

AGENDA
Clean Water Management Trust Fund Board of Trustees Meeting
November 15, 2018, 2:30 P.M.
William G. Ross Conference Center
121 W. Jones Street, Raleigh, NC 27603
Nature Research Center, 4th Floor Conference Room

Board of Trustees:
Greer Cawood (Chair), Frederick Beaujeu-Dufour, Judith Kennedy, Renee Kumor,
William Toole, Charles Vines, Jason Walsler, John Wilson, David Womack

COMMENCEMENT

- 1) **Call to Order (Chair)**
 - a) Welcome
 - b) Swearing in ceremony
 - c) Roll Call
 - d) Compliance with General Statute § 138A-15
General Statute § 138A-15 mandates that the Chair inquire as to whether any Trustee knows 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.
 - e) Please Put Cell Phones on Vibrate or Turn Off
 - f) Revisions, Additions, and Adoption of the Agenda

- 2) **Consent Agenda (Chair)**
 - a) Approval of Minutes from the June 2018 Board Meeting
 - b) Request to extend the date to enter into a construction contract for existing grant

- 3) **Chief Deputy Secretary's Update – Reid Wilson**

- 4) **Legal Update – Hank Fordham**

- 5) **Executive Director's Update – Walter Clark**

PUBLIC COMMENTS

The public is invited to make comments to the Board – Chair (*Three Minutes per Person*)

BUSINESS

- 1) **Consideration of Acquisition Committee recommendations (Chair)**
- 2) **Consideration of Restoration, Innovative Stormwater, and Planning Committee recommendations (Chair)**
- 3) **NCSU request for tuition as part of labor costs – Steve Bevington, Terri Murray**
- 4) **Report on use of Stewardship Funds – Marissa Hartzler**
- 5) **Orange County Water and Sewer Authority, Easement Amendment Request – (1997A-085, 2001A-025) – Marissa Hartzler**

ADJOURNMENT

Report of Acquisition Committee held November 14, 2018

The Acquisition Committee met on November 14th and makes the following recommendations:

1. 2016-059 NC WRC re-contract. Contract expired during staff transition at NC Wildlife Resources Commission.

The Committee recommends re-contracting 2016-059 NC Wildlife Resources Commission, Buck Rub.

2. 2015-068 SALT re-contract. The letter requesting an extension arrived after the contract expiration date. Much of the due diligence has been completed and expectations have been set with the landowner.

The Committee recommends re-contracting 2015-058 Sandhills Area Land Trust, Glendon Carthage.

3. 2016-024 Currituck County amend contract scope of work

The Committee recommends accepting the proposed change in 2016-024 Currituck County, Flyway Tract to allow Currituck County to transfer the "Flyway Tract" to the US Fish and Wildlife Service with a reversionary clause in the deed, in lieu of restrictive covenants as originally contracted.

4. Donated Minigrant Allocation

The Committee recommends up to \$294,000, which is 2% of the Acquisition Committee's initial funding allocation, be available for donated minigrant projects to be funded between November 2018 and Sept 2019.

2018-061	TCF - Deep R	\$840,000
2018-010	CC - DuPont Connector, Green R HW NA	\$858,900
2018-023	FCNC - Bobs Cr Wilderness Ph 2	\$1,200,000
2018-039	MCT - Simp Gap, Cheoah Bald	\$604,831
2018-075	TRLC - Hunter Tr, Dickens Cr (military)	\$137,908
2018-016	CTNC - Florence Boyd Tr, Boone Fk	\$150,977
2018-069	TNC - Connell & Crutchfield, Ft Bragg SHGL Gap (military)	\$413,367
2018-003	BRC - Shore Tr, Middle Fork GW	\$53,196
2018-038	MCT - Shut-In Cr, Plott Balsam Range	\$577,685
2018-060	TCF - Blackrock Cr, Plott Balsam Range	\$1,021,600
2018-030	LTCNC - Bennett Pr, Suggs Cr UT	\$351,916
2018-020	DU - Hubbard-Pinkerton, North R	\$1,200,000
2018-014	CC - Transfiguration Phase II, HNG	\$97,232
2018-002	BRC - Paddy Mountain Preserve Trs	\$304,122
2018-034	LTCNC - Redwine Farms, Yadkin R	\$759,201
2018-037	MCT - Cartoogechaye Cr GW Extension	\$156,141
2018-025	FCNC - Paddy's Cr, OVNHT	\$154,685
2018-059	SALT - Rogers, Drowning Cr	\$221,748
2018-044	NCCLT - Duck Cr Wetlands	\$259,350
2018-048	NCDPR - Ivy Creek Tr, South Mtn SP	\$370,000
2018-027	Jonesville - Sloop-Nabors Tr, Yadkin R GW	\$450,000
2018-008	CC - Camp Buc, Thompson R HW	\$252,014
2018-015	CLC - Saint James Preserve, Forney Cr	\$555,800
2018-055	SAHC - Greene Cr, Yellow Mtn SNA	\$521,848
2018-033	LTCNC - Deeck Pr, Mtn Cr	\$98,100

2018-074	TRLC - Hosley Tr, Shocco Cr	\$314,754
2018-070	TNC - Evans and K&W, Black R	\$215,452

Consent

Staff member: Steve Bevington

Agenda Item: Consent 2b) – Request to extend the date to enter into a construction contract for existing Restoration Program Grants.

Background: CWMTF wastewater, stormwater, and restoration construction projects approved after January 1, 2006 are subject to NCGS §113A-254 requiring grant recipients to enter into a construction contract for the project within one year after grant award. The statute states that the award is withdrawn unless the CWMTF Board of Trustees finds that the applicant has good cause for failing to meet this requirement. The statute further states that, if the Trustees find good cause for the failure, they then must set a date by which the grant recipient must take action or forfeit the grant.

