

High Rock Lake Nutrient Rules Steering Committee Meeting 6 Notes

September 27, 2023 / 10 am – 12:30 pm / Hybrid meeting: Kernersville, NC & Virtual

Meeting Goals

For Steering Committee members to:

1. Approve the Buffer TAG report
2. Approve the Wastewater TAG report
3. Define Lake Nitrogen and Phosphorus % reduction goals

Participants

Andy Allen, AnnMarie Clark, Jim Crawford, Jesse Day, Bill Davis, Alexandra (Allie) Dinwiddie, Danica Heflin, Julie Henshaw, Keith Huff, Melinda King, Bill Kreutzberger, Keith Larick, Brian Lipscomb (alternate for Andy McDaniel), Grady McCallie, Chris Millis, Edgar Miller, Chris Millis, David Saunders, Helen Simonson, Judy Stalder, Robby Stone and Jonathan (JD) Williams.

DWR Team: Rich Gannon, Jenny Graznak, Joey Hester, Karen Higgins, Ellie Rauh, and Lon Snider

DSC Facilitation Team: Maggie Chotas, Will Dudenhausen, Paura Heo, and Laura Swartz

Meeting Summary

Agenda Overview

- Welcome, Introductions, Purpose, & Agenda
- Review objectives and accomplishments so far
- Review and approve of the Buffer TAG report
 - Information
 - Discussion & Call to Question
- Identify Nitrogen & Phosphorus reduction goals in relation to Wastewater TAG report
- Identify Next steps, Schedule future meeting, Adjourn

Decisions made in the meeting

- Eight members of the Steering Committee voted to support the minority position in the Buffer TAG report, whereas six members of the Steering Committee voted to support the majority position in the Buffer TAG report.
- Following the meeting, Steering Committee members have three weeks to email Joey Hester with any qualifications to their voting positions.

- The Steering Committee reached consensus in support of the overall watershed reduction goals of 20% Nitrogen (~25% adjusted) and 37% Phosphorus (~53% adjusted) proposed by the Wastewater TAG.
- The Steering Committee reached consensus in support of the Wastewater TAG report.

What's Next / Action Items from the meeting

- Steering Committee members will share any feedback, voting qualifications and questions with Joey via email within three weeks of this meeting.
- Joey Hester will prepare draft of Steering Committee report to DWR.
- The next Steering Committee meeting will be on Tuesday, December 12, 2023, from 1 – 3:30 pm (*exact time and location to be confirmed, likely Kernersville*).

Key Links (for Quick Access)

- [Updated Charge Document](#)
- [Steering Committee Meeting 6 Supporting Materials](#)
- [Meeting 6 Video Recording](#)
- [Meeting 6 Agenda](#)
- [DWR PowerPoint Presentation](#)

Detailed Summary of Meeting

Introduction, Purpose, and Context

- Joey Hester provided historical context for the work of the Steering Committee up to this point. In July, the Steering Committee agreed to preliminary sources and determined to include the watershed above Kerr Scott Reservoir. At today's meeting (Meeting #6 of the committee), the Steering Committee will review and vote on reports from the Buffer and Wastewater TAGs. Hopefully, at the next and final meeting of this group, the Steering Committee will review reports from the Agriculture and Stormwater TAGs.
- Joey reminded members that the role of the Steering Committee is to review and contextualize reports from the TAGs, as well as to produce their own report to the Division of Water Resources (DWR). Additionally, the report to DWR will include where the Steering Committee supported the positions of the TAG reports, and where the Steering Committee may adopt a different position than the TAG. All relevant information will be shared with DWR.

Working Together & Defining Consensus

- Maggie Chotas of DSC reviewed the committee’s Working Agreements and shared the definition of consensus, per The HRL Engagement Process Charter.
- Consensus requires the active participation of everyone in the group and an atmosphere where disagreements are respected. When someone disagrees, the goal of the group shall be to discover the reason for the objection and to find a way to work toward meeting that need in a revised agreement. Consensus is being defined as at a minimum, “I can live with and support the decision.”

Confirming Steering Committee Voting Members

Maggie Chotas confirmed voting members of the Steering Committee:

In person at meeting:

- Danica Heflin
- AnnMarie Clark
- Edgar Miller
- Judy Stalder
- Bill K
- Dave Saunders
- Brian Lipscomb (as Andy McDaniel)
- Keith Larick
- Allie Dinwiddie

Via Zoom:

- Grady McCallie
- Bill Davis
- Keith Huff
- Chris Millis
- Jonathan Williams

Steering Committee Accomplishments So far

Joey Hester explained that we are in a year into this process, and we have done a lot so far. Steering Committee accomplishments so far:

- In July we determined sources to include
- Decided to include Kerr Scott Reservoir
- This meeting will check off even more objectives of this group.

