

High Rock Lake Nutrient Rules Engagement Steering Committee, Meeting 3

February 28, 2023 / noon - 3 pm / Salem Lake, Winston Salem

Meeting Goals

For Steering Committee members to:

1. Hear process updates;
1. Explore data around what has changed in the watershed since 2006; and
2. Begin to consider what sources the state should regulate

Participants

Andy Allen, Rob Baldwin, Bill Davis, Alexandra Dinwiddie, Julie Henshaw, Keith Huff, Bill Kreuzberger, Keith Larick, Jon Lowder, Grady McCallie, Andrew McDaniel, Grace Messinger, Edgar Miller, David Saunders, Helen Simonson, Justin Somers, Judy Stalder, and Jonathan Williams.

DWR Team: Rich Gannon, Jenny Graznek, Joey Hester, and Lon Snider

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

Observers: Anne Marie Clark, Jim Crawford

Meeting Summary

Agenda Overview

- [Agenda document](#)
- **Welcome, Purpose, Agenda, and Ground Rules**
 - Sharefile is a resources for all Stakeholders to access documents
 - Website will be updated periodically
 - All meetings are recorded and notes made available
- **Updates**
 - Upcoming meetings:
 - March 29 *virtual* All Stakeholder meeting,
 - Joey is working to schedule an All Stakeholder Meeting in May, and
 - Steering Committee will meet again on April 26, 2023 from 3 - 5 pm (*virtual*)
 - [Revised process road map](#)
 - [Chl-a Standard EPA approval](#)
 - Lake Nitrogen - Phosphorus reduction curve update
 - Clarifying Steering Committee [Charge](#)
- Watershed Changes: TAGs' input, DWR data

- What has changed in the watershed since 2006?
 - Quantitative data via DWR findings
 - Qualitative data via TAGs reports
- Beginning to focus on the Charge, part “B”
 - What sources should the state regulate?
 - Presentation

Decisions made in the meeting

1. The group had a productive conversation, and they need more time to make substantive decisions.
2. The Steering Committee will meet at a later point to decide on whether to include the subwatershed above W. Kerr Scott in the lake modeling and nutrient rules.

What’s Next / Action Items from the meeting

1. The TAGs will be asked to answer questions with as much specificity as possible.
2. The Steering Committee will meet again, *virtually*, from 3 - 5 pm on Wednesday, April 26, 2023.
3. The DSC Facilitation team will send out a poll to schedule summer meetings for the Steering Committee, which will be in June (*in person*) and in late July/ early August (*virtual*).
4. Steering Committee members were asked to complete a post-meeting survey.

Key Links

- [Meeting Agenda](#)
- [Revised Process Road Map](#)
- [Chl-*a* Standard EPA Approval](#)
- [Updated Charge Document](#) - for the Steering Committee and the TAGs
- [DWR Meeting PPT](#)
- [DSC Meeting PPT](#)
- [Wastewater Tag Report](#) to Steering Committee for February 15 Deadline
- [Agriculture Tag Report](#) to Steering Committee for February 15 Deadline
- High Rock Lake [Major Nutrient Source Categories](#)

Details on Discussion Topics

Lake Nitrogen and Phosphorous Curve Update & Clarifying the Steering Committee Charge

Key Points

- The Curve is being updated, slightly, and the final curve will be shared with the Steering Committee once it is ready.
- Goal is to achieve an overall reduction, the “uncontrollable loads” will have to be redistributed to increase controllable reduction %s accordingly.
- Getting close to the baseline position is the goal of this process.
- The model will give us an overall nutrient loading footprint.
- Regulating the Forested Area: We can explore the issue of regulating the forestry. The Buffer TAG has forest harvesting provision in it, and that is one way of entertaining revisions to forestry.
 - Joey Hester explained that the model is not going to allow us to run a “forest-only” situation. Other groups have done that, but we can’t here. Again, the goal is to get as close to the baseline position as possible.
 - Rich Gannon explained that we can explore the issue of regulating the forest. The Buffer rules have a forest-harvesting provisions in it. That is the one way of entertaining revisions to forestry.
- The Steering Committee needs to decide whether to include the subwatershed above W. Kerr Scott Reservoir.
 - Edgar Miller suggested that W. Kerr Scott is really just a microcosm of High Rock Lake.
 - This group will have to make this decision eventually, but they are not ready to do that yet.
 - Whether or not the group includes W. Kerr Scott should not have much influence on the use of the curve model.
 - This group will set a meeting specifically to focus on this issue.
 - *Parking Lot this topic for a future meeting.*

Key Question

- On Task B of the Steering Committee Charge - “agree on sources the state *should* regulate” - is that different than agreeing on sources the state *can* regulate?
 - Joey added that there is value in having the steering committee make recommendations on sources the state *should* regulate, even if the state cannot regulate it.

Watershed Changes: TAGs' input, DWR Data

What has changed in the watershed since 2006?

