TO: The Coastal Resources Commission

FROM: Christine A. Goebel, DEQ Assistant General Counsel

DATE: July 3, 2019 (for the July 17, 2019 CRC Meeting)

RE: Variance Request by the Robert L. Stallings, IV (CRC-VR-19-06)

Petitioner Robert L. Stallings, IV ("Petitioner") owns property located at 52 Silverwood Drive in Merritt, Pamlico County, North Carolina. The property is adjacent to Pittman Creek, whose waters are designated as a Primary Nursery Area ("PNA"), and are classified as SA-High Quality Waters and Nutrient Sensitive Waters which subject the property to the DWR Neuse River Buffer Rules. Petitioner proposed to develop a 65’ by 25’ upland basin stabilized by a vinyl bulkhead on his property, dredged to a depth of -3.3’ nwl. The proposed basin would be accessed by a 328’ by 20’ gravel driveway, a 21’ x 40’ boat ramp, a 4’ by 65’ side-to-dock and by a 12’ by 23’ access channel to reach the -2.0 nwl contour. This design followed a 2017/18 application which was denied based on objections and concerns from DWR, DMF and WRC. DMF and WRC had similar objections to this revised design. On March 25, 2019, DCM denied Petitioner’s CAMA Major Permit application based on its incompatibility with those rules noted in the denial letter. Petitioner now seeks a variance to allow the proposed new dredging and other development as proposed in his application.

The following additional information is attached to this memorandum:

Attachment A: Relevant Rules
Attachment B: Stipulated Facts
Attachment C: Petitioner’s Positions and Staff’s Responses to Variance Criteria
Attachment D: Petitioner’s Variance Request Materials
Attachment E: Stipulated Exhibits including powerpoint

cc(w/enc.): Amy P. Wang, Petitioner’s counsel, electronically
Mary Lucasse, Special Deputy AG and CRC Counsel, electronically
Skip Lee, Pamlico Co. CAMA LPO, electronically
RELEVANT STATUTES OR RULES  
APPENDIX A

SECTION .0200 – THE ESTUARINE AND OCEAN SYSTEMS

15A NCAC 07H .0201  
ESTUARINE AND OCEAN SYSTEM CATEGORIES

Included within the estuarine and ocean system are the following AEC categories: estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines. Each of the AECs is either geographically within the estuary or, because of its location and nature, may significantly affect the estuarine and ocean system.

15A NCAC 07H .0202  
SIGNIFICANCE OF THE SYSTEMS APPROACH IN ESTUARIES

The management program must embrace all characteristics, processes, and features of the whole system and not characterize individually any one component of an estuary. The AECs are interdependent and ultimately require management as a unit. Any alteration, however slight, in a given component of the estuarine and ocean system may result in unforeseen consequences in what may appear as totally unrelated areas of the estuary. For example, destruction of wetlands may have harmful effects on estuarine waters which are also areas within the public trust. As a unified system, changes in one AEC category may affect the function and use within another category.

15A NCAC 07H .0203  
MANAGEMENT OBJECTIVE OF THE ESTUARINE AND OCEAN SYSTEM

It is the objective of the Coastal Resources Commission to conserve and manage estuarine waters, coastal wetlands, public trust areas, and estuarine and public trust shorelines, as an interrelated group of AECs, so as to safeguard and perpetuate their biological, social, economic, and aesthetic values and to ensure that development occurring within these AECs is compatible with natural characteristics so as to minimize the likelihood of significant loss of private property and public resources. Furthermore, it is the objective of the Coastal Resources Commission to protect present common law and statutory public rights of access to the lands and waters of the coastal area.

15A NCAC 07H .0204  
AECs WITHIN THE ESTUARINE AND OCEAN SYSTEM

The following regulations in this Section define each AEC within the estuarine and ocean system, describe its significance, articulate the policies regarding development, and state the standards for development within each AEC.
15A NCAC 07H .0206  ESTUARINE WATERS

(a) Description. Estuarine waters are defined in G.S. 113A-113(b)(2) to include all the waters of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers and tributaries thereto seaward of the dividing line between coastal fishing waters and inland fishing waters…

(b) Significance. Estuarine waters are the dominant component and bonding element of the entire estuarine and ocean system, integrating aquatic influences from both the land and the sea. Estuaries are among the most productive natural environments of North Carolina. They support the valuable commercial and sports fisheries of the coastal area which are comprised of estuarine dependent species such as menhaden, flounder, shrimp, crabs, and oysters. These species must spend all or some part of their life cycle within the estuarine waters to mature and reproduce. Of the 10 leading species in the commercial catch, all but one are dependent on the estuary.

This high productivity associated with the estuary results from its unique circulation patterns caused by tidal energy, fresh water flow, and shallow depth; nutrient trapping mechanisms; and protection to the many organisms. The circulation of estuarine waters transports nutrients, propels plankton, spreads seed stages of fish and shellfish, flushes wastes from animal and plant life, cleanses the system of pollutants, controls salinity, shifts sediments, and mixes the water to create a multitude of habitats. Some important features of the estuary include mud and sand flats, eel grass beds, salt marshes, submerged vegetation flats, clam and oyster beds, and important nursery areas.

Secondary benefits include the stimulation of the coastal economy from the spin off operations required to service commercial and sports fisheries, waterfowl hunting, marinas, boatyards, repairs and supplies, processing operations, and tourist related industries. In addition, there is considerable nonmonetary value associated with aesthetics, recreation, and education.

(c) Management Objective. To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system.

(d) Use Standards. Suitable land/water uses shall be those consistent with the management objectives in this Rule. Highest priority of use shall be allocated to the conservation of estuarine waters and their vital components. Second priority of estuarine waters use shall be given to those types of development activities that require water access and use which cannot function elsewhere such as simple access channels; structures to prevent erosion; navigation channels; boat docks, marinas, piers, wharfs, and mooring pilings.

In every instance, the particular location, use, and design characteristics shall be in accord with the general use standards for coastal wetlands, estuarine waters, and public trust areas described in Rule .0208 of this Section.
15A NCAC 07H .0208 USE STANDARDS

(a) General Use Standards

(1) Uses which are not water dependent shall not be permitted in coastal wetlands, estuarine waters, and public trust areas. Restaurants, residences, apartments, motels, hotels, trailer parks, private roads, factories, and parking lots are examples of uses that are not water dependent. Uses that are water dependent include: utility crossings, wind energy facilities, docks, wharves, boat ramps, dredging, bridges and bridge approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, access channels and drainage ditches;

(2) Before being granted a permit, the CRC or local permitting authority shall find that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas;

(B) Development shall comply with state and federal water and air quality

(C) Development shall not cause irreversible damage to documented archaeological or historic resources as identified by the N.C. Department of Cultural resources;

(D) Development shall not increase siltation;

(E) Development shall not create stagnant water bodies;

(F) Development shall be timed to avoid significant adverse impacts on life cycles of estuarine and ocean resources; and

(G) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(3) When the proposed development is in conflict with the general or specific use standards set forth in this Rule, the CRC may approve the development if the applicant can demonstrate that the activity associated with the proposed project will have public benefits as identified in the findings and goals of the Coastal Area Management Act, that the public benefits outweigh the long range adverse effects of the project, that there is no reasonable alternate site available for the project, and that all reasonable means and measures to mitigate adverse impacts of the project have been incorporated into the project design and shall be implemented at the applicant's expense. Measures taken to mitigate or minimize adverse impacts shall include actions that:

(A) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;

(B) restore the affected environment; or
(C) compensate for the adverse impacts by replacing or providing substitute resources.

(4) Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC);

(5) Outstanding Resource Waters are those estuarine waters and public trust areas classified by the N.C. Environmental Management Commission (EMC). In those estuarine waters and public trust areas classified as ORW by the EMC no permit required by the Coastal Area Management Act shall be approved for any project which would be inconsistent with applicable use standards adopted by the CRC, EMC, or MFC for estuarine waters, public trust areas, or coastal wetlands. For development activities not covered by specific use standards, no permit shall be issued if the activity would, based on site specific information, degrade the water quality or outstanding resource values; and

(6) Beds of submerged aquatic vegetation (SAV) are those habitats in public trust and estuarine waters vegetated with one or more species of submergent vegetation. These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the Marine Fisheries Commission. Any rules relating to SAVs shall not apply to non-development control activities authorized by the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et seq.).

(b) Specific Use Standards

(1) Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC, or areas of coastal wetlands except as otherwise allowed within this Subchapter. Navigation channels, canals and boat basins shall also comply with the following standards:

(A) Navigation channels and canals may be allowed through fringes of regularly and irregularly flooded coastal wetlands if the loss of wetlands will have no significant adverse impacts on fishery resources, water quality or adjacent wetlands, and if there is no reasonable alternative that would avoid the wetland losses;

(B) All dredged material shall be confined landward of regularly and irregularly flooded coastal wetlands and stabilized to prevent entry of sediments into the adjacent water bodies or coastal wetlands;

(C) Dredged material from maintenance of channels and canals through irregularly flooded wetlands shall be placed on non wetland areas, remnant spoil piles, or disposed of by a method having no significant, long-term wetland impacts. Under no circumstances shall dredged material
be placed on regularly flooded wetlands. New dredged material disposal areas shall not be located in the buffer area as outlined in 15A NCAC 07H .0209(d)(10);

(D) Widths of excavated canals and channels shall be the minimum required to meet the applicant's needs but not impair water circulation;

(E) Boat basin design shall maximize water exchange by having the widest possible opening and the shortest practical entrance canal. Depths of boat basins shall decrease from the waterward end inland;

(F) Any canal or boat basin shall be excavated no deeper than the depth of the connecting waters;

(G) Construction of finger canal systems are not allowed. Canals shall be either straight or meandering with no right angle corners;

(H) Canals shall be designed so as not to create an erosion hazard to adjoining property. Design may include shoreline stabilization, vegetative stabilization, or setbacks based on soil characteristics; and

(I) Maintenance excavation in canals, channels and boat basins within primary nursery areas and areas of submerged aquatic vegetation as defined by the MFC shall be avoided. However, when essential to maintain a traditional and established use, maintenance excavation may be approved if the applicant meets all of the following criteria:

(i) The applicant demonstrates and documents that a water dependent need exists for the excavation;

(ii) There exists a previously permitted channel that was constructed or maintained under permits issued by the State or Federal government. If a natural channel was in use, or if a human made channel was constructed before permitting was necessary, there shall be evidence that the channel was continuously used for a specific purpose;

(iii) Excavated material can be removed and placed in a disposal area in accordance with Part (b)(1)(B) of this Rule without impacting adjacent nursery areas and submerged aquatic vegetation as defined by the MFC; and

(iv) The original depth and width of a human made or natural channel shall not be increased to allow a new or expanded use of the channel.

This Part does not affect restrictions placed on permits issued after March 1, 1991.
STIPULATED FACTS

Property Description

1. Petitioner Robert L. Stallings, IV ("Petitioner") owns a 26-acre tract of coastal waterfront property at 52 Silverwood Drive in Merritt, Pamlico County, North Carolina ("Property"). Petitioner purchased the Property on December 4, 2012, as evidenced by a deed recorded at Book 574, Page 487 of the Pamlico County Registry, a copy of which is attached. The Property is in the Neuse River Basin and drains to Pittman Creek.

2. Petitioner's proposed project is located at the Property on a branch of Pittman Creek ("Project Area") that is approximately 190 feet across, as reflected in the ground-level and aerial photography attached in the powerpoint presentation.

3. The Project Area is within the Coastal Wetlands, Estuarine Waters, Public Trust Areas, and Estuarine Shoreline Areas of Environmental Concern ("AECs") designated by the Coastal Resources Commission ("CRC") in 15A NCAC 7H.0200. “Development” within these AEC’s requires a CAMA permit from the North Carolina Department of Environmental Quality ("DEQ") Division of Coastal Management ("DCM") per N.C.G.S. 113A-118.

4. The waters of Pittman Creek in the area of the Property are designated SA, High-Quality Waters (HQW), Nutrient Sensitive Waters by the Environmental Management Commission, and as such, the Neuse River Riparian Buffer Rules apply in place of the CAMA 30’ buffer rules per 15A NCAC 7H.0209(e). Pittman Creek is designated by the Marine Fisheries Commission as a Primary Nursery Area ("PNA") at the Project Area. These waters are closed to the harvest of shellfish. Submerged aquatic vegetation ("SAV") is not present in the Project Area. The Project Area has not been previously excavated. A copy of the map showing the PNA designated areas of Pittman's Creek and Broad Creek are attached.

5. The Property has approximately 1,353 linear feet of continuous shoreline along Pittman Creek. Most of the length of shoreline is dominated by coastal wetlands species, though the coastal wetlands are less abundant in the Project Area. Vegetation within the Project Area consists mostly of loblolly pine and other native trees and shrubs with some coastal and non-coastal wetlands.

6. Immediate offshore water depth adjacent to the Project Area ranges from -0.5 feet to -3 feet normal water level ("NWL").

7. The Property is a 26-acre parcel developed with a one-story piling-supported 2,960 square foot house that was built in 2016 and which can be seen on the powerpoint photos and the details are found on the attached tax card. The Property is also developed with a 30’4” long vinyl bulkhead and a 5’ by 100’ two-slip pier with two 5’ by 40’ finger piers and two boat lifts. A copy of CAMA General Permit #67780C authorizing the bulkhead and pier is attached. The house was built outside of the AECs and so did not require a CAMA permit. Neighboring riparian properties, sharing this branch of Pittman Creek are similarly developed, as shown in the attached powerpoint presentation.
Swan Creek Tract

8. Petitioner proposes to construct an upland boat basin, ramp, and access channel with associated development ("Project") at the Project Area on the Property to provide a permanent launch for Petitioner's pontoon skiff to transport maintenance equipment to and from waterfowl impoundments on what is known as the Swan Creek Tract. An aerial view of the Swan Creek Tract is attached as part of the powerpoint.

9. The Swan Creek Tract is 2,000 acres of brackish marsh approximately two miles east of the Property. The Swan Creek Tract is a waterfowl impoundment area that is accessible only by water. It is within the coastal plain of eastern North Carolina within the Atlantic Flyway. Petitioner is a partner with Ducks Unlimited for the Neuse-Pamlico Wetland Conservation Initiative which secured a grant from the U.S. Fish and Wildlife Service ("USFWS") under the North American Wetlands Conservation Act, 16 USC §§ 4401-4412 ("NAWCA"), to fund enhancement of the emergent estuarine habitat, a decreasing wetlands type, on the Swan Creek Tract. In the grant proposal, Ducks Unlimited identified the entire geographic area covered by the proposal as "a priority wetland area for waterfowl, shorebirds, and water birds, and it is a priority habitat zone for migratory songbirds." A copy of the grant proposal is attached, and has Petitioner’s personal notes on it, and has been redacted to remove the financial terms of the grant.

10. Ducks Unlimited and Petitioner entered into a NAWCA Grant Partner Agreement to apply the grant funds toward maintaining the Swan Creek Tract, a copy of which is attached and has been redacted to remove the financial terms of the Agreement. In the Agreement, Duck Unlimited identifies the Swan Creek Tract as a "brackish marsh managed impoundment originally constructed 30-40 years ago for the primary purpose of mosquito control and to benefit waterfowl. These areas provide a unique habitat type found in only a few locations in coastal North Carolina that cannot be duplicated due to current wetlands regulations."

11. Petitioner maintains the Swan Creek Tract through pumps and levees to adjust seasonal water levels to optimize water management in the impoundments by refueling, maintaining and repairing the pumps, levees, and water control devices. Management of the Swan Creek Tract can occur only by transporting heavy equipment, such as tractors, bush hogs and backhoes, and fuel in and out by boat. Petitioner uses a 30-foot long pontoon skiff customized to transport the maintenance equipment and fuel to the Swan Creek Tract to service the impoundments.

12. The frequency of trips to maintain the extensive number of levees, water control structures and pumps is significant and can range from twice a month to several times a week depending on the time of year. Petitioner transports his equipment in and out of the Swan Creek Tract on each trip because if it were left in the impoundments storms could flood and damage the equipment with salt water.

13. Members of Petitioner's family have owned and maintained the Swan Creek Tract in this way since the 1960s. Copies of deeds from Petitioner's great uncle's family to Petitioner's family, through family managed limited liability companies, are attached. Originally, Petitioner's great uncle maintained the Swan Creek Tract from elsewhere in Pamlico County. Since the late
1970s, Petitioner’s great uncle accessed the Swan Creek Tract from a lot in the Sound View Beach Subdivision, commonly referred to as Paradise Shores, that had an existing boat basin. In 2005, the Paradise Shores property was conveyed to Petitioner's father, brother, and Petitioner so they could continue maintaining the Swan Creek Tract. At this time, Petitioner is the primary caretaker of the Swan Creek Tract. Petitioner contends that the owners wish to sell the Paradise Shores property, but cannot do so until Petitioner secures a new location from which to continue the Swan Creek Tract maintenance activities.

**Proposed Project**

14. Following a March 15, 2017 multi-agency scoping meeting, in September of 2017, Petitioner applied for a CAMA Major Permit for a proposed boat basin project with a 328’ by 20’ gravel driveway, a 40’ by 21’ boat ramp, a 65’ by 25’ boat basin (750 square feet of high-ground and 875 square feet of 404 wetlands) with approximately 204’ of vinyl bulkhead, a 4’ by 65’ side-to dock, and a 92’ by 25’ access channel (2,300 square feet of shallow bottom PNA habitat) dredged to a depth of -3.3’ nwl crossing 30’ of marsh dominated by coastal wetlands species and impacting 225 square feet of Coastal Wetlands. A copy of DCM’s Field Investigation Report for this project is attached.

15. From the time of the March 15, 2017 scoping meeting and throughout both permit reviews, agency staff suggested an alternative project which would modify the existing dock to accommodate the transfer of equipment from the shore to Petitioner's skiff.

16. The DEQ Division of Water Resources ("DWR") denied Petitioner's related request for a 401 Water Quality and Buffer Authorization Certification on February 9, 2018, based on its finding that practical alternatives exist that would avoid or lessen adverse impacts. A copy of the DWR denial is attached. Comments from DEQ's Division of Marine Fisheries ("DMF") staff and from the North Carolina Wildlife Resources Commission ("WRC"), copies of which are both attached, raised concerns about the significant adverse impacts to shallow bottom PNA habitat and new dredging in a PNA in waters less than -3” nwl. DCM denied the application on March 5, 2018, a copy of which is attached. Petitioner did not appeal the 2018 permit denial.

