

FISCAL NOTE

Rule Citation Number: 15A NCAC 2B .0313 Roanoke River Basin

Rule Topic: Proposed Reclassification of Portion of the Roanoke River from Class C to Class Water Supply-IV (WS-IV) Critical Area (CA) and WS-IV (Protected Area or PA)

DENR Division: Division of Water Quality

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Impact Summary:

| | |
|---------------------|-----|
| State government: | Yes |
| Local government: | Yes |
| Substantial impact: | No |
| Federal government: | No |

Authority: G.S. 143-214.5

Necessity: This proposed reclassification is necessary to ensure the supply of drinking water for Martin County and the Town of Williamston. Under North Carolina 15A NCAC 18C .0202, “any surface water which is to receive treatment...in order to be used for a public water system shall be obtained from a source which meets the water supply stream classification standards established by the EMC...”.

Summary

Martin County Regional Water and Sewer Authority (Authority) has requested that a portion of the Roanoke River and its associated watershed in Bertie and Martin Counties (Roanoke River Basin) be reclassified for public water supply use. The WS-IV Critical Area¹ (CA) and WS-IV [Protected Area² (PA)] designations would be the most appropriate classifications for this use and these waters (see Appendix 1 for the proposed rule change text). This proposal would permit the Authority to put a new water intake in the river for use as a permanent water supply, to allow Martin County and the Town of Williamston to meet requirements of the Central Coastal Plain Capacity Use Area (CCPCUA) rule and to meet local water demands through 2030. The goal of the CCPUA rule is to decrease withdrawals from overused aquifers in the central coastal plain region to a sustainable rate of use. Numerous central coastal municipalities and counties use these aquifers for water supply and are also reducing their dependence on it. The Authority is required to reduce its groundwater withdrawals by 75 percent over the next 15 years.

No existing or planned wastewater discharges, no planned landfills, no planned land application sites, and no planned development would be affected by this proposed rule change. Bertie County, Martin County, and the Town of Williamston are the local governments with jurisdiction in the proposed reclassification area. These local governments have provided resolutions indicating that they will

¹ Critical Area: The lands and waters 0.5 miles linearly upstream and draining to a water intake.

² Protected Area: The lands and waters 10 miles run-of-the-river upstream and draining to a water intake, not including the Critical Area.

implement the proposed rule within their jurisdictions once the reclassification becomes effective (see Appendix 2 for resolutions). The one-time cost to Bertie County, Martin County, the Town of Williamston, and DENR for this proposal is estimated at \$5,500, \$5,000, \$3,500, and \$2,420, respectively. The analysis of the proposed rule does not indicate that estimated annual economic impacts would meet or exceed \$500,000. The expected effective reclassification date is January 1, 2013.

I. Purpose of Rules and Background

The purpose of this rule change is to provide the Authority with a permanent source of drinking water that meets the requirements of the Central Coastal Plain Capacity Use Area (CCPCUA) rule and the projected water demands of Martin County and the Town of Williamston through 2030. The waters to be reclassified meet water supply standards according to 2011 DWQ studies. The US Department of Agriculture (USDA) has issued a Finding of No Significant Impact (FONSI) for this project, indicating that the project will not result in significant impacts to the environment. In order to reach this finding, an Environmental Assessment (EA) (the direct, secondary, cumulative, long-range, and short-term impacts of projects) was generated that presented the preferred alternative and other reasonable project alternatives to allow resource agencies and the public to determine if the preferred alternative would have significant impacts to the environment. Multiple project factors were considered in the EA, and multiple state and federal agencies agreed that the project could move ahead as proposed with their input.

The Division of Water Quality assigns all surface waters a primary classification to designate their best uses. Class C is the most basic classification for freshwater and is intended to protect the following uses: secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, and agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. Other primary classifications are assigned to protect waters for such uses as shellfishing (Class SA), drinking water supply (WS-I through WS-V), and primary recreation (B). Supplemental classifications afford additional protections and include Nutrient Sensitive Waters (NSW) and High Quality Waters (HQW).

The five drinking water supply classifications, WS-I through WS-V, reflect the variability in the types of water supply watersheds across the state. The Water Supply Watershed Protection Act (North Carolina General Statute 143-214.5) requires the Environmental Management Commission to adopt rules to protect the state's surface drinking water supply watersheds.

