

CLEAN WATER MANAGEMENT TRUST FUND

BOARD OF TRUSTEES MEETING

May 21, 2019 - 2:14 P.M.

BLOWING ROCK ART AND HISTORY MUSEUM

159 GINNY STEVENS LANE

BLOWING ROCK, NORTH CAROLINA

Reported by Marianne S. Aguirre

Verbatim Court Reporter, Notary Public

Transcript produced by computer-aided transcription

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A P P E A R A N C E S

Mr. Hank Fordham, Esquire

BOARD OF TRUSTEES:

Ms. Judith Kennedy

Ms. Renee Kumor

Mr. Jason Walser

Mr. Charles Vines

Mr. John Wilson

Mr. William Toole

CLEAN WATER MANAGEMENT STAFF:

Ms. Greer Cawood, Chairman

Ms. Sydney McDaniel

Ms. Marissa Hartzler

Mr. Steve Bevington

Ms. Marie Meckman

Ms. Nancy Guthrie

Ms. Terri Murray

Mr. Damon Hearne

Mr. Walter Clark

Mr. Justin Mercer

Mr. Will Summer

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P R O C E E D I N G S

Clean Water Management Trust Fund Board of Trustees Meeting,
May 21, 2019,

CHAIRMAN CAWOOD: I want to call to order our
Clean Water Management Trust Fund May
Meeting. We are here in beautiful Blowing
Rock Art and History Museum, so first want to
thank Lee Carol Giduz for having us, who I
haven't met yet.

MS. GIDUZ: Right here.

CHAIRMAN CAWOOD: You are here. Good, I was
looking at the right person. Thank you.

MS. GIDUZ: Welcome everybody, we're so glad to
have you here. I think we should move the
tables outside, it's so gorgeous if we put
you on the front lawn. But we are pleased to
have you here. I do hope you'll take time
while you're here to look through the museum.
We do have one gallery in transition, but we
have the traveling American Watercolor
Society Show downstairs which is truly
fabulous and also original illustrations by
Gail Haley who's the only artist to get both
the Mary Babcock and the Caldecott Award for
illustrations, and we have her Jack Tale book

1 illustrations downstairs. We have a
2 permanent exhibit on the history of Blowing
3 Rock upstairs and I'll just plant a seed.
4 When you need to come back in the fall we've
5 got the excuse because we'll be opening an
6 exhibit of the Cone Sister collection. The
7 Cone Sisters were Moses Cone of Flat Top
8 Manor sisters and they collected, if not the
9 largest, one of the largest collections of
10 modern art, including Matisse, Picasso,
11 Chagall, and we will be having an exhibit of
12 some of the works from their collection here
13 that does include Matisse, let's see,
14 Matisse, no Picasso, Renoir and a little
15 Rembrandt, and that will be a really fabulous
16 show so we're really proud to have it. So
17 done with the commercial, enjoy your time. I
18 hope you get a lot of good work done. We're
19 really glad to have you. If you need
20 anything, find one of us and we'll see that
21 that gets taken care of.

22 CHAIRMAN CAWOOD: Well, this is a beautiful place,
23 thank you so much. We appreciate it.

24 MS. GIDUZ: Thank you, see you later.

25 CHAIRMAN CAWOOD: And we have a number of visitors

1 with us and we'll have time if people want to
2 make comments, but of course, do want to
3 welcome the First Lady, Kristin Cooper, so
4 nice to be with us. Glad you're here. And
5 so I will start with a roll call and since I
6 came in late I am here. Was Fred able to
7 come with us? Fred is not with us. We have
8 Judy is here, Renee is here, spoken to. Mr.
9 Toole, glad you're here, Mr. Vines, and Jason
10 Walser I saw and John Wilson and David
11 Womack, unfortunately was not able to be with
12 us. So to make sure that we're in compliance
13 with General Statute 138A-15, it mandates
14 that I, as Chair, inquire as to whether any
15 Trustee knows of any conflict of interest or
16 the appearance of a conflict of interest with
17 respect to matters on the agenda, and if you
18 do know of a conflict of interest or the
19 appearance of a conflict of interest, please
20 state so at this time.

21 MR. WALSER: Yes, so I would like to recuse myself
22 from discussions around Three Rivers Land
23 Trust and the Alcoa situation as well as the
24 Catawba Land Conservancy scope of work
25 contract.

1 CHAIRMAN CAWOOD: Great and so people know, since
2 Jason is our chair of acquisition I will take
3 over chairing that committee with those two
4 items.

5 MR. WALSER: Thank you.

6 CHAIRMAN CAWOOD: Always we want to make sure all
7 cell phones are turned off or on vibrate and
8 I'll entertain any revisions, additions to
9 the agenda and if not, then I'll hear --

10 MS. KUMOR: So move that the agenda be adopted, I
11 present it.

12 CHAIRMAN CAWOOD: Do I have a second?

13 MS. KENNEDY: I will second.

14 CHAIRMAN CAWOOD: Wonderful, thank you. All in
15 favor?

16 MEMBERS: Aye.

17 CHAIRMAN CAWOOD: Any opposed? Great. Okay. We
18 will start with a consent agenda which
19 everyone had been sent and will just ask if
20 anybody has any comments around any of these
21 items. If not then we can do them all
22 together.

23 UNIDENTIFIED MEMBER: Madam Chair, make a motion
24 to approve.

25 MS. KUMOR: Second.

1 CHAIRMAN CAWOOD: Wonderful. All in favor?

2 MEMBERS: Aye.

3 CHAIRMAN CAWOOD: Any opposed? Moving right
4 along, okay. Your legal update, do you have
5 any for us today?

6 MR. FORDHAM: I don't have anything unless anybody
7 has any questions.

8 CHAIRMAN CAWOOD: Good deal, well, thank you.
9 Walter, our executive director update.

10 MR. CLARK: Well, I have to say, it's so nice to
11 be back home in the high country and seeing
12 all these familiar faces. Tell you what, I
13 might not go back home. It's such a
14 beautiful day. I want to echo Greer's
15 welcome to the First Lady, Kristin Cooper,
16 for being here, thank you very much for
17 coming. I'd like to also recognize the mayor
18 of Blowing Rock, Charlie Sellers. Charlie
19 also is the owner of the Blowing Rock
20 Attraction so go visit. They've done a lot
21 of updates he tells me. Anne Browning is
22 here. Anne was the former chair of Blue
23 Ridge Conservancy and a good friend. Thank
24 you, Anne, for being here. Charlie Brady,
25 who is the current director of Blue Ridge

1 Conservancy; Zika Rea, Zika is the current
2 chair of Blue Ridge Conservancy, man, they
3 are really represented. And I promise, I had
4 nothing to do with that. And then I'd like
5 to recognize Misty Buchanan. Misty is a
6 director of our state's Natural Heritage
7 program. Thanks for being here, Misty.

8 I also would -- Lee Carol has already
9 left. I really want to thank her for making
10 this facility available to us. She basically
11 -- the museum basically provided it free of
12 cost and it's a wonderful museum. If you get
13 a chance to walk around, please do. One of
14 the things about this museum that's always
15 been special to me is that it shows the real
16 relationship between art and nature here.
17 Often you can't really separate the two that
18 much, and this museum sort of exemplifies
19 that. You know, art is something that's
20 often inspired by nature and you'll see a lot
21 of that in this museum.

22 Just provide a quick legislative update.
23 I think most of you know that there's some
24 bills that are making their way fairly
25 quickly through the legislature. House Bill

1 or Senate Bill 381 is one that we have been
2 watching very closely. It's the bill that
3 would correct the situation with the
4 constitutionality of this board. As most of
5 you will remember, there was a case, Cooper v
6 Burger, a decision that was handed down last
7 year that said the governor has the right to
8 make the majority of appointments to our
9 board. And Senate Bill 381 would rectify
10 that and create a new appointment system.
11 From a staff perspective, the bill also does
12 one thing that's important, it basically
13 makes all of Clean Water's employees subject
14 to the State Personnel Act and that's
15 important because that act provides
16 protection for state employees.

17 Right now all of us are EPA or exempt
18 from the State Personnel Act which means that
19 we are hired and fired at will. That might
20 be applicable to someone like me but
21 certainly not for the rank and file staff
22 members of Clean Water so that's a big
23 change. The bill also adds to the criteria
24 or at least some considerations for funding
25 criteria for the board. The legislature

1 feels it wise that the trustees give some
2 priority to projects that are part of a
3 larger plan and consider those projects in
4 making funding decisions.

5 And the other thing they wanted to
6 recognize was having the trustees give
7 consideration to projects that may be
8 eminently threatened by development. So
9 those are two sort of substantive changes to
10 our -- that happened to -- legislation if
11 Senate Bill 381 passes. Another bill we're
12 watching is Senate Bill 356. It's a bill
13 that would actually provide some additional
14 funds to Clean Water if it should pass. It
15 basically says that any state surplus real
16 estate that's sold, part of the proceeds will
17 come to Clean Water, 12 and a half percent of
18 those proceeds would flow to Clean Water
19 another 12 and a half percent would flow to
20 the Parks and Recreation Trust Fund.

21 So we're not quite sure how much money
22 that would provide. There's some pretty
23 significant exemptions from it. For example,
24 the Department of Transportation was very
25 vocal in saying that they did not want any of

1 their properties sold with money flowing to
2 Clean Water or part of it. They wanted to
3 keep the money within the Department of
4 Transportation. There was another exemption
5 for some very expensive property in downtown
6 Raleigh, that that would be exempted from
7 this as well. So that's another bill we're
8 watching.

9 The House has come out with its budget
10 recommendation for Clean Water which is
11 basically the same budget that we currently
12 have. It would provide \$13.2 million to
13 Clean Water in recurring funds, an additional
14 \$4 million in non-recurring funds and that's
15 exactly where we were this year. The Senate
16 budget recommendation is due out any day. I
17 thought it was going to happen last Friday.
18 I don't know, Will, did you hear anything
19 this morning? Is it still silent?

20 MR. SUMNER: I have not looked this morning, not
21 heard a thing.

22 MR. CLARK: So what will happen, when the Senate
23 comes out with their recommendation, they'll
24 be a reconciliation between the House and the
25 Senate. The governor's recommendation is \$25

1 million so it would be a significant
2 increase. First Lady, please thank the
3 governor for being so supportive of us. So
4 what will happen with that process is that
5 they'll be a reconciliation between the House
6 and the Senate and then they'll be some
7 negotiating between the governor and the
8 legislature. I imagine we'll see that
9 process probably extend at least until July.

10 One last thing, there is one more bill
11 which I think is very interesting. It's a
12 bill, it's House Bill 1008 and it would
13 reinstate the Conservation Tax Credit. I
14 think most of you have been in conservation
15 for a while know that there used to be a tax
16 credit for conservation. It went away. This
17 is a way -- this bill would bring it back on
18 a limited basis. It would just be for
19 properties that protect military buffers,
20 that protect farmland or that protect flood
21 plains. It would be 25 percent of the
22 donated value of the conservation interest or
23 the real estate interest. It does have some
24 terms. It has some limitations, both in
25 value and terms for how long you can carry it

1 forward, but it's a step in the right
2 direction so hopefully we may see the
3 Conservation Tax Credit come back.