17. Following the 2018 denials, Petitioner and his agents worked to redesign the project to lessen the impacts to PNA. In July 2018, Petitioner attended a scoping meeting with representatives of DCM, DWR, DMF, the DEQ Division of Energy, Mineral and Land Resources ("DEMLR"), the WRC, the United States Army Corps of Engineers ("USACE"), USFWS, National Marine Fisheries, and the National Oceanic Atmospheric Association to discuss the agencies' positions on a new, smaller design for the boat basin based on the agencies' objections to the prior project.

18. The redesigned Project proposes the construction of a 65’ by 25’ (1,625 square feet) upland boat basin (750 square feet of high-ground and 871 square feet of 404 wetlands) dredged to -3.3’ nwl and stabilized with 204’ of vinyl bulkhead; a 21’ by 40’ concrete boat ramp; a 4’ by 65’ side-to dock; an upland 328’ by 20’ gravel driveway to access the boat ramp and basin; and, excavation within Pittman Creek to create a 12’ by 23’ (276 square feet) access channel to reach the -2’ nwl in Pittman Creek. The design changes are primarily to dredge the access channel (but
not the upland basin) to -2’ nwl instead of -3.3’ nwl, thereby shortening and narrowing the access channel dredged through PNA shallow-bottom habitat from 2,300 square feet to 276 square feet, and to realign the bulkhead to avoid 225' of coastal wetlands impacts proposed in the prior project.

19. Petitioner contends that the small channel would provide sufficient depth for the pontoon skiff to navigate the proposed boat basin. The skiff has a draft of approximately 10 inches when empty and approximately 18 inches when loaded with equipment and fuel. Petitioner contends that excavating a channel to -2’ nwl will provide sufficient water depth for navigation of a loaded skiff. The average water depth in this location ranges from six inches to a foot and three quarters. The excavation of the channel will extend an average of approximately 23 feet waterward to reach -2’ nwl.

20. The channel and boat basin would be constructed using a long boom excavator sitting on the shoreline of the Property rather than using a floating dredge to reduce impacts to the PNA. Spoil will be staged landward in a designated spoil area on the Property outside of the Neuse River Riparian Buffers. It will be surrounded with silt fencing to prevent sediment from escaping into nearby wetlands. A concrete boat ramp will be constructed 20’ landward of the boat basin and will extend 20’ waterward into the basin. The ramp will be poured into place by installing a temporary coffer dam and continuously pumping water until the concrete has set. The water will be pumped into the adjacent uplands to sheet flow and filter through vegetation to trap sediment, and a floating turbidity curtain installed in Pittman Creek will provide secondary protection against sediment from entering Pittman Creek. The turbidity curtain will be left in place at least two months after excavation to allow disturbed sediment to stabilize and minimize water quality impacts.

21. Petitioner contends that the Project consists of a boat ramp and basin because the intent is to launch the pontoon skiff from a trailer and remove the skiff from the water after each trip. Petitioner states that the skiff would not be permanently docked in the basin. The proposed -3.3 feet water depth in the basin is necessary to provide adequate depth for Petitioner's trailer to deliver and retrieve the skiff so that it would float and the trailer could be removed. Petitioner contends that while the pontoon skiff can easily navigate in -2.0’ nwl, it cannot be launched from the trailer the Petitioner's skiff is on at that level.

22. The impacts which would result from the Project include the excavation of 276 square feet of shallow-bottom PNA habitat for the access channel, 750 square feet of high ground, and 871 square feet of Section 404 wetlands for the boat ramp and boat basin. A copy of DCM’s Field Investigation Report for the Project is attached.

CAMA Permit Application

23. On September 27, 2018, Petitioner submitted a new CAMA Major and Dredge & Fill Permit Application for the Project. Petitioner responded to several requests from DCM for additional information. On January 23, 2019, DCM deemed the application complete. A copy of the complete application is attached.
24. As required, Petitioner sent notice of the application to the two adjacent riparian property owners and to the public through onsite posting. Neither of the adjacent owners objected to the Project, and no public comments were received by DCM from the general public.

25. As part of the CAMA Major Permit process, DCM circulated Petitioner’s application to state and federal resource agencies for review and comment. Relevant comments received are described in the next several facts.

26. Through written comment dated February 18, 2019, DMF objected to the proposed project because of concerns that significant adverse impacts would result from the Project, and that similar concerns to the 2017/18 project remained. These concerns were about proposed new dredging in a shallow-bottom PNA habitat, the likelihood of hull scour and propeller kicking in the access channel, the concern about the basin depth deeper than the connecting waters, and questioning if the 12’ width of the access channel was sufficient for navigation. A copy of this letter, and DMF Director Murphey’s February 20, 2019 written concurrence are attached.

27. On February 28, 2019, the WRC provided written comment, a copy of which is attached. WRC raised concerns regarding dredging in PNA shallow-bottom habitat, though these were reduced from the 2017/18 design, and that the shallower dredging depth in the access channel would lead to repeated hull scraping and propeller kicking.

28. On March 11, 2019, DWR commented that it could not finish its review until additional information was provided concerning buffer restoration. A copy of this letter is attached. On April 10, 2019, Petitioner provided a Buffer Restoration Plan to DWR. A copy of this correspondence is attached. Petitioner has provided all additional information requested by DWR at this time. On May 30, 2019, DWR acknowledged a May 28, 2019 letter from Petitioner's consultant, requesting that processing of the application for the 401 Water Quality Certification remain on hold pending the outcome of this variance hearing. A copy of DWR’s hold notice is attached.

29. On March 20, 2019, DEMLR-Stormwater Section staff replied by email to DCM that the Project triggers a low-density stormwater permit with a maximum of 12% impervious coverage. In a March 28, 2019 email response, Petitioner’s agent confirms that Petitioner will seek a low-density stormwater permit if the Commission grants a variance. A copy of these emails are attached.

30. On March 25, 2019, DCM denied Petitioner's application under 15A NCAC 07H .0206(c) as being inconsistent with the CRC's Management Objective for Estuarine Waters. Petitioner's application was also denied based on the CRC's general use standards under 15A NCAC 07H .0208(a)(2)(A) and its specific use standards at 15A NCAC 07H .0208(b)(1) that that the Project be sited and designed to avoid significant adverse impacts on the PNA. It was also denied based on 15A NCAC 7H .0208(b)(1)(F) requirement that the basin be excavated no deeper than the depth of the connecting waters. A copy of the denial letter is attached.
31. Following DCM’s denial but in anticipation of applying for a variance from the Commission, Petitioner’s authorized agent provided a written response to concerns raised by DCM, WRC, and DMF, dated April 3, 2019, a copy of which is attached, and generally addresses the issues of previous dredging in the area, whether -2’ nwl is sufficient depth for the skiff without hull and prop scraping, and why the basin needs to be dredged to -3.3’ nwl.

32. Following DCM’s denial and in anticipation of Petitioner applying for a variance, the USACE administratively denied Petitioner's application for a 404 Permit based on DCM's denial of Petitioner's CAMA Permit Application. A copy of the USACE's denial letter is attached.

33. Petitioner stipulates that the Project is inconsistent with the Commission’s rules recited in the DCM denial letter.

STIPULATED EXHIBITS

A. Deed to Property at 574/487
B. PNA maps for Pittman's Creek and Broad Creek
C. CAMA General Permit #67780C for the pier and bulkhead
D. Copy of the Tax Card for the Property
E. NAWCA Proposal
F. NAWCA Grant Partner Agreement
G. Deed to Swan Creek Tract 448/871, 448/913
H. Deed to Paradise Shores Tract 448/866
I. 2017/18 Project DCM Field Investigation Report
J. 2018 DWR Denial Letter
K. 2018 DMF and WRC Comments
L. 2018 DCM Denial
M. 2018/19 Project DCM Field Investigation Report
N. 2018/19 Project CAMA Major Permit Application including drawings
O. Adjacent Riparian Owner Notice Information
P. DMF’s objection, dated February 18, 2019 and February 20, 2019
Q. WRC’s objection, February 28, 2019
R. DWR’s correspondence re: Add Info (3/11/29)
S. Petitioner's Buffer Restoration Plan
T. DWR's Hold Notice (5/30/19)
U. DEMLR-Stormwater’s correspondence
V. DCM’s March 25, 2019 denial letter
W. Petitioner’s April 3, 2019 written response to agency concern
X. Army Corps of Engineer’s March 26, 2019 denial letter
Y. Ground and aerial photos of the Property & Swan Creek Tract in Powerpoint
PETITIONER’S and STAFFS’ POSITIONS

To qualify for a variance, Petitioner must show all of the following:

I. Will Unnecessary Hardships would result from strict application of the rules, standards, or orders? If so, Petitioner must identify the unnecessary hardships.

Petitioner’s Position: Yes.

Strict application of the CRC’s management objectives and general and specific use standards for estuarine waters causes Petitioner unnecessary hardships because it prohibits construction of the Project on the Property which otherwise would enable Petitioner to continue his family's nearly 60 year tradition of maintaining the Swan Creek Tract.

First, there is not another location on the Property that allows for the boat basin and ramp to accommodate the pontoon skiff with fewer impacts to estuarine resources than the Project Area. The Property has a wide coastal wetlands fringe along the entire shoreline, except at the Project Area. The Project Area was chosen precisely due to the least impacts to CAMA-regulated resources because coastal wetlands will not be dredged for construction of the channel to provide access to Pittman Creek. Even if the Project could be moved to a different location on the Property, substantial impacts to coastal wetlands would be necessary and could cause greater negative impact on the PNA as a fishery resource. To the extent the CRC interprets its management objective as requiring complete avoidance of coastal wetlands and PNA, the Project could not be located, designed, and constructed to be consistent with the management objective for the AEC that it be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands and PNA. 15A NCAC 07H .0206(c), 07H .0208(a)(2)(A), and 07H .0208(b)(1).

Second, the Project Area allows for equipment and fuel to be loaded on and off the skiff in a safe, controlled environment over land utilizing a boat basin and ramp. The skiff can be stabilized within the sheltered waters of a boat basin in the Project Area, allowing for safe loading and unloading of equipment. However, the CRC's rule that any canal or boat basin be excavated no deeper than the depth of the connecting waters renders the Project impossible because the depth of the connecting waters of Pittman Creek at the Project Area requires slightly deeper excavation in order to launch and retrieve the skiff from a trailer. 15A NCAC 07H .0208(b)(1)(F).

Third, a dock and pier are not a viable alternative to the Project. A pier would need to be at least 12 feet wide, double the maximum width allowed, in order for the configuration to be structurally sound to support driving the heavy equipment and fuel safely down the pier over coastal wetlands and water to a dock for the skiff. Such a massive structure cannot be permitted in the Project Area given the width of Pittman Creek at that location, and it would create a navigational hazard for boaters accessing Pittman Creek from the northeast. The structure cannot be at another point along the shoreline of the Property because driving large equipment down the pier and loading it onto the skiff over deeper, open waters creates a significant safety hazard. If attempted, the skiff would not be sufficiently stabilized within the deeper waters to safely load and unload equipment and fuel. Furthermore, a 12-foot wide pier would create perpetual substantial shading, the environmental impacts of which would be adverse to estuarine resources and contrary to other CRC rules.
Petitioner's ability to continue decades of care and maintenance of the Swan Creek Tract ecosystem as habitat to support waterfowl is jeopardized without a variance allowing construction of the Project on the Property. Petitioner's inability to continue maintaining the Swan Creek Tract would result in it falling into disrepair and ultimately cause the loss of an established historic and ongoing use of the Swan Creek Tract as a waterfowl impoundment. DCM's strict application of the CRC’s rules requiring the basin, ramp and channel to be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands and PNA causes Petitioner unnecessary hardship by rendering the Project impossible at the Property and puts the Swan Creek Tract at severe risk once the Paradise Shores property is sold.

**Staffs’ Position**: No.

Staff do not believe Petitioner has met his burden to show he will suffer any unnecessary hardships due to the strict application of the Commission’s rules. The proposed dredging is contrary to the Commission’s rules where it results in significant adverse impacts to 276 square-feet of PNA habitat, which is contrary to 7H .0206, 7H .0208 (a)(2)(A), and 7H .0208(b)(1). Additionally, the proposed dredging is in violation of 7H .0208(b)(1)(F) where the depth of the basin in more than the depth of the connecting waters.

Staff do not agree that strictly applying requirements prohibiting new dredging in designated PNAs and restricting the depths of dredged areas to those of connecting waters cause Petitioner any unnecessary hardships, where the hardships on Petitioner’s lot are consistent with the hardships placed on other lots adjacent to waters designated as PNAs. Not being allowed to dredge a new upland basin within a PNA in order for Petitioner to manage a separate tract of land does not create an unnecessary hardship, where any hardship is related more to the needs and activities of the present property owner, rather than unique conditions associated with the property or type of development activities proposed.

**II. Do the hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property? Explain.**

**Petitioner’s Position**: Yes.

The hardships result exclusively from conditions peculiar to the Property, specifically its location in Pittman Creek and the resource-rich characteristics of its shoreline. Pittman Creek as a whole is designated PNA, and the Property has a wide coastal wetlands fringe along the entire shoreline except for at the proposed Project Area. Coastal wetlands will not be disturbed or excavated for access to Pittman Creek at the Project Area, but if the Project is moved to a different location on the Property, greater adverse impacts to coastal wetlands will be necessary and PNA will not be avoided. Thus, the hardships result from the Property's unique location, its topography, and the distribution of estuarine resources along the shoreline.
**Staffs’ Position:** No.

While Staff agrees that Petitioner has avoided coastal wetlands impacts and reduced PNA impacts with this revised project design and location as compared to his initial design, Staff does not believe Petitioner has met his burden to show that any hardships result from conditions peculiar to the property, such as the location, size, or topography of the property. The Property is located on Pittman Creek, which was designated as a PNA before Petitioner purchased the Property. As can be seen on the map in the powerpoint showing PNA designations in the area, there are several PNA-designated water-bodies in the area, but also several which are not PNAs and where new dredging projects can be permitted. Accordingly, Staff do not believe that the Property’s location on a water-body designated as a PNA and which has coastal wetlands fringe are physical characteristics peculiar to this site, as they are common in the Estuarine Waters in this area specifically and in Pamlico County generally. While Staff acknowledges Petitioner’s beneficial management of the Swan Creek Tract, the focus of a variance is on the subject Property, and the hardships described by Petitioner in relation to the first variance factor center on his need to access the Swan Creek Tract, which are specific to Petitioner and accessing the separate tract and not to the Property at issue.

**III. Do the hardships result from actions taken by the petitioner? Explain.**

**Petitioner’s Position:** No.

Petitioner has taken no actions that cause the unnecessary hardships that arise from strict application of the CRC's rules to the Project. Petitioner has designed the Project at the location on the Property that requires the least adverse impacts to estuarine resources.

**Staffs’ Position:** Yes.

Any hardships faced by Petitioner are the result of the proposed project design, opting for a new upland basin within a designated PNA as opposed to a pier/fixed platform on the Property or finding another site which is not designated as PNA to develop an upland basin in order to maintain the separate tract of property. The variance is sought to develop this property in a way that will replace a nearby site currently used by Petitioner, which he asserts will be sold and unavailable to him in the future. During the site visits with Petitioner and his agents, agency staff specifically suggested switching from the proposed upland basin on a portion of the Property with shallower existing depths, to a pier/fixed platform which could be built to meet Petitioner’s requirements, while also minimizing impacts to coastal wetlands and alleviating the need for dredging the PNA habitat.

The waters of Pittman Creek were designated as a PNA before Petitioner’s 2012 purchase of the Property, and the Commission’s rules prohibited new dredging in a PNA at that time. While Staff note that the Petitioner has located the upland basin where it will have less impact on Coastal Wetlands than the earlier design, it still has significant adverse impacts on shallow-bottom PNA habitat, and resource agency staff have expressed concerns that impacts will extend beyond the proposed dredge area. Staff disagree that the proposed upland basin has the least adverse impacts to estuarine resources at the Property where a pier/fixed platform, which would not require PNA habitat dredging but would have some shading impacts, could be explored.
IV. Is the requested variance (1) consistent with the spirit, purpose, and intent of the rules, standards, or orders, (2) will secure public safety and welfare; and (3) will preserve substantial justice? Explain.

**Petitioner’s Position: Yes.**

First, the variance will be consistent with the **spirit, purpose and intent** of the CRC's rules. The primary purpose of the management objective for estuarine waters is to "conserve and manage the important features of estuarine waters to safeguard and perpetuate their biological, social, aesthetic, and economic values." 15A NCAC 7H .0206(c). The CRC's general and specific use standards serve this purpose by locating water dependent uses, such as Petitioner's boat basin, ramp and access channel, and the related design and construction activities so as to "avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds," SAV and PNA. 15A NCAC 07H .0208(a)(2)(A) and .0208(b). These standards are not a prohibition on any impact. The variance will allow the Project to completely avoid shellfish beds and SAV and avoid significant adverse impacts to a larger area of coastal wetlands by allowing it to be located in a discrete PNA area with a much smaller footprint.

Further, even though excavation for the boat basin will be deeper than the depth of the immediately adjacent waters, the proposed activities will not significantly adversely affect the large presence of coastal wetlands, nor will they result in losing the designation of Pittman Creek as a PNA because the depths of Pittman Creek near the Project Area are similar to that proposed. The depth of the boat basin is necessary to provide the adequate depth for a trailer to launch the pontoon skiff so the skiff will float and the trailer can be removed. The depth of -3.3 feet NWL is a little over one foot deeper than the channel depth of -2.0 feet NWL. The water depths within Pittman Creek are also at -3.3 feet NWL within 100 feet of the proposed boat basin. The specific use standard restricting basin depths is intended to apply to larger projects to avoid excavating the basins to depths much deeper than the adjacent waters. 15A NCAC 07H .0208(b)(1)(F). For example, a private marina may excavate a basin to 15 feet deep while the maximum depth of the waterway the boats will navigate into is only eight feet deep. Such a scenario creates "dead water" because of lack of flushing because the basin is the deepest point and prevents circulation. The small size of Petitioner's proposed boat basin (±840 square feet), launching and landing of the skiff, and tidal fluctuations during weather events will provide sufficient flushing. In addition, the excavated boat basin is adjacent to the open water of Pittman Creek so circulation of water will not be confined to only the 12-foot wide access channel. Petitioner's Project does not involve constructing a boat basin deeper than Pittman Creek and therefore will not create "dead water" at the relative depths needed.

