

NC NUTRIENT SCIENTIFIC ADVISORY BOARD MEETING SUMMARY
MAY 1, 2020 @ TJCOG
9:30 AM – 12:00 PM
REMOTE WEB MEETING

Attendees

Members / Advisors

Charles Brown - Cary
Morgan DeWit – Chatham County
Sally Hoyt – UNC
Bill Hunt – NCSU
Alisha Goldstein – Chapel Hill
Brian Jacobson - AECOM
Josh Johnson – AWCK
Eric Kulz - Cary
J.V. Loperfido – Durham
Grady McCallie - NCCN
Andy McDaniel – NCDOT
Deanna Osmund - NCSU
David Phlegar - Greensboro
Haywood Phthisic – LNBA
Allison Schwarz Weakley - Chapel Hill
Forrest Westall - UNRBA
Sandra Wilbur – Durham
Kristine Williams - Greensboro

DWR Staff www.deq.nc.gov/nps

Patrick Beggs
Trish D’Arconte
Nora Deamer
Rich Gannon
Jim Hawhee
Karen Higgins
John Huisman
Kelsey Rowland

Guests

Tonya Caddle – Alamance County
Melinda Clark – Wake County
Anne Coan – NC Farm Bureau Federation
Maya Cough-Schultze - TJCOG
Joey Hester – NCDACS
Keith Larick – NC Farm Bureau Federation
Dan Marcum – Greensboro landowner
Alix Matos – Brown and Caldwell
Dan McLawhorn - Raleigh
Don O’Toole - Durham
Ian Peterson - Durham
Haley Plaas – UNC-CH
Wesley Poole – Orange County
Sushama Pradhan – NC DHHS
Rick Savage – Carolina Wetland Association
Jamie Smedso - UNC
Rahn Sutton - Contech Engineering Solutions
Brajesh Tiwari - Durham
Steve Wall – UNC
Steve Tedder - Black and Veatch

DEMLR Staff

Corey Anen

Facilitator

Jenny Halsey - TJCOG

Agenda Topics

- Introductions
- Approve meeting summary from March 6, 2020.
- Presentation and Discussion: Upper Neuse River Basin Association (UNRBA) updating us on the: Falls Lake Alternative Existing Development Management Approach
- Updates by Members/Advisors/Alternates/Staff

Meeting Materials and the NSAB Charter are available online: www.deq.nc.gov/nps

Meeting Summary

Jenny Halsey, (TJCOG) opened the meeting with introductions and a review of the agenda.

The March 6, 2020 meeting summary was approved.

Falls Lake Alternative Existing Development Management Approach

Presenters:

- Forrest Westall, UNRBA – Executive Director
- Alix Matos, Brown and Caldwell – Principle Engineer

The Upper Neuse River Basin Association (UNRBA) Falls Lake Alternative Existing Development Management Approach. The presentation can be found in pdf format on the [NSAB Meeting Documents webpage](#).

Presentation outline:

- Review current rule structure for existing development under the Falls Lake Nutrient Management Strategy
- Discuss why an alternative approach is needed
- Summarize preliminary program guidance developed by the UNRBA
- Describe prospective implementation schedule and next steps

Brief Summary of the presentation:

Challenges with current rule structure:

- Approach often referred to IAIA: Interim Alternative Implementation Approach
- Requires estimates of pre-development loading rates (as calculated by SNAP or JFSLAT) or use of default loading rates from rules (the use of which DWR and jurisdictions have not resolved)
- Requires estimates of increase in loading due to development
- Difficult and expensive to account for and maintain practices
- Practices only treat 1” storm; we know loading happens over this amount

- High incremental cost of stormwater retrofits
- Some beneficial activities are not credited

Estimates of Stage I load reduction requirements: 6000 lbs N, 800 lbs P per year

Watershed-wide post-baseline reduction credits from WWTPs with additional load reductions from NPS practices are order of magnitude higher (50,000 lbs N, 5000 lbs P/yr)

Need for alternative approach

- Jurisdictions and DWR have found challenges negotiating Stage I existing development load reduction requirements
- Need to expand toolbox so more beneficial activities are creditable
- Have gotten “fair agreement” from all UNRBA members

UNRBA Proposed Alternative

- Interim approach refers to until Stage II reexamination is complete
- The focus is on investment in eligible practices rather than counting pounds
- Participants including DWR and NGOs
- Voluntary program- member can implement individual local programs under current rules
- Rule language allows for an alternative
- Reasonable assurance that Stage I load reductions will be met

Summary of Preliminary Draft IAIA Program Guidance

- The approach aims to promote reasonable progress, implement projects, demonstrate commitment, and utilize existing programs.
- The process began in 2018 with participants including UNRBA, DWR NPS Planning Branch, NGOs represented by Peter Raabe, and the agricultural sector represented by Anne Coan
- Potential eligible activities include: state-approved practices; green infrastructure and BMPs; programmatic measure including education, IDDE; stream/riparian buffer restoration/enhancement; land conservation in priority areas; and greenway and park projects with WQ/quantity benefits; infrastructure and wastewater improvements; water quality regulations including MS4 permits and TMDLs, and strategies focuses on flooding.
- An example local government investment distribution table can be found in the presentation online.