4 And then finally I know this is the last
5 board meeting perhaps for three of our
6 trustees and we'll probably say some nice --
7 some words to you tonight but I wanted to say
8 from a personal perspective to Bill Toole and
9 Charles Vines who are here today, that it's
10 been a real honor to serve with you. You're
11 both incredibly diligent about working to see
12 that Clean Water's mission is followed. And
13 plus you're both incredibly nice to us staff.
14 You've been just wonderful to work with and
15 we'll miss you terribly. So thank you very
16 much.

17 And to Fred Dufour who could not be here
18 today, Fred is -- had the great opportunity
19 to go down and visit Fred at his farm in
20 Sampson County two weeks ago. And Fred wants
21 to stay involved with Clean Water. He wants
22 everybody to come down and see his
23 magnificent farm that he has. And everything
24 he has said is so true about it. It's one of
25 the best managed farms I've ever seen. He's

1 done all the right conservation practices.
2 There's a beautiful, old farmhouse out there
3 that he's offered to the staff and trustees
4 to come and visit and stay. So I think we
5 should take him up on his offer.

6 CHAIRMAN CAWOOD: Thank you, Walter. And just to
7 echo Bill Toole and Charles Vines have been
8 such strong members and we came in -- well,
9 Charles was already on the board when I came,
10 but Bill, you and I came on the board at the
11 same time and it has been a great honor and
12 pleasure to serve. Well, we can open up for
13 public comments. We ask that you hold those
14 comments to three minutes per person if
15 anyone wants to speak. We'll start with
16 Renee Kumor with Our Restoration, Innovative
17 Stormwater and Planning Committee report and
18 recommendations.

19 MS. KUMOR: Thank you. Thank you very much, and I
20 thank my committee who was willing to
21 diligently meet once live and once a month
22 and you tried to address all of these issues.
23 The first one is dealing with the stewardship
24 of our easements and it's come to our
25 attention that often the people who apply for

1 grants might not have a background in
2 maintaining stewardship and understanding
3 what goes into watching a piece of property
4 and maintaining it and that there is a cost
5 involved. And we talked about what should
6 happen and how we could help those who apply
7 for grants because we didn't want to make it
8 an impediment if you did not have the
9 experience of managing an easement. So we
10 decided that we would like to encourage the
11 staff to come up with criteria that works
12 with anybody who is looking for funds from us
13 to make -- acquire this kind of an easement
14 and set some standards on what they would do.
15 If, in fact, the applicant has a lot of
16 background, that's very easy and if the
17 applicant has no background in stewardship
18 and we want to make sure that we work with
19 them and help them maybe partner with
20 somebody or help them in any way that makes
21 it not a liability that they don't. And
22 Steve, did you have any criteria that you
23 wanted to --

24 MR. BEVINGTON: I think if we dim the lights maybe
25 we can see either this or the following

1 slide. I'll just talk a quick second about
2 this and then we've got to do a lot on the
3 agenda. But really this is what we've drawn
4 up as staff to try and really first determine
5 who might need assistance and then offer
6 assistance to people to help further the
7 stewardship qualities of the restoration
8 program.

9 Sort of catching up in some ways what's
10 done very carefully on the acquisition side.
11 Recognizing that these are smaller easements
12 but they're quite important and I actually
13 heard some of that discussion around town in
14 Boone, the importance of -- so really the
15 four steps is really determining what the
16 quality of those who hold the conservation
17 easements are. You know, find out -- there
18 are many of them, the organizations already
19 hold these easements and as Renee said have
20 some experience. How are they monitored and
21 by whom, sort of collecting data and who the
22 staff is actually taking care of these. Do
23 they have dedicated funds to do this work and
24 do they have the ability to defend them.

25 And again this is, on the acquisition

1 side, sort of routine business but in
2 restoration it's been done more on a trust
3 basis. And then rather than exclude people
4 from becoming sort of holders of these
5 conservation easements or following what the
6 -- the committee really recommended we do
7 which is to provide technical support, and
8 I'll end my comments just by saying that
9 luckily we do have quite a good source of
10 material in our archives from previous work
11 on this which we'll update so we have a quite
12 extensive document that was prepared by Will
13 and other employees in the past. It's an
14 eight-page document with a lot of detail that
15 we think we can help it further explain with
16 people how to take care of these conservation
17 issues. Because in the restoration world
18 there are small towns and parties like that
19 taking on a role that's very unfamiliar to
20 them, so that's the details of what was is
21 out there.

22 MS. KUMOR: And as we tell you we made -- there's
23 nothing that you have to act upon. You're
24 just bringing them up-to-date on where we are
25 and we, as a committee felt very comfortable

1 with making certain that we were non-
2 restrictive in any way, shape or form with
3 anybody who wants to work on issues of
4 restoration and try to find a way to make
5 certain that we help them when the challenge
6 comes to -- stewardship.

7 CHAIRMAN CAWOOD: Any questions?

8 MS. KUMOR: The other issue we were dealing with
9 is repair and maintenance of projects. And
10 it was brought to our attention that we had a
11 current restoration statement in our
12 contracts that for a period of ten years
13 after the project was completed, the
14 recipient agreed to maintain and manage, that
15 the maximum facility and utility -- and it
16 goes on into the criteria and what it would
17 do and it was suggested that do we really
18 want ten years and/or do we really want to do
19 this because we didn't have a mechanism for
20 accepting those reports and it was sort of
21 something there that didn't happen but it was
22 in our template. We, as a committee, decided
23 that, yes, we like ten years and as you
24 mentioned, Fred was very adamant about we
25 really want ten years. And that if, in fact,

1 this doesn't -- the current template doesn't
2 suggest there's a report, we suggested
3 instead that this portion be rewritten so
4 that a report does come in and there is a
5 mechanism that allows our staff to get a
6 report with some kind of status on how this
7 restoration is holding up.

8 And with that in mind we also came to
9 another question which was not related to ten
10 years in reporting, but we wanted to know if
11 we understood how our restoration projects
12 hold up and we were able to look back on,
13 what, about a few years ago there was a
14 report given to us on some sampling that
15 reflected that our restoration projects do
16 hold up well, a good portion of them do. And
17 we decided as a committee to, as long as we
18 are formalizing reporting and holding to ten
19 years with regard to the restoration project,
20 keeping track of the restoration project we
21 wanted to know the status of our restoration
22 projects and have they over the long-term
23 haul held up and have recommended that Walter
24 design a job description and hire a temporary
25 person to go out and do that kind of an

1 assessment. Did I cover everything because
2 --

3 MR. BEVINGTON: You did, that's wonderful. Flip
4 the slide. I'll just point out that we do
5 have a few edits we're hoping to make working
6 with Hank as our counsel on this to sort of
7 increase the assurance that we'll get
8 accurate reporting over this period and
9 whether a future board would want to come
10 back and examine this, would really come back
11 to we collect this data in this next three-
12 month period. So there's some small tweaks
13 in there that we're going to suggest, run
14 past counsel and see if it would hold up
15 better in the template in short term.

16 One important thing that did come up was
17 many of the contracts we strike for
18 construction are allowed now to either have a
19 one or two-year warranty period and we're
20 going to up that with the committee's
21 recommendation. Everybody should see a good
22 two-year warranty for any mistakes made
23 during construction, which is about as far as
24 you can usually push something unless someone
25 is off the site and is driven away. We

1 thought that was important.

2 And then just show you some quick
3 pictures. And occasionally we do have
4 natural disasters and man-made disasters, one
5 of the two that contributes significant
6 damage but it is repairable if the cost can
7 be identified and the solutions can be
8 identified. So to sort of see how often --
9 what is the true jeopardy of that, we do
10 actually have posted today with the great
11 help of staff here, a temporary job for three
12 months to visit all 200 sites that this fund
13 has funded for restoration in the last 20
14 years, so we'll have not just a good
15 statistical sampling but a real accountable,
16 simple description of whether easements are
17 in place, whether they're marked, whether the
18 structures were put in the stream are still
19 there and still functioning. It won't be a
20 level of detail we might see in some of the
21 research work we've asked for before, but
22 we'll have a quick snapshot of whether things
23 are holding together, a complete list of
24 where we might need to go to provide further
25 help.

1 MS. KUMOR: I think it gives us the opportunity, I
2 mean, we can see in acquisition that the
3 acquisition is still there, but in
4 restoration we will have the opportunity to
5 see what kind of work has happened, how
6 sustainable it has been and how useful our
7 criteria have been at the time, so that's
8 what we offer you and do you all have any
9 questions? Okay. Thank you.

10 CHAIRMAN CAWOOD: Great work by the committee.
11 Thank you, Renee, very much. And we will
12 move on, Jason, to the Acquisition Committee
13 report and recommendations and it's 2D but
14 I'll -- is that correct?

15 MR. WALSER: Yes.

16 CHAIRMAN CAWOOD: So if you we'll proceed with 2A,
17 B, C, E and F.

18 MR. WALSER: So the Acquisition Committee has met
19 three times, once in person and twice over
20 the phone since our last formal board meeting
21 and Nancy has been a great staff support for
22 our committee. Thank you. And if it's okay
23 with you, I'm going to turn it over to you to
24 talk about the details of A, B and C. I am
25 going to recuse myself from conversation

1 around D.

2 MS. GUTHRIE: Okay. Thank you. The 2A and 2B are

3 very similar requests. Both of these

4 projects spent some funding or incurred costs

5 on transactional costs for their projects,

6 for the acquisitions. Surveys, appraisals,

7 et cetera, that they -- some of that is

8 needed to reach landowner contract before

9 really a decision to go forward with the

10 projects can be made. However, they also

11 vote -- went a little bit beyond that and

12 spent some funds that they are seeking

13 reimbursement for where we feel as staff that

14 they went a little bit beyond and took a bit

15 of a risk on some of the transactional costs

16 without a really firm landowner commitment.

17 And we do not have any kind of policy around

18 this situation. Our contracts do allow for

19 reimbursement before the acquisition;

20 however, we also do not want the fund to be

21 paying a lot of transactional costs that

22 don't end in the purchase of a property and

23 really end with the state not having any

24 interest. So that's the setup for 2A and B.

25 And particular, in 2A the request of

1 reimbursement for transaction costs, 2017-
2 005, Conserving Carolina, in your board
3 material are the details of what were the
4 costs that were incurred and our
5 recommendation to the committee. And now the
6 committee, Jason will present this formally,
7 but it is to reimburse Conserving Carolina,
8 50 percent of the costs of the appraisal, the
9 environmental assessment, Phase 1 and the
10 staff time, that would be a total of up to
11 \$2,913 for the expenses that they put in.
12 And at that point they could have negotiated
13 a firmer contract with the landowner who
14 after getting a survey complete and some
15 other work done, the landowner has now
16 decided to back out of the project. But the
17 recommendation is to pay 50 percent of the
18 costs of the appraisal, the Phase 1 and the
19 staff time.

