

# Path Forward Committee Meeting July 9, 2019



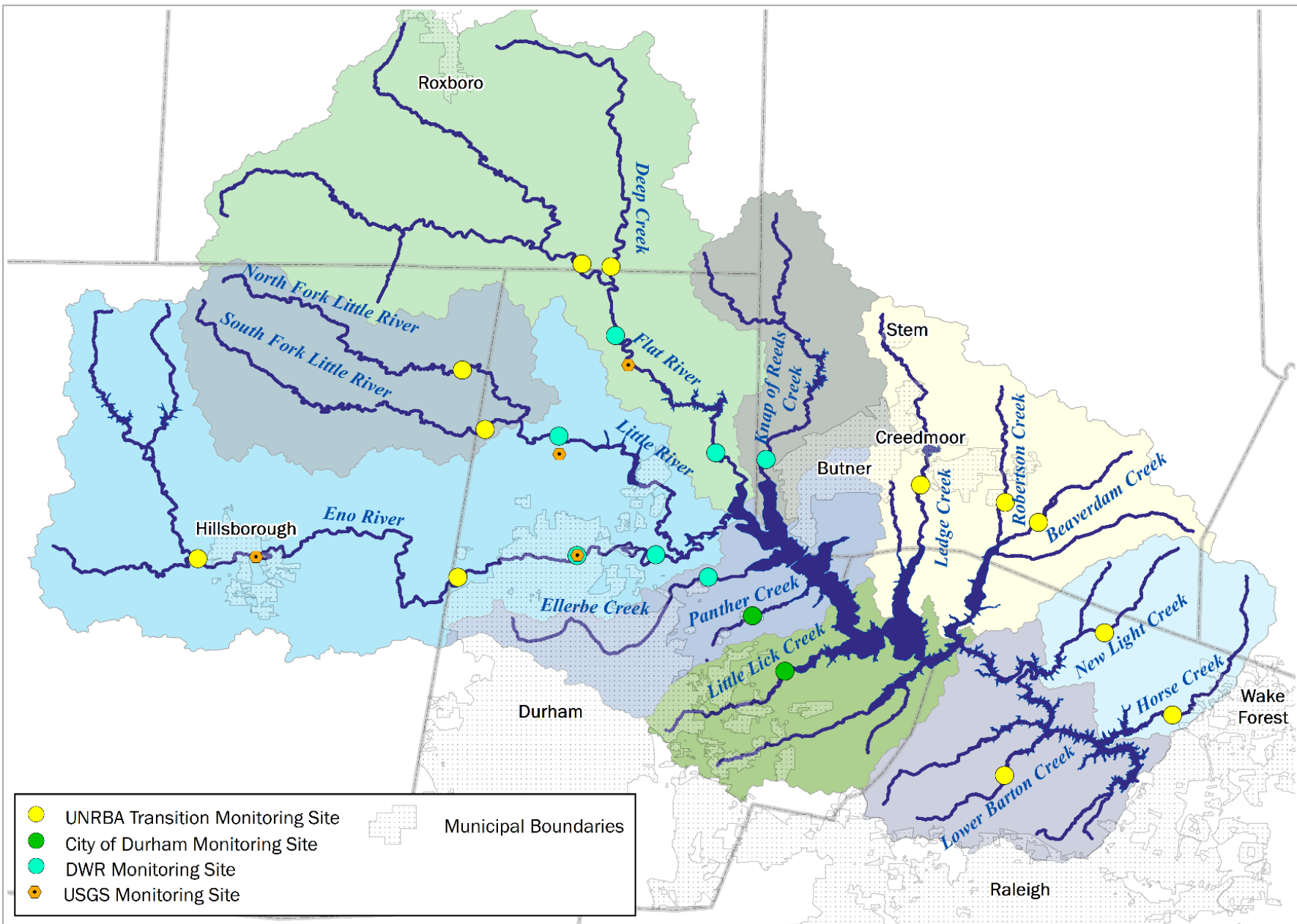
# Agenda

- Opening comments / agenda review
- Transition Monitoring program status
- Discussion of the optional implementation approach
- Other status items
  - Ongoing DEQ discussion/issues
  - Modeling and Regulatory Support
  - Coordination with the Collaboratory
  - Communications
- Closing Comments