In order to proceed with the Authority's preferred water-supply alternative, the Authority has requested that a portion of the Roanoke River and its associated watershed in Bertie and Martin Counties (Roanoke River Basin) be reclassified for public water supply use. The WS-IV CA and WS-IV PA designations would be the most appropriate classifications for this use and these waters (see Appendix 1 for the proposed rule change text). The CA would extend along the river from the new intake, which is to be located nearly 0.3 mile upstream of US17/US13, to a point roughly 0.5 miles upstream of that intake. The PA would extend along the river from approximately 0.5 miles upstream of the intake to nearly 1 mile downstream of Coniott Creek (Town Swamp). See the Guide to Freshwater Classifications Chart (PDF) for WS-IV regulations at the following website: <http://portal.ncdenr.org/web/wq/ps/csu/classifications>.

The costs and benefits estimated in this fiscal note represent the direct benefits and costs of the proposed reclassification, as required by general statute. However, the EA for the proposed project

includes many of the potential environmental impacts, financial aspects, and other relevant features and impacts of the preferred project as well as several alternatives. This report, including relevant amendments and supporting documents, can be accessed at the following web address: <http://mcrwasa.thewootencompany.com/>.

II. Costs

Regulated Parties

(a) New and Existing Wastewater Discharges, Landfills and Land Application Sites

There is currently one permitted wastewater discharge within the proposed area, but it would not be impacted by the proposed reclassification. In addition, there are no known planned wastewater discharges into the proposed waters. There are no existing or planned landfills or land application sites in the Critical Area.

(b) New Development

According to NC DWQ Regional office staff, as well as Brent Kanipe (Director of Planning and Development for the Town of Williamston), Traci White (Director of Planning and Inspections for Bertie County), and David Bone (Martin County Manager), there are no known plans for new development in either the proposed CA or PA. Although there are no known plans for new development, future development in the proposed WS-IV area would be subject to WS-IV development restrictions, including density and stream setback requirements.

(c) Local Governments

The Town of Williamston, Bertie County, and Martin County would be required to create or modify water supply watershed ordinances within 270 days after the effective date of the proposed rule to reflect the changes in surface waters classifications and resulting changes in land management requirements. These local governments have provided resolutions regarding the proposed reclassification indicating that they will implement the proposed rule within their jurisdictions once the reclassification becomes effective (see Appendix 2 for resolutions).

There are one-time costs associated with the creation or modification of water supply watershed ordinances. These expenditures include costs for creating or revising water supply watershed protection language in ordinances, creating or changing the water supply boundaries on maps, public notification, and hearing costs. A single local government, a combined regional effort between several local governments, or a paid consulting firm could perform these tasks. The estimated total cost of staff time and physical materials required for these activities to the Town of Williamston, Bertie County, and Martin County is approximately \$3,500, \$5,500, and \$5,000, respectively, according to Brent Kanipe (Director of Planning and Development for the Town of Williamston), Traci White (Director of Planning and Inspections for Bertie County), and David Bone (Martin County Manager).

(d) Department of Transportation (DOT)

This reclassification would not affect any known DOT activities in the area according to Matthew Lauffer (NC DOT Highway Stormwater Program Project Manager) and David Harris (NC DOT State Roadside Erosion Control and Vegetation Management Engineer).

Implementing Agencies

(a) Division of Water Quality

The NC DWQ Central office and Regional office staff will oversee the processing of the proposed rule as well as the implementation and enforcement of the requirements. DWQ staff will handle administrative procedures, educational and technical assistance and rule/policy evaluations. In addition, there are DWQ staff that will specifically oversee and assist local governments with watershed planning and ordinances. The Division issues permits, conducts inspections and takes enforcement actions. DWQ monitors and keep records of compliance associated with their inspections and enforcement activities.

The Division of Water Quality anticipates that if this rule becomes effective, there will be a one-time cost of \$2,420 to the state. This cost is to be incurred to support notification of the Town of Williamston, Bertie County, and Martin County, and review and approval of new or modified local ordinances and maps.

