

AGENDA
North Carolina Land and Water Fund
Board of Trustees Meeting
May 16, 2023, 1:00 p.m. – 5:00 p.m.

Gooch Program Building
Kanuga Inn and Conference Center
471 Kanuga Chapel Dr., Hendersonville, NC 28739

This meeting will also be available to the public by teleconference. Please contact Terri Murray at teresa.murray@ncdcr.gov or 919-707-9400 to request a meeting invitation/call-in number for the meeting.

Board of Trustees:

John Wilson (Chair), Ann Browning, Greer Cawood, Amy Grissom, Renee Kumor, Mike Rusher, Jason Walser, Darrel Williams, David Womack

COMMENCEMENT

- 1) Call to Order** (Chair – John Wilson)
 - a) Welcome**
 - b) Roll call**
 - c) Compliance with General Statute § 138A-15**

General Statute § 138A-15 mandates that the Chair inquire as to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.
 - d) Please put cell phones on vibrate or turn off, and if you are a guest joining remotely, please mute your audio and turn off your video unless you are called upon to speak**
 - e) Revisions, additions, and adoption of the agenda**
- 2) Approval of minutes from the February 2023 board meeting** (Chair – John Wilson)
- 3) Deputy Secretary's update** (Jeff Michael)
- 4) Executive Director's update** (Will Summer)

PUBLIC COMMENTS

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

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

BUSINESS

- 1) Restoration Committee Report** (Chair – Renee Kumor)
 - a) Town of Apex Change Request** (Steve Bevington) – Staff will present a request from the Town of Apex to reduce the scope of project 2021-401, the restoration of an unnamed tributary to Beaver Creek.
 - b) North Carolina Coastal Federation - Matching Funds Exception Request** (Will Price) – Staff will present a request from the North Carolina Coastal Federation to approve the use of funding from a direct appropriation Project (2022-DA01) as match funding for an existing Project (2021-414). A letter from the North Carolina Coastal Federation to the Board is attached.
 - c) Reconsideration of Appraisal Requirements for Restoration and Innovative Stormwater Projects** (Steve Bevington) – Staff will present draft contract language stating appraisal requirements for restoration and innovative stormwater projects.
 - d) Report on Broadening Innovative Stormwater Program Expectations** (Steve Bevington/ Damon Hearne) – Staff will discuss possible guidance for potential ISW applicants for the 2024 cycle.
- 2) Acquisition Committee Report** (Chair – Jason Walser)
 - a) 2021-007 Conserving Carolina - Floodplain Addition Scope Change Request** (Marie Meckman) – Staff will present a proposal to amend the conservation strategy and grant award of this funded project.
 - b) 2021-004 Conserving Carolina - Camp Woodson Scope Change Request** (Marie Meckman) – Staff will present a proposal to amend the conservation strategy of this funded project.
 - c) Donated Mini-Grant Program Allocation** (Marissa Hartzler) – Staff will present a proposal to increase the funds available for the 2023 Donated Mini-Grant Program.
 - d) STW-001 Conservation Agreement Amendment Policy Revision** (Justin Mercer) – Staff will present an updated draft of the NCLWF Conservation Agreement Amendment Policy.
 - e) Native community restoration background** (Justin Mercer) – Staff will review the current practices and expectations for native community restoration.
 - f) 2019-009 Conserving Carolina - Abes Creek Scope Change Request** (Marie Meckman) – Staff will present a proposal to amend the conservation strategy of this contracted project.
- 3) Update of NCLWF Project Mapping** (Marissa Hartzler) – Staff will present a summary of the completed project mapping efforts.
- 4) Allocation of Monitoring Funds** (Justin Mercer) – Staff will present a request to assign unallocated principal for easement monitoring.
- 5) Stewardship Report** (Justin Mercer) – Staff will present an end-of-year summary of the Stewardship Program.

- 6) **Endowment Report & Annual Deposit / Withdrawal Request** (Justin Mercer) – Staff will summarize the endowment performance for the year and the recommended deposits and withdrawals.
- 7) **Stewardship Endowment Proposal: Options for Addressing Unfunded Easement Monitoring** (Justin Mercer) – Staff will present an update on the efforts to address unfunded monitoring needs.
- 8) **Improving Access to NCLWF Funds and Benefits** (Will Summer) – Staff will report on discussion from previous committee meetings.

ADJOURNMENT

The North Carolina Land and Water Fund (NCLWF) Board of Trustees is a “public body” as defined in N.C.G.S. §143-138.10(c). All “official meetings,” as defined in N.C.G.S. §143-138.10(d), of the NCLWF Board of Trustees are required to be held in compliance with N.C.G.S. Chapter 143, Article 33C, and are therefore open to the public and any person is entitled to attend such meetings.

(Field tour agenda begins on the next page)

BUSINESS MEETING

May 16

- 1:00** NCLWF Board Meeting, Kanuga Inn, Gooch Program Building
[Kanuga Inn Property Map](#)
Google maps link: <https://goo.gl/maps/wY8Q1hGFysvwSSBd6>
- 5:00** Tour Kanuga Main Bog
- 6:30** Dinner at Kanuga Inn

FIELD TOUR

May 17

- 7:00** Breakfast in your own (at Kanuga Inn)
- 8:00** Tour of Kanuga Western Bog
- 9:00** Load bus for DuPont State Recreational Forest
- 9:30** DuPont State Recreational Forest Visitor Center
Google maps link: <https://goo.gl/maps/BKnFPsgmFHghzn7KA>
- 9:45** High Falls Picnic Pavilion
- 10:45** Dry Branch Wetland Restoration Site
- 12:00** Box lunch at Lake Julia
- 1:00** Depart DuPont State Recreational Forest
- 1:45** Arrive at Mouth of Mud Creek Floodplain Restoration Site
Google maps link: <https://goo.gl/maps/WBqE5imDuV2qfeGA6>
- 4:00** Optional Social Hour
- 6:30** Dinner at Kanuga Inn

Action Item**Staff Member: Steve Bevington**

Agenda Item 1.a) Change Request – Town of Apex (2021-401)**Background**

As part of the 2021 NCLWF award cycle, the Town of Apex was awarded \$409,658 towards a \$686,408 project to restore 2,400 linear feet of an incised and laterally unstable tributary to Beaver Creek. Much of the project area is within a town park that had been purchased and placed under conservation easement in 2005 as part of an NCLWF grant when the Seymour tract was secured (project number 2004A-001).

After the award, the Town of Apex received bids to design and construct the project and was confronted with higher than expected construction costs. Seeking additional funds, the town delayed the project and requested an extension from NCLWF for the date to enter into a construction contract. This request was granted by the NCLWF Board, and the contract now includes a deadline to enter into a construction contract by June 30, 2023.

As the Town of Apex has yet to identify funding sources to make up the difference between available and projected project costs, they have requested that either the scope of the project be reduced by 30% or that the contract be converted into a “design only” type award with \$60,000 of NCLWF funds matched with \$50,000 of town funds. The existing contract calls for a match of 40% while the design line only would be a match of 55%. If design work is able to proceed, the Town of Apex indicated they would likely seek construction funds from NCLWF in the 2024 or 2025 award cycle.

The Restoration, Innovative Stormwater and Planning Committee considered this request at their meeting of April 19, 2023. At that meeting Staff recommended that the Town of Apex be given until June 30, 2023 to secure additional funding and enter into a construction contract for the scope as described in the executed contract. Otherwise, the existing contract will be amended to fund only design and permitting for the 2,400 linear foot project area in the amount of \$60,000 with matching funds of \$50,000.

Committee recommendation

The committee unanimously recommended that the Town of Apex be given until June 30, 2023 to secure additional funding and enter into a construction contract for the scope as described in the executed contract. Further, the committee unanimously recommended if additional funds are not secured, the existing contract will be amended to fund only design and permitting for the 2,400 linear foot project area in the amount of \$60,000 with matching funds of \$50,000.

Board action needed

Approve, deny, or amend the committee recommendation.

Action Item**Staff Member: Will Price**

Agenda Item 1.b) North Carolina Coastal Federation - Matching Funds Exception Request**Background**

In 2021, the North Carolina Coastal Federation (NCCF) was awarded an NCLWF grant to restore portions of the Fort Macon shoreline (2021-414). During the 2021 application period, NCCF sought funding from two other grant sources to serve as match for this NCLWF project: the National Fish and Wildlife Foundation and the NC Department of Justice Environmental Enhancement Grant Program. During roughly the same time period in late 2021, NCCF learned that they received the NCLWF grant for this project, but not the other grants that the NCCF planned on using as matching funds.

As a result, NCCF then sought and secured funding from the NC General Assembly for their work at Fort Macon, as well as other several at other sites. NCCF's intention was to use a portion of this direct appropriation as the match funding that was promised for the 2021 grant. However, the General Assembly chose to assign administration of the direct appropriation to NCLWF (2022-DA01).

Because the General Assembly administered the direct appropriation through the NCLWF, NCCF now finds itself in a position where the funding they secured to match the 2021 Fort Macon project is now also being administered through the NCLWF. As a result, NCCF now requires an exception to our practice in order to use the direct appropriation (2022-DA01) as matching funds for their existing project (2021-414).

The Restoration, Innovative Stormwater and Planning Committee considered this request at their meeting of April 19, 2023. At that meeting Staff recommended granting an exception to NCCF to use a portion of the direct appropriation (2022-DA01) as matching funds for the Fort Macon project (2021-414) and amending the existing contract for the Fort Macon project to update match sources and add special conditions to ensure that grant funding administered through the Fort Macon contract and the direct appropriation contract are clearly delineated.

Committee recommendation

The committee unanimously recommended granting an exception to allow NCCF to use a portion of the direct appropriation (2022-DA01) as matching funds for the Fort Macon project (2021-414), and amending the existing contract for the Fort Macon project to update match sources and add special conditions to ensure that grant funding administered through the Fort Macon contract and the direct appropriation contract are clearly delineated.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Letter from NCCF Executive Director Todd Miller detailing this request.



North Carolina
Coastal Federation
Working Together for a Healthy Coast

Request to the NC Land and Water Fund Board

Re: NCLWF 2021-414; NCCF - Fort Macon Living Shoreline **(Original Contract)**
NCLWF 2022-DA01; NCCF - Living Shorelines **(Matching State Appropriation Contract)**

On July 11, 2022, the N.C. General Assembly awarded \$6.5 million to the North Carolina Coastal Federation through the N.C. Department of Natural and Cultural Resources (NCDNCR) for living shoreline work at four sites that included Fort Macon State Park. Federation staff met with NCDNCR on August 8, 2022 to discuss the contract. At that meeting, it was determined that the contract would be administered through the NC Land and Water Fund (NCLWF) and it was executed on October 20, 2022 (NCLWF 2022-DA01).

The Federation respectfully requests that the funds appropriated by the N.C. General Assembly (NCLWF 2022-DA-01), which includes funds for the Fort Macon State Park Living Shoreline project, be allowed to be used as match for the original grant (NCLWF 2021-414), so that the project can be completed as originally proposed, even though both contracts are being administered by the NCLWF. In the past, the Federation has used legislative appropriations as match for NCLWF projects that were administered by other entities such as the N.C. Department of Environmental Quality. The Federation did not anticipate that having both contracts administered by NCLWF would prevent the use of additional appropriated state funds of as match for this NCLWF project.

Prior to the appropriation of these additional state funds, the Federation submitted three proposal applications to secure the required match for this project. Despite its best efforts, these proposals were not awarded. The Federation applied for matching funds from the National Fish & Wildlife Foundation on April 7, 2021 and April 21, 2022. It learned that these proposals were not awarded on May 19, 2021 and June 2, 2022, respectively. Matching funds from the N.C. Department of Justice Environmental Enhancement Grant Program were applied for on May 18, 2021 and they were also not awarded on November 9, 2021. It then turned to the N.C. General Assembly for this additional support which were appropriated directly to the Federation as part of the State's approved budget in November 2022.

