

Comments on Falls Lake TMDL

Submitted by:

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Thank you for receiving and reading comments submitted by those impacted by these new rules. I hope my comments shed some light on how these rules will impact the residential homebuilding industry and future homebuyers who rely on us to provide an array of housing options.

My first comment pertains to the nutrient limits themselves. In a memo dated June 29, 2010 to Michelle Woolfolk from Tetra Tech in RTP, it is clear that an analysis of the way the watershed model was configured was inaccurate and led to nutrient limits that are far lower than what is actually required. The error, not accounting accurately for all of the sources of nutrients in the lake, was not present in the Jordan Lake modeling nor is it present in current modeling work being conducted by DWQ for another lake in North Carolina.

Clearly, a problem of this magnitude must be addressed. A state agency cannot proceed with rules that will have such a costly impact on so many people in North Carolina if those rules are known to be based on faulty science. This is NOT a comment on the model itself. This is a comment on some blatant human error that can and should be corrected.

This is an opportunity to improve the private sector's view of DWQ. Admitting the mistake now and taking the time to fix it is a better solution than proceeding with a bad set of rules that will hurt so many small businesses and impact an already struggling industry. Therefore, my first comment is simply to request that staff be directed to go back and fix the problem. It is much more important to get these rules right, than it is to get them fast.

My second comment pertains to the DOT "exemption." NC DOT is permitted under these rules to proceed with their function without having to follow the most expensive aspects of the new rules. This is explained as being the result of the unique nature of road construction, and that DOT often deals with limited space in which it can build roads. DOT does often have space limitations, but so too do developers.

In many cases, developers are required by local ordinances to make improvements to existing roads in areas where there simply is not space to provide additional stormwater facilities. The exemption should apply to anyone building roads to DOT standards. If this exemption will not be expanded to

everyone dealing with the same limitations as DOT, then I am forced to ask why DOT is receiving preferential treatment.

Who will be responsible for the additional nutrient loading created by DOT projects that do not follow the new rules? Will those nutrients simply be ignored? Will they be passed on to other land uses to be handled by new development? By agriculture or by local governments? If you truly believe this is a valid exemption to grant, it should be given fairly to all those who meet the same criteria. Otherwise, this is simply a handout based on a backroom deal negotiated by an organization (DOT) with better lobbyists.

This next comment deals with the inaccuracy of the fiscal note. The fiscal note, while incorporating some comments from members of the home building industry, does not take in to account the rapid rise in land costs that will occur with implementation of these rules. The note is based on current land costs which will be absolutely meaningless in two years.

These rules will completely change the way land is evaluated for its value. Now, land will be purchased simply for its potential uses as mitigation sites, making available land for economic development and residential uses more and more scarce. Higher land prices mean less commercial development and less affordable housing. In an area where people are already forced to commute from neighboring counties, impacts will include more vehicle miles travelled, more air deposition of pollutants and more stress on our local water bodies.

Affordable housing, as mentioned above, is a subject completely ignored during the creation of these rules. Teachers, firefighters, police and others who are necessary for our society will be pushed farther away from the areas they serve. What is the actual impact on our communities when police cannot live in the areas they are sworn to protect? Do we want to know?

Finally, one outcome from these rules that is almost certain based on my conversations with several developers and engineers is urban sprawl. These rules promote lower density and a less efficient use of land. Fewer people spread over larger tracts of land means more roads, more vehicle miles travelled and more air deposition of pollutants in to the lakes. Have these rules really accomplished anything?

In summation, you are being asked to consider rules that are based on incorrect data from an improperly used model that will result in skyrocketing land prices, higher housing costs and urban sprawl. I find it difficult to see how our lives will be improved in ten years because of these rules.