
BOARD OF TRUSTEES

CLEAN WATER MANAGEMENT TRUST FUND

MINUTES OF MEETING

FRIDAY, OCTOBER 31, 2014

10:04 A.M.

**DENR GREEN SQUARE
217 WEST JONES STREET
BODIE ISLAND LIGHTHOUSE ROOM
5TH FLOOR, ROOM 5212
RALEIGH, NORTH CAROLINA**



Post Office Box 98475, Raleigh, North Carolina 27624-8475
Telephone (919) 676-1502 - Fax (919) 676-2277

A P P E A R A N C E S

CLEAN WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES:

TROY KICKLER, PH.D., CHAIRMAN

FRANK BRAGG (VIA SPEAKER PHONE)

E. GREER CAWOOD (VIA SPEAKER PHONE)

FREDERICK BEAUJEU-DUFOUR (VIA SPEAKER PHONE)

S. ROBIN HACKNEY (VIA SPEAKER PHONE)

RENEE KUMOR (VIA SPEAKER PHONE)

JOHNNY D. MARTIN (VIA SPEAKER PHONE)

WILLIAM TOOLE (VIA SPEAKER PHONE)

CHARLES VINES (VIA SPEAKER PHONE)

NORTH CAROLINA ATTORNEY GENERAL'S OFFICE:

MARY L. LUCASSE, SPECIAL DEPUTY ATTORNEY GENERAL

CLEAN WATER MANAGEMENT TRUST FUND STAFF:

BILL CROWELL, DEPUTY DIRECTOR

NANCY GUTHRIE, ACQUISITIONS PROJECT MANAGER

PENNY ADAMS, EXECUTIVE/ACQUISITION ADMINISTRATIVE ASSISTANT

HAILEY MEDLIN, EXECUTIVE/ACQUISITION ADMINISTRATIVE ASSISTANT

LARRY HORTON, P.E., INFRASTRUCTURE PROJECT MANAGER (VIA PHONE)

TERRI MURRAY, INFRASTRUCTURE ADMINISTRATIVE ASSISTANT

CLEAN WATER MANAGEMENT TRUST FUND FIELD REPRESENTATIVES:

WILL SUMMER, STEWARDSHIP AND COMMUNITY OUTREACH MANAGER,
OFFICE OF LAND AND WATER STEWARDSHIP

JIMMY JOHNSON, NORTH EASTERN FIELD REPRESENTATIVE, NORTH
CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES/APNEP (VIA SPEAKER PHONE)

JUDY FRANCIS, FIELD OFFICER, NORTH CAROLINA DEPARTMENT
OF ENVIRONMENT AND NATURAL RESOURCES, OFFICE OF
CONSERVATION AND COMMUNITY AFFAIRS (VIA SPEAKER PHONE)

ALSO PRESENT:

CRAIG BROMBY, ASSISTANT GENERAL COUNSEL, NCDENR

BETH FARRELL, NCDA & CS

ANNE-MARIE KNIGHTON, TOWN MANAGER, TOWN OF EDENTON (VIA
SPEAKER PHONE)

FRANK G. MIGLORIE, JR., EXECUTIVE DIRECTOR, EDENTON, NC
CHOWAN PARTNERSHIP (VIA SPEAKER PHONE)

EDGAR MILLER, (Makes Public Comment) (VIA SPEAKER PHONE)

KATIE MILLS, LEGAL INTERN, NCDENR

SCOTT POHLMAN, NCDENR

A G E N D A**COMMENCEMENT**

- 1) **Call to Order** - Chairman Kickler
 - a) Welcome
 - b) Roll Call
 - c) Compliance with General Statute §138A-15
General Statute §138A15 mandates that the Chair inquire as to whether any Trustee know of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.
 - d) Revisions, Additions, and Adoption of the Agenda

OLD BUSINESS

- 1) **Edenton easement amendment (CWMTF#1997B-017** - Will Summer
- 2) **Bald Head Island Coastal Reserve dedication/easement amendment (NHTF#199211101)** - Will Summer

PUBLIC COMMENTS

The Public is invited to make comments to the Board -
Chairman Kicker

ADJOURNMENT

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M I N U T E S O F M E E T I N G

CHAIRMAN KICKLER: Good morning, everyone.

As chair of the Clean Water Management Trust Fund, I would like to welcome everyone to the October 31st, 2014 Trust Fund Board meeting. The Board convenes today to deal Bald Head Woods Coastal Reserve Local Advisory Committee with two items under Old Business. I hope all Trustees have taken the time to look over the agenda packet, and had the opportunity to ask questions to the staff.

Although I am in the DENR building on Jones Street in Raleigh, and the rest are calling in via conference call, I will still request, at this time, that we turn off any cell phones, and try to do our best to ensure that there are minimal distracting noises.

I'll now take the roll of Trustees. When your name is called, please indicate your presence.

Obviously, Chair Troy Kickler is here.

Frank Bragg?

MR. BRAGG: Present.

CHAIRMAN KICKLER: Greer Cawood?

MS. CAWOOD: Present.

CHAIRMAN KICKLER: Frederick Beaujeu-

Dufour?

1 (No response.)

2 CHAIRMAN KICKLER: Fred Dufour?

3 (No response.)

4 MS. LUCASSE: You know, the record
5 should reflect that he has logged into the Internet
6 site. Perhaps we can ask him to call in as well.
7 Does somebody have his --

8 MS. ADAMS: I can go call him.

9 CHAIRMAN KICKLER: Yeah. That would be
10 good.

11 MS. LUCASSE: Because he might not
12 understand that --

13 CHAIRMAN KICKLER: Right.

14 MS. LUCASSE: -- there's no sound
15 through that.

16 CHAIRMAN KICKLER: Renee Kumor?

17 MS. KUMOR: Present.

18 CHAIRMAN KICKLER: Robin Hackney?

19 (No response.)

20 CHAIRMAN KICKLER: It's the same situation
21 here. Okay.

22 MS. LUCASSE: So we'll call her.

23 CHAIRMAN KICKLER: Robin Hackney?

24 (No response.)

25 CHAIRMAN KICKLER: Johnny Martin?

1 MR. MARTIN: Here.

2 CHAIRMAN KICKLER: William Toole?

3 MR. TOOLE: Present.

4 CHAIRMAN KICKLER: Thank you. Charles
5 Vines?

6 MR. VINES: Present.

7 (Discussion off the record.)

8 CHAIRMAN KICKLER: Okay. I'd like to take
9 this time to welcome our new Trustee, Renee Kumor, who
10 has been sworn in. And this is the first time she'll
11 be participating in the newly reconstituted Clean
12 Water Management Trust Fund Board. So I'd like to
13 take this opportunity to welcome you aboard.

14 MS. KUMOR: Thank you very much, Mr.
15 Chairman. I look forward to this interesting format.

16 CHAIRMAN KICKLER: Thank you. I look
17 forward to meeting you in person, and working with you
18 as well as we work on behalf of the people of North --
19 North Carolina. As -- I'm trying to get the other two
20 Trustees who have logged in, maybe try to get them to
21 call in as well so they can participate in the
22 deliberations.

23 I'd like to remind those who are listening
24 right now that, although most of you are calling in --
25 well, excluding me -- all of you that are calling in

1 via conference call, there is a court reporter, Amy
2 Mount, here in the room who is keeping record for the
3 meeting. So for the record, I ask Trustees to
4 identify themselves before, you know, they comment on
5 anything or make a motion, et cetera. If you forget,
6 you may be asked, at times during the meeting, to
7 state your name for the record. So as burdensome as
8 this may be sometimes, please keep this request in
9 mind so that we do not bog down the meeting with name
10 clarifications while we're deliberating.

11 I want to thank the Trustees again for
12 calling in this morning.

13 Is Robin Hackney or Fred Dufour online now?

14 MR. DUFOUR: Yes, I'm online.

15 CHAIRMAN KICKLER: Okay. Fred is online.

16 Robin, are you there?

17 MS. HACKNEY: I'm online.

18 CHAIRMAN KICKLER: Okay. All right.

19 That's fantastic. So I want to thank the Trustees for
20 taking the time to call in this morning.

21 Is there anyone else listening to our
22 meeting today? If so, could you be courteous and
23 identify yourselves at this time?

