

AGENDA
North Carolina Land and Water Fund
Acquisition Committee Meeting
November 27, 2023 | 10:00 a.m. – 12:00 p.m.

This meeting will be held via teleconference and will have a physical location on the 4th floor of the Nature Research Center located at 121 West Jones Street, Raleigh, NC in room 4508. If any member of the public would like to join to the meeting via MS Teams or in person, please contact Terri Murray at teresa.murray@dncr.nc.gov or 919-707-9400 in advance for links or directions.

Committee Members:

Amy Grissom (Chair), Greer Cawood, Jason Walser, John Wilson, David Womack

COMMENCEMENT

1) Call to Order (Chair)

a) Welcome

b) Roll call

c) Compliance with General Statute § 138A-15

General Statute § 138A-15 mandates that the Chair inquire as to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.

d) Please put cell phones on vibrate or turn off, and if guests are joining remotely, mute your audio and turn off your video unless you are called upon to speak

e) Revisions, additions, and adoption of the agenda

f) Approval of committee meeting minutes from November 13, 2023

2) Executive Director's Update (Will Summer)

PUBLIC COMMENTS

The public is invited to make comments to the committee (Chair)

The NCLWF Guidelines and Practices Manual states that comments shall be limited to subjects of business falling within the jurisdiction of the NCLWF. The NCLWF welcomes public comments on general issues. Comments will not be allowed on individual projects before the NCLWF for funding during the regular meeting. Comments will be limited to three minutes per person.

BUSINESS

1) Program Manager's update (Marissa Hartzler)

Staff will provide the committee with a program update.

2) Donation Mini-Grant Program updates (Marissa Hartzler)

Staff will present revisions to the DMG program for the committee's consideration.

3) Transaction Costs for State Agencies updates (Marissa Hartzler)

Staff will present options for updating ACQ-003 of the Guidelines and Practices.

4) NHTF Shocco Creek Game Land Dedication Amendment (Justin Mercer)

Staff will present a request to amend a Dedicated Nature Preserve in Halifax County.

5) 2014-063 Nealey Tract Amendment (Justin Mercer)

Staff will present a request to amend a conservation easement in Nash County.

ADJOURNMENT

**North Carolina Land and Water Fund
Acquisition Committee Meeting Minutes
November 13, 2023**

The meeting was held via Teams with a physical location on the 4th floor of the Nature Research Center located at 121 West Jones Street, Raleigh, NC in room 4508. All Committee Members in attendance were on Teams, and the Teams link was provided to guest attendees.

Committee Members present: Amy Grissom (Chair), Greer Cawood, John Wilson, Jason Walser, David Womack
David Womack left the meeting at 11:06 am

Committee Members not present: none

Additional Board Members present: none

Staff present: Will Summer, Marissa Hartzler, Steve Bevington, Marie Meckman, Christina Benton, Damon Hearne, Justin Mercer, Jill Fusco, Chelsea Blount, Will Price, Zoe Hansen-Burnet, Misty Buchanan, Teresa Murray

Visitors present: none

Call to Order (Amy Grissom, Chair)

Meeting was called to order by Amy Grissom, Chair, at 10:02 am

1. Welcome
2. Compliance with General Statute § 138A-15
 - a. No conflicts of interest were noted
3. Revisions, Additions and Adoption of the Agenda
 - a. **Motion** to approve the agenda was made by Jason Walser, seconded by David Womack, and unanimously approved.
 - b. **Motion** to approve the committee meeting minutes from September 19, 2023, was made by Greer Cawood, seconded by David Womack, and unanimously approved.