The following grant recipients have submitted information, which follows this cover sheet, summarizing the reasons for their delay in entering into a construction contract and have proposed a new date for doing so.

Grant Recipient	Project Number & Name	Current Construction Contract Deadline	<i>Proposed</i> Construction Contract Deadline
2017-1001	Airlie Gardens	9/13/18	6/30/19
2017-1007	NC Arboretum	9/13/18	6/30/19
2017-1009	Sound Rivers	9/13/18	11/30/18
2017-402	Mecklenburg County – Long Creek	9/13/18	9/13/19
2017-406	McDowell County Soil & Water Conservation District	9/13/18	9/13/19

Board action needed: Motion to adopt, amend, or reject the request to extend the date to enter a construction contract as shown in the table above.

Attachment: Grant recipients' request and rationale for a time extension.

2017-1001. Disruptions because of Hurricane Florence have forced Airlie Gardens to postpone work on their CWMTF grant. The Gardens suffered significant damage from the storm but is begging to recover and will soon begin work on this ISW project.

CWMTF Agreement Change Request

Grant Recipient ID / Description	1000125512 - AIRLIE GARDENS FOUNDATION		
Billing Address	300 AIRLIE ROAD WILMINGTON, NC 28403		
Project Description	2000027893 - 2017-1001 Airlie Gardens, Historic Garde		
Program ID/Description	2017_INNOVATIVE SW	Budget Revision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Agreement Number	2000027893	Project Number	2017-1001
Agreement Period From	07/18/2018	Agreement Period To	11/30/2020
Submitted by	Janine Powell	Submitted Date	10/25/2018

	Current	Proposed Revision	Proposed Revision
Grant contract date to enter into a construction contract (if applicable)	09/18/2018	06/30/2019	Revise Agreement Expiration Date

Reason for change
 Airlie Gardens suffered significant damage from Hurricane Florence. We are requesting an extension since the original contract deadline was shortly after the hurricane passed and we were still in emergency operations. We have completed the bid process for the contract and anticipate that we will have a signed contract in place well before the June extension date. The gardens have been closed to the public since Hurricane Florence and we anticipate re-opening to the public in November and returning to normal operations at that time. The extension gives us time to focus on clean up. We did experience significant flooding during the hurricane and it is even more clear to us that addressing stormwater runoff is a top priority for Airlie Gardens.

Codes	Funds	CWMTF Funds				Matching Funds						
		CWMTF Funds Budget	Approved Payments	Change	Revised CWMTF Budget	Balance	Matching Funds Budget	Approved Spending	Change	Revised Matching Funds	Balance	
D014	D014 - Admnl. Expense											
D015	D015 - Admnl. Expense											
D016	D016 - Admnl. Expense											
D020	D020 - Design and Permitting						\$32,500.00			\$32,500.00		\$32,500.00
D021	D021 - Construction	\$215,000.00			\$215,000.00	\$215,000.00	\$70,000.00			\$70,000.00		\$70,000.00
D022	D022 - Construction Contingency	\$35,000.00			\$35,000.00	\$35,000.00						
D023	D023 - Construction Admin/Observation											
D025	D025 - Monitor/Collect/Eval Data; Report						\$8,500.00			\$8,500.00		\$8,500.00
D026	D026 - Information Dissemination						\$2,500.00			\$2,500.00		\$2,500.00
D027	D027 - Legal Fees and Closing Costs											
D045	D045 - Easement Prep & Recordation											

2017-1007. UNC Board of Governors must review this project before the construction contract is approved. This item was on that Board's agenda but the meeting was postponed due to Hurricane Florence. The matter will be taken up in November.

CWMTF Agreement Change Request

Grant Recipient ID / Description	1000125614 - NORTH CAROLINA ARBORETUM SOCIETY		
Billing Address	100 FREDRICK LAW OLMSTED WAY ASHEVILLE, NC 28805		
Project Description	2000025104 - 2017-1007 NC Arb, NC Arboretum SW WL		
Program ID/Description	2017_INNOVATIVE SW	Budget Revision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Agreement Number	2000025104	Project Number	2017-1007
Agreement Period From	02/19/2018	Agreement Period To	01/31/2020
Submitted by	George Ivey	Submitted Date	09/12/2018

	Current	Proposed Revision	Proposed Revision
Grant contract date to enter into a construction contract (if applicable)	9/13/2018	06/30/2019	Revise Agreement Expiration Date none

Reason for change
 We have completed the project design work, and secured all construction permits for this project and put the initial construction phase out for bid. The bids came in below budget, but higher than \$300,000. Construction projects costing more than \$300,000 require review and approval by the UNC System Board of Governors, since the Arboretum is an affiliate of the UNC System. The UNC System Board of Governors has canceled its September meeting due to Hurricane Florence. They will not be able to review and approve the project until November 9, 2018, at the earliest, which is well after the 9/13/2018 construction contract deadline. We are therefore asking that the construction contract deadline be extended to June 30, 2019, to allow for UNC System Board of Governors review and approvals.

