AGENDA

North Carolina Land and Water Fund Board of Trustees Meeting

December 10, 2025, 9:00 a.m. - 12:00 p.m.

This meeting will be held via teleconference and will have a physical location offered 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 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.

Board of Trustees:

John Wilson (Chair), Jimmy Broughton, Ann Browning, Lydia Olander, Clement Riddle, Mike Rusher, Terry Shelton, Darrel Williams, David Womack

I) COMMENCEMENT

- A) Call to Order (Chair John Wilson)
 - 1) Welcome
 - 2) Roll call
 - 3) 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.

- 4) Please put cell phones on vibrate or turn off, and if you are a guest joining remotely, please mute your audio and turn off your video unless you are called upon to speak
- 5) Revisions, additions, and adoption of the agenda
- B) Approval of minutes from the October 1, 2025 board meeting (Chair John Wilson)
- C) DNCR update (DNCR Deputy Secretary Jeff Michael)
- D) Executive Director's update (Will Summer)

II) PUBLIC COMMENTS

A) The public is invited to make comments to the Board (Chair – John Wilson)

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 be limited to three minutes per person.

III) BUSINESS

A) Consideration of Restoration, Innovative Stormwater, and Planning Committee recommendations (Chair – Clement Riddle)

The committee will report on the following matters:

- 1) Construction contract extensions (Will Price)
- 2) Request to modify scope of project 2024-409 (Steve Bevington)
- B) Consideration of Acquisition Committee recommendations (Chair Ann Browning)

The committee will report on the following matters:

- 1) 2020-072 and 2021-051 TNC 421 Sand Ridge updates (Marissa Hartzler)
- 2) 1998A-014 Conserving Carolina Broad River Watershed amendment (Justin Mercer)
- 3) Riparian Greenways in Application Rating System (Marissa Hartzler)
- C) Guidelines and Practices (Will Summer)
 - 1) Recommended changes from the Acquisition Committee (Chair Ann Browning)
 - a) ACQ-004 Mitigation (Will Summer)
 - b) ACQ-005 State Property Office Delegation (Will Summer)
 - c) ACQ-006 Natural Surface Trails update (Will Summer/Justin Mercer)
 - d) ACQ-008 Reimbursement of Transaction Costs when a Project Fails to Close (Will Summer/Marissa Hartzler)
 - e) MPP-001 Acquisition Project Administration (Will Summer/Marissa Hartzler)
 - Recommended changes from the Executive Committee (Chair John Wilson)
 - a) MPP-001 Administrative Costs and Caps for Grant Contracts (Will Summer)
 - b) MPP-005 Guidelines Establishing Minimum Criteria (Will Summer)
 - c) STW-003 Board Resolution to Establish Endowment (Will Summer)
 - d) STW-004 Board Resolution to Invest Endowment (Will Summer)
 - e) STW-005 NC Conservation Easement Endowment Fund Deposit Agreement (Will Summer)
 - 3) Recommended changes from the Restoration, Innovative Stormwater, and Planning Committee (Chair Clement Riddle)
 - a) RES-002 Construction Contingency Funds (Will Summer/Will Price)
 - b) RES-003 O&M Plans for Stormwater (Will Summer/Steve Bevington)
 - c) RES-005 Agricultural Best Management Practices (Will Summer/Steve Bevington)
 - d) RES-006 NCLWF and Mitigation Projects (Will Summer)

- D) Annual reaffirmation of Guidelines and Practices (Will Summer)
- E) Annual reaffirmation of Application Rating Systems (Will Summer)
- F) Conclusion of Settlement related to the Title Claim on NCLWF #2018-045 NC Coastal Land Trust, Salter's Creek (Zoe Hansen-Burnet)

IV)	<u>ADJOURNMENT</u>

Action Item

Staff member: Will Price

Agenda Item III. A. 1) Requests to extend the date to enter into a construction contract for existing Restoration Program Grants.

NCLWF stormwater and restoration construction projects approved after January 1, 2006 are subject to General Statute §143B-135.238(e), which requires grant recipients to enter into a construction contract for the project within one year after grant contract execution. The statute states that the award is withdrawn unless the NCLWF Board of Trustees finds that the applicant has good cause for failing to meet this requirement, and if so, the board must set a new date by which the grant recipient must take action or forfeit the grant.

The following grant recipients have submitted information summarizing the reasons for their delay in entering into a construction contract and have proposed new dates for doing so.

Project Number & Name	Current Construction Contract Deadline	Proposed Construction Contract Deadline
2022-FRR30 - CMSWS - Barlowe Road Flood Mitigation and Water Quality Improvement Project	1/9/2025	6/30/2026
2023-410 - Forsyth Co - Brushy Fork Creek - Restoration	5/24/2025	6/30/2026
2022-FRR48 - TNC - Restoring Former Ag Land in the Cape Fear River Basin	6/9/2025	6/30/2026

Staff recommendations

<u>2022-FRR30 - CMSWS - Barlowe Road Flood Mitigation and Water Quality Improvement Project</u>
This project has been delayed due to complications with easement acquisition, including issues with right of way abandonment, and private and public utility conflicts. Designs are 100% complete and 12 of 13 easements have been obtained. Relocating utilities is delaying completion of the final easement.

Staff support this extension request as the delay is reasonable given the complications of acquiring land agreements for the project.

2023-410 - Forsyth Co - Brushy Fork Creek - Restoration

This project has been delayed due to complications with easement acquisition and delays in obtaining the necessary plats for the easement documents. 13 of the necessary 16 signatures for the easement have been obtained. 60% designs are complete.

Staff support this extension request as the delay is reasonable given the complications of acquiring land agreements for the project.

2022-FRR48 - TNC - Restoring Former Ag Land in the Cape Fear River Basin

This project has been delayed due to permitting slowdown at the federal level as well as the need to collect a full year of data to inform design and post-construction monitoring. Designs for the two project sites are at 90% and 100% completion.

Staff support this extension request as the delay is reasonable given the issues with obtaining permits from federal agencies and the importance of gathering pre-construction monitoring data.

Committee recommendation

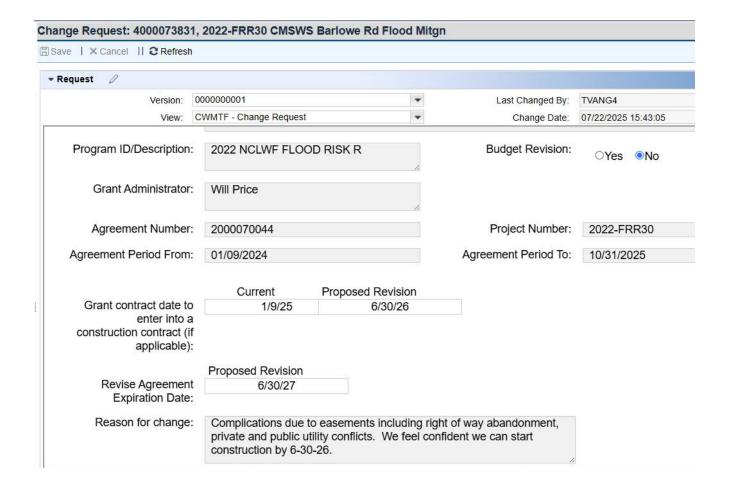
The Committee recommended that the Board extend the construction contract dates for 2022-FRR30, 2023-410, & 2022-FRR48.

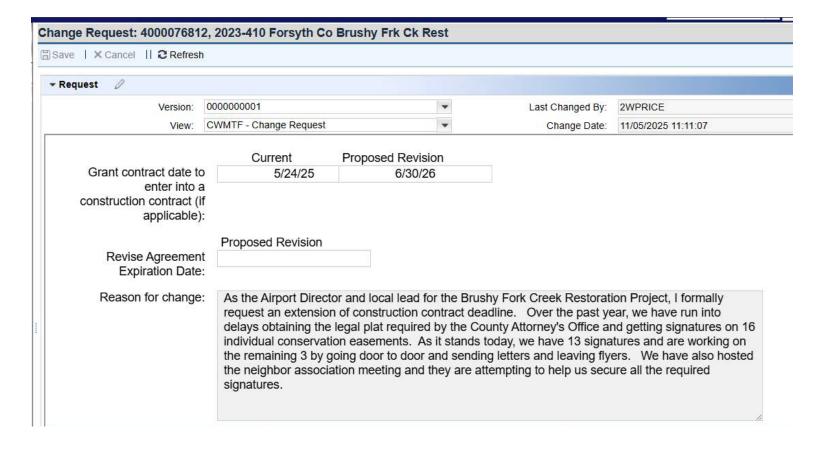
Board action needed

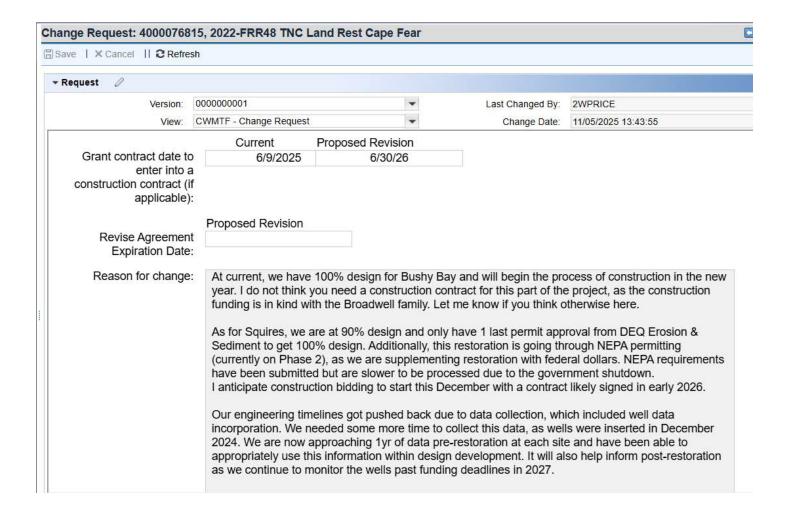
Approve, amend, or deny the Committee recommendation.

Attachments: Requests from Grantees to extend the date to enter into a construction contract for the three projects above.

Request to extend the date to enter into a construction contract.







Action Item

Staff member: Steve Bevington

Agenda Item III. A. 2) Request to modify scope of project 2024-409, CC - Siebenheller - Stream and Wetland Restoration.

On October 2, 2024, Conserving Carolina was granted a provisional award of up to \$316,437 by NCLWF for a project to transform farm fields to a floodplain wetland ecosystem adjacent to Williamson Creek in Transylvania County. The project, not yet under contract, was the last of three projects funded from the 2024 provisional funding list and received a partial award of \$303,213 (96% or the request). Two lower scoring projects remained unfunded.

Between the time of the provisional award and the availability of funding in June 2025, one of two property owners who had agreed to participate decided not to continue with the project. In response, Conserving Carolina and the design team have reworked the project so as to maximize ecological uplift on the remaining parcel and have requested a modification of scope.

Conserving Carolina has requested to make the following changes to scope (a 7% reduction):

Scope Deliverable	As awarded	As proposed	Percent change
Stream restoration	580 linear feet	700 linear feet	+21%
Stream enhancement	1,100 linear feet	490 linear feet	-55%
Wetland restoration	3.3 acres	4.8 acres	+48
Calculated Project size	3,076 linear feet	2,862 linear feet	-7%

The percent change in scope, as calculated, is not so large as to require Board action. However, as the changes also involve the resizing of the project area staff determined it best to seek direction from NCLWF Trustees. No change in score would have resulted had these scope changes been proposed during the application process. Staff believes that the portion of the project that would not be completed is the least important part of the project in terms of natural resource (the enhancement of a straight stream channel). This would be mostly offset by increased stream restoration length and increased wetland area. Therefor staff supports the scope modification.

The committee considered the request to modify scope during their meeting of November 14, 2025 and found that the proposed changes are a net positive in terms of natural resources.

Committee recommendation

The Committee recommended that the Board accept the scope modification as requested.

Board action needed

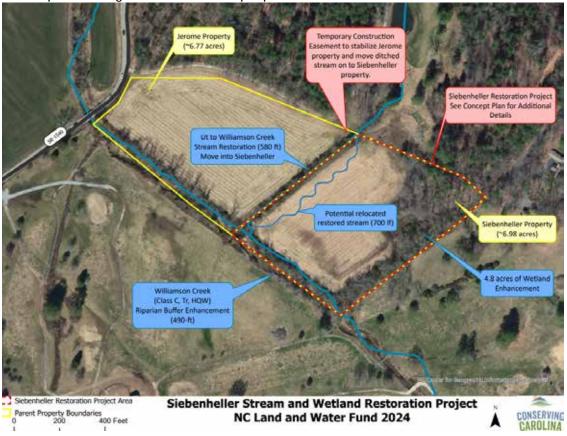
Approve, amend, or deny the Committee recommendation.

Attachment: Conceptual design from application as presently conceived and as proposed.

Conceptual design of 2024-409 from application:



Conceptual design of 2024-409 as proposed:



Action Item

Staff member: Marissa Hartzler

Agenda Item III. B. 1) 2020-072 and 2021-051 TNC 421 Sand Ridge updates

In 2021, the board requested that staff provide annual updates on four projects with large grant awards. One of those projects is still active – 2021-051 The Nature Conservancy – 421 Sand Ridge Phase 2 at \$8,901,455.

The board also requested the initial contract terms be limited to two years and that any request for extension would need to be reviewed by the board.

While not part of this tranche and therefore not subject to these requirements, 2020-072 was awarded to The Nature Conservancy for Phase 1 of the project at \$1,200,000 and staff will provide an update on this grant as well.

Committee recommendation

The Committee recommended extending 2021-051 The Nature Conservancy – 421 Sand Ridge Phase 2 through January 31, 2027, approving the phased purchase strategy, and including 2020-072 for annual updates and extension approval to sync with 2021-051.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: 2021-051 TNC funding meeting presentation

2021-051
The Nature Conservancy
421 Sand Ridge Phase 2 - Corbett Industries

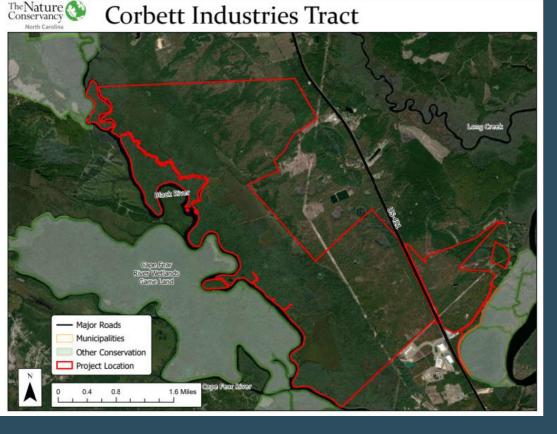
TNC is requesting \$8,901,455 out of \$29,477,155 to acquire 5,166 acres.





Located in Pender County, near Wilmington.





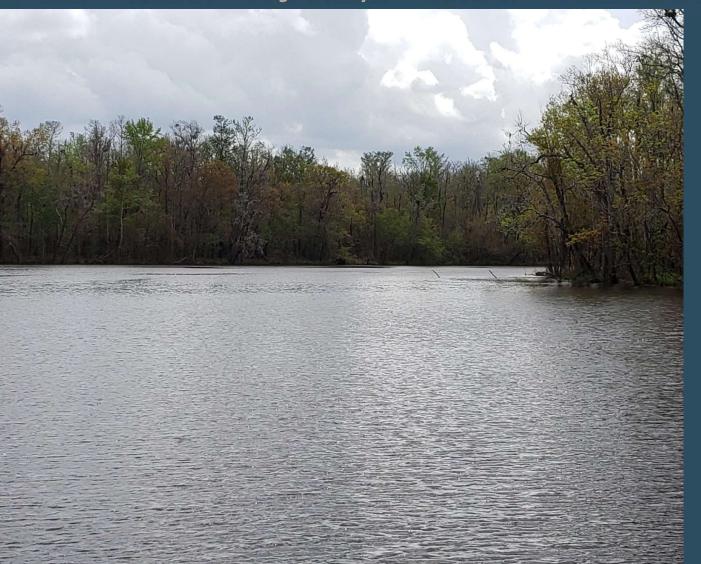
TNC would acquire 5,166 acres in fee using NCLWF, private, and federal funds.

