the surge in Covid cases, the Environmental Management Commission (EMC) meetings will be entirely virtual. The audio and presentations will be broadcast via the state web conferencing link posted on the Environmental Management Commission (EMC) at: <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission/emc-meetings-and-agendas>

Robin W. Smith, Chair Presiding

I. Preliminary Matters

1. Call to Order

North Carolina General Statute § 138A-15 mandates that at the beginning of any meeting of a board, the chair shall remind all members of their duty to avoid conflicts of interest under this Subchapter. The chair also shall inquire as to whether there is any known conflict of interest with respect to any matters coming before the board at that time.

2. Approval of minutes from:

- November 18, 2021 ([attached](#))
- September 9, 2021 ([attached](#))

II. Action Items

1. 22-01 Election of Vice-Chair

2. [22-02](#) Request Approval of Hearing Officer's Report and Adoption of Permanent Rules 15A NCAC 02H .1401-1405 "Discharges to Federally Non-Jurisdictional Wetlands and Federally Non-Jurisdictional Classified Surface Waters" and Rule Amendments for 15A NCAC 02H .1301 "Discharges to Isolated Wetlands and Isolated Waters: Purpose and Scope"

(DWR) Sue Homewood

[POWERPOINT PRESENTATION](#)

[Attachment A – Hearing Officer's Report](#)

(THIS ITEM HAS BEEN POSTPONED UNTIL MARCH 10, 2022)

3. 22-03 Eagle Transport Petition for Declaratory Ruling

(EMC) Counsel Phillip Reynolds

POWERPOINT PRESENTATION

Attachment A – Eagle Transport’s Original Petition for Declaratory Ruling

Attachment B – Eagle Transport’s Brief on the Merits on Remand

Attachment C – DEQ Brief on the Merits on Remand

Attachment D - Relevant Filings in Nash County Superior Court (pg heading only)

D1- Eagle Transport’s Petition for Judicial Review

D1a – Eagle Transport’s Amended Petition for Judicial Review

D2- Eagle Transports Brief in Support of its Petition for Judicial Review

D3- EMC’s Brief in Opposition of Eagle’s Petition for Judicial Review

D4- Eagle Transport’s Reply Brief in Support of Petition for Judicial Review

D5- Superior Court Decision

Attachment E – Record of the EMC’s Proceedings in November 2020(pg heading only)

E-0a 2021-03-25 Cover Letter to Clerk fwd Official Record for Eagle v NC EMC 21 CVS 185

E-0b 2021-03-26 File-Stamped Resp’s Certified Record of Proceedings plus 11 attachments

1. Petition for Declaratory Ruling w/attachments A1-E1 by Eagle Transport

1a. Attachment A-20-34 Petitioner for Declaratory Ruling Eagle Transport

1b. Attachment B Petitioner’s Addit’al Prehearing Statement – Eagle Transport Corp v NC DEQ

1c. Attachment C 15A NCAC 2I .0600 Declaratory Ruling Rules

1d. Attachment D 2020-10-23 DEQ Response to Eagle Petition

1e. Attachment E 20-34 Memo in Support of Petition for Declaratory Ruling with Exhibits

2. Response of DEQ Division of Waste Management to Eagle Transport

3. Petitioner’s Additional Prehearing Submission with Attached Affidavit of Randall R. Adam

4. Powerpoint Presentation by Eagle Transport to EMC

5. Powerpoint Presentation by DEQ Division of Waste Management to EMC

6. Page Heading for EMC Full Commission Meeting Audio Recording

6a. EMC Full Commission Meeting Audio Recording

7. EMC Meeting Minutes

8. Letter Transmitting EMC Final Agency Decision

9. EMC Final Agency Decision

10. Petition for Judicial Review, File #21 CVS 185, Nash Co. Superior Court by Eagle Transport

11. Amended Pet. for Judicial Review, File #21 CVS 185, Nash Co. Superior Ct by Eagle Transport

III. Information Item

1. 22-IF-01 Summary of Water, Wastewater and Stormwater Infrastructure Funding Opportunities provided through the American Rescue Plan Act and the Federal Bipartisan Infrastructure Law

(DWR) Jon Risgaard

POWERPOINT PRESENTATION

(THIS ITEM HAS BEEN REMOVED FROM THE AGENDA)

2. 22-IF-02 “Overview of Recent Legislation Pertaining to the Decommissioning of Utility-Scale Solar Panel Projects”

(DEQ) Sushma Masemore and Michael Scott

POWERPOINT PRESENTATION

[Attachment A – H329 Final Report \(January 2021\)](#)

[Attachment B - SL 2019-132 \(H329\)](#)

[Attachment C – SL 2021-165 \(H951\)](#)

IV. Concluding Remarks

By Directors ([Comments](#))

By Committee Chairs

By Commission Members

By Counsel

By Chairman

Adjournment 01-13-2022