24 MR. MIGLORIE: Good morning. This is
25 Frank Miglorie. I am the executive director of the

1 Edenton Chowan Partnership.

2 CHAIRMAN KICKLER: Is there anyone else?

3 MR. MILLER: I'm Edgar Miller for the
4 Conservation Trust for North Carolina.

5 CHAIRMAN KICKLER: Who?

6 MR. MILLER: Edgar Miller.

7 CHAIRMAN KICKLER: Okay. Thank you.

8 MS. KNIGHTON: And, Mr. Chairman, good
9 morning. My name is Anne-Marie Knighton. I'm the
10 town manager for the Town of Edenton.

11 CHAIRMAN KICKLER: Anyone else?

12 MR. MORGAN: Will Morgan from the
13 Nature Conservancy.

14 CHAIRMAN KICKLER: Thank you. Anyone else
15 listening?

16 MS. FRANCIS: And this is Judy -- Judy
17 Francis, field staff in the western office.

18 MR. JOHNSON: Jimmy Johnson with the
19 field staff.

20 MR. HORTON: Larry Horton with the
21 office staff.

22 CHAIRMAN KICKLER: Anyone else?

23 (No response.)

24 CHAIRMAN KICKLER: Okay. Thank you for
25 calling in. We will continue on the agenda. Pardon

1 me.

2 The Chair is required to read verbatim
3 General Statute §138A-15 at each meeting. General
4 Statute §138A-15 mandates that the Chair inquire as to
5 whether any Trustee knows of any conflict of interest
6 or the appearance of a conflict of interest with
7 respect to matters on the agenda. If any Trustee
8 knows of a conflict of interest or the appearance of a
9 conflict of interest, please so state at this time.

10 At this time, I will say that I will recuse
11 myself from Old Business 1, which is the Edenton
12 Easement Amendment.

13 Is there anyone else?

14 MR. MARTIN: Mr. Chairman, this is
15 Johnny Martin. I will also recuse myself from Old
16 Business Item Number 1 and Number 2, just -- you know,
17 just probably being safe for the appearance of a
18 conflict of interest given the fact that we do a lot
19 of -- a lot of work along the -- along the coast, and
20 the -- we're involved with some of these types of
21 projects. Maybe not these ones specifically, but in -
22 - in ones that are close enough to where I just would
23 feel more comfortable recusing myself from both of the
24 items.

25 CHAIRMAN KICKLER: Thank you. Is there any

1 other Trustee who has a conflict or appearance of a
2 conflict of interest?

3 BOARD MEMBERS: (No response.)

4 CHAIRMAN KICKLER: Okay. As a reminder, as
5 we go along, if -- if you remember that there is one,
6 or the appearance of one, please recuse yourself
7 before we start -- before the Board starts
8 deliberating on that topic.

9 Are there any revisions or additions to the
10 agenda?

11 BOARD MEMBERS: (No response.)

12 CHAIRMAN KICKLER: Hearing none, is there a
13 motion to accept the October 31st, 2014 agenda?

14 MR. BRAGG: So moved. This is Frank
15 Bragg.

16 CHAIRMAN KICKLER: Thank you.

17 MR. VINES: Charles -- Charles Vines
18 seconds that motion.

19 CHAIRMAN KICKLER: Thank you, Mr. Vines.

20 All those in favor, say, "Aye."

21 BOARD MEMBERS: Aye.

22 CHAIRMAN KICKLER: All those opposed?

23 BOARD MEMBERS: (No response.)

24 CHAIRMAN KICKLER: Okay. The motion
25 carries.

1 MR. MARTIN: Mr. Chairman, this is
2 Johnny. Since now we're only going to be talking
3 about these two things, I'll probably just sign off,
4 unless there's going to be any other business besides
5 these two items discussed.

6 CHAIRMAN KICKLER: Not -- not that we're
7 aware of. No.

8 MR. MARTIN: Okay. All right.
9 Thanks, everyone.

10 (Mr. Martin logs off the call.)

11 CHAIRMAN KICKLER: All right. Let's move
12 on to Old Business. All right. Let's -- this is Old
13 Business 1, "Edenton Easement Amendment, Clean Water
14 Management Trust Fund 1997B-017."

15 Let the record show that I, Troy Kickler, am
16 recusing myself from deliberation today regarding Old
17 Business Item 1 for this item. I temporarily hand the
18 gavel over, so to speak, to Trustee Greer Cawood to
19 handle this part of the agenda.

20 Greer?

21 MS. CAWOOD: Thank you, Troy. Thank
22 you, other Trustees. I will ask Will to give us -- go
23 through his PowerPoint, and give us some background on
24 this issue before we start discussion.

25 MR. SUMMER: Thank you very much.

1 Well, good morning everybody. I would like to begin
2 by saying it looks like all of our Trustees are on
3 WebEx, so you will be able to follow along with what
4 I'm presenting here in the room. For anybody who is
5 not, and would still like to see, I've placed a link
6 to this presentation on our home page, right under the
7 link to the agenda. So if you'll navigate there, you
8 can grab a copy of the PowerPoint and follow along, if
9 you're not on the WebEx. With that being said, I will
10 begin discussion.

11 So the background on Old Business 1 is that,
12 in 1997, the Edenton Chowan Partnership was awarded
13 880,000 to buy a parcel of land and construct a
14 stormwater wetland on that parcel. And a conservation
15 easement was placed on the 42-acre parcel containing
16 the wetland.

17 Recently, the town has been approached by a
18 large boat manufacturer interested in locating some of
19 their facilities in Edenton to take advantage of the
20 deep water access and skilled labor, and bring an
21 estimated three to 400 jobs to the area. To that end,
22 the town and the Edenton Chowan Partnership are trying
23 to put together a competitive incentive package, which
24 would involve a portion of the parcel with the Clean
25 Water Management Trust Fund easement.

1 Their request, in simple terms, is that
2 about 21 acres of the existing easement be exchanged
3 for an easement on the adjacent 60-acre parcel
4 currently owned by the town. This is a ratio of about
5 three to one in our favor. We would retain our
6 easement on 18 of the original 42 acres, which
7 contains our stormwater wetland and the sound
8 frontage.

9 So now we're looking at a map. If you can
10 see my mouse on your screen, the areas that are blue,
11 red, and yellow on the far left represent the current
12 parcel that's under easement today. Starting from the
13 right, the areas that are in yellow are under
14 easement, but they were developed at the time the
15 easement was put on. And, you know, if we're going to
16 go to the point of amending these, I would just as
17 soon have these out of the easement. They have no --
18 no conservation value. So I, kind of, did not include
19 them in the acreage that we were considering when we
20 talk about the conservation value that we were
21 swapping.

22 The next area over, the red area, is the
23 area that would be also released from our easement in
24 exchange for the area on the far left, which is
25 approximately 60 acres, kind of in a greenish-yellow

1 color. The area right in the middle in blue is the
2 part of the original easement that we would retain
3 under this proposal. On the north section of that
4 easement is the stormwater wetland that we constructed
5 around '98 or '99. And on the southern end of that
6 parcel is about 400 feet of sound frontage, then --
7 and we'll retain that.

8 This is just a picture of some of the land
9 that would be exchanged. There was an old rail line
10 that runs through this, but this is pretty typical of
11 the vegetation. It's young, kind of, briars and
12 privets, some -- some pine and other -- other things
13 that look about like this.

14 This is another photo of that area of land
15 that would be exchanged. And this is the only water
16 on the feature. It's, basically, a drainage ditch, an
17 old drainage ditch.

18 Next, this is part of the area that would
19 remain under easement. This is the old wetland that
20 we put in well over ten years ago. It still is in
21 good shape. A lot of the trees have matured now.

22 Here's another -- another photo of our work
23 on the easement. I believe in this photo, that --
24 that black ring is actually the original planting ring
25 for this cypress, which has done very well over the

1 last few years. We would keep this area under
2 easement.

3 This is representative of the additional
4 land, the 60 acres that would be protected if the swap
5 were approved. It's mostly mature hardwoods, a little
6 more open. This is another -- another kind of typical
7 photo of the uplands there.

8 There are a few other points I'd like to
9 make. There are no recorded Natural Heritage elements
10 on -- on either side, either what we would swap or
11 what we would gain. We would roughly triple our
12 protected sound frontage with the swap. The
13 vegetation on the new tract is older hardwoods, and
14 the area we would swap is, kind of, younger pines
15 and -- and privet. And another point is both parcels
16 are subject to an FAA easement that was recorded, I
17 believe, in the '60s that limits the height of manmade
18 and natural structures. Kind of, to facilitate having
19 input in that process if and when any taller trees
20 need to be removed, proposed in the motion language
21 that would allow us to sign off on the harvest plan,
22 as well as work with the town, to use any revenue
23 generated to facilitate planning of desirable species
24 or general stewardship and improvement of the -- of
25 the property.