- Owned and managed by either NCWRC or NC State Parks
- Determinable Conservation Easement
- Dedicated under the State Nature
 Preserves Act as appropriate

Reserved rights:

- Educational facilities, restrooms, observation platforms, and parking
- Picnic shelters and group camping
- Mountain biking and horseback riding

Intro >> Location >> Project Scope >> Resources >> Additional Information >> Cost >> Summary



RIPARIAN BUFFERS

Significant water resources include:

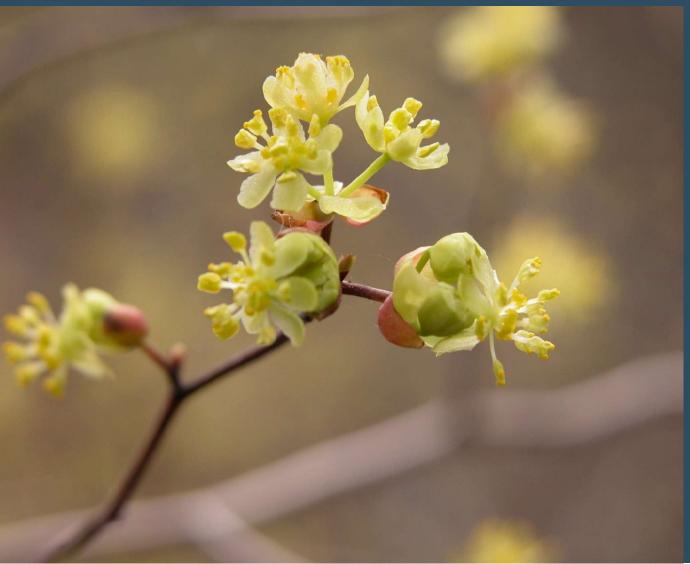
- Black River ORW
- UTs to NE Cape Fear River –
 C, Sw
- Cross Way Creek C, Sw

Protected land includes:

- 69,779 linear feet of buffer (~13.2 miles)
- 3,294 acres of wetland



Intro >> Location >> Project Scope >> Resources >> Additional Information >> Cost >> Summary



NATURAL HERITAGE

421 Sand Ridge – Exceptional R1

Lower Black River Swamp – Exceptional R1

FIFTEEN known element occurrences:

- 1. Small Depression Pocosin (Typic Subtype) S2S3
- 2. Vernal Pool (Typic Subtype) S2S3
- 3. Pondspice (*Litsea* aestivalis) S2S3 NC Special Concern left

NATURAL HERITAGE

- 4. Small Depression Drawdown
 Meadow (Typic Subtype)

 S2S3
- 5. Small Depression Drawdown Meadow (Boggy Pool Subtype)– S1 (right)
- 6. Pond Pine Woodland (Typic Subtype) S3
- 7. Small Depression Pond (Open Lily Pond Subtype) S3
- 8. Sand Barren (Typic Subtype) S2
- 9. Xeric Sandhill Scrub (Typic Subtype) S3S4





NATURAL HERITAGE

- 10. Wet Pine Flatwoods (Typic Subtype) S3
- 11. Red-cockaded Woodpecker (*Picoides borealis*) – S2 Federally Endangered – top
- 12. Oak Toad (*Anaxyrus quercicus*) S2 NC Significantly Rare bottom
- 13. Coastal Plain Depression Swamp (Pocosin Subtype) S2
- 14. Savanna Milkweed (*Asclepias* pedicellata) S3 NC Special Concern
- 15. Small Depression Shrub Border S3

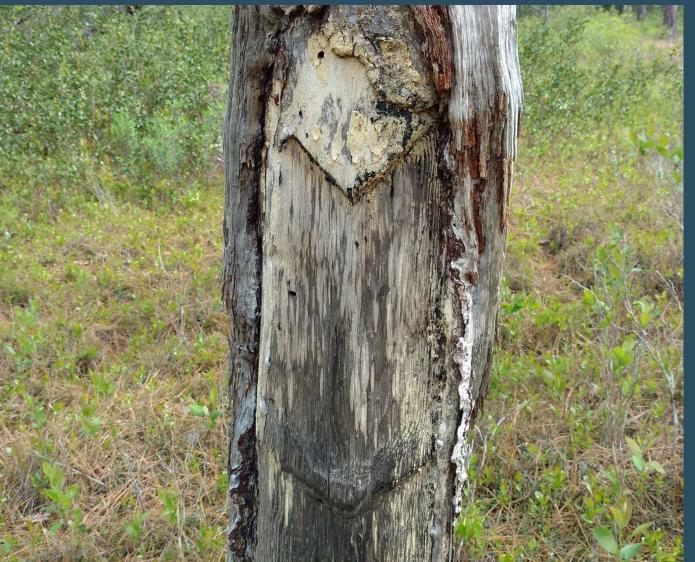








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HISTORIC & CULTURAL

The naval stores industry has played a significant role throughout the history of NC, peaking between the 1840s and 1860s. The longleaf pine was an important resource for production of tar, pitch, and turpentine.

Workers would cut a notch in a pine, allowing the sap to drip into a bucket. When the notch stopped producing, another would be cut above it. The remnant scars of this process are commonly referred to as catface.

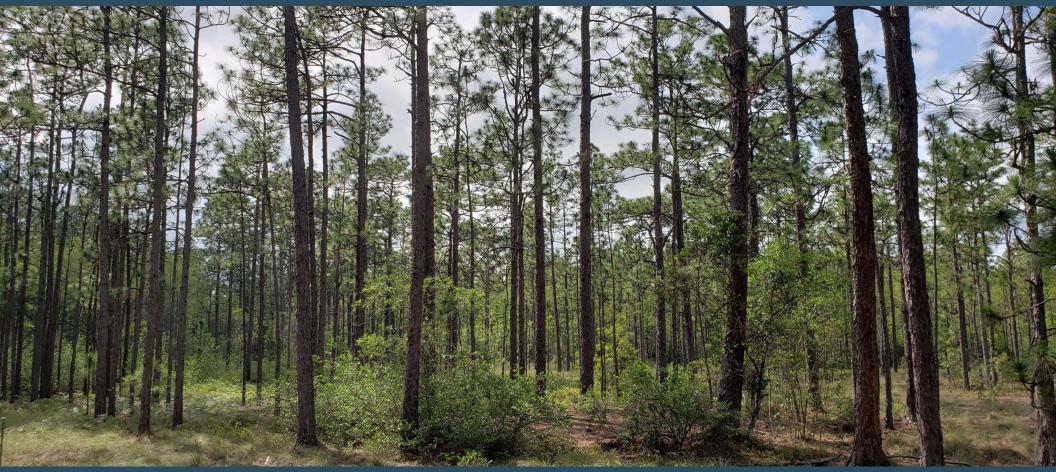


Intro >> Location >> Project Scope >> Resources >> Additional Information >> Cost >> Summary





Intro >> Location >> Project Scope >> Resources >> Additional Information >> Cost >> Summary





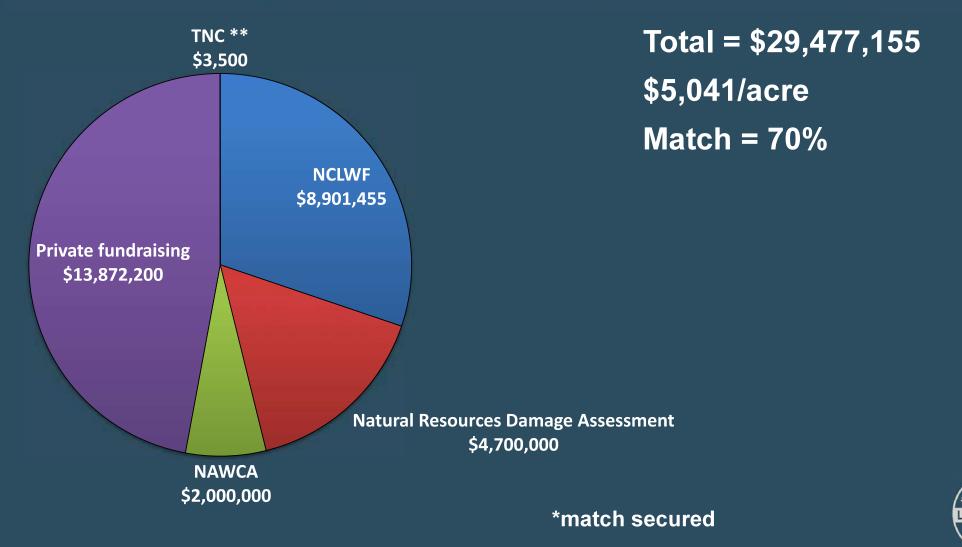


PUBLIC ACCESS/EDUCATION – Under state ownership and open for public use

TNC will offer occasional guided hikes

URGENCY – Sale imminent if not conserved





2021-051 - TNC - 421 Sand Ridge Phase 2 - Corbett Industries

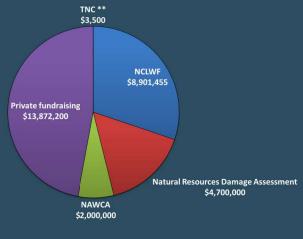
- Score = 81
- \$8,901,455 out of \$29,477,155
- Acquire 5,166 acres in fee
- Protects 421 Sand Ridge natural area (Exceptional) and Black River (ORW)



Spurge nettle (*Cnidoscolus stimulosus*) (above) Blue sandhill lupine (*Lupinus diffusus*) (right)









Action Item

Staff member: Justin Mercer

Agenda Item III. B. 2) 1998A-014 Broad River Watershed - NCDOT conservation agreement amendment request

In 1998, the North Carolina Land and Water Fund awarded \$290,000 to Pacolet Area Conservancy (now Conserving Carolina) to acquire and protect riparian buffers along the North Pacolet River. The project resulted in a total of seven conservation easements held by the State of North Carolina.

US Highway 176 was severely impacted by Hurricane Helene in September 2024. As a result of torrential flooding, large sections of the highway along a one mile stretch adjacent to NCLWF's White Neinow easement were partially washed out. The highway remains closed to all traffic until proper stabilization and reconstruction can be completed. NCDOT is requesting the release of approximately 1.004 acres of the 44.68-acre easement to facilitate the reconstruction of the highway.

Committee recommendation

The Committee recommended authorizing NCDOT and the State Property Office to release approximately one acre of the 44.68-acre conservation easement to facilitate the rebuilding of US Highway 176, subject to the following conditions:

- 1. NCLWF will be reimbursed at current fair market value, or original contribution, whichever is greater. All funds will be retained by the Stewardship Program and used for management expenses associated with 1998A-014.
- 2. NCDOT must facilitate the survey and marking of NCLWF's new conservation easement boundary. All boundary marking must be done to current Stewardship Program standards.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachments: NCDOT request; Map; Engineered drawings

W03293 - US 176

Pacolet and Conserving Carolina Impact Assessment

Project Overview:

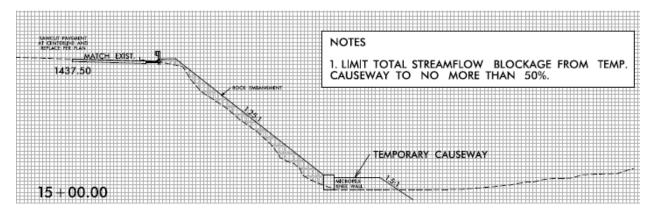
In late September of 2024, Hurricane Helene ravaged the western part of the State of North Carolina. This unprecedented storm left many roads and bridges in the western portion of the state destroyed or severely damaged. The portion of US 176 just southeast of Saluda along the North Pacolet River was no exception. The ravaging floodwaters destroyed and undermined the roadway in many places along the corridor leaving it unusable to the travelling public (Figure 1). The purpose and need of our current NCDOT Project W03293 is to restore US 176 back to its original configuration and to allow it to be utilized once again by the travelling public.



(Figure 1 – Typical Flood Damage to US 176)

Design Considerations:

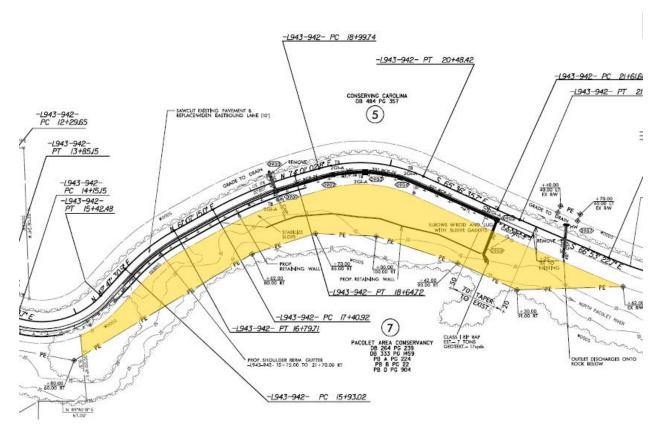
The overall existing terrain in this area of US 176 also made the restoration of this road a challenge. The steep mountains on one side of the road and impressive drop-offs down to the North Pacolet River on the other challenged our team greatly when coming up with a solution for this area that would hopefully withstand a potential future event such as Helene while also minimizing costs and overall impacts as much as practical. The existing roadway width of US 176 varied between 19-20' wide with areas of curve widening for the various switchback curves that frequent the road in this area. We had to reestablish this width in several areas where the existing road was missing while also creating a slope down to the river that would be constructable to limit overall impacts to the river. The maximum slope that can be used in lieu of a retaining wall is a 1.25:1 slope. This means that for every 1 foot of vertical drop, the slope extends horizontally 1.25 feet. In most cases, the steepest slope that is used for standard projects would be a 2:1 soil slope however in this case, we are utilizing the 1.25:1 slope that will consist of grouted rip rap that extends down from the shoulder of US 176 to a 4' tall toe wall just above the 100-year floodway elevation of the North Pacolet River (Figure 2). The intent of this design is to provide a robust slope that will not allow the above roadway to fail should another event like Helene make its way through western North Carolina again in the future. We also utilized existing lidar and GIS data to aid in reestablishing the existing limits of the North Pacolet River. During the hurricane, the river "migrated" and through our proposed design we are looking to place the river back where it was pre-Helene with these slopes that we are utilizing.



(Figure 2 – Typical cross section showing slope repair and temporary construction causeway)

Overall Impacts on Conservation Easement Property:

Project W03293 will impact approximately 3.804 acres of conservation easement property (Figure 3). While this may seem like a large amount of acreage that is needed for this project, much of this land falls between US 176 and the North Pacolet River. Meaning that this area was the slope that held up US 176 above the North Pacolet prior to the storm. This entire area will be what is being fully repaired to allow US 176 to be open again to serve the travelling public as it once was before. The only portion of this area that will not be repaired slope will be the 20' of additional work area that will be needed on the riverside of the slope to build a causeway to construct the grouted rip rap slope. The causeway will be used for construction activities only and will be removed once construction is completed and the area will be restored to natural conditions. The causeway will be constructed of larger class II rip rap to create a stable working pad and then will be covered with a layer of smaller stone that will allow the causeway to be more easily traversed by workers and equipment. This causeway will not block more than 50% of the channel flow at one time per agency guidance on temporary construction causeways. Proper erosion control measures will be in place and careful construction practices will be used to mitigate any environmental impacts to the surrounding site and waterways. Any exposed soil will be properly seeded with native vegetation upon completion of construction to ensure that the construction site is left in much better condition than it was found in.



