High Rock Lake Stakeholder Engagement Process Charter 2022 - 2023

About the Charter

The purpose of this charter is to outline the state's vision for a High Rock Lake Stakeholder Engagement Process to develop draft rules and recommendations intended to remedy nutrient-driven impairment of High Rock Reservoir. The stakeholder process is to be launched September 2022. It is intended to occur in two steps spanning a total of approximately 15 months including a several-month pause where state staff will draft rule text. This Charter provides a structure and meeting timeline for the process, including purposes and authorities of different stakeholder teams, their coordination, interactive protocols, and a decision-making approach, and it also provides relevant background information and context for participants. The products of this process will be captured in a report that will guide the NC Division of Water Resources through formal rulemaking pursuant to the NC Administrative Procedures Act, Ch. 150B. This Charter is intended to provide a transparent foundation for an inclusive and mutually respectful process of rules development.

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Background

Water Quality History

High Rock Lake was built almost 100 years ago for the generation of hydroelectricity. The reservoir became a popular regional recreational amenity, and now has a history as a productive freshwater fishery, where anglers visit from across the state to pursue trophy largemouth bass. In addition, several drinking water intakes have become established along the Yadkin and South Yadkin Rivers, as well as one below the spillway of the dam.

More recently, since at least the 1970s, High Rock Lake has been recognized as eutrophic, that is supporting high levels of aquatic plant growth, and a 1992 survey of state lakes declared it one of North Carolina's most eutrophic lakes. Since reservoirs can have unnaturally large watersheds and intercept large amounts of sediment and nutrients, eutrophication is not necessarily unexpected; nevertheless, it can create problems. This has become the case for High Rock Lake. While algae is a foundation for the lake's food web, high nutrient inputs drive both excessive algal growth, which creates stressful conditions for fish and other aquatic life, and shift algal species composition toward undesirable types. Excessive growth creates large daily swings in available oxygen and depletes oxygen as algae dies and decays, which stresses or kills more susceptible aquatic organisms. Many blue-green algal species favored by high nutrient levels are undesirable as food sources. These conditions narrow and degrade the food web in highly enriched lakes. In addition, algal mats can be unsightly, give off odors, and impede passage. They can also shift pH into the basic range, giving the water a "slippery" feel on the skin. Excessive algal growth around drinking water intakes can increase treatment costs for communities and potentially produce undesirable compounds. Finally, some blue-green species can produce toxins that are harmful to other aquatic life, wildlife, domestic animals, and in sufficient quantity even humans.

Beginning in 2004, state water quality monitoring found the lake to be "impaired" due to excessive chlorophyll-a levels and high pH readings throughout the lake, as well as excessive turbidity in the upper lake, all exceeding state standards for these parameters. Chlorophyll-a is the primary measure of algal productivity, and high pH here is also driven by too much algae. The lake now experiences algal blooms in every season except winter, year after year. The main algal species observed and reported by local residents is black mat algae (Lyngbya wollei), a blue-green species that is frequently reported to create an aesthetic, swimming and boating liability, but can potentially also cause skin rash and trigger respiratory problems.

Regulatory Background

Following the 2004 impairment determination on High Rock Lake, the Division of Water Resources (the Division) engaged stakeholders to form a technical advisory committee (TAC) to guide monitoring and modeling of the lake and its watershed to support development of a nutrient strategy. The TAC guided an intensive monitoring program between 2005 and 2010 to collect a baseline of water quality conditions. The consulting firm Tetra Tech used the resulting data, together with other watershed data, to develop a watershed model that characterized all land and water uses in the watershed, both point and nonpoint source, and their effects on water flows and associated nutrient loading to High Rock Lake. Tetra Tech then developed a lake nutrient response model that characterizes how lake ecology, especially algal production, has responded to incoming nutrient loading and will respond to reduced nutrient inputs. A "curve" was then developed using the lake model to quantify the percentage that each nutrient (phosphorus and nitrogen) must be reduced to achieve chlorophyll-a levels at or below the state standard. These percentage reductions provide goals on which to base a nutrient management strategy. The stakeholder TAC provided feedback on products at each stage of the process.

