

High Rock Lake Nutrient Rules Engagement Process *Riparian Buffer Meeting 3 Notes*

June 21, 2023 / 3:00 – 5:00 pm / Virtual

Meeting Goals

1. To reach consensus on buffer width/zones (or develop majority/minority positions)
2. To reach consensus on carrying forward other rule concepts

Participants

TAG Members: Robby (Rabih) Abou-Rizk, Richard Cockerham, Danica Heflin (for Grace Messinger), Sue Homewood, Keith Larick, Luke Lowry, Edgar Miller, George Morris, Siham Muntasser

DWR Team: Rich Gannon, Joey Hester, & Sue Homewood

NC Forest Service: AJ Lang

DSC Facilitation Team: Paura Heo, Ian Ramirez & Laura Swartz

Observer: Judy Stalder, Steering Committee

Meeting Summary

Agenda Overview

- ❖ Welcome & Introductions
- ❖ Overview of agenda & review of ground rules and consensus
- ❖ Buffer Width Discussion
- ❖ Discussion on Allowable Uses
 - State support, analysis, defense of buffers
 - Buffer protection width and zone
 - Forest harvest allowances
- ❖ Report Development
- ❖ Next Steps

Decisions made in the meeting

- Buffer TAG will discuss forestry harvests more in-depth, especially inside the inner 10ft zone.
- Buffer TAG will discuss increased protections for and explore precedents around steep slopes, floodplains, and other sensitive areas, including those areas of higher nutrient loading.
- Buffer TAG will discuss rule application further and share insights with Steering Committee.

What's Next / Action Items from the meeting

- Joey Hester will prepare high-level, written proposals for the majority and minority opinions.
 - Proposal opinions will be emailed to members of the TAG who will be able to respond with comments via email, as well.
- Robby (Rabih) Abou-Rizk will take the lead in sharing a persuasive, data-driven proposal for why a 70-ft buffer is the best buffer width.
- Joey Hester will share the following resources:
 - Link to DWR Buffer literature/brochure
 - Link to Allowable Uses table
- TAG members will review "Allowable Uses" table in advance of next meeting and identify those uses with which they disagree.
- **Next Buffer TAG Meeting (virtual):** Friday, August 25, 2023; 10am – 12pm

Key Links (for Quick Access)

- [Updated Charge Document](#)
- [Buffer Brochure example \(Neuse & Tar-Pamlico Buffer Rules\)](#)
- [NC Forest Service Riparian Buffer Rules Information](#)
- [Links to helpful documents](#)

Detailed Summary of Meeting

Welcome & Introductions

- The meeting began on time with expected late arrivals by George Miller and Rich Gannon.
- This meeting included attendance from:
 - A subset of regular TAG members listed in previous section above
 - Steering Committee members
 - Judy Stalder, TREBIC
 - Danica Heflin, PTRC Representative - alternate for Grace Messinger
 - Grace Messinger will be leaving PTRC. Ms. Heflin is to take over her roles on Steering Committee and in Ag TAG.

Agenda Overview & Review of Consensus

One of the primary goals for the meeting was to make progress towards consensus (or clarifying opposing opinions) on the subject of buffer width.

As a preface to the Buffer Width Discussion, Joey Hester reviewed the group's definition of "consensus."

- Per the HRL Engagement Process Charter, consensus is being defined as at a minimum, "I can live with and support the decision."
- Joey Hester emphasized that a member's consensus position does not equal blanket "approval."
- If consensus is not reached, there is a need to capture dissenting opinions for the record (and to share those opinions with the Steering Committee), as well.
- Buffer TAG can send a majority and potentially minority report as well to the Steering Committee. Joey Hester offered to write the report/s based on feedback from TAG members via email. He noted a meeting for clarification could be called if necessary.
- The rulemaking process has reviews built into various points of the timeline where feedback and approval are contingencies.
- Some parts of the Buffer rule are up for consensus vote ahead of others.
 - TAGs may re-assess individual elements when the entire rule package is up for discussion, even if these parts have already been agreed to.

Detailed Steps to Rulemaking Engagement Process

Joey Hester reminded the group about the upcoming steps:

- The TAG makes recommendations to the Steering Committee
- The Steering Committee develops a formal proposal
- DWR drafts rules that incorporate as much of the proposal as possible
- Rules are shared with the stakeholder community for comment
- If necessary, DWR amends the rules based on feedback

Leading up to the discussion on buffer width, Joey Hester reiterated the objective of the Buffer TAG as follows:

- Nutrient Management Strategy rules are designed to address the **reduce** nutrient loading while the Buffer Rules are designed to prevent further nutrient loading by stabilization of streambanks and improvements to nutrient cycling.

Mr. Hester asked TAG members to share their initial impressions of the in-person All Stakeholders meeting that was held May 31, 2023:

- Siham Muntasser noted that the stakeholders participating in this rulemaking process have expert knowledge in their respective fields. She mentioned that she did not see many developers.
- Edgar Miller shared that Judy Stalder attended the stakeholders meeting representing the Triad Real Estate and Building industry Coalition where she is the Regulatory Affairs Director.
 - Mr. Miller stated that her perspective was invaluable. She spoke of severe inconsistency across local governments in development rules and how they are enforced.
 - Mr. Miller shared that he also appreciated her general comments especially concerning the legislature. (He did not specify what those comments were).
- Rabih Abou-Rizk observed during the May in-person All Stakeholders meeting that the individuals present were genuinely interested in doing what they could for High Rock Lake watershed.
- Edgar Miller shared he was impressed with the turnout at the All Stakeholders meeting.

