

EEP NUTRIENT OFFSET PRICING METHOD STAKEHOLDER REPORT

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BACKGROUND AND OBJECTIVES

Session Law 2007-438 mandates that the N.C. Department of Environment and Natural Resources (DENR) develop and implement a plan to transition the N.C. Ecosystem Enhancement Program (EEP) Nutrient Offset Program from a fee-based system to a program based on the actual costs of providing nutrient credits. EEP, in collaboration with the NC Division of Water Quality, has committed to convening a group of key stakeholders to discuss the basic approach to setting actual-cost rates for its nutrient offset program. The NC State University Natural Resources Leadership Institute has taken on the task of coordinating with EEP to assemble the stakeholder group and guide its deliberations.

Prior to convening these meetings, NCSU contacted key stakeholders and organizations and interviewed 22 people to gather information about their willingness to engage in discussions about the cost-based system, and the issues that they see that are important to resolve.

Specifically, we gathered information from prospective stakeholders on the following topics:

- Stakeholders' understanding of the nutrient offset program
- Key issues regarding nutrient offset pricing
- Stakeholders' perspectives on the characteristics of an optimum pricing method
- Key concerns with EEP's proposed actual cost method of nutrient offset pricing
- Ideas that stakeholders have for potentially resolving these concerns that might be acceptable to all parties
- Stakeholders' perspectives of a successful outcome of these meetings

- Data or information that stakeholders need for meaningful engagement in a discussion on pricing methods
- Conditions that must be in place for their participation in stakeholder meetings (e.g., other stakeholders who should or should not be present, data that should be available, meeting location and time, etc).

STAKEHOLDERS INTERVIEWED

Alissa Bierma, Neuse River Foundation

Derb Carter, SELC

Chandra Coats, Jamey Guerrero, and Haywood Phthisic, Johnston County

Glenn Dunn, Poyner & Spruill

Cindy Finan, Neuse R. Compliance Assoc

Matt Flynn, Town of Cary

Jonas Hill, Pitt County

Heather Jacobs, Pamlico-Tar River Foundation

Troy Lewis, City of Tarboro

Lisa Martin, NC Home Builders Association

Grady McCallie, NC Conservation Network

Paul Meyer, NC Association of County Commissioners

Nancy Nixon, Nash County

Adam Riggsbee, George Howard, John Preyer, and Barrett Jenkins, Restoration Systems, Inc

Joe Rudek, Environmental Defense Fund

Mike Schlegel, Triangle-J Council of Governments

Paul Wiebke, City of Durham

SUMMARY OF INTERVIEWS

Knowledge of Nutrient Offset Payment Program

Our first line of questioning was meant to determine stakeholders' familiarity with the nutrient offset payment program, and EEP's efforts to establish an actual cost method of pricing. All of the stakeholders we interviewed were knowledgeable about the nutrient offset program, but less than one-half were sufficiently aware of the proposed actual cost method to provide detailed comments.

Key Issues Related to Establishing a Nutrient Offset Pricing System

We asked stakeholders what they consider to be the most important issues related to establishing a nutrient offset pricing system. Responses were grouped into several contextual categories: accountability and transparency, matching payments to projects, covering costs, containing costs, buffers vs. retrofits, geographic equity, juxtaposition of impacts and mitigation, alternative approaches,

Accountability and Transparency

The most commonly stated issue regarding the nutrient offset program was that of agency accountability. Nearly everyone we interviewed, without prompting, declared that EEP should be more forthcoming with information about where and how offset payments are being used. Many stakeholders view the current system of offset payments to be too far removed from actual reductions in nutrients. They make the point that the nexus between payments received by EEP and projects being put on the ground is not clear. Says one stakeholder, "...their design, bid, build program causes [EEP] to focus on the outputs rather than the outcomes".

Stakeholders want to know that nutrient reduction payments are being spent on restoration projects with a commensurate reduction in nutrient loading. Said another stakeholder, "There are currently permit obligations in the pipeline, and the perception is that there is no

accounting for these projects, nor any display of work accomplished.” Without adequate transparency, it is doubtful that stakeholders will trust whatever rate is eventually adopted.