Codes	Funds	CWMTF Funds				Matching Funds						
		CWMTF Funds Budget	Approved Payments	Change	Revised CWMTF Budget	Balance	Matching Funds Budget	Approved Spending	Change	Revised Matching Funds	Balance	
D014	D014 - Admnl. Expense											
D015	D015 - Admnl. Expense											
D016	D016 - Admnl. Expense											
D020	D020 - Design and Permitting						\$75,000.00			\$75,000.00		\$75,000.00
D021	D021 - Construction	\$103,000.00			\$103,000.00	\$103,000.00	\$103,000.00			\$103,000.00		\$103,000.00
D022	D022 - Construction Contingency	\$15,500.00			\$15,500.00	\$15,500.00	\$15,500.00			\$15,500.00		\$15,500.00
D023	D023 - Construction Admin/Observation						\$10,000.00			\$10,000.00		\$10,000.00
D025	D025 - Monitor/Collect/Eval Data; Report						\$2,500.00			\$2,500.00		\$2,500.00
D026	D026 - Information Dissemination						\$2,500.00			\$2,500.00		\$2,500.00
D027	D027 - Legal Fees and Closing Costs											
D045	D045 - Easement Prep & Recordation											

2017-1009. Disruptions because of Hurricane Florence have forced Sound Rivers to temporarily delay work on their CWMTF grant.

CWMTF Agreement Change Request

Grant Recipient ID / Description	1000126354 - SOUND RIVERS INC		
Billing Address	PO Box 1854 WASHINGTON, NC 27889		
Project Description	2000025037 - 2017-1009 Sound Rivers, Jaycee Park Fore		
Program ID/Description	2017_INNOVATIVE SW	Budget Revision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Agreement Number	2000025037	Project Number	2017-1009
Agreement Period From	01/25/2018	Agreement Period To	07/31/2020
Submitted by	Matthew Butler	Submitted Date	10/09/2016

Grant contract date to enter into a construction contract (if applicable)	Current Sep 13, 2018	Proposed Revision Nov 30, 2018	Revised Agreement Expiration Date	Proposed Revision
---	-------------------------	-----------------------------------	-----------------------------------	-------------------

Reason for change
Complications due to Hurricane Florence.

Codes	Funds	CWMTF Funds				Matching Funds					
		CWMTF Funds Budget	Approved Payments	Change	Revised CWMTF Budget	Balance	Matching Funds Budget	Approved Spending	Change	Revised Matching Funds	Balance
D014	D014 - Admnl. Expense	\$1,200.00			\$1,200.00	\$1,200.00	\$1,800.00			\$1,800.00	\$1,800.00
D016	D016 - Admnl. Expense	\$200.00	\$33.95		\$200.00	\$166.66	\$300.00	\$50.04		\$300.00	\$249.96
D016	D016 - Admnl. Expense										
D020	D020 - Design and Permitting	\$11,405.00	\$2,629.11		\$11,405.00	\$8,876.89	\$38,481.00	\$4,002.58		\$38,481.00	\$29,478.47
D021	D021 - Construction	\$26,515.00			\$26,515.00	\$26,515.00	\$39,773.00			\$39,773.00	\$39,773.00
D022	D022 - Construction Contingency	\$3,978.00			\$3,978.00	\$3,978.00	\$5,965.00			\$5,965.00	\$5,965.00
D023	D023 - Construction Admin/Observation	\$1,940.00			\$1,940.00	\$1,940.00	\$2,911.00			\$2,911.00	\$2,911.00
D025	D025 - Monitor/Collect/Eval Data; Report	\$11,495.00	\$6,423.01		\$11,495.00	\$5,071.99	\$50,994.00	\$9,834.62		\$50,994.00	\$41,308.48
D026	D026 - Information Dissemination	\$2,770.00			\$2,770.00	\$2,770.00	\$4,155.00			\$4,155.00	\$4,155.00
D027	D027 - Legal Fees and Closing Costs										
D046	D046 - Easement Prep & Recordation										
Totals		\$59,503.00	\$8,985.47		\$59,503.00	\$50,517.53	\$139,379.00	\$13,687.09		\$139,379.00	\$125,691.91

(Attachments continued below)

2017-402. Mecklenburg County's contract negotiations with CWMTF were delayed as the county secured conservation easements for the project. While many applicants sign restoration contracts before securing easements, Mecklenburg County preferred to wait to sign the contract until all preliminary details were complete. However, this approach means that with their signed contract only in hand this month they did not have a sufficiently large window to meet the construction contract deadline. All other portions of this project are on schedule.

CWMTF Agreement Change Request

Grant Recipient ID / Description	1000114188 - MECKLENBURG COUNTY LUESA		
Billing Address	600 EAST 4TH STREET CHARLOTTE, NC 28202		
Project Description	2000028358 - 2017-402 Mecklenburg LUESA, Long Creek,		
Program ID/Description	2017_RESTORATION	Budget Revision	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Agreement Number	2000028358	Project Number	2017-402
Agreement Period From	12/01/2018	Agreement Period To	08/31/2022
Submitted by	Teresa Murray	Submitted Date	10/18/2018

	Current	Proposed Revision		Proposed Revision
Grant contract date to enter into a construction contract (if applicable):	9-13-18	9-13-19	Revise Agreement Expiration Date	

Reason for change
See attached for explanation for extension.

Codes	Funds	CWMTF Funds				Matching Funds					
		CWMTF Funds Budget	Approved Payments	Change	Revised CWMTF Budget	Balance	Matching Funds Budget	Approved Spending	Change	Revised Matching Funds	Balance
D014	D014 - Admnl. Expense										
D015	D015 - Admnl. Expense										
D016	D016 - Admnl. Expense										
D041	D041 - Design and Permitting						\$330,000.00			\$330,000.00	\$330,000.00
D042	D042 - Permitting										
D043	D043 - Value of Easements to be donated										
D044	D044 - Property or Easement Acquisition										
D045	D045 - Easement Prep & Recordation										
D046	D046 - Construction	\$400,000.00			\$400,000.00	\$400,000.00	\$881,000.00			\$881,000.00	\$881,000.00
D047	D047 - Construction Admin/Observation										
D048	D048 - Construction Contingency						\$65,000.00			\$65,000.00	\$65,000.00
D049	D049 - Project Administration						\$20,000.00			\$20,000.00	\$20,000.00

(Attachments continued below)

2017-406. The McDowell County contract with CWMTF was not executed until January 8, 2018 and then progress was delayed due to staff changes and then as CWMTF considered McDowell County’s change request to move portions of match from the construction line item to design (<10% of line item to be moved). With no exact construction budget total, McDowell County could not enter into a construction contract for the project until this month with CWMTF’s recent approval of the change request. All other portions of this project are acceptable and on schedule.