The federal Clean Water Act of 1972, as well as state statute, requires that when a water body is determined to be impaired, the State shall take action to remedy the impairment. Nutrient-driven impairments like High Rock Lake's stem from multiple sources throughout its watershed and call for the most comprehensive type of management approach, one that is done in a "fair, reasonable and proportionate manner" (NCGS 143-215.8B.). The NC Environmental Management Commission is charged with adopting rules to carry out such management strategies (NCGS 143B-282(a)-(d)). Such regulatory nutrient strategies have been implemented for the Neuse and Pamlico estuaries and more recently for Jordan and Falls Lakes.

Stakeholder and Rulemaking Processes

The Division is responsible for developing a comprehensive set of rules to address the nutrient-driven impairment of High Rock Lake, and for taking those rules through a formal rulemaking process before they can become effective. Given the regulatory mandates described above along with the complex nature of watershed restoration strategies, the Division considers it important to involve watershed stakeholders to the greatest extent possible in nutrient management strategy design. Nutrient loading includes both "point" sources, which are any kind of discharge that originates from a single, concentrated location, and "nonpoint" sources, or any activity that carries pollutants into streams and lakes via stormwater runoff and other diffuse pathways. Thus, we seek to engage people involved with all sources, and those who benefit from the resource, in developing solutions for the lake.

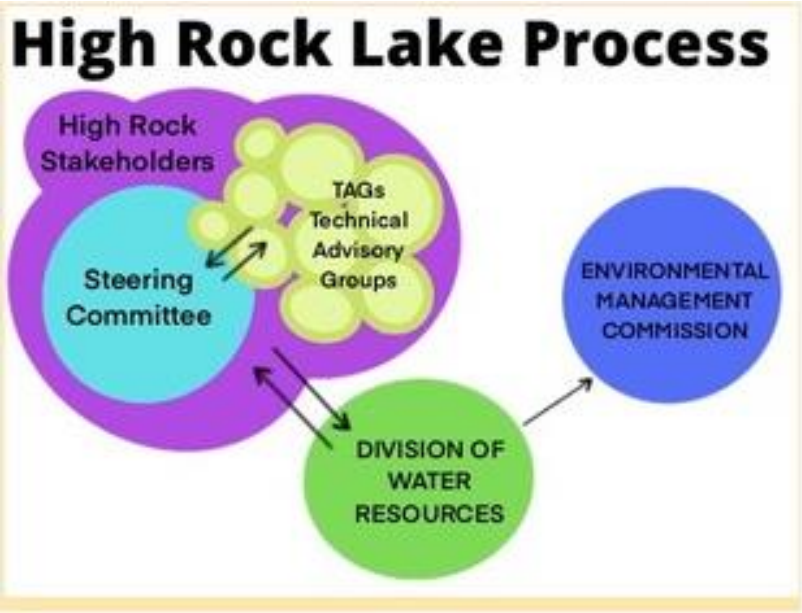
As planned by the Division, the entire High Rock rulemaking process will occur in two parts - first is the informal, collaborative strategy development process with watershed stakeholders, which will be followed by the more formal, structured state-mandated rulemaking process. Since the remainder of this document will lay out the first, informal stakeholder process, here is a brief description of the second part. The formal rulemaking process follows the requirements of the NC Administrative Procedures Act, Ch. 150B. Once the Division has draft rules in hand and receives preliminary approval to proceed from the Water Quality Committee of the NC Environmental Management Commission, staff will develop a fiscal analysis of proposed rules' costs to affected parties and benefits, and seek approval of that analysis by the Office of State Budget and Management. For these rules, this step takes months to complete. The full Environmental Management Commission then also approves the rules and fiscal note and gives staff approval to proceed. Public hearings are then held during a 60-day comment period. Hearing Officers appointed by the EMC (usually EMC members) will review all oral and written comments provided during the comment window and work with DWR staff to revise the rules as they deem appropriate based on that input. This stage is also likely to take several months. The EMC then receives a report summarizing public comment and providing the Hearing Officers' recommended changes to the rules. The EMC has the authority to take any action they deem appropriate with the draft rules, including calling for further revisions. If the rules are substantially revised, another comment period is required. Once the EMC adopts rules, they must be approved by the NC Rules Review Commission based on a review of statutory authority, ambiguity and reasonable necessity. The formal rulemaking process can vary greatly in length but for complex rule sets supporting a nutrient strategy, may be expected to take roughly 2 years. Through this formal process, opportunities for public input are intended to be limited to the designated comment period.