Executive Director's Update (Will Summer)

Will Summer presented overview of upcoming meetings:

1. Second Acquisition Committee Meeting - Monday, November 27, 2023 | 10:00-12:00
2. Executive Committee Meeting - Monday, November 27, 2023 | 1:00-3:00

Public Comments

No public requests for comment

Business

- 1) **Program Manager's update** (Marissa Hartzler)
 - a. Staff presented an update of provisional funds to date
- 2) **Donation Mini-Grant program updates** (Marissa Hartzler)
 - a. Staff presented recommendation by staff to update the Acquisition Program Guidelines
 - b. Committee requested final draft of policy be presented at the upcoming November 27th meeting
- 3) **2000B-703 Emerald Isle Woods Amendment Request** (Justin Mercer)

- a. Staff presented a request by the Town of Emerald Isle for the release of three acres currently encumbered by conservation easement to facilitate construction of a multi-purpose fire and EMS response station.
- b. **Motion** to recommend the town hire an MAI certified appraiser, at their expense, to provide valuation of the three acres made by Jason Walser, seconded by Greer Cawood, and unanimously approved. David Womack was not in attendance at this point in the meeting and did not vote.

Adjournment

Motion to adjourn at 12:17 p.m. by Jason Walser, seconded by Greer Cawood, and unanimously approved.

Action Item

Staff member: Marissa Hartzler

Agenda Item 2) Revision of Donation Mini-Grant Program Guidelines

Background

At its November 13, 2023, meeting, the Acquisition Committee reviewed recommendations for new guidelines for the Donation Mini-Grant (DMG) Program. The Committee requested modest edits and additional time to review the guidelines prior to making a recommendation to the board.

Staff recommendation

Approve two new guidelines documents for inclusion in the NCLWF Guidelines and Practices Manual, to reflect prior and new recommended changes to the program and formally document the administrative approval process.

Committee action needed

Provide direction to staff on further revisions and/or make a recommendation to the board.

Attachments: Proposed Donation Mini-Grant Program text for DMG-001 and DMG-002.

Donation Mini-Grant Program Guidelines:

Donation Mini-Grant Program Procedures and Requirements (DMG-001)

Background:

The NCLWF Board of Trustees (Board) first established the Donated Easement Program in 2003 with the goal of facilitating the donation of conservation easements to conservation nonprofits or local governments by reimbursing grant recipients for transaction and stewardship endowment costs up to \$25,000. The conservation nonprofit or local government holds the conservation easement in perpetuity, subject to rights of the State to enforce the easement. Applications were and continue to be accepted year-round and funded at least quarterly with available funds from an allocation recommended by the Acquisition Committee and approved by the Board.

In 2014, the Board expanded the program to facilitate the donation of fee simple absolute interests in property, provided all donated properties were protected by a perpetual conservation agreement, such as conservation easement, declaration of covenants and restrictions, or dedication under the Nature Preserves Act. State government agencies without dedicated land acquisition funding mechanisms were also added as eligible applicants. The program was renamed the Donated Mini-Grant Program to reflect the expanded purposes.

Prior to 2023, the guidelines of the program were documented in annual application manuals provided to grant applicants. The intent of DMG-001 is to change the program name to the Donation Mini-Grant (DMG) Program and to document the program in the Guidelines and Practices Manual.

Guidelines:

1. Nonprofits, local governments, and State agencies are eligible to apply to the DMG Program to accept the donation of a conservation agreement and/or fee simple absolute interest.
2. The acquisition of the conservation agreement or fee simple absolute interest must be an absolute donation. As such, no funds will be reimbursed to the Grant Recipient for acquisition.
3. All property must be restricted to protect natural, historic, or cultural features. Restrictions may include conservation easements, declarations of covenants and restrictions, or dedication under the Nature Preserves Act. Restrictions not held by the State shall grant the State third-party rights of enforcement.
4. The total maximum amount for reimbursement is \$50,000 per award.
5. The value of the donation must be greater than the requested funds.
6. The value of the donation, as determined either by appraisal or tax value of the land, must be included as matching funds. The value of structures must be excluded from the appraisal. Appraisals do not require review by the State Property Office. When tax value is used in lieu of appraisal, up to 100% of the value may be claimed for fee donations and 80% of the value may be claimed for conservation easement donations.
7. Appraisals may only be reimbursed if the Grant Recipient is required to have an appraisal and the Grant Recipient can substantiate that there is no deduction being taken for the project. Appraisals to support State or Federal tax incentives are not reimbursable.
8. Other reimbursable and match budget items may include:

- Transaction costs, including survey, boundary marking, baseline documentation report, legal fees, title opinion, commitment and/or policy, Environmental Site Assessment, and transaction screen.
 - Administrative costs up to 10% of the total transaction costs, per the requirements of MPP-001 Administrative Costs and Caps for Grant Contracts.
 - Property management costs that do not exceed \$5,000, per the requirements of ACQ-007 Property Management Costs.
9. When a land trust nonprofit with a dedicated stewardship endowment will steward and monitor the donation in perpetuity, the Grant Applicant may request up to 50% of stewardship endowment funds.