The Steering Committee is not an override of the TAGs. The TAGs are the experts, and their job was to peel back the layers. Can be appropriate for the Steering Committee to add more context, add more information to the TAG reports. There is a cooperative relationship between the TAGs and the Steering Committee. The Steering Committee will also issue their recommendations as well.

Consensus Item #1 – Adopting positions from the Buffer TAG report

Steering Committee is charged with determining whether to adopt the majority or minority positions from the Buffer TAG report.

All members of the Steering Committee received the Buffer TAG report before today's meeting.

Joey Hester referred to the Buffer TAG report highlighting the following key components:

- The majority of the Buffer TAG recommends a 70-foot buffer (50-foot Zone 1, 20-foot Zone 2). Existing and ongoing uses would be allowed to continue. Some forest harvest restrictions in Zone 1.
- The minority of the Buffer TAG recommends a 50-foot buffer (30-foot Zone 1, 20-foot Zone 2) Existing and ongoing uses would be allowed to continue. Some forest harvest restrictions in Zone 1.
 - DWR concurred with the minority position of the Buffer TAG.

Key Considerations

- The pros and cons of adopting a wider 70-foot buffer zone versus adopting a 50-foot buffer zone similar to others around the state.
- Would it be fair to have a 70-foot buffer zone with the High Rock Lake watershed and a 50-foot buffer zone elsewhere in the state?
- Practically, would homeowners and farmers be open to wider buffers given the overall interest of protecting High Rock Lake? And how would local governments implement the buffer zone restrictions?

Discussion

- Judy Stalder asked if there is evidence that broader buffers offer more protection to the water?
 - Joey Hester noted that the majority proposal considered the steep slopes within the High Rock Lake watershed. These steep slopes are a significant factor here, and the research is all over the place. You tend to see a tapering off of benefits beyond the first 50 feet.
 - Danica Heflin suggested the group consider this issue from an educational standpoint. To make significant changes within any US watershed, part of what needs to happen is a shift in perspective and to consider minimum stewardship required of landowners. The most valuable discussions are the ones where people's interests are valued. What is thinking going to look like 50 years down the line without this protection in place? Thinking about future generations is a way to think through the situation.
- Judy asked if there is any monetary compensation for the creation of a buffer zone?
 - Joey Hester replied that there is no transaction. This is a zoning restriction, which is generally allowable at the local level. Existing and ongoing uses can continue, so this would be a protection measure not a monetary one.
- David Saunders asked if the TAG discussed installation of new utilities.

- Joey Hester responded that the TAG didn't engage with that level of detail.
 - David added that it would be good to be thoughtful about utilities in the future. The side slope within the buffer can influence sewer collection systems.
- David also noted that in thinking about the One Water concept, is there a possibility of offering an incentive for 50 v. 70 feet buffers? Can we encourage additional buffering?
 - Yes, credits will be generated for buffer creation above and beyond the minimum.
 - David asked the Buffer TAG members if credits were in place, would that be desirable? Edgar Miller responded that until the TAG knows more about the credits, they wouldn't entertain that.
 - Edgar Miller shared pictures with the group. Part of why we support the 70-foot buffer is because of the larger benefits shown in the research.
 - Rich Gannon added that for phosphorus, wider buffers are better.
- Judy Stalder asked if the 70-foot buffer could be defended in the public realm (given that the rest of the State has a 50-foot buffer zone)?
 - AnnMarie Clark noted that her community is having a huge sediment problem. They are working with the counties to come up with a longer-term solution involving federal and state grants. Because of the build-up in some areas, there is the potential that parts of the lake will be split.
 - Bill Kreutzberger added that he agrees with Rich's previous point. He has done some buffer research, and the sediment issue would be better addressed with a wider buffer. In thinking about the wider issue, we must consider the regulatory requirements as well as the restoration requirement. There could be an incentive for a 70-foot buffer, and the incentive could be built into the trading system.
 - Joey Hester responded that the regulatory approach sets the floor for encroachment, whereas the restoration approach encourages anything that is above and beyond that floor.
- Grady McCallie added that he appreciates the importance of economic rights and homeowner rights, and we have a social contract. If you are at the top of the stream, you get the assurance that downstream will be functioning. He said he is interested in various possibilities for getting credits beyond the width of the buffer. We need to create funding mechanism to allow people to invest in groups that do the restoration.
- Chris Millis asked if the implementation of buffers includes intermittent streams, in addition to along the rivers and streams. The group he represents wants clean water, but from an implementation standpoint, a 70-foot buffer would be harder. It is taxing for local governments to implement the rules. Chris is supportive of a 50-foot buffer and would support a 70-foot buffer assuming it does not apply to intermittent streams.