Covering Costs

Most stakeholders we interviewed were very clear that nutrient offset payments must cover the full costs of mitigation required under state permits. Most believed that the costs to mitigate development should not be subsidized by payments from the state general fund. It was clearly stated by many interviewees that the program should be self-sustaining and that development should pay for itself. Moreover, many underscored the basic principle that payments received must result in commensurate reductions.

Buffers vs. Stormwater BMPs

While the stakeholders we interviewed were nearly unanimous in their belief that the program must cover its costs, many raised the issue whether offset payments should be used only for buffer restoration, or if stormwater BMPs will be factored into the formula. More than one stakeholder we interviewed made the case that stormwater BMPs, rather than buffers, are the preferred method of reducing nutrient loading. Said one stakeholder *“I would like to see the highest level of nutrient reductions. Projects that treat stormwater runoff have a high probability of reducing nutrients and it is easier to document the results”*.

However, other stakeholders were concerned that the fees could become outrageously expensive if retrofits and BMPs are the primary mechanisms for providing nutrient credits. The word “reasonable” was used by more than one interviewee when discussing costs, and their stated interest was that EEP needs to be more efficient in its planning and operations.

The issue was succinctly summed up by one stakeholder this way, *“It will be difficult to charge a price for BMPs. [EEP’s] primary method for mitigation is to plant buffers, which is cheap. There will be a hard argument from [some stakeholders] if they are pricing offsets relative to BMPs but only putting in buffers. They’ll be stuck just putting in buffers because people won’t tolerate*

paying for stormwater BMPs. It will be politically difficult to charge a high enough price for BMPs.”

Equity

A few local government stakeholders brought up the issue of geographic equity with respect to nutrient offset payments. One respondent made the point that geographic differentiation of nutrient offsets put them at a disadvantage for community economic development opportunities relative to their neighbors. Another made the point that land is being bought up in rural counties to offset the rapidly growing areas. The result is that lands in conservation uses diminishes its value and results in loss of property tax revenue. Said one respondent, *“If you are in the [same] basin, then you should have to obey the same rules.”*

Another equity issue brought up by a stakeholder was the perception of differentiation between NCDOT projects and the private sector. Said the interviewee, *“[There] seem to be two banks, one that funds NCDOT projects on an actual cost basis, and one for the private sector that uses a different fee structure.”*

Geographic Application of Credits

Several stakeholders brought up the issue of the geographic concurrence of impacts and their associated mitigation projects. Because the costs of achieving nutrient reductions vary from watershed to watershed, many stakeholders felt that keeping projects in the same watershed was desirable. Reported one stakeholder, *“I see a lot of value in applying nutrient offset projects as close to the nutrient conditions that limit the localized impacts. Ideally this is as small watershed as possible. It makes sense to place it in the same 8-digit watershed.”* On the other hand, some respondents felt that forcing mitigation projects to be conducted in rapidly growing watersheds will drive up the costs of nutrient credits.

Alternative Approaches

Many of the stakeholders we talked to, most notably those in the conservation community, expressed a concern that the link between impacts and mitigation in EEP's nutrient offset program is not sufficiently direct. Many were supportive of alternative approaches to securing nutrient offsets such as private mitigation banks and local government mitigation programs as a desirable alternative. The most advantageous attribute of private banks cited by stakeholders is that the mitigation is conducted prior to the offset transaction. There is no time lag between payment and action. Reported one stakeholder, *"Mitigation banks seem to work because the obligation is already paid for up front. They have to actually produce the credit."* Said another, *"There is value in private mitigation banks, because the credits are created before they're sold. From the standpoint of temporal impacts, they are good for that, especially in comparison to EEP's track record."* Moreover, cited one stakeholder, the profit incentive will drive firms and individuals to create conservation measures.