(Figure 3 – Plan view of permanent easement area in yellow)

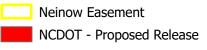
Avoidance and Minimization Measures:

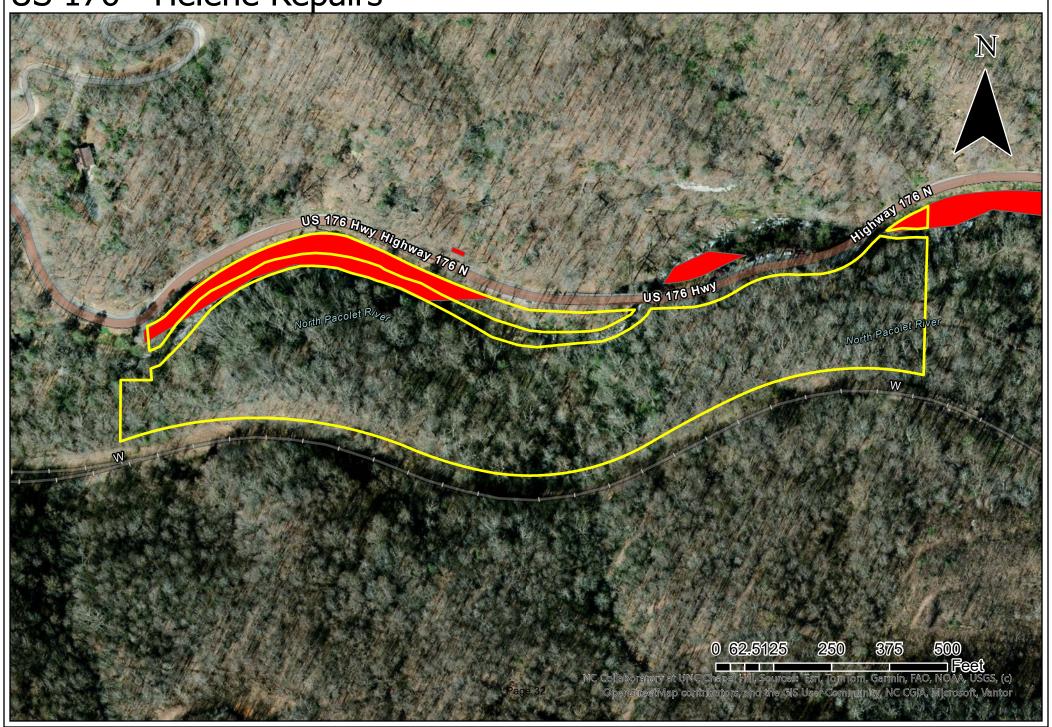
Minimization measures incorporated include repairing existing drainage pathways and cross pipes to pre-existing conditions, maximizing the use of shoulder sections as opposed to curb and gutter to minimize concentrated flow, minimizing roadway sideslopes, stabilizing embankments, stabilizing drainage ditches, providing adequate energy dissipation, utilizing natural drainage paths and features, maximizing vegetative conveyance, and encouraging diffuse flow. Impervious areas have been minimized to the maximum extent practical. We have worked tirelessly to ensure that we have created a plan that completely fulfills our purpose and need for the project while also being completely mindful of cost and the impacts on the surrounding environment.

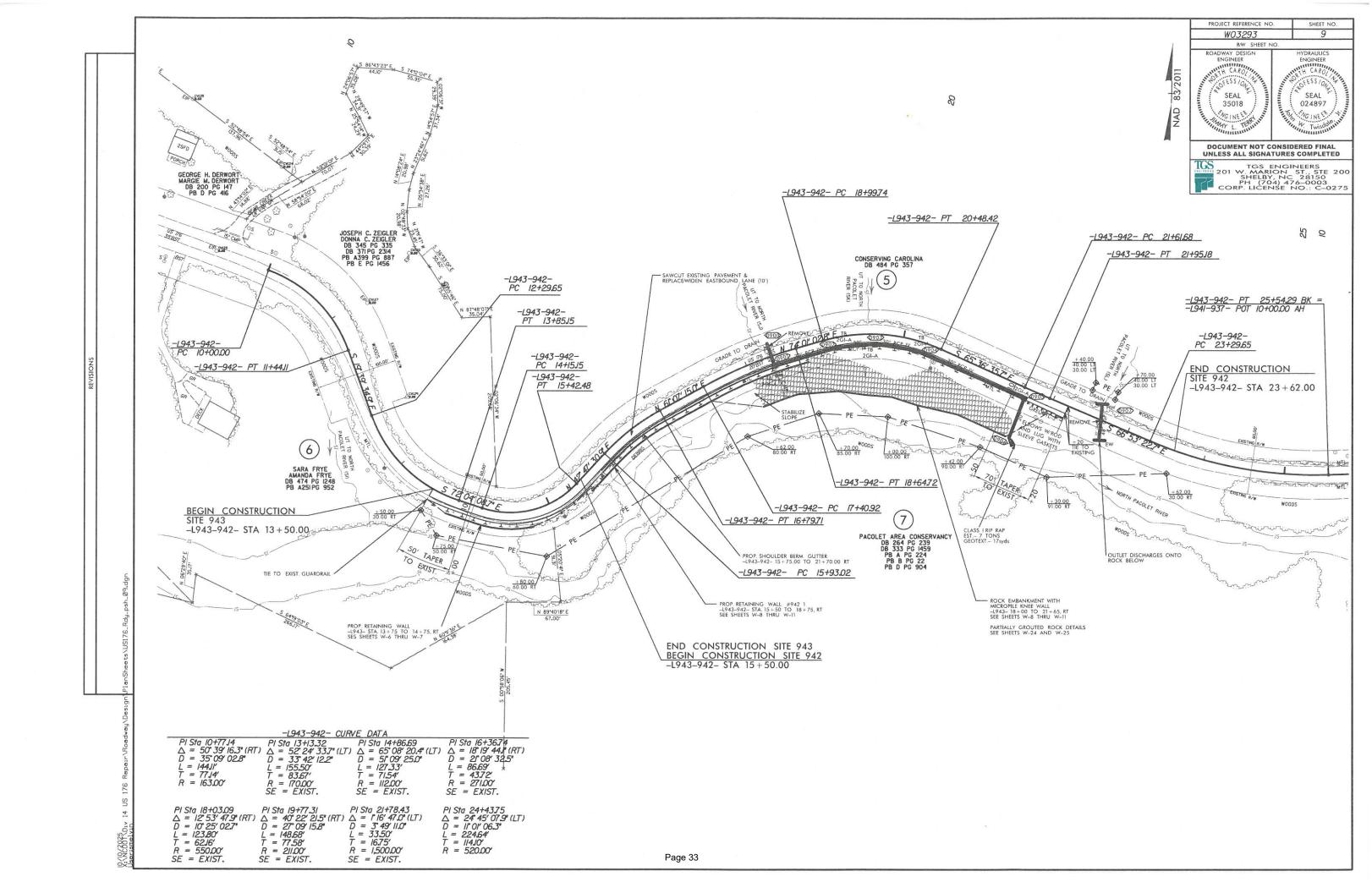
Closing Remarks:

As a design team, our ultimate goal is to restore US 176 in order for it to be utilized again by the travelling public. Any easement impacts to the aforementioned properties and conservation areas have been minimized as much as possible in order to conduct tight but not impossible construction. We hope that you all find our project purpose and need reasonable and that all impacts are deemed necessary in order to fulfill this purpose. We look forward to moving this process forward and working with you all to achieve the collective goals of everyone.

1998A-014 - Conserving Carolina - Neinow Tract US 176 - Helene Repairs







Action Item

Staff member: Marissa Hartzler

Agenda Item III. B. 3) Riparian Greenways in Application Rating System

By G.S. 143B-135.234, NCLWF may award funds to projects that establish a network of riparian greenways for environmental, educational, and recreational uses. Each year, only a handful of applications qualify for these points, although many projects do feature public access components that may assist in this aim.

Staff will highlight the challenges of the current scoring criteria in the Acquisition Application Rating System and the opportunities to extend Riparian Greenway points to additional projects.

Committee recommendation

The Committee recommended amending the Riparian Greenways section of the Application Rating System as shown in the provided draft.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: Riparian Greenways section (proposed); Riparian Greenways section (redline)

2. **Riparian Greenways** – Projects that establish a network of riparian greenways for environmental, educational, and recreational uses.

NCLWF defines riparian greenways as trails that provide opportunities for people to walk, hike, bike, and/or ride horses to reach destinations within the riparian corridor. Trails contained within the property do not qualify as riparian greenways; they must connect to other properties as part of a network of trails through a riparian corridor. The project must facilitate the construction of a future riparian greenway or increase the protection of an existing riparian greenway.

a. Planning Efforts (maximum 15 points)

15 points

The parcel is indicated as part of a primary route of a current (within the past 20 years)
comprehensive greenway/trail plan that has been adopted by a State agency, local
government unit, or nonprofit corporation who will ultimately be responsible for
developing the greenway

10 points

The parcel is indicated as part of a secondary or alternate route of a current (within the past 20 years) comprehensive greenway/trail plan that has been adopted by a State agency, local government unit, or nonprofit corporation who will ultimately be responsible for developing the greenway

5 points

The parcel is not part of a current comprehensive greenway/trail plan, but the parcel supports the development of a greenway indicated in general planning efforts

0 points

- The parcel is not part of a current comprehensive greenway/trail plan or other planning efforts

b. Links with Prior or Continuing Riparian Greenway Efforts (maximum 15 points)

15 points

- The parcel is adjacent to an existing riparian greenway that will continue onto the property **or**
- The parcel is adjacent to previously acquired properties/easements for the future construction of at least 2 miles of continuous riparian greenway

10 points

The parcel is disconnected from existing riparian greenway but will facilitate future expansion

5 points

- The parcel establishes the first piece of a planned, new riparian greenway corridor

0 points

- The parcel does not link with prior or continuing riparian greenway efforts

c. Greenway Construction Timeline (maximum 15 points)

15 points

- Funds have been secured for trail construction on the parcel

10 points

- Funds have been applied for or identified for trail construction on the parcel

5 points

- The parcel is in a riparian greenway corridor that is actively expanding and greenway construction is likely within 5 years

0 points

- Parcel is part of an inactive riparian greenway corridor and construction is uncertain

d. Number of Potential Users within 10 Miles (maximum 5 points)

5 points

- Greater than 100,000 people

3 points

- Greater than 10,000 and up to 100,000 people

1 point

- Up to 10,000 people



2. Riparian Greenways – Projects that establish a network of riparian greenways for environmental, educational, and recreational uses.

To receive riparian greenways points, parcels must buffer (border) a stream. Greenways are typically in an urban setting, and they must be vegetated, point-to-point, and incorporate a footpath. Trails may include other uses such as biking and horseback riding. Greenways may be paved or unpaved.

The greenway must be part of a NCLWF defines riparian greenways as trails that provide opportunities for people to walk, hike, bike, and/or ride horses to reach destinations within the riparian corridor. Trails contained within the property do not qualify as riparian greenways; they must connect to other properties as part of a network of trails through a riparian corridor. The project must facilitate the construction of a future riparian greenway or increase the protection of an existing riparian greenway.

a. Planning Efforts (maximum 15 points)

15 points

The parcel is indicated as part of a primary route of a current (within the past 20 years) comprehensive greenway/trail plan that has been adopted by an organization that is a State agency, local government unit, or nonprofit corporation who will ultimately be responsible for developing the greenway. The total length of the greenway system must be at least one mile.

10 points

- The parcels subject to an application must be identified in the adopted parcel is indicated as part of a secondary or alternate route of a current (within the past 20 years) comprehensive greenway plan. The plan must be adopted prior to the grant application deadline./trail plan that has been adopted by a State agency, local government unit, or nonprofit corporation who will ultimately be responsible for developing the greenway

a. Percent Impervious Surface in Riparian Buffer (maximum 10 points)

Impervious surface area includes unpaved trails.

10 points

- Less than 3% impervious surface

85 points

- 3% to 5% impervious surface

5 points

- Greater than 5% up to 10% impervious surface

3 points

- Greater than 10% and up to 15% impervious surface
- The parcel is not part of a current comprehensive greenway/trail plan, but the parcel supports the development of a greenway indicated in general planning efforts

0 points

Greater than 15% impervious surface

- Trail Setback from TopThe parcel is not part of Stream Banka current comprehensive greenway/trail plan or other planning efforts

b. Links with Prior or Continuing Riparian Greenway Efforts (maximum 15 points)

15 points

- Greater than 50 feet average width from top of bank to trail
- The parcel is adjacent to an existing riparian greenway that will continue onto the property **or**
- The parcel is adjacent to previously acquired properties/easements for the future construction of at least 2 miles of continuous riparian greenway

10 points

- Greater than 30 feet and up to 50 feet average width from top of bank to trail
- The parcel is disconnected from existing riparian greenway but will facilitate future expansion

5 points

- Greater than 15 feet and up to 30 feet average width from top of bank to trail
- The parcel establishes the first piece of a planned, new riparian greenway corridor

0 points

- Average width 15 feet or less from top of bank to trail
- Conservation Agreement Terms within Trail SetbackThe parcel does not link with prior or continuing riparian greenway efforts

c. Greenway Construction Timeline (maximum 1015 points)

1015 points

 Standard NCLWF conservation easement or restrictive covenants template with allowanceFunds have been secured for trail and amenities (benches, etc.)

7 points

 NCLWF conservation easement or restrictive covenants template with allowances for trail and other infrastructure (utilities), but with consideration of water quality protection incorporated in the construction on the parcel

510 points

 NCLWF conservation easement Funds have been applied for or restrictive covenants template with allowances identified for trail construction on the parcel

5 points

- The parcel is in a riparian greenway corridor that is actively expanding and other infrastructure (utilities)greenway construction is likely within 5 years

0 points

- NCLWF conservation easement or restrictive covenants template with exceptions for additional rights (driveways, parking next to stream, etc.)
- Parcel is part of an inactive riparian greenway corridor and construction is uncertain

d. Number of Potential Users within 10 Miles (maximum 5 points)

5 points

- Greater than 100,000 people

3 points

Greater than 10,000 and up to 100,000 people

1 point

- Up to 10,000 people

e. Links with Prior or Continuing Greenway Efforts (maximum 10 points)

10 points

- Extension of existing greenway and trail construction funds have been identified or
- Completely eliminates gap in existing greenway corridor

8 points

- Contiguous with existing greenway parcels, but construction is 5 or more years in future

5 points

 Along a greenway that is actively being constructed as sections are acquired, but disconnected from other parcels

0 points

Parcel is part of inactive greenway corridor and disconnected from other parcels

Staff member: Will Summer

Agenda Item III. C. 1. a) ACQ-004 Income Generation and Mitigation Activities within the NCLWF Conservation Agreement Areas

When the NCLWF Board elects to fund a land protection project, it comes with the expectation that NCLWF funds be used for voluntary conservation not otherwise promised for other benefits, such as open space development credits or compensatory mitigation, consistent with G.S. § 143B-135.238 (d)(1) that prohibits the NCLWF from awarding grants to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11. Further, any real property interests purchased with funds from the NCLWF shall not produce income that is inconsistent with or causes harm to the conservation purposes for which the land is held and used.

ACQ-004 limits mitigation activities and/or credits within Acquisition Program projects and defines when income may be generated within a conservation agreement area. However, it does not make clear that there is also prohibition of use of our projects to satisfy open space requirements, as has consistently been in contract and easement language. The attached redline clarifies expectations in these areas.

Committee recommendation

The Committee recommended updating ACQ-004 to explicitly prohibit open space and further clarify other expectations around mitigation as shown in the provided draft text.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: draft ACQ-004 text (proposed); draft ACQ-004 text (redline)

Acquisition Program Guidelines and Practices:

Open Space Development Credit, Mitigation, and Income Generation (ACQ-004)

Background:

When the NCLWF Board elects to fund a land protection project, it comes with the expectation that NCLWF funds be used for voluntary conservation not otherwise promised for other benefits, such as open space development credits or compensatory mitigation, consistent with G.S. § 143B-135.238 (d)(1) that prohibits the NCLWF from awarding grants to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11. Further, any real property interests purchased with funds from the NCLWF shall not produce income that is inconsistent with or causes harm to the conservation purposes for which the land is held and used.

The following Guidelines and Practices limit mitigation and open space development activities and/or credits within Acquisition Program projects and define when income may be generated within a conservation agreement area.