Donation Mini-Grant Program Guidelines:

Donation Mini-Grant Program Administrative Approval (DMG-002)

Background:

Since September 2014, the Donation Mini-Grant (DMG) Program has operated using an administrative approval system, in which the NCLWF Board delegated approval authority to the Board Chair to expedite donations outside of the standard grant cycle. Administrative approval was reaffirmed as part of the DMG funding motion approved at the September 20, 2023, meeting of the Board.

Guidelines:

1. Authority to approve DMG Program awards is delegated to the Board Chair. Applications will be considered on a schedule set by NCLWF staff based on annual demand. The date of approval by the Board Chair will be the effective Award Date of the grant.
2. Regardless of this delegation, the Board Chair may elect to seek approval of an application from the Acquisition Committee. In such instances, the date of approval by the Acquisition Committee will be the effective Award Date of the grant.
3. The Expiration Date of grants made via administrative approval by either the Board Chair or Acquisition Committee shall be no more than 12 months from the Award Date. NCLWF staff may elect to approve one six-month extension of the Expiration Date. All other extension requests must be approved by the Board through a recommendation from the Acquisition Committee.

Action Item

Staff member(s): Marissa Hartzler

Agenda Item 3) ACQ-003 Transaction Costs for State Agencies

Background

Transaction costs, including items like surveys, closing attorney fees, appraisals, and environmental assessments, are often the second highest budget lines in an Acquisition application, after acquisition costs.

State Agencies are currently limited by ACQ-003 to receiving a maximum of \$25,000 toward transaction costs. Staff recognize that transaction costs have and continue to increase over the years and want to encourage quality due diligence as part of any award regardless of the applicant.

Staff recommendation

Staff recommends eliminating the cap on transaction cost reimbursements to State Agencies and allowing all Acquisition Program grant applicants to apply for reimbursement for all eligible transaction costs to complete projects.

Committee action needed

Provide direction to staff on further revisions and/or make a recommendation to the board.

Attachments: Current ACQ-003 text



Acquisition Program Guidelines:

Transaction Costs for State Agencies (ACQ-003)

Background: Prior to the merger of NCLWF and Natural Heritage Trust Fund (NHTF) in 2013, the NCLWF board had a policy not to reimburse transaction costs for State agencies but did reimburse these costs for nonprofit and local government grant recipients. The NHTF board allowed transaction costs as an eligible reimbursement for State agencies.

The purpose of this guideline is to reconcile the difference between NCLWF and NHTF boards regarding reimbursement of transaction costs to State agencies.

Guidelines: NCLWF will reimburse up to \$25,000 per project for transaction costs incurred by State agencies.

Transaction costs eligible for reimbursement include the following: surveys, legal descriptions, appraisals, Phase I Environmental Site Assessments, legal fees and closing costs, title insurance, recording fees, ad valorem taxes (Grant Recipient's portion), and baseline documentation report.

Effective Date

Versions	Revisions
February 10, 2014	Original Effective Date

Action Item**Staff member:** Justin Mercer

Agenda Item 4) Shocco Creek Game Land Dedication Amendment

The North Carolina Department of Transportation is requesting an amendment of the ~8,000-acre Shocco Creek Game Land Dedicated Nature Preserve to facilitate replacement of the NC 561 bridge over Fishing Creek.

Background

In 2006, the Natural Heritage Trust Fund (NHTF) awarded \$1,005,130 to the Wildlife Resources Commission for the purchase of approximately 886 acres to be added to Shocco Creek Game Land. In 2012, qualifying portions of the property were dedicated under the State Nature Preserves Act. As the de facto successor trust fund after the dissolution of the NHTF in 2013, the decision to amend this dedication lies with the NCLWF board.