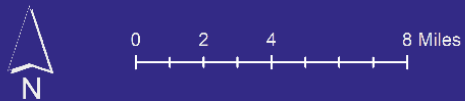
# Transition Monitoring Program Status

# Transition Monitoring

- Monthly sampling at 12 stations
- Each sample would be analyzed by the laboratory for
  - Total phosphorus
  - Total Kjeldahl nitrogen
  - Total ammonia
  - Total nitrate plus nitrite
  - Total organic stations (LL stations only)
- Field duplicates and blanks would be analyzed at a rate of approximately 10 percent of the sample count for QA/QC purposes.



**Transition Monitoring Locations**  
 Upper Neuse River Basin Association  
 North Carolina

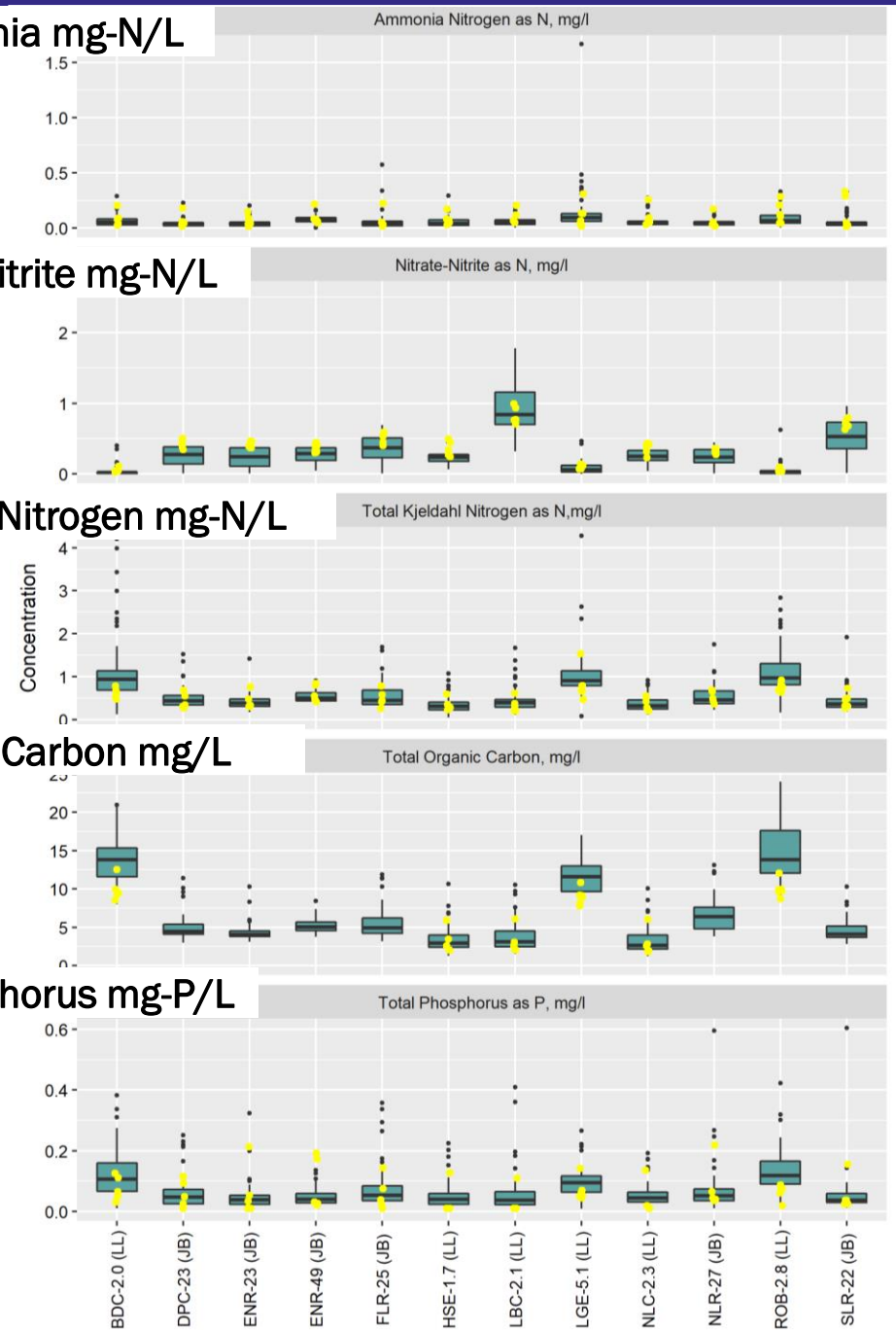
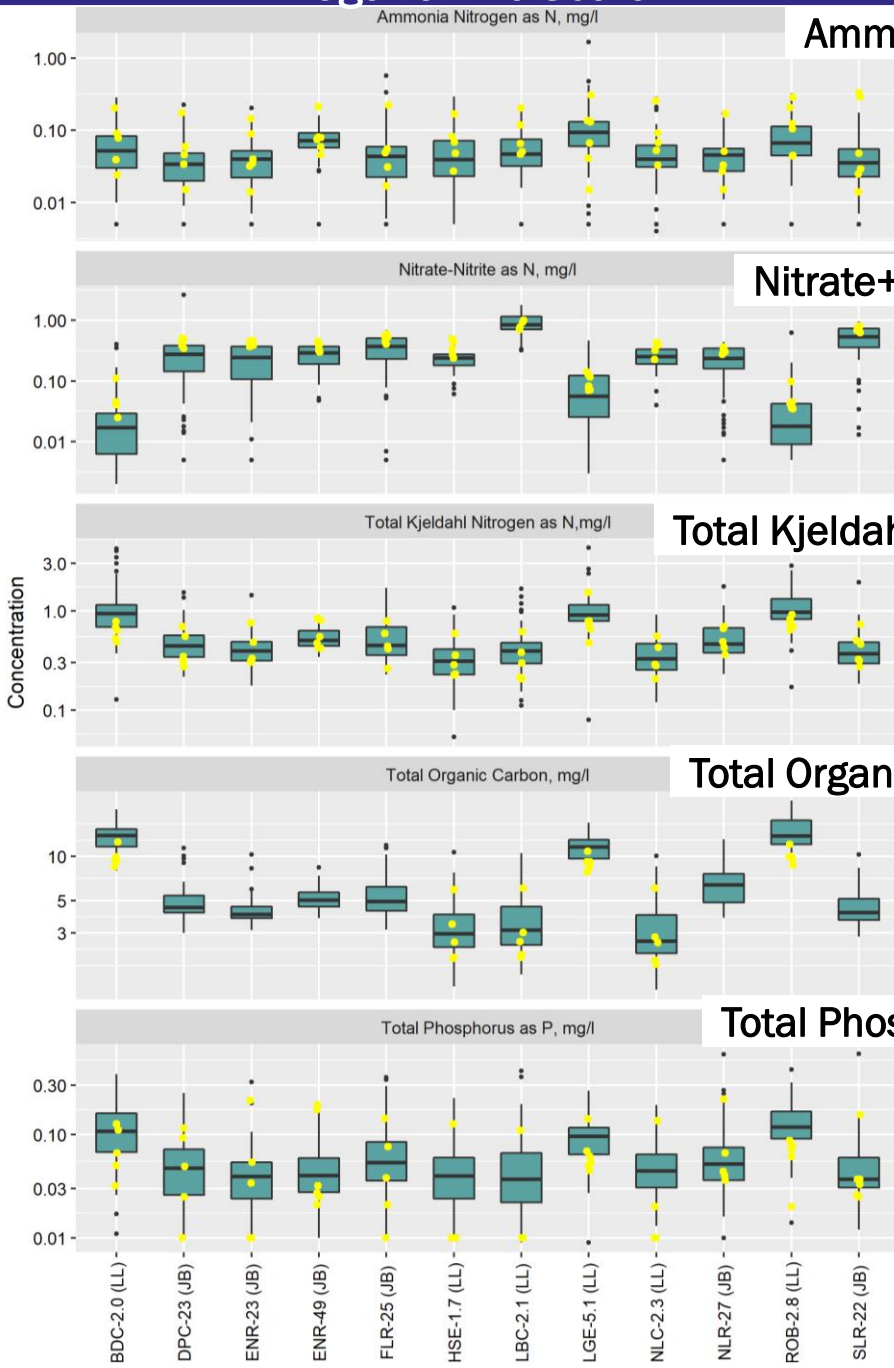