Guidelines and Practices:

- A. Compensatory Mitigation Land subject to Acquisition grant awards shall not be used to satisfy compensatory mitigation under 33 USC Section 1344, N.C.G.S. §143-214.11 or any successor or replacement provision of the foregoing.
 - If land proposed for an Acquisition project was used to satisfy compensatory mitigation as described above prior to a grant award, the grant applicant must demonstrate how the project achieves additional protection and appraisals must reflect any diminution of value, as applicable.
- B. Open Space Development Credits Land subject to Acquisition grant awards shall not be used to satisfy open space or density requirements of any cluster or other development scheme or plan. The development rights encumbered by any area protected through a permanent conservation agreement shall not be transferred to any other land pursuant to a transfer of development rights scheme, a cluster development arrangement, or otherwise.
 - If land proposed for an Acquisition project was used to satisfy open space or density requirements of any cluster or other development scheme or plan prior to a grant award, the grant applicant must demonstrate how the project achieves additional

- protection and appraisals must reflect any diminution of value, as applicable.
- C. Other Mitigation Activities/Credits Land subject to Acquisition grant awards shall not be used for other mitigation activities or credits, except when the proposed mitigation activity is not inconsistent with the NCLWF's purposes for the grant award, is not inconsistent with the proposed or recorded conservation agreement, and does not result in duplicative payment for the benefit or action already acquired by the NCLWF.
- D. Income Generation Land subject to Acquisition grant awards shall not generate income for the landowner, except when the income is generated from activities that are not inconsistent with the conservation values and purposes for which the land is protected and is not inconsistent with the proposed or recorded conservation agreement.

Acquisition Program Guidelines and Practices:

Open Space Development Credit, Mitigation, and Income Generation and Mitigation Activities within the NCLWF Conservation Agreement Areas (ACQ-004)

Background: The North Carolina Land and Water Fund (NCLWF) was established in 1996 primarily to protect water quality interests in the State. In 2013, the purpose of the NCLWF was expanded to include the protection of natural heritage, historic and cultural resources as well as buffering military installations.

When the NCLWF Board elects to fund a land protection project, there are two arrangements in which the State retains an interest in perpetuity: 1) a State-held conservation easement, and 2) dedications under either the State Nature Preserves Act or State Nature and Historic Preserve Dedication Act. There may also be term agreements that exist only for a set number of years or restrictive covenants. These instruments are hereafter referred to broadly as "conservation agreements".

It is the intention of the NCLWF it comes with the expectation that NCLWF funds be used for voluntary conservation not otherwise promised for other benefits, such as open space development credits or compensatory mitigation, consistent with G.S. § 143B-135.238 (d)(1) that prohibits the NCLWF from awarding grants to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11-. Further, anythat real property interests purchased with funds from the NCLWF shall not produce income that is inconsistent with or causes harm to the conservation purposes for which the land is held and used.

It is also the intention of the NCLWF to provide net benefits to environmental and conservation values including, but not limited to water quality and ecological diversity.

G.S. § 143B-135.238 (d)(1) prohibits the NCLWF from awarding grants to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11.

The following By these Guidelines and Practices, the NCLWF limit mitigation and open space development activities and/or credits within Acquisition Program projects and defines when income may be generated within a conservation agreement area and broadly limits mitigation activity or mitigation credits in the NCLWF conservation agreement areas. These guidelines apply to conservation agreements on property owned by private individuals, nonprofit groups, and government agencies.

Guidelines and Practices:

A. Compensatory Mitigation – Land subject to Acquisition grant awards shall not be used to satisfy compensatory mitigation under 33 USC Section 1344, N.C.G.S. §143-214.11 or any successor or replacement provision of the foregoing.

If land proposed for an Acquisition project was used to satisfy compensatory mitigation as described above prior to a grant award, the grant applicant must ust show the NCLWF bdemonstrate oard-how the project achieves additional protection and appraisals must reflect any diminution of value, as applicable.

B. Open Space Development Credits – Land subject to Acquisition grant awards shall not be used to satisfy open space or density requirements of any cluster or other development scheme or plan. The development rights encumbered by any area protected through a permanent conservation agreement shall not be transferred to any other land pursuant to a transfer of development rights scheme, a cluster development arrangement, or otherwise.

If land proposed for an Acquisition project was used to satisfy open space or density requirements of any cluster or other development scheme or plan prior to a grant award, the grant applicant must show the NCLWF board demonstrate how the project achieves additional protection and appraisals must reflect any diminution of value, as applicable.

- C. Other Mitigation Activities/Credits Land subject to Acquisition grant awards shall not be used for other mitigation activities or credits, except when the proposed mitigation activity is not inconsistent with the NCLWF's purposes for the grant award, is or will not be not inconsistent with the proposed or recorded conservation agreement, and does not result in duplicative payment for the benefit or action already acquired by the NCLWF.
- A.D. Income Generation Land subject to Acquisition grant awards shall not generate income for the landowner, except when the income is generated from activities that are not inconsistent with the conservation values and purposes for which the land is protected and is or will-not be inconsistent with the proposed or recorded conservation agreement.

Income Generation within conservation agreement areas

Conservation agreements shall only allow income from activities that are not inconsistent with the conservation values and/or purposes for which the land is protected.

Staff member: Will Summer

Agenda Item III. C. 1. b) ACQ-005 State Property Office Delegation

This section is a reference document for the State Property Office delegation of authority to NCLWF to enter into conservation agreements without the Council of State approval. While it is still a valid and important document, it is neither a guideline nor practice and does not need to be referenced in this manual.

Committee recommendation

The Committee recommended removing ACQ-005 from the draft manual for 2026.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: ACQ-005 (original)

Acquisition Program Guidelines and Practices: (TO BE DELETED)

State Property Office (SPO) Delegation (ACQ-005)

Background: The Department of Administration delegated authority to the Department of Environment and Natural Resources to enter into and acquire conservation easements for the North Carolina Land and Water Fund program utilizing funds from NCLWF.

The practical application of this delegation is NCLWF conservation easements do not need to be approved by the COS, expediting the process of contract administration and easement acquisition.

A copy of the Council of State resolution is on the following four pages.

Effective Date

Versions	Revisions
December 30, 2003	Original Effective Date



North Carolina Department of Administration

Michael F. Easley, Governor Gwynn T. Swinson, Secretary State Property Office Joseph H. Henderson, Director

December 30, 2003

Secretary William G. Ross, Jr. Department of Environment and Natural Resources 1601 Mail Service Center Raleigh, NC 27699-1601

RE: Clean Water Management Trust Fund

Dear Secretary Ross:

Effective January 1, 2004, The Department of Administration hereby delegates authority to the Department of Environment and Natural Resources to enter into and acquire conservation easements for the Clean Water Management Trust Fund program utilizing funds from that program. A copy of the Council of State resolution of September 9, 2003, is attached to show the authority. Please provide the State Property Office with all original easements and all other pertinent information as required by the Council of State resolution. If additional delegation of authority is granted within your Department, please provide a copy of that delegation to our office.

Sincerely,

Joseph H. Henderson

JHH/jmw enclosures

cc: Bill Holman

Mailing Address: 1321 Mail Service Center Raleigh, N.C. 27699-1321 Telephone (919) 733-4346 Fax (919) 733-1431 State Courier #52-71-78 Location: 116 West Jones Street Raleigh, North Carolina

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STATE PROPERTY MATTERS - Continued

RESOLUTION - Continued

ITEM 1

WHEREAS, N.C.G.S. §146-22 provides that every acquisition of land on behalf of the State or any State agency shall be made by the Department of Administration and approved by the Council of State; and,

WHEREAS, N.C.G.S. §143-341(4)d provides that the Department of Administration has the power and duty to acquire all land for all State agencies, subject to the approval of the Governor and Council of State in each instance; and,

WHEREAS, N.C.G.S. §146-32 authorizes the Governor, acting with the approval of the Council of State, to adopt rules exempting from the requirements of Subchapter II, Chapter 146 of the General Statutes of North Carolina, such classes of easements as may be deemed advisable; and,

WHEREAS, N.C.G.S. §143-341(4)d authorizes the Governor, acting with the approval of the Council of State, to adopt rules exempting from the requirements of N.C.G.S. §143-341(4)d such classes of easements as may be deemed advisable and to authorize any State agency to enter into and/or approve the classes of transactions thus exempted from these requirements; and,

WHEREAS, on February 8, 2000, the Governor and Council of State approved a Resolution authorizing the Department of Administration, without further approval from the Governor and Council of State, to enter into conservation easement agreements and hold such conservation easements for the Conservation Reserve Enhancement Program, the Confined Animal Operations Program and the Wetlands Restoration Program; and,

WHEREAS, the Clean Water Management Trust Fund, pursuant to N.C.G.S. §113-145.1, has been established in order to help finance projects, including the acquisition of conservation easements, that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting and preserving unpolluted surface waters, including urban drinking water supplies; and,

WHEREAS, the Clean Water Management Trust Fund anticipates the acquisition of numerous conservation easements under the Clean Water Management Trust Fund program; and,

WHEREAS, adherence to standard acquisition requirements set out in Chapters 143 and 146 causes delay in the acquisition of conservation easements necessary to protect the State's water supplies and creates a burden upon the resources of the State Property Office, Department of Administration, and the Council of State.

NOW, THEREFORE, BE IT HEREBY RESOLVED:

- The Department of Administration is authorized, without further approval of the Governor and the Council of State, to enter into conservation easements and to acquire and hold such conservation easements for the Clean Water Management Trust Fund Program utilizing funds from that Program.
- To the extent it deems appropriate, the Department of Administration is further authorized to delegate to the Department of Environment and Natural Resources the authority to enter into conservation easements agreements as set forth above.
- All easements shall be acquired in the name of the State of North Carolina. Copies of all easements and such other pertinent information as may be required by the Department of Administration, shall be promptly furnished to the Department.
- Nothing contained in this Resolution shall require the adoption of rules pursuant to the Administrative Procedures Act to implement the provisions herein.

PROPERTY MATTERS NOT SUBJECT TO N.C.G.S. §146

ACQUISTION BY DEED

On a motion by Commissioner of Insurance Long, seconded by Superintendent of Public Instruction Ward, the Council of State unanimously approved the following Acquisition by Deed:

ITEM I

GRANTOR:

Chaucer Investments, LLC

GRANTEE:

North Carolina Real Estate Commission

LOCATION:

1313 Navaho Drive, City of Raleigh, Wake County

AREA:

1.3 acres improved with a 17,232 sq. ft. two-story brick office building

UNIT COST:

\$5.03/sq. ft. - land

\$72.24/sq. ft. - improvements

CONSIDERATION:

\$1,530,000

COMMENTS: The property proposed for acquisition has been leased by the State of North Carolina for the N.C. Real Estate Commission since 1987. Subsequent to acquisition, the property will continue to be occupied by the N.C. Real Estate Commission. Pursuant to N.C.G.S. §93A-3(f), funds for this acquisition will be provided from the grantee's assets.

N.C. GLOBAL TRANSPARK AUTHORITY

On a motion by Lieutenant Governor Perdue, seconded by State Auditor Campbell, the Council of State approved the NC Global TransPark request that the Global TransPark be authorized to exercise power of eminent domain on the 28 properties indicated on the map presented to the Council for their review, see attachment on file. (Commissioner of Labor Berry voted no).

OTHER DISCUSSION

Ms. Jennifer Wilder from North Carolina Central University provided an update on the mold issue at the NCCU. She informed the Council that students had been placed in hotels and apartments, and transportation was being provided for the students by the university. Governor Easley stated that NCCU was authorized by the General Assembly to redirect proceeds from Bond Sale to address the mold issue.

There being no further business, a motion to adjourn was made by Lieutenant Governor Perdue, which the Council of State unanimously approved.

Ouvernor

Lieutenant Governor

Council of State

Page 18

September 9, 2003

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Muhay Work

1 Go Corp

Batt (oll

Interim Commissioner of Agriculture

Cherry Berry

Commissioner of Insurance

APPROVED:

Attorney General Roy A. Cooper, III

This is to certify that the foregoing comprises the minutes of the Council of State at a meeting held September 9, 2003.

Witness my hand, this 7th day of October , 2003

Secretary

Staff member: Will Summer / Justin Mercer

Agenda Item III. C. 1. c) ACQ-006 Construction of Natural Surface Trails

In 2017, the NCLWF adopted ACQ-006 to set guidelines on how trails should be constructed within NCLWF easements to ensure long-term sustainability and minimize impacts to conservation values. Staff will present a reclassification as a Stewardship Guideline and Practice as well as minor changes to clarify intent.

Committee recommendation

The Committee recommended renaming ACQ-006 as STW-009 Construction of Trails and updating guidelines for further clarity as shown on the attached.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: STW-009 (proposed); STW-009 (redline)

Stewardship Program Guidelines and Practices:

Construction of Trails (STW-009)

Background: The NCLWF has allowed for construction of hiking trails as a standard right and on occasion other trails approved on a case-by-case basis, such as mountain bike trails. Staff and trustees recognize that proper trail construction is as, if not more, important than the impacts of the trail users. These Guidelines and Practices are to ensure that new trails, when intended for general public use, or subject to frequent use by large numbers of individuals, are planned and constructed to the most up-to-date, sustainable standards and prioritize protection of the conservation values. These Guidelines and Practices will apply to State-held conservation easements and other conservation instruments that NCLWF must approve, such as restrictive covenants. Private trails for personal use by the landowner and a small number of guests that will not have more than a de minimis impact on the land, water quality, or environment are excepted from the application of these guidelines. Trails on land outside of the NCLWF easement area(s) are also excluded from the application of these Guidelines and Practices.

Guidelines and Practices:

Easements recorded after July 1, 2017, will include language that requires all new trail construction and realignment requiring soil disturbance to follow best practices for sustainable trail design and construction and to have prior written approval by NCLWF staff, per the guidance below. Private trails for personal use by the landowner and a small number of guests that will not have more than a de minimis impact on the land, water quality, or environment (i.e. soil disturbance) are excepted from the application of these guidelines.

- 1. Design and Construction Guidance:
 - a. Trails must be constructed so as to have minimal adverse impact on the Conservation Values of the easement area either during or after construction
 - b. Boardwalks, ramps, and handrails are permitted as required by terrain
 - c. Park benches, litter receptacles, and trail/feature signs may be constructed along trails; and
 - d. NCLWF does not require trails to be built to current accessibility standards, but will allow trails to be constructed to reasonably accommodate accessibility if required by local ordinances or other funding sources or if desired by the landowner(s).
- 2. In approving trail design, NCLWF staff will consider:
 - Designer qualifications The trail design should be prepared by a qualified trail designer, approved by staff. In determining qualifications, staff will review previous trails designed by the trail designer and must see a proven track record of sustainably designed trails.
 - Builder qualifications The building team should be led by a qualified builder, approved by staff. In determining qualifications, staff will review previous trails constructed by the trail builder and must see a proven track record of sustainably constructed trails. Though not required with otherwise acceptable qualifications, NCLWF prefers a member of a recognized trail building group, such as the Professional Trail Building Association.