In early 2023, the North Carolina Department of Transportation (NCDOT) notified the Natural Heritage Program (NHP) and NCLWF staff of plans to replace bridge 0090 on NC 561 over Fishing Creek. This bridge replacement will not only impact the Dedicated Nature Preserve in Halifax County but will also impact a NCLWF conservation easement on property owned by Tar River Land Conservancy in Nash County (Item 6 on the agenda). Due to the length of an offsite detour and the anticipated duration of the bridge closure, NCDOT is requesting a temporary on-site detour. The total impact to the dedicated area is proposed to be approximately 0.97 acres.

As the agency responsible for dedication agreements, it is NHP staff's responsibility to interpret these requests. NHP staff is satisfied that any impacts to conservation values can be sufficiently mitigated and recommended amending the Dedicated Nature Preserve to accommodate the bridge replacement effort. At its August 2023 meeting, the Natural Heritage Advisory Committee (NHAC) approved the proposal to amend the dedication agreement, removing 0.46 acres from the dedication and including language for a temporary construction easement on the remaining 0.51 acres. However, approval by the NCLWF board is still required for this amendment proposal to move forward.

Staff Recommendation




Staff recommends that the Acquisition Committee approve the amendment request, authorizing NHP, NCDOT, and SPO to amend the Articles of Dedication as recommended by the NHAC. The NCLWF shall be reimbursed for the value of the entire 0.97-acre area of impact.

Committee Action Needed

Approve, amend, or deny the request and make a recommendation to the board.

Attachments: Maps, Conservation Benefit Analysis

Shocco Creek Game Land DNP
Halifax County
November 13, 2023

-  DNP Boundary
-  Proposed Area of Impact
-  TRLC Nealey Boundary



NCLWF Conservation Benefit Analysis Review Sheet

Created 5/02/2023 by JM

Project Number 200609605	Project Name Shocco Creek GL DNP	Requesting Party NCDOT	Date Completed 11/7/2023
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Score Differential G/Y/R	Resource	Impacted Conservation Area 0.97 acres at Shocco Creek GL	Proposed offset 1:1 Cash for public works
-45	Riparian Buffer	Resource Name: Fishing Creek Classification: WS-V, NSW, supports T & E ARS Score: 45	N/A
0	Historic and Cultural	N/A	N/A
-50	Natural Heritage	Resource Name: Fishing Creek Aquatic Habitat (R1); Notched rainbow (S3); Atlantic pigtoe (G1); Neuse River waterdog (S2); Northern lance (S3); Yellow lance (S2); North Carolina Spiny Crayfish (S3); Carolina madtom (S2) ARS Score: 50	N/A
0	Riparian Greenway	N/A	N/A
-53	Total Score	ARS Score: 53	N/A

NCLWF Staff Comments and Interpretation: It is NCDOT's responsibility to conduct and submit their own conservation benefit analysis to meet the requirements set forth by GS 121-39.1. This review was done by NCLWF staff to demonstrate the conservation impact as required by Guidelines and Practices STW-001. Since there is no offset in the form of land, the proposed project would result in a score differential of -53. This impact requires elevation from a Minor Amendment Request to a Major Amendment request and must be reviewed by the NCLWF Board of Trustees. It should be noted that while irreparable damage will be caused to the existing conservation area, the removal of bents from the channel of Fishing Creek will ultimately provide some level of benefit for aquatic species. NCLWF is due \$1,164 at minimum based on tax value.

Notes: Review sheet should be completed for all requests to amend NCLWF conservation agreements. All resources to be impacted should be documented in the appropriate cell. If a given resource is not impacted, replace text in the designated cell with “N/A.” The “Score Differential G/Y/R” column should be color-coded to represent a positive conservation benefit (green), a neutral conservation impact (yellow), or a negative conservation impact (red).