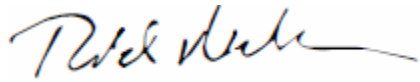
This project will construct 2,716 feet of granite and QuickReef living shoreline sill with landward wetland plantings to protect and restore Fort Macon State Park's rapidly eroding soundside shoreline. The project will restore valuable salt marsh and oyster habitats that have been lost through time due to storms and rising water levels. These habitats will in turn help to improve water quality in Bogue Sound. See attached project details. The living shoreline has been designed and the Coastal Area Management Act (CAMA) Major Development Permit has been submitted and is expected in early February 2023. Contractors have been secured for the construction, plantings and construction oversight and are scheduled to begin work as soon as the CAMA permit is received.



The current estimated design, permit, construction, planting and construction oversight is \$1,677,956.92 which is an increase from the originally proposed \$994,990 due to the significant rising material costs.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Todd Miller", with a long horizontal flourish extending to the right.

Todd Miller
Executive Director

Fort Macon State Park Living Shoreline, Project Specifics:

The subject soundside shoreline at Fort Macon is in direct need of stabilization and restoration due to ongoing, consistent erosion with no significant accretion of material. Additionally, in the recent past, tropical storm systems have caused rapid short-term erosion that has exacerbated the overall erosion rates. The subject shoreline extends from the USCG base to Tombstone Point at the confluence of Fishing Creek and Fort Macon Creek (Bogue Sound).

The proposed plan primarily includes construction of a rock sill system to be located at the approximate mean low water (MLW) line. The rock material is proposed to be a high-density granite-type rock that will be placed on top of geotextile underlayment matting to prevent unwanted settling. The normal lunar tide change is approximately 3.25-3.5 ft. The maximum base width of the rock sill would be 18 ft. The maximum height of the sill system would be 1.5 ft above the mean high-high tide line. This height will allow protection from high tide events, boat wake and storm wave forces. Due to the normal tidal swing, this sill height is important to protect the adjacent upland and wetland resources that are otherwise being lost. The sill system in this location will allow oyster recruitment and growth and is intended to generate an intertidal oyster reef. The end section of the shoreline protection area will include a section of Quickreef® instead of rock. Quickreef® is a concrete shoreline protection system that has been developed for living shoreline projects.

There will be ten (10) gaps (10 ft wide) in the sill system as shown on the conceptual plan. The average spacing of the gaps is 250 ft long. To accommodate for having the longer sections of rock, we have widened the gaps to 10 ft from the typical 5 ft minimum. This sill system is within the intertidal area and therefore functions as a revetment and sill, depending on the tide. However, we will not cut off the tidal exchange of water by maintaining the 10 ft gaps which will allow consistent tidal flow and passage of fish and marine organisms. Each of these gaps will have an overlapping offshore rock sill section (30 ft long). The purpose of the overlapping sections is to protect the gaps from scour and focused erosion. At each of the overlapping rock sections, we are proposing a timber pile with reflective "Caution Submerged Structure" signage. Land restoration areas will be addressed only after the rock work has been completed. This will include grading of erosion escarpments and native riparian plantings in the general areas shown on the conceptual plan. If budgets allow, clean sand will be imported (from an off-site borrow area) to create some of the slopes from the top of the existing erosion escarpments down to the mean high tide line. There will be no sand placed in the water or in any location waterward from the mean high tide line. If the budgets do not allow for this component of the project, this will not affect the alignment or the sill system or the native plantings.

Rock will be transported to the Site by truck. There are four designated stockpile areas where materials will be placed before an excavator will move the rock to build the sill system.

Action Item**Staff Member: Steve Bevington**

Agenda Item 1.c) Reconsideration of Appraisal Requirements for Restoration and Innovative Stormwater Projects**Background**

For many years the Restoration and Innovative Stormwater (ISW) programs have used the same general appraisal policy as the Acquisition Program for valuing easements donated as match. Grantees are permitted to use either the tax valuation assessed by a county tax assessor's office or a recent appraisal for the parcel in question. Appraisals are required if the total value of any land or interest in land to be donated as match exceeds \$100,000. Because riparian buffer areas donated as match are usually relatively small percentages of parcel area, this threshold has rarely been reached. However, with increases in land prices and applications now more frequently proposing entire floodplain tracts as match, appraisal requirements for restoration and ISW projects will become more frequent.

As the State does not pay for land or easement acquisition for our restoration projects, but accepts land value only as match, there is a concern that stricter appraisal requirements designed for the Acquisition Program add an unnecessary cost and delay projects.

At the March 7, 2023, meeting of the Restoration, Innovative Stormwater, and Planning Committee, staff reported on this issue. The Committee requested that staff draft contract language, as related to appraisals, so as to prevent undue burden on applicants proposing to provide land value to NCLWF projects as match but to also ensure that contracts require appraisals in cases where relatively large property values are involved. Draft language is provided in red-line form in the attachment below.

Staff recommendation

The Restoration, Innovative Stormwater and Planning Committee considered this issue at their meeting of April 19, 2023. At that meeting Staff recommended raising the threshold for appraisal requirements for restoration and ISW projects where property interest is being provided as match from \$100,000 to \$500,000 and to remove the requirement for a second appraisal for Restoration and ISW contracts that do not involve the acquisition of property with NCLWF funds.

Committee recommendation

The committee unanimously recommended raising the threshold for appraisal requirements for restoration and ISW projects where property interest is being provided as match from \$100,000 to \$500,000 and removing the requirement for a second appraisal for Restoration and ISW contracts that do not involve the acquisition of property with NCLWF funds.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Appraisal language from current NCLWF Restoration Contract Template Budget with draft redline edits developed by staff and committee. Language below is an example of language that could be incorporated into restoration and ISW contract templates.

EXAMPLE from Restoration Contract Template - Exhibit B, Budget:

The value of a Conservation Easement (or other legal instrument acceptable to the NCLWF) donated to the Project by a property owner or acquired by the Grant Recipient may be claimed as matching funds contributed to the Project only after the Grant Recipient has provided to the NCLWF all of the following information for that donated easement:

- (a) calculated area of the easement;
- (b) copy of the easement document as recorded by the County Register of Deeds; and
- (c) basis for the claimed value of the easement, which may be in the form of:
 - i. current property tax valuation assessed by the County Tax Assessor's Office showing total value of land and/or improvements, if any, with indicated year of the actual assessment. This option is available for land acquisitions for which the ~~total price~~value being claimed for any given parcel does not exceed ~~\$100,000~~\$500,000. An appraisal is required if the total value of any given parcel exceeds ~~\$100,000~~\$500,000. See additional details on appraisal requirements below; or
 - ii. if a recent appraisal has been prepared, the appraisal summary may be used, instead of the tax valuation.

Appraisal Requirements. ~~Appraisals are~~ An appraisal is required if the total value of any land or interest in land to be donated as match exceeds ~~\$100,000-\$500,000~~. Appraisals must be satisfactory to the NCLWF, performed by a North Carolina general certified appraiser in accordance with Uniform Standards of Professional Appraisal Practice, and are subject to review by the State Property Office. ~~Two (2) appraisals are required if the value of the interest being donated is greater than \$500,000.~~ All Appraisals should be forwarded to the NCLWF as soon as possible, but no later than ninety (90) days prior to the anticipated recordation date, and the State should be included as an authorized user of all Appraisals. All Appraisals should either reflect the market value of the Property or Conservation Agreement at the time of donation. At the discretion of the NCLWF, the Grant Recipient may be required to amend or update the Appraisal. The Grant Recipient specifically acknowledges that the NCLWF's acceptance of the matching funds value for the land acquisition is contingent upon approval of the appraised value by the State Property Office.

Information Item

Staff Member: Steve Bevington / Damon Hearne

Agenda Item 1.d) Broadening Innovative Stormwater Program Expectations

Background

The Restoration, Innovative Stormwater and Planning Committee had previously expressed interest in broadening the definition of “innovative” to provide more stormwater project opportunities. At their meeting of April 19, 2023, the committee expressed interest in considering projects that demonstrate stormwater technologies that, while somewhat conventional in some parts of the state, may not be commonly used in other areas. Staff will review steps taken in this direction with current guidance and discuss planned actions for next cycle.

Action Item**Staff member: Marie Meckman**

Agenda Item 2a) 2021-007 Conserving Carolina - Floodplain Addition Scope Change Request**Background**

This fee simple Conserving Carolina project will protect six acres in Henderson County and buffer a Class B stream supporting Federally Threatened and Endangered aquatic species. The project was originally designed to be protected by declaration of covenants and restrictions with the property eventually transferred to Henderson County for use in a greenway. The County is not able to accept the fee transfer at this time, so Conserving Carolina would like to change the strategy to protect the property with two conservation easements. This change will require stewardship funds to be added to the budget.

Additional funds requested include \$5,938 for stewardship and \$4,000 to provide for the development of the Baseline Documentation Report. If approved, these funds will be added to the grant contract and will be allocated from license plate revenue and/or returned grant funds.

This change would not change the score of 67.

Committee Recommendation

Approve the request for additional funds for stewardship of the conservation easements.

Board Action Needed

Approve, deny, or amend the committee recommendation.

Attachment: decision matrix

DECISION MATRIX EVALUATION WORKSHEET

Project Number: 2021-007

Project Name: Conserving Carolina Floodplain Addition

Date of Request: 4/23/2023

REQUIRED APPROVALS				
Criteria	Executive Director	Chairman	Full Board	Requested Change
Change in scope outputs*	Less than 10%	10% to 25%	> 25%	0.00%
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%	-8.50%
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%	21.17%
Within budget reallocation of funds without adding a new budget line item and no loss of outputs*	10% to 20% of total NCLWF award reallocated to any one line item, up to \$100,000*	More than 20% of total NCLWF award or more than \$100,000 reallocated to any one line item		n/a
Within budget reallocation of funds with adding a new budget line item and no loss of outputs*			Any request that adds a new budget line item	n/a
Withdrawal of Any Funded Project or Minigrant	Any Withdrawal Request			
If Request requires Full Board Approval, please enter the date of the Board meeting for which the request will be considered:			May 3 Acquisition Committee meeting; May 16 Board meeting	
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget).				
<p>This fee simple project was designed to be protected by Declarations of Covenants and Restrictions with the property eventually transferred to Henderson County for use in a greenway. The County is not able to accept the fee transfer at this time so the Grant Recipient would like to change the strategy to protect the property with Conservation Easements. This change will require stewardship funds and transaction costs to be added to the budget.</p> <p>Additional funds requested include: \$5,938 for stewardship funds and \$4,000 to provide for the development of the Baseline Documentation Report. These additional funds increase the unit cost accordingly.</p> <p>This action will change the score from 67 to 66 and would not change the funding outcome.</p>				
Program Staff Recommendation:				
Staff recommends the approval of this request.				
Approvals:	Printed Name	Requisite Signature	Date	
NCLWF Staff	Marie Meckman			
NCLWF Acquisition Program Manager	Marissa Hartzler			
Executive Director	William B. Summer			
Chairman	John B. Wilson, Jr.			
Board approvals:	Motion (summary)		Date	
Committee action	Accept staff recommendation and applicant request		5/3/2023	
Board action	Accept staff recommendation and applicant request		5/16/2023	

Project Number: 2021-007 Project Name: Conserving Carolina Floodplain Addition

Overall Proposed Impacts to Score		
	Points	Notes
Original Score	67	
Change in Scope	0	
Change in Budget	-1	due to increase in award and resulting drop in match
Proposed Change	66	
Lowest Funded	59	

Scope Outputs	
	Acres
Original	5.72
Proposed	5.72

Unit Costs			
	Total Project Cost	Acres	Cost/Acre
Original	\$ 46,950	5.72	\$ 8,208
Proposed	\$ 56,888	5.72	\$ 9,945

Change in Scope Output (acres)	0.00%
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Change in Unit Costs	21.17%
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Original Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 41,350	\$ 60,000	\$ 101,350
Transaction Costs	\$ 5,600	\$ -	\$ 5,600
Stewardship	\$ -	\$ -	\$ -
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ -	\$ -	\$ -
Total	\$ 46,950	\$ 60,000	\$ 106,950
Funding Percentages	44%	56%	100%

Proposed Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 41,350	\$ 60,000	\$ 101,350
Transaction Costs	\$ 9,600	\$ -	\$ 9,600
Stewardship	\$ 5,938	\$ -	\$ 5,938
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ -	\$ -	\$ -
Total	\$ 56,888	\$ 60,000	\$ 116,888
Funding Percentages	49%	51%	100%

Change in Match Percentage	-8.50%
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Is there a change to matching resource sources? Yes

Original Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Foundation for the Carolinas	Private funds	\$ 60,000	56%	0.22	12.342
Total	-	\$ 60,000	-	-	13

Proposed Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Foundation for the Carolinas	Private funds	\$ 60,000	51%	0.22	11.293
Total	-	\$ 60,000	-	-	12

Change in Matching Resources Score	-1
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Action Item

Staff member: Marie Meckman

Agenda Item 2b) 2021-004 Conserving Carolina – Camp Woodson Scope Change Request

Background

This Conserving Carolina project was originally designed to protect 234 acres under a State-held conservation easement. The fee simple acquisition was expected to be transferred in full to Camp Grier, with exclusion areas allowed for the camp infrastructure.