Others indicated that private banks can be more responsive to changing conditions and that market signals are needed to ensure accurate pricing. As one stakeholder put it, *"The current system is cumbersome to reflect any changes in the price. You need to be flexible and responsive when circumstances change. You need the competition of the market to come into play to make it worthwhile for those involved."* Other benefits of private banks voiced by stakeholders were the potential for keeping a lid on prices if there were sufficient competition in the market, and the creation of "green jobs."

While there was significant support for the concept of private mitigation banking by stakeholders from conservation organizations, it was not unqualified. Some conservation interviewees indicated a concern that standards and safeguards could be compromised in order for banks to compete. Some local government stakeholders expressed a concern that new regulations requiring them to seek private alternatives will cost them time and money. Local governments see benefits in EEP's role as a central clearinghouse for servicing in-lieu payments. It reduces their transaction costs.

Others we spoke with were more direct in their belief in free-market solutions. Said one, *“EEP should examine a policy option of not setting a price, but having a price set by the market. If there is a private option available, then the state does not need to provide government produced pounds of nitrogen. The state should not compete with the private sector.”*

Another alternative approach, brought up by local government stakeholders, is to credit actions by local governments for nutrient offsets. Said one local government stakeholder, *“What the EEP does – constructed wetlands, etc. – are not as beneficial as what a town could offer. A town could purchase conservation easements, do stormwater retrofit projects, and extend buffers to get credit.”*

Point Sources and Nutrient Offsets

We interviewed three stakeholders who represent the interests of municipal point-source dischargers. They each conveyed a concern that offsets would be very expensive for them and their clients. Moreover, they don’t believe that the rates that have been established for point sources are accurate with respect to the actual nitrogen output by the dischargers. They also site an equity issue in the way that credits are calculated for point-source and nonpoint-source dischargers. Said one interviewee, *“Nonpoint sources only need to ‘claim’ reduction through a theoretical process. We should be able to earn credits via trading with nonpoint sources.”*

They were in agreement that other options should be available to them, specifically nutrient trading in the Neuse basin. Moreover, they would like to see credits granted for municipal actions taken to reduce nutrient loading, such as purchase of conservation easements, stormwater retrofit projects, and enlargement of regulatory buffers in municipal jurisdictions.

Pricing Mechanism Characteristics Desired by Stakeholders

We asked stakeholders, *“If you were to devise a method for pricing nutrient offsets, what would be the key characteristics that you would want to see included or reflected in such a pricing program?”* The most commonly mentioned characteristics focused on five aspects: accuracy, transparency/ accountability, equity/consistency, spatial relevancy, and timing. Other characteristics identified by interviewees included timing of implementation, cost effectiveness, flexibility, and ease of implementation, and free-market basis.

In a second question, we asked them to provide suggestions for how the issues or concerns they identified could be resolved in a way that would be acceptable to all parties. Many of the responses to this question were identical or closely related to the previous question. One key suggestion that was added here was the idea of establishing a comprehensive mitigation plan. We have combined the responses to these this question with the earlier question in the discussion below.

Full and Accurate Accounting

The most common response to the question of characteristics of a pricing system desired by stakeholders was that the nutrient offset fee must accurately reflect the full cost of mitigation. Many interviewees emphasized the importance of finding a way to reflect the variation in land values in the two basins. Others mentioned the need to fully realize the costs of program administration in the offset fee. Said one respondent, *“Whatever pricing EEP uses, it must use full cost accounting for its administrative costs. A percentage fee is not reflective of true costs. Full cost accounting should reflect all costs that could be considered a state subsidy of the mitigation price – labor, rent, health care, state retirement, salary etc.”* Said another, *“Survey the mitigation banks in the area to determine the market-based price, and then add their administrative cost to that.”*

Another cost consideration mentioned by more than one interviewee was maintenance cost. Some expressed the concern that without an accurate accounting of future maintenance,

projects would become less effective over time. Reported one interviewee, *“I have concerns about ‘least-cost’ alternatives. There are some BMPs that require considerable maintenance to keep in place. Least cost alternatives may not be effective.”*

