



UPPER NEUSE RIVER
BASIN ASSOCIATION



Forrest Westall
Executive Director

executive.director@unrba.org

PO Box 270
Butner, NC 27509
Phone: 919. 339. 3679

On the Web:
<http://unrba.org>

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March 27, 2013

Assistant Secretary Mitch Gillespie
North Carolina Department of Environment and Natural Resources
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Falls Lake Rules, Stage I Existing Development Implementation Schedule

Dear Mr. Gillespie:

On behalf of the Upper Neuse River Basin Association (UNRBA), thank you for the opportunity to work with the Department (DENR) to improve the implementation process for Stage I of the Falls Lake Rules, which addresses nutrient reduction requirements for Existing Development in the watershed. Following our meeting with you, Ms. Jessica Marlies, Assistant General Counsel, Mr. Chuck Wakild, Director, Division of Water Quality (DWQ), and Mr. Rich Gannon, DWQ Planning Section, the UNRBA has continued to work with the Department to clarify the general approach we believe will result in a fair, effective, and productive implementation of this component of the Rules.

Because of the importance of this issue and the need to define the UNRBA's interests in this matter, the Association considered at its March 20, 2013 Board meeting, a resolution that would provide specific guidance to UNRBA representatives as we continue to cooperatively work with the Department. I have attached the approved resolution from that meeting for your consideration. We also want to express our appreciation for the attendance and participation of Ms. Marlies and Mr. John Huisman of DWQ at that meeting.

I and others from the UNRBA membership have had the opportunity to discuss the implementation process with your staff on a number of occasions following our meeting in February and leading up to the Board Meeting on March 20th. It is my understanding and impression that the attached resolution represents an approach that is consistent with these discussions and reflects a process that the Department is willing to continue. Clearly there are many details that will have to be developed to achieve the objectives outlined in the resolution, but the UNRBA wanted to express its willingness to collaborate with DENR. It is the directive of the Board that UNRBA representatives will use this resolution as a guidance document for developing in cooperation with DENR a specific proposal for implementation of Stage I Existing Development. As I'm sure you understand, detailed commitments of the UNRBA and any of its member governments may require additional approval by the Board and the governing bodies for our individual members. Therefore, the UNRBA is seeking the continued cooperation of the Department in addressing this implementation process and concurrence that the path outlined is acceptable to DENR.

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I have copied several of your staff that are engaged in this process and plan to continue working with them. However, if you have any questions or concerns about the path we have laid out, please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Forrest R. Westall, Sr.", written in black ink.

Forrest R. Westall, Sr.
Executive Director, UNRBA

Attachment

Cc: Ms. Pam Hemminger
Mr. Jim Wrenn
Mr. Don O'Toole
Mr. Dan McLawhorn
Ms. Jessica Marlies
Mr. Chuck Wakild
Mr. Rich Gannon
Mr. John Huisman

A Resolution of the Board of the Upper Neuse River Basin Association (UNRBA)

WHEREAS, the Falls Lake Nutrient Management Strategy adopted by North Carolina and described in Administrative Code 15A NCAC 02B .0275 *et seq* (the "Falls Lake Rules"), applies to the local government jurisdictions in the Falls Lake Watershed, including those local governments that are UNRBA members, and requires local governments to submit Stage I load reduction programs in accordance with 15A NCAC 02B .0278 (7); and

WHEREAS, in order to implement the most cost effective load reducing measures and to document nutrient load reductions from the implementation of any nutrient load reducing measures affected parties must be able to rely on accounting methods and tools approved by the Division of Water Quality (the "DWQ") and the Environmental Management Commission (the "EMC") pursuant to the Falls Lake Rules; and

WHEREAS, pursuant to 15A NCAC .0278(7)(a), the Department of Environment and Natural Resources (the "DENR"), DWQ is required to submit to the EMC by July 2013 a Model Local Program for implementing the Falls Lake Rules, which includes in addition to the development of model local ordinances, (i) "methods to quantify load reduction requirements and resulting load reduction assignments for individual local governments"; (ii) "methods to account for discharging sand filters, malfunctioning septic systems, and leaking collection systems"; and (iii) "methods to account for load reduction credits from various activities" ((i) through (iii) are collectively referred to as, the "Accounting Tool"); and

WHEREAS, the Falls Lake Rules do not prescribe a time by which the EMC must act to approve DWQ's Model Local Program; and

WHEREAS, upon information and belief, DWQ has made some progress toward the development of a Model Local Program, however, the UNRBA further understands that any Model Local Program submitted to the EMC in July 2013 will not include load reduction credits for many measures that are potentially available to UNRBA members; and

WHEREAS, nutrient reduction credits for these practices are essential to affected jurisdictions for the development of flexible and effective local programs which are directed at achieving compliance with the nutrient reduction goals in the Falls Lake Rules under Stage I Existing Development; and

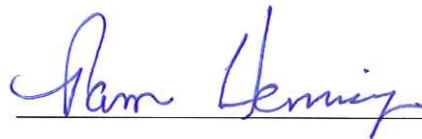
WHEREAS, the Falls Lake Rules require that DWQ work cooperatively with local governments in developing the Model Local Program, and UNRBA desires to cooperate with DWQ in developing a Model Local Program in a reasonable timeframe; and

WHEREAS, representatives of the UNRBA have met with officials of DENR and DWQ to discuss the issues related to the implementation of Stage I Existing Development, and DENR and

DWQ have indicated a desire to work cooperatively to effect a formal implementation schedule that allows for adequate time to develop nutrient reduction credits and the development of a more complete Model Local Program prior to the submission of the required local programs;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE UNRBA, THAT:

- 1) The UNRBA desires that DENR and DWQ develop a Model Local Program that incorporates into the Nutrient Accounting Tool nutrient reduction credits for measures potentially available to UNRBA members.
- 2) The UNRBA will work cooperatively with the DENR and DWQ to identify the resources necessary to develop nutrient reduction credits and the establishment of a timely and specific schedule for accomplishing this objective.
- 3) Based on the schedule developed for the completion of the nutrient reduction credits, the UNRBA and DWQ will establish a mutually acceptable date for DWQ to present a final Model Local Program to the EMC for approval, which will trigger the submission of the local programs under the Existing Development Rule. This timeline will be established to provide local jurisdictions with the nutrient reduction tools necessary to achieve compliance with Stage 1 Existing Development nutrient reduction goals by 2020 as required by 15A NCAC .0278(3)(a).
- 4) In furtherance of this objective, the Board will work cooperatively with DENR and DWQ in this effort, including but not limited to entering into a memorandum of agreement or understanding outlining the process that DWQ will follow and the cooperative efforts UNRBA will undertake to ensure that all appropriate load reduction activities and credits are included in the final Model Local Program.
- 5) Because there are jurisdictions in the watershed that are proceeding with nutrient reduction efforts aimed at meeting the anticipated reduction requirements for Stage I Existing Development, the Board and/or the local member jurisdictions will work with DWQ to develop a mutually acceptable means for reporting accomplishments on reduction of nutrient load from existing development during the intervening period that the comprehensive Model Local Program is being developed. As provided for in the Falls Rules any reductions shall be eligible for early implementation credits.



Ms. Pam Hemminger, Chair

Upper Neuse River Basin Association

Approved by the Board, 3/20, 2013