The cost to the state per county and municipality varies depending on the particular staff required to review specific types of local programs as well as the complexity of the different local programs. The cost to the state for these activities associated with the Town of Williamston, Bertie County, and Martin County is \$910, \$910, and \$600, respectively. The formula used to estimate the cost associated with each municipality or county is the following:

$$\text{One-time Cost to State} = [(\# \text{tasks}) \times (\text{hrs/task}) \times (\text{staff cost/hr})] + [25\% \text{ overhead}]$$

“Tasks” include phone calls, letters, site visits, and meetings that would be performed by state staff, and “staff cost/hr,” which is based on salary information from OSBM as of July 1, 2008, includes salary, payroll taxes, retirement, and health benefits.

III. Benefits

(a) Humans

The citizens of the area will benefit from the reclassification of this river segment for use as a source of permanent potable water. Reclassifying the waters will help protect the water supply for human consumption by decreasing the risk of contamination via implementation of wastewater discharge and stormwater management requirements for potential future developments and discharges.

After consideration of the proposed water supply intake and possible alternative sources, the Authority determined that a run-of-river intake on the Roanoke River is the most appropriate option to meet the potable water needs of its local residents while protecting the environment, adhering to applicable state and federal requirements, and wisely utilizing taxpayers’ money, including federal funding available through the American Recovery and Reinvestment Act of 2009 (ARRA).

(b) Environment/Ecosystem

Implementation of stormwater management strategies and narrative and numeric water quality standards benefit and protect ecosystem health and environmental assets. The protective management criteria associated with the WS-IV classification will help to mitigate impacts and reduce risk from potential future discharges and development and, thus could benefit fish and wildlife and their habitats. More specifically, portions of the area proposed to be reclassified may experience decreased stormwater runoff as well as decreased pollution, which may increase and improve aquatic habitat and, in turn, may increase propagation and survival of wildlife and fish. DWQ currently does not have

adequate data and models to quantify the potential benefits associated with the increase in wildlife habitat or reduction of pollution and stormwater runoff that this rule may create.

IV. Total Costs and Benefits

The one-time cost to Bertie County, Martin County, and the Town of Williamston is estimated at \$5,500, \$5,000, and \$3,500, respectively, and DENR anticipates approximately \$2,420 in one-time costs for this reclassification. The analysis of the proposed rule indicates that estimated annual economic impacts would be significantly less than \$500,000.

APPENDIX 1

15A NCAC 02B .0313 is proposed for amendment as follows (text highlighted in yellow is pending legislative approval):

15A NCAC 02B .0313 ROANOKE RIVER BASIN

(a) Effective February 1, 1976, the adopted classifications assigned to the waters within the Roanoke River Basin are set forth in the The Roanoke River Basin Schedule of Classifications and Water Quality ~~Standards~~ Standards, which may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (B) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina
 - (C) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina
 - (D) Division of Water Quality
Regional Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C", except that all backwaters of John H. Kerr Reservoir and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "B," and all backwaters of Lake Gaston and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "C and B".

(c) The Roanoke River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) May 18, 1977;
- (2) July 9, 1978;
- (3) July 18, 1979;
- (4) July 13, 1980;
- (5) March 1, 1983;
- (6) August 1, 1985;
- (7) February 1, ~~1986, 1986.~~
- ~~(8) July 1, 1991;~~
- ~~(9) August 3, 1992;~~

~~(10) August 1, 1998;~~

~~(11) April 1, 1999;~~

~~(12) April 1, 2001~~

~~(13) November 1, 2007.2007;~~

~~(14) September 1, 2011.~~

(d) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective July 1, 1991 with the reclassification of Hyco Lake (Index No. 22-58) from Class C to Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Cascade Creek (Camp Creek) [Index No. 22-12] and its tributaries from its source to the backwaters at the swimming lake from Class B to Class B ORW, and reclassification of Indian Creek [index No. 22-13] and its tributaries from its source to Window Falls from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Dan River and Mayo River WS-IV Protected Areas. The Protected Areas were reduced in size.

(h) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 1999 as follows:

(1) Hyco River, including Hyco Lake below elevation 410 [Index No. 22-58-(0.5)] was reclassified from Class B to ~~Class-Class~~ WS-V B.

(2) Mayo Creek (Maho Creek) (Mayo Reservoir) [Index No. 22-58-15] was reclassified from its source to the dam of Mayo Reservoir from Class C to Class WS-V.

(i) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 2001 as follows:

(1) Fullers Creek from source to a point 0.8 mile upstream of Yanceyville water supply dam [Index No. 22-56-4-(1)] was reclassified from Class WS-II to Class WS-III.