Per the request of Conserving Carolina's partners in the project, the exclusion areas have been reconfigured and expanded, and are now proposed at approximately fifty-two acres. This area will now be protected by a conservation easement held by Conserving Carolina. The State-held conservation easement will protect approximately 224 acres, so the fully protected project area will total over 276 acres.

Public access of the State-held easement area will also be required through a separate funding source.

Neither external boundaries nor the protection of resources changes in this strategy. The internal boundaries will change to accommodate the Camp's activities. The Conservancy will require the same restrictions and protections as the NCLWF easement, except in the managed areas designed specifically for intensive use by the Camp.

The score will increase by one point to 75, due to additional public access.

Committee Recommendation

Approve the conservation strategy change proposed by Conserving Carolina.

Board Action Needed



Approve, deny, or amend the committee recommendation.

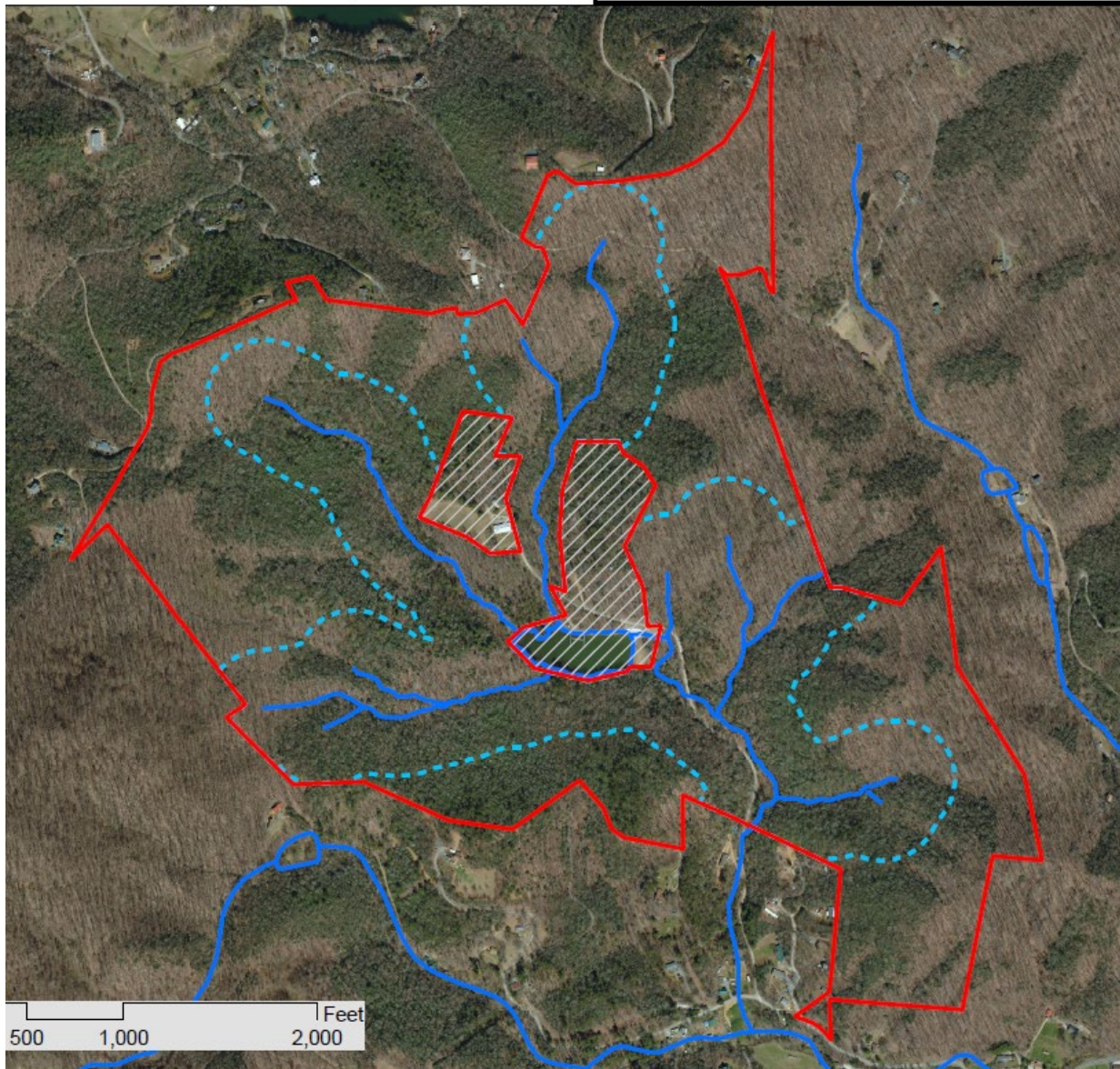
Attachments: maps, decision matrix

Original map presented in 2021

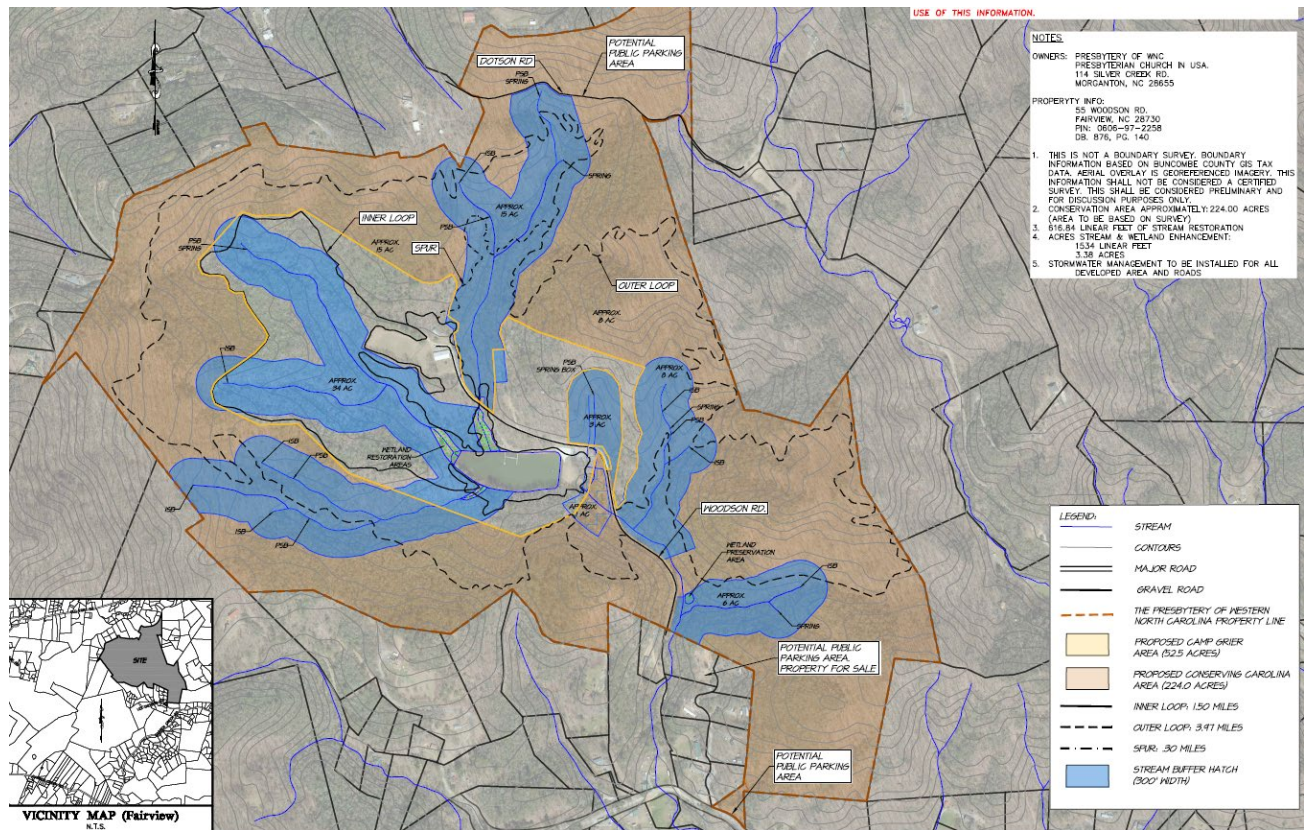
**Noodson
Carolina**



-  300' Buffer
-  Upper Broad River System



Proposed easement boundary map, 2023



DECISION MATRIX EVALUATION WORKSHEET

Project Number: 2021-004

Project Name: Conserving Carolina Camp Woodson

Date of Request: 3/30/2023

REQUIRED APPROVALS				
Criteria	Executive Director	Chairman	Full Board	Requested Change
Change in scope outputs*	Less than 10%	10% to 25%	> 25%	17.95%
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%	2.65%
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%	-15.22%
Within budget reallocation of funds without adding a new budget line item and no loss of outputs*	10% to 20% of total NCLWF award reallocated to any one line item, up to \$100,000*	More than 20% of total NCLWF award or more than \$100,000 reallocated to any one line item		n/a
Within budget reallocation of funds with adding a new budget line item and no loss of outputs*			Any request that adds a new budget line item	n/a
Withdrawal of Any Funded Project or Minigrant	Any Withdrawal Request			
If Request requires Full Board Approval, please enter the date of the Board meeting for which the request will be considered:			May 3 Acquisition Committee meeting; May 16 Board meeting	
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget). <p>The original conservation strategy for this project included the protection of 234 acres under a State-held conservation easement, with two unrestricted exclusion areas for the purposes of camp and educational uses. The entire property, including exclusion areas, was to be owned by the camp.</p> <p>Several changes have been proposed, including the elimination of the exclusion areas in favor of one approximately 52-acre match easement area, to be owned by the camp and protected via a conservation easement held by Conserving Carolina. As the exclusion area will contain riparian buffer, the easement will protect resources to the State-held easement standard. The remainder of the property, 224 acres, will be owned by Conserving Carolina and protected by a State-held conservation easement. While the State-held conservation easement area is decreasing by 10 acres, the total protected project area will be approximately 276 acres, an increase over the original scope. The score will of 74 will not change.</p>				
Program Staff Recommendation: <p>Approve the request submitted by Conserving Carolina.</p>				
Approvals:	Printed Name	Requisite Signature	Date	
NCLWF Staff	Marie Meckman			
Acquisition Program Manager	Marissa Hartzler			
Executive Director	William B. Summer			
Chairman				
Board approvals:	Motion (summary)		Date	
Committee action	Accept staff recommendation and applicant request			
Board action	Accept staff recommendation and applicant request			

Project Number: 2021-004 Project Name: Conserving Carolina Camp Woodson

Overall Proposed Impacts to Score		
	Points	Notes
Original Score	74	
Change in Scope	0	
Change in Budget	0	
Proposed Change	74	
Lowest Funded	59	

Scope Outputs	
	Acres
Original	234
Proposed	276

Unit Costs			
	Total Project Cost	Acres	Cost/Acre
Original	\$ 414,933	234	\$ 1,773
Proposed	\$ 414,933	276	\$ 1,503

Change in Scope Output (acres)	17.95%
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Change in Unit Costs	-15.22%
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Original Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 400,000	\$ 1,964,070	\$ 2,364,070
Transaction Costs	\$ -	\$ 52,000	\$ 52,000
Stewardship	\$ 14,933	\$ -	\$ 14,933
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ -	\$ -	\$ -
Total	\$ 414,933	\$ 2,016,070	\$ 2,431,003
Funding Percentages	17%	83%	100%