- Trail alignment The trails should be a minimum of 50 feet from the top of bank of any streams except at stream crossings and should avoid other sensitive areas, such as wetlands, natural heritage elements, and historic and cultural sites. Planned access points to streams and other features of interest are permitted where appropriate.
- Planned trail width Current design standards for a single-track trail are no more than 48", though wider trails may be approved if deemed appropriate for permitted uses; paved greenways should follow guidelines established by local ordinances or other requirements set by funding sources such as Dept. of Transportation.
- Stream crossings The number of stream crossings will be minimized as will the impact
 to the stream and they shall be located and constructed in such a way as to maximize
 water quality protection.
- Trail length Trails should be long enough to distribute impact. For biking and
 equestrian trails, the NCLWF prefers a minimum trail length of 5 miles on the subject
 tract or connection to a trail network of at least 5 miles.
- Topography Trails shall be constructed utilizing the then-current best practices. For example, current sustainable trails guidelines include:
 - 1. Trail grade no greater than half of the side slope grade,
 - 2. Average trail slope not more than 10%,
 - 3. Maximum sustainable grade,
 - 4. Frequent grade reversals; and
 - 5. Outsloping trails.
- Management and maintenance A trail management plan that includes regular inspection and maintenance activities, such as, but not limited to de-berming, removing obstructions, and/or cleaning grade dips, shall be submitted with the design and construction request.
- Subject matter experts Staff will utilize available resources to assist in trail design review. These can include NC Division of Parks and Recreation Trail Planners, Natural Heritage Program staff, and State Historic and Cultural resources staff, among others.
- 3. NCLWF will retain the right to deny new trails or require maintenance or closing of any existing trails that are considered detrimental to conservation values.
- 4. The prohibition on use of motorized vehicles except for management and stewardship will remain as standard language in the easement. Electric bicycles with a motor not exceeding 750 watts that have a pedal-assist function but are not equipped with a throttle and medically necessary mobility devices are excepted from the NCLWF's definition of "motorized vehicle."

Easements recorded prior to July 1, 2017

When an existing easement is silent on construction of biking trails, staff will have full discretion in allowing mountain bike trail rights not explicitly reserved under the terms of the easement. Staff will consider all of the requirements listed above, and any additional information specific to the easement, including intent of the original landowner if the fee ownership has changed.

Effective Date

Versions	Revisions
March 1, 2017	Original Effective Date
June 5, 2018	Revised and Adopted

Construction of Natural Surface Trails (ACQ-006STW-009)

Background: The NCLWF has allowed for construction of hiking trails as a standard right and on occasion other trails approved on a case-by-case basis, such as mountain bike trails. Staff and trustees recognize that proper trail construction is as, if not more, important than the impacts of the trail users. These Guidelines and Practices are to ensure that new trails, when intended for general public use, or subject to frequent use by large numbers of individuals, are planned and constructed to the most up-to-date, sustainable standards and prioritize protection of the conservation values. These Guidelines and Practices will apply to State-held conservation easements and other conservation instruments that NCLWF must approve, such as restrictive covenants. Private trails for personal use by the landowner and a small number of guests that will not have more than a de minimis impact on the land, water quality, or environment are excepted from the application of these guidelines. Trails on land outside of the NCLWF easement area(s) are also excluded from the application of these Guidelines and Practices.

Guidelines and Practices:

£. Easements recorded after July 1, 2017, will include language that requires all new trail construction and realignment requiring soil disturbance to follow best practices for sustainable trail design and construction and to have prior written approval by NCLWF staff, per the guidance below. Private trails for personal use by the landowner and a small number of guests that will not have more than a de minimis impact on the land, water quality, or environment (i.e. soil disturbance) are excepted from the application of these guidelines.

2.1. Design and Construction Guidance:

- a. Trails must be constructed so as to have minimal adverse impact on the Conservation Values of the easement area either during or after construction
- b. Boardwalks, ramps, and handrails are permitted as required by terrain
- c. Park benches, litter receptacles, and trail/feature signs may be constructed along trails; and
- d. NCLWF does not require trails to be built to ADA_current accessibility standards, but will allow trails to be constructed to ADA standards reasonably accommodate accessibility if required by local ordinances or other funding sources or if desired by the landowner(s).

3.2. In approving trail design, NCLWF staff will consider:

- Designer qualifications The trail design should be prepared by a qualified trail designer, approved by staff. In determining qualifications, staff will review previous trails designed by the trail designer and must see a proven track record of sustainably designed trails.
- Builder qualifications The building team should be led by a qualified builder, approved by staff. In determining qualifications, staff will review previous trails constructed by the trail builder and must see a proven track record of sustainably constructed trails. <u>Though not</u> <u>required with otherwise acceptable qualifications</u>, NCLWF prefers a member of a recognized trail building group, such as the Professional Trail Building Association.

- Trail alignment The trails should be a minimum of 30-50 feet from the top of bank of
 any streams except at stream crossings and should avoid other sensitive areas, such as
 wetlands, natural heritage elements, and historic and cultural sites. Planned access
 points to streams and other features of interest are permitted where appropriate.
- Planned trail width Current design standards and equipment are not more than 48" for a single-track trail are no more than 48", though wider trails may be approved if deemed appropriate for permitted uses; paved greenways should follow guidelines established by local ordinances or other requirements set by funding sources such as Dept. of Transportation.
- Stream crossings The number of stream crossings will be minimized as will the impact
 to the stream and they shall be located and constructed in such a way as to maximize
 water quality protection.
- Trail length Trails should be long enough to distribute impact. For biking and
 equestrian trails, the suggested the NCLWF prefers a minimum is a trail length of at
 least 5 miles on the subject tract or connection to a trail network of at least 5 miles.
- Topography Trails shall be constructed utilizing the then-current best practices. For example, current sustainable trails guidelines include:
 - 1.Trail grade less no greater than half of the side slope grade,
 - 2. Average trail slope not more than 10%,
 - 3. Maximum sustainable grade,
 - 4. Frequent grade reversals; and
 - 5. Outsloping trails.
- Management and maintenance A trail management plan that includes regular inspection and maintenance activities, such as, but not limited to de-berming, removing obstructions, and/or cleaning grade dips, shall be submitted with the design and construction request.
- Subject matter experts Staff will utilize available resources to assist in trail design review. These can include NC Division of Parks and Recreation Trail Planners, Natural Heritage Program staff, and State Historic and Cultural resources staff, among others.
- <u>4. NCLWF</u> will retain the right to deny new trails or require maintenance or closing of any existing trails that are considered detrimental to conservation values.
- 4. The prohibition on use of motorized vehicles except for management and stewardship will remain as standard language in the easement. Electric bicycles with a motor not exceeding 750 watts that have a pedal-assist function but are not equipped with a throttle and medically necessary mobility devices are excepted from the NCLWF's definition of "motorized vehicle."

Easements recorded after July 1, 2017

- 1. Easements will continue to have construction of walking and hiking trails as a standard reserved right. Mountain biking trails will be a standard optional right. Any other uses of trails must be requested and approved by the board at the time of grant award.
- 2. The prohibition on uses of motorized vehicles except for management and stewardship will remain as standard language in the easement.
- 3. Any grant recipient or landowner may ask that biking, or other trail use be excluded from the conservation easement.

Easements recorded prior to the passage of these Guidelines and Practices July 1, 2017

When an existing easement is silent on construction of biking trails as a reserved right, staff will have full discretion in allowing mountain bike trail rights not explicitly reserved under the terms of the easement. Staff will consider all of the requirements listed above, and any additional information specific to the easement, including intent of the original landowner if the fee ownership has changed.

Effective Date

Versions	Revisions
March 1, 2017	Original Effective Date
June 5, 2018	Revised and Adopted

Staff member: Will Summer / Marissa Hartzler

Agenda Item III. C. 1. d) ACQ-008 Reimbursement of Transaction Costs when a Project Fails to Close

In 2020, the NCLWF adopted ACQ-008 to set guidelines on what expenses NCLWF staff could reimburse when a project fails to close. Staff will present data on the use of this practice and propose edits.

Committee recommendation

The Committee recommended updating ACQ-008 to allow for the partial reimbursement of additional transaction and administration expenses as shown in the provided draft text.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: ACQ-008 (proposed); ACQ-009 (redline)

Acquisition Program Guidelines and Practices:

Reimbursement When a Project Fails to Close (ACQ-008)

Background:

The NCLWF recognizes that even when Grant Recipients are working in good faith to complete an Acquisition Program project, there are times when forces outside their control cause the project to fail. Often the Grant Recipient will have incurred expenses that the NCLWF is willing to reimburse in part and the guidelines for such reimbursements are listed below.

Guidelines and Practices:

When a portion or all of the land to be acquired through an NCLWF Acquisition Grant Contract fails to close, NCLWF staff is authorized to reimburse the Grant Recipient for up to 50% of transaction costs and 100% of eligible administration costs for the portion of the project that failed to be acquired, provided the Grant Recipient:

- has made good-faith efforts to close the project, following a prudent order of operations as is required for their particular project;
- is current on progress reporting and has been in communication with the NCLWF contract administrator; and
- can certify to the NCLWF that any due diligence materials for which they are requesting reimbursement has not and will not be provided to the landowner for use in any other transaction.

Any requests for reimbursement that deviate from these guidelines may be considered by the Board.

Acquisition Program Guidelines and Practices:

Reimbursement of Transaction Costs when When a Project Fails to Close (ACQ-008)

Background: NCLWF will reimburse for project expenses prior to or subsequent to Closing, provided the Grant Recipient complies with conditions of the Grant Contract. Closing is defined as recording of Warranty Deed, Conservation Agreement, and other documents required by the Grant Contract.

The NCLWF recognizes that even when Grant Recipients are working in good faith to complete an Acquisition Program project, there are times when forces outside their control cause the project to fail. Often the Grant Recipient will have incurred expenses that the NCLWF is willing to reimburse in part and the guidelines for such reimbursements are listed below. there may be expenses needed to establish a final agreement with the landowner and is willing to share reasonable costs to establish a purchase value before greater expenses are incurred. Any requests for reimbursement that is above what is outlined below may be considered by the Board.

Guidelines and Practices:

When an acquisition project fails to close, staff is authorized to reimburse up to 50% of the costs of appraisals, ESA Phase I, and reasonable staff time.

When a portion or all of the land to be acquired through an NCLWF Acquisition Grant
Contract fails to close, NCLWF staff is authorized to reimburse the Grant Recipient for up
to 50% of transaction costs and 100% of eligible administration costs for the portion of the
project that failed to be acquired, provided the Grant Recipient:

- has made good-faith efforts to close the project, following a prudent order of operations as is required for their particular project;
- is current on progress reporting and has been in communication with the NCLWF contract administrator; and
- can certify to the NCLWF that any due diligence materials for which they are requesting reimbursement has not and will not be provided to the landowner for use in any other transaction.

Any requests for reimbursement that deviate from these guidelines may be considered by the Board.

Staff member: Will Summer / Marissa Hartzler

Agenda Item III. C. 1. e) MPP-001 Acquisition Project Administration

Since 2003, NCLWF has offered grant recipients reimbursement of administration costs associated with completing a NCLWF grant. For Acquisition projects, the amount reimbursable has been limited to 10% of the total transaction costs incurred on the project, not to exceed \$25,000.

Transaction costs incurred, however, may not be the best predictor of time needed to complete a project, and staff will present an alternate strategy for reimbursement.

As a Multiple Program Practice, the Executive Committee also made recommendations to different sections of this practice related to state agency eligibility for reimbursement of administration costs. Those will presented separately in the next agenda item.

Committee recommendation

The Committee recommended removing the tie to transaction costs and setting maximum caps for both Acquisition and Donation Mini-Grant projects as shown in the provided draft text.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: MPP-001 (redline)

Multiple Program Guidelines and Practices:

Administrative Administration Costs and Caps for Grant Contracts (MPP-001)

Background: The NCLWF recognizes that grant recipients incur administrative administration costs in the process of managing projects. The purpose of these Guidelines and Practices is to 1) clarify that only administrative administration costs directly necessary to the management of a NCLWF grant contract are reimbursable and 2) establish a cap on administrative administration costs for acquisition Acquisition and Donation Mini-Grant Program projects.

Guidelines and Practices:

- Eligible administration costs include the direct labor costs associated with progress reporting, reimbursement requests, and project scope, budget and schedule management.
- 2. Costs not eligible for reimbursement include audits, direct phone costs, direct postage costs, grant recipient's overhead (indirect) cost, including, rent, utilities, insurance costs, facility costs, general office, general phone and general postage costs.
- 3. For acquisition Acquisition Program projects, administration costs shall not exceed \$25,000. the total amount to be reimbursed will be up to 10% of the total transaction costs (e.g., appraisal, survey, baseline documentation report, legal fees for preparation and recordation of easement) of the project not to exceed \$25,000.
- 4. For Donation Mini-Grant Program projects, administration costs shall not exceed \$10,000.

Staff member: Will Summer

Agenda Item III. C. 2. a) MPP-001 Administrative Costs and Caps for Grant Contracts

Since 2003, NCLWF has offered grant recipients reimbursement of administration costs associated with completing a NCLWF grant. State agencies are not eligible to apply for reimbursement for administrative costs under current practices, nor are other entities working on their behalf. Staff would like to amend this practice to clarify eligibility and allow for non-state organizations assisting with the project to be reimbursed.

As a Multiple Program Practice, the Acquisition Committee also proposed changes to reimbursement limits in a separate section of this practice. For simplicity, the draft presented here incorporates those changes recommended by the Acquisition Committee as if approved.

Committee recommendation

The Committee recommended adding a section to the guidelines stating that State agencies are not eligible for reimbursement of administration costs incurred by state employees but that they may seek reimbursement for administration costs for non-State organizations assisting with the project

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: MPP-001 (clean); MPP-001 (redline)

Multiple Program Guidelines and Practices:

Administration Costs and Caps for Grant Contracts (MPP-001)

Background: The NCLWF recognizes that grant recipients incur administration costs in the process of managing projects. The purpose of these Guidelines and Practices is to 1) clarify that only administration costs necessary to the management of a NCLWF grant contract are reimbursable and 2) establish a cap on administration costs for Acquisition and Donation Mini-Grant Program projects.

Guidelines and Practices:

Staff may approve requests for administration costs incurred during the course of project implementation subject to the limitations below:

- 1. Eligible administration costs include the direct labor costs associated with progress reports and reimbursement requests, as well as project scope, budget, and schedule management.
- Costs not eligible for reimbursement include audits, direct phone costs, direct
 postage costs, grant recipient's overhead (indirect) cost, including, rent, utilities,
 insurance costs, facility costs, general office, general phone, and general postage
 costs.
- 3. State agencies are not eligible for reimbursement of administration costs incurred by state employees but may seek reimbursement for administration costs for non-state organizations assisting with the project.
- 4. For Acquisition Program projects, administration costs shall not exceed \$25,000.
- 5. For Donation Mini-Grant Program projects, administration costs shall not exceed \$10,000.

Multiple Program Guidelines and Practices:

Administration Costs and Caps for Grant Contracts (MPP-001)

Background: The NCLWF recognizes that grant recipients incur administration costs in the process of managing projects. The purpose of these Guidelines and Practices is to 1) clarify that only administration costs directly necessary to the management of a NCLWF grant contract are reimbursable and 2) establish a cap on administration costs for Acquisition and Donation Mini-Grant Program projects.

Guidelines and Practices:

<u>Staff may approve requests for Eligible</u>-administration costs <u>incurred during the course of project implementation subject to the limitations below:</u>

- 1. <u>Eligible administration costs</u> include the direct labor costs associated with progress reportingreports and, reimbursement requests, as well as and project scope, budget, and schedule management.
- 2. Costs not eligible for reimbursement include audits, direct phone costs, direct postage costs, grant recipient's overhead (indirect) cost, including, rent, utilities, insurance costs, facility costs, general office, general phone and general postage costs.
- 3. State agencies are not eligible for reimbursement of administration costs incurred by state employees but may seek reimbursement for administration costs for non-state organizations assisting with the project.
- 3.4. For Acquisition Program projects, administration costs shall not exceed \$25,000.
- 4.5. For Donation Mini-Grant Program projects, administration costs shall not exceed \$10,000.

Staff member: Will Summer

Agenda Item III. C. 2. b) MPP-005 Guidelines Establishing Minimum Criteria

Our general statute specifies that NCLWF have guidelines for minimum criteria:

- "§ 143B-135.242. North Carolina Land and Water Fund Board of Trustees: powers and duties.
- (a) Allocate Grant Funds. The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Part.
- (b) Develop Grant Criteria. The Trustees shall develop criteria for awarding grants under this Part..."

As this language is interpreted, NCLWF's criteria should be pass/fail metrics that would qualify projects for funding only if they meet a minimum threshold. In 2018, the board approved guidelines for this purpose, but slight legislative changes in the underlying purposes and criteria in our statue since then mean this needs to be updated.