Key Points

- Joey Hester shared an overall map of the watershed, as well as information about animal feeding operations in the area.
- From the Agriculture TAG Report:
 - Many farmers are already using precision nutrient management. Smaller producers cannot afford the time/ resources/ energy required.
 - Poultry industry has seen a slight increase in production.
 - Local conservation staffing capacity is an ongoing limitation.
 - Tag members highlight the need for better education, outreach and training.
- Environmental advocates suggest that "what matters is where the waste is going"
 - If the litter is outside for more than 14 days, it has to be covered (a tarp would be sufficient).
 - Joey Hester added that we are not allowed to regulate poultry waste because that is the Department of Agriculture's domain.
 - There is some debate about whether the Division of Water Resources (DWR) has authority to regulate poultry litter.
 - Edgar Miller suggested that the Department of Environmental Quality (DEQ) has regulatory authority over poultry waste. The problem with these facilities is that they are not regulated by the state.
 - An additional concern is whether the conservation staff has *capacity* to enforce regulations. The conservation staff has very limited capacity right now.
 - Could there be a non-profit watershed entity that spends money to improve the quality of the watershed? There is precedence for this, as a non-regulatory action.
- From the Wastewater TAG Report:
 - Phosphorus loading has fallen considerably, 24%. Significant improvements with phosphorus.
 - Nitrogen loading has remained stable.
 - Wilkesboro is going through a large capacity and treatment upgrade. They are taking a lot of Tyson's flow of waste in Cub Creek Wastewater Treatment Plant.
 - Many are waiting for this process to unfold before planning upgrades.
 - There are significant declines in industrial flow contributing to this.
- From the Stormwater TAG:
 - There are many more improvements in this area so things are moving in the right direction, it seems.

Focusing on the Charge, part “B”, what sources should the state regulate?

Key Points

- This Steering Committee doesn't have to regulate the same sources that other groups have regulated in the past. It is helpful to see how other groups have approached this issue, and this group can ultimately decide what sources to regulate.
- Septic systems are a very small “part of the pie” and they are already regulated. Other watersheds have chosen to leave out the septic systems. There could be some important education & outreach to do with communities that have septic tanks.
 - New developments with septic systems would be included, but small single residences with septic systems and discharge right into the river. There would be a general permit for that.
 - Could smaller systems have the ability to “trade” or could they write checks to a non-profit who spends money to benefit the watershed/ work towards regulations?
 - Some permits were issued before the Clean Water Act of 1972.
- When we structure the rules, we have both the TAGs and the Department of Transportation (DOT). We want the steering committee to come to an agreement as to what is on the table and what is off. What are the regulated sources that this rule package will address?
- The Clean Water Act of 1972 doesn't care how we achieve improvements, but we have to get there some way.
 - Some ways of achieving reductions feel more achievable than others.
 - **Any improvements achieved since the baseline year of 2006 helps, even if it might be hard to quantify.**
- The Steering Committee needs to decide what they can and want to regulate.
- When discussing development and stormwater management, there are rules that apply to new development, and then there are existing development rules. Existing sources are much harder to regulate than the new development. Similarly, existing sources are harder to regulate than the new sources. Hopefully, we can keep new developments from further adding to the problem.
- DWR has decided there will be a common buffer rule, and that rule will be watershed wide and at an appropriate scale for the watershed. The current buffer rules will not achieve reductions themselves.
- Pasture & Crop are sources in the pie; although they are very small.
- The RJ Reynolds Tobacco plant has an industrial stormwater permit. There are approximately 20 individual stormwater permits that the State gives out. The State does not currently inspect these plants.
- How many pounds of Nitrogen and Phosphorous does the nutrient system account for? With anecdotal and empirical evidence, how does that translate to reductions in pounds?

- The Steering Committee will need to project what they think will make the reductions, and in the future, DWR will have to quantify the reductions achieved.
- The Steering Committee can make recommendations for what will improve water quality in High Rock Lake, even if the group does not have a great way to quantify the reductions.
- The Steering Committee can make the numbers work for what they can quantify and recommend additional measures as a buffer for those numbers.
- Adaptive management is an option, and only the unmanaged forest is truly uncontrollable. We are not going to see a one-for-one change in the lake because there is a time-lag and Nitrogen and Phosphorus are already in the lake.
- One challenge with education is how to value the education and factor in figuring out how to rationalize the regulations.
- Should this group consider looking at this problem as if the watershed is undeveloped? Joey Hester added that he does have the data and can specify the numbers, which are:
 - 6 pounds per acre per year for pasture &
 - 9 pounds per acre per year for crop land
- Allie Dinwiddie asked if there is some sort of standard to have legal justification for regulating a source? Is there some sort of quantifiable target that we have to meet in order to have justification for everyone outside of this group?
 - Maybe we need a specific legal justification for the Environmental Protection Agency (EPA)? (*This is a 5r plan; not a 4b plan according to the EPA*)
 - Can we have more clarity on what legal authority the Steering Committee needs in order to regulate any one source?
 - Rich Gannon responded that the EPA is holding us to the fire the most, as is the Environmental Management Commission (EMC). They need reassurance that this plan will reach the targets needed to improve High Rock Lake.
 - The TAGs may also need to know this → what is the precise standard of evidence we need to work towards?

Section Summary

- Joey Hester summarized that the Steering Committee needs to establish Achievability, Accountability and Measurability. The Steering Committee needs to figure this out and report it back to the TAGs and all of the stakeholders.
- This group needs to be able to point to this plan and make the case that their plan will work in achieving the reductions needed in High Rock Lake. The EPA will need to see, through monitoring, that trends are moving in the right direction.