Purpose of the Stakeholder Process

In order to enter the formal rulemaking with a workable, well-supported set of rules, the Division intends to provide the fullest opportunity for public engagement through the professionally facilitated stakeholder process outlined in this Charter. This stakeholder process is expected to span approximately 15-18 months. In total, the entire rulemaking process encompassing this stakeholder process and the formal rulemaking is likely to run into at least 2025.

It is the intent of the Division to work with stakeholders over the next year or more to identify the most mutually satisfactory set of draft regulations that will achieve the objective of reducing nutrient inputs to High Rock Lake over time. Similar processes were conducted in the Neuse and Tar-Pamlico River Basins, as well as the Falls Lake and Jordan Lake Watersheds, leading to comprehensive nutrient strategies. Once a draft strategy has been developed, it will be taken through the state's formal rulemaking process described above. The purpose of this stakeholder engagement process is two-fold. One is for interested parties to have the opportunity to gain a deeper understanding of: the water quality need identified by the state; the state's legal mandate to take action; and the components of a strategy considered necessary to improve water quality at High Rock Lake. The second is for stakeholders to have the opportunity to work together and with the Division to develop a set of draft proposals for fair, reasonable and proportionate strategies to reduce phosphorus and nitrogen inputs into the High Rock Lake watershed, and to provide a report containing these proposals to the Division of Water Resources as a recommended basis for rulemaking.

Process Overview



Stakeholder Meeting Process and Teams

For the purposes of meeting process objectives, stakeholders are organized into three types of interdependent groups, each with a different charge and level of responsibility: All Stakeholders, the Technical Advisory Groups (4), and the Steering Committee.

All Stakeholders

As the name suggests, this group consists of all interested parties, including those who will take a more hands-on role in one of the working teams. This group will have only a few meetings and will provide relatively limited input to the process. The primary purposes of the All Stakeholders group are: to gain a shared understanding of the nutrient-driven water quality issues in High Rock Lake, and the associated need for watershed management actions, from the state and from each other; to raise issues and ideas for the working teams to consider; and to comment on the potential impacts of draft working team recommendations on everyone in the watershed.

Composition Open. Consistent participation across all meetings encouraged.

Methods Several avenues of communication will be available to the interested public. First, several all-parties meetings will be held, with both in-person and hybrid options made available as necessary. In addition, a comment form will be made available on the DWR website for all stakeholders to comment on the process, goals, methods or specifics of the strategy. This form will provide commenters the ability to identify their target audience - Steering Committee, a specific TAG, the Division, or the Facilitation Team. In addition, contact information will be publicly posted for members of the Steering Committee, TAGs, the Division, and Facilitation Team. Any stakeholder who wishes to take a more active role will be encouraged to request membership on either the Steering Committee or a TAG, depending on their expertise and level of commitment.

Schedule Meeting 3-4 times, roughly every 4-5 months.

Technical Advisory Groups

The Technical Advisory Groups (TAGs) will have primary responsibility for generating recommendations to the state on regulations and other actions needed in their subject areas to improve the water quality of High Rock Lake. With guidance from the Steering Committee and the Division, these TAGs will submit initial draft recommendations to the Steering Committee and All Stakeholders for consideration. Weighing All Stakeholders' comments, the Steering Committee will develop written feedback identifying concerns and offering change recommendations to the TAGs. In turn, the Technical Advisory Groups will review this feedback and revise recommendations as they see fit for inclusion in a final report from the Steering Committee to the Division.

Constitution Four areas, each with its own team: Agriculture; Wastewater; Stormwater; Riparian Buffers. Sign up only.

Composition Consistent participation through process requested. All perspectives, with weight toward stakeholders who have most knowledge &/or investment in rule outcomes. Subject Matter Experts may be members of TAGs or be sought by TAGs for consultation at points in the process.

Methods Virtual meetings, 2 hours each.

Schedule 4-8 virtual meetings of each group, roughly monthly over 6-8 months, beginning late October.

Steering Committee

The Steering Committee will be responsible for drafting nutrient management strategy goals for the watershed, which includes recommendations for relative weighting of nitrogen and phosphorus reduction magnitudes for control purposes to achieve long-term water quality improvement. The Steering Committee will have guidance and oversight responsibility over the Technical Advisory Groups. In light of All Stakeholders input and based on modeling guidance from the Division, it will provide initial recommendations to the TAGs at the outset of their meeting processes and again after reviewing initial draft TAG proposals and considering feedback from All Stakeholders. The Steering Committee will be responsible for development of a report to the Division recapping the meeting process and outlining conceptual rule proposals and other action recommendations toward meeting lake nitrogen and phosphorus loading goals.

