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To: Developers and Local Governments in the Jordan and Falls Lake Watersheds

From: Jason Robinson, Environmental Program Consultant, Nonpoint Source Planning Unit
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Subject: Interim Guidance for Jordan / Falls Stormwater Load Accounting Tool
"Jurisdictional Lands" – Natural Wetlands, Open Water and Riparian Buffers

Purpose

This memorandum identifies an issue in the design of the approved Jordan / Falls Stormwater Load Accounting Tool and offers guidance on how developers and local governments should enter square-footage of riparian buffers, wetlands and open water into the tool. The Division asks local governments to share this memorandum with developers in their jurisdictions. It can be found on the Jordan and Falls Lake websites at <http://portal.ncdenr.org/web/jordanlake/implementation-guidance-archive> and <http://portal.ncdenr.org/web/fallslake/rules-implementation-information>.

Issue and Policy Clarification

Under the "Watershed Characteristics" tab of the EMC-approved version of the Tool there are three land uses categorized as *Jurisdictional Lands*. These land uses are *Natural Wetlands*, *Riparian Buffers*, and *Open Waters*. The Tool is currently designed to exclude the area of these *Jurisdictional Lands* from the flow and nutrient loading calculations. However, the Division recognizes that it is appropriate to include the square-footage of riparian buffers and wetlands in the calculations as part of the project area.

Interim Solution

The Jordan/ Falls Tool will be modified to address this issue. As an interim solution, until modifications are completed, the square-footage of wetlands and riparian buffers should be entered into the tool as follows:

- Areas of wetlands that are located on a new development project site should be entered in the *Forest* category in the tool instead of the *Wetlands* category. For the purposes of this tool, wetlands are those areas that would be covered by the definition of wetlands in 15A NCAC 02B .0202 (71). This includes both wetlands regulated under Section 404 of the Clean Water Act and isolated wetlands regulated under state rules (15A NCAC 02H .1300).

- Protected areas of riparian buffers on a project site that are protected riparian forests or other riparian areas to be undisturbed, should be entered as Forest instead of Riparian Buffer, while the area of protected riparian buffers that allow for grading and revegetation should be entered in the *Managed Pervious* category instead of *Riparian Buffer*. More specifically, in jurisdictions where only DWQ buffer rules are applicable, Zone 1 area should be entered in the *Forest* category in the tool, while area in Zone 2 should be entered in the most appropriate pervious cover category. Where a jurisdiction enforces a buffer ordinance that protects wider zones of forested or other undisturbed buffer, that wider area may be entered in the category of *Forest*.

The area of open water located on a project site should continue to be entered in the *Open Water* category in the tool, which removes the area from the calculations. The Division considers this appropriate and consistent with our other stormwater regulations. For the purposes of this tool, the term “open water” includes all intermittent streams, perennial streams, lakes, ponds and reservoirs that are waters of the state, as defined in G. S. 143-212(6), except man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCA 02B .0100. Ponds and lakes that are not part of a natural drainage way should be considered part of the project area, and should be entered in the *Land Taken up by BMP* category instead of *Open Water*. A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.

Full Solution

The Division will revise the Jordan / Falls Tool to correct these design issues and will notify affected parties when modifications are completed and the revised tool is available.

Cc:

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