20 MR. WALSER: Correct. So we did not want to
21 reimburse the survey because we thought that
22 had value for the property owners moving
23 forward but we also thought that we should to
24 do our part to help the Land Trust for
25 sticking its neck out there and trying to

1 make this project happen. So the committee
2 recommendation is to approve this, this
3 percentage and I don't think we need a
4 second.

5 CHAIRMAN CAWOOD: All in favor.

6 MEMBERS: Aye.

7 CHAIRMAN CAWOOD: Any opposed? All right.

8 MR. WALSER: So Nancy, 2B.

9 MS. GUTHRIE: 2B, the recommendation there from
10 staff presenting to the committee, same
11 thinking that we used on the previous one is
12 to reimburse Sandhills Area Land Trust up to
13 -- or to reimburse 50 percent of the costs of
14 the appraisal, the environmental assessment,
15 Phase 1 and the staff time. Again, to try to
16 move that project forward and help the land
17 trust some with the cost that they incurred.

18 MR. WALSER: The committee was unanimous in
19 supporting this.

20 CHAIRMAN CAWOOD: All in favor.

21 MEMBERS: Aye.

22 CHAIRMAN CAWOOD: Any opposed? Great.

23 MR. WALSER: So Stewardship Endowment policy
24 revisions.

25 MS. HARTZLER: And I'm happy to speak to that. We

1 had three main stewardship policy revisions,
2 the first of which involves the Stewardship
3 Endowment itself. Stewardship Policy 002,
4 this is the endowment funds use policy and
5 these revisions came out after, I believe, it
6 was actually the June meeting in Edenton,
7 discussion amongst the board, of what is
8 available to spend of the endowment, what is
9 sustainable spending, and ask staff to do a
10 little bit more research on this and come up
11 with some policy recommendations.

12 And so with recommendations from Frank
13 Bragg, former trustee, who is instrumental in
14 getting this endowment established, this
15 policy takes the approach of looking at the
16 36-month total, excuse me, average total
17 value of the endowment, to come up with a cap
18 essentially of up to four percent of that
19 total value can be spent in any given year on
20 stewardship expenses and this is very much in
21 line with other endowment policies that you
22 see at a university, et cetera. So in
23 addition, this also allows for management
24 fund requests as previously allowed for and
25 miscellaneous stewardship management and

1 administrative costs to be reimbursed from
2 this. So the big change was focusing in on
3 the 36-month average total value and using
4 that to establish up to a four percent cap
5 each year.

6 The next policy was to create a policy
7 that will be now Stewardship 006, that deals
8 with how retired principal is handled. When
9 conservation easements are -- when the fee is
10 transferred to the state, we do not monitor
11 those properties any longer and so principal
12 was sitting in the endowment and not being
13 spent. And so the recommended policy is to
14 take that principal, leave it in the
15 endowment and use it to fund the monitoring
16 of other conservation easements that are
17 currently underfunded or unfunded in order to
18 continue monitoring on those properties.

19 The last policy is an amendment to
20 Stewardship Policy 001 which is the amendment
21 policy and this deals with another source of
22 funds in the endowment, namely when a
23 conservation easement is terminated or
24 modified, we are required to receive
25 compensation for that loss at that interest

1 and so previously it was standard to just
2 deposit that money into the Stewardship
3 Endowment; however, this new policy clearly
4 dictates that any funds returned to Clean
5 Water will go back into the program area in
6 which the conservation easement was
7 generated, so acquisition back into
8 acquisition. There are a few older
9 restorations that the fund would go back into
10 that program area and be spent on another
11 conservation easement. So those were the
12 three main policy revisions for stewardship.

13 MR. WALSER: Thank you. So allocations committee
14 recommends.

15 CHAIRMAN CAWOOD: Great. All in favor?

16 MEMBERS: Aye.

17 CHAIRMAN CAWOOD: Any opposed? Perfect. Jason,
18 why don't we move onto 2E and 2F. I think it
19 will be a little bit smoother if that's okay
20 with you?

21 MR. WALSER: Absolutely. So for the record I
22 think it's okay for me to say why I'm
23 abstaining from the conversation. I own
24 property near Marshall Steam Station, close
25 to where this Mountain Creek Park Amendment

1 is proposed, and also was deeply involved in
2 the Alcoa negotiations for the Land Trust for
3 Central North Carolina, so that's why I'm
4 abstaining.

5 CHAIRMAN CAWOOD: And so we are going to go onto
6 2E.

7 MR. WALSER: So 2E, I don't think I should
8 participate.

9 CHAIRMAN CAWOOD: Abstaining on that one?

10 MR. WALSER: Yes.

11 CHAIRMAN CAWOOD: So move onto 2F.

12 MR. WALSER: So Conservation Agreement discussion,
13 Nancy do you want to help me out here?

14 MS. GUTHRIE: Will is going to take that item.
15 Oh, no, sorry. Back on track here. At the
16 committee meeting we did discuss the -- some
17 of the shortcomings, the concerns from a very
18 legal point of view that Hank Fordham has
19 helped us identify with using declarations of
20 covenants and restrictions, and that is one
21 of the major tools that we use in restricting
22 the rights on the property where Clean Water
23 has funding and has purchased an interest in
24 the property. And we had decided that this
25 is enough of an issue that it affects our

1 partners from the Land Trust on whether a
2 declaration is used on property, whether a
3 conservation easement is used and what are
4 the appropriate roles of those two documents
5 that we wanted to reach out to the partners
6 and to the attorneys from our Land Trust and
7 get a lot of the opinions, legal
8 interpretations and use those documents.

9 So this is an update as far as letting
10 you know a meeting has been scheduled for
11 June 5th to have the staff attorneys from our
12 Land Trust along with Hank, of course, will
13 be there and Jason will also participate in
14 that, to think about really make sure that
15 Clean Water is employing the most legally
16 sound agreement and instrument that we can
17 use and then it will come back to the board
18 through the committee as far as the policies
19 and which agreement is appropriate in which
20 scenario. So that will be an ongoing
21 discussion, I think, through the summer
22 before we'll really have any solid
23 information to bring back or any
24 recommendations.

25 CHAIRMAN CAWOOD: Good. And per Jason not being

1 able to participate in the discussion of 2D
2 and 2E, I will take over and carry the
3 committee. So we will start with 2D and back
4 to you, Nancy.

5 MS. GUTHRIE: I'm going to turn this back to
6 Marissa since it is a stewardship, she's got
7 the details.

8 MS. HARTZLER: If I could just ask Will, thank you
9 so much. So for Project 2008-006, with the
10 original applicant and landowner of Catawba
11 County in partnership with Catawba Lands
12 Conservancy, there were a series of easements
13 recorded adjacent to Lake Norman which you
14 can see on the map on the screen. There was
15 almost a 300-acre Clean Water easement on the
16 riparian area. That was recorded and the
17 remainder is currently in Catawba Lands
18 Conservancy easement. Catawba County was
19 notified by PNG and Duke Energy that there
20 was eminent domain threat on this property
21 due to the need to install a new gas line to
22 service the Marshall Steam Plant also on Lake
23 Norman. And so you can see in the bottom
24 right, the area in blue and green, that
25 overlaps with the hatched area, that is a 1.7

1 acre overlap in which the acquisition
2 committee made the recommendation to the
3 board to terminate the conservation easements
4 in that area. It is over one acre and so
5 does need board approval.

6 In your packet you'll see that there has
7 been the threat of eminent domain, they
8 cannot condemn on the state's easement, hence
9 why there would be a termination required.
10 Catawba County has been, along with Catawba
11 Lands Conservancy, negotiating a much better
12 route. This is not the first alignment and
13 this definitely does minimize the impact to
14 the state's conservation easements.

15 In addition, the original motion had
16 mentioned identifying suitable substitute
17 lands required, but I have heard from state
18 property office that that will not be
19 required in this instance. Instead, we will
20 just receive the prorated value of Clean
21 Water's investment in that 1.7 acres and we
22 do have a settlement that is currently being
23 negotiated and I'm confident that all
24 parties' interests will be reimbursed
25 accordingly. So happy to take any questions

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on that.

MR. WALSER: And Marissa, I think for those who
may not know, PNG is Piedmont Natural Gas.

MS. HARTZLER: Thank you, sorry.

CHAIRMAN CAWOOD: All right, all in favor?

MEMBERS: Aye.

CHAIRMAN CAWOOD: Any opposed? Great.

MR. WALSER: I abstain.

CHAIRMAN CAWOOD: We'll move onto 2E.

MS. GUTHRIE: This is a reduction of scope request
that has been submitted by Wildlife Resources
Commission and the background and larger
picture on this request is that in 2017 the
board approved two awards for conservation
projects in the Yadkin Basin, one was to
Three Rivers Land Trust and one was to
Wildlife Resources Commission. These two
projects play together because they are each
part of a larger opportunity for the state to
purchase lands available through an Alcoa
relicensing process. The two organizations
have worked closely together.

One of the consent items today earlier
was to have the contract written to Three
Rivers Land Trust switched and administered

1 by Wildlife Resources Commission and it's
2 part of they're trying to bring this whole
3 large project together. The two contracts
4 together would protect over 60 miles of
5 shoreline and protect over 5,000 acres along
6 High Rock Lake and Tuckertown Lake. This is
7 an opportunity to the state that is only
8 available for two years at this point. If
9 one of the properties can be purchased by
10 September of this year there will be
11 opportunity to purchase the second property
12 with, I believe, it's two more years.

13 So while Three Rivers and Wildlife
14 Resources Commission were putting their
15 applications together in 2017 and
16 coordinating a large purchase, they were a
17 bit aggressive perhaps on their ask and they
18 were trying to take this -- these properties
19 in two contracts, one for each and just do a
20 lot of fund-raising on the -- in addition to
21 Clean Water's funds, and try to make this
22 project happen all within this year. But
23 after they received the awards and in working
24 through the project, it's become apparent
25 that they need to refine that strategy.

1 What will happen, what the plan is
2 for both organizations to focus on the High
3 Rock acquisition for this year and that means
4 that Wildlife Resources Commission needs to
5 move a lot of their matching funds from the
6 Tuckertown contract to High Rock and just
7 focus on that purchase. So they have asked
8 if Clean Water would then consider allowing a
9 reduction in scope of their 2017-068 contract
10 from purchasing 2400 acres to reducing that
11 to purchase about 1200 and then also to come
12 back in 2020 with an application to pick up
13 the remaining 1200 acres.

14 We are supportive of that for a few
15 reasons. One is the organizations that are
16 working closely together, they are really
17 trying to take advantage of this one-time
18 opportunity that the state has for these
19 lands. When Wildlife Resources Commission
20 applied to Clean Water they had requested \$2
21 million for contract, they were awarded just
22 over \$1 million. At that point they could
23 have worked to reduce their scope of work in
24 the contract; they could have said, we
25 requested 2 million for 2400 acres; we

1 received a million, we'd like to already
2 reduce that to 1200. They were optimistic
3 that they could meet the fund-raising and go
4 ahead and work through their budgets with the
5 reduced award from Clean Water, but that has
6 not come through for them and you all will
7 recognize that there are many projects that
8 are phased at Clean Water. We have a few
9 that, you know, come to mind immediately, the
10 Headwaters project, but there are a lot of
11 others that just need two or three awards and
12 two or three phases before the project can be
13 completed.