CWMTF Agreement Change Request

Grant Recipient ID / Description	1000004527 - MCDOWELL COUNTY SOIL & WATER CONSERVATION DISTRICT		
Billing Address	CONSERVATION DISTRICT 25 S GARDEN MARION, NC 28752		
Project Description	2000024728 - 2017-406 McDowell SW, Limekin Creek		
Program ID/Description	2017_RESTORATION	Budget Revision	<input checked="" type="radio"/> Yes <input type="radio"/> No
Agreement Number	2000024728	Project Number	2017-406
Agreement Period From	01/08/2018	Agreement Period To	11/30/2019
Submitted by	Jessica Hocz	Submitted Date	08/31/2018

	Current	Proposed Revision	Proposed Revision
Grant contract date to enter into a construction contract (if applicable)	Sep 13, 2018	Sep 13, 2019	Revise Agreement Expiration Date Nov 30, 2020

Reason for change
Due to staff changes.

Codes	Funds	CWMTF Funds				Matching Funds					
		CWMTF Funds Budget	Approved Payments	Change	Revised CWMTF Budget	Balance	Matching Funds Budget	Approved Spending	Change	Revised Matching Funds	Balance
D014	D014 - Admnl. Expense										
D015	D015 - Admnl. Expense										
D016	D016 - Admnl. Expense										
D041	D041 - Design and Permitting						\$25,000.00		\$13,000.00	\$38,000.00	\$38,000.00
D042	D042 - Permitting						\$1,500.00			\$1,500.00	\$1,500.00
D043	D043 - Value of Easements to be donated						\$4,512.00			\$4,512.00	\$4,512.00
D044	D044 - Property or Easement Acquisition										
D045	D045 - Easement Prep & Recordation										
D046	D046 - Construction	\$222,500.00			\$222,500.00	\$222,500.00	\$62,203.00		\$-28,000.00	\$34,203.00	\$34,203.00
D047	D047 - Construction Admin/Observation						\$6,000.00		\$15,000.00	\$21,000.00	\$21,000.00
D048	D048 - Construction Contingency										

Information Item**Staff member: Steve Bevington**

Agenda Item 3 - Tuition as part of Labor costs for Innovative Stormwater Program Projects**Background information**

This item is returning to the Board for further discussion after a first consideration during the CWMTF meeting of June 5, 2018. At that meeting the Board considered the Restoration Program's recommendation (see below) but requested further information. Staff has collected answers to question raised by Trustees at the June 5th meeting and will provide further information. Specifically, staff will present details on what benefits students would receive (payment, credit etc.) and present an example of what invoices CWMTF might receive from some Innovative Stormwater Projects should such tuition payments be allowed.

In his original request of February 19, 2018, Dr. William Hunt of NCSU requested that CWMTF consider allowing tuition costs to graduate students to be considered as part of labor costs for Innovative Stormwater projects. CWMTF has no policy on tuition payments but has a practice of not reimbursing applicants for tuition costs. The Restoration Committee invited Dr. Hunt to present his request to the committee on April 27, 2018. Dr. Hunt's arguments can be summarized as:

- 1) Graduate student's involvement in Innovative Stormwater projects are an efficient way to conduct and complete study design, data collection and analyses.
- 2) Attractive qualified students to participate requires an attractive compensation package including the waving of tuition fees.
- 3) Current CWMTF practice does not allow NCSU to be reimbursed for the full cost of employing graduate students on CWMTF projects.

(Slides from Dr. Hunt's presentation are attached below.)

Staff findings about the request include:

- No rules prevent CWMTF from allowing tuition payment to be considered as part of labor costs
- NCDOT and NCDEQ do pay tuition to NCSU as part of some active contracts.
- CWMTF presently pays NCSU graduate students between \$11 and \$14 per hour on ISW projects
- Including tuition fee costs into NCSU graduate pay rates would increase hourly costs by approximately 25%
- Total cost to program likely less than \$60,000 per year spread over several projects
- Graduate student involvement in Innovative Stormwater projects has been important to the successful completion of projects with strong study designs and robust results

Committee Recommendation

On May 29, 2018, the Restoration Committee approved of Dr. Hunts request and voted to put to the CWMTF Board of trustees the following motion:

“For Innovative Stormwater Projects where a graduate student at an accredited educational institution has been identified as the principal employee responsible for study design, monitoring and analyses, tuition fees included in the compensation packet to the student, may be reimbursed to the college or university as a portion of project labor costs. Tuition costs shall not exceed 38% for any individual’s total labor costs and shall not exceed \$15,000 annually for any Innovative Stormwater Project. Reimbursement of any such tuition costs as part of labor costs shall be made at a proportional rate within CWMTF approved hours for work on the project.”

Board Recommendation

On June 5, 2018 the Board approved the Committee Recommendation pending staff investigation of questions related to the total benefit packages being offered students (including tuition) and further clarity on the form of possible reimbursement requests.

