

AGENDA

North Carolina Land and Water Fund

Board of Trustees Meeting

May 16, 2022, 1:00 p.m. – 3:30 p.m.

Hotel Ballast – Harnett Room

301 North Water Street

Wilmington, NC

The business portion of this meeting will also be available to the public by teleconference. Please contact Terri Murray at teresa.murray@ncdcr.gov or 919-707-9122 to request a meeting invitation/call-in 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)

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

e) Revisions, additions, and adoption of the agenda

2) Consent Agenda (Chair) – Approval of minutes from the March 2022 board meeting

3) Executive Director's Update (Will Summer)

PUBLIC COMMENTS

The public is invited to make comments to the Board (Chair) *three minutes per person*

BUSINESS

1) Acquisition Committee Report and Recommendations (Jason Walser - Chair)

a) Viles Preserve Amendment Request Update – Staff will review the committee recommendation to approve the change of scope of an amendment previously approved by the Board for 1999B-002 Catawba Lands Conservancy Viles Preserve.

b) NHTF Valle Crucis Easement Amendment Request – Staff will review the committee recommendation to deny a request for amendment to a conservation easement recorded as part of a Natural Heritage Trust Fund project in Valle Crucis.

- c) **Stewardship Endowment Proposal: Options for Addressing Unfunded Easement Monitoring** – Staff will review the committee recommendation to approve funding strategy for previously unfunded monitoring obligations.
- 2) **Restoration, Innovative Stormwater and Planning Committee Report and Recommendations** (Renee Kumor - Chair)
 - a) **Request to modify project scope; 2021-408 Haywood Waterways Association - Chestnut Park, Hominy Cr Restoration** – Staff will review the committee recommendation to approve proposed scope changes for a stream restoration in Canton, NC.
 - b) **Request to modify project scope; 2019-414 PCC - Black Cr Watershed Dams** – Staff will review the committee recommendation to approve proposed scope changes with additional matching funds required for a stream restoration in Cary, NC.
 - c) **Request to modify project match requirements; 2019-811 The Conservation Fund - Matthew & Florence Recovery** – Staff will review the committee recommendation to deny a request to change the property to be used as match and conditions of the match for this project.
- 3) **Flood Risk Reduction Committee Report and Recommendations** (Ann Browning - Chair) – Staff will summarize the work of the committee since January and present the final committee recommendations for the program guidelines and rating system.
- 4) **Stewardship Report** (Justin Mercer) – Staff will present an end-of-year summary of the Stewardship Program.
- 5) **Endowment Report & Annual Deposit / Withdrawal Request** (Justin Mercer) – Staff will summarize the endowment performance for the year and the recommended deposits and withdrawals.

ADJOURNMENT

(Field tour agenda begins on the next page)

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

May 16, 3:45 – 6:30

- 3:45 Depart for Wade Park, 3500 Bethal Rd, Wilmington, NC 28409 (20-minute travel time)
Google maps link: <https://goo.gl/maps/EgFxMPZjS7ji48W79>
- 4:45 Depart for Airlie Gardens, 300 Airlie Rd, Wilmington, NC 28403 (20-minute travel time)
Google maps link: <https://goo.gl/maps/ga6ENAHYfgiYW9eB6>
- 6:30 Depart for dinner

FIELD TOUR

May 17, 8:00 – 1:00

- 8:00 Depart hotel for Brunswick Town / Fort Anderson, 8884 St Phillips Rd SE, Winnabow, NC 28479 (30-minute travel time) Google maps link: <https://goo.gl/maps/PYVuW9sEhyj39mQB7>
- 9:15 Depart for TNC Orton Creek Preserve – meet at Lowes Foods, 5011 Southport Crossing Wy, Southport, NC 28461 (20-minute travel time) Google maps link: <https://goo.gl/maps/uUnWM1ftiepGqp4B8>
- 11:40 Depart for Brunswick Nature Park, 2601 River Road SE, Winnabow, NC 28479 (20-minute travel time)
Google maps link: <https://goo.gl/maps/na1ju9BbzBAuRjk9>
- 12:00 Box lunches will be provided for staff and trustees
- 12:45 Depart / return to Hotel Ballast, 301 N Water St, Wilmington, NC 28401
Google maps link: <https://g.page/HotelBallast?share>

Action Item

Staff member(s): Marissa Hartzler

Agenda Item 1a) Viles Preserve Amendment Request Update

Background

In 1999, the Board awarded funds to Catawba Lands Conservancy (CLC) to acquire and protect land along the South Fork Catawba River, to be managed by CLC as the Viles Nature Preserve. This project resulted in a State-held conservation easement on 283.60 acres in Catawba and Lincoln counties.

In 2019, CLC was approached by NextEra Energy, Inc., a Florida-based renewable energy company, regarding a to-be-constructed solar facility on property adjacent to CLC's Viles Preserve. To tie the facility to the electrical grid, NextEra has proposed installation of underground infrastructure under the Viles Preserve via horizontal drilling. Under this proposal, neither initial installation nor long-term maintenance would require surface drilling or other alteration on the Viles Preserve.

The State's conservation easement, recorded in 2000, does not allow for horizontal drilling, nor right-of-way for commercial or industrial activities. In May 2020, the Board approved amending the conservation easement to allow for this right-of-way through the property for approximately 415 feet, and NextEra would donate a minimum of 15 acres of at least 100 feet of riparian buffers to CLC.

NextEra is proposing a new route north of the previously approved route, which would require right-of-way through a minimum of approximately 1,070 feet. At the maximum, depending on landowner negotiations, this line could require up to approximately 1,180 feet. In exchange, NextEra would donate 125 acres of conservation land to CLC, significantly increasing the size of the preserve.

Committee recommendation

The committee unanimously recommended approving the new ~1,000-foot alignment proposed by NextEra and the 125 acres of additional conservation land to be donated to Catawba Lands Conservancy.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Proposal from NextEra

April 14, 2022

Marissa Hartzler
Acquisition Program Manager
North Carolina Land and Water Fund
1651 Mail Service Center
Raleigh, NC 27699

Dear Ms. Hartzler:

Blackburn Solar, LLC (Blackburn), a wholly-owned indirect subsidiary of NextEra Energy Resources, LLC, presents the following scenario and details to you and the North Carolina Land and Water Fund Board of Trustees for consideration and approval. Blackburn has proposed a 58-megawatt (MW) solar photovoltaic (PV) generation facility on private land within Catawba County, NC. The proposed solar facility (facility), located west of the South Fork of the Catawba River, requires an interconnection to existing utility infrastructure. A 100-kilovolt transmission line is proposed to cross under the South Fork of the Catawba River to serve as the interconnection. Catawba Lands Conservancy (CLC) owns the property, Viles Preserve, under conservation easement located on the east side of the South Fork of the Catawba River. The 100-kv transmission line is proposed to cross this CLC easement via an underground conduit installed using horizontal directional drilling, eliminating above ground impacts within the conservation easement. The proposed route is outlined on the Project Overview Map included as **Attachment I**.

The proposed transmission line route would cross CLC lands in two locations. Crossing #1 is proposed immediately across from the facility on the east side of the South Fork of the Catawba River. The transmission line will remain above ground on the west side of the river and pass underground before the west bank's floodplain boundary. The line would then pass under the South Fork of the Catawba River and through approximately 570 feet of CLC lands before exiting on the neighboring parcel. The route would then traverse neighboring parcels for approximately 2000 feet eastward approaching Herter Road. The proposed alignment would re-enter CLC lands at Crossing #2 for approximately 470 - 500 feet to pass under Herter Road and onto neighboring parcels. This proposed alignment is currently subject to minor adjustments based on pending landowner agreements and constructability but will be located within the "Area of Potential Underground Utility Alignment" shown on **Attachment I**. Any alternative alignment will consider the most direct path through CLC lands to minimize area impacted by the crossing. **Attachment II** provides a plan of conceptual alignment shifts and lengths of these alignments, as requested.

Previous correspondence outlined an alignment path located south of the currently proposed route, thus avoiding Crossing #2. Due to issues surrounding land access, the alignment was shifted north. The new and currently proposed alignment necessitates Crossing #2 to complete the interconnection.

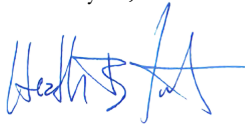
The proposed transmission line route through current CLC land will be constructed entirely underground using horizontal directional drilling (HDD). HDD is a construction technique whereby a tunnel is drilled under a waterway or designated area, and a utility is pulled through the drilled underground tunnel. The underground tunnel follows an arc line from the entry point, down under the crossing area, and resurfaces on the opposite side. A pilot hole is drilled from the entry point to the exit point using a smaller diameter drill head. Then a larger drill head is attached at the exit point and it is pulled back to the entry point along with a casing. The drill heads proposed for this project will be no larger than 36 inches in diameter. During the drilling process, the

tunnel is kept open and lubricated by circulating a watery mud-slurry mixture, typically composed of approximately 95 percent water and 5 percent bentonite clay, a natural, nontoxic substance. The drilling mud helps coat the walls of the tunnel and removes drill cuttings. Once the casing is pulled back to the entry point, conduits are pulled into the casing. For this project, four larger conduits will be used, three for the underground cables and one spare. Additionally, two smaller conduits will be pulled in the casing - one for a communications cable and one for a ground. Ground disturbance using this process occurs only at the entry point and exit point. These points will be located outside CLC land limits. The line will be located approximately 30 to 60 feet in depth, and no ground disturbance, clearing, or temporary construction access will occur on CLC lands. The plans included in **Attachment III** provide a visual representation of the HDD process and outline the construction sequencing that will be used. As requested, **Attachment III** also indicates approximate depths of the HDD.

As part of this proposal, Blackburn will permanently dedicate to CLC approximately 125 acres of land within the project area. The proposed donation area is approximately shown in **Attachment I**. Sections of the land donation are proposed to be incorporated into the Carolina Thread Trail to provide for educational opportunities and preservation of natural space. This donation will provide a key connection to Hart Square and increase the size of the Riverbend Conservation Area to become the third-largest protected area in the Catawba Lands Conservancy system.