14 And another reason of being supportive
15 of this is between the two contracts, Clean
16 Water will be -- is currently committed to
17 about 13 percent of the total cost to the
18 state of getting almost 5,000 acres. Even
19 with another application next year, if that
20 were to be awarded, Clean Water would be
21 about 20 percent of the total cost so there
22 is significant match here. There is a lot of
23 fund-raising and this is a large acquisition
24 in the middle of the state on a lake that
25 would provide access for fishing, a lot of

1 hunting, just the lakefront would not be
2 developed and we feel it is a very solid
3 project at the end of the day.

4 Wildlife Resources Commission and Three
5 Rivers have been very easy to work with, but
6 they just came and said that think they have
7 made a miscalculation. They don't want
8 another application coming in and feeling
9 like that catches the board by surprise
10 because you thought you were finished with
11 this. So they're being very open with the
12 strategy and asking for the reduction in
13 scope for their current project as well as
14 letting you all know they'll be returning in
15 2020 for another application. Any questions
16 on that?

17 CHAIRMAN CAWOOD: And in our committee discussion
18 I think the transparency was a big factor in
19 them being very forthright with staff and
20 letting them know and keeping you up-to-date
21 with the situation. Had a lot to do with our
22 decision to recommend that we approve this
23 change of scope, so that's from the
24 committee. Any questions?

25 MR. TOOLE: Just one, so the change in scope is to

1 reduce the number of acres but retain the
2 funding though, is that correct?

3 MS. GUTHRIE: Yes.

4 CHAIRMAN CAWOOD: Yes.

5 MR. TOOLE: So half as much for the same?

6 MS. GUTHRIE: Which follows exactly what
7 Headwaters did. They would ask for 10
8 million and then they'd get one so we would,
9 you know, work out a scope of work that was
10 ten percent. Wildlife just at the time of
11 the contract didn't recognize that they
12 needed that kind of negotiation.

13 MR. TOOLE: Would it have impacted the scoring if
14 it had been presented originally the way it's
15 proposed to be amended?

16 MR. WILSON: Physical check of the acreage I don't
17 think.

18 CHAIRMAN CAWOOD: On our call we thought about the
19 same, but --

20 MR. TOOLE: Is it just the match component that
21 would change, potentially impact the scoring?

22 MS. GUTHRIE: Yes. That is what I am thinking
23 right now is -- I'm sorry, I don't have this
24 right now, though, I do feel like I have
25 worked through it. I don't have my numbers

1 on that.

2 MR. MERCER: I think we looked at it at one point.

3 I don't remember the specifics but I think if
4 there was a change it was minimal. That's to
5 the best of my recollection.

6 MS. GUTHRIE: As you know this project scored a 75
7 so it was, in fact, funded on the original
8 list but it is a pretty solid project.

9 Justin, I think we also went through like if
10 the application came in now and were scored
11 that we would be right at that same level.
12 And I just apologize; I don't have those
13 notes where we had worked through that.

14 MR. TOOLE: I think that's always the issue when
15 we're doing a major revision, I mean, major
16 acreage revision, is when the funding is
17 granted in cycle, it's on the basis of
18 information in front of us at that time and
19 the question then comes while we want to be
20 flexible and recognize that things change, do
21 we retain fairness to all the other
22 applicants as we deal with this kind of
23 change and that's always the concern.

24 MS. GUTHRIE: Yes, and I apologize for my stumble
25 there, but I -- in a situation where, as with

1 Headwaters, when a project scope is reduced,
2 I hold them to the same math percentage in
3 the contract and that's why the score doesn't
4 change. I'm sorry, I just didn't think of
5 that.

6 MR. TOOLE: We're there, we're behind you.

7 MS. GUTHRIE: So therefore the score does not
8 change because we are committed to that
9 percentage match that they were scored.

10 MR. WILSON: What does the sentence that says,
11 "Committee recommendation will be provided at
12 the May 21st Board of Trustees Meeting," what
13 does that mean?

14 MS. GUTHRIE: That means that the board packet was
15 sent out to you all before the committee met
16 to talk about this particular item because
17 this item was on a phone call last Friday.

18 MR. TOOLE: You were out of the country, John.

19 MR. WILSON: I was out of the country?

20 MR. TOOLE: You weren't there.

21 MR. WILSON: I have no memory of this.

22 CHAIRMAN CAWOOD: Other questions? Okay. Since
23 it comes from committee, doesn't need a
24 second, so all in favor?

25 MEMBERS: Aye.

1 CHAIRMAN CAWOOD: Any opposed? Then we have our
2 extension. Great. And I will turn it back
3 over to you.

4 MR. WALSER: Madame Chairwoman, I would like to
5 have the ability for a second, I am really
6 pleased with the vote that just took place
7 and I think Nancy did a great job setting
8 that up. Hydroelectric relicensing process
9 took 15 years. The state of North Carolina
10 negotiated that agreement and they also
11 fought it. It was ugly and bitter and I just
12 want to say in 2008, the Land Trust for
13 Central North Carolina applied for and
14 received a grant from the Clean Water
15 Management Trust Fund to purchase this
16 property 11 years ago and we reverted that
17 grant because we knew that we were not going
18 to be able to fulfill the terms.

19 But 6,200 acres are supposed to be
20 preserved, some of it's going to state parks,
21 some of it's going to the National Forest and
22 I think while we got bogged down in all the
23 details of this, it is a great project, and I
24 commend you and I wanted to you to know that
25 it's within 90 miles of 5.6 million people.

1 It's right in the middle of the state. We
2 will never get a chance to do something like
3 this again for another 40 years, which is a -
4 - so thank you. I am so glad that we did what
5 we just did even though I abstain. I really
6 did, I was sitting here like chewing on my
7 fingernails. Hank appreciates that. Should I
8 have said what I just said, Hank? Is that
9 okay?

10 MR. FORDHAM: Now is fine.

11 MR. WALSER: So Stewardship Endowment report and
12 any annual deposit, Marissa? Is that right?
13 Is that where we are?

14 CHAIRMAN CAWOOD: Yes.

15 MS. HARTZLER: Thank you so much. So this is the
16 annual report that we make to the board
17 regarding the Stewardship Program and
18 decisions that need to made regarding the
19 endowment and so I just want to preface this
20 in saying that I was prepared to present this
21 had you not approved the preceding policies;
22 however, now that you have it does take those
23 into consideration.

24 So my objective for this section is to
25 go over three main things. First of all,

1 give you an overview of the Stewardship
2 Program so that you have a little bit more of
3 an understanding of what we are spending
4 funds on in stewardship. And then move into
5 the endowment report, including fiscal year
6 '19-'20 spending recommendation as well as
7 the annual endowment principal deposit and
8 withdrawal requests which the board does need
9 to approve every year.

10 So the Stewardship Program is here to
11 maintain the conservation values protected by
12 state-held conservation easements so these
13 are typically coming from the acquisition
14 program and they are held by the state and
15 monitored by our partners, so this does not
16 include easements that our partners hold and
17 they monitor. This does not include
18 declarations of restrictive covenants; this
19 does not include properties that go directly
20 to the state ownership; this is just those
21 with conservation easements.

22 And as I mentioned each site is
23 monitored at least annually and that's either
24 through a memorandum of understanding. That
25 really happened when the conservation

1 easements were recorded prior to the
2 endowment and so they're unfunded or there
3 were funds that were provided directly to the
4 partner and they hold those funds. But later
5 on once the endowment was created, we
6 deposited funds into the endowment and so we
7 are able to contract with those monitoring
8 partners to do that monitoring on behalf of
9 the state. So this includes a total of 311
10 easements at 88,075 acres, currently enrolled
11 in the Stewardship Program as of fiscal year
12 '18-'19. In addition to monitoring with these
13 funds we also would use endowment funds to
14 fund some management activities. These are
15 typically small but very meaningful projects
16 that help protect the conservation values of
17 the property, things like gates, preventing
18 trespass, usually very minor expenses.

19 And we also are able to work with our
20 partners to address any easement issues, any
21 violations that may come up so I do work
22 directly on those as well. But all of these
23 stewardship tasks are funded by the
24 investment income that is generated from the
25 Stewardship Endowment.

1 So just to give you a little bit more
2 insight on what we're spending these funds
3 on, as I mentioned, every year the land trust
4 partners go out and they monitor each of
5 these 311 easements. And this entails
6 actually going to the property, although some
7 of the will do drone or helicopter or
8 airplane monitoring, but they go to the
9 property; they walk the property lines; they
10 make sure that there's been no encroachments,
11 no trees taken, no trash dumped, anything
12 like that. And they take photo-points and so
13 you can see those on the right. These allow
14 us to get a sense of the current condition of
15 the easement that can be compared to the
16 baseline documentation report, which is a
17 report that is actually produced when the
18 conservation easement is recorded. It shows
19 that snapshot in time; this is what was
20 protected and then that way we can compare
21 current conditions to the condition when the
22 easement was recorded. They submit a written
23 report. This has a wealth of information
24 including whether or not the landowner has
25 any plans to exercise any of their reserved

1 rights, so will there be any new trails
2 built, any harvesting operations, any
3 restorations, anything like that happening;
4 does the landowner plan on selling the land;
5 are there any existing violations, either by
6 third parties or by the landowner.

7 All of this information comes to me and
8 we are able to follow up on it annually to
9 make sure that these conservation easements
10 are still protecting what they were intended
11 to. And I do go out with the monitors and
12 have really been blown away by the work that
13 they're doing on behalf of the state. Many
14 of our land trusts are accredited and so they
15 are by the Land Trust Accreditation
16 Commission and so they are reaching a
17 wonderful standard of monitoring and they're
18 doing a fantastic job on this work on behalf
19 of the state.

20 In addition I mentioned some of the
21 management funds and I just wanted to
22 highlight two of the ones that were actually
23 funded sort of out of cycle because they were
24 issues that came up. But again, these
25 management awards are outside of the scope of

1 normal monitoring and they involve some
2 activity on the ground that will help further
3 protect the conservation easement.

4 So the photos up here, thank you by the
5 way, Damon, for the one on the right, this is
6 from 2013-005, Society of the
7 Transfiguration, this is out in Bat Cave.
8 And if you recall there was, I think back in
9 June, there was a landslide that shut Highway
10 9, you can see on the left, there is a lot of
11 soil from both the state-held easement and
12 the surrounding easements held by Conserving
13 Carolina and also non-easement land, that
14 ended up on the road. And so we were able to
15 provide funding to Conserving Carolina to
16 really be our eyes and ears on the ground and
17 help get this site cleaned up so that it was
18 not impacting the conservation values of the
19 easement any further.