Action Required

none

Attachment: Dr. Hunt’s Presentation to the Restoration Committee of May 21, 2018

Information Item**Staff member: Marissa Hartzler**

Agenda Item 4) Report on use of Stewardship Funds**Background:**

Per Board policy (STW-002), miscellaneous stewardship management expenses on State-held conservation easement properties that fall outside of the timeline of the stewardship management award process can be reimbursed with Executive Director approval, provided that the expense does not exceed \$5,000. Funds for these activities may come from unspent funds from previous years' monitoring contracts.

Each year, the Board approves management award expenses at the June meeting. After the June 2018 meeting, the following requests were submitted and subsequently approved due to their time-sensitive nature, the land trusts' commitment to matching the funds, and the projects' potential to protect the conservation values and prevent greater expenses over the long term.

Summary of Awards Funded:

- Up to \$2,500 approved for Foothills Conservancy of North Carolina, to replace a culvert and repair road after excessive rainfall event.
- Up to \$2,500 approved to Conserving Carolina, to offset the expense of additional staff time spent monitoring, planning and coordinating the cleanup of the Highway 9 landslide.
- Up to \$2,500 approved to Three Rivers Land Trust (formerly LandTrust for Central North Carolina) for a trap to control invasive feral hog population.

Board actions needed:

None

Action Item**Staff member: Marissa Hartzler**

Agenda Item: 5) 2001A-025 and 1997A-085 Orange County Water and Sewer Authority – Easement Amendment Request

In 1997 and 2001, the Board awarded funds to the Orange County Water and Sewer Authority (OWASA) for two phases of buffer acquisition to protect the Cane Creek Reservoir water supply. These projects resulted in seven conservation easements with private landowners in the Cane Creek watershed.

Planning for the Mountains to Sea Trail in Orange County routes the trail through two parcels protected by Clean Water easements. The terms of these easements, however, do not provide for trail construction or maintenance; currently, natural surface trails are a standard reserved right in Clean Water's easement template. Adding the standard trail language, subject to Board Policy AQ-006 Construction of Natural Surface Trails, to the Clean Water easements will require easement amendments with the landowners' support. In the case of project 2001A-025, both OWASA and the landowner are supportive of amending the Clean Water easement to accommodate the MST. It is anticipated that the same request may be made for future phases of trail construction for easements recorded under 1997A-085.

The Board has passed an easement amendment policy (attached in its entirety). Per the policy, while the proposal to add current template language for a standard reserved right is a minor amendment to language and does not affect the spatial boundaries of these easements, this change is neither technical nor corrective and therefore requires a board decision.

Board actions needed:

Approve, not approve, or amend the request to add the reserved right to build and maintain trails to past OWASA easements under projects 2001A-025 and 1997A-085, and to authorize the State Property Office to draft and record the easement amendments, as needed.

Attachments: Clean Water Amendment policy, OWASA Board of Directors' approval of MST, 2001A-025 landowner approval of MST, map of proposed route

Stewardship Program (STW-001)

Conservation Agreement Amendment Policy

Background: On rare occasions, permanent conservation agreements may need to be modified or amended. This policy was established and approved by the Board to provide a consistent and predictable process for these cases.

Policy:

The Clean Water Management Trust Fund (CWMTF) was established in 1996 primarily to protect water quality interests in the State. In 2013, the purpose of the CWMTF was expanded to include the protection of natural heritage, historic and cultural resources as well as to buffer military bases. In addition, with the dissolution of the Natural Heritage Trust Fund (NHTF) in 2013, the Clean Water Management Trust Fund became the de facto appointed body for matters that would have gone before the NHTF in the past. Therefore, this document pertains to changes to conservation agreements initially entered in to by either of the aforementioned funds.

When the Board elects to fund a land protection project, there are two arrangements in which the State retains an interest in perpetuity: 1) a State-held conservation easement, and 2) dedications under either the State Nature Preserves Act or State Nature and Historic Preserve Dedication Act. There may also be term agreements that exist only for a set number of years. These instruments, hereafter referred to broadly as “conservation agreements”, should be designed and written so as to avoid the need for an amendment or modification of the agreed upon terms. It is the State’s presumption that they will not be amended or modified. In exceptional cases or in unforeseen circumstances, this presumption may be rebutted provided the procedures outlined below are met. Among other factors, the original intent of the agreement will be considered.

Because every property is unique, no decision by the Board with respect to an amendment of a conservation agreement shall form a precedent with respect to any other request for an amendment. Although this amendment policy sets forth certain guidelines and procedures, nothing herein shall be deemed to impair the sole and absolute discretion of the Board of Trustees. An amendment is an extraordinary procedure and not available to a landowner as a matter of right. All amendments must comply with applicable federal, state and local laws.

- I. **Minor amendments** – These amendments, as described below, have been deemed to be small in scale or impact, and the Board has delegated consideration and approval to staff.
 - A. Amendments to language – Changes to the language of a conservation agreement that do not affect the spatial boundaries.
 1. *Technical amendments or corrections* – Adjustments that have no effect on the conservation values or correct a clerical error in the language may be approved at the staff level.