1 With that, I'll open it for questions and
2 discussion. The packet that you had has a --
3 obviously, a more extensive description of the
4 request. But I'll be happy to -- to answer any
5 questions, facilitate discussion. And with that,
6 I'll, kind of, put up a map to discuss the project
7 around.

8 MS. CAWOOD: Will, this is Greer Cawood.
9 And -- and I wanted to make full disclosure to
10 everyone. I am from Edenton, but I have no business
11 or interaction with the town or this economic
12 development group, just so everybody knows that to
13 begin with. And as chair of the Administrative
14 Committee, can you tell us if this project does, in
15 fact, fit within the protocol that we have for
16 easement revision?

17 MR. SUMMER: Certainly. And if you don't
18 mind, I will pull up that easement revision now while
19 we're talking. So what you should be looking at on
20 the screen is the protocol.

21 We will scroll down to the "Other
22 Circumstances." These are the circumstances under
23 which this -- these -- these are the criteria, in
24 short, this easement must meet: "Public or community
25 benefit." That -- that's really for the Board to

1 decide relevant -- relevant to the -- the town and
2 Chowan County, and the benefit that that manufacturing
3 facility would provide.

4 "Significant impacts to surface water
5 quality, natural heritage elements, or historic and
6 cultural resources." Because the area of conservation
7 easement we are giving up has no really riparian areas
8 or water frontage, I think it -- I think you can say
9 that certainly the net benefit to conservation is much
10 higher protecting the 60 acres that has water frontage
11 and has -- has streams as opposed to the 22, 23 that
12 we would be giving up. I mean, certainly on those 23
13 acres, when you build a -- a manufacturing facility,
14 that specific acre will be impacted. There's no --
15 there's no way around that. But I think the net
16 benefit to conservation is clear.

17 "Alternatives analysis and minivation
18 [sic] -- minimization of impact," I think we -- we
19 have spent -- I have spent a lot of time, in the last
20 month, meeting with the Town of Edenton, looking at
21 several properties they had to offer, and -- and
22 looking at the options that they have before them, and
23 tried to -- to help them put together a package that
24 protected all of what we have interest in -- the
25 waterfront property, the wetland that we've invested

1 money in -- and -- and bring together what -- what I
2 think is the best proposal for -- for conservation
3 values that -- that we can have given the
4 circumstances. So, that -- that sums the discussion
5 on protocol from my end.

6 MS. CAWOOD: Thank you, Will.

7 MR. SUMMER: Uh-huh (yes).

8 MS. CAWOOD: Any questions for -- from
9 other -- this is Greer Cawood again. Any questions
10 Trustees might have for Will?

11 MR. TOOLE: This is Bill Toole. Do I
12 see, in the green proposed parcel, a fair amount of
13 water features? I can't work a pointer, I don't
14 think. But yeah, if you run your pointer up --

15 MR. SUMMER: (Complies and moves pointer.)
16 So there's --

17 MR. TOOLE: -- north? No, no, no. On
18 the -- yes, exactly that.

19 MR. SUMMER: Yes.

20 MR. TOOLE: Are those water features?

21 MR. SUMMER: They are. They are. So our
22 wetland drains through here (indicating) to this
23 (indicating). This is some other -- I believe there
24 may have been some restoration done on the town owned
25 property. It was a '97 project, and I -- I'm not

1 entirely sure, but I think that was all part of the
2 original -- their original efforts. So yes, there are
3 water features running all through this -- this
4 section right here (indicating).

5 MS. CAWOOD: Any other questions?

6 MR. BRAGG: Madam Chairman, this is Frank
7 Bragg. I would like to address the bigger question,
8 which is -- more and more of these kind of requests
9 are going to come into Clean Water and the request
10 basically is that we undo a permanent conservation
11 easement on a parcel of land. And more and more we
12 will have requests like this. I think it -- it's --
13 it's going to set a precedent not unlike the
14 mitigation bank for wetlands. A developer destroys
15 one wetland, and goes and restores one somewhere else.
16 The question is the integrity of a permanent
17 conservation easement as outlined by the federal
18 government, and by the State of North Carolina.

19 So, I think, we need to be extremely
20 cautious with any decision that we get close to
21 making. And, for one, I would like to not make that
22 decision today. I had rather that we get together at
23 our next meeting, face-to-face, and work on this a
24 little bit more rather than make a decision today.

25 The problem is we will always have

1 situations to arise that look like it's a better
2 conservation project, good conservation values for
3 maybe more land. But the fact that we're undoing one
4 is setting a precedent. Now, we've been very cautious
5 about this in the past. And I cannot remember the
6 project that we had in June of this year that we voted
7 not to rescind the easement. I -- can somebody help
8 me with it?

9 Will, you may remember what there was. But
10 I want us to be cautious.

11 MS. CAWOOD: Will, can you speak to
12 Trustee Bragg as to -- I can't recall exactly what
13 project that was in June either.

14 MR. SUMMER: I'm conferring with Nancy.
15 She believes that was Caldwell County. But we --

16 MS. GUTHRIE: There was amendments to that
17 easement with some mitigation --

18 MR. SUMMER: Yeah. I --

19 MS. GUTHRIE: -- in additional properties.

20 MR. SUMMER: -- I think with the case of
21 Caldwell County, we did allow access for water wells,
22 and -- and in that, got another -- was it 15 acres?

23 MS. GUTHRIE: Yes.

24 MR. SUMMER: -- an additional 15 acres
25 added to us. So I don't think we gave up land, per

1 se. We gave up some -- some rights, or gave some
2 rights back to the landowner in that easement.

3 MR. BRAGG: I don't believe that was
4 the case. I'm familiar with that one. This is one I
5 remember when Markham -- Trustee Markham and I came
6 down together there, hard and fast, that approve
7 sending of some acreage. And I cannot remember.
8 Let's don't get hung up on that.

9 MR. SUMMER: Okay.

10 MR. BRAGG: I will go back to the big
11 picture of us making a major change in undoing an
12 easement even though we gain. It's difficult for me
13 to say that we want to tamper with permanent
14 conservation easements. So I would like --
15 personally, I would like for us to wait to postpone a
16 decision until we meet next time.

17 MS. CAWOOD: Any other comments?

18 Trustee Bragg -- and one thing -- as you
19 might know, at our last two meetings, the
20 Administrative Committee had brought up easement
21 revisions. And we have been looking at our protocols
22 that relates to easement revisions. And based on
23 Trustee input, we have -- had been working on this.
24 So this is something that, I think, had already gained
25 a lot of attention through Administrative Committee,

1 and working to make sure we get it exactly right.
2 Because exactly to your point, this is something that
3 we need to be extremely careful about as it relates to
4 permanent easements.

5 I personally feel comfortable with this one
6 because the small amount of land that we're giving up,
7 we're getting much better land, and it's almost three
8 times the amount of the land. So for this one -- and
9 I share your concerns for something permanent is
10 permanent. But I have more comfort with this based
11 on -- on the land that we are gaining in the swap,
12 which is why with the easement protocol, we do have
13 the possibility for a land swap.

14 I would love to hear from others, like, what
15 their feeling is.

16 MR. DUFOUR: This is Fred Dufour. I have
17 no problem with voting on this project today. I agree
18 with you. If you look at the new area that we're
19 getting, it's a lot more interesting than keeping that
20 red area. On the right side, you've got the highway
21 and two lots that seem to be able to be built on in
22 the future. On the waterfront, you've got already
23 some kind of a manufacturing facility. And on the top
24 end, you've already got some development there. So, I
25 mean, for me, I don't see any reason to keep that

1 tract of land when what we're getting is much better
2 than what we're giving up. So, I have no problem with
3 this consideration.

4 My only concern -- I have two -- is there's
5 some type of a ditch or water thing going through the
6 red tract, and I would like to know what's going to be
7 done to that. I mean, are they going to be putting
8 some tile and filling that with dirt on top of it? I
9 mean, what's going to be done to that water stream or
10 ditch or -- I don't know what that is, but obviously
11 it's some water. And the other thing as this plant is
12 going to get bigger -- and I hope they're going to get
13 bigger -- they won't have any room to -- to increase
14 their facilities. And I want to make sure that, in
15 the future, we won't -- the town will not end up with
16 a plant that may be leaving, because they don't have
17 enough space to expand.