20 So on the right you can see the
21 progress, just a lot of soil removed from the
22 road. But this is just one example of how
23 our partners with the local relationships and
24 the ability to be onsite frequently, it's a
25 really great investment for us to have them

1 follow up on these kind of issues. Next is
2 2010-102 which is Springers Point Preserve,
3 which is Three Rivers Land Trust from,
4 formerly Land Trust for Central North
5 Carolina.

6 This property has had a huge influx of
7 an invasive species, feral hogs, which have
8 really impacted the easement area. They are
9 big, they breed quickly, they eat a lot and
10 they can have a definite impact on water
11 quality and so Three Rivers had reached out
12 to us for assistance in purchasing corral
13 traps to be able to control the population of
14 these feral hogs on the property. They had
15 been hunting for years but hadn't really seen
16 a big impact and so with two individual
17 contributions to these traps for a total of
18 \$5,000, they were able to put these traps in
19 and then spent countless hours running this
20 program, managing it, hunting, and then they
21 took a step further and partnered with Wake
22 Forest University to come up with a
23 monitoring protocol to see how effective
24 their strategy has been. So a number of us
25 actually got to go out and see the a

1 demonstration. They used drones down in the
2 bottom to create thermal maps of the property
3 to understand how many feral hogs are located
4 on the property at any given time which was a
5 completely new -- they knew the strategy
6 would work with deer, weren't sure if it
7 would work with feral hogs but they found
8 that it does.

9 March 2018 they had 198 individuals,
10 March 2019 they had 48. And this aligns
11 really well. They know that they harvested
12 155 individuals from that population at the
13 same time, so this is great. With a small
14 investment from the stewardship program, they
15 were able to make a major impact to the
16 property and also really develop this
17 technology and partner with Wake Forest for
18 others to use and it's been a great example
19 of a definite success story in stewardship.

20 So those are two very different examples
21 but a little bit of a follow-up, some nice
22 successes and some good pictures to give you
23 a sense of the source of management fund
24 projects from stewardship. So with that, I'd
25 like to sort of transition into the actual

1 Stewardship Endowment.

2 Now that you have a sense of sort of the
3 things that we've funded in the past, what
4 we'd like to fund in fiscal year '19-'20, I
5 do want to say that when I talk about the
6 Stewardship Endowment, I'm referring to the
7 fact that we have three main investment
8 funds. We have the bond investment fund, a
9 short-term investment fund and an equity
10 investment fund. And so all three of those
11 funds together constitute the endowment, so
12 just know that when I talk about the
13 endowment, I'm talking about all three of
14 those. These images are all in your packet
15 but they will also be up on the screen. I
16 just wanted to first step through how we're
17 doing on the year.

18 So this chart shows the monthly total
19 value of the Stewardship Endowment, fiscal
20 year '18-'19 to date. On the bottom I
21 apologize, that's hard to see, starts in June
22 of '18 and runs through March 31st, 2019. As
23 you can see from the green line, the
24 Stewardship Endowment has fluctuated a lot
25 over the past year, which is to be expected.

1 The gray line shows the trend of the
2 endowment, so you can see it's slightly
3 negative, mostly flat. We had \$103,000 in
4 earnings to date in the Stewardship
5 Endowment, which takes us to a total of 1.4
6 million in investment income.

7 Just as a reminder, this is a true
8 endowment, so when we deposit funds into the
9 principal of the endowment, those cannot be
10 spent, only the investment income can be
11 spent. And so that's how we ended up with a
12 question of how much investment can be spent,
13 can \$1.4 million be spent. No. Because we
14 need that money for monitoring in future
15 years.

16 So the recommendation was to determine
17 how much could be spent in a given year
18 sustainably. And so in order to do that,
19 this is the 36-month total value. So it's
20 similar to the last chart, of course, it goes
21 back further in time to April of '15-'16
22 through again March 31st of this year. And
23 this paints a very different picture.

24 You can see that the endowment has
25 actually been earning quite well, definite

1 solid, positive trends. That is great news
2 regarding the endowment. I will note that
3 you may see some definite peaks in values,
4 and that is oftentimes due to deposits or
5 withdrawals from the endowment, but I will
6 say that looking at the 36-month total value
7 really evens all of that out and it doesn't
8 -- when you're adding 200,000 and subtracting
9 \$100,000, it doesn't make a huge impact on
10 something with a 36-month total average value
11 of almost 4.2 million. But so overall the
12 endowment looks great.

13 It's important to note that this window
14 will shift so next year we'll be looking at,
15 next 36-month to come up with that total
16 value of the endowment. So taking it one
17 step further, the green pie at the top,
18 again, represents that 36-month total average
19 value of the Stewardship Endowment so just
20 under \$4.2 million. And it was recommended
21 that we develop a spending cap which was a
22 part of the Stewardship Endowment spending
23 policy. And so the recommended spending cap
24 for '19-'20 is four percent, which is
25 \$166,724. Very small fraction of that pie,

1 but that ensures that we will have the money
2 for the future because these easements must
3 be monitored in perpetuity.

4 So I'll go over this in more detail but
5 how does that break down? 142,000 of that
6 will be spent on monitoring of those 311
7 easements and we're setting aside 20,000 for
8 management expenses. I have actually more
9 than 20,000 in proposals from our partners on
10 fantastic projects that will help improve the
11 conservation values, but we're setting aside
12 20,000. And then that leaves 4,280 in
13 contingency so we can maybe fund another
14 project or have a little bit of funds
15 available if there is something unexpected
16 that comes up that's really better to address
17 now than later. So that's how that spending
18 breaks down.

19 On this table just going into the
20 breakdown a little bit more, we currently in
21 our stewardship operating account, have a
22 cash reserve of \$62,277 and part of that is
23 because our land trusts do not always spend
24 what they -- their allotment on their
25 contract. This is also projected through the

1 end of the fiscal year so through the end of
2 June. I do anticipate that probably we will
3 receive more money back. Land trusts will
4 not spend all of that so it could actually be
5 a little bit higher than that but that is the
6 projection to date. We know that the
7 monitoring expenses in '19-'20 will be
8 142,000. We also know that the management
9 funds will be 20,000. I'm not holding that
10 contingency out because, again, I expect that
11 we'll have a little bit more cash reserve on-
12 hand after the end of this year. So that
13 makes it that we'll need \$100,166 withdrawn
14 from the Stewardship Endowment in order to
15 fund our Stewardship operations in '19-'20.
16 At the same time we also need to add
17 principal to the endowment for all of the
18 closed projects from this past year. And
19 that is a total of \$358,831 which is high.

20 This one on the right actually shows 22
21 state-held conservation easements that closed
22 this year and I think I would be remiss if I
23 didn't mention the fact that this is only a
24 portion of the projects closing. Again, this
25 doesn't include anything that's transferred

1 to the state or has restrictive covenants or
2 any of the easements in the restoration
3 program. So this is a lot to have closed
4 this year. It will take us up to 333
5 easements and 92,405 acres monitored through
6 the Stewardship Program.

7 This page is very colorful. I apologize
8 for that. But there's method here, this is a
9 look at how we will transfer the funds to and
10 from the Stewardship Endowment and each
11 section is color-coded to the type of the
12 investment so blue is the bond investment
13 fund, gray is the short-term investment fund
14 and orange is the equity investment fund.
15 Part of our transfer process also allows us
16 to reallocate funds between those three
17 accounts to get them toward the target that
18 was set by the board per the deposit
19 agreement with the treasurer's office. So
20 the recommendation here is that we deposit
21 \$46,000 to the principal of the bond
22 investment fund, a little bit over 84,000 in
23 principal to the short-term investment fund
24 and 228,600, rounded, to the equity
25 investment fund. The total after transfers

1 we will have just under 3.7 million in
2 principal in the Stewardship Endowment. And
3 again, all of that transferred to principal
4 is for those 22 closed projects to get their
5 projects enrolled in stewardship.

6 For the investment income column, we
7 need to, as I mentioned previously, withdraw
8 \$100,000, a little over \$100,000, in order to
9 fund our stewardship commitments for '19-'20
10 and so the recommendation is to withdraw that
11 from the investment income of the equity
12 investment fund and so we will after transfer
13 have about 1.3 million in investment income
14 for a total value of the Stewardship
15 Endowment at just over \$5 million. And I'm
16 very pleased because this strategy here gets
17 us very well in line with the deposit
18 agreement. We will end rounded EIF at 70
19 percent, the short-term at 22 percent and the
20 bond investment at eight percent, which is
21 right where we need to be with our allocation
22 through those funds.

23 So there's two action items associated
24 with this report and I'm happy to answer any
25 questions since this is a special -- it's the

1 first time that we've approached it this way.
2 But first our policy allows for a cap of up
3 to four percent, it's the recommendation to
4 set it at four percent. Certainly in future
5 years the board could vote to have a lower
6 spending cap if it felt necessary, but so
7 that would be four percent of the 36-month
8 total average value of the Stewardship
9 Endowment as of March 31st. And then to
10 approve or amend the staff recommendation to
11 deposit the 358,000 to the endowment
12 principal, withdraw 100,000 from the
13 investment income and to structure that
14 transaction so that we hit those previously
15 agreed upon fund allocations. So happy to
16 answer any questions about either of these
17 pieces.

18 MR. TOOLE: I thought it was very good, thank you
19 very much, plain, direct and sound, sound
20 financially.

21 MS. HARTZLER: That's absolutely what we're
22 looking for, not spending the money that we
23 need tomorrow today.

24 MR. WASLER: So we need a motion to approve, staff
25 recommendation, I'll make such a motion.

1 MR. TOOLE: I'll second.
2 CHAIRMAN CAWOOD: All in favor?
3 MEMBERS: Aye.
4 CHAIRMAN CAWOOD: Any opposed. Great. Nice work,
5 Marissa.
6 MR. WALSER: NCCF Lux Farms Restoration, Steve.
7 MR. BEVINGTON: Sure. I'm going to hand this to
8 Justin in just a second. Under Walter's
9 direction staff handles many small
10 adjustments to contracts, including extending
11 contracts for when there's cause given that a
12 project was not able to be completed under
13 its original intent and we have the power to
14 do this just as a routine measure of
15 administering contracts; however, we're
16 bringing one to you today that Justin is
17 going to talk to you about. It's really an
18 ambitious and wonderful project that was
19 begun ten years ago and you can hear the
20 story of environmental issues that are
21 related. We intend to go ahead and process
22 one final extension to this but really wanted
23 you to be aware of it because any time a
24 project begins to look unfamiliar to the
25 conditions in which you funded it, we really

1 want you to know about that, so with that,
2 Justin, if you'd let us know about Lux Farms.

3 MR. MERCER: Thank you, Steve. As Steve
4 mentioned, this was a 2010 project and if my
5 estimate is correct that means only three
6 people in this room were present when this
7 project was originally (laughter). So the
8 original award was for just over \$970,000 out
9 of \$1.5 million project and it's worth noting
10 here that during that cycle we had a \$50
11 million budget so a \$1 million grant for a
12 restoration project was not out of the
13 ordinary for that time. As such they are now
14 requesting their fifth contract extension.