Blackburn is pleased to present this scenario to North Carolina Land and Water Fund and requests its review and approval by the Board of Trustees. If any questions should arise or clarification is needed please reach out to Jillian Still at Jillian.Still@nexteraenergy.com or Heath Barefoot at Heath.Barefoot@nexteraenergy.com.

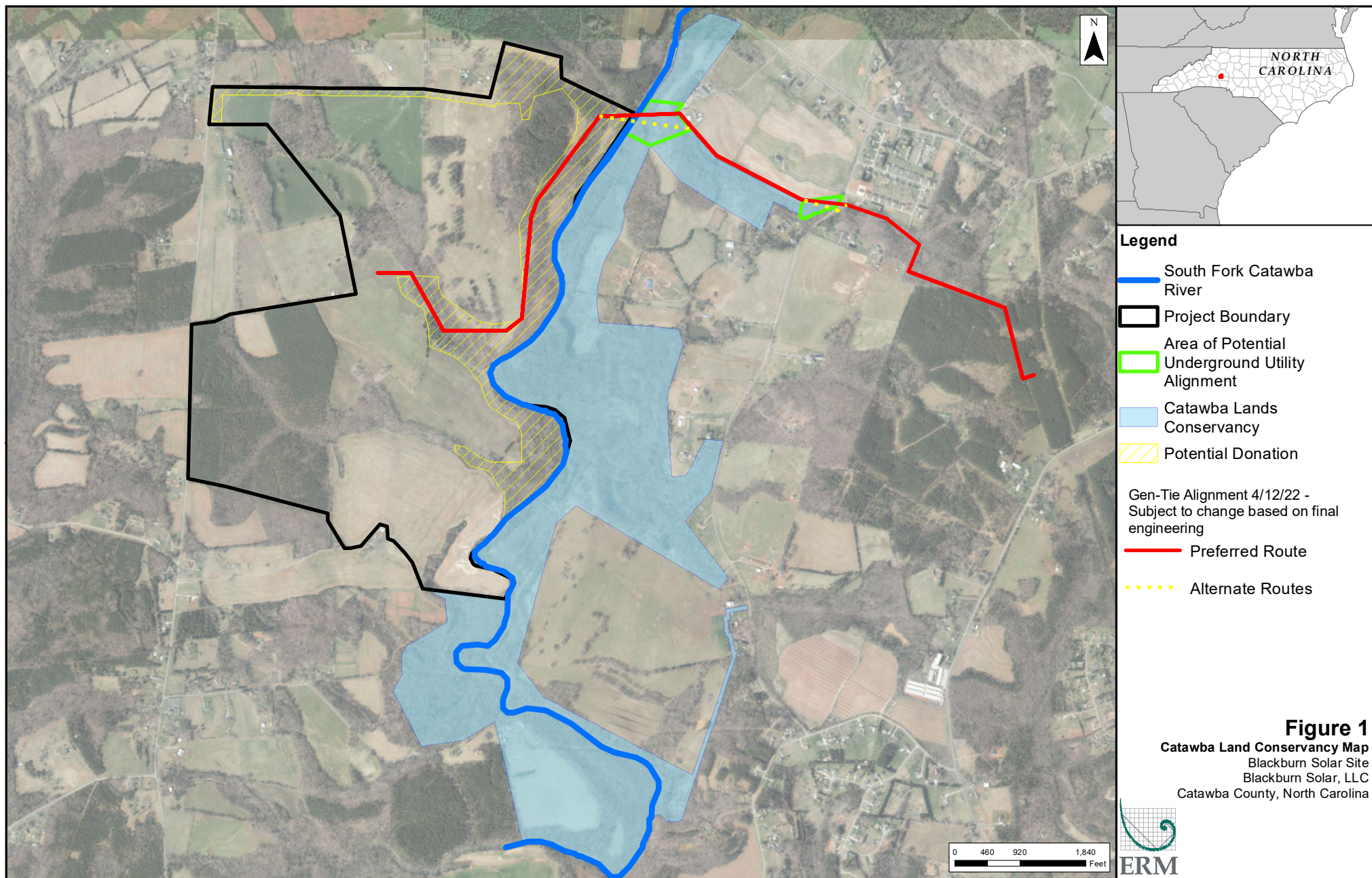
Thank you,



Heath Barefoot
Director – Development

Attachment I

Project Overview Map



Service Layer Credits: Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community; NAD 1983 StatePlane North Carolina FIPS 3200 Feet

Action Item

Staff member: Justin Mercer

Agenda Item 1b) Valle Crucis Conference Center Open Fields Easement Amendment

Restoration Systems, LLC is requesting a termination of 8.54 acres of conservation easement at the Valle Crucis Conference Center in Watauga County.

Background

In 2003 the Natural Heritage Trust Fund (NHTF) awarded a grant in the amount of \$121,550 to the North Carolina Department of Cultural Resources for the purchase of an agricultural conservation easement on approximately 73 acres of the Episcopal Diocese of Western North Carolina (Diocese) Valle Crucis Conference Center's (VCCC) farmland. The project was completed in December 2004 with a conservation easement recorded in favor of the State of North Carolina. As the de facto successor trust fund after the dissolution of the NHTF in 2013, the decision to amend this conservation easement lies with the NCLWF board.

In 2021, Restoration Systems, LLC was awarded a contract by the DEQ Division of Mitigation Services (DMS) to provide compensatory mitigation along Dutch Creek and an unnamed tributary on the VCCC property. Though the existing easement was determined to allow these mitigation activities, the DMS contract requires that all other conservation easements be extinguished in favor of their own conservation easement.

Restoration Systems, LLC, on behalf of the Diocese, requests the release of 8.54 acres from the conservation easement and is offering to reimburse the fund for its investment plus appreciation. While this approach is consistent with a 2002 Board resolution (NCLWF policy RES-006), it falls short of the requirements of a subsequent policy on conservation easement termination (NCLWF policy STW-001).

Committee recommendation

The committee found that this proposal did not clearly meet the criteria outlined in policy STW-001 and unanimously recommend denying the request.

Board action needed

Approve, amend, or deny the committee recommendation and make a recommendation to the Board.

Attachments: Policy, request packet

April 14, 2022

Justin E. Mercer
Stewardship Manager
North Carolina Land and Water Fund
Division of Land and Water Stewardship
NC Dept. of Natural and Cultural Resources
Sent Electronically - justin.mercer@ncdcr.gov

Subject: Partial Release of Valle Crucis Conference Center – Open Fields Conservation Easement for Replacement with a Perpetual Mitigation Conservation Easement

Dear Mr. Mercer,

This letter is to request the North Carolina Land and Water Fund (Fund) release 8.54 acres of the Valle Crucis Conference Center – Open Fields Conservation Easement (Existing Easement) on land owned by The Trustees of the Episcopal Diocese of Western North Carolina (Property Owner) to allow the Episcopal Diocese to deed the released acreage to the State of North Carolina under a mitigation conservation easement, to restore and protect, in perpetuity specific streams, wetlands, and riparian buffer zones. Stream, wetland, and riparian buffer restoration work associated with the mitigation easement will facilitate more environmentally responsible use of the land while promoting the working farmlands, cultural legacy, natural heritage, and scenic beauty of the land -- the intent of the Existing Easement.

Background

The Episcopal Diocese of Western North Carolina (The Episcopal Diocese) is the fee-simple owner of land located at 4721 HWY 194 South, Banner Elk, NC 28604 in Watauga County, North Carolina (PIN 1970-42-4881-000 (the Property)). In 2004, through funding provided by the Natural Heritage Trust Fund, a USDA-NRCS Farmland Protection Program grant, and the Cannon Foundation Inc. (a NC charitable foundation), The Episcopal Diocese deeded the Existing Easement to the State of North Carolina. The Existing Easement and relevant files are provided in Attachment A.

In May of 2020, Restoration Systems (RS) entered into a conservation easement purchase and sale agreement with the Episcopal Diocese as part of a proposal to the State of NC Department of Environmental Quality – Division of Mitigation Services (DEQ-DMS) to provide compensatory mitigation credits by restoring streams, wetlands, and riparian vegetation on the Property and two adjoining parcels not owned by the Episcopal Diocese. In 2021, RS was awarded a contract by the DEQ-DMS to provide the proposed compensatory mitigation (the Project). To fulfill the requirements of the Project, RS must facilitate the acquisition of the mitigation easement to the State of North Carolina over the portion of land associated with mitigation activities, free and clear of any liens or encumbrances.

Mitigation Easement

The current DEQ-DMS mitigation easement template, reviewed by the NC Attorney General, is provided in Attachment B. All DEQ-DMS mitigation easements are held by the State of North Carolina. The purpose of the mitigation easement is to maintain, restore, enhance, construct, create and preserve stream, wetland, and/or riparian resources that contribute to the protection and improvement of water quality,

flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain the permanent easement area in its natural condition; and to prevent any use of the easement area that would significantly impair or interfere with these purposes. This purpose is keenly aligned with that of the Existing Easement. Though, where the Existing Easement falls short, the mitigation easement and associated Project provide a mechanism to improve water quality, flood prevention, fisheries, etc., through the stream, wetland, and riparian buffer restoration work associated with the Project.

As part of RS's due diligence on this matter, we had conversations with the NC State Property Office, the NC Department of Cultural Resources, and the Blue Ridge Conservancy (formally High County Conservancy) and acting easement steward on behalf of the State Property Office. As a contributing funder of the Existing Easement, via the NC Natural Heritage Trust Fund, RS requested the NC Department of Natural and Cultural Resources (DNCR) review the Existing Easement and our Project. RS received a response letter dated December 3, 2021, provided in Attachment B.

