

Path Forward Committee – Alternative Implementation Approach Meeting September 24, 2019



Agenda

- Opening comments
- Review strawman for the UNRBA Alternative Implementation Approach
- Summarize comments received since the September PFC meeting
- Discuss action items and next steps

Alternative Implementation Approach - Strawman

Alternative Implementation Approach

- Following the August PFC meeting, a strawman framework has been developed for consideration
- Today's information is for discussion purposes only
- Strawman distributed prior to the September PFC meeting
- Funding levels discussed at the August PFC meeting do not reflect any decision on consideration of this alternative approach
- Strawman incorporates additional flexibility to better utilize the efficiencies of existing programs

Objectives of the Alternative Implementation Approach

- Promote reasonable progress and communicate a commitment to maintain uses and provide water quality improvement
 - Implement projects in the watershed while the re-examination continues toward completion
 - Use a simplified framework based on funding levels to overcome challenges with the Rules as currently written
- Demonstrate commitment of the UNRBA to a reasonable, fair, and equitable management strategy
- Utilize existing programs when available to efficiently implement eligible projects and activities
 - Minimize administrative and process delays
 - Seek ways to lower costs in the development and installation of projects

Example Investment Distribution Discussed at August Meeting

- Would only apply to the period leading up to the new strategy
- Assumes a total annual funding of \$1.5 million per year
- Applies the existing UNRBA fee structure
- Allows for rollover from one year to the next

Member	Annual Funding Level	Member	Annual Funding Level
Town of Butner	\$23,393	Town of Hillsborough	\$34,221
City of Creedmoor	\$16,926	Orange County	\$161,943
City of Durham	\$337,587	Person County	\$114,394
Durham County	\$133,300	City of Raleigh	\$466,081
Franklin County	\$19,058	Wake County	\$88,968
Granville County	\$100,453	Town of Wake Forest	\$13,692

Potential Eligible Activities

- Stormwater control measures, green infrastructure, and best management practices
- Programmatic measures addressing
 - Fertilizer application education for businesses and homeowners
 - Onsite wastewater treatment system inspection, maintenance tracking, and tank pump-out programs
 - Pet-waste education and waste management stations
- Infrastructure and wastewater improvements including
 - Repair and replacement of leaky infrastructure
 - Reduction of sanitary sewer overflows
 - Extension of sewer lines to areas using onsite wastewater treatment systems or package plants
 - Repair and replacement of malfunctioning septic systems and discharging sand filter systems

Potential Eligible Activities, Continued

- Illicit discharge detection and elimination
- Stream and riparian buffer restoration and enhancement
- Land conservation
- Greenways and parks with water quality and quantity benefits
- Projects and activities implemented to address other state and federal water quality regulations (MS4 permits/Phase I or II communities, TMDLs on streams, etc.)
- Additional projects and activities beyond those listed above pending vetting with other UNRBA members and DEQ

What would be the Role of the UNRBA?

- Assist the members in the establishment of a workable framework
- Compile progress reports from UNRBA members
- Summarize progress from the membership as a whole
- Coordinate funding activities as appropriate, depending on approach taken by the jurisdictions to fund projects

Funding Options

- Self-funded – An individual member may use funds for eligible projects and activities within and managed by their own jurisdiction.
- Interlocal agreement – Individual members may enter into an interlocal agreement where eligible projects and activities are jointly funded.
- Funding other local programs –
 - Individual members may contribute funds to other local programs including local Soil and Water Conservation Districts, County Health Departments, watershed associations, and land conservation groups.
 - The receiving local program would be responsible for prioritizing and selecting eligible projects and activities.
 - Use of funds by other local programs would be limited to projects and activities associated with water quality and quantity benefits.