Action Item**Staff member:** Justin Mercer

Agenda Item 5) 2014-063 Nealey Tract Amendment

The North Carolina Department of Transportation is requesting an amendment of the conservation easement on the 55-acre Nealey Tract to facilitate replacement of the NC 561 bridge over Fishing Creek.

Background

In 2014, the North Carolina Land and Water Fund awarded \$96,200 Tar River Land Conservancy (TRLC) for the purchase of approximately 55 along Fishing Creek in Nash County known as the Nealey Tract. In 2015, TRLC purchased the property in fee and conveyed a conservation easement to the State of North Carolina through the North Carolina Land and Water Fund (NCLWF).

In early 2023, the North Carolina Department of Transportation (NCDOT) notified NCLWF staff of plans to replace bridge 0090 on NC 561 over Fishing Creek. This bridge replacement will not only impact the Nealey Tract in Nash County, but also a portion of the Shocco Creek Game Land Dedicated Nature Preserve funded through the Natural Heritage Trust Fund in Halifax County (Item 5 on the agenda). Due to the length of an offsite detour and the anticipated duration of the bridge closure, NCDOT is requesting a temporary on-site detour. The total impact to the easement area is proposed to be approximately 0.91 acres.

The scope of this request would ordinarily be classified as a minor amendment under the NCLWF Conservation Agreement Guidelines and Practices (STW-001). However, the proposal is not without impact to the conservation values, so staff elected to elevate this to a Major Amendment Request in conjunction with the adjoining Dedicated Nature Preserve.

Staff Recommendation

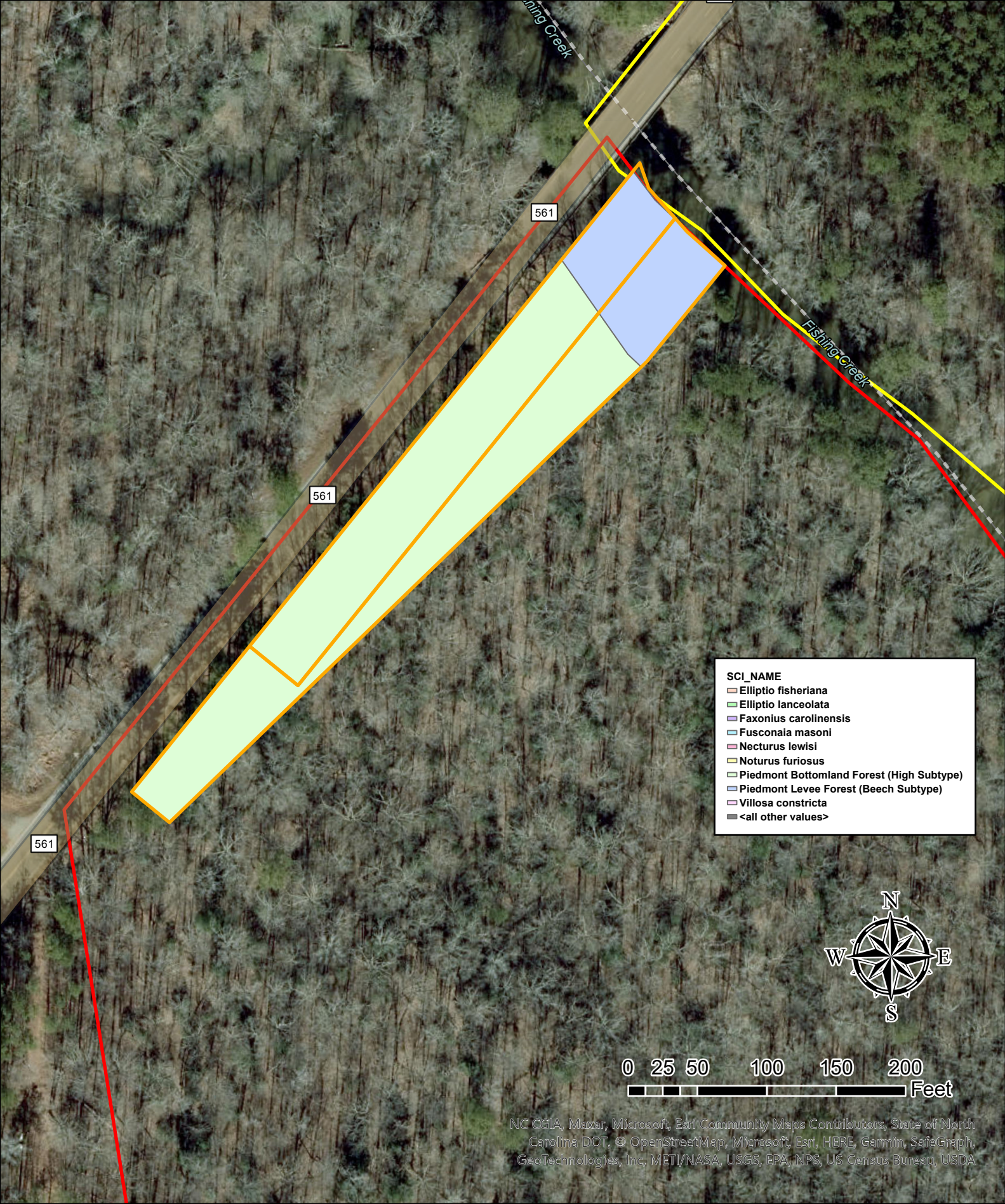
Staff recommends authorizing NCDOT and the State Property Office to terminate up to 0.91 acres of the conservation easement to facilitate replacement of bridge 0090.