Stream and Wetland Restoration Work

Improvement to aquatic and terrestrial habitats associated with the Project, would be achieved by implementing a detailed mitigation plan, reviewed and approved by DEQ-DMS, the US Army Corps of Engineers, NC Division of Water Resources 401 Permitting Branch, and several other federal and state agencies. Furthermore, the detailed plan outlines the success criteria which RS must achieve to fulfill its contract with DEQ-DMS during the required seven years of post-construction monitoring. The following sections briefly discuss the proposed improvements depicted in Figure 1, Attachment C.

Stream & Riparian Buffer Improvements to NC Trout Waters

Project streams would receive a combination of restoration and enhancement via industry-established Best Management Practices. The unnamed tributary from Dutch Creek Rd. to its confluence with Dutch Creek would undergo Priority 1 restoration by constructing a new stream channel with the proper pattern, dimension, and profile for long-term stability and floodplain connection. Constructed stream pools, riffles, and grade control structures would improve habitat for aquatic species instead of the straightened and incised channel that currently exists.

A 305 linear foot section of Dutch Creek would receive substantial enhancement work to repair eroding stream banks and involve installing habitat and grade control structures to improve the channel's dimension, enhancing current and creating additional recreational fishing habitat. Additionally, an engineered ford crossing would replace the current undersized ford crossing, ensuring agricultural machinery can safely cross Dutch Creek with minimal impact to the stream.

Project work would include treating and removing high-priority invasive species, including Japanese knotweed, which has colonized and established large portions of the Dutch Creek understory. Throughout the Project, planting native hardwood and shrub species would occur immediately after construction activities are completed and continue as areas of dense Japanese knotweed are removed to restore appropriate vegetation communities. Furthermore, planting a site-specific native herbaceous seed mix would establish a native seed bank and increase habitat for pollinator species.

Wetland Restoration

The Priority 1 stream restoration would facilitate the restoration of drained hydric soils along the unnamed tributary. Restoration of historic wetlands would improve the surrounding groundwater table, providing resilience during ever-varying climatic conditions. Wetland areas would also be planted in a

native herbaceous seed mix, with shrubs and hardwood trees planted throughout, providing habitat for aquatic, terrestrial, and pollinator species.

Mitigation Easement and Restoration Work Compliance with the Existing Easement

The mitigation easement is more strict than the Conservation Easement in many respects. For instance, under Article II of the Existing Easement (Rights Reserved to Grantor), many allowances would not be acceptable under the mitigation easement. During the development of a Project, RS's standard procedure is to perform detailed surveys and record reviews to locate current or historic infrastructure. In addition, in-depth conversations with the landowner on current and future use to ensure maintenance and land use requirements are not restricted by the mitigation easement are of the utmost importance and occur often, as in this instance with the Project and Property Owner.

Dependence on riparian water for agricultural production is common in NC, especially in the mountain region. Article III, Paragraph M of the Existing Easement addresses water rights: "Grantors shall not transfer, encumber, lease, sell or otherwise separate such water rights from title to the Property itself." The mitigation easement is consistent with these prohibitions and will not require such action. Furthermore, in NC, water rights are owned by the State (General Statute 142-211 (NC GS § 143-211(a)). NC water law was developed using the "riparian doctrine," which entitles a riparian landowner to the natural flow of a stream running through or along their land. The landowner has the right to make "reasonable use" of the watercourse, meaning the landowner may use the water if their use does not interfere with the reasonable use of another downstream riparian landowner. Under the mitigation easement, The Episcopal Diocese may not divert or alter any stream within the conservation easement (Section III, Paragraph L, mitigation easement). RS has proposed a gap between the DOT ROW and the start of the mitigation easement as an emergency source for water if needed.

Regarding adequate drainage for agricultural fields adjacent to Project, during the detailed restoration plan, RS commits to developing a Conservation Plan in coordination with the Blue Ridge Conservancy and Natural Resources Conservation Service (NRCS) and the Property Owner, as detailed in Section 7 of the Existing Easement. The Conservation Plan will account for required agricultural drainage, which will outlet into constructed treatment areas within the Project for treatment, providing additional water quality improvement.

The mitigation easement has no authority with respect to any activity beyond its footprint associated with the Existing Easement, including the construction of additional buildings or roads. Furthermore, Article III, Paragraph K of the Existing Easement requires at least 30 acres of the existing easement area to be kept and maintained as "open, not forested land." Survey and preliminary design work provide that 34.12 acres would remain open, with minimal effect on the scenic view as a band of mature trees line Dutch Creek, and no work is proposed along Highway 194.

North Carolina Land and Water Fund Policy on Mitigation

The Fund's policy manual (March 2022) provides guidance regarding the Fund and mitigation projects (RES-006, page 53). Specifically, the RES-006 states:

*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 [in this case, Restoration Systems]*

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.

As detailed in this letter, we believe the Project meets requirements 1 and 2, and Restoration Systems acknowledges and commits to reimbursing the Fund as required in item 3 of RES-006 and further described in the Fund's Conservation Agreement Amendment Policy (STW-001).

Restoration System's Commitment

To expedite this request, RS acknowledges and commits to the following:

- 1.) A payback to the Fund based on the release of 8.54 acres.
- 2.) Preparation of all legal documents, surveys, and recording fees.
- 3.) Development of a Conservation Plan in coordination with the Blue Ridge Conservancy, NRCS, and Property Owner
- 4.) Coordinate with the Blue Ridge Conservancy and NRCS during the development of the Project's detailed mitigation plan.
- 5.) In coordination with The Episcopal Diocese and the Blue Ridge Conservancy, and to the extent possible, the burying of an existing utility/powerline that runs along the eastern edge of Dutch Creek Road to improve the historic scenic view.

Next Steps

I welcome the opportunity to discuss this matter further. Please let me know how I can best assist in moving our request forward.

Sincerely,



Raymond Holz
Operations Manager, Restoration Systems
(919) 604-9314
rholz@restorationsystems.com

Attachments:

- A.) Exiting Easement background information
- B.) Survey exhibit, Natural and Cultural Resources letter, and mitigation easement template
- C.) Project figures

Endorsed by:



Margaret L. Love
Executive Director
Valle Crucis Conference Center

04/14/2022

Date

Valle Crucis Conference Center – Open Fields Conservation Easement
Request to Release and Replace
April 14, 2022

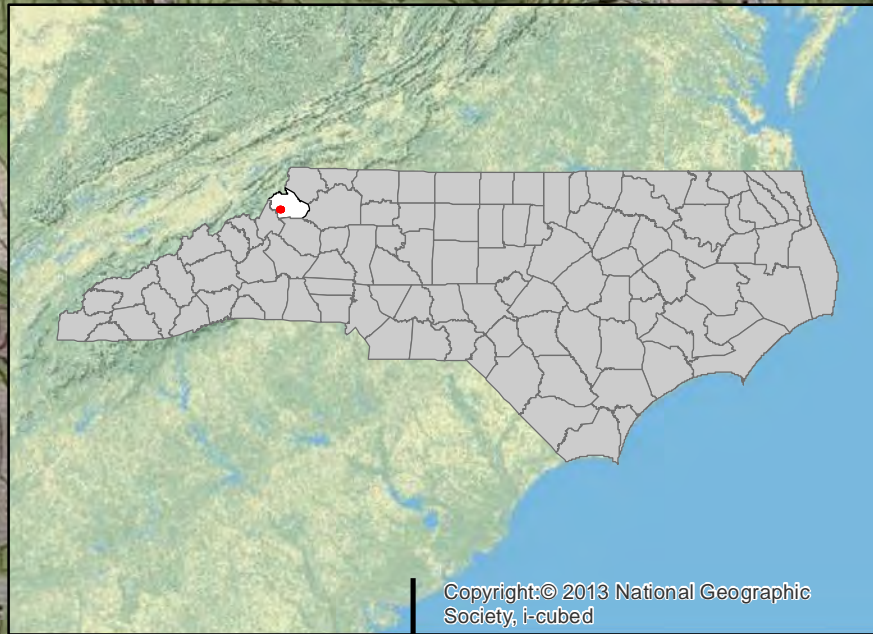
Attachment A: Exiting Easement Background Information

- Existing Easement Grant Application (Funding)
- May 2006, Baseline Documentation Report
 - o Site Maps, Deeds, Recorded Easement, etc.

(Some large attachments removed to reduce file size. Available from NCLWF upon request)

Valle Crucis Conference Center – Open Fields Conservation Easement
Request to Release and Replace
April 14, 2022