Some interviewees expressed the importance of accurately reflecting inflation and other future costs into the fee system. Said one stakeholder, *“There is a time problem with inflation. You need to increase or automatically adjust the fee up or down periodically depending on current economic climate. Otherwise EEP will need to go back to rule making to adjust the cost every few years.”*

One stakeholder suggested using the full delivery program as the preferred method for accounting for the full cost of mitigation. Reports the stakeholder, *“Using an exclusively full deliver method makes a lot of sense and allows mitigation bankers to compete with other providers, but doesn’t make them the only game in town. So it allows competition while also spurring innovation. The advantage of full delivery is that it is true cost. Any other method is theoretical.”*

Transparent and Accountable

Many stakeholders made a point to include characteristics of transparency and accountability in their view of a desirable nutrient offset fee system. Many expressed the importance of clarity in pricing. They believe that EEP must show a clear connection between the proposed fee, the nutrient offset methods that will be used, and the commensurate cost per pound of nutrient abatement. Another mentioned the need to follow through on projects, citing a project that was initiated three years prior, but not maintained. Some expressed the need to make the fee components easy to communicate and explain. Said one stakeholder, *“Whatever price they set, it must be justified, and documented.”* Said another, *“Be transparent. Enable people to trace the money. That way stakeholders will have more confidence in how this program is being administered.”*

Equitable and Consistent

Several stakeholders stressed the importance of ensuring that whatever pricing mechanism is adopted, that communities are treated equitably across the basin. Several mentioned the terms “systematic approach”, “predictable” and “certainty” when describing a desired fee system. Others were concerned that artificial disparities could be established if the fee system is not equitable. Said one local government stakeholder, *“It should apply to everybody in the basin or nobody in the basin. DWQ needs to step forward in the legislature to make this happen.”*

Spatially Relevant

The need to tie costs to location was apparent in many of the responses we received. Many stated the importance of linking the mitigation site as close as possible to the development action requiring offsets, and that the fee should reflect this nexus. As one stakeholder put it, *“costs should reflect geographic reality.”* Hence, offset payments for projects in the upper Neuse basin may be higher than for those in the lower Neuse for example. The concept of spatial relevance also has equity implications. As one stakeholder reported, *“Is it really ok to run the pollution through the downstream system until we buy the offset? If the upper head waters are [being developed] but the cleanup is happening in Kinston or Havelock, this brings up an equity issue. Export your junk and keep your dollars. It is not just a cost of the clean up but also land loss to economic development.”*

A couple of strategies were proposed to deal with spatial differences. One was to identify potential mitigation projects within the cataloging unit (8-digit or 14-digit), and if no project is available in a particular unit, then set the price based on implementation costs in a similar, but not less expensive unit. Another suggestion was to zone each river basin and apply uniform fees within each zone.

Some local government stakeholders suggested that offset payments could be used to fund projects within the local jurisdictions that development is occurring. Said one stakeholder, *“we should be able to use the funds generated in [our town] to be used for future projects in [our town]. Although I say that, I understand how difficult that could be system-wide.”*

Short Time Horizon

Several stakeholders identified timing of implementation as an important characteristic of a pricing mechanism. In this regard, payments and projects need to be close in time. Many stated that the ideal would be that the mitigation precedes any payments. Said one stakeholder, *“Make the in-lieu programs produce the credit before engaging in the offset. Just like mitigation bankers are required to do. This makes the process transparent.”*

Cost Effective

Several stakeholders accentuated the need for any fee structure to reflect a cost-effective program. Cost effectiveness was expressed as both ‘cost conscious’ and ‘effective.’ Those expressing the need for being cost conscious were mostly concerned about keeping fees ‘reasonable.’ One method for doing so is to make the program less management dependent. Others expressed the need to ensure that the most nutrients are being abated per dollar spent, and were not so much concerned total cost. In their opinion, offset payments should fund projects that are proven to be effective.