- Allie Dinwiddie shared that the agriculture department is generally supportive of the minority recommendation of 50 feet, provided there are other things taken into consideration, including ponds and isolated ponds.
- Allie also asked for some additional clarification around transitions of agricultural use. In some of the other watersheds with riparian buffer rules, when there is conflict, it is generally around unintended transitions of activity (activity pasture uses). The Department is not supportive of any transitions, the interest being that we want to keep farms in place, productive and valuable.
 - Allie has shared specific recommendation language with Joey Hester (DWR).
- Allie also shared that the Steering Committee would agree that riparian buffers are beneficial. Most of the people recommending the minority report work with private landowners and people responsible for rule enforcement. Her department supports 50-foot buffers for consistency. We want this strategy to move forward without additional push-back. I would rather this move forward with a 50-foot buffer than with no buffer at all, and the larger buffer has the chance to detail the entire process.
 - Danica Heflin noted that she agreed with Allie – the consistency in the rules and the ability to move forward is very important. Concerns of private landowners are also the concerns of elected officials. It would be helpful to develop monetary language for people to evaluate monetary incentives for wider buffers.
- Keith Larick added that he signed on to the minority report because of the importance of consistency across the state. The Farm Bureau has to talk to people across the state, and farmers talk – they will know if there are different buffer requirements. It is important to be consistent across the state.
- AnnMarie Clark added that she also represents homeowners and they have been studying the sediment problem for over a year. It is not going to be easy to come up with other options to address sediment. Whatever we come up with is going to be super expensive, which is why we hope to get federal funding. It will be millions of dollars.
- Helen Simonson noted that we have the opportunity to work with the new generation of farmers and homeowners. People in this new generation are very concerned about the environment and climate change, and this generation may be more open to a 70-foot buffer.

Official Vote

- 6 Steering Committee members voted for the majority position
- 8 Steering Committee members voted for the minority position
- No Steering Committee members abstained

Key points of discussion following the official vote

- Bill Kreutzberger said he wants the group to build incentives for buffer zones greater than 50-feet. Joey Hester agreed that incorporating those incentives would be good, but doing so would be *outside* the rule-making process.
- Judy Stalder asked Danica Heflin if this is something One Water will work on?
 - Danica replied that yes, One Water will focus on incentives for wider buffer zones. She said she agrees with Helen's previous comment acknowledging that people buying land now will be more supportive of restrictions. There are places we can start working together *now*. Where do we have resources in place and we can we start engaging those folks now?
- Grady McCallie said he strongly supports David's idea of incentives.
- Joey Hester responded that the trading concept exists in the rule now. Where is the compliance point for someone who will be a buyer? The buffer rule is not where that would happen. The buffer rule does not generate a demand for supplementary credits, only for mitigation of impacts to protected areas.

Consensus Item #2 – Nutrient Reduction Goals

Steering Committee is charged with determining whether to accept the nutrient reduction goals recommended in the Wastewater TAG report.

Joey Hester explained that the Wastewater reduction goals have the most at stake for determining the overall reduction goals in the watershed. Other rule concepts are more abstract and open-ended, but the Wastewater rule is driven specifically by the overall goal.

The Wastewater TAG proposes to meet the phosphorus limits at the first renewal date, roughly capturing the 30 largest facilities. At the second renewal date, the nitrogen limits would kick in. Therefore, the Wastewater TAG recommends tackling phosphorus first, but not at the expense of nitrogen. ***Based on the curve outlined in the PowerPoint slides, the overall reduction goals would be 37% phosphorus (53% adjusted) and 20% nitrogen (25% adjusted).***

Discussion

- The adjusted goals account for the fact that some of the forestry is uncontrollable so that load will be redistributed to all the other controllable loads. When forestry gets redistributed, everyone's portions go up. This does not include septic sources.
 - *The Steering Committee decided not to re-allocate septic loads at the previous meeting.*
- AnnMarie Clark asked about where the TAG members and DWR differed in this report?
 - Bill Kreutzberger suggested that with wastewater when you set a permit limit, we are going to get more than that because of how the systems work. From an

equity standpoint, we should all share in the reductions equally. Anything we do above and beyond is our fair share and we ought to be generating credits that can be monetized. We think the baseline should be close to our fair share, and that overtime, if we do more, we should be able to sell those additional credits.