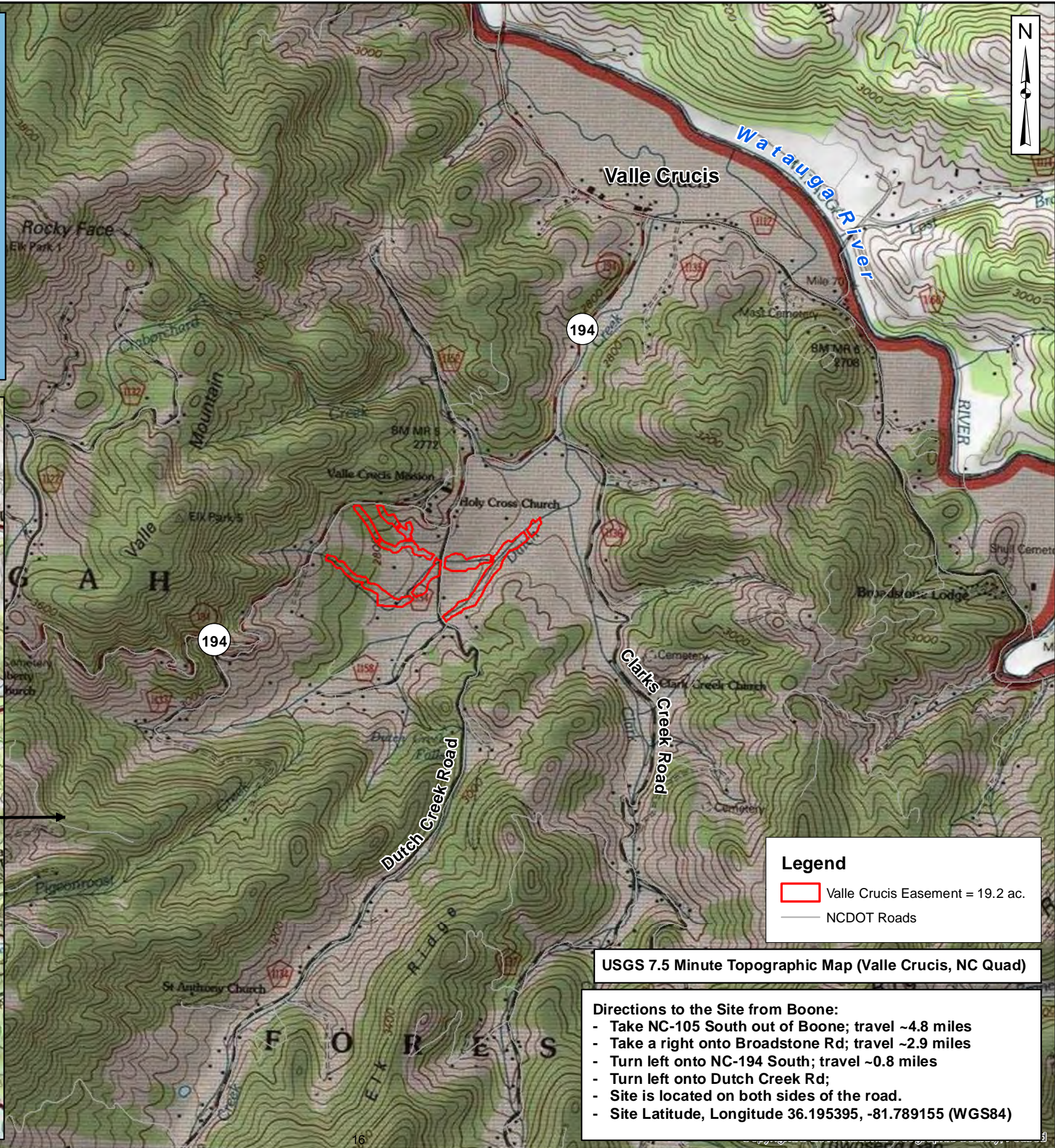
Attachment C: Project Figures



Copyright:© 2013 National Geographic Society, i-cubed



Copyright:© 2013 National Geographic Society, i-cubed



Legend

- Valle Crucis Easement = 19.2 ac.
- NCDOT Roads

USGS 7.5 Minute Topographic Map (Valle Crucis, NC Quad)

Directions to the Site from Boone:

- Take NC-105 South out of Boone; travel ~4.8 miles
- Take a right onto Broadstone Rd; travel ~2.9 miles
- Turn left onto NC-194 South; travel ~0.8 miles
- Turn left onto Dutch Creek Rd;
- Site is located on both sides of the road.
- Site Latitude, Longitude 36.195395, -81.789155 (WGS84)



Prepared for:



Project:

**VALLE CRUCIS
MITIGATION SITE**

Watauga County, NC

Title:

SITE LOCATION

Drawn by:

KRJ

Date:

APR 2021

Scale:

1:20,000

Project No.:

21-001

FIGURE

1



NOTES/REVISIONS

Project:

Valle Crucis
Mitigation Site
Watauga County
North Carolina

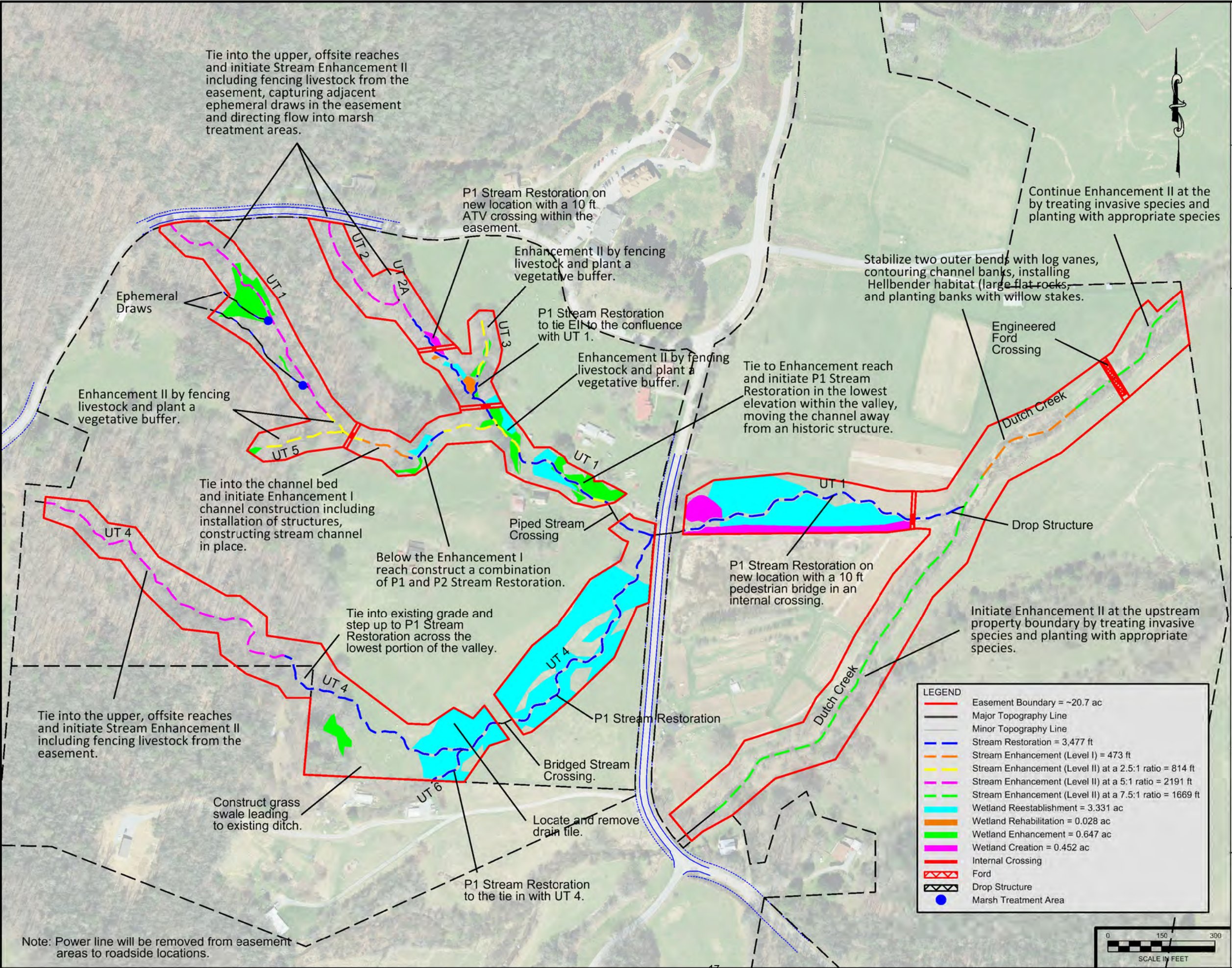
Title:

Proposed
Conditions

Scale:
As Shown
Date:
Nov 2021
Project No.:
21-018

FIGURE NO.

1



Restoration Program Policies:

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

Effective Date

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



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 the protection of natural heritage, historic and cultural resources as well as to buffer military bases. In addition, with the dissolution of the Natural Heritage Trust Fund (NHTF) in 2013, the North Carolina Land and Water Fund became the de facto appointed body for matters that would have gone before the NHTF in the past. Therefore, this document pertains to changes to conservation agreements initially entered into by either of the aforementioned funds.

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

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

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



level.

2. *Other amendments* – All other amendments to language not covered under section I.A.1 must be taken to the NCLWF Board for consideration per the guidance in section II.

B. Amendments to boundary – Changes to the spatial boundary of an agreement.

1. *Amendments to accommodate public works projects* (i.e. roads, bridges, sewer and water lines or associated infrastructure) may be approved at staff level if the following conditions are met:
 - a. The amendment would affect less than 1 acre or 5% of the easement area, whichever is smaller.
 - b. The project would be perpendicular or minimal distance parallel to surface water if any riparian buffers are affected.
2. *Other boundary amendments* – All other amendments to the boundary not covered under section I.B.1 must be taken to the NCLWF Board for consideration per the guidance in section II.

II. **Major amendments** – All amendments not explicitly covered above will be considered by the Board and must be affirmed by a two-thirds vote in order to pass.

- A. Public works projects – Amendments to accommodate public works projects that are not covered above may be adopted by the NCLWF Board.
- B. Public Drinking Water Supply Reservoir – After the Record of Decision has been issued (final location has been permitted) an easement or portions of an easement may be amended by the NCLWF Board for development of a public drinking water supply reservoir.
- C. Other Circumstances – All proposals for amendment of easements for circumstances not covered above must meet the following criteria:
 1. Clearly serve the public interest and provide a public or community benefit
 2. Have a net beneficial effect on the relevant conservation values protected by the easement
 3. Not result in private benefit other than the benefit inherent to the conservation agreement
 4. Must be consistent with the conservation purpose(s) and intent of the easement
 5. Must be consistent with the documented intent of the donor(s), other grantors and any direct funding source
 6. Demonstrate that no practicable alternatives exist and that the impacts have been minimized

III. **Approved amendment requirements** – The following outlines the expectations for approved amendments:

- A. Compensation – The NCLWF must be made whole from any loss of monetary or conservation



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

Funds reimbursed to NCLWF from an easement amendment will be returned to the appropriate program area.

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

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

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

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

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

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

Action Item

Staff member(s): Justin Mercer

Agenda Item 1c) 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 2019, the NCLWF Board established the Retired Principal Policy (STW-006). This policy allows for the reallocation of retired principal from the Endowment Fund that is realized when a property under State-held conservation easement is transferred to State ownership. These funds can be reallocated to another project that does not have monitoring funds or to an under-funded State-held conservation easement. This has allowed NCLWF to opportunistically address unfunded easement stewardship, however, it has not amounted to enough funding to take a more strategic approach.