Second, **public safety and welfare** will be secured by this variance because the Project does not require the construction of a large dock and pier to support transporting equipment and fuel down a long pier over coastal wetlands and open water. Such a configuration would create a navigational hazard for existing boat traffic from nearby docks. It also would require loading equipment and fuel over open, deeper waters or coastal wetlands into an unstable skiff. Rather, a variance for the Project allows for equipment and fuel to be loaded on and off land and a stabilized pontoon skiff in a boat basin in sheltered waters.
This boat ramp is intended to be used only for the skiff to transport equipment to and from the Swan Creek Tract to maintain the levees, pumps and other water control structures. The frequency of launching from the proposed boat ramp will depend on the time of year and water conditions. The water depths within Pittman Creek are relatively stable except during storms where wind out of the west causes low water events. However, not all storms result in low water conditions, as some storms have winds from the east that result in high water conditions. During low water events, Petitioner will not be able to launch from the proposed boat ramp.

When loaded to the maximum carrying capacity, the skiff has a draft of 18 inches. Seldom is the skiff loaded to capacity, so the draft frequently will be less. Even when fully loaded, hull scrape will not occur during normal water depths since the proposed channel will be excavated to -2.0 feet below NWL. Petitioner is experienced navigating the skiff in shallow waters to and from the Swan Creek Tract. A native of eastern Pamlico County, he has been navigating the waters of this area since his youth, and is skilled at navigating shallow waters in the skiff. Petitioner has a keen knowledge of water depths associated with wind driven tides, and knows there will be times when launching from the proposed boat ramp is not feasible. During ingress and egress, the skiff will be navigated at very slow speeds, barely more than idle. Slow speeds and using tilt and trim to raise the motor will help to prevent prop scour. Petitioner has no intention to risk potential damage to property or injury to persons by attempting to launch in low water conditions.

Third, substantial justice will be preserved by this variance. The CRC's management objective to "conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system" is served by balancing preservation of estuarine resources on both the Property and within the Swan Creek Tract. Petitioner designed the Project to create the least adverse impact to the biological, social, aesthetic and economic values of the resources within the Project footprint and the entire estuarine system at the Property and Pittman Creek. 15A NCAC 7H .0206(c). Petitioner's Project allows the safeguarding and perpetuation of those same values in the estuarine waters at the Swan Creek Tract. Doing so maximizes the benefits of both properties to man and the estuarine and ocean system. Petitioner does a public service by maintaining the Swan Creek Tract in the Estuarine Waters and Public Trust AECs. Strict application of the CRC rules to the Project ignores the balance between resource protection and development activities that CAMA is intended to provide. The variance process is meant for this situation. Substantial justice will be preserved by allowing Petitioner to construct the boat basin at the Project Area on his Property to continue his family's legacy.

Granting Petitioner the requested variance will be consistent with all four of the criteria stated in N.C. Gen Stat. § 113A-120.1 and in 15A NCAC 7J .0700. Petitioner respectfully requests that the CRC issue a variance in accordance with the permit application for the Project.
**Staffs’ Position:** No.

Petitioner has stipulated that it’s proposed development is contrary to those rules listed in the March 19, 2019 CAMA Permit denial letter, including:

- 15A NCAC 7H .0206(c) which is a management objective for Estuarine Waters AEC, and requires the conservation and management of “the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system.”

- 15A NCAC 07H .0208(a)(2)(A), which requires projects avoid significant adverse impacts upon coastal wetlands, spawning and nursery areas.

- 15A NCAC 07H .0208(b)(1), which requires that new dredging projects avoid areas designated as PNAs,

- 15A NCAC 07H .0208(b)(1)(F), which requires a boat basin to be excavated no deeper than the depth of the connecting waters.

Staff does not believe Petitioner has met his burden to show the variance meets the spirit, purpose and intent of the Commission’s prohibition against new dredging in designated PNAs and the Commission’s prohibition against dredging boat basins deeper than connecting waters. While the current plan impacts less PNA habitat and no Coastal Wetlands than the earlier plan, resource agency staff believe the proposed dredging will have significant adverse impacts to the PNA habitat. Further, as noted in Staff’s responses to the other variance factors above, Staff believe Petitioner has other alternatives to the proposed upland basin on this site in order to manage the separate tract of land, including the development of a suitable pier and platform in a different location on the lot. Staff also believes that the request for this variance is more related to the needs and preferences of the current property owner, given his existing launch location at Paradise Shores.

Public Safety and welfare will not be secured by allowing the dredging of shallow-bottom PNA habitat and possibly creating “dead water” in the basin, which could have significant adverse impacts on several fish species, an important public resource. Substantial justice will not be preserved by the granting of this variance where the proposed variance would result in harm to public resources through new dredging of PNA habitat, where there are less harmful alternative means for Petitioner to continue to access the separate tract.
ATTACHMENT D:

PETITIONERS’ VARIANCE REQUEST MATERIALS

(except exhibits mutually stipulated to and Petitioner’s initial proposed facts)
June 5, 2019

VIA EMAIL ONLY

Mr. Braxton Davis  
Director, Division of Coastal Management  
400 Commerce Avenue  
Morehead City, NC 28557

RE: Petitioner Robert L. Stallings, IV  
CAMA Variance Request Form  
Our File 990021-00007

Dear Mr. Davis:

We represent Petitioner, Robert L. Stallings, IV, in his endeavor to obtain a variance to construct an upland boat basin and ramp on his property in Pamlico County. On his behalf, we submit the attached CAMA Variance Request Form with supporting documents. We respectfully request that this variance request be scheduled for the July meeting of the Coastal Resources Commission in Beaufort, North Carolina. Please let us know if there is anything else you need from us to ensure this matter will be heard as requested.

Thank you for your consideration.

Yours truly,

Amy P. Wang

ND: 4827-1207-6440, v. 1
Enclosures
cc: Mr. Robert L. Stallings IV (w/encs.)  
Attorney General's Office (w/encs.)
Pursuant to N.C.G.S. § 113A-120.1 and 15A N.C.A.C. 07J .0700 et seq., the above named Petitioner hereby applies to the Coastal Resources Commission (CRC) for a variance.

**VARIANCE HEARING PROCEDURES**

A variance petition will be considered by the CRC at a regularly scheduled meeting, heard in chronological order based upon the date of receipt of a complete petition. 15A N.C.A.C. 07J .0701(e). A complete variance petition, as described below, must be received by the Division of Coastal Management (DCM) a minimum of six (6) weeks in advance of the first day of a regularly scheduled CRC meeting to be eligible for consideration by the CRC at that meeting. 15A N.C.A.C. 07J .0701(e). The final set of stipulated facts must be agreed to at least four (4) weeks prior to the first day of a regularly scheduled meeting. 15A N.C.A.C. 07J .0701(e). The dates of CRC meetings can be found at DCM's website: www.nccoastalmanagement.net

If there are controverted facts that are significant in determining the propriety of a variance, or if the Commission determines that more facts are necessary, the facts will be determined in an administrative hearing. 15A N.C.A.C. 07J .0701(b).

**VARIANCE CRITERIA**

The petitioner has the burden of convincing the CRC that it meets the following criteria:

(a) Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? Explain the hardships.

(b) Do such hardships result from conditions peculiar to the petitioner's property such as the location, size, or topography of the property? Explain.

(c) Do the hardships result from actions taken by the petitioner? Explain.

(d) Will the variance requested by the petitioner (1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.
Please make your written arguments that Petitioner meets these criteria on a separate piece of paper.
The Commission notes that there are some opinions of the State Bar which indicate that non-attorneys may not represent others at quasi-judicial proceedings such as a variance hearing before the Commission. These opinions note that the practice of professionals, such as engineers, surveyors or contractors, representing others in quasi-judicial proceedings through written or oral argument, may be considered the practice of law. Before you proceed with this variance request, you may wish to seek the advice of counsel before having a non-lawyer represent your interests through preparation of this Petition.

For this variance request to be complete, the petitioner must provide the information listed below. The undersigned petitioner verifies that this variance request is complete and includes:

- The name and location of the development as identified on the permit application;
- A copy of the permit decision for the development in question;
- A copy of the deed to the property on which the proposed development would be located;
- A complete description of the proposed development including a site plan;
- A stipulation that the proposed development is inconsistent with the rule at issue;
- Proof that notice was sent to adjacent owners and objectors*, as required by 15A N.C.A.C. 07J .0701(c)(7);
- Proof that a variance was sought from the local government per 15A N.C.A.C. 07J .0701(a), if applicable;
- Petitioner's written reasons and arguments about why the Petitioner meets the four variance criteria, listed above;
- A draft set of proposed stipulated facts and stipulated exhibits. Please make these verifiable facts free from argument. Arguments or characterizations about the facts should be included in the written responses to the four variance criteria instead of being included in the facts.
- This form completed, dated, and signed by the Petitioner or Petitioner's Attorney.
*Please contact DCM or the local permit officer for a full list of comments received on your permit application. Please note, for CAMA Major Permits, the complete permit file is kept in the DCM Morehead City Office.

Due to the above information and pursuant to statute, the undersigned hereby requests a variance.

[Signature]

June 5, 2019
Date

Amy P. Wang
Printed Name of Petitioner or Attorney

Post Office Box 867
Mailing Address
Attorney

New Bern, NC 28563-0867
City  State  Zip

apw@wardandsmith.com
Email address of Petitioner or Attorney

252.672.5400
Telephone Number of Petitioner or Attorney

252.672.5477
Fax Number of Petitioner or Attorney

DELIBERATION OF THIS HEARING REQUEST

This variance petition must be received by the Division of Coastal Management at least six (6) weeks before the first day of the regularly scheduled Commission meeting at which it is heard. A copy of this request must also be sent to the Attorney General's Office, Environmental Division. 15A N.C.A.C. 07J .0701(e).

Contact Information for DCM:

By mail, express mail or hand delivery:
Director
Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557

By Fax:
252.247.3330

By Email:
Braxton.Davis@ncdenr.gov
Check DCM website for the email address of the current DCM Director
www.nccoastalmanagement.net

Contact Information for Attorney General's Office:

By mail:
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

By express mail:
Environmental Division
114 West Edenton Street
Raleigh, NC 27603

By Fax:
919.716.6767

Revised: July 2014
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing CAMA VARIANCE REQUEST FORM and PROPOSED STIPULATED FACTS AND EXHIBITS via email to the following person at the following address which is the last address known to me:

Mr. Braxton Davis
Director, Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
Email: Braxton.Davis@ncdenr.gov

and by depositing a copy thereof in an envelope bearing sufficient postage in the United States mail addressed to the following person at the following address which is the last address known to me:

Attorney General's Office
Environmental Division
9001 Mail Service Center
Raleigh, NC 27699-9001

This the 5th day of June, 2019.

[Signature]

Amy P. Wang
N.C. State Bar I.D. No.: 023322
e-mail: apw@wardandsmith.com
For the firm of Ward and Smith, P.A.
Post Office Box 867
New Bern, NC 28563-0867
Telephone: 252.672.5400
Facsimile: 252.672.5477
Attorneys for Petitioner Robert L. Stallings IV
Notice Sent to Adjacent Owners
June 5, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry and Ms. Carol McLawhorn
6001 NC 17 HWY South
New Bern, NC  28562

RE:  CAMA Variance Request by Robert L. Stallings, IV
     Our File 990021-00007

Dear Mr. and Ms. McLawhorn:

This is to notify you that Robert L. Stallings, IV is applying for a variance from the North Carolina Coastal Resources Commission construct an upland boat basin and ramp on his property located at 52 Silverwood Drive in Merritt, Pamlico County, North Carolina. The variance is projected to be heard at the July 17-18, 2019, meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 400 Commerce Avenue, Morehead City, North Carolina 28557. You may also contact the Division of Coastal Management at 252.808.2808.

Yours truly,

Amy P. Wang

ND: 4839-4199-6696, v. 1
cc:  Mr. Robert L. Stallings, IV
Mr. Harry and Ms. Carol McLawhorn
6001 NC 17 HWY South
New Bern, NC 28562

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Harry and Ms. Carol McLawhorn
6001 NC 17 HWY South
New Bern, NC 28562
June 5, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Don and Ms. Nancy Nobles
3068 NC 111 South
Pine Tops, NC 27864

RE: CAMA Variance Request by Robert L. Stallings, IV
   Our File 990021-00007

Dear Mr. and Ms. Nobles:

This is to notify you that Robert L. Stallings, IV is applying for a variance from the North Carolina Coastal Resources Commission construct an upland boat basin and ramp on his property located at 52 Silverwood Drive in Merritt, Pamlico County, North Carolina. The variance is projected to be heard at the July 17-18, 2019, meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 400 Commerce Avenue, Morehead City, North Carolina 28557. You may also contact the Division of Coastal Management at 252.808.2808.

Yours truly,

Amy P. Wang

ND: 4831-2142-0184, v. 1
cc: Mr. Robert L. Stallings, IV
Mr. Don and Ms. Nancy Nobles
3068 NC 111 South
Pine Tops, NC 27864
June 5, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Jane McLawhorn
5909 NC HWY 17 South
New Bern, NC 28562

RE: CAMA Variance Request by Robert L. Stallings, IV
Our File 990021-00007

Dear Ms. McLawhorn:

This is to notify you that Robert L. Stallings, IV is applying for a variance from the North Carolina Coastal Resources Commission construct an upland boat basin and ramp on his property located at 52 Silverwood Drive in Merritt, Pamlico County, North Carolina. The variance is projected to be heard at the July 17-18, 2019, meeting of the Coastal Resources Commission. If you wish to receive further information concerning the variance, you may contact me. If you wish to make comments on the variance, you may direct your comments to the North Carolina Division of Coastal Management headquarters at 400 Commerce Avenue, Morehead City, North Carolina 28557. You may also contact the Division of Coastal Management at 252.808.2808.

Yours truly,

Amy P. Wang

ND: 4839-4199-6696, v. 1
cc: Mr. Robert L. Stallings, IV
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SENDERS: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Ms. Jane McLawhorn
5909 NC HWY 17 South
New Bern, NC 28562

RECEIVED BY (Printed Name):

Ms. Jane McLawhorn
5909 NC HWY 17 South
New Bern, NC 28562

C. Date of Delivery

D. Is delivery address different from Item 1?  □ Yes
If YES, enter delivery address below:  □ No

DOMESTIC RETURN RECEIPT

992831-00007 ARC/KSR
PETITIONER MEETS THE FOUR VARIANCE CRITERIA

I. Will strict application of the applicable development rules, standards, or orders issued by the Commission cause the petitioner unnecessary hardships? If so, the petitioner must identify the hardships.

Petitioner's Position: Yes.

Strict application of the CRC's management objectives and general and specific use standards for estuarine waters causes Petitioner unnecessary hardships because it prohibits construction of the Project on the Property which otherwise would enable Petitioner to continue his family's nearly 60 year tradition of maintaining the Swan Creek Tract.

First, there is not another location on the Property that allows for the boat basin and ramp to accommodate the pontoon skiff with fewer impacts to estuarine resources than the Project Area. The Property has a wide coastal wetlands fringe along the entire shoreline, except at the Project Area. The Project Area was chosen precisely due to the least impacts to CAMA-regulated resources because coastal wetlands will not be dredged for construction of the channel to provide access to Pittman Creek. Even if the Project could be moved to a different location on the Property, substantial impacts to coastal wetlands would be necessary and could cause greater negative impact on the PNA as a fishery resource. To the extent the CRC interprets its management objective as requiring complete avoidance of coastal wetlands and PNA, the Project could not be located, designed, and constructed to be consistent with the management objective for the AEC that it be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands and PNA. 15A NCAC 07H .0206(c), 07H .0208(a)(2)(A), and 07H .0208(b)(1).

Second, the Project Area allows for equipment and fuel to be loaded on and off the skiff in a safe, controlled environment over land utilizing a boat basin and ramp. The skiff can be stabilized within the sheltered waters of a boat basin in the Project Area, allowing for safe loading and unloading of equipment. However, the CRC's rule that any canal or boat basin be excavated no deeper than the depth of the connecting waters renders the Project impossible because the depth of the connecting waters of Pittman Creek at the Project Area requires slightly deeper excavation in order to launch and retrieve the skiff from a trailer. 15A NCAC 07H .0208(b)(1)(F).

Third, a dock and pier are not a viable alternative to the Project. A pier would need to be at least 12 feet wide, double the maximum width allowed, in order for the configuration to be structurally sound to support driving the heavy equipment and fuel safely down the pier over coastal wetlands and water to a dock for the skiff.
Such a massive structure cannot be permitted in the Project Area given the width of Pittman Creek at that location, and it would create a navigational hazard for boaters accessing Pittman Creek from the northeast. The structure cannot be at another point along the shoreline of the Property because driving large equipment down the pier and loading it onto the skiff over deeper, open waters creates a significant safety hazard. If attempted, the skiff would not be sufficiently stabilized within the deeper waters to safely load and unload equipment and fuel. Furthermore, a 12-foot wide pier would create perpetual substantial shading, the environmental impacts of which would be adverse to estuarine resources and contrary to other CRC rules.

Petitioner's ability to continue decades of care and maintenance of the Swan Creek Tract ecosystem as habitat to support waterfowl is jeopardized without a variance allowing construction of the Project on the Property. Petitioner's inability to continue maintaining the Swan Creek Tract would result in it falling into disrepair and ultimately cause the loss of an established historic and ongoing use of the Swan Creek Tract as a waterfowl impoundment. DCM's strict application of the CRC's rules requiring the basin, ramp and channel to be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands and PNA causes Petitioner unnecessary hardship by rendering the Project impossible at the Property and puts the Swan Creek Tract at severe risk once the Paradise Shores property is sold.

II. Do such hardships result from conditions peculiar to the petitioner's property, such as location, size, or topography of the property? Explain.

Petitioners' Position: Yes.