Staff have adjusted the guidelines to reflect the current statutory language and simplified the reference to prevent needing to revisit this again if similar changes are made in the future.

Committee recommendation

The Committee recommended updating MPP-005 to be consistent with the statute per the attached redline.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: MPP-005 (clean); MPP-005 (redline)

Multiple Program Guidelines and Practices:

Guidelines Establishing Minimum Criteria for Approval of Grants for Projects (MPP-005)

Background: In order for the North Carolina Land and Water Fund to approve the award of a grant for a project, the project must meet the minimum criteria stated in these Guidelines and Practices. If a project meets the minimum criteria, a grant may be awarded for the project, but neither the project nor the applicant is entitled to a grant. Whether or not a project that meets the minimum criteria in these Guidelines and Practices is awarded a grant is within the discretion of the North Carolina Land and Water Fund Board of Trustees taking into account the purposes of Part 41 of Article 2 of Chapter 143B of the North Carolina General Statutes.

Guidelines and Practices:

In order for a Project to be eligible for a grant, the Project must meet at least the following requirements: 1. The Project must be submitted by an eligible applicant, per G.S. 143B-135.238(a).

- 2. The Project must use the grant for one of the purposes set forth in G.S. 143B-135.234(c).
- 3. A Project must contribute to at least one of the factors set forth in G.S. 143B-135.242(b).
- 4. A Project must be supported by a complete application on the forms provided by the N.C. Land and Water Fund.
- 5. A Project must not receive any grant funds to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11.
- 6. A Project must not receive state funds authorized by G.S. 143-215.71 for the nonfederal share of a grant under the Environmental Quality Incentives Program.

Additionally, per G.S. § 143B-135.242(c), the Board may establish additional guidelines. Any such guidelines will be published before applications are released each grant cycle.

The Board has sole discretion in awarding funds to Projects that meet the minimum criteria above. Trustees may consider additional factors at their discretion.

Multiple Program Guidelines and Practices:

Guidelines Establishing Minimum Criteria Under G.S. § 143B-135.242 for Approval of Grants for Projects (MPP-005)

Background: In order for the North Carolina Land and Water Fund to approve the award of a grant for a project, the project must meet the minimum criteria stated in these Guidelines and Practices. If a project meets the minimum criteria, a grant may be awarded for the project, but neither the project nor the applicant is entitled to a grant. Whether or not a project that meets the minimum criteria in these Guidelines and Practices is awarded a grant is within the sound-discretion of the North Carolina Land and Water Fund Board of Trustees taking into account all the purposes of Part 41 of Article 2 of Chapter 143B of the North Carolina General Statutes.

Guidelines and Practices:

In order for a <u>P</u>project to be eligible for a grant, the <u>P</u>project must meet <u>at least</u> the <u>following</u> requirements of the following sections:

1. The Project must be submitted by an eligible applicant, per G.S. 143B-135.238(a). ÷

2. A State agency.

- a. A local government unit.
- b. A nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of our State's cultural, environmental, or natural resources.
- 2. The A Project must meet use moneys from the fund for the grant for one of the purposes established for the Fund set forth in G.S. 143B-135.234(c).÷
- a. To acquire land for riparian buffers for the purposes of providing environmental protection for surfacewaters and urban drinking water supplies and establishing a network of riparian greenways forenvironmental, educational, and recreational uses.
- b. To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.
- c. To coordinate with other public programs involved with lands adjoining water bodies to gain the most-public benefit while protecting and improving water quality.
- d. To restore previously degraded lands to reestablish their ability to protect water quality.
- e. To facilitate planning that targets reductions in surface water pollution.
- f. To finance innovative efforts, including pilot projects, to improve stormwater—management, to reduce pollutants entering the State's waterways, to improve water quality, and to research alternative solutions to the State's water quality problems.

g. To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers. h. To acquire land that represents the ecological diversity of North Carolina, including natural features such as riverine, montane, coastal, and geologic systems and other natural areas to ensure purposes. To acquire land that contributes to the development of a balanced State program of historic properties.

3. A Project must contribute to at least one of the goalsgoals factors set forth stated in G.S. 143B-135.23442(b).below:

The significant enhancement and conservation of water quality in the State,

- a. The objectives of the various basinwide management plans for the State's river basins and watersheds,
- b. The promotion of regional integrated ecological networks insofar as they affect water quality,
- c. The specific areas targeted as being environmentally sensitive,
- d. The preservation of water resources with significant recreational or economic value and uses,
- e. The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses,
- f. Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include consideration of the likelihood of a proposed water supply project ultimately being permitted and built,
- a. The protection or preservation of land with outstanding natural or cultural heritage values,
- a. The protection or preservation of land that contains a relatively undisturbed and outstanding example of a native North Carolina ecological community that is now uncommon; contains a major river or tributary, watershed, wetland, significant littoral, estuarine, or aquatic site, or important geologic feature; or represents a type of landscape, natural feature, or natural area that is not currently in the State's inventory of parks and natural areas,
- g. The protection or preservation of a site or structure that is of such historical significance as—to be essential to the development of a balanced State program of historic properties, or
- h. Significant contribution to the geographic distribution of funds as appropriate in relation to a project that serves at least one of the purposes listed in Section 2 hereof.
- ——4. A Project must be supported by a complete application on the forms provided by the N.C. Land and —Water Fund.
- 5. -A Project must not <u>receiveuse</u> any grant funds to satisfy compensatory mitigation requirements under 33 USC §1344 or G.S. § 143-214.11.
- <u>6. A Project must not receive state funds authorized by G.S. 143-215.71 for the nonfederal share of a grant under the Environmental Quality Incentives Program.</u>

Additionally, per G.S. § 143B-135.242(c), the Board may establish additional guidelines. Any such guidelines will be approved by the Board-

and published before applications are released each grant cycle.

<u>The trustees shall have</u>The Board has sole discretion in awarding funds to Pprojects that meet the minimum criteria above. Trustees may consider additional factors in their decisions at their discretion.

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Staff member: Will Summer

Agenda Item III. C. 2. c) STW-003 Board Resolution to Establish Endowment

This section is a historical reference for a board resolution in 2005 to establish an endowment and stewardship program and is no longer current.

Committee recommendation

The Committee recommended removing STEW-003 from the draft manual for 2026.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: STW-003 (original)

Stewardship Program Guidelines and Practices: (TO BE DELETED)

Board Resolution to Establish Endowment (STW-003)

Background: This resolution was passed by the board to provide support for pursuing necessary legislation and direction for staff to establish the Stewardship Program as it exists currently.

Resolution: Sense of the Board of Trustees of the Clean Water Management Trust Fund Regarding Stewardship of Conservation Easements

The Board recognizes that stewardship and management of conservation easements are essential to protect both water quality and the public's investment.

The Board is committed to providing adequate funds for stewardship of permanent conservation easements.

The Board appreciates and supports the work of land trusts and other grantees that receive Clean Water Management Trust Fund stewardship funds in monitoring and stewarding permanent conservation easements.

The Board desires to increase accountability and control of the funds that the Clean Water Management Trust Fund provides to land trusts and other grantees that receive Clean Water Management Trust Fund stewardship funds for stewardship.

The Board will not provide any new stewardship funds directly to land trusts and other grantees that receive Clean Water Management Trust Fund stewardship funds to be managed as private endowments.

The Board supports legislation authorizing establishment of a Clean Water Management Trust Fund Stewardship Endowment Fund as a nonreverting special revenue fund in the 2005 General Assembly.

The Board directs CWMTF staff and land trusts and other grantees that receive Clean Water Management Trust Fund stewardship funds to work together to address concerns raised by land trusts and other grantees that receive Clean Water Management Trust Fund stewardship funds and to report back to the Board in 2005.

Effective Date

Versions	Revisions
July 11, 2005	Original Effective Date

Staff member: Will Summer

Agenda Item III. C. 2. d) STW-004 Board Resolution to Invest Endowment

This section is a historical reference for a board resolution in 2005 to establish an endowment and stewardship program and is no longer current. Staff recommended updating the language to reflect current investment practices.

Committee recommendation

The Committee recommended amending STEW-004 per the attached revised document.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: STW-004 (proposed); STW-004 (original)

Stewardship Program Guidelines and Practices: (PROPOSED)

Stewardship Endowment Investment and Management (STW-004)

Background: In 2008, the General Assembly established the North Carolina Conservation Easement Endowment Fund (NCCEEF) via enactment of N.C. Gen. Stat. 143B-135.236. The General Assembly has permitted the NCLWF to utilize a broader range of investment tools for a stewardship endowment including a Bond Index Fund (BIF) and Equity Index Fund (EIF), in addition to the existing Short-Term Investment Fund (STIF), per G.S. 147-69.2 and G.S. 147-69.3.

A Deposit Agreement between the NCLWF and the North Carolina Department of the State Treasurer permits investment in the Ancillary Government Participant Investment Program (AGPIP) at the direction of the Board.

Staff informs the Board annually of the deposits previously approved in awarded projects to establish endowment principal for new properties enrolled in the stewardship program. Staff also recommends Board approval of transaction(s) necessary to maintain the balance target asset allocations as determined by the Board. The Board shall authorize all transactions within the NCCEEF and periodically review the asset allocations among the investment funds. Since the initial deposit into the three investment funds in 2012, the target asset allocations have remained at 70% in the EIF, 22% in the STIF, and 8% in the BIF.

Guidelines and Practices: The Board shall authorize the investment into and rebalancing of the NCCEEF annually at their discretion per G.S. 143B-135.236. Staff shall report to the trustees the number of new projects included in the NCCEEF and the amount required to be allocated to the NCCEEF to fully fund their stewardship. Staff shall also report the most recent NCCEEF investment fund balances and make recommendations for rebalancing the asset allocation including any withdrawals necessary to fund annual Stewardship Program operations consistent with STW-002. The allocation between the three investment funds shall be at the sole discretion of the Board. The Executive Director will be authorized by the Board to sign for and execute NCCEEF transactions.

Versions	Revisions
	Original Effective Date

Stewardship Program Guidelines and Practices: (ORIGINAL - TO BE REPLACED)

Board Resolution to Invest Endowment (STW-004)

Background: In 2008, legislative changes to the statute language permitted NCLWF to utilize a broader range of investment tools for its endowment. After meetings with staff and representatives from the State Treasurers Office, the Board deliberated and passed the following guidelines.

Resolution:

RESOLUTION OF THE BOARD OF TRUSTEES OF THE NC CLEAN WATER MANAGEMENT TRUST FUND DECLARING OFFICIAL INTENT TO INVEST FUNDS OF THE NC CONSERVATION EASEMENT ENDOWMENT FUND WITH THE NORTH CAROLINA STATE TREASURER PURSUANT TO NCGS SECTION 147-69.2

THE BOARD OF TRUSTEES OF THE NC CLEAN WATER MANAGEMENT TRUST FUND HEREBY FINDS, DECLARES AND RESOLVES AS FOLLOWS:

WHEREAS, the North Carolina Conservation Easement Endowment Fund ("Endowment") was established by North Carolina General Statute ("NCGS") I 13A-253.2 on July 16, 2008; and

WHEREAS, the Clean Water Management Trust Fund ("CWMTF") Board of Trustees authorized initial investment of the Endowment with the NC State Treasurer in the Long-Term Investment Fund ("LTIF"); and

WHEREAS, the Equity, Long-Term and Short-Term Fixed Income Funds ("Funds") pursuant to NCGS Section 147-69.2 consists of contributions made by local governments, public authorities and other entities authorized to make contributions to the Funds, which contributions are subject to the withdrawal terms of the Funds; and

WHEREAS, the Endowment is listed as an eligible participant in the Funds on line I 7i of NCGS Section 147-69.2; and

WHEREAS, the CWTMF Board of Trustees has reviewed the Funds and the investment options available with the NC State Treasurer.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NC CLEAN WATER MANAGEMENT TRUST FUND (THE "BOARD") BY A MOTION PASSED BY A MAJORITY AT THEIR MEETING AT THE NORTH CAROLINA RURAL ECONOMIC DEVELOPMENT CENTER IN RALEIGH, NORTH CAROLINA ON FEBRUARY 13, 2012:

The Board authorizes diversifying the investment of the Endowment into equity, long term and short term investments as a prudent investment strategy; and

The Board acknowledges and approves the investment of the Endowment with the North Carolina Department of State Treasurer in the Funds (the "Investment") pursuant to the terms and conditions of a deposit agreement for investment in public equity, long term and short term fixed income ("Agreement") between NCLWF and the NC State Treasurer; and

The Board authorizes the CWMTF Board of Trustees Chair ("Board Chair"), the CWMTF Board Stewardship Committee Chair, and any appropriate officers, managers and representatives of CWMTF designated by the CWMTF Board Chair ("Authorized Representatives") to finalize said terms of the Agreement with the Treasurer in a manner consistent with action by the Board of Trustees as this meeting and to execute and deliver the Agreement, to take any other actions deemed necessary or appropriate to consummate the transactions provided for therein, and to cause the investment to be made; and

The Board acknowledges that all actions heretofore taken by any of the Authorized Representatives of CWMTF acting on behalf of CWTMF in furtherance of the foregoing resolutions are hereby ratified, adopted, approved and confirmed in all respects; and

The Board acknowledges that the Authorized Representatives of CWMTF acting on behalf of CWMTF are hereby authorized to take all such other actions as they may deem necessary or appropriate to give effect to the forgoing resolutions.

Versions	Revisions
February 13, 2012	Original Effective Date

Staff member: Will Summer

Agenda Item III. C. 2. e) STW-005 NC Conservation Easement Endowment Fund Deposit Agreement

This section is a reference document for the deposit agreement established between the NCLWF and the NC State Treasurer's Office. While it is still a valid and important document, it is neither a guideline nor practice and does not need to be referenced in this manual.

Committee recommendation

The Committee recommended removing STEW-005 from the draft manual for 2026.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: STW-005 (original)

Stewardship Program Guidelines and Practices: (TO BE DELETED)

NC Conservation Easement Endowment Fund Deposit Agreement (STW-005)

Background: The following agreement outlines the terms and conditions under which the NCLWF Board and the Office of the State Treasurer will manage operations regarding the endowment.

Agreement:

North Carolina Department of State Treasurer

Deposit Agreement for Investment in Ancillary Governmental Participant Investment Program

("AGPIP")

Equity Index Fund Pursuant to N.C.G.S. § 147-69.2(b) (8)

Bond Index Fund Pursuant to N.C.G.S. §§ 147-69.2(b)(1)-(6)

and/or

Short-Term Investment Fund Pursuant to N.C.G.S. §§ 147-69.1(c) and 147-69.2(b)(1)

WHEREAS, pursuant to the North Carolina General Statutes, certain public entities that are not part of the North Carolina Retirement System, each an Ancillary Governmental Participant ("Participant" or "Applying Entity"), may deposit monies ("Monies") with the Treasurer of the State of North Carolina ("Treasurer"), who in turn will invest the Monies.

WHEREAS, pursuant to N.C.G.S. §§ 147-69.2(b2), 147-69.2(b4), 147-69.2(b5), or 147-69.2(d), or 147-69.5 or other such enabling legislation authorizing Participant to invest in AGPIP, certain Participants are authorized to direct the Treasurer as to the allocation of their investments;

WHEREAS, each Participant is exempt from federal income tax under Section 115 of the Internal Revenue Code of 1986 ("Code"), as amended, and the Constitution of the United States as an organization performing an essential government function or as an organization owned by an instrumentality of the State of North Carolina;

NOW THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

Section 1. General. The undersigned Participant understands, agrees, and acknowledges that it may deposit Monies from time to time with the Treasurer. Subject to the restrictions of the Participant's enabling legislation limiting the Participant's investment options, these Monies may be held and invested in one or more of the following: (i) a portfolio of primarily equity securities ("Equity Index Fund" or "EIF") as permitted by N.C.G.S. § 147-69.2(b)(8); (ii) a portfolio of fixed income instruments ("Bond Index Fund" or "BIF") as permitted by N.C.G.S. §§ 147-69.2(b)(1) through (6) and/or (iii) certain other fixed income instruments as permitted by N.C.G.S. § 147-69.2(b)(1) ("Short-Term Investment Fund" or "STIF").