Based on monitoring invoices for the past five years, we estimate needing \$500/property for annual monitoring. Using our preferred strategy of having local partners monitor our easements, it would cost \$206,000 per year to monitor the remaining 412 easements, which would require a \$5.2 million deposit to the endowment.

Currently, NCLWF has \$4.8 million in unspent license plate revenue and unallocated/returned grant funds.

Committee recommendation

The committee unanimously recommended approving \$2.5 million be deposited into the endowment to address unfunded monitoring needs and up to an additional \$3 million over the next three years with a goal of funding all unmet monitoring needs.

Board action needed

Approve, amend, or deny the committee recommendation and make a recommendation to the Board.

Action Item

Staff member(s): Steve Bevington

Agenda Item 2a) Request to modify project scope; 2021-408 Haywood Waterways Association - Chestnut Park, Hominy Cr Restoration

Background: In September 2021, Haywood Waterways Association was awarded \$177,910 for the restoration of 2,270 linear feet of Hominy Creek in near Canton, NC. Hominy Creek is classified as wild trout water by the NC Wildlife Resources Commission. The project is partially on, and partial adjacent to, Chestnut Park which was acquired by NCLWF (2019-039 – Canton Motorsports) and is stewarded by the Southern Appalachian Highlands Conservancy. One portion of the streambank is on property owned by the Town of Canton. The scope of work included 1,130 of stream restoration and 1,140 of stream enhancement (invasive plant control). Stream restoration was to be done on the upstream half of the project area. This project is not yet under contract.

The Town of Canton is currently developing the parcel on the upstream end of the project area for outdoor recreation and as a public access area to Hominy Creek.

Staff has been notified by Haywood Waterways Association that total projects funds are not sufficient to cover both the upper restoration reach and the lower reach invasive species removal work.

Request: Haywood Waterways Association has requested that project length be revised from 2,270 linear feet to 1,130 linear feet. The amount of protected buffer (1.3 acres) would remain the same as the stream length to be dropped from the project is already under a conservation easement in Chestnut Park. The project would not complete the stream enhancement (invasive plant removal) along the bottom half of the project area as proposed in the 2021 grant application. Instead, the applicant will work on coordinating with the Town of Canton to provide optimal stream access to Hominy Creek.

A summary of requested contract changes is presented in the table below:

Contract feature	Existing Contract	Proposed Contract	Percent of original scope
Stream Restoration	1,130 linear feet	1,130 linear feet	100%
Stream Enhancement	1,140 linear feet	0 linear feet	0%
Total Project Length	2,270 linear feet	1,130 linear feet	50%
Buffer area protected	1.3 acres	1.3 acres	100%
NCLWF Award	\$117,910	\$117,910	100%
Match	\$123,695	\$123,695	100%
Total costs	\$301,605	\$301,605	100%

Staff comments: While the elimination of 50% of the stream length is a significant change from what was presented the application, the enhancement work planned for this portion of the stream was a relatively small portion of the project in terms of environmental uplift. As the staff responsible for developing the project and the application to NCLWF is no longer with Haywood Waterways Association, we are unable to determine exactly how funds were to be distributed between the restoration and enhancement portions of the project. However, with restoration activities being more involved than enhancement activities likely three fourths or more of the original budget would be allocated to the work still being proposed by Haywood Waterway Association.

Staff also recognizes that, under new leadership, Haywood Waterways Association has cooperated with the Town of Canton's efforts to design a waterfront park in the project area that will extend recreation opportunities along Harmony Creek while protecting the restored natural resources of the stream and riparian area.

Staff spoke in support of this scope reduction to the Committee as much of the water quality value will still be accomplished and greater recreational opportunities will be realized. In staff's opinion, the loss in natural resource value of this project will be offset by significant public benefits now proposed on the Town of Canton portion of the project area. Had this project been proposed in this modified form, it likely would have been funded as the overall costs are still good (\$157/linear foot) and the award is well matched at 41%.

Committee recommendation

The committee unanimously recommended approving the request to modify the scope of project 2021-408, Haywood Waterways Association, Chestnut Park - Hominy Cr Restoration.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Decision Matrix

Decision matrix form:

Project Number: 2021-408	Project Name: Haywood Waterways Association - Chestnut Park, Hominy Cr		Date of Request: 4/27/22
REQUIRED APPROVALS			
Criteria	Executive Director	Chairman	Full Board
Change in scope outputs*	Less than 10%	10% to 25%	> 25%
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%
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	
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
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:			
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget).			
<p>The Haywood Waterways Association has requested that project length has been revised from 2,270 linear feet to 1,130 linear feet. The amount of protected buffer (1.3 acres) would remain the same as the stream length to be dropped from the project is already under a conservation easement. The project would not complete the stream enhancement (invasive plant removal) along the bottom half of the project area as proposed in the 2021 grant application. Instead, the applicant will work on coordinating with the Town of Canton to provide optimal stream access to Hominy Creek.</p>			
Program Staff Recommendation:			
<p>Staff supports this scope reduction as the stream length dropped was an enhancement portion of the project and much of the water quality value will still be accomplished. The small loss in natural resource value of this project will be offset by significant public benefits now proposed to be included. Had this project been proposed as now modified it most likely would have still been funded as the overall costs are still good (\$157/lf) and is well matched at 41%.</p>			

Action Item

Staff member(s): Steve Bevington

Agenda Item 2b) Request to modify project scope; 2019-414 PCC - Black Cr Watershed Dams

Background: In September 2019, Piedmont Conservation Council was awarded \$400,000 to remove three eroding dams (one that has previously been breached) and restore and enhance 2,070 linear feet of Black Creek in Wake County. The scope of work also included 2.3 acres of floodplain wetland restoration, 3.1 acres of floodplain enhancement, retrofitting of three stormwater outfall areas and the development of a regenerative stormwater conveyance design for an ephemeral portion of the stream channel at the upstream end of the project, and the permanent protection of 25 acres of land.

The project is currently under contract, design work has been completed and permits have been approved after review by the Town of Cary.

Staff has been notified by the Piedmont Conservation Council that, as bids for construction work came in higher than anticipated, total projects funds are not sufficient to complete the entire project scope.

Request: Piedmont Conservation Council has requested that project scope be modified to allow the uppermost and smallest impoundment to length to remain in place. This would result in the project accomplishing 170 linear feet less of stream restoration and 0.4 acres less of wetland restoration. Funds presently allotted to this work would be used to complete other restoration construction. Unspent design and administrative funds would also be used to cover a portion of the shortfall in construction funds.

A summary of requested contract changes is presented in the table below:

Contract feature	Existing Contract	Proposed Contract	Percent of original scope
Stream Restoration	2,070 linear feet	1,900 linear feet	92%
Wetland Restoration	2.3 acres	1.9 acres	83%
Floodplain Restoration	1.3 acres	1.3 acres	100%
Regenerative Conveyance	350 linear feet	350 linear feet	100%
Outfall stabilization	3	3	100%
Easement area	25 acres	25 acres	100%
NCLWF Award	\$400,000	\$400,000	100%
Match	\$990,000	\$990,000	100%
Total costs	\$1,390,000	\$1,390,000	100%

Staff comments: Aside from the proposed design change to leave one impoundment in place, the requested scope changes are not large. Ordinarily, a request to reduce the linear feet of a million-dollar project by 170 linear feet with the reduction in less than half an acre of restored wetland would not rise to the level of Committee and Board review. Such a request would typically be reviewed by the Executive Director and, perhaps, the Board Chair (depending on exact percentage of changes). However, as this project was presented with the removal of two intact dams, this design change seemed important enough to discuss with the Board.

Staff spoke in support of this scope reduction as much of the water quality value will still be accomplished and all of the severely eroding areas of the project area would still be fully addressed. The remaining impoundment is the uppermost dam in the watershed and at a point where the stream becomes intermittent and so presents little impact to the passage of aquatic organisms. In staff's opinion, the change in natural resource uplift will be small and great improvements to the watershed will still be achieved.

Committee recommendation

The committee unanimously recommended approving the request to modify the scope of project 2019-414, PCC - Black Cr Watershed Dams (Williams, Browning) with the condition that \$50,000 in additional match be added to the project budget.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Decision Matrix

Decision matrix form:

Project Number: 2019-414	Project Name: Piedmont Conservation Council, Black Creek Watershed Dams		Date of Request: 3/14/22
	REQUIRED APPROVALS		
Criteria	Executive Director	Chairman	Full Board
			Requested Change
Change in scope outputs*	Less than 10%	10% to 25%	> 25%
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%
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	
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
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:			
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget).			
The Piedmont Conservation Council has proposed minor changes to project length but a significant change in design with one impoundment that was to be removed to be left in place. This request was the result of construction costs being higher than expected once bid packages were opened. Restored stream length would decrease by 170 linear feet (8% change) and restored wetlands would decrease by 0.4 acres (17% change). Total easement area of 25 acres would remain unchanged but one dam originally proposed to be removed would remain in place.			
Program Staff Recommendation:			
Staff supports this request as removal of the largest and most downstream dam would still take place, all sediment sources are still to be addressed, and, the conservation value of the 25 acre easement will still be accomplished.			

Action Item

Staff member(s): Steve Bevington

Agenda Item 2c) Request to modify project scope; 2019-811 The Conservation Fund - Matthew & Florence Recovery

Background: In September 2019, The Conservation Fund was awarded \$25,000 as a planning grant to develop a report on how best to direct federal flood relief funds to communities in the Tar or Neuse watersheds in securing floodplain easements in locations key to flood prevention. The reports would assist two communities in the hurricane Matthew and Florence recovery areas efficiently address water quality and flooding problems that may be expected due to severe weather events and to help local leaders secure Federal emergency disaster funds to achieve long term and sustainable answers to flooding problems. This planning effort was to be matched with a distribution of \$500,000 from the U.S. Natural Resource Conservation Service (NRCS).