The hardships result exclusively from conditions peculiar to the Property, specifically its location in Pittman Creek and the resource-rich characteristics of its shoreline. Pittman Creek as a whole is designated PNA, and the Property has a wide coastal wetlands fringe along the entire shoreline except for at the proposed Project Area. Coastal wetlands will not be disturbed or excavated for access to Pittman Creek at the Project Area, but if the Project is moved to a different location on the Property, greater adverse impacts to coastal wetlands will be necessary and PNA will not be avoided. Thus, the hardships result from the Property's unique location, its topography, and the distribution of estuarine resources along the shoreline.

III. Do the hardships result from the actions taken by the Petitioner? Explain.

Petitioner's Position: No.
Petitioner has taken no actions that cause the unnecessary hardships that arise from strict application of the CRC's rules to the Project. Petitioner has designed the Project at the location on the Property that requires the least adverse impacts to estuarine resources.

IV. Will the variance requested by the petitioner

(1) be consistent with the spirit, purpose, and intent of the rules, standards or orders issued by the Commission; (2) secure the public safety and welfare; and (3) preserve substantial justice? Explain.

Petitioner's Position: Yes.

First, the variance will be consistent with the spirit, purpose and intent of the CRC's rules. The primary purpose of the management objective for estuarine waters is to "conserve and manage the important features of estuarine waters to safeguard and perpetuate their biological, social, aesthetic, and economic values." 15A NCAC 7H .0206(c). The CRC's general and specific use standards serve this purpose by locating water dependent uses, such as Petitioner's boat basin, ramp and access channel, and the related design and construction activities so as to "avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds," SAV and PNA. 15A NCAC 07H .0208(a)(2)(A) and .0208(b). These standards are not a prohibition on any impact. The variance will allow the Project to completely avoid shellfish beds and SAV and avoid significant adverse impacts to a larger area of coastal wetlands by allowing it to be located in a discrete PNA area with a much smaller footprint.

Further, even though excavation for the boat basin will be deeper than the depth of the immediately adjacent waters, the proposed activities will not significantly adversely affect the large presence of coastal wetlands, nor will they result in losing the designation of Pittman Creek as a PNA because the depths of Pittman Creek near the Project Area are similar to that proposed. The depth of the boat basin is necessary to provide the adequate depth for a trailer to launch the pontoon skiff so the skiff will float and the trailer can be removed. The depth of -3.3 feet NWL is a little over one foot deeper than the channel depth of -2.0 feet NWL. The water depths within Pittman Creek are also at -3.3 feet NWL within 100 feet of the proposed boat basin. The specific use standard restricting basin depths is intended to apply to larger projects to avoid excavating the basins to depths much deeper than the adjacent waters. 15A NCAC 07H .0208(b)(1)(F). For example, a private marina may excavate a basin to 15 feet deep while the maximum depth of the waterway the boats will navigate into is only eight feet deep. Such a scenario creates "dead water" because of lack of flushing because the basin is the deepest point and prevents circulation. The small size of Petitioner's proposed boat basin (±840 square feet), launching and landing of the skiff, and tidal fluctuations during
weather events will provide sufficient flushing. In addition, the excavated boat basin is adjacent to the open water of Pittman Creek so circulation of water will not be confined to only the 12-foot wide access channel. Petitioner's Project does not involve constructing a boat basin deeper than Pittman Creek and therefore will not create "dead water" at the relative depths needed.

Second, **public safety and welfare** will be secured by this variance because the Project does not require the construction of a large dock and pier to support transporting equipment and fuel down a long pier over coastal wetlands and open water. Such a configuration would create a navigational hazard for existing boat traffic from nearby docks. It also would require loading equipment and fuel over open, deeper waters or coastal wetlands into an unstable skiff. Rather, a variance for the Project allows for equipment and fuel to be loaded on and off land and a stabilized pontoon skiff in a boat basin in sheltered waters.

This boat ramp is intended to be used only for the skiff to transport equipment to and from the Swan Creek Tract to maintain the levees, pumps and other water control structures. The frequency of launching from the proposed boat ramp will depend on the time of year and water conditions. The water depths within Pittman Creek are relatively stable except during storms where wind out of the west causes low water events. However, not all storms result in low water conditions, as some storms have winds from the east that result in high water conditions. During low water events, Petitioner will not be able to launch from the proposed boat ramp.

When loaded to the maximum carrying capacity, the skiff has a draft of 18 inches. Seldom is the skiff loaded to capacity, so the draft frequently will be less. Even when fully loaded, hull scrape will not occur during normal water depths since the proposed channel will be excavated to -2.0 feet below NWL. Petitioner is experienced navigating the skiff in shallow waters to and from the Swan Creek Tract. A native of eastern Pamlico County, he has been navigating the waters of this area since his youth, and is skilled at navigating shallow waters in the skiff. Petitioner has a keen knowledge of water depths associated with wind driven tides, and knows there will be times when launching from the proposed boat ramp is not feasible. During ingress and egress, the skiff will be navigated at very slow speeds, barely more than idle. Slow speeds and using tilt and trim to raise the motor will help to prevent prop scour. Petitioner has no intention to risk potential damage to property or injury to persons by attempting to launch in low water conditions.

Third, **substantial justice** will be preserved by this variance. The CRC's management objective to "conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system" is served by balancing preservation of
Petitioner designed the Project to create the least adverse impact to the biological, social, aesthetic and economic values of the resources within the Project footprint and the entire estuarine system at the Property and Pittman Creek. 15A NCAC 7H .0206(c). Petitioner's Project allows the safeguarding and perpetuation of those same values in the estuarine waters at the Swan Creek Tract. Doing so maximizes the benefits of both properties to man and the estuarine and ocean system. Petitioner does a public service by maintaining the Swan Creek Tract in the Estuarine Waters and Public Trust AECs. Strict application of the CRC rules to the Project ignores the balance between resource protection and development activities that CAMA is intended to provide. The variance process is meant for this situation. Substantial justice will be preserved by allowing Petitioner to construct the boat basin at the Project Area on his Property to continue his family's legacy.

Granting Petitioner the requested variance will be consistent with all four of the criteria stated in N.C. Gen Stat. § 113A-120.1 and in 15A NCAC 7J .0700. Petitioner respectfully requests that the CRC issue a variance in accordance with the permit application for the Project.
ATTACHMENT E:
STIPULATED EXHIBITS INCLUDING POWERPOINT

A. Deed to Property at 574/487  
B. PNA maps for Pittman's Creek and Broad Creek  
C. CAMA General Permit #67780C for the pier and bulkhead  
D. Copy of the Tax Card for the Property  
E. NAWCA Proposal  
F. NAWCA Grant Partner Agreement  
G. Deed to Swan Creek Tract 448/871, 448/913  
H. Deed to Paradise Shores Tract 448/866  
I. 2017/18 Project DCM Field Investigation Report  
J. 2018 DWR Denial Letter  
K. 2018 DMF and WRC Comments  
L. 2018 DCM Denial  
M. 2018/19 Project DCM Field Investigation Report  
N. 2018/19 Project CAMA Major Permit Application including drawings  
O. Adjacent Riparian Owner Notice Information  
P. DMF’s objection, dated February 18, 2019 and February 20, 2019  
Q. WRC’s objection, February 28, 2019  
R. DWR’s correspondence re: Add Info (3/11/29)  
S. Petitioner's Buffer Restoration Plan  
T. DWR's Hold Notice (5/30/19)  
U. DEMLR-Stormwater’s correspondence  
V. DCM’s March 25, 2019 denial letter  
W. Petitioner’s April 3, 2019 written response to agency concern  
X. Army Corps of Engineer’s March 26, 2019 denial letter  
Y. Ground and aerial photos of the Property & Swan Creek Tract in Powerpoint
NORTH CAROLINA
PAMLICO COUNTY

Tax Parcel # L 08 - 37 - 3
Revenue Stamps $ 370.00

THIS DEED, made this 4th day of December, 2012, by and between GEORGIA LAND & TIMBER, LLC, a limited liability company organized and existing under and by virtue of the laws of the State of North Carolina, whose mailing address is 450 River North Drive, North Augusta, SC 29847, Grantor; to ROBERT L. STALLINGS, IV, of Craven County, North Carolina, whose mailing address is 5207 Trent Woods Drive, New Bern, NC 28562, Grantee, is as follows:

WITNESSETH:

That the Grantor in consideration of the sum of TEN DOLLARS ($10.00) and other good and valuable consideration to Grantor paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does bargain, sell, and convey unto the Grantee the following described property which said property does not include the primary residence of the Grantor, to wit:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

Prepared by:
Sumrell, Sugg, Carmichael, Hicks and Hart, P.A.
Attorneys at Law
416 Pollock Street
New Bern, North Carolina 28560
TO HAVE AND TO HOLD the above described lot or parcel of land and all privileges and appurtenances thereunto belonging to the Grantee, in fee simple forever, subject to the herein mentioned encumbrances, if any.

And the Grantor covenants to and with the Grantee that Grantor is seized of said premises in fee and has the right to convey same in fee simple; that the same are free from encumbrances except the herein mentioned encumbrances, if any, ad valorem taxes for the current year (prorated through the date of closing), utility easements and unviolated restrictive covenants that do not materially affect the value of said premises and such other encumbrances as may be assumed or specifically approved by Grantee; and that Grantor will warrant and defend the title to the same against the lawful claims of all persons whomsoever.

The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, as the case may be, and shall include the singular, plural, masculine, feminine or neuter as required by the context.

IN TESTIMONY WHEREOF, the Grantor has executed this instrument in such form as to be binding, this the day and year first above written.

GEORGIA LAND & TIMBER, LLC

BY: ⍉
TIMOTHY S. NIXON
Manager
NORTH CAROLINA  
CRAVEN COUNTY

I, the undersigned Notary Public of the County of Craven, and State of North Carolina, do hereby certify that TIMOTHY S. NIXON personally appeared before me this day and acknowledged (i) that he is the Manager of GEORGIA LAND & TIMBER, LLC, a limited liability company, and (ii) that by authority duly given and as the act of such limited liability company, he signed the foregoing instrument in the name of such limited liability company on such limited liability company’s behalf as its act and deed.

WITNESS my hand and notarial seal, this 4th day of December, 2012.

My Commission Expires:  
May 23, 2014

NOTARY PUBLIC

NOTARY SEAL/STAMP MUST APPEAR LEGIBLY IN ABOVE BOX

36-0003870.000 DOC
USING THE DECLARATION AS STATED IN DEED BOOK 267, PAGE 902 OPSET TO THE EAST 07°46'55"; STARTING FROM A PR NAIL FOUND IN THE CENTERLINE OF THE BRIDGE AND OVER THE MIDDLE OF SPRING CREEK, LOCATED ON STATE ROAD 1327, THENCE S 48°45'54" E AT A DISTANCE OF 101.24 FEET; THENCE E 48°45'55" E AT A DISTANCE OF 84.23 FEET; THENCE S 47°03'34" E AT A DISTANCE OF 87.49 FEET; THENCE S 42°02'32" E AT A DISTANCE OF 71.09 FEET; THENCE S 35°48'23" E AT A DISTANCE OF 74.46 FEET; THENCE S 32°03'33" E AT A DISTANCE OF 21.55 FEET TO AN IRON ROD SET AT INTERSECTION OF WHORTONVILLE RD ALSO KNOWN AS SR 1327 AND ROAD 1; THENCE FOLLOWING A TIE LINE S 73°02'56" E AT A DISTANCE OF 38.11 FEET TO A RAILROAD IRON; THENCE N 60°25'00" E AT A DISTANCE OF 210.32 FEET; THENCE S 32°58'08" E AT A DISTANCE OF 343.00 FEET TO AN IRON PIPE FOUND; THENCE S 55°46'53" W AT A DISTANCE OF 220.31 FEET TO AN IRON PIPE FOUND; THENCE S 31°37'16" E AT A DISTANCE OF 486.89 FEET; THENCE S 29°12'49" E AT A DISTANCE OF 387.88 FEET; THENCE S 26°34'40" E AT A DISTANCE OF 1217.94 FEET TO AN IRON ROD FOUND; THENCE S 76°08'08" W AT A DISTANCE OF 901.57 FEET TO AN IRON ROD FOUND; THENCE S 02°59'12" E AT A DISTANCE OF 1245.07 FEET TO AN IRON ROD SET; THENCE FOLLOWING A TIE LINE S 02°59'12" E AT A DISTANCE OF 70.19 FEET TO AN IRON ROD SET; THENCE S 53°05'14" E AT A DISTANCE OF 70.82 FEET; THENCE S 49°21'57" E AT A DISTANCE OF 59.04 FEET; THENCE S 45°42'43" E AT A DISTANCE OF 85.10 FEET; THENCE S 42°06'05" E AT A DISTANCE OF 62.31 FEET; THENCE S 39°20'40" E AT A DISTANCE OF 33.87 FEET; THENCE S 36°54'28" E AT A DISTANCE OF 33.89 FEET; THENCE S 33°51'01" E AT A DISTANCE OF 144.27 FEET; THENCE S 32°55'45" E AT A DISTANCE OF 224.44 FEET; THENCE S 32°55'04" E AT A DISTANCE OF 243. FEET TO AN IRON ROD SET; THENCE FOLLOWING A TIE LINE N 56°56'51" E AT A DISTANCE OF 30.00 FEET TO A MAGNETIC NAIL FOUND; THENCE FOLLOWING A TIE LINE N 34°34'06" E AT A DISTANCE OF 32.48 FEET TO AN IRON ROD SET; THENCE FOLLOWING A TIE LINE S 33°01'23" E AT A DISTANCE OF 56.59 FEET TO AN IRON ROD SET; THIS BEING THE POINT OF BEGINNING FOR FAM 12 EAST SIDE, THENCE N 84°54'22" E AT A DISTANCE OF 35.70 FEET; THENCE N 85°43'30" E AT A DISTANCE OF 141.56 FEET; THENCE N 87°48'18" E AT A DISTANCE OF 190.05 FEET; THENCE N 87°48'29" E AT A DISTANCE OF 124.34 FEET TO AN IRON ROD SET; THENCE S 12°22'43" W AT A DISTANCE OF 67.15 FEET TO AN IRON ROD SET LOCATED IN DITCH CENTERLINE; THENCE FOLLOWING DITCH CENTERLINE S 42°55'07" E AT A DISTANCE OF 58.73 FEET; THENCE S 37°05'36" E AT A DISTANCE OF 54.58 FEET; THENCE S 31°56'02" E AT A DISTANCE OF 40.80 FEET; THENCE S 61°28'21" E AT A DISTANCE OF 156.25 FEET; THENCE S 50°13'21" E AT A DISTANCE OF 46.46 FEET; THENCE S 10°34'33" E AT A DISTANCE OF 2.86 FEET; THENCE S 67°51'16" E AT A DISTANCE OF 199.18 FEET; THENCE S 37°55'56" E AT A DISTANCE OF 259.44 FEET TO CANAL INTERSECTION; THENCE N 55°02'58" E AT A DISTANCE OF 76.31 FEET; THENCE N 54°33'11" E AT A DISTANCE OF 94.13 FEET; THENCE N 68°12'20" E AT A DISTANCE OF 108.83 FEET; THENCE S 71°06'40" E AT A DISTANCE OF 65.88 FEET; THENCE N 73°07'06" E AT A DISTANCE OF 49.11 FEET; THENCE N 74°42'17" E AT A DISTANCE OF 109.88 FEET; THENCE S 30°16'26" E AT A DISTANCE OF 87.33 FEET; THENCE S 68°58'50" E AT A DISTANCE OF 2.45 FEET; THENCE S 35°54'45" E AT A DISTANCE OF 53.10 FEET; THENCE S 27°25'11" E AT A DISTANCE OF 46.58 FEET; THENCE 22°21'55" W AT A DISTANCE OF 34.53 FEET; THENCE S 08°04'43" W AT A DISTANCE OF 45.87 FEET; THENCE S 82°04'00" W AT A DISTANCE OF 40.18 FEET; THENCE S 56°32'02" W AT A DISTANCE OF 170.86 FEET; THENCE S 13°28'04" W AT A DISTANCE OF 51.77 FEET; THENCE S 18°53'17" W AT A DISTANCE OF 39.33 FEET; THENCE S 07°47'17" W AT A DISTANCE OF 34.03 FEET; THENCE S 43°29'56" E AT A DISTANCE OF 52.88 FEET; THENCE S 39°47'12" W AT A DISTANCE OF 82.20 FEET; THENCE S 06°22'07" E AT A DISTANCE OF 16.15 FEET; THENCE S 40°36'48" W AT A DISTANCE OF 44.18 FEET; THENCE S 71°10'04" W AT A DISTANCE OF 47.08 FEET; THENCE S 30°43'48" W AT A DISTANCE OF 19.86 FEET TO AN IRON ROD FOUND; THENCE S 89°06'49" W AT A DISTANCE OF 1217.68 FEET TO AN IRON ROD FOUND; THENCE S 18°51'34" W AT A DISTANCE OF 55.51 FEET; THENCE N 18°15'54" W AT A DISTANCE OF 206.12 FEET; THENCE N 18°17'19" W AT A DISTANCE OF 200.13 FEET; THENCE N 18°14'25" W AT A DISTANCE OF 152.79 FEET; THENCE N 19°27'24" W AT A DISTANCE OF 57.70 FEET; THENCE S 21°08'45" E AT A DISTANCE OF 93.21 FEET; THENCE N 30°12'05" W AT A DISTANCE OF 138.27 FEET; THENCE N 32°30'12" W AT A DISTANCE OF 111.53 FEET; THENCE N 33°03'09" W AT A DISTANCE OF 99.46 FEET TO AN IRON ROD SET; WHICH IS THE POINT OF BEGINNING, HAVING AN AREA OF : 1,134,601.64 SQUARE FEET, 26,047 ACRES.
<table>
<thead>
<tr>
<th>Type of Project/ Activity</th>
<th>Proposed dock/facility and vinyl bulkhead</th>
</tr>
</thead>
</table>

**Pier (dock) length** 5' x 100'  
**Fixed Platform(s)**  
**Floating Platform(s)**  
**Finger pier(s)**  
**Groin length**  
**Number**  
**Bulkhead/Riprap length**  
**Avg distance offshore**  
**Max distance offshore**  
**Basin, channel**  
**Cubic yards**  
**Boat ramp**  
**Boathouse/ Boatlift**  
**Beach Building**  
**Other (boat slips)**  