Market Based

Several stakeholders, from both the private, for-profit sector and non-profit conservation organizations, would like to see EEP look to private markets in establishing a pricing method. Said one stakeholder, *“Get the pricing structure out of the political process. Have it be market based prices so it fluctuates with the market to take advantage of the market.”* And another,

“EEP’s ‘full delivery’ program is a good model. It drives the price down because the private sector competes to get the projects. It simplified the process. EEP knows what they are buying – they are purchasing credits.”

More than one interviewee was thinking about a potential role for EEP in a market based system. One suggestion was for EEP to develop the framework for private sale of nutrient credits, organize the trading and provide oversight.

One stakeholder talked about a system where several private firms as well as EEP provided offset credits. In such a system, a developer can *“go down the phonebook, contact mitigation banks and ask, ‘how much are you going charge?’. EEP can be on the list to call for buffers. Then the buyer can determine who he/she wants to purchase from.”*

Comprehensive Mitigation Plan

A few stakeholders discussed the idea of establishing a comprehensive mitigation plan of sorts. EEP would take the role of coordinating and overseeing that mitigation offset is performed in an area that can have the most benefit.

Other Desired Characteristics

Other characteristics of a nutrient offset payment program deemed desirable by stakeholders were ease of implantation, transparency, and flexibility. Local government stakeholders want a program that is easy to implement and explain to developers they work with. Moreover, they don’t want to be saddled with the responsibility of justifying whatever fee is set. Said one local government stakeholder, *“Whatever EEP decides to do, we need assistance in providing information to the development community. It shouldn’t be our role to explain why. Need better outreach by EEP in the affected watersheds.”*

Local government stakeholders voiced a desire for added flexibility in how the nutrient offset payment program is implemented. They see opportunities for mitigation beyond traditional EEP restoration projects. For example, according to one local government interviewee, *“EEP and a municipality can approach a project where the municipality purchases the conservation easement or some other discharge reduction scheme, rather than just having to pay money to EEP to develop the offsets. This could be a win-win for everyone. One of the problems that EEP is facing is finding places for projects within the offset needs to happen.”* Implementation flexibility was also cited as desirable by the point-source discharge interests. One stakeholder noted that there are options available for them to create their own projects and bank assets for themselves if given the flexibility to do so.

Other ideas included building incentives into the program to entice private landowner participation, banking an excess of credits to achieve actual restoration rather than maintenance of the status quo, and incorporating a factor to account for atmospheric deposition of nitrogen. Regarding offsets payments for point sources, one stakeholder brought up the idea of placing a premium on uncertainty. Because point sources know exactly how much they are discharging, their offset payments should be reduced since there is no need for any ‘fudge factor’ in calculating the offset.

Concerns about Proposed Cost-Based Method

We asked stakeholders about their concerns with EEP’s proposed actual cost method of nutrient offset pricing as recommended by RTI International in a study they conducted in 2007. About half of those we interviewed were not sufficiently informed of the proposed cost-based method to comment on it. Those who were familiar with the study had only general remarks.

Among the comments provided, one stakeholder noted that unless new practices are put into place by EEP, the proposed cost method will not provide the accountability that is needed.

Information about how and where the mitigation will occur on any given project should be provided up front, before payment is made. So although the amount is tied to a specific formula, the payment is not tied to any site or obligation.

Another questioned whether RTI's cost calculations were based on sufficient data. *"Did RTI actually review enough projects to determine the actual mitigation outcomes? Do we really know the cost of avoiding nutrient pollution? It has to be a long term study because projects don't always succeed. You need to monitor the success of the projects for several years."*

Another interviewee remarked that the focus of the proposed method *"seems to be on internal costs, which is only part of the story. The source of the loading should be paying for the restoration of these credits."* One other respondent remarked about the lack of a *"shadow cost of future maintenance to deal with future floods or other climatic events. Need to cover a failed BMP."*