The contract for this grant expired January 1, 2022, but The Conservation Fund did request and extension of this contract on the last day of the contract period.

The Conservation Fund has discovered that NRCS funds would not be available in a time frame compatible with the grant contract. However, near the end of the contract period a similar but different opportunity appeared to work with NC State University's Coastal Dynamics Lab to develop a report to inform future conservation and restoration floodplains in the general project area.

Request and Revised Scope of Work

The Conservation Fund proposes to contract with NC State University's Coastal Dynamics Lab to develop a Floodprint to inform future conservation and restoration of the Cherry Hospital property. (A substantial amount of the property is in the floodplain and has been impacted by Hurricanes Fran, Floyd, Mathew, and other storms.)

The Coastal Dynamics Lab would identify:

- Flood risks on the Cherry Hospital properties
- Opportunities to protect and restore the Little River and Neuse River floodplains to store water and reduce flooding downstream
- Potential sites for nature-based stormwater solutions
- Potential corridor for the Mountains to Sea Trail
- Potential restoration of the Cherry Hospital water treatment works
- Potential relocation of the Goldsboro raw water pump station on the Cherry Hospital property (Goldsboro wants to increase the resiliency of its raw water intake on the Neuse and its drinking water treatment and distribution system)

- Opportunities to partner with Goldsboro, Wayne County, NC State Parks, ENC Sentinel Landscape Partnership and US Air Force on conservation, restoration, flood storage and outdoor recreation (ENC Sentinel Landscape Partnership is seeking a multi-year REPI Challenge grant from US Dept of Defense to increase resiliency at all major installations in 2022)

Potential new match:

The original match proposed is not available. If successful, the project could result in protection of the State of NC's Cherry Hospital property, which is about 625 acres. Wayne County values it at \$1,380,000. The Floodprint will inform potential permanent conservation & restoration of the property, though the protection would not occur during the timeframe of the project and will result in no match being considered as part of this project.

State of NC owns other adjoining properties including Center for Environmental Farming Systems (operated cooperatively by NCSU, NCA&T and NCDA).

Preferred schedule:

NC State would like to start work in June and complete the Floodprint in August 2022.

Staff comments: Generally, staff would not recommend the conversion of a required match to an expected match (one not required for reimbursement of project costs). However, as this small planning effort is directly related to program goals of the Acquisition Program, Restoration Program, and the future Flood Risk Reduction Program staff sees important value in this planning effort as now proposed. It seems likely that the final report completed under this modified scope would not only provide as a value guide for the conservation and restoration of floodplains in flood-prone areas but may also result in the conservation of a large tract of floodplain.

Staff recommended that the Committee look favorably on this unique request.

Committee recommendation

The committee unanimously recommended to deny the request to modify the scope of project 2019-811 The Conservation Fund - Matthew & Florence Recovery.

Board action needed

Approve, deny, or amend the committee recommendation.

Attachments: Decision Matrix

Decision matrix form:

Project Number: 2019-811	Project Name: The Conservation Fund - Matthew & Florence Recovery		Date of Request: 3/14/22	
REQUIRED APPROVALS				
Criteria	Executive Director	Chairman	Full Board	Requested Change
Change in scope outputs*	Less than 10%	10% to 25%	> 25%	
Change in match % (Calculations page 2) **	Less than 10%	10% to 25%	> 25%	Remove match
Change in unit cost (for example, \$/acre, \$/LF, \$/gal)	Less than 10%	10% to 25%	> 25%	
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		
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	
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:				
Explanation of request and impacts to natural or cultural resources (Attach request, original budget and revised budget).				
The Conservation Fund proposes to contract with NC State University's Coastal Dynamics Lab to develop a Floodprint to inform future conservation and restoration of the Cherry Hospital property and to be released from the required match.				
Program Staff Recommendation:				
Given relevance to Flood Risk Redcution, this is a value effort that may pay off with large water quality and flood releief benefits				

Action Item**Staff member(s): Steve Bevington**

Agenda Item 3) Flood Risk Reduction Committee Report and Recommendations

Background: NCLWF was appropriated \$15 million in the fiscal year 2021-22 State budget for projects that protect and restore floodplains and wetlands for the purpose of storing water, reducing flooding, improving water quality, providing wildlife and aquatic habitat, and providing recreational opportunities. These funds were in addition to appropriations made for award to projects under standing NCLWF funding areas.

NCLWF Chair Wilson convened a standing committee, the Flood Risk Reduction Committee, to establish and chart the course of NCLWF's new charge to identify and fund projects to reduce flood risks in North Carolina.

The Committee was comprised of NCLWF Board members Browning, Grissom, Kumor, Rusher, Walser, and Wilson with Browning acting as Chair. This committee met six times between January 13 and April 27 of this year. The committee heard from NCLWF staff, university, nonprofit, and agency flooding experts, and NCLWF partners. Two online surveys we conducted and collected. More than 60 respondents contributed ideas on the scope of this new program, guiding principles, and the application review process.

Committee recommendation

The Flood Risk Reduction Committee recommends that the Board approve the attached versions of the following three documents that describe a flood risk reduction program at NCLWF.

- 1) Draft Flood Risk Reduction Program Guidelines
- 2) Draft Flood Risk Reduction Application Rating System
- 3) Draft Flood Risk Reduction Application Review Process and Timeline

Board Action Needed

Approve, deny, or amend the recommendation of the Flood Risk Reduction Committee to establish a NCLWF Flood Risk Reduction Program and to instruct staff to implement the program as directed in the committee documents.

Attached: Draft Flood Risk Reduction Program Guidelines, Draft Flood Risk Reduction Application Rating System, and Draft Flood Risk Reduction Application Review Process and Timeline

Draft Flood Risk Reduction Program Guidelines

The North Carolina Land and Water Fund was appropriated \$15 million in the FY 2021-22 State budget for projects that protect and restore floodplains and wetlands for the purpose of storing water, reducing flooding, improving water quality, providing wildlife and aquatic habitat, and providing recreational opportunities.

Program Purposes

The primary purpose of the program is to reduce flood risks through the design, implementation, and preservation of nature-based infrastructure. Additional consideration will be given to projects that also deliver other ecosystem services or public benefits, demonstrate readiness to begin implementation, and benefit economically distressed communities.

Eligible Applicants

Counties, municipalities, nonprofit corporations, and other State agencies are eligible to apply for funding through this program.

Eligible Practices

The following practices are eligible under this program:

- Acquiring land, or an interest in land, for purposes including:
 - Enhancing or restoring the flood attenuation capacity of floodplains, wetlands, and areas of the natural landscape that contribute to their function.
 - Storing flood waters through long-term land management agreements, such as water farming.
 - Participating in floodplain buyout programs as a first step in enhancing ecosystem services.
- Restoring, enhancing, constructing, or repairing floodplains, shorelines, or wetlands including:
 - Design and construction of nature-based infrastructure to retain and/or detain flood waters.
 - Design and construction of projects to reconnect streams to the full extent of their original floodplains.
 - Restoration of previously converted or developed land back to a natural land cover.
 - Redevelopment of developed floodplains into waterfront parks or open spaces that are compatible with flooding and flood water storage, and that provide opportunities for community engagement, recreation and/or river access.

Ineligible Practices

The following practices are ineligible under this program:

- Removing stream debris other than that which is incidental to other practices. Funding for such projects may be available from the Streamflow Rehabilitation Assistance Program through the NC Department of Agriculture and/or stream debris removal funds available through the NC Department of Environmental Quality.
- Repairing or improving transportation infrastructure as the primary project objective. Funding for such projects may be available from the Transportation Infrastructure Resiliency Fund through the NC Division of Emergency Management.
- Constructing or repairing dams, levees or other structures designed to retain waters within a natural stream channel. Funding for such projects may be available from dam repair funds through NC Department of Agriculture's Agricultural Water Resources Assistance Program and the NC Department of Environmental Quality Division of Dam Safety.

Activities that are required as a condition of permit approval or requirement to address Notice of Violation or that satisfy compensatory mitigation requirements under 33 USC § 1344 or G.S. 143-214.11 are also ineligible for award from this program.

Draft Flood Risk Reduction Application Rating System

Effectiveness/Measurable Outcomes (50%)

- A. Effectiveness of project - amount of flood water stored. **(maximum 25 points)**
1. Enhancement of flood water storage.
Average depth of additional water retained (feet) x 4.0 = **calculated points up to 10**
 2. Preservation and/or restoration of floodplains and/or wetlands.
Percent of project site as floodplain and/or wetland x 0.1 = **calculated points up to 10**
 3. Project scale.
Floodwater storage area (acres) x 0.05 = **calculated points up to 5**
- B. Project targets a known flooding hazard area. **(maximum 15 points)**
1. Project will reduce frequency and/or peak elevation of floods at a flood-prone area.
Only the highest of the following categories will receive points.
 - a. Provides documentation that the project will reduce the frequency and/or peak elevation of floods at a flood-prone location: **10 pts.**
 - b. Provides documentation that the project will contribute to the reduced frequency and/or peak elevation of floods at a flood-prone location: **5 pts.**
 - c. No documentation provided that the project will contribute to the reduced frequency and/or peak elevation of floods at a flood prone location: **0 pts.**
 2. Project location has been selected to achieve flood risk reduction for a flood-prone area. Only the highest of the following categories will receive points.
 - a. Provides documentation that the project is located adjacent to or immediately upstream of a flood-prone area: **5 pts.**
 - b. Provides documentation that the project is located one mile or less upstream of a known flood-prone area: **2 pts.**
 - c. The project is not located within one mile of a known flood-prone area: **0 pts.**
- C. Consistency with a flood risk reduction or flood resiliency plan of a federal, state, or local government agency. Only the highest of the following categories will receive points.
(maximum 5 points)
1. Proposed project is specifically mentioned in a comprehensive federal, state or local government flood risk reduction or flood resiliency plan: **5 pts.**
 2. Proposed project targets a flood-prone or flood-damaged area specifically mentioned in a comprehensive federal, state or local government flood risk reduction or flood resiliency plan: **4 pts.**
 3. Proposed project type is mentioned in a comprehensive federal, state or local government flood risk reduction or flood resiliency plan: **2 pts.**
 4. Proposed project or type is not mentioned in a comprehensive federal, state or local government flood risk reduction or flood resiliency plan: **0 pts.**