**Shoreline Length**  
**SAV**  
**Moratorium**  
**Photos**  
**Waiver Attached**  

A building permit may be required by:  
(Note Local Planning Jurisdiction)  

**No fill or excavation of Coastal Wetlands**  

Applicant Name: Robert Stallings  
Address: PO Box 12327  
City: New Bern  
State: NC  
ZIP: 28561  
Phone #: 252-671-9759  
E-Mail:  
Authorized Agent: Bobby Cahoon Const.  
Subdivision: Paradise Shores  
City: Merritt  
ZIP: 28556  
Phone #:  
Adj. Wtr. Body: Neuse River  
Closest Maj. Wtr. Body: Neuse River  

**Permit Officer's Printed Name**: Brad Connell  
**Signature**:  
**Issue Date**: 8/30/16  
**Expiration Date**: 12/30/16  
**Application Fee(s)**: $1000.50  
**Check #**: 26466
EAST SIDE SR 1328  
stallings Robert L IV and  
P O Box 12327  
New Bern NC 28561  
Current ID#: 30377

0012060  
New Bern NC 28561  
Jan. 1 ID#: 30377

Bldg No. 1 Exemption Code:
Appraiser:
Appr Date:
Imp Desc: 01 RES-SINGLE FAMILY
Grade: A EXCELLENT QUALITY
Act Yr Bt: 2016
Effect Yr: 2016
Stories: 1.00
Rooms: 9
Bedrooms: 4
Bathrooms: 2.0 1/2 Baths: 1
EXT WALL 08 WOOD SHINGLES
FLR COVER 01 CARPET
FLR COVER 04 HARDWOOD
FOUNDATION PL PILING
FIREPLACES 1P 1 STORY PREFAB
HEAT & AIR 16 HEAT PUMP
INT FINISH 09 T&G WOOD
PLUMBING F 2 HALF BATH
ROOF COVER 04 METAL
ROOF TYPE 01 GABLE

PROPERTY NOTES:

BLDG CODE DESC UNITS EYB DT PCT ADD.DEPR PCT VALUE EXEMPTION MODS
101 28 BULKHEAD 64.00 2016 MAV 2.00 3,764
102 22 PIER 5 X 190 950.00 2016 MGD 2.00 23,042
103 27 BOAT LIFT-UNIT 2.00 2016 MGD 2.00 9,800

REC LUSE DESC EXEMPT FRONTAL DEPTH UNITS ACRES PRICE ADJUSTMENTS VALUE
1 AC 16 WF LOT BLDG SITE W/UT 1.000 1.000 100,000.00 SZ 100,000
2 AC 10 WOOD-PAVED ROAD 23.050 23.050 2,200.00 SZ 50,202
3 AC 29 WASTELAND 2.000 2.000 40.00 SZ 79

PARCEL: L08-37-3  
52 Silverwood Dr

LAND VALUE 150,281
MISC VALUE 36,606
BLDG VALUE 378,618
IMP VALUE 415,224
TOTAL VALUE 565,505
VALUED BY RCNLD METHOD
PRIOR YEAR 565,505

APPRAISER JMA
APPR DATE 1/15/2018
USE CODE 1 PAVED
DISTRICT 102 FL/WHORT - FIRE
NBHD 2000
PARCEL EXEMPTION CODE
FINISHED AREA 2,960.00
RCN 252,412
OG RCN 378,618
DEPR RA .00
ADD PHYS DEPR FUNC OBS ECON OBS
LOCAT OBS BUILDING 378,618
BOOK PAGE DATE QS SALES PRICE
000621 000547 1/05/2017 F 134,000
000574 000487 12/04/2012 E 185,000
DEPR TYPE: WD
DEPR NO TYPE DATE AMOUNT

PAMLICO COUNTY LAND RECORDS - PROPERTY RECORD CARD
NORTH AMERICAN WETLANDS CONSERVATION ACT PROPOSAL

PROJECT OFFICER'S PAGE

What is the proposal title? Neuse-Pamlico Wetland Conservation Initiative

What are the geographical landmarks for the proposal?
- State: North Carolina
- Counties: Beaufort, Craven and Pamlico Counties, North Carolina
- Congressional Districts: North Carolina Congressional Districts 1 and 3
- Central latitude and longitude point: 35° 17' 56" latitude, 76° 33' 32" longitude

What is the date you are submitting the proposal? July 27, 2007

Is an optional Matching Contributions Plan submitted with the proposal? Yes

Are you requesting that this proposal be considered as a continuation of a previous grant agreement (a Programmatic Project Proposal)? No

What is the status of previous NAWCA-funded proposals you have submitted in the same project area? Two projects of the South Atlantic Migratory Bird Initiative (SAMBI) Habitat Conservation Project grant (awarded in 2001) are located in this project area and both projects are 100% complete. These projects were on the North Carolina Wildlife Resources Pamlico Point and Spring Creek Impoundments.

How many more proposals will you submit for the same project area? 1-2

What is the Project Officer's information?
- Name: Craig R. LeSchack
- Title: Director Of Conservation Programs
- Organization: Ducks Unlimited Inc.
- Address: 3294 Ashley Phosphate Road, Suite 1-F, North Charleston, SC 29418
- Telephone number: 843-745-9110
- Facsimile machine phone number: 843-745-9112
- Electronic mail address. cleschack@ducks.org

Will any of the NAWCA funds requested as part of the proposal be received or spent by the U.S. Fish and Wildlife Service or another Federal agency? No

Are carbon sequestration credits involved in the proposal? No

To ensure that the proposal complies with available guidelines and to ensure that partners are aware of their responsibilities, the organization’s Authorized Representative (the individual signing the required SF-424, who may or may not be the same person designated as the Project Officer above) certifies to the following statement: Yes. I have read the 2007 standard grant instructions, eligibility information, and grant administration standards and informed partners or partners have read the material themselves. To the best of my knowledge, the proposal is eligible and complies with all NAWCA, North American Wetlands Conservation Council and Federal grant guidelines. The work in this proposal consists of work and costs associated with long-term wetlands and migratory bird habitat conservation.

Do you have any comments about, or suggestions for, the NAWCA program? No
NORTH AMERICAN WETLANDS CONSERVATION ACT PROPOSAL SUMMARY
Neuse-Pamlico Wetland Conservation Initiative, North Carolina

COUNTIES, STATE, CONGRESSIONAL DISTRICTS: Beaufort, Craven and Pamlico Counties, North Carolina, First and Third Congressional Districts

GRANT AMOUNT
Allocation: Ducks Unlimited, Inc
Sub-grantee: Neuse River Investments LLC

MATCHING PARTNERS
Grantee: Ducks Unlimited Inc.
North Carolina Wildlife Resources Commission
North Carolina Clean Water Management Trust Fund
Neuse River Investments LLC

GRANT AND MATCH - ACTIVITIES, COSTS, AND ACRES
[() = acres also shown in another category]
Fee Acquired - / 2,764 acres
Enhanced - / 1,048 (285) acres
Indirect Costs -

NON-MATCHING PARTNERS

FINAL TITLE HOLDERS/MANAGERS AND ACREAGE: Acreage acquired fee title and represented as match will be held as follows: Neuse River Investments LLC (NRI), private landowner, 2,579 acres, North Carolina Wildlife Resources Commission (NCWRC) - 76 acres, North Carolina Coastal Land Trust (NCCLT) - 109 acres. Enhancement acreage of 1,048 acres will be held by the NCWRC as part of the Game Lands Program, in addition (285) acres will be held by NRI.

PROJECT DESCRIPTION: This proposal represents a plan to protect and enhance 3,812 acres of wetlands and their associated buffers. Our work consists of 2,764 acres of acquired lands and 1,048 (285) acres of enhancement projects as follows:

Pamlico Point Impoundment- NAWCA funded wetland enhancement project on NC Wildlife Resources Commission lands (Goose Creek Game Lands) in Pamlico County, NC: 734 acre impoundment in need of main and lateral ditch excavation to improve water circulation and enhance habitat management for wetland dependant species.

Campbell’s Creek Impoundment- NAWCA funded wetland enhancement project on NC Wildlife Resources Commission lands (Goose Creek Game Lands) in Beaufort County, NC: 314 acre impoundment in need of levee rehabilitation to restore levee integrity.

Swan Creek Impoundment- NAWCA funded wetland enhancement project on private lands (Swan Creek Tract) in Pamlico County, NC: (285) acre impoundment in need of levee rehabilitation to restore levee integrity.

Whitehurst Tract- match fee title acquisition by the NC Wildlife Resource Commission; 76 acres of wetland and adjacent uplands

Nevil’s Creek Tract- match fee title acquisition by the North Carolina Coastal Land Trust with funding from the North Carolina Clean Water management Trust Fund; 109 acres of wetland and adjacent uplands.

Swan Creek Tract- match fee title acquisition by Neuse River Investments LLC, a private landowner; 2,579 acres of wetlands and adjacent uplands.
Water management is critical to managing impoundments and the ability to maintain water circulation on these areas enhances productivity by stimulating desirable plant and invertebrate growth, and reducing stagnant water conditions. Severe erosion from boat traffic and storms has resulted in dike damage on Campbell's Creek and Swan Creek impoundments. Continued erosion is anticipated and will likely result in dike failure. As a result, approximately 599 acres of prime waterfowl and shorebird habitat will be significantly reduced in value. This project will restore dike integrity by installation of bulkheading and reinforcement of the eroded areas of the dike. In addition, the ability to circulate water through the sub-impoundments at Pamlico Point has declined. This project will enhance water circulation by improving the main canal and via excavation of new lateral ditches within the impoundment. These activities will aid in enhancing approximately 734 acres of prime waterfowl and shorebird habitat along the North Carolina coast. Upon completion, this project will improve water management capability within the impoundment and reduce tidal and salinity fluctuation. Control of water and salinity levels are necessary to allow for periodic draw downs that consolidate and oxidize substrates, reduce turbidity, encourage development of wigeon grass and musk grass, and stimulate changes in the emergent plant community of the marsh which will improve production and availability of desirable waterfowl and other wildlife foods.

HABITAT TYPES AND WILDLIFE BENEFITTING: This proposal will largely affect managed emergent estuarine habitat, a decreasing wetlands type. Enhancement of these wetlands provides feeding habitat for many wetland dependent species including migrating and wintering waterfowl in the Atlantic Flyway, neotropical migrants and other migratory and non-migratory waterbirds. The proposed project sites are located within the Goose Creek Game Lands, which provide the highest quality managed habitat under state ownership for Northern Pintails and American Black Ducks. Other important waterfowl species that will benefit from this project include American Wigeon and Gadwall. All species will use the area for both migration and wintering habitat. In addition, the area is at the southern end of the breeding Black Duck range and this species nests at the proposed sites. Other wetland dependent species that will benefit include yellow rail, marbeled godwit, and semi-palmated sandpiper, which use exposed mudflats for foraging and resting areas, especially in spring. Pied-billed grebes and Forster's terns will benefit from enhancement of breeding and foraging habitat. The impoundments located in the Campbell's Creek and Swan Creek tracts are in danger of being permanently lost due to levee failure. With the completion of the proposed work, Pamlico Point tract habitat quality for endangered and threatened species such as bald eagles and wood storks will be greatly improved through the management and provision of shallow open water areas, which are optimal foraging conditions for these species. The proposed levee protection work associated with the Campbell's Creek and Swan Creek tracts will serve to “secure” habitat for bald eagles, wood storks, American alligators and diamondback terrapins.

PUBLIC BENEFITS: The large acreage of public lands in the project area, which is part of the Goose Creek Game Lands managed by North Carolina Wildlife Resources Commission, attracts large numbers of people seeking wildlife-based recreation. This recreation includes hunting, fishing, trapping, birding and other wildlife observation.

NEW PARTNERS: This proposal includes a new partner, Neuse River Investments LLC, a private land corporation providing matching funds to acquire 2,579 acres of land for conservation purposes and enhance (285) acres of managed emergent estuarine habitat.
PURPOSE AND SCOPE

What are the proposal objectives, affected habitats, and affected wildlife (especially wetland-associated migratory birds) and wetland functions? This proposal seeks to enhance 1,048 (285) acres of emergent estuarine habitat within the project area. Proposed enhancement projects include the following:

*Pamlico Point Impoundment Enhancement:* A total of 734 acres of managed estuarine emergent wetlands will be enhanced by improving water management through construction and rehabilitation of a network of lateral and main ditches. This area will be managed for submersed aquatic vegetation, which will benefit migrating and wintering waterfowl in the Atlantic Flyway, neotropical migrants, and other migratory and non-migratory waterbirds by improving feeding and roosting habitat. Shorebirds will benefit from increased feeding opportunities via water level management within the four sub-impoundments on this project area.

*Campbell’s Creek Impoundment Enhancement:* This proposal seeks to restore levee integrity by reinforcing eroded areas of the levee around this 314-acre managed wetland. This area is managed for submersed aquatic vegetation, a valued habitat type that benefits migrating and wintering waterfowl in the Atlantic Flyway, neotropical migrants, and other migratory and non-migratory waterbirds.

*Swan Creek Impoundment Enhancement:* This project plans to restore levee integrity by installing bulkheading along a section of levee, which is highly susceptible to erosion. The work outlined here will enhance and protect (285) acres of managed emergent estuarine habitat that is beneficial to waterfowl and other migratory and non-migratory waterbirds.

How does the proposed work form a long-term wetlands and migratory bird conservation proposal that should be funded under the North American Wetlands Conservation Act (NAWCA)? This proposal is an important part of an ongoing effort in coastal North Carolina to acquire, restore and enhance wetland habitat on a landscape level for migratory birds and other native wildlife and plants. As outlined in this proposal, brackish marsh impoundments like the examples on the Pamlico Point, Campbell’s Creek, and Swan Creek tracts are unique. Maintaining fish and wildlife populations and communities on an ever decreasing, altered and degraded native brackish marsh habitat base requires intensive management of these remaining marshes. These impoundments are managed to provide brackish, emergent marsh habitat for a wide variety of wetland-dependent species, particularly migratory wetland birds. This management has been severely compromised in recent decades due to siltation and erosion from storm events and increased boating activity. The proposed projects would enhance and improve management capability by making the proposed projects better able to withstand these events and increasing water management capabilities. This would subsequently provide substantial benefits to a variety of wetland dependent wildlife by enhancing a well-managed impounded brackish marsh.

Proposed wetland enhancement work includes levee repair on the Campbell’s Creek and Swan Creek tracts. The life expectancy of these projects is a minimum of 26 years and no major maintenance issues should arise until that time. Enhancement work on Pamlico Point consists of maintenance on existing main drainage canals and construction of new lateral drains. This work should last a minimum of 10 years before maintenance is required. All of these projects will require annual monitoring by Ducks Unlimited staff as mandated through project agreements.

This proposal involves a solid partnership between state, private entities and non-governmental organizations devoted to protecting and developing the wetland functions and values of these wetland systems. It is consistent with the goals of all major bird conservation plans.

What are the linkages between the proposal and conservation objectives of the following programs/plans and other international migratory bird and wetlands conservation programs/plans: North American Waterfowl Management Plan, Partners in Flight, U.S. Shorebird Conservation Plan, and North American Waterbird Conservation Plan? How do proposal activities address specific habitat priorities stated in these conservation plans? If there are no direct linkages to conservation plans, how and why was the proposal was developed? The geographic area covered by this proposal lies within the coastal plain of eastern North Carolina within the Atlantic Flyway. This entire area has been identified as a priority wetland area for waterfowl, shorebirds, and waterbirds and is also a priority habitat zone for neotropical migratory songbirds. Studies have shown that bird diversity is higher nearer the coastline, near waterways, and is increased with wider riparian habitat buffers. All of the projects in this proposal are in the coastal plain and near waterways, increasing their relative value for bird use. The Neuse-Pamlico projects will provide critical stopover and
foraging habitat for priority species in support of the North American Waterfowl Management Plan, the Partners in Flight South Atlantic Coastal Plain Bird Conservation Plan, the North America Waterbird Conservation Plan, United States Shorebird Conservation Plan, and the South Atlantic Migratory Bird Initiative Implementation Plan.

In support of NAWMP goals, the wetlands that will be protected and enhanced under this proposal will benefit many high priority waterfowl species and their habitats in the Neuse-Pamlico Focus Area. Conservation of habitat for these species is important to achieving population goals. This proposal will benefit the NAWMP goals of enhancing habitats to improve migration and over-winter survival rates, and allowing birds to return to the breeding grounds in better physical condition. The Atlantic Coast Joint Venture Waterfowl Implementation Plan (a step-down plan of NAWMP) states that the “continued availability and management” of brackish water impoundments within the Neuse-Pamlico Focus Area should be a high priority.

This proposal includes several habitat types outlined in the Partners in Flight (PIF) Bird Conservation Plan for the South Atlantic Coastal Plain as being important to priority species. These habitats include palustrine and estuarine emergent wetlands, palustrine forested wetlands and Southern pine forests. PIF’s Bird Conservation Plan for this Region states that protection and establishment of forested and fresh/brackish emergent wetlands are two of its primary objectives. Many migratory bird species considered to be priority species of concern under PIF in the Southeastern Coastal Plain (BCR 27) will benefit from the proposed enhancement and match work. A few of the priority species that will benefit include, black and yellow rail, Nelson’s sharp-tailed sparrow, wood storks, red-cockaded woodpecker, prairie warbler, Swainson’s warbler, Bachmann’s sparrow, and Prothonotary warblers.

The proposed brackish marsh enhancement sites located along the Pamlico Sound are areas that maintain high wading bird, shorebird, and waterfowl use. One of the goals of the National Shorebird Plan is to increase the acres of managed wetland impoundments, 1,048 (285) acres of which are a proposed enhancement activity under this grant. These areas of managed brackish marsh will also aid in achieving the goals of the Southeastern Coastal Plains-Caribbean Regional Shorebird Plan by “providing high quality managed habitat to support successful migration through and over-wintering within the planning region” and contribute to the goal of providing over 4,000 acres of quality shorebird foraging habitat in North Carolina and Virginia.