Diving into the core of the Buffer Width Discussion, Joey Hester laid out the following:

- People are concerned with cost estimates and authority from the state, seeing further protection as unnecessary.
- Local governments can be more restrictive, but they must request authority and prove scientific need.
- DWR sets a floor on outstanding resource waters.
- Members of the group discussed arguments to reduce harvesting restrictions and adding pre-harvest notifications.

Buffer Width Discussion

DWR's Proposal for Buffer Rules

DWR presented a proposal that is uniform with buffer rules from other Nutrient Management Strategies:

- Zone 1: 30ft
- Zone 2: 20 ft
- Perennial and intermittent stream everywhere in the watershed.
 - Includes wetlands within 50ft of surface waters.
 - Includes hydrologically connected impoundments that are fed by an intermittent or perennial stream, or that discharge directly to an intermittent or perennial stream.
- Excludes disconnected ponds
- *Should we expand buffers in areas with high nutrient loading?*

Feedback & Discussion

Joey Hester opened the floor for feedback.

- George Morris indicated he didn't see any possibility for 150ft buffers, but said he believed allocation for zones 1 and 2 are insufficient. He said he would like to see a 70ft buffer: 50ft buffer with a further 20ft of herbaceous vegetation.
- Rabih Abou-Rizk indicated he would like to see new and updated data.
- Mr. Abou-Rizk recommended a 100ft buffer from the Blue Ridge Parkway, per USDA recommendations.
 - Joey Hester noted that the buffer cannot be disturbed once the rule is in place.
- Siham Muntasser questioned whether the 100ft buffer needs to be consistent or variable.
- Discussion ensued about Edgar Miller's report on the Yadkin River which includes information about recent samples and heavy rains, and how it can support Rabih Abou-Rizk's 100 ft buffer recommendation.
 - Edgar Miller, Rich Gannon, and George Morris wondered about the political feasibility of 100ft and suggested a more subdued response.

Rich Gannon introduced Sue Homewood who is NC DEQ's Senior Branch Coordinator responsible for 401 and Buffer Permitting.

- Sue Homewood shared context about where buffers start to determine size relative to stream:
 - Buffer is measured from vegetation or where bank begins.
 - Based on plan view (designs on paper).

- Keith Larick indicated he supported DWR's proposed buffer rule. He cited consistency as the primary factor of importance,
- Mr. Larick reminded the group that going from 0ft to 50ft is a lot of protection that was not present before. He noted he represents farmers and landowners who will have difficulty supporting more than a 50ft buffer.
 - Rabih Abou-Rizk responded that every watershed is different, and we must react in this way with this understanding.
 - Keith Larick noted he disagreed with Rabih Abou-Rizk, reminding the group again that these are requirements already that previously did not exist at all.
 - Richard Cockerham mentioned that forest service already does different things across different areas and jurisdictions.
- Danica Heflin advocated for simplicity and consistency. Uniform regulations help everyone understand the rules and are important for farmers to advise each other.
 - Ms. Heflin also shared that illustrations can help with understanding for buffers.
- George Cockerham suggested a 50ft wooded buffer that is not herbaceous.
- Edgar Miller followed this with 50ft wooded 20ft herbaceous, or just 50ft wooded.
 - George Morris suggested a buffer of multiple styles, using vegetation and potentially forested areas.

Joey guided the TAG through various rules and regulations on "the outer 20" – whether it is herbaceous, whether it can be in grass, etc.

- For some rules: removal of invasive exotics is allowed, no soil disruption, no logging decks or sawmills, no lumber harvesting in zone 1.
- Mr. Hester recommended having a separate discussion regarding harvesting.

During the discussion, three separate proposals emerged:

Proposal 1: zone 1: 30ft and zone 2: 20 ft

Proposal 2: zone 1: 50ft zone 2: 20ft herbaceous/slash

Proposal 3: zone 1: 50ft all wooded

- Joey Hester, speaking on behalf of DWR, indicated the preference for paring down to two proposals for a majority and a minority report.
- Rich Gannon and George Morris expressed concern over the absence of the forestry voice/perspective at the present meeting.
- AJ Lang pointed out these are forestry-based recommendations, but this watershed is not largely based on that land use.
- Joey Hester suggested a minority report for proposal 1 of 30ft for zone 1 and 20ft for zone 2.

- Rich Gannon, Joey Hester, and Keith Larick indicated their support for this proposal.
- A majority report emerged for Proposal 2 of 50 ft wooded; 20 ft herbaceous.
 - Mr. Hester indicated he needed width determination and assessment of forest harvest allowances.
 - George Morris, Rabih-Abou-Risk, Edgar Miller, Siham Muntasser indicated their support for this proposal.
 - Rabih Abou-Rizk said he would take the lead in providing a persuasive argument for why a 70ft buffer is the best option for buffer width. He shared he has been working on this.
- George Morris noted the importance of balancing the need for larger buffers (“the larger the better”) with also considering the political feasibility of the scenario(s).
- Joey Hester stated that sedimentation is a major cost point for DWR to try to quantify.

Tabled agenda items

- Allowable Uses and Report Development.
- The TAG agreed to meet again to review Allowable Uses and discuss what people disagree with from the rule provisions table.