- D. Project team's demonstrated ability to implement the project and document results. Only the highest of the following categories will receive points. **(maximum 5 points)**
1. Project team has completed numerous successful flood attenuation projects: **5 pts.**
 2. Project team has completed a limited number of successful flood attenuation projects or has some experience with similar project types: **3 pts.**
 3. Project team has little to no experience with successful projects to attenuate flooding: **0 pts.**

Resource Significance (15%) – Natural Resources

- A. Improvements to water quality, wildlife and/or aquatic habitat. Only the highest of the following categories will receive points. **(maximum 5 points)**
1. Project is located on a 303(d) listed stream, or a stream classified by DWQ as ORW, HQW, wild trout waters, Water Supply I, Water Supply II, or Water Supply Critical Area, and/or the project area is adjacent to unique or exceptional wetlands as described by the NC Division of Coastal Management or NC Division of Water Resources: **5 pts.**
 2. Project is located on a stream classified by DWQ as nutrient sensitive, Water Supply III, Water Supply IV, and/or Inland Primary Nursery Areas identified by the NC Wildlife Resources Commission: **3 pts.**
 3. Project area is within one mile upstream of any designated waters as described above: **1 pt.**
 4. Project area is greater one mile from of any designated waters as described above: **0 pts.**
- B. Contribution to protection of an NC Natural Heritage Program natural area. Only the highest of the following categories will receive points. **(maximum 5 points)**
1. Project enhances or protects a terrestrial natural area or aquatic habitat rated as Exceptional by the Natural Heritage Program: **5 pts.**
 2. Project enhances or protects a terrestrial natural area or aquatic habitat rated as Very High by the Natural Heritage Program: **4 pts.**
 3. Project enhances or protects a terrestrial natural area or aquatic habitat rated as High by the Natural Heritage Program: **3 pts.**
 4. Project enhances or protects a terrestrial natural area or aquatic habitat rated as Moderate by the Natural Heritage Program: **2 pts.**
 5. Project enhances or protects at least a portion of a terrestrial or aquatic element occurrence: **1 pt.**
 6. Project does not enhance or protect an element occurrence: **0 pts.**

- C. Proximity to dedicated nature preserves or lands that have a permanent conservation agreement in place for the purpose of protecting natural communities on floodplains or on parcels that are primarily wetlands or, borders parcels associated with significant historic sites. Only the highest of the following categories will receive points. **(maximum 5 points)**
1. Project area is adjacent to a dedicated nature preserve or with lands that have a permanent conservation or historic preservation agreement in place: **5 pts.**
 2. Project area is within one mile of a dedicated nature preserve or lands that have a permanent conservation or historic preservation agreement in place: **2 pts.**
 3. Project area is greater than one mile from a dedicated nature preserve or lands that have a permanent conservation or historic preservation agreement in place: **0 pts.**

Other Public Benefits (10%)

- A. Recreational uses and public access. Only the highest of the following categories will receive points. **(maximum 6 points)**
1. Within five years, project area will be open to public use most days of the year and has amenities to facilitate use (e.g. regular hours, parking area, information kiosks, maintained trails, boat access, camping sites or platforms): **6 pts.**
 2. Project area will be accessible from public roads and open to public use on regular basis but without amenities to facilitate use: **4 pts.**
 3. Project area will be accessible on a limited basis: **2 pts.**
 4. No public access: **0 pts.**
- B. Public or scientific education. **(maximum 2 points)**
1. Part of an organized educational effort open to public or educational institutions that includes active promotional outreach (i.e. website, signage at site): **2 pts.**
 2. No educational component: **0 pts.**
- C. Community enhancement (sense of place, safety, shared common space, etc.). **(maximum 2 points)**
1. Provides clear community benefits such as unique cultural significance, increased tourism, economic promotion, job creation, and improved quality of life: **2 pts.**
 2. Provides limited community benefits such as unique cultural significance, increased tourism, economic promotion, job creation, and improved quality of life: **0 pts.**

Readiness (10%)

- A. Project lands or landowner agreements are secured. Only the highest of the following categories will receive points. **(maximum 5 points)**
1. All project lands or landowner agreements are secured: **5 pts.**
 2. Majority of project lands or landowner agreements are secured: **3 pts.**
 3. Some project lands or landowner agreements are secured: **1 pt.**
 4. No project lands or landowner agreements are secured: **0 pts.**
- B. Matching resources are secured. **(maximum 5 points)**
1. Percent of match secured/committed x 0.05 = **calculated points up to 5**

Value (15%)

Only the highest of sections A or B below will be awarded points.

A. Matching Resources. **(maximum 10 points)**

Matching resources will be given a value based on the percentage and source of match. Any fraction in the final total will be rounded up. Calculated points based on the following multipliers:

- Cash, nonprofit & private funds, bargain sale and donated easements = % of total x 0.11
- Federal and local government funds = % of total x 0.09
- Other State funds = % of total x 0.07

Matching value example: In this example, the request is for \$1,000,000 from NCLWF with matching resources of \$750,000 cash from a land trust and \$750,000 from a federal flood abatement grant. As \$750,000 is 30% of the project total, the table below is used to illustrate calculation of a match score.

Match source	Match (%)	x Multiplier	Points
Cash / nonprofit / private funds/bargain sale / donated easements			
	30%	0.11	3.3
Federal / local government funds			
	30%	0.09	2.7
Other State funds			
	0%	0.07	0
TOTAL			6

Or

B. Investment in Economically Distressed Communities. Only the highest of the following categories will receive points.

1. Project is within, or addresses flood risk of, a community in a Tier 1 distressed county as defined by the NC Department of Commerce and an economically distressed Opportunity Zone (State-nominated, federally-recognized): **10 pts.**
2. Project is within, or addresses flood risk of, a community in a Tier 1 distressed county as defined by the NC Department of Commerce or an economically distressed Opportunity Zone (State-nominated, federally-recognized): **5 pts.**
3. Project is not within a Tier 1 distressed county or an Opportunity Zone as described above: **0 pts.**

C. Cost per acre. Total project cost (including all costs associated with any land or land agreement acquisition, design, permitting, construction, construction contingency, construction observation, monitoring, maintenance, stewardship, project administration and other project costs) divided by the project area (in acres) that is directly involved in flood risk reduction (**maximum 5 points**) See table below.

TOTAL PROJECT COST PER ACRE

<i>Total Cost / Acre</i>	<i>Score</i>
Up to \$10,000	5
\$10,000 to \$20,000	4
\$20,000 to \$40,000	3
\$40,000 to \$60,000	2
\$60,000 to \$100,000	1
Greater than \$100,000	0

Proposed Flood Risk Reduction application and review schedule

Develop and publish a 2-page Letter of Interest (LOI) form	June 1
Provide information sessions on the new program	June 6
Open LOI period of two months with deadline of	July 31
Review LOIs and provide feedback	August 26
Pre-application meeting with applicants	August 31
Develop and publish full application materials	September 1
Open application period of two months with a deadline of	October 31
Reviews and scores of applications complete	January 13
FRRC application review	January 22
Board award meeting	March 15

Informational Item

Staff member: Justin Mercer

Agenda Item: 4) Stewardship Report

Staff will present 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 needed on this informational item.

Action Item

Staff member: Justin Mercer

Agenda Item: 5) 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 \$398k from March 2021 to March 2022, ending the past 12-month period with \$2.78 million in investment income.
- The 36-month total average value of the Stewardship Endowment is \$5.9 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 \$236,170 in FY22-23.
- Up to \$139,094 from 9 Acquisition projects should be transferred to the Endowment principal.
- If approved by the Board, up to \$2.5 million from available funds should be transferred to the Endowment principal.
- Up to \$206,170 should be withdrawn from investment income to fund stewardship spending for FY22-23.
- The Endowment Fund is currently well balanced. Any transfers should be constructed in a way that maintains that balance.

Board actions needed:

1. Approve, not approve, or amend the staff recommendation to authorize FY22-23 stewardship spending up to \$236,170 for monitoring contracts, management awards, and other stewardship operating costs.
2. Approve, not approve, or amend the staff recommendation to deposit up to \$139,094 into the Endowment principal and withdraw up to \$206,170 investment income to fund program expenses.
3. Approve, not approve, or amend the recommendation to deposit up to an additional \$2.5 million in available funds into the Endowment principal.