18 MS. CAWOOD: Will, can you -- this is
19 Greer Cawood.

20 MR. SUMMER: Uh-huh (yes).

21 MS CAWOOD: Can you tell us what you know
22 about those two issues?

23 MR. SUMMER: Certainly. On the first
24 one, if you're looking at the WebEx, what Mr. Dufour
25 is talking about is this area right here (indicating).

1 And that -- that is -- that is the ditch that drains
2 in this direction (indicating) towards our wetland
3 (indicating). I presume that will have to be
4 relocated or tiled, as Mr. Dufour said, to -- in order
5 to put anything on that property.

6 On the second issue, I believe this -- this
7 parcel, as well as others in the area, would be
8 sufficient for -- you know, speaking on behalf of the
9 town, sufficient for their needs, you know, that --
10 they were the ones that, kind of, laid out the
11 parameters of what they were looking for -- the
12 sizes -- in terms of -- of acres.

13 MS. CAWOOD: Thank you, Will. This is
14 Greer again. Any other Trustee input?

15 MR. VINES: Greer, this is Chuck Vines.
16 I concur with your comments and Mr. Dufour's comments,
17 also. I understand we have representation from --
18 from the town -- from the town there. Could they
19 explain a little bit about -- once this factory comes
20 in, is there sufficient land within this red spot here
21 (indicating) for expansion if they would -- if they
22 want to expand in the near future?

23 MS. CAWOOD: Mayor [sic] Knighton, if you
24 could speak to that, I'm guessing?

25 MS. KNIGHTON: This is Anne-Marie Knighton.

1 I'm the town manager. Can -- can you hear me?

2 MS. LUCASSE: Yeah.

3 MS. CAWOOD: Yes.

4 MS. KNIGHTON: Okay. Thank you, Trustee
5 members and Madam Chair. The client that has narrowed
6 down a search for this facility originally looked at
7 over seven sites, and they identified two sites for
8 final review. They were looking -- they told us they
9 were interested in a 10- to 12-acre parcel. And the
10 parcel that we're respectfully requesting release of
11 the easement is, approximately, 20 acres. And the
12 question is an excellent question. You know, will
13 there be enough land for future expansion? And we --
14 we certainly believe that would be addressed
15 adequately with the configuration of this site.

16 MS. CAWOOD: Thank you very much.

17 This is Trustee Cawood again. And I want to
18 just extend it out to more questions from any Trustee.

19 MR. KUMOR: Yes, ma'am. This is Renee
20 Kumor. I wondered what -- since this is -- this
21 project has not been confirmed by the proposed
22 developer, what will be the outcome should we make
23 this approved [sic] -- approval of this request? Will
24 the land then stay available as a piece of Edenton's
25 economic development proposed footprint?

1 MS. CAWOOD: Will -- this is Greer Cawood
2 again. Will, you -- do you have the answer to that,
3 or do we need to ask the town?

4 MR. SUMMER: Well, as -- as proposed,
5 the -- this, you know, proposal, if approved, would go
6 through, and the land would -- would have the easement
7 removed off of those -- those 20 acres. And if this
8 fell through, the town would still have the right to
9 use it as they -- as they saw fit.

10 MS. KUMOR: So it reverts -- this is
11 Renee Kumor again.

12 MR. SUMMER: Yes, ma'am.

13 MS. KUMOR: -- so that the title of the
14 property reverts -- will be reverting to the town at
15 this point?

16 MR. SUMMER: Well, I say "the town." I
17 mean the Edenton Chowan Partnership is the fee title
18 owner --

19 MS. KUMOR: Okay.

20 MR. SUMMER: -- of that land.

21 MS. KUMOR: All right.

22 MR. SUMMER: They -- they would just own
23 the land without easement restrictions on those 20
24 acres if it were to go through as proposed. Yes,
25 ma'am.

1 MS. KUMOR: Okay. Thank you.

2 MS. LUCASSE: Madam Chair, this is Mary
3 Lucasse. I was going to ask if Will or General
4 Counsel, who's here, wants to explain how the process
5 goes in terms of titled. It would need to go to the
6 Counsel of State, as I understand it?

7 MR. BROMBY: That is correct.

8 MS. LUCASSE: And that might address part
9 of your question as well, Commissioner [sic] Kumor.
10 Is there more --

11 MR. BROMBY: Commissioner [sic] Kumor,
12 this is Craig Bromby, Assistant General Counsel with
13 DENR. The process of actually conveying the title
14 rests with Counsel of State. So once that happens,
15 that -- that transaction is complete. But, of course,
16 the counsels, they could reject it.

17 MS. KUMOR: My concern was -- and this
18 Renee Kumor again. My concern was our approval of
19 whether or not the current prospective industry
20 settled there this piece of land would stay in play as
21 potential economic development. It would not revert
22 to any kind of conservation easement?

23 MR. BROMBY: Once the Counsel of State --
24 this is Craig Bromby again. Once the Counsel of State
25 acts and -- and title is conveyed, that is correct.

1 That -- that land is titled to the partnership, and
2 they can dispose of it as they see fit.

3 MS. KUMOR: Thank you. That was just a
4 question that I had.

5 MR. BROMBY: Uh-huh (yes).

6 MS. CAWOOD: This is Trustee Cawood again.
7 I think that was a very good point, and thank you for
8 making -- making that clear to everyone.

9 Any additional questions or comments?

10 MR. TOOLE: This is Trustee Toole.
11 Greer, when is -- when do you expect that the
12 Administrative Committee will have concluded its
13 thinking about the circumstances under which permanent
14 easements should be no longer permanent?

15 MS. CAWOOD: Great question. This is
16 Greer Cawood again. We are hoping to meet in
17 November. We have a couple of items from the last
18 Board meeting that were sent to our committee. And as
19 all Trustees, except for our new Trustee, would know,
20 the Administrative Committee is looking through all
21 the policies that Clean Water Management Trust Fund
22 has had, picking the ones that are most timely, first,
23 to address, and then moving through and, of course,
24 bringing those to the Board and getting some good
25 input from Board -- all of the Board members as we

1 move through that process. So our hope is to have
2 another meeting in November to discuss but -- from,
3 you know, the discussions, and I'll look at that.

4 MR. TOOLE: Well, the reason I asked the
5 question is I -- this is Bill Toole again. I am
6 uneasy -- this is a great project. It looks -- you
7 know, it's got lots of bells and whistles to it. But
8 the underlying question of when is a permanent
9 easement no longer permanent is an important one. And
10 I fear ad hoc decisions -- I think this is Trustee
11 Bragg's concern too -- without guidance. I, you know,
12 assume there's no -- without guidance, then it's too
13 easy to start changing the hard work of prior Boards
14 without careful thought. And I -- so I just share
15 that concern.

16 MS. CAWOOD: Certainly. This is Greer
17 Cawood again. One thing -- and maybe -- Nancy, I'm
18 not sure if it's you or Will should answer this. But
19 as it relates to our "Protocol for Easement Revision,"
20 Section II-3(b), which is the part that we're talking
21 about, that is not an area that -- which this fits
22 into and does -- does work, probably. That has not
23 changed. Am I correct?

24 Our committee has not made changes to II-
25 3(b)?

1 MR. SUMMER: II-3(b) -- I'm sorry.

2 MS. CAWOOD: So it -- so we're -- we're
3 staying with what former Boards had put forth.

4 MR. SUMMER: This --

5 MS. CAWOOD: Is that correct?

6 MR. SUMMER: Well, this one -- at the last
7 Board meeting, this particular area -- the area of
8 land swap and specific ratio -- was one of the
9 specific issues that the Board voted to take another
10 look at. So, in the interim, that actual ratio of
11 three to one is not applicable. Now, we happen to be
12 meeting it. Just in working with the town, it was
13 something that I and the town thought was a good idea.
14 But it's not -- that part of the requirement is not in
15 effect at the moment.

16 MR. BRAGG: Trustee Cawood, this is Frank
17 Bragg. I would like to make another statement about
18 the big picture of what we might be doing here.
19 Picking up on what Trustee Toole said, if we -- and I
20 have no argument with the Town of Edenton that this is
21 a good deal for us and the Town of Edenton if you
22 would swap. But the precedent -- the big picture look
23 at what's happening here -- when the word gets out
24 that all you have to do to rescind a permanent
25 conservation easement is find some other properties

1 and talk them into doing it. I'm not talking about
2 this project. I'm talking about the big picture where
3 permanent easements are no longer permanent if you can
4 come up with a piece of land that Clean Water will
5 accept. I think that's a dangerous road to go down, a
6 slippery slope that can get us in trouble. We've been
7 cautious for that.