The North American Waterbird Conservation Plan states that foraging and breeding habitat loss and reduction in habitat quality are all important factors in declines of colonial waterbird populations. Important habitats for colonial waterbirds in the southeast United States include marshes and forested wetlands. This proposal will provide habitat through enhancement of existing managed emergent marshes, and roosting, foraging, and breeding habitat in protected forested wetlands. In addition, this proposal will aid in accomplishing waterbird population and habitat goals as outlined in the Southeast United States Regional Waterbird Conservation Plan by providing opportunities to “improve, restore and protect potential waterbird nesting sites” as well as providing an opportunity to restore wetlands important for waterbirds.

The South Atlantic Migratory Bird Initiative (SAMBI) serves as the framework for integrated bird conservation in the South Atlantic Coastal Plain from Virginia south through Florida. SAMBI has developed the following goals: 1) Set population and habitat goals for vulnerable bird species; 2) Identify habitat management and restoration objectives; and 3) Identify and implement specific actions within specific areas that lead to stabilized or increasing bird populations. The enhancement of water and salinity control capabilities, protection of levee integrity and the subsequent year-round management scheme that will occur from the proposed projects will address these goals. For instance, one of SAMBI’s major objectives is to integrate management of wetlands such as the proposed brackish impoundments to benefit multiple bird groups. This proposal provides for protection of impoundment levees, and installation of drains within the impoundments that will allow the managers of these sites to provide regular and integrated management of the area. This in turn will provide wintering habitat for dabbling and diving ducks, year round foraging habitat for wading birds, and important foraging and roosting habitat for migrating shorebirds, maximizing the value of these project areas to these three bird groups.

If the proposal is part of a larger multi-phase or landscape level project, how does it fit into the larger effort? The proposal contributes directly to the goals and objectives of the South Atlantic Migratory Bird Initiative (SAMBI), which serves as the framework for integrated bird conservation in the South Atlantic Coastal Plain from Virginia south through Florida. Specific SAMBI habitat goals affecting shorebirds, waterbirds, and waterfowl that this proposal will accomplish include:
1) Provide high quality managed habitat to support successful migration through and over-wintering within the planning region, particularly during fall migration.
2) Provide at least 3,800 acres of managed wetlands for shorebirds during migration, particularly fall migration when many wetlands have been flooded up for waterfowl production.
3) Enhance at least 2,500 acres of habitat for waterfowl
4) Improve water level management on managed wetlands by upgrading existing wetlands through adequate infrastructure. These improvements will maximize management opportunities and enhance habitat to provide seasonal waterfowl, waterbird and shorebird needs.
5) Implement management measures to improve water surface and tidal exchange in salt marsh ecosystems.

In addition, this proposal is an extension of the conservation work being done in North Carolina by several of the partners. Ducks Unlimited and the North Carolina Wildlife Resources Commission have been and continue to be effective partners on both state and federal grants, which include four NAWCA grants for work on the Roanoke/Chowan River and the North Albemarle/Pamlico-Albemarle Peninsula Focus Areas. This proposal will continue these landscape level conservation efforts into the Neuse-Pamlico Focus Area and will aid in linking these areas by enhancing a valuable and unique emergent estuarine habitat systems.

How is the proposal unique from, or complementary to, previously funded proposals? This is a unique project because it provides a solution to protecting the habitat values and management capabilities of several of a limited number of brackish water impoundments along the North Carolina Coast. The proposal area also ties into current wetland conservation efforts as it lies between the Roanoke-Chowan River Basin to the north and the Onslow Bight Conservation area to the south. Both of these project areas have previously been funded by NAWCA to provide landscape scale wetland conservation and this proposal will aid in linking these areas by enhancing a valuable and unique emergent estuarine habitat system.

How did you determine the proposal boundaries? This proposal focuses on wetland habitats in the ACJV Neuse/Pamlico Focus Area of North Carolina. We evaluated the location and quality of existing wetlands habitats for migratory birds and are proposing to enhance existing habitat that has not reached its full management potential.

What are the threats and special circumstances that make NAWCA funding important at this time? Will any partner match be lost if the proposal is not funded? There is immediate threat to the habitat on Campbell's and Swan Creek Impoundments due to continued erosion of the levee system. In addition, a total of $2.8M of the Neuse River Investments LLC matching contributions will become ineligible if this proposal is not funded during the July 2007 submission period because of the 2-year time limitation on match funds. Recognizing common goals, the Neuse River Investments LLC is sharing a significant portion of their funds from the acquisition of their privately owned conservation lands. The total acquisition cost was $1.5M. Approximately $1.4M is being allocated to future proposals and is presented in the attached Matching Contribution Plan. There is no guarantee that new match approaching this magnitude will be available in the future. To fully utilize the match, we must submit a successful proposal before the 2-year match period expires in December 2007.

What are the current public and private uses of lands in the proposal area and are you proposing any changes? The lands affected in the NCWRC's Goose Creek Game Lands (Pamlico Point, Campbell's Creek) are in public ownership. Lands owned by the NCWRC are managed for wildlife-based recreation including hunting, fishing, trapping, wildlife observation and study. These public uses are not expected to change. The owners of the Swan Creek tract currently manage the property for hunting, fishing, and wildlife observation and are seeking to enhance this property for these purposes. The owners plan to continue these activities well into the future.

Will you allow public access? Will you limit the number of people permitted access or the season of access? NCWRC lands, which comprise the bulk of this proposal area, have existing public access programs that include consumptive and non-consumptive outdoor activities such as wildlife viewing. All hunting is managed through the NCWRC permitting program that limits participation. This program is aimed at providing a quality outdoor experience in which conflicts between users are minimized and chance of success remains high. Fishing in adjacent waters is not limited except by state regulations. Access to the Swan Creek impoundment tract will be limited due to its private ownership. However the owner is open to potentially allowing access for scientific purposes and/or wildlife observation surveys (e.g., Christmas Bird Counts).
Has the public been informed about the proposal? Have landowners been contacted? If applicable, what is the willingness of landowners to sell properties? The public has not specifically been informed of management actions to be conducted on the proposed tracts. However the local public and other users are familiar with ongoing cooperative management programs on these state managed lands and are accustomed and supportive of programs that improve conditions for wildlife. As is the practice of both the NCWRC and DU, these projects will be publicized through the normal outreach programs. As in other NAWCA cooperative projects, the contributions of NAWCA and the partners will be publicized. No adverse public opposition to these proposals is anticipated.

BUDGET AND WORK PLAN

Is the required Budget Table submitted here or as an attachment? Here.

<table>
<thead>
<tr>
<th>ACTIVITIES</th>
<th>GRANT $</th>
<th>PARTNER NAME</th>
<th>OLD MATCH $</th>
<th>NEW MATCH $</th>
<th>NON-MATCH $</th>
<th>TOTAL $</th>
<th>TRACT ID</th>
<th>SUB-GRANTEE NAMES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Costs: Fee Acquired</td>
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<td>NRI</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>SCT</td>
<td></td>
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<td></td>
<td></td>
<td>NCWRC</td>
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<td>WHT</td>
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<td></td>
<td></td>
<td>CWMTF</td>
<td></td>
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<td>NCT</td>
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<tr>
<td>TOTAL ACQUIRED</td>
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<tr>
<td>Contracts</td>
<td></td>
<td>DU</td>
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<td>PPI</td>
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<td>NCWRC</td>
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<td>CCI</td>
<td></td>
</tr>
<tr>
<td>Materials &amp; Equipment</td>
<td></td>
<td>NRI</td>
<td></td>
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<td></td>
<td>SCI</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>NRI</td>
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</tr>
<tr>
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<td></td>
<td>NCWRC</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>PPI</td>
<td></td>
</tr>
<tr>
<td>Non-Contract Personnel &amp; Travel</td>
<td></td>
<td>DU</td>
<td></td>
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<td></td>
<td></td>
<td>PPI</td>
<td></td>
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<td>DU</td>
<td></td>
<td></td>
<td></td>
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<td>CCI</td>
<td></td>
</tr>
<tr>
<td>TOTAL ENHANCED</td>
<td></td>
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<td></td>
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<tr>
<td>GRAND TOTAL DIRECT</td>
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<td>TOTAL INDIRECT</td>
<td></td>
<td>DU</td>
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<tr>
<td>GRAND TOTAL</td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>

FUND SOURCES

| Grant                          |         | DU          |             |
| Ducks Unlimited Inc.           |         | NRI         |             |
| Neuse River Investments LLC    |         | CWMTF       |             |
| N.C. Clean Water Management    |         |             |             |
| Trust Fund                     |         | NCWRC       |             |
| N.C. Wildlife Resources        |         |             |             |
| Commission                     |         |             |             |
| GRAND TOTAL                    |         |             |             |

7
Do you need to explain any abbreviations in the Budget Table?
Tracts: Pamlico Point Impoundment = PPI, Campbell's Creek Impoundment = CCI, Swan Creek Impoundment = SCI, Whitehurst Tract = WHT, Nevil's Creek Tract = NCT, SCT = Swan Creek Tract

If your grant request exceeds what is your justification? NA

If any match was previously approved by the Council via an Optional Matching Contributions Plan, did you include a copy of the letter approving the Matching Contributions Plan and give the following information: tracts affected, and how much each partner's match has been used in previous proposals, how much is being used in this proposal, and how much will remain after the current proposal is funded? NA

ACQUISITION BUDGET JUSTIFICATION — and 2,764 acres
Grant - Match - Non-Match

When will each fee tract be acquired and what are the costs? If some tracts are not yet identified, explain why and the method to be used to select tracts during proposal implementation.

<table>
<thead>
<tr>
<th>Tract</th>
<th>Month, year when fee acquisition will occur</th>
<th>Total $</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whitehurst</td>
<td>December 2005 and October 2006</td>
<td></td>
</tr>
<tr>
<td>Nevil's Creek</td>
<td>September 2006</td>
<td></td>
</tr>
<tr>
<td>Swan Creek</td>
<td>June 2005</td>
<td></td>
</tr>
</tbody>
</table>

For each tract acquired or donated in fee or easement, what is the cost per acre, what method did you use to determine costs, how do you know the costs are reasonable, and explain unusually high costs or large differences between per acre value of match and grant tracts or fee and easement tracts?
An appraisal was used to determine highest and best use value for all of the match properties. The costs per acre for each tract are: Whitehurst [price]/acre; Nevil's Creek [price]/acre and Swan Creek [price]/acre. All of these values are reasonable based on habitat types and accompanying best use of the property. The landowner of the Swan Creek tract will be donating [percentage] of the appraised acquisition value [amount] as match. The remainder of this match [amount] is being allocated to future proposals and is presented in the attached Matching Contributions Plan.

Will acquisition of any tracts be credited to wetlands mitigation banks or be used to satisfy wetlands mitigation requirements? No

ENHANCEMENT BUDGET JUSTIFICATION — and 1,048 (285) acres
Grant - Match - Non-Match

What work will be done, when and on what tract(s) through the CONTRACTS budget and how did you determine costs? If some tracts are not yet identified, explain why and the method to be used to select tracts during proposal implementation.

<table>
<thead>
<tr>
<th>Item &amp; Work</th>
<th>Units</th>
<th>$/unit</th>
<th>Total $</th>
<th>Schedule (month, year)</th>
<th>Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobilization</td>
<td>lump sum</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>PPI</td>
</tr>
<tr>
<td>Excavation of perimeter ditches</td>
<td>320 hrs</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>PPI</td>
</tr>
<tr>
<td>Excavation of lateral ditches</td>
<td>320 hrs</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>PPI</td>
</tr>
<tr>
<td>Mobilization</td>
<td>lump sum</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>CCI</td>
</tr>
<tr>
<td>Site preparation</td>
<td>lump sum</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>CCI</td>
</tr>
<tr>
<td>Install articulated concrete block mats</td>
<td>3,000 sy</td>
<td></td>
<td></td>
<td>Assistance Award Period</td>
<td>CCI</td>
</tr>
<tr>
<td>TOTAL COSTS</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>
055

How do you know the costs are reasonable and what other information justifies the CONTRACTS budget? The costs represented here are similar to previous projects completed in this area. DU engineers with a vast knowledge of this type of work developed cost estimates based on current prices from contractors working in this region. Due to location of these projects, all equipment and materials must be barged to the Pamlico Point and Campbell Creek project sites.

What work will be done, when and on what tract(s) through the MATERIALS & EQUIPMENT budget, what will be purchased, and how did you determine costs? For plantings of seeds or seedlings are to be planted, what seed or plant species will be planted and what percentage of each species is in the total planting? If some tracts are not yet identified, explain why and the method to be used to select tracts during proposal implementation.

<table>
<thead>
<tr>
<th>Item &amp; Work</th>
<th>Units</th>
<th>$/unit</th>
<th>Total $</th>
<th>Schedule (month, year)</th>
<th>Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobilization</td>
<td>Lump sum</td>
<td></td>
<td></td>
<td></td>
<td>SCI</td>
</tr>
<tr>
<td>Site preparation</td>
<td>Lump sum</td>
<td></td>
<td></td>
<td></td>
<td>SCI</td>
</tr>
<tr>
<td>Bulkhead</td>
<td>427 sy</td>
<td></td>
<td></td>
<td></td>
<td>SCI</td>
</tr>
<tr>
<td>Embankment fill</td>
<td>Lump sum</td>
<td></td>
<td></td>
<td></td>
<td>SCI</td>
</tr>
<tr>
<td>Seeding and Mulching</td>
<td>0.5 acre</td>
<td></td>
<td></td>
<td></td>
<td>SCI</td>
</tr>
<tr>
<td>Seeding and Mulching</td>
<td>30 acres</td>
<td></td>
<td></td>
<td></td>
<td>PPI</td>
</tr>
<tr>
<td>TOTAL COSTS</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
<td>NA</td>
</tr>
</tbody>
</table>

DU will not administer the contract on the Swan Creek Impoundment (SCI) enhancement project. This contract will be administered by Neuse River Investments LLC (sub-grantee); therefore estimates are represented as Materials & Equipment. The costs estimates were determined by DU engineers and are based on the landowner acquiring a contractor to complete the project.

Are costs pro-rated and how do you know that costs are reasonable? What other information justifies the MATERIALS & EQUIPMENT budget? Costs are based on similar equipment purchased for other projects. They are believed to be reasonable by DU engineers who have considerable experience with this type of work.

What work will be done, when and on what tract(s) through the NON-CONTRACT PERSONNEL budget and how did you determine the costs? If some tracts are not yet identified, explain why and the method to be used to select tracts during proposal implementation.

<table>
<thead>
<tr>
<th>Item &amp; Work</th>
<th>Units</th>
<th>$/unit</th>
<th>Total $</th>
<th>Schedule (month, year)</th>
<th>Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineer Supervisor: design review</td>
<td>36 hours</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>Engineer: survey, design, management</td>
<td>240 hours</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>Engineering Technician: survey, design, management</td>
<td>332 hours</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>Biologist</td>
<td>32 hours</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>Manager</td>
<td>8 hours</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>Travel by DU staff</td>
<td>3,600 miles</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>DU staff: hotels &amp;meals</td>
<td>lump sum</td>
<td></td>
<td></td>
<td></td>
<td>PPI,CCI</td>
</tr>
<tr>
<td>TOTAL COSTS</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
<td></td>
<td>NA</td>
</tr>
</tbody>
</table>

How do you know costs are reasonable and what other information justifies the NON-CONTRACT PERSONNEL budget? DU staff familiar with these types of enhancement projects determined these costs based on DU hourly rate for various employee classifications.

Will enhancement of any tracts be credited to wetlands mitigation banks or be used to satisfy wetlands mitigation requirements? No.

Are there any other enhancement costs shown in the Budget Table that are not described above? No.
<table>
<thead>
<tr>
<th>Allowable Category from Negotiated Indirect Costs Agreement</th>
<th>Specific NAWCA Budget Line Items to Which Indirect Cost is Applied</th>
<th>Grant Amount</th>
<th>Match Amount</th>
<th>Approved Indirect Cost Rate*/Agreement Date</th>
<th>Indirect Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowable direct costs</td>
<td>Contracts – Tracts PPI &amp; CCI</td>
<td></td>
<td></td>
<td>10.89% June 2007 (8.0% applied)</td>
<td></td>
</tr>
<tr>
<td>As above</td>
<td>Contracts – Tracts PPI &amp; CCI</td>
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<td></td>
<td>10.89% June 2007 (2.89% applied)</td>
<td></td>
</tr>
<tr>
<td>As above</td>
<td>DU contributed contracts, non-contract personnel and travel - PPI</td>
<td></td>
<td></td>
<td>10.89% June 2007 (10.89% applied)</td>
<td></td>
</tr>
<tr>
<td>As above</td>
<td>DU contributed non-contract personnel and travel - CCI</td>
<td></td>
<td></td>
<td>10.89% June 2007 (10.89% applied)</td>
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<tr>
<td>As above</td>
<td>NCWRC cash paid to DU for Contract charges - CCI</td>
<td></td>
<td></td>
<td>10.89% June 2007 (10.89% applied)</td>
<td></td>
</tr>
</tbody>
</table>

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**TECHNICAL ASSESSMENT QUESTION 1**

**How does the proposal contribute to the conservation of waterfowl habitat?**

**HIGH PRIORITY SPECIES:** Northern Pintail, American Black Duck, Mallard, Lesser Scaup, Greater Scaup

**How proposal will aid in meeting objectives of waterfowl conservation plans:**
Protection and enhancement of habitat at Goose Creek Game Land and the Swan Creek impoundment will help meet objectives of the North American Waterfowl Management Plan (NAWMP) especially for declining populations of northern pintail and American black duck. The Atlantic Coast Joint Venture’s (ACJV) Waterfowl Implementation Plan (a step-down plan of NAWMP) places the black duck in the “highest” conservation concern category. All project sites are located within the ACJV’s Neuse – Pamlico Rivers Focus Area and as such have already been identified as providing key habitats for waterfowl within the ACJV. The South Atlantic Migratory Bird Initiative Implementation Plan, which provides a more regional focus than NAWMP, includes the pintail and black duck as a highest priority species in need of immediate management attention. Furthermore, the USFWS lists the pintail as priority species in several planning documents including the Migratory Bird Program’s Focal Species Strategy and as a Partner’s for Fish & Wildlife focus species.