2. *Other amendments* – All other amendments to language not covered under section I.A.1 must be taken to the CWMTF Board for consideration per the guidance in section II.
- B. **Amendments to boundary** – Changes to the spatial boundary of an agreement.
1. *Amendments to accommodate public works projects* (i.e. roads, bridges, sewer and water lines or associated infrastructure) may be approved at staff level if the following conditions are met:
 - a. The amendment would affect less than 1 acre or 5% of the easement area, whichever is smaller.
 - b. The project would be perpendicular or minimal distance parallel to surface water if any riparian buffers are affected.
 2. *Other boundary amendments* – All other amendments to the boundary not covered under section I.B.1 must be taken to the CWMTF Board for consideration per the guidance in section II.
- II. **Major amendments** – All amendments not explicitly covered above will be considered by the Board and must be affirmed by a two-thirds vote in order to pass.
- A. **Public works projects** – Amendments to accommodate public works projects that are not covered above may be adopted by the CWMTF Board.
- B. **Public Drinking Water Supply Reservoir** – After the Record of Decision has been issued (final location has been permitted) an easement or portions of an easement may be amended by the CWMTF Board for development of a public drinking water supply reservoir.
- C. **Other Circumstances** – All proposals for amendment of easements for circumstances not covered above must meet the following criteria:
1. Clearly serve the public interest and provide a public or community benefit
 2. Have a net beneficial effect on the relevant conservation values protected by the easement
 3. Not result in private benefit other than the benefit inherent to the conservation agreement.
 4. Must be consistent with the conservation purpose(s) and intent of the easement
 5. Must be consistent with the documented intent of the donor(s), other grantors and any direct funding source
 6. Demonstrate that no practicable alternatives exist and that the impacts have been minimized
- III. **Approved amendment requirements** – The following outlines the expectations for approved amendments:
- A. **Compensation** – The CWMTF must be made whole from any loss of monetary or conservation value resulting from an amendment. In the case of an amendment required as the result of the State or a municipalities' power to take private property for public use, the CWMTF may elect to

be reimbursed, at minimum, the current fair market value, as determined by the State Property Office, or pro-rated amount of the investment at the time of the grant contract, whichever is greater. In other cases where the approval of the amendment is solely at the Board's discretion, the terms of compensation, whether monetary or by land swap, should be generously to the favor of the CWMTF and its conservation interests by a ratio of at least 3:1. Any exchange of land shall consist of land of equal or greater conservation value.

- B. Other costs_– All costs associated with the amendment, including survey, transaction, increased stewardship, and any fees charged by the State Property Office, will be paid by the party making the request.

IV. Amendment request requirements – The following outlines the required information for amendment requests:

- A. The name, address, and phone number of the property owner.
- B. The nature of the activity proposed to be conducted
- C. The location of the activity.
- D. A map of sufficient detail to accurately delineate the boundaries of the land proposed to be impacted to carry out the activity, the location and dimensions of any disturbance associated with the activity.
- E. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the easement, preserve aquatic life and habitat and protect water quality.
- F. Plans for any best management practices proposed to be used to control the impacts associated with the activity.

V. Notifications – For any major amendments, the following parties will be notified at least two weeks before a Board decision is scheduled:

- A. The original parties associated with the conservation agreement that is proposed to be amended.
- B. The general public and other interested parties.

Versions	Revisions
July 10, 2013	Original Effective Date
September 16, 2014	Revised and Adopted
March 9, 2015	Revised and Adopted
September 14, 2016	Revised and Adopted



ORANGE WATER AND SEWER AUTHORITY

*A public, non-profit agency providing water, sewer and reclaimed water services
to the Carrboro-Chapel Hill community.*

August 26, 2016

Chair Earl McKee
Orange County Board of County Commissioners
Post Office Box 8181
Hillsborough, NC 27278

Subject: OWASA Board of Directors' Approves Use of OWASA Land for the Mountains-to-Sea Trail

Dear Chair McKee:

At our meeting last night, the OWASA Board of Directors approved the use of OWASA land for the Mountains-to-Sea Trail, provided that the plans and implementation of the trail meet a set of prescribed conditions, which will ensure achievement of these critical goals:

- protection of water quality in Cane Creek Reservoir,
- no expenditure of OWASA funds for the trail, and
- minimization of risks associated with hikers using OWASA property.

Our Board made this decision after a deliberate, thoughtful and open engagement process over the past few months. We considered about 50 oral comments by residents at our meetings on June 23rd and August 25th alongside about 60 written comments. About 80 different residents of Orange County and the surrounding area expressed their views to us.

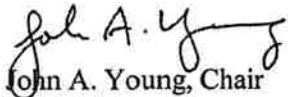
You will find last night's resolution, which includes the prescribed conditions for use of OWASA land, attached to this letter. A specific trail alignment on OWASA land would require final approval by the OWASA Board to ensure it meets the conditions in our resolution.

We appreciate the support that County staff provided by presenting information at our Board meetings and working with OWASA staff throughout the process. As the County staff and the Commissioners further develop plans for the Mountains-to-Sea Trail, we encourage authentic engagement with residents to respectfully address the opportunities and concerns they shared with us.

Please contact Ed Kerwin, Executive Director (ekerwin@owasa.org or 919-537-4211), or me if we can provide additional information.

OWASA Board of Directors' Decision on Use of OWASA Land for the Mountains-to-Sea Trail
August 26, 2016
Page 2

Sincerely,



John A. Young, Chair
OWASA Board of Directors

Attachment

c: Mayor Lydia Lavelle, Town of Carrboro (with Attachment)
Mayor Pam Hemminger, Town of Chapel Hill (with Attachment)
Mr. David Andrews, Carrboro Town Manager (with Attachment)
Ms. Bonnie Hammersley, Orange County Manager (with Attachment)
Mr. Dave Stancil, Orange County DEAPR (with Attachment)
Mr. Roger Stancil, Chapel Hill Town Manager (with Attachment)
OWASA Board of Directors
Ed Kerwin, OWASA Executive Director

Edward S. Johnson
6000 Buckhorn Road
Hillsborough, NC 27278

October 7, 2016

Friends of the Mountain to Sea Trail
Attn: Kate Dixon, Executive Director
P.O. Box 10431
Raleigh, NC 27605

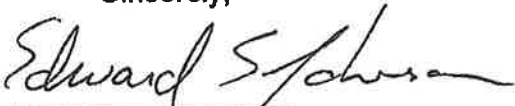
Re: Letter of Intent to Grant Easement for MST

Dear Ms. Dixon:

I own two pieces of property in Bingham Township in Orange County, North Carolina, which are described in and outlined in red on the attached printouts from Orange County's GIS website.