4. 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, 2022

Chart 1. Monthly Total Value March 2021 – March 2022, in millions

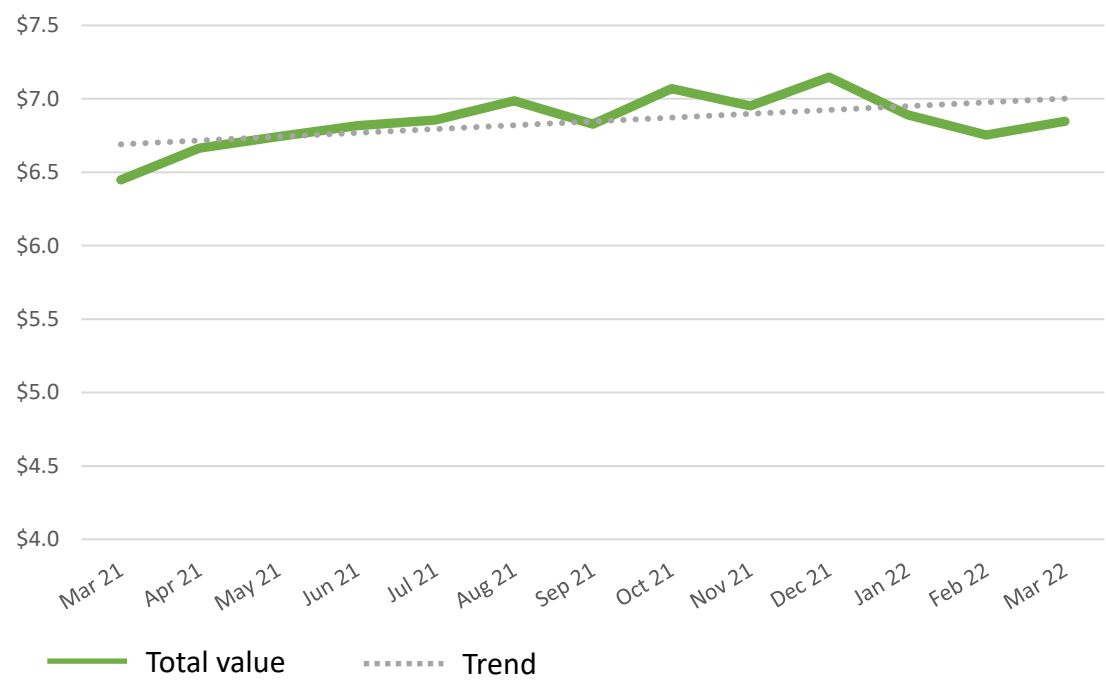


Chart 2. 36-Month Total Value, in millions

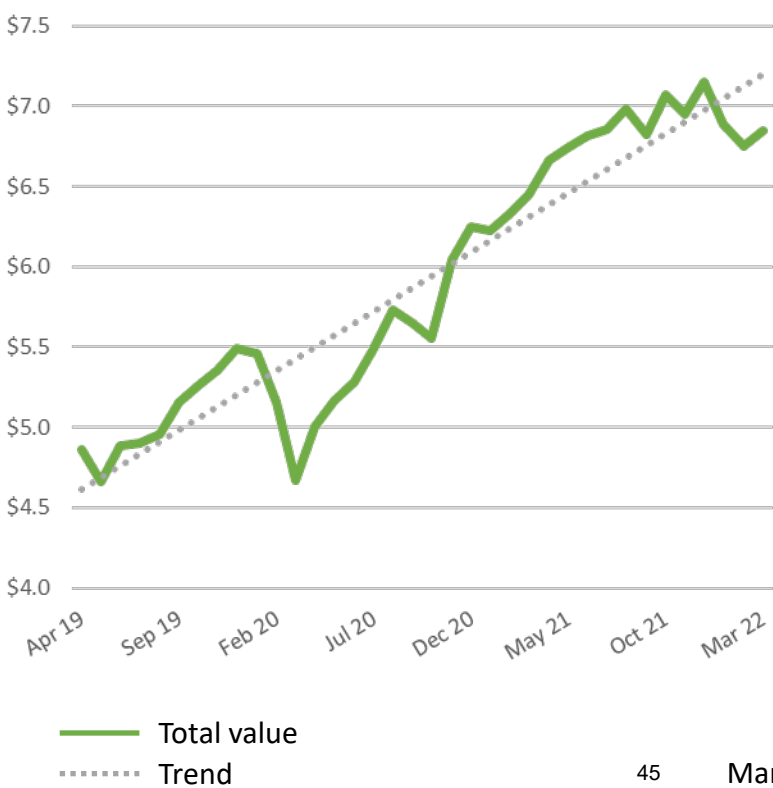
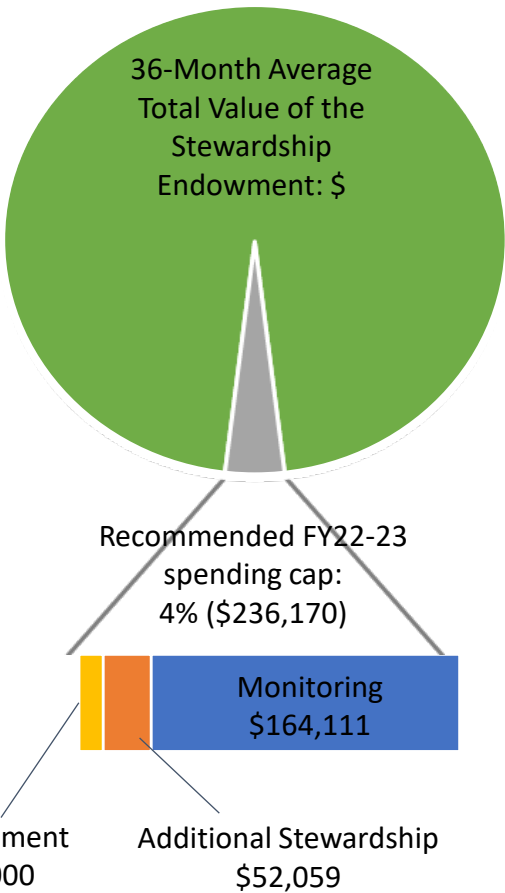


Chart 3. Proposed Endowment Cap



Stewardship Endowment Report, continued

Table 1. Stewardship Commitments

Cash reserve	\$30,000
Monitoring expenses	(\$164,111)
Management funds	(\$20,000)
Additional stewardship expenses	(\$52,059)
Amount to withdraw	\$206,170
Principal to add for closed projects	\$139,094

Chart 4. Proposed (Target) Balance Allocations per Deposit Agreement with Treasurer's Office

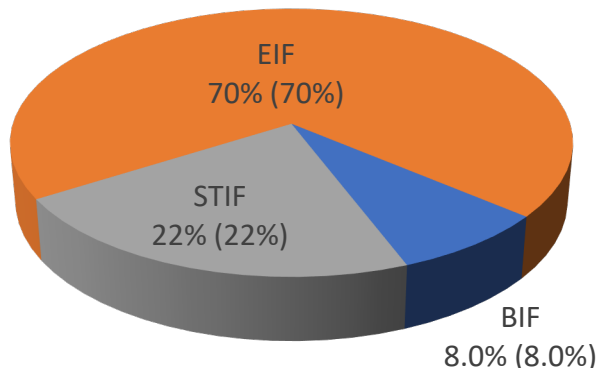


Table 2. Proposed Endowment Transfers*

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

Bond Investment Fund (BIF)	Principal	Investment Income	Total Value
BIF (as of 3/31/2022)	\$372,813.66	\$142,150.72	\$514,964.38
Deposit	\$35,000.00	\$0	\$35,000.00
Withdrawal	\$0	\$0	\$0
BIF after transfer	\$407,813.66	\$142,150.72	\$549,964.38
Short-Term Investment Fund (STIF)	Principal	Investment Income	Total Value
STIF (as of 3/31/2021)	\$1,353,534.81	\$168,717.16	\$1,522,251.97
Deposit	\$55,000.00	\$0	\$55,000.00
Withdrawal	\$0	(\$90,000)	(\$90,000)
STIF after transfer	\$1,408,534.81	\$78,717.16	\$1,487,251.97
Equity Investment Fund (EIF)	Principal	Investment Income	Total Value
EIF (as of 3/31/2021)	\$2,339,115.58	\$2,470,447.31	\$4,809,562.89
Deposit	\$49,094.00	\$0	\$49,094.00
Withdrawal	\$0	(\$116,170)	(\$116,170)
EIF after transfer	\$2,388,209.58	\$2,354,277.31	\$4,742,486.89
Totals after transfer	\$4,204,558.05	\$2,575,145.19	\$6,779,703.24

Stewardship Endowment Report, continued (with additional funds)

Table 1. Stewardship Commitments

Cash reserve	\$30,000
Monitoring expenses	(\$164,111)
Management funds	(\$20,000)
Additional stewardship expenses	(\$52,059)
Amount to withdraw	\$206,170
Principal to add for closed projects and additional funds	\$2,639,094

Chart 4. Proposed (Target) Balance Allocations per Deposit Agreement with Treasurer's Office

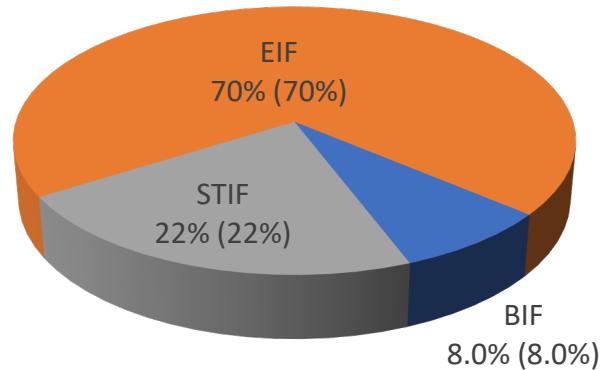


Table 2. Proposed Endowment Transfers*

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

Bond Investment Fund (BIF)	Principal	Investment Income	Total Value
BIF (as of 3/31/2022)	\$372,813.66	\$142,150.72	\$514,964.38
Deposit	\$231,127.32	\$0	\$231,127.32
Withdrawal	\$0	\$0	\$0
BIF after transfer	\$603,940.98	\$142,150.72	\$746,091.70
Short-Term Investment Fund (STIF)	Principal	Investment Income	Total Value
STIF (as of 3/31/2022)	\$1,353,534.81	\$168,717.16	\$1,522,251.97
Deposit	\$515,600.68	\$0	\$515,600.68
Withdrawal	\$0	\$0	\$0
STIF after transfer	\$1,869,135.49	\$168,717.16	\$2,037,852.65
Equity Investment Fund (EIF)	Principal	Investment Income	Total Value
EIF (as of 3/31/2022)	\$2,339,115.58	\$2,470,447.31	\$4,809,562.89
Deposit	\$1,892,366.00	\$0	\$1,892,366.00
Withdrawal	\$0	(\$206,170.00)	(\$206,170.00)
EIF after transfer	\$4,231,481.58	\$2,264,277.31	\$6,495,758.89
Totals after transfer	\$6,704,558.05	\$2,575,145.19	\$9,279,703.24