(2) Fullers Creek from a point 0.8 mile upstream of Yanceyville water supply dam to Yanceyville water supply dam [Index No. 22-56-4-(2)] was reclassified from Class WS-II CA to Class WS-III CA.

(j) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective November 1, 2007 with the reclassification of Hanging Rock Hillside Seepage Bog near Cascade Creek

[Index No. 22-12-(2)] to Class WL UWL as defined in 15A NCAC 02B .0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

(k) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was is amended effective September 1, 2011 [pending legislative approval] as follows:

(1) a portion of the Dan River [Index No. 22-(39)] (including tributaries) from the City of Roxboro's intake, located approximately 0.7 mile upstream of NC62, NC Highway 62, to a point approximately 0.5 mile upstream of the City of Roxboro's intake from Class C to Class WS-IV CA.

(2) a portion of the Dan River [Index No. 22-(39)] (including tributaries) from a point approximately 0.5 mile upstream of the City of Roxboro's intake to the North Carolina-Virginia state line from Class C to Class WS-IV.

(l) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin is amended effective January 1, 2013 as follows:

(1) a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from the Martin County Regional Water And Sewer Authority's intake, located approximately 0.3 mile upstream of US 13/US 17, to a point approximately 0.5 mile upstream of the Martin County Regional Water And Sewer Authority's intake from Class C to Class WS-IV CA.

(2) a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from a point approximately 0.5 mile upstream of the Martin County Regional Water And Sewer Authority's intake to a point approximately 1 mile downstream of Coniott Creek (Town Swamp) from Class C to Class WS-IV.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. January 1, 2013; ~~September 1, 2011~~; [pending legislative approval]; November 1, 2007; April 1, 2001; April 1, 1999; August 1, 1998; August 3, 1992; July 1, 1991; February 1, 1986; August 1, 1985.

APPENDIX 2

Resolution of Support For the MCRWASA WTP

WHEREAS, the Martin County Regional Water and Sewer Authority (MCRWASA) has submitted to the State a request for reclassification of a segment of the Roanoke River in Bertie and Martin Counties from a Class C to Class Water Supply IV (WS-IV) and Class Water Supply IV Critical Area (WS-IV CA); and

WHEREAS, the purpose of the reclassification is to allow for a new intake structure in the Roanoke River which will supply MCRWASA's proposed surface water treatment facility; and

WHEREAS, local governments with land use jurisdiction within a water supply watershed are responsible for developing and implementing water supply watershed ordinances; and

WHEREAS, the Bertie County Board of Commissioners has been presented a map outlining the proposed Water Supply IV Protected and Critical Areas; and

WHEREAS, the Bertie County Board of Commissioners has land use jurisdiction within the proposed Water Supply IV Protected Area; and

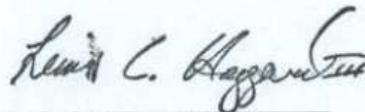
WHEREAS, the board finds that the availability of water resources fit for use by industry, agriculture and human consumption is important for economic development; and

WHEREAS, the board finds that the preservation of regional groundwater supplies requires the use of long-term sustainable resources, including surface water.

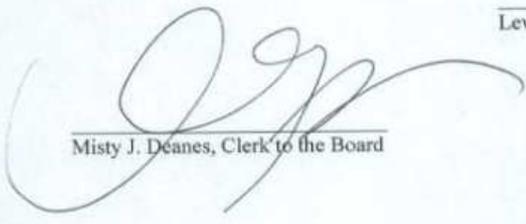
THEREFORE BE IT RESOLVED, that the Bertie County Board of Commissioners supports this proposed reclassification of the Roanoke River; and

BE IT FURTHER RESOLVED, that the Bertie County Board of Commissioners will develop (or modify) watershed protection land use ordinance(s) to meet the requirements of 15A NCAC 2B .0100 and .0200 within 270 days following the effective date of the proposed rule or before the subject waters are used as a potable water source, whichever comes first.

BE IT FURTHER RESOLVED, that a copy of this resolution be submitted to the Department of Environmental and Natural Resources - Division of Water Quality, Planning Section.