Data and Information Needs

We asked stakeholders about data or information that they would like to see provided by EEP or others that would help stakeholders in a discussion on pricing methods. Everyone we interviewed had ideas about data needs. The most common data need cited by those we interviewed was a **detailed accounting of EEP nutrient offset projects to date**. Stakeholders reported that they wanted to know the following about these projects:

- The **budget** for the past few years to see how the money was being spent.
- **Description of projects** broken down by 14-digit HUC and the actual cost of their 'in the ground' projects to date. Projects should be identified by type, i.e., BMPs, buffers, etc, and procurement method – full delivery, design-bid-build.
- *How **costs differ regionally**. Whether the price is a reflection of the region from which it came, or the price of implementation in the location where the BMP is placed.*
- **Number of pounds** paid for, and the number reduced

- **Total obligation to date** – how much has been completed and how much remains
- **Maps** showing location of development projects and completed restoration projects

Other information that stakeholders requested from EEP includes:

- The **background** of how we got to where we are now. Why we are in a deficit.
- The **amount of the deficit** and plans for making up the shortfall.
- How much **land is available for restoration?**
- Provide an explanation of **how credits are estimated** and in particular the acres affected.
- **Nutrient reduction efficiencies.** Which mitigation methods work better under which conditions?
- Identify **where loading is occurring** and where future restoration projects should be located.
- **EEPs experience in setting prices in other markets** – wetlands and stream restoration.
- EEP should describe how many times they asked for a fee increase and the number of times the EMC granted them a fee increase.
- **Information about other effective in-lieu pricing programs** or otherwise successful government led pricing programs. Specifically, the EEP should highlight what they will borrow from these examples when setting the actual cost.
- Sharing a summary of work, discussions and research to date on **the technical aspects of nutrient reduction of various types of projects.** Need to understand the efficiencies of different practices. Sharing how those numbers were derived.
- **EEP should provide an in-depth explanation of its proposed cost method.** They should use all past projects as examples of how it will work, so the stakeholders can get an idea of what the “actual cost” would be if the calculations were performed today. They also need to explain how the time component is used in the pricing formula, showing how variations in this variable alter the actual cost.

Some stakeholders were also interested in information that can be provided by other stakeholders. Specific data inquiries include:

- Costs for the private mitigation bankers. How much money are they spending for each pound of nitrogen reduction?
- How do mitigation bankers determine credits?
- How will the private banking program be run?
- We don't have an appreciation for what developers pay for their offsets. It would be helpful to put into perspective for people what large developers would pay and what a municipal wastewater treatment plant would pay.

Successful Outcomes of a Stakeholder Meeting

Our last two questions were focused on the whether stakeholders would participate in a stakeholder forum to discuss EEP's proposed nutrient offset pricing program, and what they would consider to be a successful outcome for them or their organization.

Nearly all stakeholders we interviewed indicated that they, or someone from their organization, would participate in a stakeholder forum scheduled for February 4, 2009. Such a forum, to be successful for all participants, would result in:

- A rational pricing program. We need to find a way to structure the program so that the price paid in reflects the costs of the project on the ground. We need to have confidence that the mitigation program is actually reducing nutrients.
- A transparent process free politics that results in a net reduction in nutrients, protects the environment, and pays for itself.
- A formula that everyone can agree on or live with, and that would last awhile.
- A pricing program that results in a more effective program overall, a reduction in lag time, and that ensures quality projects are in place
- A rule that goes into effect that will take into account the true cost of the offset program