Brackish water managed impoundments are a unique habitat feature in coastal North Carolina that can no longer be constructed due to current wetlands regulations. Continued availability and proper management of these areas is extremely important to a multitude of waterfowl species, especially pintails migrating and wintering in the Atlantic Flyway. Due to the extremely large numbers of pintails that winter in North Carolina, protection and enhancement of areas already benefiting this species (such as Goose Creek GL) should receive special consideration as it relates to NAWMP and other bird conservation goals and objectives.

**How many individuals/pairs will use the proposal area and for what life cycle stage and whether this is an improvement in population numbers over the current situation:**
Coastal portions of North Carolina, especially managed areas, likely contain the highest concentration of pintails in the entire Atlantic Flyway and mid-winter survey data and federal harvest estimates corroborate that North Carolina winters
the largest number of pintails in the flyway. The Goose Creek Game Lands provide the highest quality managed habitat under state ownership for pintails and black ducks. All species will utilize the area for both migration and wintering habitat. In addition, the area is at the southern end of the breeding black duck range and breeding black ducks are known to occur at the proposed sites. Based on past aerial surveys, we have observed as many as 2,800 pintails and 400 black ducks using the Campbell’s Creek and Pamlico Point impoundments for migration and wintering habitat. No more than 50 mallards likely use the area. Use of the area by lesser and greater scaup is sporadic. Large numbers (>5,000) of scaup are found in adjacent open water habitats and utilize the managed impoundments frequently during inclement weather. Numbers of high priority species using the Pamlico Point impoundment complex will almost certainly increase due to improved habitat conditions at that location. Anecdotal information suggests that up to 500 pintails and 100 black ducks currently use the Swan Creek impoundment. Protection of this area will ensure long-term use by these species.

How proposal will impact species and improve habitat quality (describe before- and after-proposal environment): Proper management of the Pamlico Point impoundments to maximize production for moist soil vegetation is hindered by the lack of control over the dewatering process. In years of above average and untimely rainfall, production of waterfowl foods is minimal or non-existent in several sub-impoundments because seed sources do not have the ability to germinate and/or new growth is unavoidably flooded and killed. Improved water management capabilities at the Pamlico Point complex will almost certainly result in increased production of beneficial waterfowl foods with a resulting increase in waterfowl species use. The dike stabilization work proposed at Campbell’s Creek will not improve habitat per se; but if not performed, continued deterioration of the dike will lead to the loss of management capabilities at this site. If so, one of the premier migration and wintering locations for pintails in North Carolina will be lost. Because several portions of dike are in disrepair at the Swan Creek impoundment, flooding of the impoundment cannot occur at desired water levels. As such, some portions of the area cannot be flooded to depths that would attract waterfowl nor are beneficial foods available for foraging. The proposed work will correct this problem at this site.

Importance of each tract or logical groupings of tracts shown on maps in the proposal to the species (if tracts are not yet identified, explain what procedure will be used to ensure that high quality habitat is targeted): The project sites are all considered brackish marsh managed impoundments originally constructed 30-40 years ago for the primary purposes of mosquito control and benefits to waterfowl. These areas provide a unique habitat type found in only a few locations in coastal North Carolina that cannot be duplicated due to current wetlands regulations. The proposed sites are located in an area (Pamlico & Beaufort Counties) where most of the mosquito control impoundments were constructed. Twenty-five impoundments are known to occur in this area and 7 are being targeted in this proposal. Excluding managed habitats associated with Mattamuskeet and Pea Island National Wildlife Refuges, these impoundments provide the best habitat in North Carolina for a multitude of duck species including pintails and black ducks. This complex of managed areas along the central coast of North Carolina is very important stopover point for migrating waterfowl. On southward migration, these areas likely provide the last area with an abundance of high quality habitat until reaching coastal portions of South Carolina and conversely provide a critical refueling location for waterfowl returning from more southern locations. Long-term protection of these managed areas is a very high priority for the North Carolina Wildlife Resources Commission.

OTHER PRIORITY SPECIES: Wood Duck, Redhead, Ring-necked Duck, American Wigeon

How proposal will aid in meeting objectives of waterfowl conservation plans: Wood duck, redhead, ring-necked ducks and American wigeon will all benefit from the proposal and will help meet objectives of NAWMP and SAMBI. We especially highlight the importance of the proposal to wigeon. With the exception of 1 year, wigeon have remained below NAWMP goals for the past 20 years and the population appeared not to see any significant rebound during the relatively wet years of the late 1990’s. Furthermore, wigeon are an extremely important species in coastal North Carolina and throughout the entire southeast and as such are identified as a “high” priority species by SAMBI.

How many individuals/pairs will use the proposal area and for what life cycle stage and whether this is an improvement in population numbers over the current situation: Similar to pintails, the project area contains the highest quality managed habitat for wigeon under state ownership with as many as 4,000 wigeon being observed on site. Sub-impoundment management at both Campbell’s Creek and Pamlico Point are on a rotational basis where production of submerged aquatic vegetation (SAV) and emergent moist soil
vegetation is featured. Wigeon especially key in on the SAV’s and proper long-term management and protection of these areas will provide for a diversity of available forage benefiting multiple species. Empirical data relating numbers of waterfowl using the Swan Creek impoundment is scarce; however, limited survey information suggests that as many as 1,400 wigeon use the area. Nesting wood ducks utilize natural cavities and nesting structures located on the Goose Creek GL and use the Campbell’s Creek impoundments for brood rearing and foraging especially during the early fall months. Total numbers of wood ducks using the area is unknown, but likely doesn’t exceed 100 birds. Numbers of redheads using the area is minimal and similar to scaup where use increases during inclement weather events. Based on past aerial surveys, as many as 500-1,000 ring-necked ducks use the area.

How proposal will impact species and improve habitat quality (describe before- and after-proposal environment): As noted in the above section for high priority species, the improved management capabilities at Pamlico Point will benefit multiple waterfowl species due increased food production. The rotation aspect of the sub-impoundment management to feature SAV’s is especially beneficial to wigeon and will be enhanced under this proposal. If dike stabilization at Campbell’s Creek is not conducted, continued deterioration of the dike will lead to the loss of management capabilities at this site. If so, one of the premier migration and wintering locations for wigeon in North Carolina will be lost.

Importance of each tract or logical groupings of tracts shown on maps in the proposal to the species (if tracts are not yet identified, explain what procedure will be used to ensure that high quality habitat is targeted): This is the same as described under the corresponding section for high priority species.

OTHER WATERFOWL: Blue-winged Teal, Green-winged Teal, Gadwall, Northern Shoveler, Hooded Merganser, Ruddy Duck, Tundra Swan, Bufflehead, American Coot

Species and narrative: The managed impoundments at Goose Creek GL’s provide for a wide diversity of waterfowl species and many are observed in relatively large numbers. Past surveys have observed as many as 1,800 gadwall, 1,700 green-winged teal, 200 ruddy ducks, 100 tundra swans, and 50 shoveler and hooded mergansers. In some years, the sites provide important migration habitat for blue-winged teal with as many as 4,000 being observed in the area during the month of September. Limited survey information suggests that an additional 500 gadwall, 2,500 green-winged teal and 200 tundra swans utilize the Swan Creek impoundment. Like pintail and wigeon, these areas provide some of the most important habitat in North Carolina for gadwall. The proposed work will almost certainly provide for increased use of the area by these species.

TECHNICAL ASSESSMENT QUESTION 2
How does the proposal contribute to the conservation of other wetland-associated migratory birds?

A. PRIORITY BIRD SPECIES

<table>
<thead>
<tr>
<th>Species/Plan</th>
<th>Numbers Affected</th>
<th>Benefits of Project</th>
<th>Tract Importance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black Rail</td>
<td>2-4 breeding pairs possible</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek provide for year round habitat.</td>
</tr>
<tr>
<td>BCR 27</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saltmarsh Sharp-tailed Sparrow</td>
<td>50-100 birds</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek provide for wintering season habitat, (this is also a possible breeder in NC).</td>
</tr>
<tr>
<td>Partners in Flight Plan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BCR 27</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### B. OTHER WETLAND-ASSOCIATED BIRD SPECIES

<table>
<thead>
<tr>
<th>Species/Plan</th>
<th>Numbers Affected</th>
<th>Benefits of Project</th>
<th>Tract Importance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Osprey</td>
<td>2-5 nesting pairs and several additional foraging birds during the migration season</td>
<td>Protection and enhanced management capability of open water pockets in emergent marsh for foraging habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for summer and migration season habitat.</td>
</tr>
<tr>
<td>Northern Harrier</td>
<td>4-6 foraging birds</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for winter season habitat.</td>
</tr>
<tr>
<td>Forster’s Tern</td>
<td>20-40 foraging birds from nearby nesting sites. 40 birds during winter</td>
<td>Protection and enhanced management capability of open water pockets in emergent marsh for foraging habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for summer, winter and breeding season habitat.</td>
</tr>
<tr>
<td>Marsh Wren</td>
<td>25 nesting pairs</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for year round and breeding season habitat.</td>
</tr>
<tr>
<td>Virginia Rail</td>
<td>5-10 birds</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for wintering habitat.</td>
</tr>
<tr>
<td>Pied-billed Grebe</td>
<td>10-20 birds during winter, 5 nesting pairs</td>
<td>Protection and enhanced management capability of open water pockets in emergent marsh for foraging habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for winter, migration and breeding season habitat.</td>
</tr>
<tr>
<td>Sora Rail</td>
<td>5-10 birds</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for winter and migration habitat.</td>
</tr>
<tr>
<td>Western Sandpiper</td>
<td>100’s during migration</td>
<td>Protection and enhanced management capability for provision of springtime exposed mudflats for foraging and resting habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for winter and migration season habitat.</td>
</tr>
<tr>
<td>King Rail</td>
<td>10-15 breeding pairs</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek, Nevil’s Creek tracts provide for year round habitat.</td>
</tr>
<tr>
<td>Tricolored Heron</td>
<td>5-10 birds</td>
<td>Protection and enhanced management capability of emergent marsh and mudflats for foraging habitat.</td>
<td>Pamlico Point, Campbell’s Creek, Swan Creek tracts provide for breeding and migration season habitat.</td>
</tr>
<tr>
<td>Species</td>
<td>Abundance</td>
<td>Protection and enhanced management capability of emergent marsh for foraging and cover habitat.</td>
<td>Location</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>-----------------</td>
<td>-----------------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Nelson's Sharp-tailed Sparrow Partners in Flight Plan BCR 27</td>
<td>50-100 birds</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for wintering season habitat.</td>
<td></td>
</tr>
<tr>
<td>Seaside Sparrow Partners in Flight Plan BCR 27</td>
<td>25 breeding pairs</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for year round habitat.</td>
<td></td>
</tr>
<tr>
<td>Yellow Rail Partners in Flight Plan BCR 27</td>
<td>10 birds</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for wintering season habitat.</td>
<td></td>
</tr>
<tr>
<td>Whimbrel Partners in Flight Plan Shorebird Cons. Plan BCR 27</td>
<td>50 birds</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for non-breeding season habitat.</td>
<td></td>
</tr>
<tr>
<td>Marbled Godwit Partners in Flight Plan Shorebird Cons. Plan BCR 27</td>
<td>100 birds</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for non-breeding season habitat.</td>
<td></td>
</tr>
<tr>
<td>Semipalmated Sandpiper Partners in Flight Plan Shorebird Cons. Plan BCR 27</td>
<td>100's during migration</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for non-breeding season habitat during spring migrations.</td>
<td></td>
</tr>
<tr>
<td>Short-billed Dowitcher Partners in Flight Plan Shorebird Cons. Plan BCR 27</td>
<td>100's during migration</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for non-breeding season habitat during spring migrations.</td>
<td></td>
</tr>
<tr>
<td>Little-blue Heron Partners in Flight Plan BCR 27</td>
<td>5-10 birds</td>
<td>Pamlico Point, Campbell's Creek, Swan Creek tracts provide for breeding and migration season habitat.</td>
<td></td>
</tr>
</tbody>
</table>
TECHNICAL ASSESSMENT QUESTION 3
How does the proposal location relate to the geographic priority wetlands described by the North American Waterfowl Management Plan, Partners In Flight, the U.S. Shorebird Conservation Plan, and/or the North American Waterbird Conservation Plan?

A. NATIONAL PRIORITY WETLAND AREAS.
The Neuse-Pamlico projects proposed for funding lie within identified geographic priority areas for the North American Waterfowl Management Plan, Partners in Flight South Atlantic Coastal Plain Bird Conservation Plan, the North American Waterbird Conservation Plan, Southeast United States Regional Waterbird Conservation Plan, and the United States Shorebird Conservation Plan. Additionally, all three sites are within the Atlantic Coast Joint Venture.

In support of NAWMP goals, the wetlands that will be protected and enhanced under this proposal will benefit many high priority waterfowl species and their habitats in the Neuse-Pamlico Focus Area. Conservation of habitat for these species is important to achieving population goals. This proposal will benefit the NAWMP goals of enhancing habitats to improve migration and over-winter survival rates, and allowing birds to return to the breeding grounds in better physical condition. The Atlantic Coast Joint Venture Waterfowl Implementation Plan (a step-down plan of NAWMP) states that the "continued availability and management" of brackish water impoundments within the Neuse-Pamlico Focus Area should be a high priority.

This proposal includes several habitat types outlined in the Partners in Flight Bird Conservation Plan for the South Atlantic Coastal Plain as being important to priority species. These habitats include palustrine and estuarine emergent wetlands, palustrine forested wetlands and Southern pine forests. A few of the priority species that will benefit include, black and yellow rail, Nelson’s sharp-tailed sparrow, wood storks, red-cockaded woodpecker, prairie warbler, Swainson’s warbler, Bachmann’s sparrow, and Prothonotary warblers.

The proposed brackish marsh enhancement sites located along the Pamlico Sound are areas that maintain high wading bird, shorebird, and waterfowl use. These areas of managed brackish marsh will aid in achieving the goals of the Southeastern Coastal Plains-Caribbean Regional Shorebird Plan by “providing high quality managed habitat to support successful migration through and over-wintering within the planning region” and contribute to the goal of providing over 4,000 acres of quality shorebird foraging habitat in North Carolina and Virginia.

The North American Waterbird Conservation Plan states that foraging and breeding habitat loss and reduction in habitat quality are all important factors in declines of colonial waterbird populations. Important habitats for colonial waterbirds in the southeast United States include marshes and forested wetlands. This proposal will provide habitat through enhancement of existing managed emergent marshes, and roosting, foraging, and breeding habitat in protected forested wetlands. In addition, this proposal will aid in accomplishing waterbird population and habitat goals as outlined in the Southeast United States Regional Waterbird Conservation Plan by providing opportunities to “improve, restore and protect potential waterbird nesting sites” as well as providing an opportunity to restore wetlands important for waterbirds.

B. REGIONAL IMPORTANT WETLAND AREAS.
The enhancement and match sites outlined in this proposal lie within the Neuse-Pamlico Focus Area of the Atlantic Coast Joint Venture. In addition these sites are within all of the South Atlantic Migratory Bird Initiative (SAMBI) focus areas for each of the bird groups: waterfowl, shorebirds, landbirds, and waterbirds.

The proposal contributes to several important wetlands and migratory bird conservation initiatives. A number of significant wetland acquisitions have been made within the Proposal Boundary by the State of North Carolina through a conservation trust fund in partnership with the NCWRC and private land trusts. They target wetlands and associated habitats for their natural heritage values and importance to maintaining and improving water quality. In addition, they also provide considerable benefits to migratory birds and other wildlife and fish.

The projects outlined in this proposal will directly aid in accomplishing the recommended goals for enhancing 2,500 acres of waterfowl habitat in the Neuse/Pamlico Focus Area of the South Atlantic Migratory Bird Initiative Implementation Plan.
This proposal will also contribute to an important comprehensive initiative by Ducks Unlimited Inc. to conserve wetland habitat in North Carolina. The goal of this initiative, called Sound CARE, is to restore, enhance, and protect wetland habitat to benefit waterfowl, other wetland-dependent species, including some that are threatened and endangered, and people. These wetlands also improve water quality and flood retention, and provide recreational opportunities for the public. CARE is an acronym for Conservation of Agriculture, Resources, and the Environment. The goal of Sound CARE is to protect, restore, and enhance 23,000 acres on public and private lands in North Carolina by 2010 at an estimated cost of [REDACTED]. The key to a successful Sound CARE Initiative is building strong partnerships among those who support conserving the vital natural areas in North Carolina. DU is playing a key role in the Neuse-Pamlico projects through funding contributions and by sharing its considerable expertise in wetlands restoration and enhancement.

### TECHNICAL ASSESSMENT QUESTION 4

**How does the proposal relate to the national status and trends of wetlands types?**

**Importance of any stable or increasing types to wetland-associated migratory birds:** No wetlands of these types apply to this proposal.

Evidence to justify the status and importance of any wetland types (including subsidiary types not listed below) to wetland-associated migratory birds that have a different regional or local status than shown below: Not applicable to this proposal.

Types of uplands (e.g., cropland, grassland, forest) and describe the relationship of the uplands to wetlands and migratory bird conservation (i.e., reason for including in proposal): Upland habitat types presented in this proposal have high significance to wetlands and migratory bird conservation. The Swan Creek tract contains 71 acres of loblolly pine. The majority of this acreage is comprised of a monotypic stand associated with higher elevations directly landward of the estuarine emergent marsh. As a result of historical ditching efforts, clusters of mature trees have also become established on spoil mounds scattered throughout the emergent marsh. The continuous loblolly stand may provide foraging habitat for the federally endangered red-cockaded woodpecker, as suitable habitat for active colonies exists a few miles away to the northwest. These pine forested uplands also provide perch and nest sites for species such as worm-eating warbler, herons, egrets, bald eagles, peregrine falcon and osprey. In addition, the 76-acre Whitehurst Tract, which is part of the larger Duck Creek Natural Area (2,785 acres), contains habitat that may provide potential red-cockaded woodpecker habitat, which could support approximately 10 groups of birds in the future. The Nevil's Creek tract contains 95 acres of oak-hickory uplands, which buffers an emergent tidal marsh. Partners in Flight priority bird species that occur on this upland site include Acadian flycatcher, white-eyed vireo, yellow-throated warbler, wood thrush and hooded warbler. Also, with 6,639 linear feet of forested shoreline there are ample sights for perch and nest trees for raptors and wading bird species. In addition to providing habitat for migratory bird species these forested riparian buffers provide water quality benefits to the Pamlico River estuary through denitrification and reduction in siltation stemming from nearby agricultural fields.