15 Just a little familiarity here, the
16 project is located in Hyde County out here on
17 the coast. See it a little bit better down
18 here, we've got Lake Mattamuskeet, Engelhard
19 down here and our project was at this red
20 star right here. This is an illustration of
21 the current flow of water on this property.
22 If any of you know anything about eastern
23 North Carolina, there is no natural hydrology
24 anymore. It's all been ditched and drained
25 and it flows in all sorts of different

1 directions so we can see that illustrated
2 here. Based on a 2008 planning grant,
3 researchers from NC State were able to
4 determine that the natural flow across this
5 entire parcel would it have been this
6 direction here towards Swan Lake and
7 Alligator River out here.

8 What we're looking at specifically with
9 this project is the little corner right here.
10 So we're not looking at the whole property,
11 we're looking at this little corner of 1400
12 acres right here. So the proposed scope was
13 to restore hydrology to 1400 acres of land,
14 including over 24,000 feet of constructed
15 berms and sloughs. This was in effort to
16 restore natural topography that would aid in
17 proper drainage. Five flood plain culverts,
18 five fords and two pump stations as can be
19 seen in this illustration here. We've got
20 culverts, you can barely see here in the red
21 along what we call Fifth Avenue. They've got
22 fords along here and across this area and
23 this is the primary wetland, slough
24 restoration right down here.

25 So just a quick run-through of the

1 timeline here. It was a 2010 project so the
2 grant became effective with contract in 2011.
3 They had landowner agreements in place.
4 Permitting was done in 2012, culverts were
5 ordered in 2013, so everything was moving
6 appropriately towards completion. Then 2014
7 happened January, they had a catastrophic
8 fire where the contractor had 100 percent of
9 his equipment damaged. So that was the first
10 major stumbling block. In 2015 they had the
11 design and notice to proceed from NRCS, which
12 is the major contributor for match here.

13 They continued with their pre-
14 construction meetings. They began
15 construction and in between September of 2015
16 and April of 2016 they had 37 inches of
17 rainfall. The big problem with this as you
18 can see it's very difficult to work in those
19 conditions. One of the problems was when
20 they would go in and try to work in similar
21 conditions or in wet conditions, they
22 compacted the ground so much that it became
23 impossible for them to achieve the specs
24 outlined by the NRCS agreement.

25 2016, unfortunately they had another

1 fire, a wildfire this time, followed by
2 Tropical Storm Bonnie, Tropical Storm Colin,
3 Tropical Storms Hermine and Julia and then in
4 November, Hurricane Matthew. So we can see
5 here this is that wildfire, as a result of
6 that wildfire these farmers had to flood
7 their land to help control it and put it out
8 so now you're working in wet conditions
9 again.

10 Photos from Hurricane Matthew, I can't
11 remember the exact numbers but they had to
12 run the pumps for something like 35
13 consecutive days in an attempt to dig in this
14 drain so that the land was workable again.
15 2017 they began recovering from the storm.
16 They tried to get into construction again,
17 but things were still just so wet at that
18 point. They originally had a site identified
19 for a borrow pit so that they could take fill
20 to use for this project, but found that the
21 site was -- didn't have enough material to
22 facilitate the project so they found a second
23 one. That site didn't have enough. They
24 finally found a third site that looks like
25 it's going to work but again continued wet

1 conditions. They have gotten equipment
2 stuck.

3 This picture is not from two weeks ago,
4 but when I was out there two weeks ago they
5 had just gotten another bulldozer stuck then.
6 2018, they had all their permits extended.
7 The contractor in July was attempting
8 construction again then Florence came. So
9 you can start to see here there are a lot of
10 factors that are out of the applicant's and
11 out of the contractor's control with getting
12 this project done.

13 So that brings us up to current. In
14 March the contractor remobilized. Over the
15 last two months, they've really gotten more
16 done in the last two months than they have
17 the last five or six years because conditions
18 are finally right. They finally gotten NRCS
19 to relax a little bit on their specs so they
20 can work in the wet and still achieve some
21 appropriate outcomes.

22 So this is part of what they've done in
23 the last several weeks. We've got I think
24 five or six culverts installed at this point.
25 You see right here, this is immediately after

1 installation before they remove the plug and
2 allow water to start to flow. It looked more
3 like this afterwards with a couple of feet of
4 water on top of all this riprap. So they
5 really have made great progress, especially
6 within the last two weeks to a month.

7 So just a quick summary here, the
8 physical project itself remains largely the
9 same as what was funded or agreed upon in
10 2010. The timeline has shifted largely due
11 to factors outside of the applicant's
12 control. The current extension request would
13 bring it consistent with the NRCS timeline
14 for the first time in the life of this
15 project, so that's been part of the problem
16 as well is the agreement with NRCS was on a
17 different timeline than the agreement with
18 Clean Water and we require match to be
19 extended at the same rate as Clean Water
20 funds. So this extension will bring this two
21 programs in line for the first time since it
22 started in 2010. They have made significant
23 progress in recent months and ultimately
24 staff does support contract extension through
25 2020.

1 CHAIRMAN CAWOOD: I don't know if others -- do we
2 have a tenacity award? (Laughter)

3 MR. MERCER: I will say that both the landowner
4 and the contractor all remain very committed
5 to seeing this project through.

6 MR. MERCER: Because that's an item that we could
7 normally improve in-house but because it's so
8 unusual we wanted you all to know about the
9 tenacity of this project situation.

10 MR. BEVINGTON: And I'll just say from a staff
11 point of view too, it's important for us to
12 have you hear it because we do get requests
13 sometimes that stress our ability to continue
14 to serve in a customer service way and to be
15 able to say, sure you can ask but at some
16 point we have to go to the board. It's a
17 very important thing for us to do. Again,
18 honestly Justin has spent a lot of time in
19 the field visiting and I think that's helped
20 light the fire. They knew he was coming and
21 they needed to make a showing of progress and
22 so I appreciate the fact that the board
23 provides to us by allowing us to present it
24 here today. It's really the best thing
25 that's been accomplished with this so far.

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Thank you.

MR. TOOLE: Is the expectation they'll be finished a year assuming no more natural disasters?

MR. MERCER: Assuming no more major storm events or record rainfall, they do anticipate being finished within the extent of this extension.

MR. BEVINGTON: We got an estimate from them if it didn't get extended the permit would be -- the contract expires July 31st. They may be able to get half of the work done by then if weather permits. So they're going from sort of zero to 20 and 50 by July so we're very optimistic for the first time.

MR. WILSON: Is it necessary to say staff intends to grant this final request for project extension? I mean, given the fact that the gods seem to have it out for this one, do we even need to say this is a final request? Because we're talking about it being finished by the end of 2020 and there's a lot that could happen.

MR. BEVINGTON: Right. They were under -- Justin, maybe will help me. They were under other constraints, other loss of matching funding if they don't get it done by 2020. So the

1 federal money will extend it to the farthest
2 reaches also, so I think it would even --
3 even if we granted a further extension, I
4 know what you're saying, but it would
5 probably not help the project at that point.
6 So we're taking it to the max. It might be a
7 little petty if we put the word "final" in
8 there because I did want -- we told them -- I
9 think we told them final once before so --

10 MS. MURRAY: And then Florence happened.

11 MR. BEVINGTON: Yeah, and then Florence. I think
12 it was my second day on the job maybe or
13 something. Saying final, right, it's not
14 enforceable since it's Walter's will that
15 will determine how far he can be pushed. But
16 this project is running up to a real deadline
17 for federally matched funds and the
18 permitting is expiring as well which would
19 just cause -- it would be a huge setback so
20 we have been -- and they understand that,
21 that -- because the Fed has been very good
22 about understanding and having their window
23 with the weather and taking advantage of that
24 success so far this year.

25 MR. WALSER: So next up, Will Summer is going to

1 give us an overview of the Conservation
2 Agreement, a conversation that we've been
3 having for some time now. Will.

4 MR. SUMMER: Thank you very much. So what I'd
5 like to talk about as we often do in June
6 once we kind of get all of the official
7 business out of the way is cover an item that
8 we need to -- or we'd like to refresh on some
9 years, it's the Stream Restoration and the
10 Stream Restoration process, if you remember
11 from when we went to Mt. Airy a few years ago
12 and this time I'd like to kind of get into
13 conservation agreements. It's a critical
14 part of our program and we do really, every
15 aspect. And I just want to kind of talk a
16 little bit about that, how they fit with our
17 purpose, talk specifically about our
18 conservation agreements and that will inform
19 both some of the work that the acquisition
20 committee is doing and some of the things
21 that the whole board may see back from the
22 committee in future meetings. And kind of to
23 round out, just talk a little bit about
24 conservation agreements used by other similar
25 agencies.

1 So I use the word "conservation
2 agreement" in general rather than the word
3 "conservation easement," because I'm using
4 the umbrella to talk about both a
5 conservation easement, deed restrictions, the
6 declaration of covenants and restrictions,
7 dedication under the Nature Preserves Act,
8 all things that fit under this larger term of
9 conservation agreements. So a conservation
10 agreement is a voluntary, legal agreement in
11 which a landowner "gives up certain property
12 rights that benefit the conservation values
13 of interest," and that the latter part really
14 comes from the agency that's requesting the
15 entity to which that agreement is made, with
16 whom that agreement is made. They can be
17 perpetual or term limited, I put an asterisk
18 by term limited. Most of the folks in
19 conservation community will consider it a
20 perpetual only. In fact, the Land Trust
21 Alliance definition defines it as a perpetual
22 agreement, conservation agreement.

23 But there are some instances where there
24 are term-limited conservation agreements.
25 They do have a real value to be approximated

1 by an appraisal when you're giving up certain
2 rights and that has value. As Marissa has
3 already said, they should be monitored
4 regularly to ensure they're being managed in
5 accordance with the restrictions and they are
6 difficult to amend or terminate by design.

7 Two of the most important parts of a
8 conservation agreement are the reserve
9 rights, that is, the things that the
10 landowner that's giving up rights can still
11 or is still allowed to do and the prohibited,
12 restricted activities. These are the things
13 which they most certainly cannot do. And
14 I'll talk more about both of those because
15 those are really the meat and potatoes of the
16 conservation agreements in a little bit.

17 The rights have value that they give up,
18 those are either sold or donated or some
19 combination thereof. And the typical rights
20 given up by a conservation agreement, and
21 this is sort of roughly in the order they
22 tend to have them, so development and
23 subdivision are really the biggest two. Like
24 every, almost every conservation agreement
25 someone will give up the right to develop the

1 property, give up the right to take 100 acre
2 property and carve it up into 100 one-acre
3 pieces so it stays intact, and it's not
4 developed. Kind of why I wanted to get to
5 the two things.

