Nutrient Scientific Advisory Board Meeting #26 Minutes

Friday, March 1, 2013
TJCOG - 4307 Emperor Blvd, Durham NC, 27703
9:30 am -12:00 pm

Attendees
Members: John Cox (& Michelle Woolfolk, alt), Trish D'Arconte, Bill Hunt (& Kathy Debusk, alt), Andy McDaniel (& Brian Jacobson, alt), Josh Johnson, David Phlegar, Michael Layne, Forrest Westall (non-voting member)

Non-Members: Andy Sachs (facilitator), Jason Robinson (DWQ), Rich Gannon (DWQ), Adugna Kebede (DWQ), Robert Patterson (DWQ), John Huisman (DWQ), Sarah Bruce (TJCOG), Haywood Phthisic (LNBA), Alix Matos (CardnoEntrix), Dan McLawhorn (Raleigh), Cy Stober (PTRC), Trevor Clements (TetraTech), Sandra Wilbur (City of Durham), Steve Bristow (Wake), Melinda Clark (Wake), Donald O'Toole (City of Durham)

Agenda Topics
- Alternative Measures Approval Process
- Nutrient Load-Reducing Measures for 205J Project
- Existing Development Model Program

Material
- *NSAB March Meeting Plan*
- *NSAB February Minutes*
- *Key BMP Design Elements - 2/14/13*
- *Falls/Jordan Model Local Stormwater Program for Existing Development & Guidance for Local Governments – 2/25/13*
- *Candidate Nutrient Load-Reducing Measures for 205J Project*

Housekeeping/Admin
- February's Meeting Minutes were approved
- It was decided at the end of the meeting that the next meeting would be Friday, April 12th.

Alternative Measures Approval Process
Rich Gannon of DWQ gave a presentation on DWQ's draft document "*Proposed DWQ Process for Approving Design Standards and Associated Credit for Candidate Nutrient Load-Reducing Measures".* DWQ was developing this approval process based on staff's agreement with desires expressed by Board members in prior meetings for a clear process that fosters the pursuit of nutrient crediting for various alternative measures and that is better suited to the needs of existing development regulations than the Division's proprietary measures approval process. This document attempts to propose a transparent method to bring new load-reducing measures forward that can be added to the toolbox. This process will primarily be used to credit measures to meet existing development stormwater requirements, but will have the potential to be used for practice modifications or practices under new development stormwater requirements as well. Addition of measures to DWQ's Stormwater Best Management Practices manual would occur only

for structural stormwater practices that fall within the scope of the manual. Other measures will likely require development of a parallel nutrient measures design manual. Rich oriented members to the document's coverage then focused on the three "Uncertainty/Risk-Based Approval Tiers" section.

The group offered the following questions or feedback:

- All participants who spoke supported the idea of a tiered approval process. There were suggestions on different criteria for the different tiers, and some suggested more or fewer tiers.
- Some thought the entry-level review requirements were too rigorous.
- Tier 1 and Tier 2 were too similar.
- One thought was that credits given for measures in all the tiers (vs. Tier 3 only) should be locked-in for the life of a given practice installation. Others expressed support for the adjustable credit approach for Tiers 1 and 2.
- Some thought the list of *Evaluation Factors* in the document was too vague and qualitative.
- Some board members suggested using statistics from the studies to determine what tier a practice would be approved under.
- A technical review group should be created and funded to provide an external, expert review as part of the approval process.
- One commenter perceived the proposed process as designed for stormwater measures and problematic for pump-and-treat systems, and proposed a separate process for the latter.
- Measures being monitored need a place in the process.

(This item went well over the scheduled 45 minutes that was originally allotted for it)

Nutrient Load-Reducing Measures for 205J Project

Jason Robinson gave an update on the two 205J projects, the nutrient load-reducing measures report, and the revisions to the Jordan/Falls Stormwater Load Accounting Tool. He explained that while there are nine measures listed in the document that was handed out, DWQ doesn't expect the contractor to do this many. He also explained that DWQ had decided that requiring the contractor to report on some of the measures by May, as was the initial plan, was unreasonable. Instead, the contractor will have until September (the end of the contract) to report on the decided amount of measures. However, the Falls Rule requires that accounting for remedying Discharging Sand Filters and Malfunctioning Septic Systems shall be addressed in the Division's July Model Program. Therefore, DWQ will include a rudimentary accounting method for these measures in the July program, which will be updated after the contractor completes the 205J study in September.

The Board was asked for feedback, particularly on the amount of measures a contractor would report on. A board member asked if each of these measures would have to go through the approval process described earlier in the meeting. DWQ said that they would. The Board member went on to ask if the contractor would have to take the measures through the approval process as part of the contract. The Board and DWQ agreed that the contractor would deliver their accounting methods for the measures as part of the project, and DWQ would take those products through the approval process.

Existing Development Model Program

John Huisman of DWQ summarized DWQ's latest version of the *Falls/Jordan Model Local Stormwater Program for Existing Development & Guidance for Local Governments.* He explained that the document will be for local governments only, and a separate document may be adapted from it to address state and federal entities. He also explained that it will need to be altered for differences across the Jordan and Falls requirements, including the different percent reduction goals and the staged approach of the Falls requirements. This document addresses Stage 1 of the Falls requirements. John explained that he wanted feedback on the land types, tree canopy, and BMP credits.

Key discussion points:

- A board member asked DWQ to generate a focused list of concerns about the document for which DWQ would like the Board's feedback.
- Rich Gannon explained that the UNC School of Government has interpreted "police powers" in this context to mean that municipalities would be responsible for development located inside their corporate limits, and counties would be responsible for development located outside of any municipal corporate limits. A board member asked if this would affect the buffer ordinances.
- Forrest Westall made the group aware that UNRBA was pursuing a delay to EMC approval of the model until the toolbox is more robust, on the order of 18 months. The intent is to do this within the existing rule framework. There is no delay proposed to the compliance date for Stage I, end of 2020.

Potential Future Agenda Items

- Alternative Measures Approval Process
- Nutrient Load-Reducing Measures for 205J Project
- Jordan Watershed Model
- Existing Development Model Program

Future Meeting Dates

- Unless specifically rescheduled, the first Friday of each month, 9:30 – 12:00 at TJCOG.
- April 12, 2013.