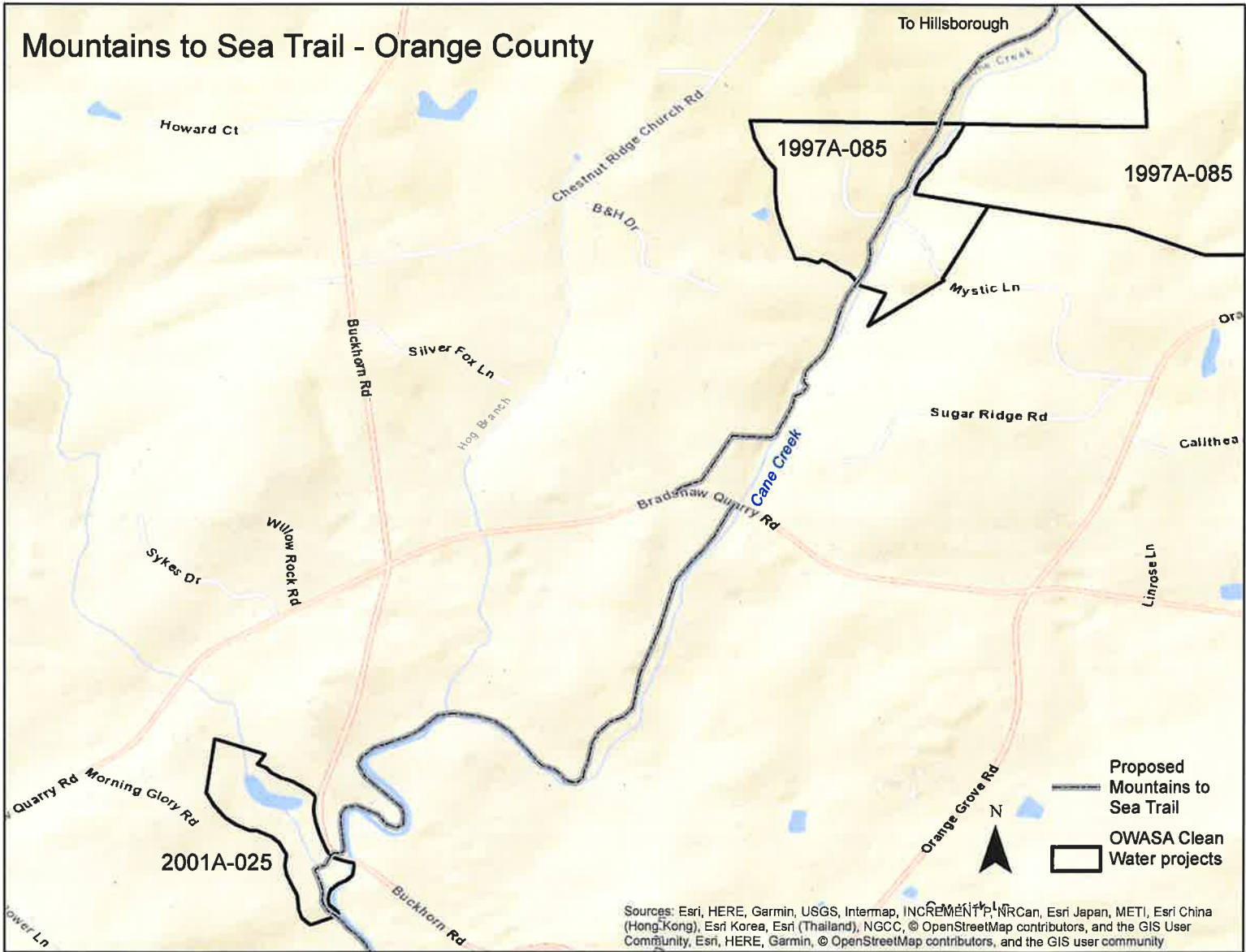
The purpose of this letter is to express my willingness to grant an easement to the appropriate entity to allow the Mountain to Sea Trail to cross my property. Please share this with whomever you desire. While the final details of the easement need to be worked out, I am ready and excited to begin those discussions with the appropriate party or parties.

Sincerely,



Edward S. Johnson

Mountains to Sea Trail - Orange County



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community, Esri, HERE, Garmin, © OpenStreetMap contributors, and the GIS user community

Board of Commissioners
Mark Mansfield, Chair
Robin Comer, Vice-Chair
Bob Cavanaugh
Jimmy Farrington
Jonathan Robinson
Bill Smith
Ed Wheatly



County Manager
Tommy R. Burns

Clerk to the Board
Rachel B. Hammer

February 2, 2018

Mr. Walter Clark
Executive Director
North Carolina Clean Water Management Trust Fund
121 W. Jones St
Raleigh, NC 27603

RE: Carteret County Clean Water Management Trust Fund Grant Application

Mr. Clark,

I am writing this letter to express Carteret County's support in pursuing funding from the Clean Water Management Trust Fund for the upcoming cycle. Carteret County has a keen interest in protecting the natural resources of our area as well as providing recreational opportunities for the citizens of North Carolina. The particular tract of land that the County is in the early stages of procuring in cooperation with the Marine Corps and the Coastal Federation is located along Hwy 24 in close proximity to Bogue Field. You may be aware that Bogue Field is the primary facility on the east coast for vertical aircraft carrier takeoff and landing practice for the new F-35B Joint Strike Fighter.