Proposed Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 400,000	\$ 2,323,000	\$ 2,723,000
Transaction Costs	\$ -	\$ 52,000	\$ 52,000
Stewardship	\$ 14,933	\$ -	\$ 14,933
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ -	\$ -	\$ -
Total	\$ 414,933	\$ 2,375,000	\$ 2,789,933
Funding Percentages	15%	85%	100%

Change in Match Percentage	2.65%
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Is there a change to matching resource sources? Yes

Original Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Presbytery	Private funds	\$ 1,090,310	45%	0.22	9.867
General Assembly	Other State funds	\$ 102,000	4%	0.14	0.587
EEG	Private funds	\$ 200,000	8%	0.22	1.810
Buncombe County	Federal/Local Government funds	\$ 250,000	10%	0.18	1.851
Foundation for Carolinas	Private funds	\$ 373,760	15%	0.22	3.382
Total		\$ 2,016,070			18

Proposed Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Presbytery & Fdn for Carolinas	Private funds	\$ 1,250,000	45%	0.22	9.857
EEG	Other State funds	\$ 200,000	7%	0.14	1.004
Buncombe County	Federal/Local Government funds	\$ 250,000	9%	0.18	1.613
Foundation for Carolinas	Private funds	\$ 200,000	7%	0.22	1.577
Community Forestry Program	Federal/Local Government funds	\$ 475,000	17%	0.18	3.065
Total		\$ 2,375,000			18

Change in Matching Resources Score	0
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Action Item**Staff member: Marissa Hartzler**

Agenda Item 2c) Donated Mini-Grant Allocation**Background**

At the September 2022 meeting, the Board approved the Donated Mini Grant Program at \$250,000 for applications received from September 2022 through September 2023. These funds are used on an as-needed basis and are drawn from license plate revenue and returned grant funds, similar to provisional funding.

Donated Mini Grant Program applications have been steadily increasing over recent years:

Year	Applications	Total Funds
2022-2023	11	\$182,628
2021-2022	8	\$129,399
2020-2021	8	\$105,284
2019-2020	4	\$69,345
2018-2019	3	\$58,432

The Board will be asked to make a new allocation to the Program in September 2023, at which point available funds will reset. In the interim, however, this year's final application deadline is in June 2023 and NCLWF staff anticipates more demand than available funds would cover.

Committee recommendation

The committee recommended to the Board an additional allocation of \$100,000 of license plate revenue and/or returned grant funds to the Donated Mini Grant Program through September 2023.

Board action needed

Approve, deny, or amend the committee recommendation.

Action Item**Staff member:** Justin Mercer

Agenda Item 2d) STW-001 Conservation Agreement Amendment Policy Revision**Background**

On rare occasions, permanent conservation agreements may need to be modified or amended. NCLWF has an amendments policy, first adopted in 2013 and updated as needed over the years, that provides requirements, compensation, and delegation of approval for amendments. Through application of this policy and changing legislative requirements, staff have identified areas for improvement and further revisions.

In 2015, the NC General Assembly enacted § 121-39.1. Termination or modification of agreements requiring public bodies of the State to conduct a conservation benefit analysis prior to any modification or termination of a conservation agreement. Conservation agreements may only be modified if the conservation benefit analysis concludes that the modification results in greater benefit to conservation purposes. Defining and establishing criteria for a conservation benefit analysis is delegated to the agency requesting conservation agreement modification, however NCLWF's current policy lacks definition of conservation benefit analysis.

At its meeting on March 16, 2023, the NCLWF Acquisition Committee reviewed a draft policy and requested that staff make further revisions. A second draft will be presented for consideration by the committee.

Committee recommendation

The committee recommended to the Board the adoption of the attached revision to the STW-001 Conservation Agreement Amendment Policy.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Redline 2nd draft of revised STW-001 Conservation Agreement Amendment Policy, clean 2nd draft of revised STW-001 Conservation Agreement Amendment Policy



Stewardship Program Policies:

Conservation Agreement Amendment Policy (STW-001)

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

Policy:

The 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 protection of natural heritage resources, and historic and cultural resources, as well as to and buffers to military bases. In addition, with the dissolution of the Natural Heritage Trust Fund (NHTF) in 2013, the NCLWF became the de facto appointed body for matters that would have previously gone before the NHTF. Therefore, this document pertains to changes to conservation agreements initially entered into by either of the aforementioned funds and potential impacts to the conservation values protected by those agencies.

When the NCLWF Board of Trustees (NCLWF Board) elects to fund a land protection project, there are three conservation strategies in which the State retains an interest in perpetuity: 1) State-held conservation easements, 2) declarations of covenants and restrictions, and 3) dedications under either the State Nature Preserves Act or the State Nature and ~~the~~ Historic Preserve Dedication Act. The NCLWF strives to design these instruments, hereafter referred to broadly as “conservation agreements,” to avoid the need for an amendment or modification of the agreed upon terms. It is the State’s presumption that conservation agreements will not be amended or modified. Amendments may only be approved in exceptional cases or due to unforeseen circumstances provided the procedures outlined below are met.

Because every property and project are unique, no decision by the NCLWF Board with respect to an amendment of a conservation agreement, either granting or denying, shall form a precedent with respect to any other request for an amendment. Although this amendment policy sets forth certain guidelines and procedures ~~procedures and expectations~~, nothing herein shall diminish the sole and absolute authority of the NCLWF Board. An amendment is an extraordinary procedure and not available to a landowner as a matter of right. All amendments must comply with applicable federal, State, and local laws.

- I. **Minor Amendments** – These amendments, as described below, have been deemed to be small in scale or impact, and the NCLWF Board has delegated consideration and potential approval to staff. However, the Executive Director may choose to elevate any Minor Amendment to a Major Amendment, which would then be subject to the procedures set forth in Section II.
- A. Technical amendments or corrections – Adjustments to correct a clerical error in the language of a conservation agreement resulting in no impact on the conservation values may be approved at the staff



level.

- B. Amendments to accommodate public works projects – Adjustments to conservation agreements to accommodate public works projects may be approved at staff level under the following conditions:
1. The project can be effectively accomplished with the addition of a reserved right and there is no surface impact (e.g., projects utilizing horizontal directional drilling) or surface impacts are minimal and can be sufficiently mitigated (e.g., plant rescue or restoration of temporary construction easements). This assumes that there are no measurable impacts to other conservation values.
 2. Changes to spatial boundaries may be considered and can be approved at the staff level if all of the following conditions are met:
 - a. The change would affect less than one acre or 5% of the conservation agreement area, whichever is smaller.
 - b. The project would be perpendicular to or a minimal distance parallel to surface waters if any riparian buffers are affected.
 - c. The project would have no significant impact on other conservation values except in cases where impacts can be fully mitigated by a plant rescue or other operation. Determination of conservation impact will be subject to the ~~process~~ Conservation Benefit Analysis outlined in Section III of this policy.
- C. Addition of standard reserved rights – The reserved rights listed below are considered to be standard allowances and any addition(s) may be considered and potentially approved at the staff level if the following conditions are met:
1. Requested rights adhere to all other NCLWF policies and procedures; requests for addition of trail rights shall be subject to the NCLWF Natural Surface Trails Policy.
 2. The intent of the original conservation agreement does not explicitly indicate a desire to prohibit the requested rights.
 3. Standard reserved rights eligible for NCLWF staff consideration and approval include the following:
 - natural surface trails for hiking
 - paved trails (such as greenway or universal access trails) including footbridges and trail amenities
 - native community restoration, management, and maintenance



- stream and wetland restoration
- hunting and fishing
- maintenance of existing roads and trails
- vegetation management limited to boundary marking, fencing, signage, fire containment, insect and disease control, hydrology restoration, wetland enhancement, control of invasive exotic plants, and removal of trees that pose a threat to life or property
- use of motor vehicles limited to the purposes of monitoring, management, stewardship, universal access, and emergencies

All other amendment ~~requestss~~ not covered under Section I are considered to be Major Amendments and must be taken to the NCLWF Board for consideration per Section II.

- II. **Major Amendments** – All amendment requests not explicitly covered above must be considered by the NCLWF Board. Affirmation by a two-thirds vote is required for approval.
- A. Public Works Projects – Amendment requests to accommodate public works projects that are not covered in Section I may be approved by the NCLWF Board.
- B. Public Drinking Water Supply Reservoir – After the Record of Decision has been issued (final location has been permitted), a conservation agreement or portions of a conservation agreement may be amended by the Board for development of a public drinking water supply reservoir.
- C. Other Circumstances – All requests for amendment of conservation agreements for circumstances not covered above must meet the following criteria:
1. Clearly serves the public interest and provides a public or community benefit.
 2. Has a net positive benefit on the conservation values, as determined by the Conservation Benefit Analysis ~~as~~ outlined in Section III of this policy, regardless of agreement recording date.
 3. Does not result in impermissible private benefit (as verified by appraisal if deemed necessary by the NCLWF). The Board may choose to approve an amendment request ~~s~~ if and when the public benefit significantly outweighs any potential private benefit.
 4. Is consistent with the conservation purpose(s) and documented intent of the conservation agreement.
 5. To the extent verifiable, is consistent with the documented intent of the donor(s), other grantors, and any direct funding source.
 6. Demonstrates that no practicable alternative(s) exist and that any impacts have been minimized.
- III. **Conservation Benefit Analysis** – The following outlines the process for conducting a conservation benefit analysis as required by NC G.S §121-39.1. Termination or modification of agreements.



Though this statute does not apply to agreements recorded prior to 2015, NCLWF staff will conduct a conservation benefit analysis for all amendment requests. When another State agency is authoring a request to the State Property Office and Council of State for a conservation agreement modification or termination, the agency requesting the modification or termination shall conduct and submit a conservation benefit analysis as required.

A. Review of Resources

1. NCLWF staff will conduct desktop GIS analysis of potential impacts to streams, wetlands, natural heritage element occurrences and natural areas, historic sites, and any other conservation values identified by the conservation agreement using the North Carolina N.C. Natural Heritage Data Explorer, the North Carolina State Historic Preservation Office's HPOWEB mapping application, and other relevant data sources.
2. NCLWF staff will follow up identify and consult with appropriate experts to determine if the requested amendment has any impacts to identified resources potential impacts of the requested amendment on identified resources.
3. NCLWF staff and other experts as appropriate will conduct site visits for all major amendment requests and any requests that include proposals for exchange of land.

B. Analysis of Impact

1. After review, NCLWF staff will analyze all impacts to existing conservation values against and the proposed benefits of the request.
2. The proposal may be deemed to have a net positive conservation benefit if the compensation offset, whether monetary or by land exchange by land exchange or monetary compensation, outweighs the impacts to the conservation agreement and values. by a ratio of at least three to one.

IV. **Approved Amendment Requirements** – The following outlines the expectations for approved amendments:

A. Compensation Offset of Conservation Impacts – The NCLWF must be made whole from any loss of monetary or conservation value resulting from an amendment. Proposals for offset should be discussed with NCLWF staff and submitted along with any amendment request.

Exchange of land is preferred to monetary compensation unless deemed impractical. Any proposed exchange of land should be at least three times the acreage of the impact area, of like conservation value as determined by the resource score of the current NCLWF Application Rating System, and at least equal in monetary value. Proposed exchange land must be restricted to a level equal to or greater than the original conservation agreement. For easements, a qualified easement holder must be specified and the NCLWF must be granted third-party right of enforcement. It is the NCLWF's preference that any new easements on land acquired as the result of an amendment be held by an accredited land trust. In the event that a qualified easement holder cannot be found, other options may be considered. Where no other suitable options exist, the State may serve as the holder provided that all current NCLWF standards for easement closings are followed, perpetual stewardship costs are provided and deposited in the



NCLWF Stewardship Endowment, and an eligible easement monitor is identified.