Committee Action Needed

Approve, amend, or deny the request and make a recommendation to the board.

Attachments: Maps, Conservation Benefit Analysis

- TRLC Nealey Boundary
- DNP Boundary
- Nealey Proposed Impact



NCLWF Conservation Benefit Analysis Review Sheet

Created 5/02/2023 by JM

Project Number 2014-063	Project Name TRLC Nealey	Requesting Party NCDOT	Date Completed 11/7/2023
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Score Differential G/Y/R	Resource	Impacted Conservation Area 0.91 acres at TLRC Nealey Tract	Proposed offset 1:1 Cash for public works
-45	Riparian Buffer	Resource Name: Fishing Creek Classification: WS-V, NSW, supports T & E ARS Score: 45	N/A
0	Historic and Cultural	N/A	N/A
-50	Natural Heritage	Resource Name: Fishing Creek Aquatic Habitat (R1); Shocco Creek Bluffs and Floodplain (R1); Notched rainbow (S3); Atlantic pigtoe (G1); Neuse River waterdog (S2); Northern lance (S3); Yellow lance (S2); North Carolina Spiny Crayfish (S3); Carolina madtom (S2); Piedmont bottomland forest (S3); Piedmont levee forest (S2) ARS Score: 50	N/A
0	Riparian Greenway	N/A	N/A
-53	Total Score	ARS Score: 53	N/A

NCLWF Staff Comments and Interpretation: It is NCDOT's responsibility to conduct and submit their own conservation benefit analysis to meet the requirements set forth by GS 121-39.1. This review was done by NCLWF staff to demonstrate the conservation impact as required by Guidelines and Practices STW-001. Since there is no offset in the form of land, the proposed project would result in a score differential of -53. This impact requires elevation from a Minor Amendment Request to a Major Amendment request and must be reviewed by the NCLWF Board of Trustees. It should be noted that while irreparable damage will be caused to the existing conservation area, the removal of bents from the channel of Fishing Creek will ultimately provide some level of benefit for aquatic species. The Nealey request differs slightly in impact from the Shocco Creek Game Land request directly across Fishing Creek. While the score does not change, there are additional terrestrial natural heritage resources impacted. NCLWF is due \$1,354.02 at minimum based on the original grant contribution.

Notes: Review sheet should be completed for all requests to amend NCLWF conservation agreements. All resources to be impacted should be documented in the appropriate cell. If a given resource is not impacted, replace text in the designated cell with "N/A." The "Score Differential G/Y/R" column should be color-coded to represent a positive conservation benefit (green), a neutral conservation impact (yellow), or a negative conservation impact (red).