6 Mining, commercial, industrial use are
7 often removed, grading and land disturbance
8 as well. If you get to that point down the
9 list, you still have a piece of property that
10 you can harvest timber on, you could do
11 agricultural activities on farming. If you
12 buy or purchase or take more rights, you take
13 away the right to do agriculture and right to
14 do forestry which is essentially moving into
15 a property where you're just leaving the
16 natural forest, the natural landscape
17 untouched as it is, getting more specifically
18 into prohibiting disturbance of any plants or
19 animals and going further down into the
20 rights of mitigation of open space. So for
21 reference our typical conservation easement
22 takes all these rights. We get just about
23 the whole ball game here, whereas obviously
24 an agricultural or working forest or working
25 land easement would leave some of those

1 rights intact. This is one of the very
2 first things in our statute, our purpose, I'm
3 not going to read it out loud but I have
4 picked from that paragraph, these top six
5 things.

6 So we restore degraded surface waters,
7 that's what the restoration program does
8 essentially. And then the remaining five are
9 essentially things that are acquisition
10 functions. We protect surface waters,
11 buffers, natural communities, historic sites
12 and provide buffers around -- and greenways
13 and provide buffers around military bases.
14 So in looking at essentially the six things
15 that we do by statute, we use the
16 conservation easement indirectly in the
17 restoration program to protect our investment
18 in the construction, the design and
19 construction on the property. So when we
20 spend money to restore a stream we put an
21 easement around that to keep anyone from
22 going in and cutting the plantings that we
23 have paid for and thereby destabilizing the
24 system that we've spent money to protect.

25 So the easement is a very important part

1 of the restoration program for protecting our
2 investment in construction. And for the
3 other six, the easement is the actual
4 generally -- or I'm sorry, the agreement is
5 the thing we -- our aim for to protect our
6 directing this. We protect the land and the
7 conservation agreement via dedication of the
8 Nature Preserves Act or state agencies or a
9 conservation easement or privately owned land
10 or deed restrictions. It's essentially the
11 thing we buy, the thing we spend the money
12 on, so it's essential to everything that we
13 do, almost everything we do through our grant
14 funds. So the conservation agreements are
15 critically important to our organization and
16 what we do.

17 Backing down from the -- drilling down a
18 little bit from the general talk about
19 conservation agreements, I want to talk a
20 little bit about ours. So they protect our
21 investment in a project. Ours are perpetual
22 with a few limited exceptions, being mainly
23 the Conservation Reserve Enhancement Program
24 and the projects we have partnered with the
25 Natural Resource Conservation Service in kind

1 of leveraging our funds against theirs, they
2 have specific term-limited or certain
3 practices and we, in order to work better
4 with them we do have some limited term
5 easements in those cases. But generally
6 speaking mostly all we do is perpetual.

7 In the community, our easement will be
8 considered a forever-wild easement, that's
9 kind of general term for an easement that
10 essentially preserves the natural condition
11 with as little human manipulation as
12 possible. The types of agreements that we
13 use when we spend our money directly on
14 something is a state-owned conservation
15 easement and Marissa is obviously talked a
16 lot about that with the Stewardship Program,
17 dedication of the Nature Preserves Act which
18 is a similar perpetual protection that
19 actually Misty's program, the Natural
20 Heritage Program, administers and it is
21 passed through the counsel of states. It is
22 very high level agreement. Declaration of
23 covenants and restrictions which we use in
24 some limited situations with certain
25 partners, other agreements, other

1 conservation agreement, these would be used
2 on matching property or property that would
3 be donated through a donated mini-grant
4 program, would be a land trust held
5 conservation easement or again a declaration
6 of covenants and restrictions.

7 So on the matching property, the donated
8 property is not the state-held easement which
9 we set aside money and enroll it the
10 endowment program. It's one of the bigger
11 differences where we spend our money we
12 steward it to a kind of a very high level and
13 set the money aside to protect our direct
14 investment; when it's matched and when it's
15 donated slightly less so. And if we're
16 taking from this particular slide, is that
17 the rights restrictions and activities are
18 similar across the various legal tools, so we
19 don't have to get bogged down whether it's a
20 deed restriction or a conservation agreement,
21 the activities that we allow and the
22 restrictions that we impose are largely the
23 same so I'll continue to talk more generally
24 about our reserve rights and prohibited
25 activities from that perspective.

1 Our conservation agreement is focused on
2 water quality protection, that's obviously
3 where the Clean Water Management Trust Fund
4 got its start in '96 and until 2013 that was
5 really all we did, water quality protection.
6 So our efforts are focused on riparian areas
7 which we've defined as within 300 feet of a
8 water body, a wetland or a flood plain. And
9 for most of history that is kind of where our
10 easements were. For the areas that were not
11 close to water we would use different tools,
12 sometimes the Land Trust would place their
13 easement on the upland area that we often
14 refer to as a match. And in some cases if it
15 suited the property well and suited the
16 landowner well, we would just extend our
17 riparian easement to the borders of the
18 property to simplify things and just have one
19 easement on the entire property. But it's
20 maintained the typical forever-wild language
21 that we have set in place for riparian
22 protection.

23 There's been some adjustments to our
24 easements over the years but the reserve
25 rights 15 or 20 years ago are largely the

1 reserve rights that we have in our easement
2 today, easement template today. So a
3 conservation agreement has several parts.
4 The first part is the recitals and the
5 conservation pertinent purposes. It really
6 establishes the circumstances upon which the
7 agreement is based and why the easement
8 exists. The duration establishes the term,
9 again, generally perpetual for ours. Reserve
10 rights talk about what the landowner will be
11 committed to continue doing. It kind of
12 protects them so that they can, you know, see
13 in writing, these are the things you will be
14 able to do with this property.

15 The prohibitive and restrictive
16 activities talks about the things that are
17 enumerated they absolutely cannot do. It
18 gets into enforcement remedies, title,
19 miscellaneous other things, but the things
20 that really define the can's and can't's of
21 an easement, are right here, reserve rights
22 and prohibitive and restricted activities.
23 And for our purposes the reserve rights is
24 the part that is up for discussion or debate
25 when someone asks for an exception to an

1 easement. So I'll get into a little bit more
2 of that in a moment. But these are the two
3 things we are going to focus on in a
4 conservation agreement.

5 So I'm going to run through our standard
6 reserve rights that we have in an easement.
7 One, to make you folks familiar so that when
8 -- in the fall when we talk about or Damon or
9 Justin talk about an applicant requesting a
10 statement of reserved rights, what they mean,
11 what it is that they can and can't do. To
12 give you a frame of reference and also kind
13 of lay the foundation so that when they ask
14 for something that's not standard you kind of
15 realize how it fits and how close it might be
16 to what the typical is.

17 So passive recreational use is a
18 standard right, this is hunting, fishing,
19 hiking, minimal surface alterations,
20 basically things you can do on the land
21 without altering it in any meaningful way,
22 just quiet enjoyment as some folks refer to
23 it. You're allowed to maintain existing
24 roads and associated structures, but not
25 create new roads, not pave any existing

1 gravel roads, just kind of the status quo at
2 the time that the easement is recorded.

3 Standard easements allow for greenway
4 trails to be constructed and the necessary
5 pertinences, the boardwalks, handrails,
6 benches, et cetera. They can be paved. They
7 should be greater than 30 feet away from the
8 stream wherever practical and subject to our
9 written approval. Observation, viewing
10 platforms, admitted on the land, on the bank
11 of a water body, you might recognize a
12 viewing platform on a bank of a stream as a
13 dock or a deck rather, a fishing deck. But
14 those are permitted. Natural surface trails,
15 this is one that we've kind of spent some
16 time in the last two years with this board
17 putting a finer point on this and I think
18 really making this more robust in terms of
19 the protections that we get from these when
20 they're allowed. Again, these are subject to
21 our written approval, excluding certain cases
22 where it's a private landowner's private
23 trail for their own enjoyment, not a public
24 trail that's going to see a lot of
25 visitation.

1 Stream crossings are a standard right
2 when they're connected to trails that are
3 otherwise permitted. Vegetation management,
4 and this looks like a big list of stuff but
5 when you think about vegetation management as
6 cutting a tree or a bush or a branch or
7 anything, this is a pretty limited list of
8 rights. You can manage vegetation for
9 boundary lines. You know, acting a sight
10 line for a surveyor, you can do selective
11 cutting prescribed, burning for fire
12 containment, insect and disease control,
13 restoration of hydrology, wetlands
14 enhancement or control of the basics, but by
15 and large, there's not a lot of reasons you
16 can go in there and manipulate the forest as
17 it stands.

18 You can also remove damaged trees that
19 are threatening life and property and if
20 there was a dead tree on our easement that
21 was threatening someone's house, obviously
22 you would want to be able to have the
23 landowner have the right to cut that and
24 remove that threat, not be liable for a
25 fallen limb. (Inaudible) restoration, this

1 picture on the right is kind of the
2 prototypical example, if we had, say, a stand
3 of 20-year-old Loblolly in our -- within our
4 easement and the owner wanted to convert it
5 to Long Leaf we would allow them to both
6 harvest trees, do planting, do site prep as
7 well as manage fire breaks and run fires
8 through there periodically. Occasionally
9 I've had folks tell me that Loblolly is a
10 native tree in the Southeast which it is, but
11 even an aged Loblolly stand is not
12 (inaudible) restoration, so this is really
13 meant to target a specific natural community.
14 Hunting and fishing, of course, probably goes
15 without saying.

16 So prohibitive restricted activities,
17 these are the kinds of things that go in
18 there that you cannot do that largely do not
19 change. This is not the part of the easement
20 that is negotiated. It just exists.
21 Industrial and commercial use, agricultural
22 grazing and horticultural use, disturbance of
23 natural features, plants and animals, pretty
24 much everything that I didn't mention when I
25 talked about the reserve rights for

1 vegetation management is prohibited, no
2 cutting of trees, no constructing of pretty
3 much anything in the easement, not explicitly
4 mentioned in reserve rights.

5 Signs, you can put up boundary marking
6 signs and interpretive signs, but really
7 nothing else outside of those types of signs.
8 No mineral use, no excavation, no dredging,
9 no changing of the topography of the land, no
10 grading, no dumping. Some of this goes
11 without saying, no pollution of the wetlands
12 or water quality, pretty much leave it all
13 alone.

14 Conveyance and subdivision, this is kind
15 of a big one in the conservation easement
16 world, you know, if it's 100 acre property
17 now then you put an easement on it, it will
18 be 100 acres on into perpetuity. It will not
19 be cut into smaller and smaller pieces that
20 are harder to manage and more expensive to
21 steward that exponentially increase the
22 number of landowners that you have to
23 communicate with and talk about explaining
24 all these reserve rights for instance. So
25 that's an important one in the conservation

1 community.

2 Mitigation, this one comes right out of
3 our statute, we are not permitted to use our
4 funds for any compensatory mitigation and
5 that's stream or wetland mitigation. So that
6 language comes from our statute, ends up in
7 our easement that basically says you may not
8 use any of this easement for mitigation. And
9 the -- I think that the logic or reason
10 behind that is mitigation is to impact for
11 some sort of -- or to mitigate for an impact
12 that's occurring on another property and our
13 funds should be above and beyond that. So if
14 a landowner wrecks 100 feet of stream or two
15 acres of wetland, it's incumbent upon them to
16 pay for that mitigation and our funds are
17 prohibited from mingling with that at all.
18 So that one is in there per statute.