- Keith Larick asked if we are talking about what was reduced since 2006; or from what the permit limits were in 2006.
 - There were no permit limits in 2006.
 - Yes, any reductions achieved since 2006 count, and this is based on the actual permitted flow in 2006. Wastewater has already achieved a 26% reduction in phosphorus since 2006, and wastewater is holding steady with nitrogen.
- Grady McCallie asked where the nitrogen levels fit in the graph? What does DWR propose for nitrogen?
 - Joey Hester responded that DWR does not have an additional requirement for nitrogen, even though DWR is making an increased requirement for phosphorus.
 - DWR aligns themselves with the TAG proposal for nitrogen.
 - Grady McCallie added that “fair” or “equitable” does not mean the same percentages for everyone. It is easier to get reductions from point-sources than from anything else. It makes a huge difference when the wastewater overcontrols. I would oppose if the overcontrols are used to off-set new pollution coming into the system (such as from new development). Then the lake would never stop being impaired, because load increases would never stop.
- Bill Kreutzberger noted that the Wastewater TAG thinks they should be able to trade credits. Our goal is to improve lake water quality.
 - Allie Dinwiddie asked if the opposition to DWR’s suggestion is to give you buffer room to be able to meet that requirement for new development? Bill Kreutzberger says yes.
- Rich Gannon noted that it is still within the reasonable range of cost effectiveness for wastewater to meet a higher goal. He agrees with Grady – fair means proportionate, not the same. Producing credit for trading would be beyond those levels.
- Keith Larick asked if industrial dischargers have been addressed? What is that footprint?
 - Joey Hester responded that they are three total, and they are very small. The treatment plants do not apply to the industrial facilities. We will need to deal with industrial limits separately.
 - Joey added there will be a group option for permits here, and these are voluntary.
- Allie Dinwiddie asked, “if we go with the Wastewater TAG’s recommendation, does that lead to increases in reductions for the other non-point sources?”

- Joey Hester replied that that is a question for the Agriculture TAG to answer. We would be coming to an agreement, and then that is the target we will aim for.

Official Vote –

Call to question – “Indicate level of support for an overall watershed reduction goal of 20% Nitrogen (25% adjusted) and 37% Phosphorus (53% adjusted).” Scale for answers: 1 (strongly agree and support), 2 (minor concerns but still support), 3 (concerns but can live with it), 4 (major concerns and do not support), and 5 (actively oppose)

Vote count:

- 7 people voted #1 – “strongly agree and support”
- 4 people voted #2 – “have minor concerns but still support”
- 1 person voted #3 – “have concerns but can live with it”
- 1 person abstained from voting

Overall, the Steering Committee reached a minimal level of consensus in support of the overall watershed reduction goal of 20% Nitrogen (~25% adjusted) and 37% Phosphorus (~53% adjusted) nutrient reduction goals proposed by the Wastewater TAG.

Consensus Item #3 – Adopting the Wastewater TAG Report

Steering Committee is charged with deciding whether to support and adopt the Wastewater TAG report.

Key Points

- Joey added that the key difference between the Wastewater TAG report and the DWR recommendations has to do with what is achievable. From a long-term perspective, DWR sees a more achievable watershed goal.
- Bill Brewer shared that he is a member of the Wastewater TAG and from our perspective, we feel like we are meeting the goals, and we are putting in a fair amount of skin in the game because the costs are significant to us. We feel like we are doing our part under our proposal, and it’s a fair proposal. It also frees up the trading environment, so it does not stymie the development in the watershed.
- Danica Heflin added that a vote in support of this, doesn’t say that the nonpoint source is not a major concern. She noted that from a strategy standpoint, nonpoint sources still need a lot of attention, but Wastewater can be separated out.
- Edgar Miller added that a vote for this report, still sends a message that the nonpoint source folks still need to step up and do their part. Let’s keep this fair and equitable to the extent that we can.

- All of the other TAGs are nonpoint sources – including Agriculture, Stormwater and Buffer. Wastewater is the only point-source group in this process.
- David Saunders noted that the cost curves are generic, and the true cost of compliance is yet to be discovered until wastewater plants do their own studies. The investments will be significant.

Official Vote

Call to question – “Indicate level of support for approval of the Wastewater TAG report as presented, in its entirety.” Scale for answers: 1 (strongly agree and support), 2 (minor concerns but still support), 3 (concerns but can live with it), 4 (major concerns and do not support), and 5 (actively oppose)

- 6 people voted #1 – *“strongly agree and support”*
- 4 people voted #2 – *“have minor concerns but still support”*
- 2 person voted #3 – *“have concerns but can live with it”*

Therefore, the Wastewater report was adopted by consensus.