The undersigned Participant understands and acknowledges that investments in the EIF are to be effected through investments made by the Treasurer in individual, common, or collective trust funds of banks, trust companies, and group trust funds of investment advisory companies as long as the investment manager has assets under management of at least \$100 million. The trustee of each such third-party trust ("Third-party Trustee") shall be appointed by the Treasurer. The undersigned Participant further understands and acknowledges that investments in the BIF are effected through third-party investment management, custodial, and brokerage arrangements. The STIF is to be managed internally by the Treasurer and utilizes third-party custodial and brokerage arrangements.

The undersigned Participant understands, agrees and acknowledges that if the Participant is a Local Government Other Post-Employment Benefits Trust ("OPEB Trust") established pursuant to N.C.G.S. § 150-30.1 or Local Government Law Enforcement Officer Special Separation Allowance Trust ("LEOSSA Trust") established pursuant to N.C.G.S. §§ 147-69.5 and 159-30.2, the Participant has established an irrevocable trust by resolution or ordinance of the entity's governing board. The resolution or ordinance states the purpose for which the OPEB Trust or LEOSSA Trust is created and the method for determining and selecting the trustees.

<u>Section 2. Representations and Warranties.</u> As a condition to its investment, the Participant acknowledges, represents, warrants and agrees that:

- a) The Participant recognizes that it is indirectly investing in equity securities (if the Participant is eligible for the EIF), debt instruments (if the Participant is eligible for the BIF) and/or short-term fixed income investments. BIF, EIF, and/or STIF may lose money over short or long periods of time as they are not bank deposits, are not guaranteed by the State of North Carolina, the Treasurer, or any private sector entity, and may lag the rate of inflation. Neither BIF, EIF, nor STIF is necessarily a complete investment program and returns may lag the returns of a balanced portfolio with comparable risk. BIF and EIF provide only limited liquidity and, Monies invested in the BIF and EIF should not be needed for immediate disbursement. The Participant recognizes that investments in EIF, BIF, and/or STIF are subject to, among other things: general equity and bond market investment risks (including, but not limited to, the risk of the loss of capital); investment manager risk (including, but not limited to, the risk that poor security selection by the manager will cause the investment to underperform relevant to benchmarks or other investments with similar objectives); interest rate risks; credit risks (including, where applicable, custodial credit risks, which is the risk that in the event of the failure of the counterparty, the Treasurer will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party); pre-payment risk; foreign equity risk; emerging market risk; and derivatives risk.
- b) The Participant has taken full cognizance of and understands all of the risk factors, including transition risk, related to investments in EIF, BIF and/or STIF, as applicable.
- c) The Participant is able to bear the economic risk of investments in EIF, BIF and/or STIF, as applicable.
- d) The Participant has such knowledge and experience in financial and business matters that the Participant is capable of evaluating the merits and risks of an investment in the EIF, BIF and/or STIF.

- e) The Participant is solely responsible for determining the suitability of and the statutory authorization of the allocation of its investment between any of the EIF, BIF, and/or STIF, as applicable. The initial allocation shall be made on the form set forth in Appendix A attached hereto and the signatory of such form is a duly authorized representative of the Participant. Allocations thereafter shall be set forth on the deposit/withdrawal/transfer form as set forth in the sample form in Appendix B to be signed on an ongoing basis by a duly authorized representative of the Participant. The Participant acknowledges that the Treasurer shall not rebalance the Participant's allocation on an ongoing basis in order to maintain the initial percentage allocation made by the Participant. The Participant shall be responsible for reviewing its monthly statements to determine if a rebalance is necessary and shall direct the Treasurer if such rebalance is to be effected. The Participant is responsible for directing the Treasurer as to the source and manner of any rebalance.
- f) The Participant acknowledges that its investment in the EIF, BIF and/or STIF, as the case may be, is permissible under the Participant's North Carolina statutory authority, is suitable for the Participant based upon its other securities holdings, financial situation, liquidity requirements and that the Participant has adequate means of providing for possible contingencies.
- g) The Participant understands that it is not permitted to sell, transfer, or assign any of its investment. In order to liquidate its investment, the Participant will be required to follow the procedures described in Section 4 of this Deposit Agreement. The Participant understands and acknowledges that the Treasurer will use reasonable efforts when transferring money from one investment to another and that the risk of any decline in the value of an investment in EIF, BIF and/or STIF during the interval between any permitted withdrawal date, as further described in Section 4 of this Deposit Agreement, is borne by the Participant.
- h) The Participant acknowledges, represents, warrants and agrees that the Treasurer may at any time in its sole discretion change requirements for deposits, withdrawals, and transfers applicable to Participant accounts should the Treasurer in good faith determine that such changes would be in the collective interest of the EIF, BIF, and/or STIF.
- i) Further, the Participant acknowledges, represents, warrants and agrees that (i) it is exempt from federal income tax under Section 115 of the Code and the Constitution of the United States as an organization performing an essential government function or as an organization owned by an instrumentality of the State of North Carolina; (ii) the investment by the Participant described herein has been duly authorized by all necessary corporate action of the Participant; (iii) the Participant has the requisite corporate power and authority to execute and deliver this document and to deposit the Monies for investment as described herein; (iv) for any Participant authorized to invest with the Treasurer in the EIF, the Treasurer has the power and authority under N.C.G.S. § 147-69.2(b)(8) and applicable law to appoint a Third-party Trustee or Third-party Trustees to hold the monies and assets of the Participant.
- j) The Participant acknowledges that the furnishing of this Deposit Agreement and the Enrollment Packet for the BIF, EIF and STIF is not intended to constitute investment advice or the offering of an investment product. The Treasurer is undertaking the statutory responsibility set out in N.C.G.S. 147-69.3. There is no agreement or understanding between the Treasurer and any Participant under which

the latter receives advice from the Treasurer concerning investments which are to be used as a primary basis for the Participant's investment decisions relating to BIF, EIF, or STIF.

- k) The Participant acknowledges that: (1) the BIF, EIF, and STIF can have liquidity limitations, volatility of returns, and risk of loss, including the potential for loss of the principal invested; (2) that Treasurer is not providing investment advice to the Participant; (3) that investing in the BIF, EIF of STIF is only suitable for participants who are willing to bear the economic risks of the investment; (4) that the participant will carefully review and consider all potential risks and costs before enrolling and investing.
- I) The undersigned understands and acknowledges that the Treasurer has the discretion, without prior notice, to make changes to the EIF and BIF, including but not limited to external manager, fees, investment policy or strategy.
- m) The Participant acknowledges and represents that it (i) is not subject to any sanctions administered or enforced by the United States Office of Foreign Assets Control, the United Nations Security Council, the European Union, or other relevant sanctions authority; and (ii) has not and will not transfer funds into an account which have been derived from activities subject to sanctions administered or enforced by the United States Office of Foreign Assets Control, the United Nations Security Council, the European Union, or other relevant sanctions authority.
- n) The Participant acknowledges and represents the following (check the correct box in (i) and (ii)):
 - i) The Participant IS / IS NOT a "Municipal Entity" as that term is defined under the Municipal Advisor Rules (Section 15B of the Securities Exchange Act of 1934, as amended, and the applicable rules thereunder (Rule 15Ba1 et. seq.)).
 - ii) The Participant has information concerning the source of the Monies and confirms that:
 - A. None of the Monies constitutes "Proceeds of Municipal Securities" or "Municipal Escrow Investments" as those terms are defined under the Municipal Advisor Rules;

OR

- B. Some or all of the Monies constitutes "Proceeds of Municipal Securities" or "Municipal Escrow Investments" as those terms are defined under the Municipal Advisor Rules.
- o) The Participant will notify the Treasurer immediately if it has reason to believe that the foregoing acknowledgements, representations, warranties and agreements may cease to be true. The Participant acknowledges, represents, warrants and agrees that the Treasurer may at any time in its sole discretion make a mandatory payout of Participant accounts should the Treasurer in good faith determine that such a payout would be in the collective interest of the EIF, BIF, and/or STIF, or if a Participant has breached the requirements herein.

<u>Section 3. Fees.</u> The Participant acknowledges, represents, warrants and agrees that fees, expenses, and charges will be deducted from their accounts by the Treasurer. As permitted by N.C.G.S. § 147-69.3(f), the Treasurer may apportion the reasonable costs of administration, management, and operation directly among each of the EIF, BIF, and STIF and such costs will not be itemized at the Participant level. Such costs may include without limitation internal and external investment management and administrative fees and expenses.

<u>Section 4. Deposits and Withdrawals.</u> In order for entities to participate in AGPIP, they must open a STIF Account with the State Treasurer (if they do not already have one) and fund the account. The STIF account is used to move monies into and out of the investments in BIF and/or EIF (if eligible). STIF deposits must be made by 10 a.m. to receive same day credit, otherwise, credit will be made the following business day. Additional information regarding the establishment of a STIF account can be found at https://www.nctreasurer.com/fod/Resources/BankingHandbook.pdf.

- a) Minimum Account Balance. The minimum balance to open a new account in either BIF or EIF will generally be \$100,000 in each account. The Treasurer reserves the right to establish a de minimis account value, close Participant accounts below such de minimis value, and transfer the proceeds of applicable Participant account balances to their STIF account.
- b) Procedures for Deposits and Withdrawals. Once all the required enrollment documents have been completed, received, and eligibility for BIF/EIF has been confirmed and the elected accounts opened, the Participant should email a deposit and withdrawal form to AGPIP@nctreasurer.com for all accounts. BIF/EIF transactions can only be made once a month and must be submitted no later than 5 business days prior to the end of the calendar month. Transactions received 5 business days prior to the end of the calendar month will be processed on the last business day of the month and monies will be available the second business day of the next month. Should the BIF/EIF deposit and withdrawal form be received in less than five (5) business days prior to the month end, the participant must submit a new deposit/withdrawal form for the next month five (5) business days prior to the end of the calendar month.
- c) Transfers or reallocations between STIF, BIF and or EIF. Transfers/reallocations between investments in STIF, BIF and or EIF are permitted, subject to all of the limitations on deposits, withdrawals and other procedural requirements provided in this Section 4.
- d) A deposit and withdrawal form is not effective until it is confirmed in an email from the Treasurer to the Participant. The Participant is responsible for contacting the Treasurer if it does not receive a confirmation email.

<u>Section 5. RELIANCE BY THIRD-PARTY TRUSTEES.</u> THE PARTICIPANT EXPRESSLY AGREES THAT ALL OF THE ACKNOWLEDGEMENTS, REPRESENTATIONS, WARRANTIES AND AGREEMENTS MADE HEREIN MAY BE RELIED UPON BY ANY THIRD-PARTY TRUSTEE APPOINTED BY THE TREASURER.

Appendix A

(If no initial allocation is made, all funds will be deposited by default into the STIF)

Initial Investment Allocation Election: The undersigned participant must designate investment allocation below by percentage amount in the section below. This will be the allocation in which monies currently in the fund will be allocated and such allocation will occur on or about thirty days after the transition to the EIF and the BIF.

Equity Index Fund (EIF)	By Percentage
As permitted by NCGS 147-69.2 (b) (8)	70%
Bond Index Fund (BIF)	100
As permitted by NCGS 147-69.2 (b) (1-6)	8%
Short Term Investment Fund (STIF)	0/8
As permitted by NCGS 147-69.2 (b) (1)	22%
Total	100%

Not to Exceed 100%

Versions	Revisions
June 21, 2012	Original Effective Date
May 21, 2021	Deposit agreement and Attachment A updated

Staff member: Will Summer / Will Price

Agenda Item III. C. 3. a) RES-002 Construction Contingency Funds

Our program currently allows applicants seeking construction funds to include a construction contingency line item in their budget. Contingency funds requested are to be matched at a ratio of at least one-to-one. The intention is for construction contingency to cover unexpected costs discovered during construction.

The construction contingency line item makes it difficult to score projects, because the effectiveness score is based on the ratio of project size to dollars budgeted for construction. Having a construction contingency can skew the estimated price of the project and therefore skew scoring of the application.

Construction contingency funds are also burdensome for partners and staff to implement. In order to be reimbursed for construction contingency spending, current guidelines require the grantee to first spend 100% of the project's construction line item, as well as 100% of local matching funds and at least 90% of all other matching funds. In practice, our partners find it difficult to efficiently utilize construction contingency funds, as construction plans generally must be made well in advance, and it is not clear if the project will be allowed to tap into the construction contingency funds until the project is almost complete.

Importantly, staff have seen few cases where contingency resulted in significant cost saving to NCLWF. In practice, the construction contingency line item is rarely utilized, and causes complications with scoring and project administration. In the 2025 application cycle, only 10% of applications utilized the construction contingency line item. As staff has seen little evidence of cost saving from a contingency line item, staff is in favor of eliminating the construction contingency line item entirely. Instead, staff would encourage applicants to incorporate potential contingencies in their regular construction line item.

Committee recommendation

The Committee recommended that the Board remove RES-002 from the draft manual for 2026.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: RES-002.

Restoration Program Guidelines and Practices:

Construction Contingency Funds (RES-002)

Background: Construction contingency funds allow the project to cover unanticipated construction costs, often resulting from unexpected conditions encountered during construction. Construction contingency funds are not intended to be used for work that is not construction (e.g., design or construction administration) nor for construction that is not part of the project scope of work (e.g., add-on work).

Guidelines and Practices:

Contingency funds are to be matched by at least 50 percent in funds provided by the grant recipient or project partners other than NCLWF. Construction contingency funds will be disbursed only after the Grant recipient has demonstrated to the Fund that it has expended 100 percent of funds in Construction line items, 100 percent of local matching funds, and at least 90 percent of all other matching funds, including matching grant and/or loan funds.

Versions	Revisions
March 16, 2006	Original Effective Date
March 9, 2015	Reauthorized
June 5, 2018	Contingency match requirement

Staff member: Will Summer / Steve Bevington

Agenda Item III. C. 3. b) RES-003 O&M for Stormwater

NCLWF requires Conservation Agreements to protect work, activities, and uses on land that is the footprint of stormwater control measure (SCM) constructed with NCLWF funding. These Guidelines and Practices are intended to be an alternative for local government units that have maintenance staff that develop an Operations and Maintenance (O&M) plan in lieu of a recorded Conservation Agreement to maintain stormwater facilities.

This practice was first implemented when NCLWF was able to consider stormwater projects for funding. Now that NCLWF only accepts applications for innovative stormwater projects (and pilot projects deemed eligible), the practice can be updated to reflect current terminology and reflect the operation and maintenance of innovative stormwater projects.

Staff suggest that practice RES-003 be updated and modified, as in attached redline, to remove reference to standard stormwater practices and so clearly outline how partners may use operation and maintenance plans, when appropriate, to protect innovative stormwater projects.

Committee recommendation

The Committee recommended that practice RES-003 be updated as in attached draft.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: RES-003 (proposed); RES-003 (redline)

Restoration Program Guidelines and Practices:

Operation & Maintenance Agreements for Innovative Stormwater Projects (RES-003)

Background: NCLWF requires permanent restrictions on activities and uses on land that is the footprint of stormwater BMPs that are or might be constructed with NCLWF funding, unless an acceptable alternative is available. These Guidelines and Practices are intended to be an alternative for local government units and municipal corporations that agree to maintain stormwater facilities in lieu of recording a stormwater easement.

Guidelines and Practices:

A stormwater control measure (SCM) operation and maintenance (O&M) Agreement may be used in place of a Conservation Agreement for certain innovative stormwater projects and pilot projects funded through the NCLWF Innovative Stormwater Program.

The option of an O&M Agreement for stormwater projects applies only to SCM projects for which (1) the grant recipient or project partner is a local government, and (2) funds from the NCLWF are used for SCM construction. For projects that meet these requirements, Conservation Agreements are not required only if the grant recipient or landowner agree to maintain the SCM for 10 years in accordance with a prepared SCM O&M Agreement.