8 I like very much the fact that we can
9 tweak very small parcels for road adjustments and
10 things that impact our easements as a result of
11 imminent domain, for example. But this is a much
12 different animal, and I think we need to be extremely
13 cautious.

14 MS. CAWOOD: Thank you, Trustee Bragg.

15 I guess I didn't ask the question very well,
16 Will, of you. Have -- to Trustee Bragg's question,
17 hasn't this been a part of Clean Water Management
18 Trust Fund for a number of years, that this has -- the
19 land swap item -- option has existed?

20 MR. SUMMER: Yes, ma'am. In fact, it was
21 first passed by the last Board in June of 2013. And
22 we brought it to the current Board in February, where
23 it was considered, and there was an additional
24 limitations made on the area at which staff could make
25 a change. And then we considered it again in June,

1 and finally passed this version accepting this -- the
2 area and comment down here. So, yes, this -- this --
3 this protocol is part of one that was -- is
4 essentially the same as the one that was passed in
5 June of 2013 with minor revisions made in the last few
6 meetings. But yes, the land swap part has been there
7 since the first version.

8 MR. TOOLE: This is Trustee Toole. Will
9 or anyone with institutional memory, how common has it
10 been for the Fund to swap out parcels that reflect
11 half or more of the original easement?

12 MR. SUMMER: Not -- not terribly common.
13 You know, the -- since this has been in place, there
14 have been numerous, kind of, small half-acre areas
15 shaved with DOT projects. In fact, there must be some
16 -- some federal monies that got released in the recent
17 past, because I've seen a lot of those, you know, .02
18 acres here and .04 acres here for a bridge, for
19 utilities. But with respect to these other
20 circumstances where the Board is weighing some public
21 benefit in exchange for a swap, I believe this would
22 be the -- the third one like this.

23 We did one similar last Board meeting, but
24 it was -- it was really exchanging an easement for a
25 Natural Heritage dedication. So it was, kind of, a

1 like-for-like swap. So we were just taking one
2 protection off and putting a new one on.

3 But -- but cases like this, there have been
4 two others in the last year. One was with the Town of
5 Apex, and they swapped what I -- in round numbers --
6 would say was half an acre for about an acre and a
7 half that was stream side to our benefit. And another
8 one was in Orange County, the county park, Hollow Rock
9 Access Area where we swapped an upland area that had a
10 house and a septic field and some other -- other
11 improvements for some, again, stream-side land that
12 had a three to one. So it's not been too common that
13 we've had these cases.

14 MR. TOOLE: This is Toole again. So
15 would that be fair to say that this is -- the scale of
16 this one is unique?

17 MR. SUMMER: In terms of releasing a
18 portion of the easement, yes. We've done some large
19 ones. There was a Bear Gardens one done. But again
20 that was removing of an easement and placing of a
21 Natural Heritage dedication. So, again, that was more
22 of a like-for-like trade of protection instruments.
23 And this is an actual, you know, removal of some fee
24 acres that will no longer be encumbered with any --
25 any sort of protection in that area.

1 MR. TOOLE: Yeah. This is -- I find this
2 a very complicated question. I -- because the project
3 is fabulous, and I know this is -- Edenton wants this
4 badly. And yet the scale of it is a challenge for me.

5 Greer, is -- will the policy be considering
6 guidance on those -- these kinds of projects where
7 there is a -- I don't know -- I'll make it up -- more
8 than a quarter of the easement is being evaluated?

9 MS. CAWOOD: That is not something --
10 this is Greer Cawood. That is not something that has
11 been brought up in our discussions that I can remember
12 thus far. Charles might be able to speak to that.
13 But that is something that, I think, is worthy to be
14 part of the discussion. And I'll remind all Trustees,
15 which -- which we know well, is we have the guidelines
16 and the protocol, but -- which -- which we are
17 carefully writing everything through the
18 Administrative Committee we can. But as we know as
19 Trustees, if we feel like the project is worthy, and
20 is worth an exception, which this isn't, but if we --
21 we still have the right to approve a project that
22 looks really great, even if it is not strictly within
23 our guidelines.

24 Although as Administrative Committee chair,
25 I'd like for us to stay within those as much as

1 possible so we don't do what Trustee Bragg has
2 thought, and just, kind of, open the floodgate,
3 because that is not -- not the intention, by any
4 means, of the Administrative Committee. So I would
5 ask that we just look at this project on its merits
6 knowing that it does currently fall within the
7 guidelines of those in Administrative Committee. But,
8 you know, that is something we are continuing to look
9 at as a committee. But this project, I think,
10 deserves to look -- be looked at for what Clean Water
11 Management is gaining with its conservation value.

12 MR. VINES: Charles Vines. Greer, I
13 concur -- concur with your comments there. I also
14 concur that the Board of Trustees has the opportunity
15 to revisit and re-look at any -- any individual
16 request that may be on the borderline as to the
17 responsibilities and requirements. But I think this
18 is a good property.

19 I also agree with Mr. -- Mr. Bragg and them,
20 too, that this is a larger scale than anything that
21 we've looked at in the past. But I think in this --
22 this instance here, I think this is a huge economic
23 boost for the -- for the town, for the Edenton area.
24 I'd like to be a little bit more -- I guess my point
25 of knowing that this project would go forward if we --

1 if we made this swap. But we are swapping for quite a
2 bit more land than the land that we're giving up,
3 and -- from what I look at on the -- on the map there.

4 The other thing I would like to know -- I
5 know that piece of property -- when the -- when the
6 Counsel of State makes their decision, it's firm, and
7 at that point then they can do what they want to with
8 it. But I would hope that the economic development
9 commission or the partnership, whichever one, would
10 keep -- if that -- if this project didn't go through,
11 would keep this land viable for a -- for a plan of
12 some type that's going to create jobs and not open
13 this up for the development of homes.

14 MS. CAWOOD: Thank you, Mr. Vines.

15 This is Greer Cawood again. I now ask
16 for -- is there someone who will ask for a motion to
17 approve these easement changes?

18 MR. VINES: This is Charles Vines. I'll
19 make that motion.

20 MS. CAWOOD: Do we have a second?

21 MR. DUFOUR: I second.

22 MS. CAWOOD: And according to --

23 MR. DUFOUR: This is Fred Dufour. I'm
24 sorry. This is Fred Dufour.

25 MS. CAWOOD: Thank you, Fred. And we

1 will need to -- to verbally question each Trustee.

2 Will, can you put the agenda up, since I
3 want to make sure I catch every Trustee that we get to
4 vote?

5 MR. SUMMER: Certainly. Do you need this
6 Board action up as well, or do you have that in front
7 of you? Let me --

8 MS. CAWOOD: Um.

9 MR. SUMMER: -- let me get the -- I can go
10 right -- how about this (indicating)?

11 MS. CAWOOD: Wonderful. So we will call a
12 roll call vote.

13 Frank Bragg?

14 MR. BRAGG: No.

15 MR. VINES: Greer?

16 MS. CAWOOD: Yes.

17 MR. VINES: Before we do this -- this is
18 Charles Vines. Before we do that, do we need to state
19 the -- the motion based off of what he just had on the
20 screen, or will that confirm that, by me, making a
21 motion that we do this --

22 MS. LUCASSE: Let's just --

23 MR. VINES: -- using that -- the
24 criteria?

25 MS. LUCASSE: Greer, this is Mary Lucasse.

1 I think it would be a good idea to state the motion
2 for the record. And Will has just put it back up on
3 this -- on the screen.

4 MR. VINES: Okay. Greer, this is Charles
5 Vines again. I will read that off.

6 MS. CAWOOD: Wonderful.

7 MR. VINES: I, Charles Vines, make a
8 motion to adopt, amend, or reject the proposal for
9 the --

10 MS. LUCASSE: No. Excuse me, Mr. Vines.
11 You need to pick one of those three things.

12 MR. VINES: Right. Okay. I'll make
13 a motion that we allow the change of the properties,
14 giving them the properties that they want in exchange
15 for the additional properties that they're going to
16 give to the foundation -- or to the committee.