19 The next one is in there, this is
20 really, I think, came from the board's
21 interest probably 11 or 12 years ago if not
22 further, kind of following the same notion.
23 If you are -- if you have 100 acres of land
24 and you are developing 80 of it and the local
25 ordinances require that you set aside 20

1 percent of that land, we won't pay you for
2 the land that you have to set aside by rule
3 anyway. I mean, my favorite expression for
4 that is, we won't buy the sleeves out of your
5 vest with taxpayer funds, so that's what this
6 is meant to kind of get at but this one is
7 not tied to anything statutory. It's
8 basically per practice and policy that it's
9 been an easement, I think -- I want to say 12
10 years. I think the interest are for that it
11 be there.

12 So I said all that to kind of set the
13 table for special reserve rights and I really
14 want to make sure everybody hears me on this,
15 so we don't have a policy that says you shall
16 not deviate from the easement template. In
17 fact, we routinely have to negotiate small
18 things in the easement template when we close
19 on a project each time.

20 The way that easement rights or special
21 reserve rights are requested is through the
22 application process. So if someone puts in
23 it the application, there's a specific
24 question, it goes in the project summary that
25 Nancy prepares for acquisition projects, the

1 field reps put it in the presentation and by
2 virtue of approving the project, when you
3 review it at the September or the fall
4 meeting, that's when those special reserve
5 rights are blessed by the board as it were.
6 So that's a really important part of what
7 happens in September when you see that they
8 have requested a special reserve right or a
9 non-standard right, to make sure that that
10 you kind of take that in and consider it and
11 I'll give a few examples.

12 So we have typical special reserve
13 rights. These are things that they're not in
14 the easement template but they're very
15 standard. We do them all the time and
16 they're really just there for the asking to
17 be included in the easement template. New
18 early habitat, camping platforms, boat
19 launches, parking areas to access trails,
20 things that would very understandably be
21 needed to enjoy their passive recreational
22 features on the property.

23 Less typical reserve rights, and these
24 are the ones that be looking for so that they
25 could thoughtful debate and discussion is,

1 cattle grazing, timber management, some
2 limited subdivision, construction of homes or
3 construction of recreation facilities, soccer
4 fields, et cetera and these -- applicants
5 will ask for these from time to time
6 depending on certain situations and it's
7 really up to the board to say, we understand
8 that this property can't happen without this
9 facility on some part of it or we just don't
10 feel this is a good fit, but when you hear
11 non-standard rights or special reserve rights
12 in the presentation from the field reps, kind
13 of really evaluate that and make sure it fits
14 with what you're comfortable occurring within
15 the bounds of the conservation agreement. So
16 I wave my flag there, thank you for paying
17 attention on that one.

18 Just cover two more really quick things.
19 Having said that our easement is largely the
20 forever-wild type of easement, we do have a
21 working forest easement that was created or
22 boundaries were set forth by the board in
23 2003 in response to a very specific
24 situation. So the USDA has funds that are
25 federal funds that are used to protect

1 forest, to some degree there are natural
2 components and some other degree there are
3 commercial benefits. And in order to fully
4 leverage those funds in 2003, the board not
5 wanting to let those opportunities go by the
6 wayside, but realizing that our existing
7 easement would be incompatible with those
8 funds, because those funds say some of this
9 property has to be managed for commercial
10 timber, has to have an option and our fund
11 saying can't, there was a working group put
12 together and the board came up with some
13 working forest guidelines that can only be
14 used if the project has those other federal
15 funds matched, so we don't use it often but
16 this is the only time when -- in history to
17 date when this is -- the working forest
18 easement is used.

19 The guiding principles are first to
20 protect water quality so it doesn't stray
21 away from kind of what Clean Water is initial
22 purpose was. Second, to maintain natural
23 conditions and third, to allow some economic
24 benefit to the landowner through limited
25 timber management. It's fairly specific but

1 generally it says that the first 100 feet
2 away from the stream will be no touch,
3 forever-wild just the same as our existing
4 easements, but as you move from 100 out to
5 300 feet it would be permitted to do
6 selective thinning, basically take out up to
7 half of the trees or up to half of the canopy
8 and do that not more than every ten years.
9 So nothing in the first 100 feet, 50 percent
10 thinning in the outer 200 feet and those are
11 the conditions in the limited times when we
12 use these easements.

13 I do want to talk about, kind of having
14 talked about what our easement has looked
15 like from conception to now and when we made
16 the exceptions, I do want to talk about the
17 new purposes that have been added in 2013. I
18 say new now. It's been going on six years,
19 but as you know, what we were focused
20 primarily on all things were, riparian and
21 buffer and water quality until 2013 when
22 things were added that the former Natural
23 Heritage Trust Fund used to do and one of
24 those was acquire land that represents the
25 ecological diversity. This might be near a

1 stream, it might be on the uplands, it could
2 be anywhere on the landscape. Properties
3 that contribute to the development of
4 historic properties, the low aim, for example
5 here is battlefield protection. We've done
6 quite a bit of that.

7 And finally to provide buffers around
8 military bases. I bring these up because our
9 traditional riparian, forever-wild, no-touch
10 easement which it does very effective in
11 protecting water quality and maintaining
12 mature forests which is the best land use for
13 water quality, maximum water quality
14 protection, there could be cases where, for
15 instance, in a historic property the historic
16 landscape for this particular battle might
17 have been a cotton field and it might be
18 perfectly acceptable for -- if there's no
19 riparian buffers that need protection that
20 the cotton field continue to be a cotton
21 field for its purpose of contributing to a
22 balanced program of historic properties.

23 Likewise, with a military buffer-type
24 project, if there are no sensitive species,
25 no streams, no natural communities of any

1 import, it might be fine and well for what's
2 a Loblolly plantation to continue to be a
3 Loblolly plantation and still protect buffers
4 around military bases. I say that only to
5 say that this is what the acquisition
6 committee is wrestling with, whether or not
7 these -- whether or not other reserve rights
8 might be considered for the future and I do
9 want to say that because conservation
10 agreements are central to what the trust fund
11 does, Greer did ask me to say that when these
12 committee meetings come up in the future,
13 don't be surprised to get an invitation even
14 if you're not on the acquisition committee,
15 because this is kind of one of those
16 important central things that probably the
17 whole board might want to be involved in.

18 So as these committee meetings go
19 forward for the acquisition committee, I
20 think you all will be extended an invite to
21 participate and be part of that discussion.
22 Is that -- so that said, I really just have
23 one more slide just to talk a little bit
24 about other programs and their conservation
25 agreements. Conservation easements, other

1 programs that use similar ones, the Division
2 of Mitigation Services, which is the state
3 agency in North Carolina that does protect
4 their mitigation projects with easements has
5 almost the exact same template as us. In
6 fact, I think both of these templates
7 diverged from the same template probably 15
8 or so years ago, so it's a very similar
9 document to what we have.

10 The Agriculture Development & Farmland
11 Preservation Trust Fund uses an easement.
12 Obviously it has reserved rights for
13 agriculture and working lands. The Navy and
14 other -- Department of Defense has similar
15 conservation easements that protect largely
16 the same rights although they're more focused
17 on structures that are -- conflict or usually
18 they conflict with the military mission, less
19 so with the land use.

20 Some of the other tools we use, deed
21 restrictions. The Environmental Enhancement
22 Program, I believe uses a form of deed
23 restriction and the Upper Neuse Clean Water
24 Initiative which is the City of Raleigh's
25 watershed protection program, also uses --

1 has a deed of restriction template they use
2 when they're not being paired with Clean
3 Water funds and using our tools.

4 And there are also other programs that
5 record a notice of funding when they invest
6 money in a conservation and recreation type
7 project. The Parks and Recreation Trust
8 Fund, the (inaudible) Conservation Fund,
9 North America Wetlands Conservation Act and
10 the Army Compatible Use Buffer Program. So
11 the tools we use and even other tools outside
12 of our typical scope are being used by
13 similar programs out there.

14 So finally, just to wrap up, our
15 agreement is to generally considered again
16 the forever-wild easements. The thing I
17 really wanted to make everyone aware of is
18 that the special reserve rights are approved
19 at the time of the award so just be looking
20 out for those when we meet in the fall. And
21 stay tuned for anybody to join the
22 acquisition committee and considering changes
23 to the standard reserve rights for some
24 situations. That is all, thank you very
25 much.

1 CHAIRMAN CAWOOD: Questions for Will? Thank you,
2 Will, for walking us through that. Well,
3 there are just a couple of additional things
4 before I call for adjournment. We had a
5 couple of additional guests join us since we
6 did our introduction, Katherine Skinner with
7 the Nature Conservancy is here and Tim
8 Gupton, who I understand is a board member of
9 the Blue Ridge Conservancy. Also, we will
10 next be going to the Middle Fork Greenway and
11 following that I want to thank Trustee Wilson
12 for having us at his home this evening for a
13 bite to eat and there's going to be a special
14 presentation there that I wanted to give
15 people a heads-up about. The governor kindly
16 has awarded the Order of the Long Leaf Pine
17 to Frank Bragg and it's going to be a
18 surprise. And another thank you to Trustee
19 Wilson -- for the Bragg family are all so
20 close-knit and wonderful. His children and
21 grandchildren are coming to surprise him so
22 thank you for having them for dinner.

23 MR. WILSON: Twenty-one children and
24 grandchildren.

25 CHAIRMAN CAWOOD: To extend the part of our dinner

1 group but Frank and his wife are going come
2 in about 20, 30 minutes after we get there
3 and so Frank will see all of them there. And
4 so that's another reason that the First Lady
5 so nicely is here with us is to present that
6 in the governor's honor which means a lot to
7 us. So it will be a very celebratory
8 evening, so want to make sure everybody knew
9 about that. Perfect. Anything else?

10 MR. WILSON: Say one thing, I think I read
11 somewhere that said the driveway is gravel.
12 It's not; it's paved. So any kind of car can
13 get up there, but to the degree that people
14 can carpool, that would be appreciated to
15 reduce the number of cars so the driveway is
16 really long. The house is at the very end so
17 just keep going, you'll get there. Down,
18 down, down, up, up, up, curve, curve curve.
19 And if you arrive at the same time at the
20 Blowing Rock tourist attraction parking lot
21 and you see someone who looks friendly, maybe
22 one of you could leave your car at the
23 Blowing Rock attraction parking lot and you
24 could jump in the car and ride together. And
25 the gate will be open, the security gate will

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be open. If not, just call me.
(WHEREUPON, this proceeding was concluded at 4:12
p.m.)

STATE OF NORTH CAROLINA

COUNTY OF RUTHERFORD

C E R T I F I C A T E

I, Marianne S. Aguirre, Verbatim Reporter and Notary Public, do hereby certify that the aforesaid testimony was transcribed by me and that the foregoing pages constitute a verbatim and complete transcription of the testimony conducted herein as can be obtained from the audio record thereof.

I do further certify that I am not of counsel for or in the employment of any parties to this action, nor do I have any interest, financial or otherwise, in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 3rd day of June, 2019.



Marianne S. Aguirre

Notary No.: 19961490099