That SCM O&M Agreement must be submitted as a deliverable under the NCLWF Grant Agreement, consistent with the Grant Agreement requirement to maintain the SCM for 10 years.

Conservation Agreements <u>are</u> required if (1) the grant recipient or project partner is not a local government, or (2) the grant recipient or landowner doesn't agree to maintain the SCM for 10 years in accordance with a prepared SCM O&M Agreement.

Versions	Revisions
	Original Effective Date
March 9, 2015	Reauthorized

Restoration Program Guidelines and Practices:

Operation & Maintenance Plans Agreements for Innovative Stormwater Projects (RES-003)

Background: NCLWF requires permanent restrictions on activities and uses on land that is the footprint of stormwater BMPs that are or might be constructed with NCLWF funding, unless an acceptable alternative is available. These Guidelines and Practices are intended to be an alternative for local government units and municipal corporations that agree to maintain stormwater facilities in lieu of recording a stormwater easement.

Guidelines and Practices:

A stormwater <u>control measure</u> <u>Best Management Practice</u> (<u>SCMBMP</u>) operation and maintenance (O&M) <u>Aagreement may be used in place of a <u>Camber Stormwater projects and pilot projects funded through the NCLWF Innovative Stormwater Program</u>.</u>

<u>The option of an O&M peration and maintenance plans aAgreement</u> for stormwater projects appliesy only to <u>BMPSCM</u> projects for which (1) the grant recipient <u>or project partner</u> is a local government, and (2) funds from the NCLWF are used for <u>BMPSCM</u> construction. <u>For projects that meet these requirements, Conservation Agreements Easements</u> are not <u>longer</u> required <u>only ifso long as</u> if the grant recipient <u>or landowner</u> agrees to maintain the <u>SCMBMP</u> for 10 years <u>and preparein accordance with a prepared a SCMBMP</u> O&M <u>Agreementplan</u>.

<u>That SCM Of the projects that meet these requirements,</u> For most applicable projects, this is accomplished via a stormwater BMPSCM_O&M plan_Agreement must be submitted as a deliverable under the NCLWF gGrant Aagreement, consistent with the Ggrant Aagreement requirement to maintain the BMPSCM for 10 years.

This arrangement is standard for applicable projects beginning with projects resulting from 2010 grant awards. This arrangement is being used selectively on projects awarded before 2009 via grant agreement amendments.

Beginning with 2010 grant applications, projects that are eligible to use a stormwater BMP O&M plan should not propose to use a conservation easement to protect the land of the BMP and should not include the value of a donated easement in the project's matching funds budget.

Conservation Agreements are required if (1) the grant recipient or project partner is not a local government, or (2) the grant recipient or landowner doesn't agree to maintain the SCM for 10 years in accordance with a prepared SCM O&M Agreement.

Versions	Revisions	
	Original Effective Date	
March 9, 2015	Reauthorized	

Staff member: Will Summer / Steve Bevington

Agenda Item III. A. 3. c) RES-005 Agricultural BMPs

The restoration of agricultural lands adjacent to streams present an opportunity for large ecological uplift because the conversion of mowed, grazed, or plowed riparian lands to forest cover can result in dramatic water quality improvement. Also, improvements to agricultural lands are often well supported by Federal funding. For this reason, NCLWF has permitted Soil and Water Conservation Districts and the NC Department of Agriculture and Consumer Services (NCDA) to implement stream restoration projects with term rather than permanent Conservation Agreements. Given the large ecological uplift and the opportunity to leverage Federal funds, this practice aims to incentivize restoration on active agricultural land by permitting term land Conservation Agreements and/or narrow buffers in described cases.

This NCLWF practice was last updated in 2014. Since then, the Best Management Practices and agreement tools used by NCDA have changed in response to federal law and changes to the Conservation Reserve Enhancement Program (CREP). NCDA have implemented these new practices and tools in their most recent NCLWF project (2022-415) and found them effective in both leveraging federal funds and providing an incentive for owners of ecologically sensitive farmland to enroll active farmland in conservation programs and implement voluntary BMPs.

As CREP has a strong overlap in water quality and resource protection goals with NCLWF, an update will further the goals of NCDA, Soil and Water Conservation Districts, and allow NCLWF to continue to leverage federal conservation dollars and target restoration efforts toward streams that score highly for resource value in our application rating system.

Staff suggested modifying RES-005 to remove directives that no longer align with NC Department of Agriculture practices and replace with current practices to best work with agricultural programs to restore fields and pastures adjacent to streams.

Committee recommendation

The Committee recommended that practice RES-005 be updated as in the attached draft.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachments: RES-005 (proposed); RES-005 (redline)

PRACTICE - Restoration Program Guidelines and Practices:

Agricultural Best Management Practices (RES-005)

Background: The intent is to improve the consistency of the level of funding provided by the North Carolina Land and Water Fund for various Best Management Practices (BMP) options for Soil and Water Conservation Districts and other grantees for the protection of setbacks on agricultural lands. Given the large ecological uplift of converting mowed, grazed, or plowed riparian lands to forest cover, and the opportunity to leverage Federal funds, this aims to incentivize restoration on active agricultural land by permitting term land Conservation Agreements and/or narrow buffers in described cases.

For projects that enroll landowners in the North Carolina Conservation Reserve Enhancement Program (CREP):

- 1. For landowners agreeing to permanent Conservation Easements on at least 30-foot wide setbacks on each side of the stream, the NCLWF will fund the full cost of the of the BMP.
- 2. For landowners agreeing to provide a 30-year signed agreement for protection of at least 50-foot wide setbacks on each side of the stream, the NCLWF will fund 100% of the cost of the BMP.
- 3. For landowners agreeing to provide a 30-year signed agreement for protection of at least 30-foot wide setbacks on each side of the stream, the NCLWF will fund 85% of the cost of the BMP.
- 4. For livestock exclusion BMPs, the minimum setback widths and funding options listed above shall be applied to streams greater than 3-feet wide. Livestock exclusion BMPs shall include alternative watering facilities. For livestock exclusion BMPs applied to streams 3-feet wide or less, a minimum 15-foot wide setback on each side of the stream, as measured from top-of-bank, is required and the following funding options are allowed:
 - a. For landowners agreeing to permanent Conservation Easements, the NCLWF will fund 100% of the cost of the BMP.
 - b. For landowners agreeing to provide a 30-year signed agreement, the NCLWF will fund 85% of the cost of the BMP.

Versions	Revisions
March 18, 2002	Original Effective Date
June 3, 2014	Reauthorized

Agricultural Best Management Practices Resolution (RES-005)-

Background: The intent of the resolution is to improve the consistency of the level of funding provided by the North Carolina Land and Water Fund for various BMPBest Management Practices (BMP) options for Soil and Water Conservation Districts and other grantees for the protection of setbacks on agricultural lands. Given the large ecological uplift of converting mowed, grazed, or plowed riparian lands to forest cover, and the opportunity to leverage Federal funds, this practice aims to incentivize restoration on active agricultural land by permitting term land Conservation Agreements and/or narrow buffers in described cases.

RESOLUTION

Authorizing the Funding of Several Best Management Practice Options for Soil and Water Conservation Districts and Other Grantees for the Protection of Setbacks on Agricultural Lands.

Whereas, the Board of Trustees of the Clean Water Management Trust Fund has funded a number of projects with Soil and Water Conservation Districts and other grantees for the installation of Best Management Practices (BMPs) on agricultural lands; and

Whereas, the Board of Trustees of the Clean Water Management Trust Fund will likely continue to fund such projects; and

Whereas, there is a need for consistency on the level of funding provided by the Clean Water-Management Trust Fund for various BMP options,

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE CLEAN WATER MANAGEMENT TRUST FUND MEETING IN CORNELIUS ON MARCH 18, 2002:

The Clean Water Management Trust Fund adopts the following scope of work options:

<u>For projects that enroll landowners in the North Carolina Conservation Reserve Enhancement Program</u> (CREP):

- For landowners agreeing to permanent Conservation Easements on at least 30-foot wide setbacks on each side of the stream, the Clean Water Management Trust Fund NCLWF will fund 100% the full cost of the Cost of the BMP.
- 2. For landowners agreeing to provide a 30-year signed agreement for protection of at least 50-foot wide setbacks on each side of the stream, the Clean Water Management Trust FundNCLWF will fund 100% of the cost of the BMP.
- 3. For landowners agreeing to provide a 30-year signed agreement for protection of at least 30-foot wide setbacks on each side of the stream, the Clean Water Management Trust Fund NCLWF will fund 85% of the cost of the BMP.

- 4.—For livestock exclusion BMPs, the minimum setback widths and funding options listed above shall be applied to streams greater than 3-feet wide. Livestock exclusion BMPs shall include alternative watering facilities.
- 54. For livestock exclusion BMPs applied to streams 3-feet wide or less, a mini-mum 15-foot wide setback on each side of the stream, as measured from top-of-bank, is required and the following funding options are allowed:
 - a. For landowners agreeing to permanent Conservation Easements, the Clean Water Management Trust FundNCLWF will fund 100% of the cost of the BMP.
 - b. For landowners agreeing to provide a 30-year signed agreement, the Clean Water Management Trust FundNCLWF will fund 85% of the cost of the BMP.

Livestock exclusion BMPs shall include alternative watering facilities.

Versions	Revisions
March 18, 2002	Original Effective Date
June 3, 2014	Reauthorized

Staff member: Will Summer

Agenda Item III. A. 3. d) RES-006 NCLWF and Mitigation Projects

In 2002, the CWMTF Board (now NCLWF) passed a resolution to work cooperatively with State mitigation programs to assist them in meeting their needs to find suitable mitigation sites. If a previously funded NCLWF project was suitable for mitigation, the resolution permitted the NCLWF to be reimbursed for the project and the site transferred to another agency for mitigation. Due to a change in the structure and function of State in lieu fee mitigation, this arrangement has not been used for at least 15 years and is no longer necessary. Staff recommends that RES-006 be removed from the practice. If needed again in the future, this practice could be done on a case-by-case basis with Board approval.

Committee recommendation

The Committee recommended that the Board removes RES-006 from the draft manual for 2026.

Board action needed

Approve, amend, or deny the Committee recommendation.

Attachment: RES-006.

Resolution Clarifying the Role of the NCLWF in Mitigation Projects (RES-006)

Background: The resolution is intended to clarify when land previously acquired with funds from the North Carolina Land and Water Fund may be used for complementary wetland, stream, and endangered species mitigation projects.

Resolution

Clarifying the Role of The Clean Water Management Trust Fund In Mitigation Projects

Whereas the 1996 General Assembly established the Clean Water Management Trust Fund to provide incentives to help local governments, State agencies, and nonprofit conservation organizations go beyond compliance with regulations to protect and restore surface water quality; and

Whereas G.S. 113-145.4 c) sets out that "No (Clean Water Management Trust Fund) grant shall be awarded under this article to satisfy compensatory mitigation requirements under 33 USC S 1344 or GS 143-214.11"; and

Whereas sites suitable for quality compensatory wetland, stream, and endangered species mitigation projects are difficult to find; and

Whereas finding suitable sites for mitigation projects is a significant source of delay in implementing mitigation projects; and

Whereas the Department of Transportation, the Wetlands Restoration Program, and private wetland bankers have approached some CWMTF grantees after the acquisition of riparian buffers and wetlands about mitigation projects; and

Whereas some CWMTF-funded riparian buffer and wetland projects could be further improved by restoration and enhancement; and

Whereas CWMTF grantees are prepared for permanent stewardship of these properties;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE CLEAN WATER MANAGEMENT TRUST FUND MEETING AT JEFFERSON LANDING ON THE NEW RIVER IN ASHE COUNTY ON SEPTEMBER 16, 2002:

The Board of Trustees approves the use of land previously acquired with funds from the Clean Water Management Trust Fund for complementary wetland, stream, and endangered species mitigation projects

provided that: 1) the mitigation project improves surface water quality, 2) the mitigation project is consistent with the purpose of the original project, and 3) the sponsor of the mitigation project will reimburse either CWMTF or its grantee for the full value, plus appreciation, of the CWMTF investment in that portion of the land to be used for the complementary wetland, stream, and endangered species mitigation so that CWMTF does not directly or indirectly subsidize the mitigation project.

The Board of Trustees directs the Executive Director to consult with the Chairman of the Acquisition Committee, and if necessary, the Acquisition Committee and Board, before approving the use of CWMTF-funded land for mitigation projects. The Board further directs the Executive Director to periodically report to the Acquisition Committee and the Board on the use of CWMTF-funded land for mitigation projects.

Robert D. Howard, Chairman

Versions	Revisions
September 16, 2002	Original Effective Date, Signed by Robert D. Howard, Board of Trustees Chairman
June 2, 2014	Reauthorized

Staff member: Will Summer

Agenda Item III. D) Annual reaffirmation of Guidelines and Practices

In preparation for the upcoming 2026 grant cycle, it's time to reaffirm use of the Board Guidelines and Practices. The Board Guidelines and Practices are a compilation of procedures, standards, and expectations that assist the board in the implementation all of its duties and to help direct the staff in the execution of administrative procedures. The board updates these as needed, and we will reaffirm the use of them at least annually. The draft Guidelines and Practices, sent as a separate document via email, includes all changes and amendments recommended by committees, subject to approval at this meeting.

Staff recommendation

Affirm use of the Board Guidelines and Practices for the 2026 grant cycle.

Board action needed

Approve, amend, or deny the staff recommendation to affirm use of the Board Guidelines and Practices for the 2026 grant cycle.

Attachments: An updated 2026 draft of the Guidelines and Practices will be sent as a separate attachment due to its length. The previously approved version can be found here: https://nclwf.nc.gov/nclwf-board-guidelines/open

Staff member: Will Summer

Agenda Item III. E) Annual reaffirmation of Application Ratings Systems

General Statute 143B-135(c) states that the fund may develop guidelines in addition to the minimum criteria for awarding grants. NCLWF staff and trustees have developed and refined an "Application Ratings System" over the years that serves as an evaluation tool to assist the board making funding decisions. The board updates these as needed, and we will reaffirm the use of them annually. In preparation for the upcoming 2026 grant cycle, it's time to reaffirm use of the Application Ratings Systems for all funding programs. The draft Application Ratings Systems, sent as a separate documents via email, are the same as last year's, except for one update to the Riparian Greenways section for the Acquisition Program proposed as part of agenda item III.B.3., subject to approval at this meeting.

Staff recommendation

Affirm use of the Application Ratings Systems for all programs for the 2026 grant cycle.

Board action needed

Approve, amend, or deny the staff recommendation to affirm use of the Application Ratings Systems for all programs for the 2026 grant cycle.

Attachments: Updated 2026 drafts of the Application Ratings Systems will be sent as a separate attachments due to their length.

Staff member: Zoe Hansen-Burnet, DNCR Legal

Agenda Item III. F) Report on Conclusion of Settlement related to the Title Claim on NCLWF #2018-045 NC Coastal Land Trust, Salter's Creek

In compliance with N.C. Gen. Stat. § 143 318.11 related to Closed Sessions of Public Bodies, when the public body has approved or considered a settlement, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded. The NCLWF Board of Trustees entered into Closed Session in October 2024 for the purpose of receiving legal advice related to the Title Claim on NCLWF #2018-045 NC Coastal Land Trust, Salter's Creek in Carteret County, NC.

A related Settlement Agreement was executed completely on December 2, 2025. The parties to the Settlement Agreement included Chicago Title Insurance Company, and the State of North Carolina by and through the North Carolina Land and Water Fund. The terms of the Settlement Agreement included consideration to be paid to NCLWF in the amount of \$10,000 and a mutual release for future actions related to the reduction in width of the access easement to the NCLWF Conservation Easement area from 60 feet wide to 20 feet wide.

Staff recommendation

Include the above terms of the Settlement Agreement between the State of NC by and through NCLWF and Chicago Title Insurance Company into the minutes of this meeting.

Board action needed

Approve, amend, or deny the staff recommendation to include the above terms of the Settlement Agreement between the State of NC by and through NCLWF and Chicago Title Insurance Company into the minutes of this meeting.