17 MS. LUCASSE: So -- and this is Mary
18 Lucasse -- just to confirm, you've made a motion to
19 adopt the proposal to allow the Edenton Chowan
20 Partnership to exchange an approximately 23-acre
21 portion of the parcel currently under easement for an
22 easement on an approximately 60-acre parcel owned by
23 the Town of Edenton. The new easement language will
24 include a provision for allowance of timber management
25 activities to occur when necessary to comply with FAA

1 regulations for then [sic] -- for their existing
2 easement. And these activities will be approved by
3 the Clean Water Management Trust Fund staff, and any
4 revenue generated will be directed for replanting and
5 improvement of the conservation values of the easement
6 area.

7 Is that the motion that you were making, Mr.
8 Vines?

9 MR. VINES: Charles Vines. I make that
10 motion.

11 MS. LUCASSE: Thank you, sir.

12 MS. CAWOOD: And we have Fred's second, so
13 I'll go through the roll call to get that again.

14 Frank Bragg?

15 MR. BRAGG: Frank Bragg votes no.

16 MS. CAWOOD: Greer Cawood. I vote yes.

17 Fred Dufour?

18 MR. DUFOUR: I vote yes.

19 MS. CAWOOD: Renee Kumor?

20 MS. KUMOR: I vote yes.

21 MS. CAWOOD: Robin Hackney?

22 MS. HACKNEY: I vote yes.

23 MS. CAWOOD: Bill Toole?

24 MR. TOOLE: I'll vote no.

25 MS. CAWOOD: Charles Vines?

1 MR. VINES: I vote yes.

2 MS. CAWOOD: And it is approved.

3 And I want to thank all Trustees for their
4 very thoughtfulness in looking at this. And having
5 this discussion, I think, will help our Administrative
6 Committee as we look at the protocol. So I really
7 want to thank everyone for their input.

8 And, at this time, I would like to turn the
9 time back to Chairman Kickler for our next item.

10 CHAIRMAN KICKLER: Thank you, Greer. Thank
11 you for handling Old Business 1.

12 Let's move on to Old Business 2, Bald Head
13 Island Coastal Reserve Dedication/Easement Amendment
14 NHTF #199211101.

15 Before we move on, I also want to thank the
16 Board for the robust discussion that we just -- that
17 the Board just had.

18 Moving on to Old Business Item Number 2, I
19 believe Will Summer has another presentation for us.

20 MR. SUMMER: Thank you. Now that
21 we've got the simple one out of the way, I'll begin
22 the discussion. So the background on this project --
23 in 1992 the Division of Coastal Management was awarded
24 325,000 to assist with the purchase of 191 acres on
25 Bald Head Island. The land was dedicated under the

1 Nature Preserves Act with the exception of a narrow
2 50-foot wide strip that runs down the middle of the
3 preserve. This was retained in fee by the original
4 land owner, Bald Head Island Limited, for a
5 potential [sic] -- potential future drinking well
6 development.

7 And so this map shows the preserve boundary,
8 and this existing well field as it -- as it sits
9 today. So the preserve is outlined in purple, and
10 this green area (indicating) is a 50-foot wide
11 exclusion that runs nearly three-quarters of a mile
12 down the middle of the island that the fee simple
13 owner of that land -- who also owns the land
14 immediately to the west -- has retained the right with
15 conditions to -- to put drinking water wells in this
16 area.

17 So as I said, there is an easement on the
18 well area that specifies that Bald Head Island Limited
19 cannot install wells once county water is supplied to
20 the island. However, Bald Head Island Limited
21 maintains that the water line that is supplied to the
22 island is undersized and unreliable, and does not meet
23 the intended purpose of the easement language. Thus,
24 there appears to be a reasonable argument around their
25 ability to exercise the right to establish wells on

1 this strip. And it's just an important piece of
2 background.

3 So the Division of Coastal Management has
4 received a proposal from Bald Head Island Limited and
5 the Village of Bald Head, and is requesting that that
6 50-foot wide strip is exchanged for a narrower 20-foot
7 wide strip which would be near the developed area.
8 And this area would be offset from the edge of the --
9 the property by 100 feet, which is essentially the
10 well protection area, and why -- why they wanted that
11 specification. And through which the state would
12 grant access to that narrow strip for well
13 establishment and infrastructure.

14 And so this is a map zoomed in on the
15 western end of that island. It's not depicted on this
16 map, but the old -- the existing strip, kind of, runs
17 right down this way (indicating). And what they are
18 proposing is, kind of, outlined in this rust-colored
19 line. So it's a narrower strip that runs 100 feet off
20 the -- the property line where this is, essentially, a
21 developable area out here (indicating).

22 This map was created by Natural Heritage
23 staff who went out and essentially walked this end of
24 the island to take a look, make note of where all
25 the -- all the Natural Heritage element occurrences

1 were, and -- and things that need to be avoided when
2 they install -- install the wells.

3 And, you know, to be clear, they -- they
4 don't want to use this entire strip. They want to
5 find discrete places spaced out throughout this strip
6 to put their well heads, because the well heads have
7 to be, you know, 200 feet apart from one another to
8 encompass their well protection areas. So they've --
9 they're not saying they want to impact all this. They
10 want to set this area aside and place impacts
11 throughout this area, which I'll discuss more
12 restrictions on in a moment.

13 So the new easement that would be placed
14 over this well field, the new well field that they're
15 proposing would not contain the provision that
16 prevents establishment due to county water being
17 available. It does require Bald Head Island to
18 implement a monitoring plan and operate the wells in a
19 manner to protect the biological integrity of the
20 preserve. And that monitoring plan was one of the
21 many attachments that you would find in your -- or a
22 draft of that monitoring plan was one of the many
23 attachments you'll find in your agenda item for
24 this -- this issue.

25 The easement would also require that the

1 wells be the last on and the first off as needed. And
2 when they are pulled off, they would be properly
3 closed and sealed.

4 The land under dedication that would be
5 swapped is, roughly, three to one. That long narrow
6 50-foot strip is about four and a half acres, and I
7 believe the most recent survey of the 20-foot wide
8 strip that they are proposing to swap is, roughly, 1.4
9 acres. Natural Heritage Program and Division of
10 Coastal Management staff have visited the site several
11 times to survey the sensitive areas, and are confident
12 that the terms of the easement will allow them to
13 assure a minimal impact on the preserve, and also
14 the -- you know, as you remember from the map, that
15 one long strip bisecting the whole -- the whole
16 preserve, if that were to be developed, would not be
17 optimal to open the canopy for such a long area going
18 the whole length of the -- of the preserve.

19 In order to comply with the requirements and
20 the dedication articles, a public hearing was held on
21 October 29th. And to date, as of close of business
22 yesterday, one comment has been received. Dr. Gene
23 Douglas, who's a resident of Bald Head Island and Bald
24 Head Woods Coastal Reserve Local Advisory Committee
25 member made the following comment: "It seems to me

1 that the new location included in the proposal will
2 present less potential impact to the forest due to a
3 smaller total area that will be included. It seems
4 like a net gain in ecological terms."

5 And, once again, I'm just going to show the
6 map of what it looks like today. The preserve with
7 this long narrow strip is where they would choose to
8 exercise their right to put wells in today. And then
9 the next map is going to focus just on this west end
10 where they would propose to exchange that in order --
11 in exchange for this area. Again, this -- this would
12 have a conservation easement placed on it that
13 requires a monitoring plan to guide the operation of
14 those wells. And the other caveat is this area in
15 between the property line and where they would put the
16 new wells -- this set-back area I'll refer to it as --
17 we will -- the state will grant them access across
18 this set-back area to install and put infrastructure
19 in their wells. But that will be done with -- with
20 input from Division of Coastal Management and Natural
21 Heritage Program staff.

22 With that, I'll take any questions on this
23 issue. Thank you.

24 (Discussion off the record.)

25 MR. SUMMER: Bill Crowell did want me

1 to make one other recommendation [sic]. This -- or
2 one other point: This project, though it is a
3 dedication, follows a very similar process to our
4 Conservation Easement Amendment in that it goes to
5 Counsel of State ultimately for approval so that they
6 -- they're different protection instruments, but they
7 really follow the same -- the same pathway of
8 approval.

9 CHAIRMAN KICKLER: Are there any questions
10 for Will?

11 MR. VINES: Will, let's go back to
12 the previous slide a moment. This is Charles Vines.

13 MR. SUMMER: Yes, sir.

14 MR. VINES: The red and black line
15 here, is that the 20-foot strip?

16 MR. SUMMER: Yes, sir. That's the
17 20-foot strip.

18 MR. VINES: Well, the set-back, will
19 it be from the edge of that line going, say, north,
20 and where we're looking at the -- at the drawing here?