Lewis C. Hoggard, III, Chairman



Misty J. Deanes, Clerk to the Board

Resolution R-2011-42
Resolution of Support for the MCRWASA WTP

WHEREAS, THE Martin County Regional Water and Sewer Authority (MCRWASA) has submitted to the State a request for reclassification of a segment of the Roanoke River in Bertie and Martin Counties from a Class C to Class Water Supply IV (WS-IV) and Class Water Supply IV Critical Area (WS-IV CA); and

WHEREAS, the purpose of the reclassification is to allow for a new intake structure in the Roanoke River which will supply MCRWASA'S proposed surface water treatment facility; and

WHEREAS, local governments with land use jurisdiction within a water supply watershed are responsible for developing and implementing water supply watershed ordinances; and

WHEREAS, The Town of Williamston Board of Commissioner (Town Board) has been presented a map outlining the proposed Water Supply IV Protected and Critical Areas; and

WHEREAS, The Town Board has land use jurisdiction within the proposed Water Supply IV Protected Area; and

WHEREAS, The Town Board finds that the availability of water resources fit for use by industry, agriculture and human consumption is important for economic development; and

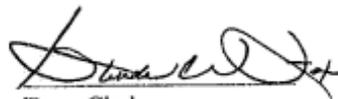
WHEREAS, The Town Board finds that the preservation of regional groundwater supplies requires the use of long-term sustainable resources, including surface water.

NOW, THEREFORE, BE IT RESOLVED that the Town of Williamston Board of Commissioner supports this proposed reclassification of the Roanoke River' and

BE IT FURTHER RESOLVED, that the Town of Williamston Board of Commissioners will develop (or modify) watershed protection land use ordinance(s) to meet the requirements of 15A NCAC 2B .0100 and .0200 within 270 days following the effective date of the proposed rule or before the subject waters are used as a potable water source, whichever comes first.

BE IT FURTHER RESOLVED, that a copy of this resolution be submitted to the Department of Environmental and Natural Resources – Division of Water Quality Planning Section.

Adopted this 16th day of May, 2011


Town Clerk


Mayor

BOARD OF COMMISSIONERS

**ELMO "BUTCH" LILLEY, CHAIRMAN
TOMMY W. BOWEN, VICE CHAIRMAN
RONNIE SMITH
DEREK PRICE
BOB HYMAN**



**W. RUSSELL OVERMAN
COUNTY MANAGER**

**MARION B. THOMPSON
CLERK TO THE BOARD**

**P.O. BOX 688
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**Resolution of Support
For the Martin County Regional Water and Sewer Authority
Water Treatment Plant**

WHEREAS, the Martin County Regional Water and Sewer Authority (MCRWASA) has submitted to the State a request for reclassification of a segment of the Roanoke River in Bertie and Martin Counties from a Class C to Class Water Supply IV (WS-IV) and Class Water Supply IV Critical Area (WS-IV CA); and

WHEREAS, the purpose of the reclassification is to allow for a new intake structure in the Roanoke River which will supply MCRWASA's proposed surface water treatment facility; and

WHEREAS, local governments with land use jurisdiction within a water supply watershed are responsible for developing and implementing water supply watershed ordinances; and

WHEREAS, the Martin County Board of Commissioners has been presented a map outlining the proposed Water Supply IV Protected and Critical Areas; and

WHEREAS, the Martin County Board of Commissioners has land use jurisdiction within the proposed Water Supply IV Protected Area; and

WHEREAS, the Board finds that the availability of water resources fit for use by industry, agriculture and human consumption is important for economic development; and

WHEREAS, the Board finds that the preservation of regional groundwater supplies requires the use of long-term sustainable resources, including surface water.

THEREFORE BE IT RESOLVED, that the Martin County Board of Commissioners supports this proposed reclassification of the Roanoke River; and

BE IT FURTHER RESOLVED, that the Martin County Board of Commissioners will develop watershed protection land use ordinance(s) to meet the requirements of 15A NCAC 2B .0100 and .0200 within 270 days following the effective date of the proposed rule or before the subject waters are used as a potable water source, whichever comes first.

BE IT FURTHER RESOLVED, that a copy of this resolution be submitted to the Department of Environmental and Natural Resources - Division of Water Quality, Planning Section.

Adopted this 13th day of June, 2011.

Handwritten signature of Elmo "Butch" Lilley.
Elmo "Butch" Lilley, Chairman of the Board

Handwritten signature of Marion B. Thompson.
Marion B. Thompson, Clerk to the Board