Constitution Maximum 15 individuals. Members to be selected from sign-up list by DWR with input from DSC to balance interests and perspectives.

Composition Consistent membership that strives to be inclusive of all interests in the lake. Experience with similar management initiatives, professional knowledge and skills in a related area preferred. May also serve on a TAG.

Methods Mixture of in-person and virtual meetings. Start with in-person meeting if possible. Initial 3-4 hour meeting, then 2 hour meetings thereafter.

Schedule 5-8 meetings; grouped at start, midpoint and end of TAGs processes, otherwise ad hoc per identified need.

Additional Groups

To support the activities of the three stakeholder teams outlined above, three other groups are integral to this process: Division of Water Resources staff; Subject Matter Experts enlisted as needed; and the Facilitation Team (aka "Crew").

Division of Water Resources

The Division of Water Resources has as its primary purposes to listen to stakeholders, to assist with development of recommendations, to provide policy and technical guidance based on experience as applied to this watershed, to advise stakeholders where proposals appear fundamentally problematic from a staff standpoint, and to offer potential alternatives for consideration. Preceding the latter stage of the informal stakeholder process, DWR staff intends to draft rules content, possibly including options, for further consideration by the Steering Committee and stakeholders. At the conclusion of the informal process, Division staff will present the stakeholders' report to the NC Environmental Management Commission.

Composition Joey Hester, Rich Gannon, others as necessary.

Schedule Relevant team members attend and facilitate all meetings, virtual and in-person.

Subject Matter Experts (SMEs)

Subject Matter Experts (SMEs) will be important throughout the process to provide technical grounding and insights from a content standpoint. SMEs may or may not weigh in on policy recommendations, depending on their expertise, but they typically don't participate in decision-making actions. SMEs will be invited from agricultural agencies, university researchers, state on-site wastewater staff, state stormwater agency staff, DWR wastewater permitting, modeling, standards, and Buffer permitting staff, and any other professionals or researchers with relevant expertise identified as useful by DWR or stakeholders during the process.

Facilitation Team

The Facilitation Team is a group of experienced professionals who act as a neutral convener for the process. The Facilitation Team will work with all stakeholders to design meetings and processes that value everyone's time, maintain momentum and work toward process goals. Other key roles include ensuring equitable participation, keeping

to stated guidelines/guardrails and supporting teams in upholding working agreements. The facilitators will help implement a consensus approach to decision-making by the Steering Committee and TAGs (see Decision Process below). The Facilitation Team will also record the process and provide stakeholders the opportunity to share input along the way via post-meeting surveys.

Composition A team of 4 professional facilitators from DSC.

Schedule Relevant team members attend and facilitate all meetings, virtual and in-person.

Roles and Responsibilities of Participants

1. Make all reasonable efforts to attend all meetings that are scheduled with adequate notice.

2. In meetings, explain interests openly and fully, and look for mutually beneficial solutions.

3. Follow through on commitments, such as providing contact information on potential stakeholders for teams, gathering information, doing background reading, and reviewing draft rule language.

4. Report back to the groups they represent. Explain and support any consensus agreements reached by the team. Bring their organization's feedback or unresolved issues to the relevant team or Steering Committee.

5. Steering Committee members provide constructive input on draft recommendations developed by the Technical Advisory Groups.

Members of each team or committee are encouraged to work within their realms of influence and in their organizations to contribute to successful implementation of adopted recommendations and rules even after the informal engagement process has concluded.

Decision-Making Process

The intent for this process is that the Steering Committee and the Technical Advisory Groups will strive to make decisions by consensus whenever possible. Part of DSC's role will be to facilitate the implementation of this approach. 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."

Consensus agreements reached in one team meeting should not be reconsidered in a subsequent meeting without the consent of all participants in attendance.

If the group is unable to reach consensus within the time constraints of the rulemaking process, the difference may be solved several ways depending on the situation. If two or three feasible options are proposed, then the list may be narrowed by a vote of the group to the smallest number of options as is reasonable.

As both a participant in the process and the recipient of the stakeholders' recommendations, DWR has a unique role. DWR staff will commit to voicing their views and concerns throughout the process to provide as much transparency as possible. If ultimately DWR staff cannot support a significant element of stakeholder recommendations, they will make such views known and will include such positions in the final report. In such a case, DWR staff may recommend an alternative proposal for inclusion in the recommendations.