21 MR. SUMMER: Yeah. Yes, sir. The
22 set-back is -- so this purple line is the boundary
23 between the reserve and lands currently owned by Bald
24 Head Limited. And there's, basically, 100 foot set-
25 back to where they will -- will survey out and own

1 this tiny strip in fee.

2 MR. VINES: Okay. My question is for a
3 well to be -- to be drilled, you've got to have at
4 least a 100-foot square area from the well head north,
5 south, east and west.

6 MR. SUMMER: Yes, sir.

7 MR. VINES: Where is the -- where is
8 the -- where is the set-back for the lower half? And
9 I'm assuming these little yellow dots are wells, or
10 proposed wells?

11 MR. SUMMER: No. The yellow dots are --
12 Scott, are those --

13 MR. VINES: Are those proposed wells, or
14 is that just --

15 MR. SUMMER: I'm asking the gentleman who
16 was involved in the map.

17 MR. POHLMAN: This map came from the
18 Division of Coastal Management.

19 MR. SUMMER: Oh.

20 MR. POHLMAN: I'm not sure what these
21 yellow dots are.

22 MR. SUMMER: I gotcha.

23 MR. POHLMAN: They might be potential well
24 sites.

25 MR. CROWELL: No, they're --

1 MR. SUMMER: They're too close.

2 MS. GUTHRIE: They're --

3 MR. CROWELL: They're plants.

4 MR. POHLMAN: Yeah. That --

5 COURT REPORTER: Okay. Wait a minute.

6 Wait a minute. Everybody's talking over each other,

7 and people on the speaker do not know who's speaking.

8 So could you please identify who spoke first?

9 MR. SUMMER: Okay.

10 COURT REPORTER: Thank you, Will.

11 MR. SUMMER: Scott Pohlman just made

12 the point that this map was actually provided by the

13 Division of Coastal Management. But it does look

14 like those are plants. I know that they're definitely

15 not wells.

16 MR. VINES: Okay.

17 MR. SUMMER: But to your other --

18 MR. VINES: If they did drill wells,

19 they want to drill them between --

20 (Sirens sounding next to meeting location.)

21 COURT REPORTER: I can't hear him.

22 Sorry. Sorry. Please tell him to wait.

23 CHAIRMAN KICKLER: Hey, Charles?

24 MR. VINES: Yes, sir.

25 CHAIRMAN KICKLER: Charles, I'm sorry to

1 interrupt you, but --

2 COURT REPORTER: I'm so sorry.

3 CHAIRMAN KICKLER: -- can I ask you to
4 start over with your question. The reason I'm asking
5 is because there are fire trucks, ambulances, or --
6 driving through downtown Raleigh right now, and making
7 piercing sounds.

8 MR. VINES: That will be fine. I'll
9 just -- I'll hold until they clear.

10 CHAIRMAN KICKLER: I think -- okay. You're
11 ready to go now. All right. Thank you.

12 MR. VINES: Charles Vines again. If
13 these are not well heads, then I'm going to assume
14 that somewhere between the upper red line and the
15 purple line going above there, that the wells would
16 have -- would have to be located somewhere within --
17 whether you could, at least, have 100-foot square
18 around the well head?

19 MR. SUMMER: That's correct. The
20 well heads will actually be located in the middle of
21 this red line on the map. And what that gives
22 them -- because they are 100 foot set-back off the --
23 the developable property line, and the other side is
24 essentially protected by the dedication, they're just
25 going to space them out along the line so that they're

1 not too close to one another. But they'll -- they
2 will already, by virtue of being 100 feet from
3 anything but nature preserve, be -- be protected.

4 MR. VINES: Okay. As long as -- as long
5 as everybody -- we -- we know that there has to be
6 100-foot square around the well head all the way down.
7 So, actually, the -- if we build it in the -- in this
8 purple area -- depending on the location we build it
9 in -- there's still going to have to be areas to be
10 fenced off on that well if it's going to fall into
11 this bottled area here, the preserve, I guess, that is
12 here.

13 MR. SUMMER: Well --

14 MR. VINES: As long as we have -- as long
15 as that's understandable.

16 MR. SUMMER: Yes, sir. It's my
17 understanding, from talking with the folks as they
18 develop it, they will put the well on the brown line,
19 but there won't -- there won't need to be any
20 fencing --

21 MR. VINES: Right.

22 MR. SUMMER: -- or any impact in that
23 100-foot circle. They'll just be, kind of, an
24 imaginary line on a map of where they won't have any
25 impacts.

1 MR. VINES: Okay. As long as the
2 well head is protected all the way around it.

3 MR. SUMMER: Yes, sir. And they've
4 accounted for that in their surveys.

5 MR. VINES: Okay. Thank you.

6 CHAIRMAN KICKLER: Any other questions for
7 Will?

8 MR. TOOLE: This is Bill Toole.
9 Bill. The management plan, who is going to enforce
10 that? Who's going to make sure that Bald Head
11 utilities followed it?

12 MR. SUMMER: That's an interesting
13 question. I will -- I will address it, and then
14 perhaps if Craig Bromby needs to add, I may request
15 that he be allowed to follow up. But the -- the new
16 easement that's going to be placed on this will have,
17 as an attachment, this monitoring plan, and we'll have
18 in the easement the condition that -- that they
19 implement and follow this monitoring plan.

20 MR. TOOLE: And then just to follow
21 up -- Toole again -- plans always need to be modified
22 for lots of good reasons. What would then be the
23 mechanism to allow that plan to be modified? Would it
24 have to come back up to the Board -- to the Trust Fund
25 Board of Trustees, or how -- what's the thinking

1 there?

2 MR. SUMMER: I believe there's an advisory
3 committee specified in the plan that would be
4 responsible for that. I mean, obviously, you know, if
5 this has to be modified 50 years from now, that may
6 not be terribly useful. Can I defer to Craig to
7 answer this?

8 MR. BROMBY: Yeah. This is Craig Bromby.
9 The monitoring plan would not -- I don't believe would
10 be a matter for the -- for the Counsel of State. I
11 believe it would be a matter for the water supply
12 protection folks who regulate the use of wells, and
13 for the Division of Coastal Management with their --
14 their -- in accordance with their authority within the
15 coastal reserve. And there are provisions in there,
16 if problems are noted, that acts [sic] -- certain
17 actions will be taken. But I certainly concur that,
18 you know, if -- if an enforcement action would have to
19 be taken, that, you know, we'd be -- we'd be on -- on
20 brand new ground with that.

21 MR. VINES: A follow-up. This is
22 Charles Vines. You know, the Division of Water
23 Quality would have to -- they would -- they would be
24 the one that would monitor when those well heads are
25 being encroached on when they do their annual reviews.

1 CHAIRMAN KICKLER: Any other questions for
2 Will?

3 BOARD MEMBERS: (No response.)

4 CHAIRMAN KICKLER: Hearing none, is
5 there -- is there -- is there a motion to adopt a
6 proposal to exchange the fee interest in the existing
7 well field area for a smaller area currently owned by
8 the State, and dedicated under the Nature Preserves
9 Act. The new well field area will be subject to an
10 easement that will allow well placement under certain
11 conditions agreed upon to by the Department. The
12 existing dedication will also be amended to allow
13 access through the 100 -- the 100-foot offset area
14 between the developed area and the new well field per
15 restrictions of a second easement that will be granted
16 by the State for access of infrastructure associated
17 with the well. Is there a motion to adopt this --
18 this Board action?

19 MR. TOOLE: This is Toole. Yes, I
20 make that motion.

21 CHAIRMAN KICKLER: Is there a second?

22 MR. BRAGG: Second. Bragg.

23 CHAIRMAN KICKLER: Okay. Thank you. I
24 will go through the -- I will take a roll call vote.

25 MR. VINES: Charles Vines. Can I

1 make a comment, please?

2 MS. LUCASSE: You can have
3 discussion --

4 CHAIRMAN KICKLER: We can have discussion,
5 yes. A comment.

6 MR. VINES: In the -- in the motion,
7 about eight or nine lines -- about seven or eight
8 lines down it says, "Agreed upon by the Department."
9 Can we define "the Department" in there? I know
10 that's going to be a department of DENR, but would we
11 want to define it to, I mean, Division of Water
12 Quality or -- or whoever is going to be subject to
13 those -- even to allow placements of wells in certain
14 conditions and areas. I think we need to specify the
15 department there, even if it's just -- even if we just
16 say the Department of Environment and Natural
17 Resources, that would go -- I'd -- the word
18 "Department" could -- to me, is a little -- could be
19 misleading as to what department is going to make that
20 decision.