# Transition Monitoring Reporting

- Draft Transition Monitoring Report submitted to Executive Director in June 2019
- Report will be submitted to the PFC for review in July 2019
- Results for the November 2018 to March 2019 samples are similar to the distribution observed over the entire monitoring period

# Logarithmic Scale

# Arithmetic Scale



# Transition Monitoring Discussion

- PFC members have expressed the need for earlier discussions regarding the Transition Monitoring Program for FY2021
- Comments have ranged from elimination of the program to expansion of the program to meet various monitoring needs by the local governments
- PFC to begin discussion today about the potential scope of the Transition Monitoring Program for FY2021



# **Discussion of the Optional Implementation Approach**

**Review of Discussion**  
**During the May PFC Meeting**

# Objectives of the Optional Implementation Approach

- Implement projects in the watershed to improve water quality while the re-examination process unfolds
- Demonstrate commitment of the UNRBA to a reasonable, fair, and equitable management strategy

# Guidelines

- Focus on investment levels rather than counting pounds of nutrients
  - Continue to track pounds for future reference
  - Track lake water quality during optional program implementation
- Include existing list of approved practices and expand this list to cover other approaches (e.g., land conservation)
- Activities implemented under this framework would count toward the revised re-examination strategy
- Project prioritization would consider capital and long-term maintenance costs, location with respect to hot spots, and site opportunities

# Guidelines, Continued

- Joint compliance should consider a joint selection process that reflects the following
  - Effectiveness in terms of nutrient reductions
  - Funding mechanisms
  - Opportunities
  - Public acceptance
- Decision framework for project selection
  - Aimed at maximizing water quality benefits
  - Promoting development of locally supported projects
  - Quantifying ancillary benefits (to be determined)

# Guidelines, Continued

- Account for all new projects implemented under this program
  - Simplifies tracking for this interim period
  - Counts funds set aside for eligible practices moving forward
  - Ensures implementation progress across the watershed
- Local governments will continue to track projects and reductions relative to 2006 for future data needs

# Funding Discussion

- Minimum funding levels should be fair and equitable
- Individual members may continue to fund their own projects at greater levels thereby accumulating additional program credit

# Participation Requirements

- Include participation by all UNRBA local governments
- Some local governments have pre-existing plans for water quality improvement projects and practices
- Some local governments have set aside funds but not begun implementation
- Local government participation with the UNRBA may need to be a requirement to qualify for inclusion under this program
- UNRBA member consensus is necessary to proceed with development of the optional approach
- Ensuring participation
  - Drivers
  - Expectations
  - Schedules
  - Penalties (such as not participating results in falling under the current rules)



# Coordination with Other Entities

- Promote coordination and cooperation with other regulated entities
  - Agriculture
  - NC DOT
  - Other state/federal agencies)
- The UNRBA will need to coordinate with elected officials, regulators, legislators, and stakeholders
- Coordinate with DEQ on MS4 permit requirements/Falls Lake Implementation (pending timing)

# Methods

- Potential Eligible Practices
  - Stormwater control measures
  - Stream restoration
  - Urban stream buffers
  - Programmatic measures
  - Infrastructure improvements
  - Illicit discharge detection and elimination
    - Reduction of sanitary sewer overflows
    - Leaky infrastructure
  - Land conservation
  - Grant funded projects

# Regulatory Authority

- Determining the best regulatory vehicle
  - Existing rules
  - New legislation
  - Bubble permit
  - Interlocal agreements

**Review PFC Comments  
Received After the  
May PFC Meeting**

# Input from PFC Members

- The following slides provide a summary of comments received at this point from the City of Durham
- Input from all PFC Members is needed to develop a framework that meets the needs of all of the UNRBA members
- As we move through the discussion, what elements are missing or need work?
  - Procedures (nuts and bolts)
  - Methods (how do we define a project?)
  - What else is missing?
  - What additional information do you need?