~~A.~~ In the case of an amendment required in lieu of the State's or a municipality's power to take private property for public use, the NCLWF may elect to be reimbursed, at minimum, the current fair market value, as determined by appraisal, tax value, and/or NCLWF staff, or pro-rated amount of the investment at the time of the grant contract, whichever is greater. In other cases where the approval of the amendment is solely at the Board's discretion, the terms of compensation, whether monetary or by land exchange, should be generously to the favor of the NCLWF and its conservation interests by a ratio of at least 3:1. ~~Proposals for compensation should be discussed with NCLWF staff and submitted along with any amendment request.~~

~~Exchange of land is preferred to financial compensation unless deemed impractical. Any proposed exchange of land should be at least three times the acreage of the impact area, of like conservation value as determined by the resource score of the current NCLWF Application Rating System, and at least equal in monetary value. Proposed exchange land must be restricted to a level equal to or greater than the original conservation agreement. For easements, a qualified easement holder must be specified and the NCLWF must be granted third-party right of enforcement. It is NCLWF's preference that any new easements on land acquired as the result of an amendment be held by an accredited land trust. In the event that a qualified easement holder cannot be found, other options may be considered. Where no other suitable options exist, the State may serve as the holder provided that all current NCLWF standards for easement closings are followed, perpetual stewardship costs are provided and deposited in the NCLWF Stewardship Endowment, and an eligible easement monitor is identified.~~

Funds reimbursed to the NCLWF from a conservation agreement amendment will be allocated to an appropriate program area as determined by the Board.

- B. Other costs – All costs associated with the amendment, including survey, appraisals, other transaction expenses, increased stewardship, review by State agencies, and any fees charged by the State Property Office, will be paid by the party making the amendment request.
- V. **Amendment Request Requirements** – The following outlines the minimum required information for amendment requests, although additional information may be requested as needed:
- A. Name, address, phone number, and email address of the property owner.
 - B. Nature of the activity proposed to be conducted.
 - C. Location of the activity with reference to the NCLWF project number and/or Deed book and page.
 - D. Map(s) of sufficient detail to accurately delineate the boundaries of the land proposed to be impacted to carry out the activity, including the location and dimensions of any disturbance associated with the activity. When possible, a GIS shapefile must be submitted.
 - E. Explanation of why ~~the~~is plan for ~~this~~is activity cannot be practically accomplished, reduced, or reconfigured to avoid the need to amend the conservation agreement, or alternatively to better minimize disturbance to the conservation ~~agreement~~area and its identified conservation values.



- F. Plans for any best management practices or restoration ~~proposed practices~~ to be used to control the impacts associated with the activity.
 - G. Acknowledgement of receipt of a copy of the NCLWF Conservation Agreement Amendments Policy
- VI. **Notifications** – ~~For any Major Amendments, the~~The following parties will be notified by NCLWF staff at least two (2) weeks before a scheduled Board or committee discussion for Major amendments or staff decision for Minor Amendments:
- A. The original parties associated with the conservation agreement that is proposed to be amended.
 - B. The contracted easement monitor, when applicable.
 - C. The general public and other interested parties via notice posted to the NCLWF website.

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

Conservation Agreement Amendment Policy (STW-001)

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

Policy:

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Because every property and project are unique, no decision by the NCLWF Board with respect to an amendment of a conservation agreement, either granting or denying, shall form a precedent with respect to any other request for an amendment. Although this amendment policy sets forth certain procedures and expectations, nothing herein shall diminish the sole and absolute authority of the NCLWF Board. An amendment is an extraordinary procedure and not available to a landowner as a matter of right. All amendments must comply with applicable federal, State, and local laws.

- I. **Minor Amendments** – These amendments, as described below, have been deemed to be small in scale or impact, and the NCLWF Board has delegated consideration and potential approval to staff. However, the Executive Director may choose to elevate any Minor Amendment to a Major Amendment, which would then be subject to the procedures set forth in Section II.
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 2. Changes to spatial boundaries may be considered and can be approved at the staff level if all of the following conditions are met:
 - a. The change would affect less than one acre or 5% of the conservation agreement area, whichever is smaller.
 - b. The project would be perpendicular to or a minimal distance parallel to surface waters if any riparian buffers are affected.
 - c. The project would have no significant impact on other conservation values except in cases where impacts can be fully mitigated by a plant rescue or other operation. Determination of conservation impact will be subject to the Conservation Benefit Analysis outlined in Section III of this policy.
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 2. The intent of the original conservation agreement does not explicitly indicate a desire to prohibit the requested rights.
 3. Standard reserved rights eligible for NCLWF staff consideration and approval include the following:
 - natural surface trails for hiking
 - paved trails (such as greenway or universal access trails) including footbridges and trail amenities
 - native community restoration, management, and maintenance
 - stream and wetland restoration



- hunting and fishing
- maintenance of existing roads and trails
- vegetation management limited to boundary marking, fencing, signage, fire containment, insect and disease control, hydrology restoration, wetland enhancement, control of invasive exotic plants, and removal of trees that pose a threat to life or property
- use of motor vehicles limited to the purposes of monitoring, management, stewardship, universal access, and emergencies

All other amendment requests not covered under Section I are considered to be Major Amendments and must be taken to the NCLWF Board for consideration per Section II.

- II. **Major Amendments** – All amendment requests not explicitly covered above must be considered by the NCLWF Board. Affirmation by a two-thirds vote is required for approval.
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 - C. Other Circumstances – All requests for amendment of conservation agreements for circumstances not covered above must meet the following criteria:
 - 1. Clearly serves the public interest and provides a public or community benefit
 - 2. Has a net positive benefit on the conservation values, as determined by the Conservation Benefit Analysis outlined in Section III of this policy, regardless of agreement recording date
 - 3. Does not result in impermissible private benefit (as verified by appraisal if deemed necessary by the NCLWF). The Board may choose to approve an amendment request if and when the public benefit significantly outweighs any potential private benefit
 - 4. Is consistent with the conservation purpose(s) and documented intent of the conservation agreement
 - 5. To the extent verifiable, is consistent with the documented intent of the donor(s), other grantors, and any direct funding source
 - 6. Demonstrates that no practicable alternative(s) exist and that any impacts have been minimized

- III. **Conservation Benefit Analysis** – The following outlines the process for conducting a conservation benefit analysis as required by NC G.S §121-39.1. Termination or modification of agreements.

Though this statute does not apply to agreements recorded prior to 2015, NCLWF staff will conduct a conservation benefit analysis for all amendment requests. When another State agency is authoring a request to the State Property Office and Council of State for a conservation agreement modification



or termination, the agency requesting the modification or termination shall conduct and submit a conservation benefit analysis as required.

A. Review of Resources

1. NCLWF staff will conduct desktop GIS analysis of potential impacts to streams, wetlands, natural heritage element occurrences and natural areas, historic sites, and any other conservation values identified by the conservation agreement using the North Carolina Natural Heritage Data Explorer, the North Carolina State Historic Preservation Office's HPOWEB mapping application, and other relevant data sources.
2. NCLWF staff will identify and consult with appropriate experts to determine potential impacts of the requested amendment on identified resources.
3. NCLWF staff and other experts as appropriate will conduct site visits for all major amendment requests and any requests that include proposals for exchange of land.

B. Analysis of Impact

1. After review, NCLWF staff will analyze all impacts to existing conservation values and the proposed benefits of the request.
2. The proposal may be deemed to have a net positive conservation benefit if the offset, whether by land exchange or monetary compensation, outweighs the impacts to the conservation agreement and values.

IV. **Approved Amendment Requirements** – The following outlines the expectations for approved amendments:

- A. Offset of Conservation Impacts – The NCLWF must be made whole from any loss of monetary or conservation value resulting from an amendment. Proposals for offset should be discussed with NCLWF staff and submitted along with any amendment request.

Exchange of land is preferred to monetary compensation unless deemed impractical. Any proposed exchange of land should be at least three times the acreage of the impact area, of like conservation value as determined by the resource score of the current NCLWF Application Rating System, and at least equal in monetary value. Proposed exchange land must be restricted to a level equal to or greater than the original conservation agreement. For easements, a qualified easement holder must be specified and the NCLWF must be granted third-party right of enforcement. It is the NCLWF's preference that any new easements on land acquired as the result of an amendment be held by an accredited land trust. In the event that a qualified easement holder cannot be found, other options may be considered. Where no other suitable options exist, the State may serve as the holder provided that all current NCLWF standards for easement closings are followed, perpetual stewardship costs are provided and deposited in the NCLWF Stewardship Endowment, and an eligible easement monitor is identified.

In the case of an amendment required in lieu of the State's or a municipality's power to take private property for public use, the NCLWF may elect to be reimbursed, at minimum, the current fair market value, as determined by appraisal, tax value, and/or NCLWF staff, or pro-rated amount



of the investment at the time of the grant contract, whichever is greater. In other cases where the approval of the amendment is solely at the Board's discretion, the terms of compensation, whether monetary or by land exchange, should be generously to the favor of the NCLWF and its conservation interests by a ratio of at least 3:1.

Funds reimbursed to the NCLWF from a conservation agreement amendment will be allocated to an appropriate program area as determined by the Board.

- B. Other costs – All costs associated with the amendment, including survey, appraisals, other transaction expenses, increased stewardship, review by State agencies, and any fees charged by the State Property Office, will be paid by the party making the amendment request.
- V. **Amendment Request Requirements** – The following outlines the minimum required information for amendment requests, although additional information may be requested as needed:
 - A. Name, address, phone number, and email address of the property owner
 - B. Nature of the activity proposed to be conducted
 - C. Location of the activity with reference to the NCLWF project number and/or Deed book and page
 - D. Map(s) of sufficient detail to accurately delineate the boundaries of the land proposed to be impacted to carry out the activity, including the location and dimensions of any disturbance associated with the activity. When possible, a GIS shapefile must be submitted
 - E. Explanation of why the plan for this activity cannot be practically accomplished, reduced, or reconfigured to avoid the need to amend the conservation agreement, or alternatively to better minimize disturbance to the conservation area and its identified conservation values
 - F. Plans for any best management practices or restoration practices to be used to control the impacts associated with the activity
 - G. Acknowledgement of receipt of a copy of the NCLWF Conservation Agreement Amendments Policy
- VI. **Notifications** – The following parties will be notified by NCLWF staff at least two (2) weeks before a scheduled Board or committee discussion for Major amendments or staff decision for Minor Amendments:
 - A. The original parties associated with the conservation agreement that is proposed to be amended
 - B. The contracted easement monitor, when applicable
 - C. The general public and other interested parties via notice posted to the NCLWF website

Versions	Revisions
July 10, 2013	Original Effective Date
September 16, 2014	Revised and Adopted
March 9, 2015	Revised and Adopted
September 14, 2016	Revised and Adopted
May 21, 2019	Revised and Adopted

Information Item**Staff member: Justin Mercer**

Agenda Item 2e) Native community restoration background**Background**

The areas within our standard conservation easements and declarations of covenants and restrictions are considered “forever wild” or generally prohibited from active forest management.

However, native community restoration, management, and maintenance is a standard reserved right within these conservation agreements, to allow for a native community that is more desirable than the existing community or to advance the natural progression of the existing community in that direction. The following is standard language from the “Rights Reserved to Grantor” section of our conservation easement template:

Native Community Restoration, Management, and Maintenance. Grantor reserves the right to perform all activities necessary to restore, manage, or maintain the native plant and animal communities in the Easement Area, provided, however, that the conversion of one habitat type to a native habitat type requires prior written approval of Fund. All necessary care shall be taken to protect all Conservation Values, and restoration, management, and maintenance activities shall be carried out in a manner so as not to impair any Conservation Values either during or after the activities.

Any other forest management must be approved as special condition by the board at the time of application. If such a condition is approved by the board, the expectation is that the appraisal of the property will reflect the condition of the property at closing, excluding timber value if it has been contracted, sold, or harvested.

No board action is needed on this information item.

Action Item**Staff member: Marie Meckman**

Agenda Item 2f) 2019-009 Conserving Carolina – Abes Creek Scope Change Request**Background**

This Conserving Carolina project was awarded in 2019 and involved the fee acquisition of approximately 251 acres buffering Abes Creek and other tributaries to Horse Pasture River. Abes Creek is classified as holding outstanding resource waters and is a home for wild trout. Conserving Carolina took out a loan to purchase the property in late 2019, after the NCLWF award, to save the project due to the previous landowner's expressed urgency.