21 MR. TOOLE: This is Bill Toole. I
22 will make the suggested amendment with a friendly
23 amendment [*sic*] -- second, I hope, from Mr. Bragg that
24 "the Department" is defined as the Department of
25 Environment and Natural Resources or its successor.

1 MR. BRAGG: Bragg agrees.

2 MR. VINES: Charles Vines. Thank
3 y'all.

4 CHAIRMAN KICKLER: Any further discussion
5 regarding the amendment?

6 BOARD MEMBERS: (No response.)

7 CHAIRMAN KICKLER: All those in favor of
8 the -- of the the motion -- well, no. I have to go
9 through a roll call, because -- okay.

10 As amended, I will ask for a roll call for
11 those to cast a vote on the Board action needed as
12 amended here in the meeting today, October 31st. It
13 is the -- here we go.

14 Frank Bragg?

15 MR. BRAGG: Bragg, yes.

16 CHAIRMAN KICKLER: Greer Cawood?

17 MS. CAWOOD: Cawood, yes.

18 CHAIRMAN KICKLER: Fred Dufour?

19 MR. DUFOUR: Yes.

20 CHAIRMAN KICKLER: Renee Kumor?

21 MS. KUMOR: Kumor, yes.

22 CHAIRMAN KICKLER: Robin Hackney?

23 MS. HACKNEY: Yes.

24 CHAIRMAN KICKLER: Bill Toole, William
25 Toole?

1 MR. TOOLE: Yes. Bill Toole is
2 fine.

3 CHAIRMAN KICKLER: Charles Vines?

4 MR. VINES: Vines, yes.

5 CHAIRMAN KICKLER: And Troy Kickler. I
6 vote yes as well.

7 The motion carries by a unanimous vote.

8 Now is the time for public comments. The
9 public is invited to make comments to the Board.
10 Please remember that each person is allowed three
11 minutes -- is allowed a maximum of three minutes. I
12 will be keeping time. As rude as it may seem, if the
13 person is still speaking at the three-minute mark, I
14 will interrupt and stop him or her.

15 Is there anyone -- let me start here. Is
16 there anyone here in the room who would like to make a
17 comment; anyone up in the room who'd like to make a
18 comment?

19 BOARD MEMBERS: (No response.)

20 CHAIRMAN KICKLER: Is there anyone on the
21 phone who would like to make a comment?

22 MR. MILLER: This is Edgar Miller
23 with the Conservation Trust of North Carolina.

24 CHAIRMAN KICKLER: Yes, sir.

25 MR. MILLER: You know, the land trust

1 community has been following what the Board has been
2 working on in terms of the easement amendment process.
3 We recognize that easements do have to be amended from
4 time to time for a variety of reasons, and we
5 appreciate the work that the Board and staff has done
6 in that. We have looked at some of the other
7 amendments that have been adopted in the past, and
8 have not really had any serious concerns with those.

9 We learned about the Edenton-Chowan proposal
10 late last week. We've been trying to scramble to
11 understand what it might mean for land trust to use
12 conservation easement as our primary tool to help
13 landowners protect their land for the future. So, in
14 addition to the concern about the size of this
15 particular exchange and the amount of land coming out
16 from under easement, we were also concerned about the
17 fact that this is, I believe, the first time the Board
18 has approved an easement amendment for the purpose of
19 economic development projects. And I think that
20 raises the larger question of how we are defining
21 public and community benefits. And I hope going
22 forward that the Administration Committee will take a
23 close look at that. Because as Commissioner Bragg
24 noted, this is something that we will likely see a
25 great deal more of coming down the pike, and I'm

1 hoping that it raises that question of what the public
2 benefit involvement is here.

3 Also, we were a little concerned about the
4 expedited process of this amendment. We received
5 notice, as I said, last Friday. And the letter from
6 the partnership was dated October 21st. And here we
7 are ten days later hearing the amendment of
8 significant policy implications. And I think we need
9 a little more time to understand and address some of
10 the questions that have been raised.

11 And then lastly, I think we just don't have
12 enough information about the manufacturer or what
13 other economic development projects might go into this
14 area. And without that information, it's really hard
15 for us to understand the environmental impact of that
16 project on conservation values, and the integrity of
17 the easement, which did prohibit, or does prohibit
18 industrial and commercial development.

19 Thank you.

20 CHAIRMAN KICKLER: All right. Thank you.

21 Is there anyone else on the phone who would
22 like to make a comment, a public comment?

23 (No response.)

24 CHAIRMAN KICKLER: Hearing none, I'll move
25 on.

1 The next item -- today is -- as we move
2 toward adjournment, today is Penny Adams' last day on
3 the -- here at Clean -- Clean Water. I mean, this was
4 announced earlier, but I wanted to remind everybody of
5 that, the Trustees of that. And I wanted to take this
6 opportunity to thank Penny for the work that she has
7 done at Clean Water while I've been on Clean Water
8 Trust Fund Board as the chair. And it's been a
9 pleasure getting to know you and meet -- meeting you.
10 And I wanted to open it up to any other Trustees who
11 wanted to say anything.

12 MR. BRAGG: This is Trustee Bragg.
13 Penny, we wish you well. You've done a great job. I
14 can't imagine having successful meetings without you,
15 but I'm sure we'll be able to find someone. But we do
16 wish you very well. Thank you.

17 MS. ADAMS: Thank you.

18 MS. CAWOOD: Trustee Cawood --

19 MR. VINES: Charles Vines.

20 MS. CAWOOD: -- and I just expand what
21 Frank Bragg eloquently said. And thank you so much,
22 Penny, for everything.

23 MS. ADAMS: Thank you.

24 MR. VINES: Charles Vines. Penny, thank
25 you so much. Your efforts have never gone unnoticed

1 in all the work that you've done. And I wish you luck
2 in the future in whatever endeavors that you're about
3 to -- to embark on. And -- but again, thank you so
4 much.

5 MS. KUMOR: This is Renee Kumor.
6 Penny, I am sorry I didn't get to see you before your
7 retirement. I will miss you, and good luck.

8 MS. ADAMS: Thank you.

9 MR. DUFOUR: And this is Fred Dufour.
10 Penny, I wish you the best of luck in your -- in your
11 endeavor.

12 MS. ADAMS: Thank you.

13 MS. HACKNEY: Penny, this is Robin
14 Hackney. I enjoyed getting to know you, and I wish
15 you all the best in -- in your next phase of life.

16 MS. ADAMS: Thank you for the
17 support that you all have given me. And it has been
18 an absolute pleasure working with each of you. It
19 really has. And I'm just still thrilled at the
20 decisions and the work that Clean Water does. Even
21 though it's expanded to other, I think it's still a
22 great, great group.

23 CHAIRMAN KICKLER: Thank you. Penny, I
24 wanted to turn a little bit of time over to Bill,
25 because he has an introduction of a new staff member.

1 MR. CROWELL: Yeah, Scott. Good
2 morning. I do want to also note that, from a staff
3 perspective, that Penny will be severely missed. And
4 on a personal note, too, I'll be missing her as well.
5 But I also want to welcome Hailey Medlin to the staff.
6 Penny has been hard training her into all the things
7 that have to be done in our big bureaucracy. But
8 Hailey is, I believe, very much up to the job, and I'm
9 very much looking forward to working with her, and
10 look forward to all of you meeting her as we go about
11 business for Clean Water Management Trust Fund.

12 MS. MEDLIN: Thank you.

13 CHAIRMAN KICKLER: Thank you, Bill.

14 Is there any more discussion or any more
15 comments from -- from the Board?

16 MR. VINES: Charles Vines. I'd just
17 like to welcome Renee. Renee, we're glad to have you
18 on the Board. Thanks for coming back.

19 MS. KUMOR: Thank you very much.

20 CHAIRMAN KICKLER: Any other comments?

21 BOARD MEMBERS: (No response.)

22 CHAIRMAN KICKLER: Is there a motion to
23 adjourn?

24 MR. BRAGG: So moved. This is
25 Bragg.

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CHAIRMAN KICKLER: Okay. Is there a second?

MS. CAWOOD: Second. Cawood.

CHAIRMAN KICKLER: Thank you. All those in favor, say, "Aye."

BOARD MEMBERS: Aye.

CHAIRMAN KICKLER: All those opposed?

BOARD MEMBERS: (No response.)

CHAIRMAN KICKLER: The motion is carried unanimously. We are adjourned.

(The meeting concluded at 11:15 a.m.)