Funding options:

- Members pay for their own projects and report to DEQ/UNRBA for tracking water quality benefits
- Interlocal agreements to jointly fund projects

- Fund other organizations such as SWCDs, county health departments, watershed, or land conservation groups to prioritize and select projects.
- For small communities primarily: Contribute to pool of funds which UNRBA would jointly decide how to spend on eligible activities

Reporting would include:

- Estimated N/P reductions for projects where quantifiable or other using another tracking metric if no crediting method exists
- Status and timeline of projects and funds allocated for them
- Members reporting to DEQ, which UNRBA would compile and summarize.
- Model program would be drafted to give two compliance options

Participant responsibilities

- Adherence to rules
- Written agreements in place regarding use of funds by local organizations
- Agricultural project credit sharing to be negotiated with input from Falls Lake WOC
- Compliance under individual local program or under alternate group program.
- The Alternate program is intended to maximize flexibility and adapt as needed through monitoring and evaluation.
- UNRBA would not manage the IAIA or its funding, but would facilitate the process.

Prospective Implementation Schedule

- Would begin at the beginning of a fiscal year; currently aiming for July 2021
- Approach approval required by DWR, UNRBA, and EMC.
- Next steps: Coordinate with local governments and establish interlocal agreements

Questions and Comments

Monitoring Compliance

Eric: If we are not counting pounds, how is it determined when a municipality or group has done "enough" to be deemed compliant with the Existing Development Rule?

Forrest: This approach moves away from counting pounds. DWR has reasonable assurance that Stage I load reductions have been met. DWR finds reasonable assurance in the wastewater overtreatment reductions to allow this alternative.

Eric: Having spent 10 years in mitigation, we asked ourselves, could we move away from counting linear feet of stream or acres of wetland? If a project seriously degrades a wetland, we had a hard time coming up with a better way to measure how you would replace functions of a wetland without creating the same acreage of wetland somewhere else.

Forrest: IAIA wants to use investment as a compliance tool.

Funding

Andy: Can you please elaborate on the obstacles preventing UNRBA from receiving funds and coordinating implementation of projects.

Forrest: UNRBA does not have the resources. 85% of funding goes into modeling and reexamination. Bylaws state that we will help with implementation of Stage I.

Mike Burchell: Any plans to hold back funds that can be used to spot check WQ performance of projects and help validate modeled performance?

Forrest: Not at present.

Peter: A difference between Jordan and Falls lake is that because Falls has had improvements in Stage I already, it is more feasible to use monetary investment as the measure. It is more a layering of funds than double dipping.

Activities

Trish: Can you explain what activities addressing other federal/state water quality regulations count?

Alix: SCMs, education programs—anything done for compliance could count.

Trish: Does that include new development post-construction requirements?

Alix: No; this is only for existing development.

Trish: Could you then narrow your focus saying activities addressing other federal/state water quality regulations? As it is now it sounds like the entirety of one's stormwater program could apply.

Eric: It would help to clarify this up front as much as possible. In the mitigation world we talked about “double dipping” and it creates a lot of confusion.

Charles Brown: What if you had a stream segment with a biological TMDL—how would paying into the group allow you to account for paying into the group in your jurisdiction?

Allison Weakley: Can you expand on how activities already taking place by MS4 communities would be counted? For example, public education and IDDE.

Alix: DWR stipulated that those programs would have to be expanded relative to what took place in the baseline year, 2006 (Falls Baseline spans Jan 1, 2006 through December 31, 2006.)

Forrest: Would have to implement new activities relative to when the program starts.

Education

How will you measure “strengthening” an educational program? How will monetary investment be used as a metric of success if some groups (i.e., CWEP) can do more with less? Funding investment is not always an accurate measure of effectiveness of education programs

Updates

- JV Loperfido: Durham’s water quality group has an ongoing street sweeping study; data analysis is ongoing. Durham hopes to share results in the coming months.
- Mike Burchell: NCSU has recently had much of its research shut down due to COVID-19. Some remote research may be allowed over summer; but it will be a while before returning to normal.
- Andy McDaniel: I appreciate the presentation. Budgets will be really stressed this coming fiscal year; we need to manage expectations until things get back to normal.
- Bill Hunt: We are almost finished collecting data from sand filters; have found so far that they work better than what they had been credited for.
- Trish D’Arconte: The SCM nutrient crediting team had a meeting a week ago; anyone is still welcome to participate. We are ironing out questions with NCSU data.
Will be looking for input on SNAP tool functionality with a view toward a tool update.
- Patrick Beggs: Will get annual summary report out to all in next month. July EMC Water Quality Committee: Erin Riggs of UNC Environmental Finance Center will present on [financing nutrient reductions in the Jordan Lake watershed](#). JLOW workgroups are all moving forward and are at the point where they will begin sharing with one another.
- John Huisman: EMC and RRC approved the Neuse and Tar-Pamlico rules in March; they went into effect April 1, including nutrient offset rules. You can find them on the website.
Working on the Falls model program and still on track with IAIA timeline.
- Jim Hawhee: Regarding the new provisions of the nutrient offset rule, please seek out DWR input if needed.
- Rich Gannon: Jordan JLOW process is going well. There will be some notable differences from Falls IAIA proposal, though the focus on investment instead of pounds is similar.

The NSAB WILL NOT MEET in June or July. The next meeting is planned for August 7.

(updated: July 22, 2020)