Conserving Carolina's circumstances changed, and they no longer intend to hold the property in perpetuity. Instead, they will sell the property to the adjoining private landowner with proposed changes to the conservation strategy. Conserving Carolina proposes to remove thirteen disturbed acres on the northeastern section of the property in exchange for the protection of nine acres of additional riparian buffer of Abes Creek on the southeastern section of the adjacent property currently owned by the proposed future landowner. This new section will be protected by a conservation easement held by Conserving Carolina. The original project's riparian buffer would protect 27,000 linear feet of stream (approximately 5.1 miles). The land swap will result in approximately 513 additional linear feet of stream protected, and fully protecting both sides of Abes Creek.

The project originally scored an 81, receiving the highest scores possible for riparian buffer and natural heritage classifications. While the private landowner will use the property for hunting and as a buffer for their adjacent property, public access points will not change in this scenario as guided hikes will still be offered.

Staff Recommendation

Approve the request for the scope change requested by the Conserving Carolina.

Committee Recommendation

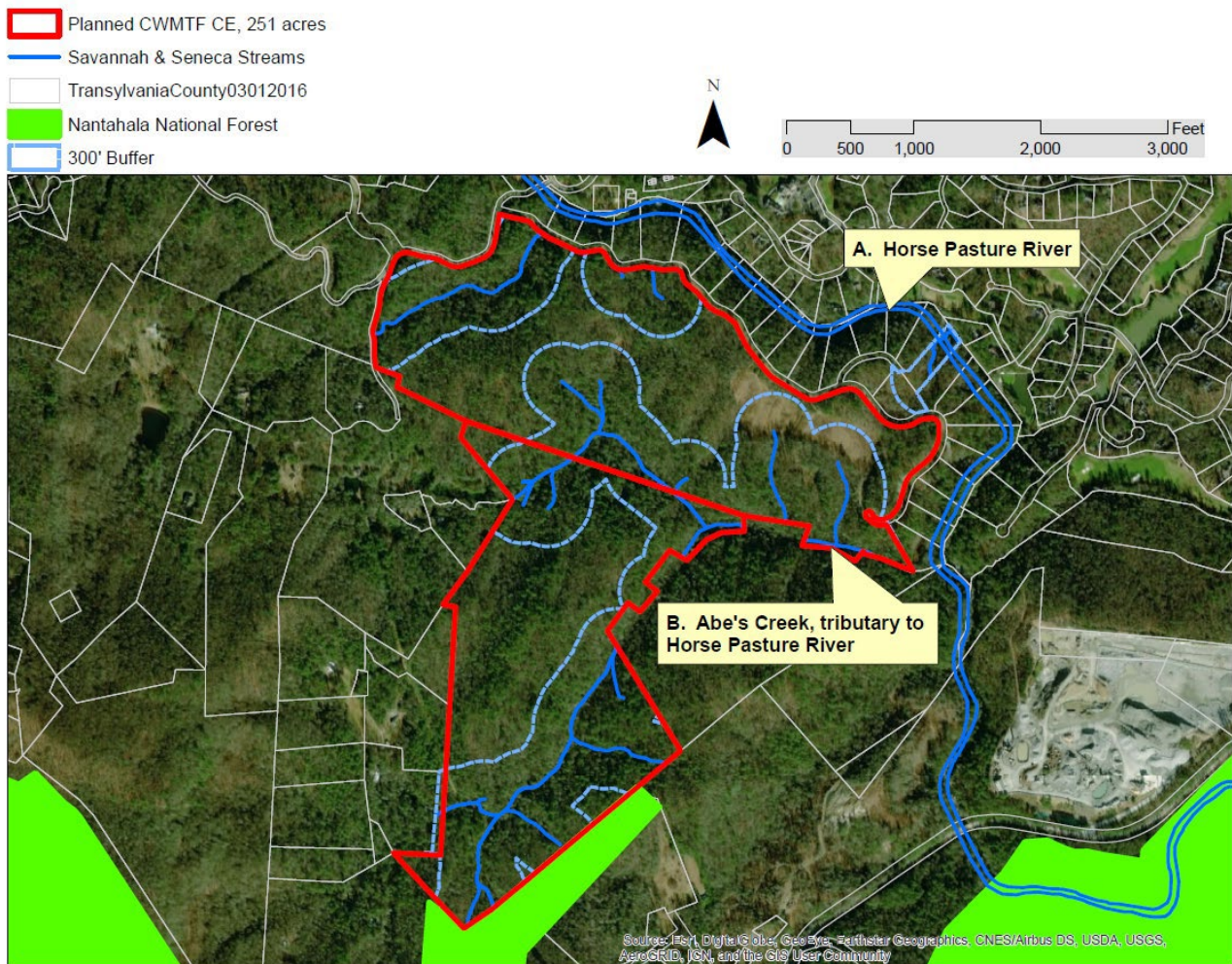
The committee deferred its decision to the Board and requested that Conserving Carolina consider 1) increasing the acreage of the negotiated swap area to 13 acres; and 2) consider conveying the conservation easement on the additional nine acres to the State. Staff will present on Conserving Carolina's responses.

Board Action Needed

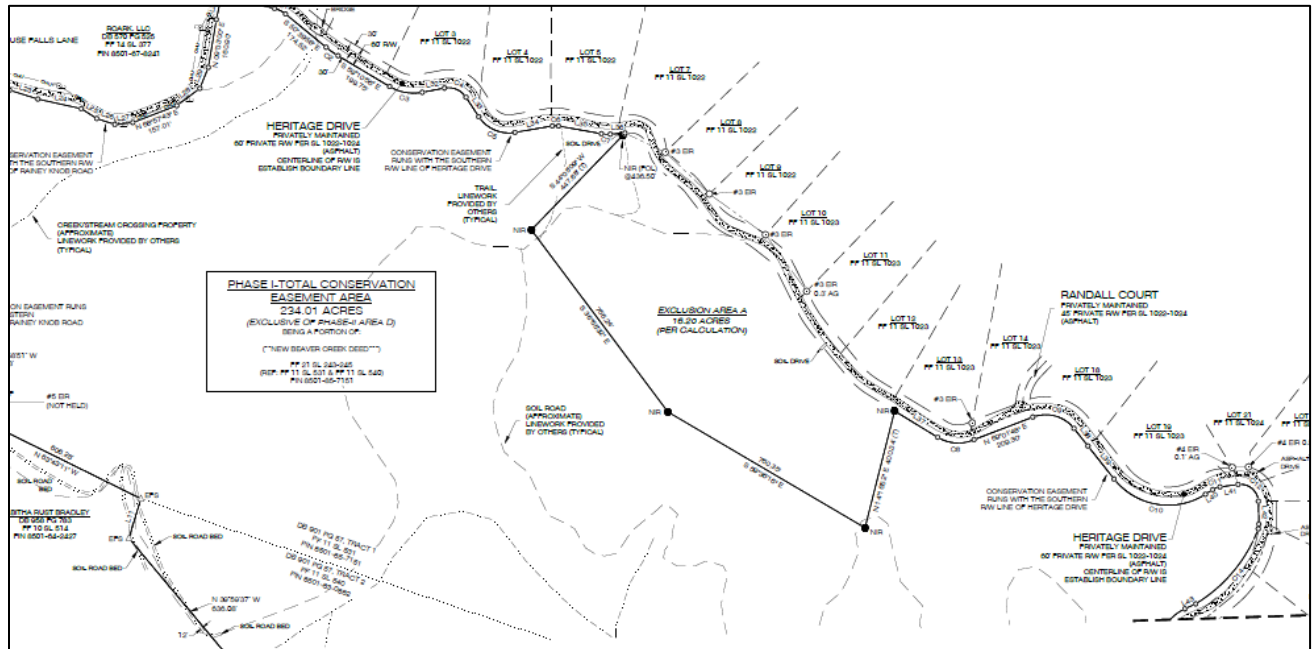
Approve, deny, or amend the staff recommendation.

Attachments: maps, decision matrix

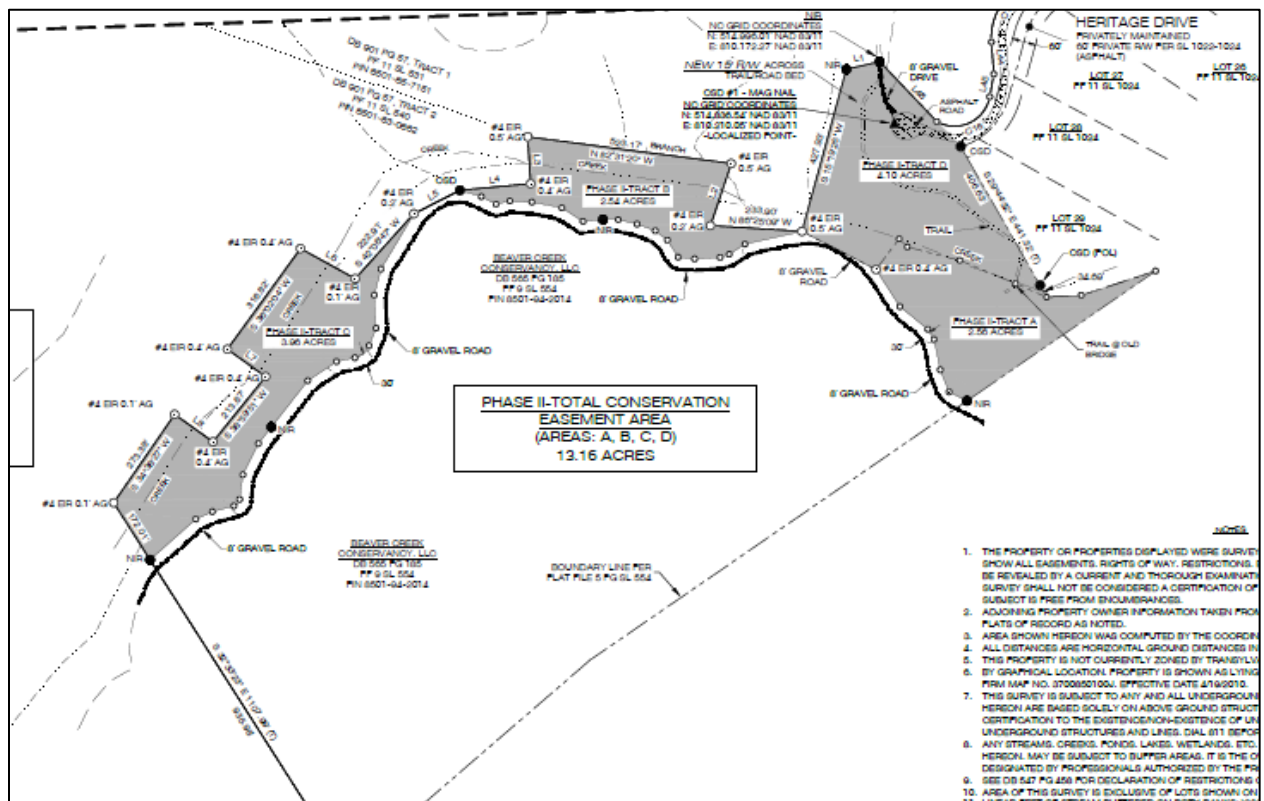
Project Map Presented to the Board, September 2019



The northern boundary exclusion area will be reduced by 3 acres – or 13 total.