# Comments Received After the May PFC Meeting

- The City of Durham provided notes following an internal meeting stating their understanding of the approach and several related questions on three topics
  - Logistics
  - Funding
  - Project prioritization
- The feedback from the City of Durham provides a good stepping stone to begin clarifying elements of a framework
- The following slides walk through the stated understanding of an issue, questions, and comments offered by the City of Durham
- These provide a basis for discussion by the PFC today
- Objective today is to secure PFC support for specific program components

# Establishment of the Funding Reserve

- Durham's stated understanding:
  - One bank of funds would be established to fund projects
  - Each UNRBA member would be invoiced annually
  - Payments can be "cash" or in-kind, and the entire invoice amount can be satisfied with in-kind funds
  - Referred to the reserve as the {SCM} Funding Reserve
- Discussion topics for the PFC
  - Are other members' understanding similar to, or different than, the list above?
  - Previous discussions have included non-SCM practices like land conservation. Do the members wish to include or exclude non-SCM projects?

# Compliance with Stage I Requirements

- Durham's stated understanding:
  - The UNRBA would select projects to receive funding from the Funding Reserve.
  - All of the participating UNRBA member governments would be considered compliant with Stage I Existing Development by contributing to the Funding Reserve.
  - Accounting would no longer be based on pounds of nitrogen or phosphorus
- Discussion topics for the PFC
  - Are other members' understanding similar to, or different than, the list above?
  - Do the members agree or disagree that continuing to track pounds for future purposes makes sense, but would not be the basis of this program?



# Beyond Stage I

- Durham's stated understanding:
  - Additional coordination is necessary with elected officials, state regulators, and legislators.
  - If successful, the use of a Funding Reserve may continue into the full re-examination strategy.
- Discussion topics for the PFC
  - Are other members' understanding similar to, or different than, the list above?
  - Note: allocation of funding levels will be heavily examined by the governing boards and commissions

# What criteria and/or process will be used to find or select projects?

- Durham's understanding based on May PFC meeting slides:
  - “Project prioritization would consider capital and long-term maintenance costs, location with respect to hot spots, and site opportunities.”
  - “Joint selection process that reflects the effectiveness in terms of nutrient reductions, funding mechanisms, opportunities, [and] public acceptance.”
- Discussion topics for the PFC
  - The PFC would need to approve a methodology to prioritize projects based on the factors listed above, and other factors identified while the prioritization process is under development.
  - Do members have additional thoughts about a framework for the prioritization process?

# What is a project?

- Durham's stated understanding:
  - May PFC meeting included a list of "eligible practices"
  - This list has not been agreed to by DWR/DEQ.
  - "Eligible practices" are not the same as a project.
  - The City of Durham supports a project definition that includes planning, design, permitting, and other tasks associated with constructing an SCM.
- Discussion topics for the PFC
  - Does the PFC want to submit the full list of suggested eligible practices to DWR/DEQ for approval under this approach? When is appropriate?
  - Does the PFC agree or disagree that funding elements beyond construction could be included in the program through the Funding Reserve?

# Questions Posed by the City of Durham

- Durham's question:
  - What type of project would be suitable for an in-kind match?
- Discussion topics for the PFC
  - Does the PFC agree or disagree that the full list of suggested practices is eligible to serve as in-kind match (SCMs, stream restoration, buffers, programmatic measures, infrastructure improvements, IDDE, land conservation, and grant-funded projects)?
  - Does the PFC agree or disagree that funding elements beyond construction could be included in the funding match (planning, design, permitting, and other tasks)?

# Questions Posed by the City of Durham

- Durham's questions and discussion topics for the PFC:
  - How long would the SCM Funding Reserve be active?
  - E.g., until a new strategy is put in place?

# Questions Posed by the City of Durham

- Durham's question:
  - How are WWTP credits used in this process, if at all?
- Discussion topics for the PFC
  - During May PFC meeting, the group indicated that a simpler accounting methodology would be preferable for the interim period
    - Count progress moving forward rather than develop a complex accounting system to annualize past efforts
    - Recognize that communities with WWTP credits likely already have planned commitments beyond what would be required of the Funding Reserve, so this would not represent an additional burden to them
    - WWTP credits would be counted under the full re-examination strategy
  - Does the PFC still agree or disagree that the simpler accounting method is preferable for the interim period and that a more complete accounting is needed for the full re-examination strategy?