This seventy-four acre parcel is the last one of its kind along the Hwy 24 corridor. It is the County's intention to procure the tract with grant and Marine Corps funding, install a regional boating access facility in cooperation with the North Carolina Wildlife Resources Commission, then preserve the remaining areas consistent with both the State and Marine Corps mission.

In closing this is a particularly unique opportunity for the State to preserve the Marine Corps mission, coastal habitat, and water quality, while providing recreational opportunities on one of the last waterfront parcels of this size on Bogue Sound. It would be my pleasure to discuss this project in detail with you, your Board, or staff.

Respectfully,

Gene Foxworth
Assistant County Manager
Carteret County Government



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
POSTAL SERVICE CENTER BOX 8003
CHERRY POINT, NORTH CAROLINA 28533-0003

IN REPLY REFER TO
5090/17620
LN
February 1, 2108

Mr. Todd Miller, Director
NC Coastal Federation
3609 Highway 24
Ocean, NC 28570

Dear Mr. Miller:

The Readiness and Environmental Protection Integration (REPI) program (10 USC § 2684a) allows the Marine Corps to partner with various entities in furtherance of military buffering and encroachment control initiatives. REPI projects are carefully examined at many levels of our organization and each project submitted for funding consideration meets specific objectives we have for sustaining military training and testing capabilities. This is especially true for the Stroud tract which lies off North Carolina Highway 24 near Marine Corps Auxiliary Landing Field Bogue in Carteret County, NC.

Marine Corps Air Station (MCAS) Cherry Point is seeking REPI funding in the amount of \$3.74 million for our potential contribution to the Stroud project. We have been successful in obtaining funding for priority encroachment partnering projects in previous years on a competitive basis with other Marine Corps installations and Department of Defense (DoD) agencies. We are committed to reach a mutually beneficial end state for this effort.

Through various funding sources, the state of North Carolina has played a prominent role in helping the Marine Corps address encroachment pressures facing eastern North Carolina. We are grateful to have partnered with the state of North Carolina on previous projects and look forward to continued cooperation with the North Carolina Coastal Federation and Carteret County on this project.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. E. Schulz".

C. E. SCHULZ
Deputy Facilities Director
By direction of the
Commanding Officer



NC DEPARTMENT OF
NATURAL AND CULTURAL RESOURCES



cleanwater
MANAGEMENT TRUST FUND

Clean Water Management Trust Fund 2019 Board Meeting Dates

<u>1st Quarter</u> – March 4th – Raleigh NC
<u>2nd Quarter</u> – May 21st and May 22nd – Western NC
<u>3rd Quarter</u> – September 11th and 12th – Raleigh, NC
<u>4th Quarter</u> – December 5th - TBD

Information regarding meeting locations, details, agendas will be distributed as the dates approach.

Please let me know if you have any questions or concerns,

Sydney McDaniel

919.707.9121

sydney.mcdaniel@ncdcr.gov

Consent

Staff member: Steve Bevington

Agenda Item: Consent 2b) – Request to extend the date to enter into a construction contract for existing Restoration Program Grants.

Background: CWMTF wastewater, stormwater, and restoration construction projects approved after January 1, 2006 are subject to NCGS §113A-254 requiring grant recipients to enter into a construction contract for the project within one year after grant award. The statute states that the award is withdrawn unless the CWMTF Board of Trustees finds that the applicant has good cause for failing to meet this requirement. The statute further states that, if the Trustees find good cause for the failure, they then must set a date by which the grant recipient must take action or forfeit the grant.

The following grant recipients have submitted information, which follows this cover sheet, summarizing the reasons for their delay in entering into a construction contract and have proposed a new date for doing so.

Grant Recipient	Project Number & Name	Current Construction Contract Deadline	<i>Proposed</i> Construction Contract Deadline
2016-401	Charlotte Stormwater Services	10/4/17	6/30/19
2017-1001	Airlie Gardens	9/13/18	6/30/19
2017-1004	NC Coastal Federation	9/13/18	6/30/19
2017-1007	NC Arboretum	9/13/18	6/30/19
2017-1009	Sound Rivers	9/13/18	11/30/18
2017-402	Mecklenburg County – Long Creek	9/13/18	9/13/19
2017-406	McDowell County Soil & Water Conservation District	9/13/18	9/13/19

Board action needed: Motion to adopt, amend, or reject the request to extend the date to enter a construction contract as shown in the table above.

Attachment: Grant recipients' request and rationale for a time extension.

CWMTF Funding Availability - October 30, 2018

Beginning Balance - July 1, 2018 **\$54,685,922.30**

Receipts (FY18-19)

Appropriations - Base Budget (recurring)	\$12,157,530.00
Appropriations - Military Buffers (recurring)	\$1,000,000.00
Appropriations - Legislative Increase (non-recurring)	\$4,000,000.00
City of Shelby Grant Repayment	\$201,847.50
City of Lenoir Grant Repayment (overpayment)	\$18,838.00
Town of Hookerton - Grant Repayment (overpayment)	\$26,262.95
License Plate Revenue (through October '18)	\$1,684,563.50
Subtotal - Receipts	\$73,774,964.25

Expenditures / Commitments

Grant Contract Encumbrances	\$41,707,498.34
Payments	\$10,109,734.27
Awarded Contracts to be Encumbered	\$2,717,938.00
Subtotal - Expenditures	\$54,535,170.61

Total Funding Available **\$19,239,793.64**

Total Available for Acquisition (includes Military funding)	\$15,782,699.21
--	------------------------

Total Available for Restoration/ISW/Planning (excludes legislatively directed funds: \$1,500,000)	\$3,457,094.43
--	-----------------------