The southeastern boundary will expand to include an additional nine acres bordering the opposite side of Abes Creek



DECISION MATRIX EVALUATION WORKSHEET

Project Number: 2019-009

Project Name: Conserving Carolina Abes Creek

Date of Request: 3/22/2023

REQUIRED APPROVALS				
Criteria	Executive Director	Chairman	Full Board	Requested Change
Change in scope outputs*	Less than 10%	10% to 25%	> 25%	-1.99%
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%	3.29%
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%	2.03%
Within budget reallocation of funds without adding a new budget line item and no loss of outputs*	10% to 20% of total NCLWF award reallocated to any one line item, up to \$100,000*	More than 20% of total NCLWF award or more than \$100,000 reallocated to any one line item		n/a
Within budget reallocation of funds with adding a new budget line item and no loss of outputs*			Any request that adds a new budget line item	n/a
Withdrawal of Any Funded Project or Minigrant	Any Withdrawal Request			
If Request requires Full Board Approval, please enter the date of the Board meeting for which the request will be considered:			May 3 Acquisition Committee meeting; May 16 Board meeting	
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget).				
<p>Conserving Carolina purchased the Property on Abes Creek two months after the award due to landowner pressure and circumstances. The acreage dropped from 251 to 246 acres after accommodating for road right-of-way, overlap with a neighbor, and an exclusion area for the future owner of the property. The Grant Recipient determined that they could not hold the property in perpetuity as originally hoped. However, they were able to work out a satisfactory contract with the adjacent private landowner who would be willing to accept the Property encumbered with Conservation Easements. The future owner requested that an exclusion area be allowed on the northern boundary of the property, adjacent to the public road to allow for parking their atvs for hunting. Conserving Carolina negotiated additional acreage buffering the other side of Abes Creek to compensate for most of the lost acreage.</p> <p>The area that will be excluded from the project is a cleared area and unlikely to hold much in the way of natural heritage values. The project scored a full 30 points for natural heritage due to forest community and Hexastylis element occurrences. The project received a full 50 point score for riparian buffer due to outstanding resource waters and wild trout. All streams are still protected under this new scenario with even more buffer protected.</p>				
Program Staff Recommendation:				
Staff recommends approval of this request with conditions that the reserved rights and access remain the same as originally expected.				
Approvals:	Printed Name	Requisite Signature	Date	
NCLWF Staff	Marie Meckman			
NCLWF Acquisition Program Manager	Marissa Hartzler			
Executive Director	William B. Summer			
Chairman	John B. Wilson, Jr.			
Board approvals:	Motion (summary)		Date	
Committee action	Accept staff recommendation and applicant request		5/3/2023	
Board action	Accept staff recommendation and applicant request		5/16/2023	

Project Number: 2019-009 Project Name: Conserving Carolina Abes Creek

Overall Proposed Impacts to Score		
	Points	Notes
Original Score	81	
Change in Scope	0	
Change in Budget	1	
Proposed Change	82	
Lowest Funded	70	

Scope Outputs	
	Acres
Original	251
Proposed	246

Change in Scope Output (acres) -1.99%

Unit Costs			
	Total Project Cost	Acres	Cost/Acre
Original	\$ 546,854	251	\$ 2,179
Proposed	\$ 546,854	246	\$ 2,223

Change in Unit Costs 2.03%

Original Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 480,000	\$ 2,120,000	\$ 2,600,000
Transaction Costs	\$ 48,700	\$ -	\$ 48,700
Stewardship	\$ 15,154	\$ -	\$ 15,154
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ 3,000	\$ -	\$ 3,000
Total	\$ 546,854	\$ 2,120,000	\$ 2,666,854
Funding Percentages	21%	79%	100%

Change in Match Percentage 3.29%

Proposed Budget			
Item	NCLWF Grant Amount	Matching Funds	Total Project Cost
Acquisition	\$ 480,000	\$ 2,500,000	\$ 2,980,000
Transaction Costs	\$ 48,700	\$ -	\$ 48,700
Stewardship	\$ 15,154	\$ 10,000	\$ 25,154
Property Management	\$ -	\$ -	\$ -
Contract Administration	\$ 3,000	\$ -	\$ 3,000
Total	\$ 546,854	\$ 2,510,000	\$ 3,056,854
Funding Percentages	18%	82%	100%

Is there a change to matching resource sources? Yes

Original Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Bargain sale	Private funds	\$ 2,100,000	79%	0.22	17.324
Private foundation	Private funds	\$ 10,000	0.4%	0.22	0.082
Private donations	Private funds	\$ 10,000	0.4%	0.22	0.082
Total		\$ 2,120,000			18

Proposed Matching Resources Scoring					
Line Item	Source	Amount	Percent	Multiplier	Points
Bargain sale	Private funds	\$ 2,100,000	69%	0.22	15.114
Private donations	Private funds	\$ 300,000	10%	0.22	2.159
Salisbury Community Foundation	Private funds	\$ 110,000	4%	0.22	0.792
Total		\$ 2,510,000			19

Change in Matching Resources Score 1

Information Item

Staff member: Marissa Hartzler

Agenda Item 3) Update of NCLWF Project Mapping

In 2018, staff began a long-term project to document and map all conservation agreements and properties purchased with NCLWF funds. Staff will present the final product of this effort, including the 460,000 acres of conservation mapped statewide, and discuss uses of this dataset.

Action Item**Staff member: Justin Mercer****Agenda Item 4) Allocation of Monitoring Funds****Background**

During approximately the first decade of the North Carolina Land and Water Fund's operation, many land acquisition projects were funded without consideration of long-term stewardship. Until 2008, easements required under the restoration, stormwater, and wastewater programs were also held by the State of North Carolina without stewardship funding. In May 2022, the board agreed to set aside \$2.5 million for the purpose of identifying and contracting third-party monitors to assist in the perpetual stewardship of these easements.

NCLWF staff has identified 42 easements in 12 central and western North Carolina counties that are in need of a permanent monitor. Three Rivers Land Trust, Foothill Conservancy, and Blue Ridge Conservancy are willing to provide annual monitoring and reporting for the easements within their respective service areas. Staff has negotiated total for these easements of up to \$28,450/year for monitoring, which would require a total of \$711,250 in endowment funds (annual payment multiplied by 25). The specific amount allocated for each grant is outlined in the table below:

NCLWF Project	Number of Easements	Acres	Perimeter (feet)	Annual Monitoring Estimate	Total Endowment	Proposed Monitor
1997A-119 Little Cross Creek Acq	4	117.6	36,438	\$4,050	\$101,250	TRLT
1998B-409 Deep River Acquisition	5	24.6	13,361	\$3,200	\$80,000	TRLT
1999B-406 Lake Property and Hurley	1	168.4	14,673	\$750	\$18,750	TRLT
2000A-015 Cooleemee River Park	2	21.9	7,935	\$1,100	\$27,500	TRLT
2000A-701 Upchurch Pond	1	39.4	8,548	\$900	\$22,500	TRLT
2000B-019 WW & Acq- Ultraviolet Discharge	2	4.7	4,590	\$1,300	\$32,500	TRLT

2001A-003 Lake Howell	1	103.3	11,722	\$700	\$17,500	TRLT
2001A-010 Badin Lake	2	280.4	30,428	\$1,400	\$35,000	TRLT
2001B-049 Densons Creek & Little Creek Ph II	5	50.4	16,499	\$3,300	\$82,500	TRLT
2002B-021 Densons Creek Ph IV	1	12.6	5,960	\$700	\$17,500	TRLT
2003A-041 Densons Creek Ph V	1	66.6	8,973	\$750	\$18,750	TRLT
2004B-001 Muddy Creek	1	15.0	5,314	\$600	\$15,000	TRLT
2006B-006 Cape Fear Greenway	4	184.1	45,414	\$4,050	\$101,250	TRLT
1997A-039 Coulters Branch	1	7.0	3,103	\$500	\$12,331	FCNC
1997A-042 Zacks Fork Branch	1	4.3	3,005	\$550	\$13,715	FCNC
1999B-001 Wilson Creek	1	5.0	2,055	\$550	\$13,155	FCNC
1999B-014 Patterson School	1	419	77,295	\$1000	\$24,536	FCNC
2002B-008 Crescent Resources	2	85.1	23,808	\$850	\$20,786	FCNC
2004B-017 Barringer, Inc	1	11.4	3,821	\$650	\$15,194	FCNC
1997A-076 Boone, Seaver, Bacchert/Walton	3	2.9	3,601	\$550	\$13,617	BRC
2001A-001 Broyhill Lake	1	2.8	1,302	\$350	\$8,224	BRC
2001A-510 North Wilkesboro WWTP	1	13.2	12,759	\$650	\$15,620	BRC
Totals	42	1,640	340,604	\$28,450	\$711,250	

The creation of STW-006 Retired Principal Policy in 2019 and the dedication of funds in May 2022 established a process for the allocation of uncommitted principal to easements in need of monitoring. There is currently \$2,438,937 of unallocated principal in the Endowment.

Staff Recommendation

Assign \$711,250 of unallocated principal in the Stewardship Endowment for the monitoring of the conservation easements associated with the projects presented above, to be monitored by contracted partners and reimbursed through their annual monitoring contract with NCLWF.

Information Item

Staff member: Justin Mercer

Agenda Item: 5) Stewardship Report

Staff will present the end-of-year summary of the Stewardship Program, including updates on monitoring, additional management fund expenses, and status of conservation agreement violations.

No board action is needed on this information item.

Action Item**Staff member: Justin Mercer**

Agenda Item: 6) Stewardship Endowment Report and Deposit / Withdrawal Request

Each year, per Board policy and the deposit agreement with the Treasurer's Office, the Board is compelled to make decisions about the endowment, including how much will be withdrawn and spent on annual stewardship expenses.

Staff will review the attached stewardship endowment report and following key points with the Board to inform the recommended actions:

- The total value of the Endowment increased \$2,181,115.44 from March 2022 to March 2023, ending the past 12-month period with \$2.46 million in investment income.
- The 36-month total average value of the Stewardship Endowment is \$6.7 million.
- Per the maximum annual expense established through STW-002 Endowment Funds Use Policy, Staff recommends setting a cap of 4% of the 36-month total value, allowing for stewardship spending up to \$268,890 in FY23-24.
- Up to \$288,107 from 20 Acquisition projects should be transferred to the Endowment principal.
- Any additional funds approved by the Board should be transferred to the Endowment principal.
- Up to \$203,890 should be withdrawn from investment income to fund stewardship spending for FY23-24.
- The Endowment Fund is currently out of balance due to last year's \$2.5 million transfer. This is by design to minimize the impacts of a volatile market and future transfers will be constructed in a manner to restore balance.

Board actions needed:

1. Approve, not approve, or amend the staff recommendation to authorize FY23-24 stewardship spending up to \$268,890 for monitoring contracts, management awards, and other stewardship operating costs.
2. Approve, not approve, or amend the staff recommendation to deposit up to \$288,107 into the Endowment principal and withdraw up to \$203,890 investment income to fund program expenses.

3. Approve, not approve, or amend the staff recommendation to structure the annual transaction between the Fund's three investments to meet the targets set per the deposit agreement with the Treasurer's Office, based on the most current available data when the transaction is made.