# Questions Posed by the City of Durham

- Durham's comment and question:
  - In the current UNRBA fee structure there is a column for equal distribution of 10%.
  - Why is the "Equal Distribution" column set to zero for the impervious area fee structures?
- Discussion topics for the PFC
  - A few example funding structures were evaluated for discussion at the May PFC meeting based on input received at the April PFC meeting.
  - Other examples can be considered to support the PFC's decision on the funding structure.
  - Does the PFC have recommendations for additional funding structures to evaluate?

# Comment Offered Posed by the City of Durham

- Durham's comments:
  - Charging for both Percent of Total Area and Percent of Impervious Area double counts a significant population.
  - The City of Durham does not support a fee structure that is not equitable for all rate payers and jurisdictions.
- Discussion topics for the PFC
  - A few example funding structures were evaluated for discussion at the May PFC meeting based on input received at the April PFC meeting.
  - Other examples can be considered to support the PFC's decision on the funding structure.
  - Does the PFC have recommendations for additional funding structures to evaluate?



# Questions Posed by the City of Durham

- Durham's question and comments:
  - Why would the UNRBA select a relatively recent "baseline" for impervious cover (e.g., 2016 to 2018).
  - A recent baseline creates early adoption penalties for those communities that have implemented projects and programs.
  - Durham supports creating an alternative strategy that does not create early adoption penalties.
- Discussion topics for the PFC
  - The previous example funding structures were based on year 2011 land use data. Other years can be evaluated (e.g., 2006, 2016).
  - Does the PFC have recommendations for additional funding structures or years to evaluate?
  - Does the PFC have recommendations on how to count early adoption efforts under this interim program?

# Questions Posed by the City of Durham

- Durham's question and comment:
  - Can a jurisdiction rollover credits from one year to the next?
  - The City of Durham supports in-kind funding that includes a credit or rollover to cover years when spending is low.
- Discussion topics for the PFC
  - Does the PFC agree or disagree that projects that exceed the annual contribution requirement can be used to satisfy funding for multiple years?

# Input from PFC Members

- The previous slides provide a summary of comments received at this point from the City of Durham
- Input from all PFC Members is needed to develop a framework that meets the needs of all of the UNRBA members
- What elements are missing or need work?
  - Procedures (nuts and bolts)
  - Methods (how do we define a project?)
  - What else is missing?
  - What additional information do you need?

# Other Status Items

# Ongoing DEQ Discussion

- Clean Water Act 305(b) and 303(d) evaluation of Falls Lake
- Memorandum of Understanding / Agreement
- Land conservation credit
- Revision of the chlorophyll-a water quality standard
- Summary of the basic principles of the Optional Implementation Approach under review by the UNRBA

# Modeling and Regulatory Support

- The FY2020 budget includes funding for the development of a Decision Framework.
- Brown and Caldwell and HDR will provide support for a UNRBA discussion of how to build a Decision Framework that will
  - Guide the Association through the decisions related to modeling and regulatory activities
    - Evaluating alternative management approaches
    - Developing implementation aspects
    - Developing information for public participation
    - Evaluating public input
    - Developing a recommended revised strategy
- The sessions for developing and defining a decision framework will be incorporated into the PFC Meetings starting in August

# Collaboratory Coordination

- The Collaboratory recently provided a summary of the relationship between the Collaboratory's evaluation of the Falls Lake Nutrient Management Strategy and the UNRBA's Reexamination.
- This communication is helpful in defining the separate charges of each effort and identifying many areas where coordination and information sharing will improve both processes.

# Communications

- Planning for the upcoming Stakeholder Summit in October continues.
- Input is needed from the UNRBA membership to develop an expanded stakeholder list for invitation to this summit.
- A draft media engagement protocol is under review by the Communications Workgroup.
- Because of the importance of the completion of the 51-month monitoring program to support modeling and release of the comprehensive monitoring report, the Board approved the development of a press release for this accomplishment.
  - Press release will be finalized soon
  - Anticipated release in July



# Closing Comments

## Additional Discussion