Ground Rules

- Stick to the tasks and topics on the agenda and keep discussion focused; one subject at a time.
- Discuss all relevant information and issues, even difficult ones.
- Keep discussion open and balanced.
- Participate, show up, share your thinking as much as you can.
- Strive to make decisions by consensus.
- Look beyond positions to interests.
- Disagree openly and respectfully.
- Put personal differences aside in the interests of a successful team.
- Jointly design ways of testing disagreements and look for mutually beneficial solutions.
- Follow through on commitments.
- Share information discussed in team meetings with your organization and reflect its position back to the team.
- While participants are free to discuss the process outside of official meetings, decisions will be made during meetings themselves.

Meeting Schedule and Cadence

Note: All dates are tentative and may be changed as schedules dictate.

Date	Meeting Title	Meeting Purpose
Phase I		
September 29, 2022	**Stakeholders Meeting #1** *In-person* *2-hour meeting*	Introductions, orientation to the process and issues involved. Understanding of roles and responsibilities of various teams. Solicit volunteers for teams. Identify areas of Stakeholder concern.
October 2022	**Steering Committee meeting #1** *3-4 hour meeting* *In person*	Introductions, process review, objectives and work plan. Background on relevant subject area data. Refining charge to TAGs.
Late October/early November 2022	**TAG meeting #1** *Virtual* *3-hour meeting*	Introductions. TAG ground rules, objectives, and workplan. Background for TAG on relevant subject area data. Assessment of subject area impact, shared understanding of the issue relative to the subject area.
Early December 2022	**TAG meeting #2** *Virtual* *2-hour meeting*	Identify targets. Consider potential actions, including: high-impact-low-cost (green light); high cost areas (red light); possible (yellow light). Prioritize issues to be discussed.
January 2023	**TAG meeting #3** *Virtual* *2-hour meeting*	Finalize green light agreements. Begin to prioritize list of yellow light discussions.
February 2023	**Steering Committee #2** *3-4 hour meeting* *In person*	Process check. Hear how first TAG meetings went, identify what's working well, what needs to be adjusted moving forward.
March 2023	**Stakeholders Meeting #2** *In person* *3-hour meeting*	Presentation of initial work and ideas to Stakeholders and gathering feedback.

March/ early April 2023	**Steering Committee #3** *Virtual* *2-hour meeting*	Review input from Stakeholders and TAG; begin to formulate draft recommendations.
April 2023	**TAG meetings #4** *Virtual* *2-hour meeting*	Finalize "yellow light" discussions and check against targets and overall progress.
Late April/ early May 2023	**TAG meetings #5** *Virtual* *2-hour meeting*	Finalize "yellow light" discussions and check against targets and overall progress.
May 2023	**Steering Committee #4** *Virtual* *2-hour meeting*	Assess progress in preparation for next Steering Committee meeting. Continue to formulate basis of recommendations. Prepare for Stakeholders Meeting.
May 2023	**Stakeholders Meeting #3** *In person* *½ day*	Presentation of draft recommendations. Gather feedback from Stakeholders.
June 2023	**Steering Committee #5** *In person* *3-4 hour meeting*	Finalize rules recommendations based on last round of feedback. Send report to DWR for feasibility and technical review, with rule development.
Phase II		
November 2023	**Steering Committee #6** *In person* *3-4 hour meeting*	The Division shares rules based on recommendations.
December 2023	**Stakeholders Meeting #4** *In person* *2-hour meeting*	Communicate to all Stakeholders about recommendations going to EMC and timeline for formal rulemaking and public comment.

Acronyms

CWA - Clean Water Act
DACS - Department of Agriculture and Consumer Services
DSWC - Division of Soil & Water Conservation
DEH - Division of Environmental Health
DEQ - Department of Environmental Quality
DSC - Dispute Settlement Center
DWR - Division of Water Resources
EMC - Environmental Management Commission
EPA - Environmental Protection Agency
GA - General Assembly
NMS - Nutrient Management Strategy
RRC - Rules Review Commission
SME - Subject Matter Expert
SWCD - Soil & Water Conservation District
TAG - Technical Advisory Group
WSW - Water Supply Watershed
YPDRBA - Yadkin Pee Dee River Basin Association