Attachment: Endowment financial report and proposed transaction

Stewardship Endowment Report – through March 31, 2023

Chart 1. 12-Month Total Value, in millions

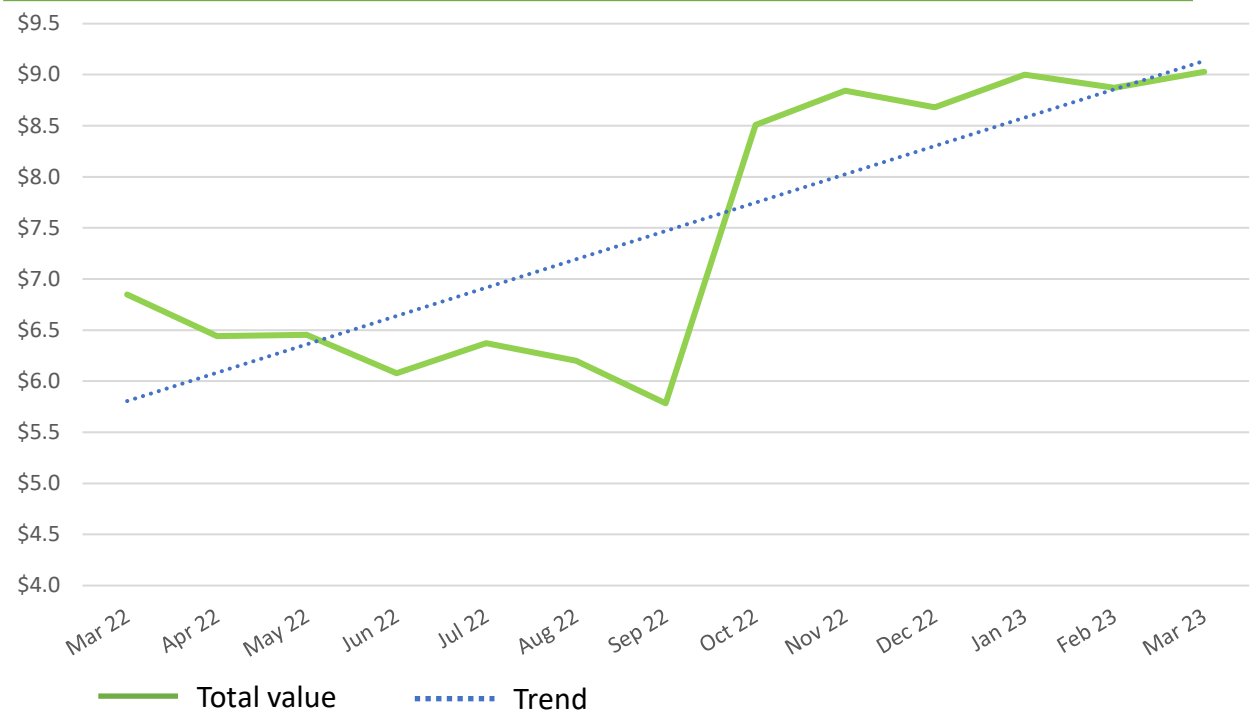


Chart 2. 36-Month Total Value, in millions

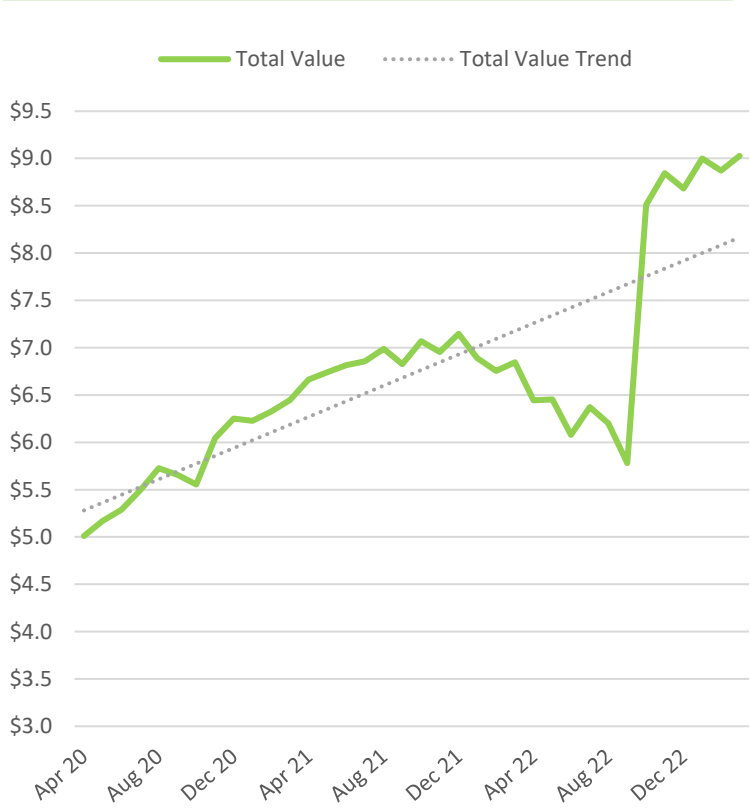
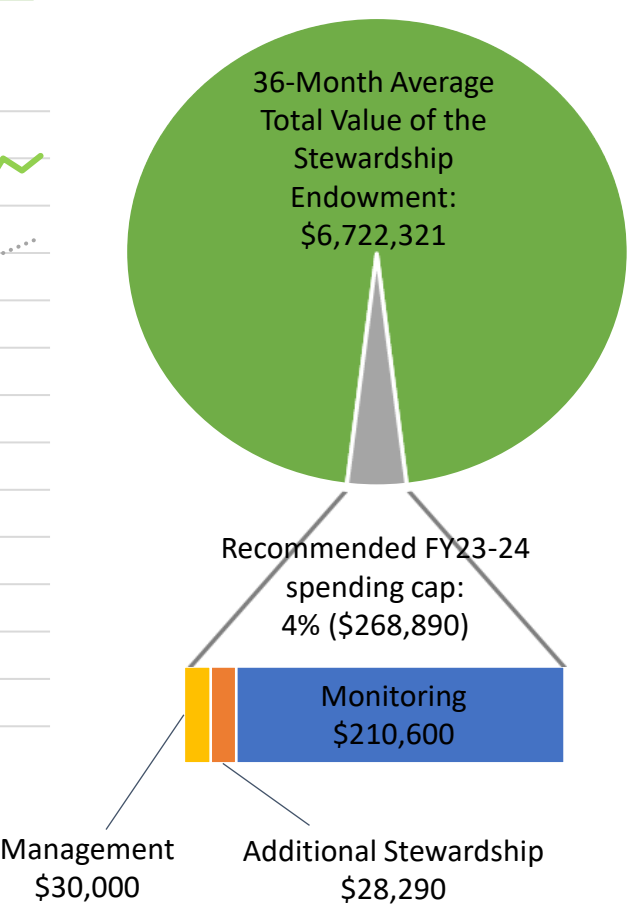


Chart 3. Proposed Endowment Cap



Stewardship Endowment Report, continued - REVISED

Chart 4. Balance Allocations as of 3/31/2023

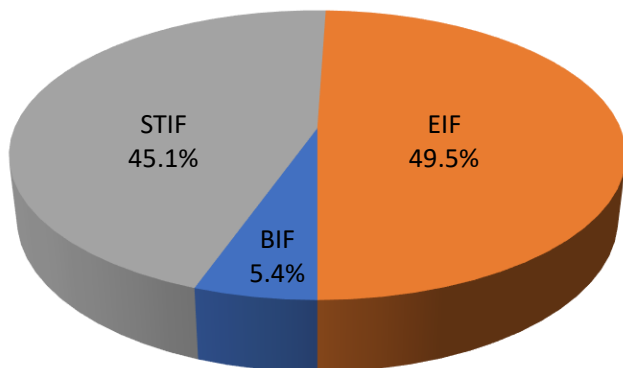


Chart 5. Balance Allocations After FY22-23 Transfers

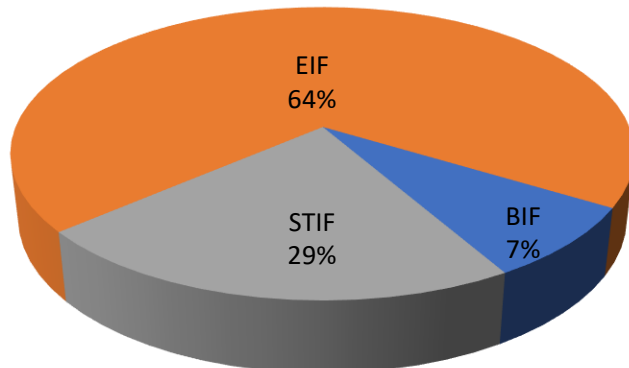


Table 1. FY22-23 Endowment Transfers*

Transaction initiated, but not yet reflected on statements

Bond Investment Fund (BIF)	Principal	Investment Income	Total Value
BIF (as of 3/31/2023)	\$372,813.66	\$117,044.63	\$489,858.29
Deposit	\$150,000	\$0	\$150,000
Withdrawal	\$0	\$0	\$0
BIF after transfer	\$522,813.66	\$117,044.63	\$639,858.29
Short-Term Investment Fund (STIF)	Principal	Investment Income	Total Value
STIF (as of 3/31/2023)	\$3,853,534.81	\$217,751.18	\$4,071,285.99
Deposit	\$139,094	\$0	\$139,094
Withdrawal	(\$1,462,500)	(\$139,094)	(\$1,601,594)
STIF after transfer	\$2,530,128.81	\$78,657.18	\$2,608,785.99
Equity Investment Fund (EIF)	Principal	Investment Income	Total Value
EIF (as of 3/31/2023)	\$2,339,115.58	\$2,127,634.82	\$4,466,750.40
Deposit	\$1,312,500	\$0	\$1,312,500
Withdrawal	\$0	\$0	\$0
EIF after transfer	\$3,651,615.58	\$2,127,634.82	\$5,779,250.40
Totals after transfer	\$6,704,558.05	\$2,323,336.63	\$9,027,894.68

Stewardship Endowment Report, continued - REVISED

Table 2. Stewardship Commitments

Cash reserve	\$65,000
Monitoring expenses	(\$210,600)
Management funds	(\$30,000)
Additional stewardship expenses	(\$28,290)
Amount to withdraw	\$203,890
Principal to add for closed projects	\$288,107
Allocation of uncommitted funds	\$711,250

Chart 6. Proposed (Target) Balance Allocations per Deposit Agreement with Treasurer's Office

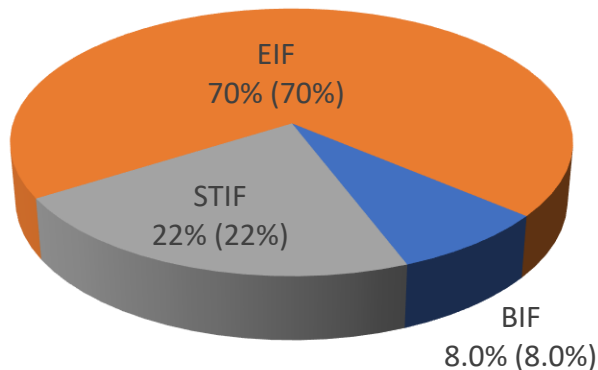


Table 3. Proposed Endowment Transfers*

Actual transaction will balance the funds per the Treasurer's Deposit Agreement

Bond Investment Fund (BIF)	Principal	Investment Income	Total Value
BIF (after FY22/23 transfer)	\$522,813.66	\$117,044.63	\$639,858.29
Deposit	\$89,110.64	\$0	\$89,110.64
Withdrawal	\$0	\$0	\$0
BIF after transfer	\$611,924.30	\$117,044.63	\$728,968.93
Short-Term Investment Fund (STIF)	Principal	Investment Income	Total Value
STIF (after FY22/23 transfer)	\$2,530,128.81	\$78,657.18	\$2,608,785.99
Deposit	\$0	\$0	\$0
Withdrawal	(\$604,121.42)	\$0	(\$604,121.42)
STIF after transfer	\$1,926,007.39	\$78,657.18	\$2,004,664.57
Equity Investment Fund (EIF)	Principal	Investment Income	Total Value
EIF (after FY22/23 transfer)	\$3,651,615.58	\$2,127,634.82	\$5,779,250.40
Deposit	\$803,117.78	\$0	\$803,117.78
Withdrawal	\$0	(\$203,890)	(\$203,890)
EIF after transfer	\$4,454,733.36	\$1,923,744.82	\$6,378,478.18
Totals after transfer	\$6,992,665.05	\$2,119,446.63	\$9,112,111.68

Action Item**Staff member:** Justin Mercer

Agenda Item 7) Stewardship Endowment Proposal - Options for Addressing Unfunded Easement Monitoring**Background**

The North Carolina Land and Water Fund was established in 1996 with its first conservation easement recorded in 1997. In recognition of the importance of the stewardship of the State's conservation interests, the North Carolina Conservation Easement Endowment Fund was created in 2008 to enable NCLWF to conduct stewardship activities in perpetuity, chiefly monitoring and enforcement of the State's easements. Every new project funded by NCLWF and protected by a State-held conservation easement includes funds to transfer into the Endowment Fund. Because endowment funds were not held by NCLWF prior to 2006, many projects protected by NCLWF easements were completed without any dedicated monitoring funds set aside nor monitors identified, affecting 412 easements.

In 2022, the NCLWF Board of Trustees (Board) approved the deposit of \$2.5 million in unused grant funds into the endowment to be assigned to unfunded easement monitoring. In addition, the Board approved up to an additional \$3 million to be deposited over the next three years with the goal of funding all unmet monitoring needs.

Staff recommendation

Staff will present an update on the efforts to address unfunded monitoring needs. At its discretion, the Board may elect to approve additional funds.

Board action needed

This is presented as an informational item unless the Board elects to approve additional funds.

Information Item

Staff Member: Will Summer

Agenda Item 8) Improving Access to NCLWF Funds and Benefits

Staff will summarize the presentations and discussion from the committee meetings on this topic and facilitate further discussion as needed.