Funding Options, Continued

- Contribution to UNRBA pool of funds –
 - Individual members may contribute to a joint funding pool that would be used by the UNRBA to fund eligible projects and activities.
 - May expend these funds through existing local programs, a mitigation bank, contractor, etc.
 - A joint selection process would be used to select projects and activities
 - May accumulate funds for one or more years until sufficient funds are acquired to support a meaningful project or activity

Reporting to Support Tracking

- UNRBA Role to be determined
- Each member would submit reports annually noting:
 - Funding option(s) used and additional partners
 - Primary organization responsible for management and distribution of funds
 - Types and locations of projects and activities planned
 - Status of projects and activities
 - Funds allocated (cash and in-kind)
 - Estimated nitrogen and phosphorus reductions associated with projects and activities if quantifiable or other tracking metric to be determined by the UNRBA for activities without crediting methods

Duration

- Begin in the FY2021 budgeting cycle
- Continue until a revised nutrient management strategy is put in place and implementation begins
- Previous and ongoing nutrient reduction activities and projects will count in the newly developed management strategy
- Investments made to maintain water quality/uses and improve water quality would include work performed previously

Compliance Determination

- Two compliance options exist for jurisdictions
 - Existing Falls Lake Rules
 - Assignment of jurisdictional loads
 - Tracking pounds of nutrients reduced, annual accounting
 - Passage of a bill authorizing use of the AIA (if approved by the UNRBA)
 - Investment-based, annual accounting
 - Distribution among members to be determined by the UNRBA
 - Documentation and reporting including tracking metrics for specific practices
 - Submittal of compiled annual reports to DWR

Comments Received Since September PFC Meeting

Topics Addressed by PFC Members

- Concern with allowing projects/practices without established credits (e.g., land conservation, lawn care fertilizer application education, innovative practices)
- Comments on approach and terminology around funding distribution
- Removal of language regarding eligible practices including those implemented to address other regulations like MS4 permits, TMDLs due to concern about the UNRBA being associated with compliance obligations for individual members
- Concern with allowing “in-kind” contributions to funding levels as opposed to cash only
- Concern with funding programs as opposed to projects only; note that MOU may be required

Topics Addressed by PFC Members

- Consider more specific reporting requirements addressing projects that go over budget, anticipated schedule, project completion, etc.
- Concern with counting previous and ongoing practices in a fair and equitable manner
- Consider doing smaller projects to show progress rather than accumulating pooled funds to conduct “meaningful” projects
- Question about including reference to the existing Rule structure in the compliance section
- Suggestion that individual members be responsible for reporting similar to new development annual reports

Topics Addressed by Environmental Group

- Comment that funding level distributions should be refined to include all sources of funding that the jurisdictions contribute to improving watersheds and water quality
- Agreement that for the interim period, UNRBA would approve funding levels but if a program like this replaces Stage II then the approval process would include people outside of UNRBA
- Concern that allowing planning, design, O&M costs, etc. to provide compliance without actually implementing new projects; suggest a limitation of 20% (implications for year 1)

Topics Addressed by Environmental Group

- Suggestion to add to eligible practices
 - Floodplain restoration or reconnection
 - SCM's that infiltrate stormwater/improve water quality
- Suggestion that any practice implemented should have connection to improving water quantity or quality where it is implemented
- Comment that the administration section provides much needed flexibility
- Support for the concept of accumulating pooled funds until a “meaningful” project can be developed

Topics Addressed by DWR Staff

- How will “reasonable progress” be defined?
- Will monitoring be required demonstrate water quality improvement?
- How will the UNRBA account for past actions in the AIA?
- Is the funding distribution related to how you would collect funds or distribute funds for specific projects?
- The types of costs included as part of eligible practices is broad
- Suggestion to include caps on some practices like land conservation
- Concern with allowing projects/activities implemented to address other regulations (sometimes appropriate, sometimes not)

Topics Addressed by DWR Staff

- Funding other local programs would require further discussion of credit sharing since the Ag Rule is in place
 - Stage I requirements for Ag have been met
- How would the UNRBA select projects and activities from their pooled funds?
- Rather than pooling funds, has the UNRBA considered funding a large project up front?
- A joint report from the UNRBA seems reasonable, but DWR would still want to work with local governments to track individual compliance
- Adoption of legislation should be a collaborative effort

Discussion and Next Steps

Additional Discussion and Next Steps

**MRSW Meeting Tomorrow
Noon to 2:00 pm
Butner Town Hall / Webinar**

**Next PFC Meeting is
October 1, 2019
9:00 am**