- A pricing scheme that is reflective of true costs that doesn't gouge the development community and pays for effective BMPs.
- A pricing scheme that deals with urban growth and does not adversely affect the rural counties
- A pricing scheme that treats communities equally in the same watershed
- Answering the key policy question – do you charge the full cost or not?
- Getting a better explanation of the things discussed here and better explanation about the current operations
- Clarity
- There is some commitment to an objective method as opposed to some 'black box' method.
- A program that results in money being spent in the same hydro unit being impacted.
- A program that would allow point-source and nonpoint source trading.
- Develop a methodology that is agreed upon for calculating the success of the different types of projects.
- Meeting EEP's September deadline.
- There is some change to way the system is run now
- That the nutrient offset program goes away and lets the developers mitigate on their own
- A greater understanding by all stakeholders about how EEP is run and gets things done.
- Something that everyone can live with.
- An agreement before the rule making process
- Some kind of proposal that all can accept in as short amount of time as possible.
- People are willing share information and try to reach agreement. That there is an effort by all parties to make this work.
- That diverse parties have the opportunity to participate. Proponents and opponents sit down at the table together.

RECOMMENDATIONS

Convene Stakeholders

Based on responses to our interviews, key stakeholders are willing and able to meet and discuss the nutrient offset payment program. We recommend that EEP follow through on its commitment to convene a group of stakeholders to discuss its proposed actual cost method and gather feedback on critical issues related to the payment program.

We recommend involving stakeholders who represent the following organizations or interests:

1. Local governments, particularly those that have experience in implementing the nutrient offset payment program. Participation should reflect various regions of the two affected river basins, urban and rural.
2. Conservation organizations that are active in water quality protection. These include the Neuse River Foundation, the Tar-Pamlico River Foundation, Environmental Defense Fund, the NC Conservation Network, and the Southern Environmental Law Center.
3. Organizations representing development interests. The key organization here is the NC Home Builders Association.
4. Firms involved in mitigation banking and developing projects for nutrient offsets.
5. State agency staff from EEP and DWQ.

Spend Time on Mutual Education

It was clear from our interviews that, although most stakeholders are generally familiar with the nutrient offset payment program, many lack information about program specifics. Moreover, many are keenly interested in understanding EEP's program activities. Across the board, those we interviewed wanted an accounting of how EEP has applied offset payments in the two basins. EEP should be prepared to present a detailed listing of nutrient offset payments, nutrient offsets (in pounds of N and P), and the type, cost, and nutrient reduction outcomes of projects undertaken. It is suggested that EEP present the results of Section 2 of

the RTI International report with updates to 2008. Stakeholders also need to become familiar with the proposed costs-based method that EEP is proposing. A presentation summarizing RTI's report would be helpful.

Focus on the Primary Purpose

The purpose of this effort is to provide stakeholders an opportunity to provide guidance to EEP in transitioning the nutrient offset payment program from a fee-based system to an actual cost method. The topics under discussion at the stakeholder meetings should be limited to the attainment of this goal. Discussion of related issues, while important, may be counter-productive to achieving this purpose. Peripheral issues that stakeholders consider to be important should be documented during the meetings and placed in a "parking lot." Time should be devoted toward the end of the meeting(s) to identify the proper venues and procedures for addressing these issues.

Consider EEP's Role in Public and Private Implementation

There are a wide range of alternative operational structures that could be developed to implement a nutrient offset trading system. The appropriate question for stakeholders to consider is what process models are the most effective model for operating North Carolina's nutrient trading bank. Stakeholders from nonprofit organizations, local government, and private firms want to see private mitigation efforts continue. To the extent that it affects decisions about the establishment of a cost-based method, EEP should engage stakeholders in a discussion of how private and public mitigation efforts can coexist most effectively. Discussion on this topic will be most productive if it centers on choices among public and private alternatives for acquiring nutrient credits, as well as EEP's role of planning, rule-making, and oversight.

Provide Key Unknowns and Decision Points

EEP staff should present the key points in their proposed actual cost method where they need feedback and information from stakeholders. For example, should the new fee contain a 'deficit premium' to recoup dollars never collected under below-cost rate structures? What should be the frequency of rate adjustments? What is the appropriate geographic basis to differentiate rates?

Strive Toward Common Understanding

An outcome of the stakeholder process should be to seek areas where consensus can be reached on specific program parameters. On issues where no consensus can be achieved, EEP should document them and present its best case to the Environmental Review Committee and the Environmental Management Commission.