<table>
<thead>
<tr>
<th>ACTIVITY AND TRACTS/GROUPS OF TRACTS IN THE PROPOSAL</th>
<th>STATUS, TYPES, AND ACRES OF WETLANDS</th>
<th>UPLANDS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>STATUS, TYPES, AND ACRES OF WETLANDS</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>DECREASING</td>
<td>STABLE</td>
<td>INCREASING</td>
</tr>
<tr>
<td></td>
<td>PEM</td>
<td>PFO</td>
<td>E2Veg</td>
</tr>
<tr>
<td>Fee Acquired</td>
<td>2</td>
<td>65</td>
<td>2,508</td>
</tr>
<tr>
<td>ACQUIRED</td>
<td>2</td>
<td>65</td>
<td>2,508</td>
</tr>
<tr>
<td>ENHANCED</td>
<td>1,048 (285)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TECHNICAL ASSESSMENT QUESTION 5
How does the proposal contribute to long-term conservation of wetlands and associated uplands?

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>ACRES BY TENURE (years) OF BENEFITS CATEGORY</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PERPETUITY *26-99 **10-25 &lt; 10</td>
<td></td>
</tr>
<tr>
<td>Fee Acquired</td>
<td>185</td>
<td>2,764</td>
</tr>
<tr>
<td>ACQUIRED</td>
<td>185</td>
<td>2,764</td>
</tr>
<tr>
<td>ENHANCED</td>
<td>314</td>
<td>1,048 (285)</td>
</tr>
<tr>
<td>Tract: Pamlico Point</td>
<td>734 (285)</td>
<td>734</td>
</tr>
<tr>
<td>Tract: Campbell’s Creek</td>
<td>314</td>
<td>314</td>
</tr>
<tr>
<td>Tract: Swan Creek</td>
<td>2,579 (285)</td>
<td>2,579 (285)</td>
</tr>
<tr>
<td>Tract: Nevill’s Creek</td>
<td>109</td>
<td>109</td>
</tr>
<tr>
<td>Tract: Whitehurst</td>
<td>76</td>
<td>76</td>
</tr>
<tr>
<td>TOTAL</td>
<td>185</td>
<td>3,812 (285)</td>
</tr>
</tbody>
</table>

Narrative needed to explain the table information: The Nevill’s Creek tract is protected by a perpetual easement held by the North Carolina Clean Water Management Trust Fund, a state entity. The Whitehurst tract is part of the Duck Creek Natural Area, which includes the Neuse River Game Lands. This area is owned and managed by the state of North Carolina and is perpetually protected. The 2,579-acre Swan Creek tract, which includes the Swan Creek impoundment...
(285 acres) enhancement project, is privately owned; however, the owner will be filing a Notice of Grant Agreement in addition to a management agreement with Ducks Unlimited to manage this property for 25 years.

Significance of the proposed work on each tract and the cumulative work in the completed proposal to long-term wetlands conservation in terms of 1) how work on each tract complements work on other tracts; 2) threats to wetlands values (address acquisition of water rights, if applicable); 3) conservation or management of larger wetland areas; and 4) objectives of wetlands conservation plans:

1) All of these tracts are in the Neuse and Pamlico River watersheds. The confluence of these river systems form Pamlico Sound. The protected tracts and there function as buffers along streams systems within these watersheds aid in improving the quality of water reaching the Pamlico Sound. The enhancement projects are located near the Sound and use water from this system to manage for waterbird habitat. Therefore all of these tracts complement one another by providing a chain of high quality waterbird habitat in the Pamlico Sound region.

2) The highest threat to the wetlands included in this grant proposal would be the loss or degradation of 1,048 (285) acres of managed estuarine emergent wetlands due to levee failure. Brackish water managed impoundments are a unique habitat feature in coastal North Carolina that can no longer be constructed due to current wetlands regulations. Continued availability and proper management of these areas is extremely important to a multitude of waterfowl species migrating and wintering in the Atlantic Flyway. Due to the extremely large numbers of priority waterfowl species that winter in North Carolina, protection and enhancement of areas already benefiting this species (such as Goose Creek GL) should receive special consideration as it relates to NAWMP and other bird conservation goals and objectives.

3) All of the projects in this proposal are part of a larger effort among state and federal agencies and private conservation organizations to protect, enhance and restore wetland habitat and adjacent uplands for the benefit of wildlife and people.

4) The entire proposal area is within high priority areas mapped along the Atlantic Flyway for all waterfowl, waterbirds, shorebirds and land birds. Thus these projects will contribute to the objectives of conservation plans for these species.

Justification for modifying existing wetlands from one type to another: NA

For proposed restoration and enhancement activities, how long results will last and when maintenance or additional work will be needed: Proposed wetland enhancement work includes levee repair on the Campbell’s Creek tract. The life expectancy of this project is a minimum of 26 years and no major maintenance issues should arise until that time. Enhancement work on Pamlico Point consists of maintenance on existing main drainage canals and construction of new lateral drains. This work should last a minimum of 10 years before maintenance is required. Proposed wetland enhancement on the Swan Creek impoundment will be managed through a Ducks Unlimited agreement for 25 years. All of these projects will require annual monitoring.

Reliability and success of proposed vegetation control techniques: NA

Summary of the long-term conservation and management plan for the proposal area: All of the properties will be managed to maximize wetland values for migratory birds and other wildlife. The Pamlico Point and Campbell’s Creek impoundment sites will be managed in perpetuity and the Swan Creek impoundment site will be managed under a 25-year management agreement between Neuse River Investment LLC and Ducks Unlimited.

Plans to sell any tracts in the proposal area: There are no plans to sell tracts in proposal area.

How easement restrictions and reserved rights serve to ensure long-term wetland conservation and health: NA
TECHNICAL ASSESSMENT QUESTION 6

How does the proposal contribute to the conservation of habitat for wetland associated federally listed, proposed, and candidate endangered species; wetland associated state-listed species; and other wetland-associated fish and wildlife that are specifically involved with the proposal?

Federally Threatened, Endangered, Proposed or Category I candidate species:

Federally listed species either observed or thought to use the tracts identified in the proposal area include:

- Wood stork (Mycteria americana) federally listed endangered
- Red-cockaded woodpecker (Picoides borealis) federally listed endangered
- American alligator (Alligator mississippiensis) federally listed threatened

While not in the categories listed above, the State of North Carolina lists several species as federally listed species of concern (watchlist):

- Yellow-bellied sapsucker (Sphyrapicus varius appalachiensis)
- Diamondback terrapin (Malaclemys terrapin)
- Mimic glass lizard (Ophisaurus mimicus)
- Northern pine snake (Pituophis melanoleucus melanoleucus)
- Southern hognose snake (Heterodon simus)

How many individuals/pairs will use the proposal area and for what life cycle stage and whether this is an improvement in population numbers over the current situation:

- Wood Stork – occasional, vagrant species to the area, non-breeding resident, foraging
- Red-cockaded woodpecker – a few possible transients from possible nearby colonies
- American Alligator- 5, year round, permanent resident, all stages
- Yellow-bellied sapsucker – 10, non-breeding resident, winter, foraging
- Diamondback terrapin – about 30, year-round including nesting habitat
- Mimic glass lizard – 1-10, year round, permanent resident, all stages
- Northern pine snake - 0-5, insufficient data exists describing life history and life cycles
- Southern hognose snake – 1-10, year round, permanent resident, all stages

How proposal will improve habitat quality (describe the before- and after-proposal environment):

Presently the management of brackish impoundments located within the Pamlico Point tract is compromised by the inability to effectively manage water levels. The impoundments located in the Campbell’s Creek and Swan Creek tracts are in danger of being permanently lost due to levee failure. With the completion of the proposed work, Pamlico Point tract habitat quality for wood storks will be greatly improved through the management and provision of shallow open water areas, which are optimal foraging conditions for these species. The proposed levee protection work associated with the Campbell’s Creek and Swan Creek tracts will serve to “secure” habitat for wood storks, American alligators and diamondback terrapins.

The upland loblolly stand located on the Swan Creek and Whitehurst tracts may provide foraging habitat for red-cockaded woodpeckers as suitable habitat for active colonies exist only a few miles away and it is likely that the birds are in the area. The new owner of this tract understands the benefits of prescribed fire in these forested systems and intends to maintain viability and optimize habitat conditions of this stand with the application of prescribed fire.

Emergent brackish marsh, forested gum-cypress wetlands and associated forested oak-hickory upland buffers contained within the Nevil’s Creek tract have been afforded permanent protection through a perpetual easement and conservation ownership. The protected habitats on this tract are either known or thought to be utilized by American alligator, yellow-bellied sapsucker, mimic glass lizard, northern pine snake and southern hognose snake.
Whether proposed actions and proposal area are identified in a recovery plan or other species plan:
The following actions or needs have been identified in US Fish and Wildlife Service recovery plans for the federally listed species below.

Wood Stork - Protect currently occupied habitat, continue to restore and enhance habitat. Limiting factors identified in the recovery plan for this species include loss of feeding habitat, water level manipulations affecting drainage, predation and/or nest tree regeneration and human disturbance. The recovery plan (written in 1986) identifies FL, GA, AL and SC as states where the wood stork occurs, however sightings now routinely occur throughout the immediate southern coastal plain of North Carolina up to the Pamlico Sound. In addition, wood storks are now known to nest in extreme southern portion of North Carolina.

Red-cockaded woodpecker - Protection of large mature pines and management of foraging habitat throughout the landscape, important areas identified included the Sandhills and Coastal Plain of North Carolina.

American alligator - This species remains listed as threatened due to similarity of appearance. No habitat conservation plan exists for the American alligator.

The following species observed or thought to utilize habitats within the proposal area are federally listed as species of concern; therefore recovery plans do not exist.

Yellow-bellied sapsucker
Diamondback terrapin
Mimic glass lizard
Northern pine snake
Southern hognose snake

Whether the completed proposal will relieve the need for any special protective status for the species:
The proposed activities are not expected to directly relieve the need for any protective status of these species

Importance of each tract or logical groupings of tracts shown on maps in the proposal to the species (if tracts are not yet identified, explain what procedure will be used to ensure that high quality habitat is targeted):
Official survey data does not exist for these species on these tracts however wood storks and American alligators are known to utilize the brackish impoundments and emergent marsh contained within the Pamlico Point and Campbell’s Creek tracts for foraging purposes. It’s likely that the Swan Creek tract is also utilized by the same species for foraging given its proximity and habitat similarity to the aforementioned tracts. The Swan Creek tract contains 71 acres of mature loblolly forest which may provide for foraging sites for red-cockaded woodpeckers. The Nevil’s Creek tract could potentially provide perch trees and foraging habitat for wood storks.

Additional information: NA

State-listed endangered or threatened species (not included above):

State listed species either observed or thought to use the tracts identified in the proposal area include:

Eastern tiger salamander (Ambystoma tigrinum) state listed threatened
American peregrine falcon (Falco peregrinus) state listed endangered
Black skimmer (Rynchops niger) state listed special concern
Black vulture (Coragyps atratus) state listed special concern
Brown creeper (Certhia americana) state listed special concern
Common tern (Sterna hirundo) state listed special concern
Cooper’s hawk (Accipiter cooperii) state listed special concern
Glossy ibis (Plegadis falcinellus) state listed special concern
Gull-billed tern (Sterna nilotica) state listed threatened
Least tern (Sterna antillarum) state listed special concern
Little blue heron (Egretta caerulea) state listed special concern
Snowy egret (Egretta thula) state listed special concern
Tricolored heron (Egretta tricolor) state listed special concern
Eastern woodrat (Neotoma floridana floridana) state listed threatened
Star-nosed mole (Condylura cristata) state listed special concern
Carolina pigmy rattlesnake (Sistrurus miliarius miliarius) state listed special concern
Eastern coral snake (Micrurus fulvius) state listed special endangered
Eastern diamondback rattlesnake (Crotalus adamanteus) state listed endangered
Smooth green snake (Opheodrys vernalis) state listed special concern
Timber rattlesnake (Crotalus horridus) state listed special concern

How many individuals/pairs will use the proposal area and for what life cycle stage and whether this is an improvement in population numbers over the current situation:
No reliable population survey information exists for the state listed species below.

Eastern tiger salamander – numbers unknown, year round, permanent resident, all stages
Eastern woodrat – numbers unknown, year round, permanent resident, all stages
Star-nosed mole – numbers unknown, year round, permanent resident, all stages
Eastern coral snake – numbers unknown, year round, permanent resident, all stages
Smooth green snake – numbers unknown, year round, permanent resident, all stages

Educated estimates can be made for the following state listed species below.

American peregrine falcon - 10, seasonal migrant, foraging
Black skimmer – 100, seasonal migrant, foraging, loafing resting
Black vulture – 20, year round, permanent resident, all stages
Brown creeper – 10, non-breeding resident, foraging
Common tern – 20, passage migrant, breeding, foraging, loafing, resting
Cooper’s hawk – 5, year round, permanent resident, all stages
Glossy ibis – 20, year round, permanent resident, all stages
Gull-billed tern – 10, breeding resident, foraging, loafing resting
Least tern – 300, from nearby breeding sites, foraging, loafing, resting
Little blue heron – 10, year round, permanent resident, all stages
Snowy egret – 10, year round, permanent resident, all stages
Tricolored heron – 10, year round, permanent resident, all stages
Carolina pigmy rattlesnake- 15, year round, permanent resident, all stages
Eastern diamondback rattlesnake – 0-2, year round, permanent resident, all stages
Timber rattlesnake – 5, year round, permanent resident, all stages

How proposal will improve habitat quality (describe the before- and after-proposal environment): Enhanced management capability of Pamlico Point impoundments will provide optimal foraging habitat for black skimmer, common tern, glossy ibis, gull-billed tern, least tern, little blue heron, snowy egret and tricolored heron. The levee protection of managed impoundments on the Campbell’s Creek and Swan Creek tracts will secure managed brackish habitat for these same species for another 30 years. Conservation ownership and an easement will ensure perpetual protection of the Nevil’s Creek tract which contains habitat for eastern tiger salamander, brown creeper, Cooper’s hawk, glossy ibis, little blue heron, tricolored heron, eastern woodrat, star-nosed mole, Carolina pigmy rattlesnake, eastern coral snake, smooth green snake and timber rattlesnake.

Whether proposed actions and proposal area are identified in a recovery plan or other species plan: Recovery plans for the state listed species do not exist. However, most species have recommendations published with each re-evaluation for listing. Shallow still-water habitats are identified in these recommendations for black skimmer, tricolored heron, little blue heron, snowy egret and glossy ibis.

Whether the completed proposal will relieve the need for any special protective status for the species: The proposed activities are not expected to directly relieve the need for any protective status of these species.
Importance of each tract or logical groupings of tracts shown on maps in the proposal to the species (if tracts are not yet identified, explain what procedure will be used to ensure that high quality habitat is targeted): The emergent marsh and brackish impoundments contained within the Pamlico Point, Campbell’s Creek and Swan Creek tracts provide foraging habitat for American peregrine falcon, Black skimmer, Black vulture, Common tern, Glossy ibis, Gull-billed tern, Least tern, Little blue heron, Snowy egret and Tricolored heron. These same tracts contain year round cover and foraging habitat for the Carolina pigmy rattlesnake, smooth green snake, timber rattlesnake and possibly the eastern diamondback rattlesnake. The Nevil’s Creek tract contains year round habitat for eastern tiger salamander, brown creeper, Cooper’s hawk, glossy ibis, little blue heron, tricolored heron, eastern woodrat, star-nosed mole, Carolina pigmy rattlesnake, eastern coral snake, smooth green snake and timber rattlesnake.

Additional information: N/A

Other wetland-dependent fish and wildlife species and narrative: Quality managed brackish wetland complexes in the southeastern coastal plain are known to benefit many species of wetland dependant fish and wildlife. In addition to waterfowl, these impoundments provide important habitat for many species of mammals, reptiles, wading birds, shorebirds, raptors, water birds, finfish, crustaceans and the invertebrate base required to sustain large numbers of these species. Well managed brackish emergent/submergent impoundments incorporate the circulation of tidal water as part of the management regime. However the tides located in the proposal area are driven by the wind and are not lunar. Management is conducted to mimic lunar tides via pumping. When waters are used to recharge impoundments marine aquatic species such as blue crabs, shrimp, prey fish, larval fish and eggs are carried into these marshes. These nutrient rich habitats act as nurseries and in turn attract species such as bald eagles, osprey, river otter, raccoon, mink, and others for foraging. Another tool used in the management of these systems is conducting springtime draw downs. When timed with spring migrations, exposed mud flats provide foraging and loafing habitat for many species of migrant and resident wading and shorebirds. At peak times, thousands of individuals can be seen utilizing the impoundments located on the Pamlico Point, Campbell’s Creek and Swan Creek tracts. The Nevil’s Creek tract provides year round habitat for mammalian species that utilize forested wetlands for cover and foraging such as black bear, river otter and gray fox in addition to several avian, reptilian and amphibian species.

TECHNICAL ASSESSMENT QUESTION 7

How does the proposal satisfy the partnership purpose of the North American Wetlands Conservation Act?

This proposal is an important part of an ongoing effort in coastal North Carolina to acquire, restore and enhance wetland habitat on a landscape level for migratory birds and other native wildlife and plants. As outlined in this proposal, brackish marsh impoundments like the examples on the Pamlico Point, Campbell’s Creek, and Swan Creek tracts are unique. Maintaining fish and wildlife populations and communities on an ever decreasing, altered and degraded native brackish marsh habitat base requires intensive management of these remaining marshes. These impoundments are managed to provide brackish, emergent marsh habitat for a wide variety of wetland-dependent species, particularly migratory wetland birds. This management has been severely compromised in recent decades due to siltation and erosion from storm events and increased boating activity. The proposed projects would enhance and improve management capability by making the proposed projects better able to withstand these events and increasing water management capabilities. This would subsequently provide substantial benefits to a variety of wetland dependent wildlife by enhancing a well-managed impounded brackish marsh.

This proposal involves a solid partnership between state, private entities and non-governmental organizations devoted to protecting and developing the wetland functions and values of these wetland systems. In addition, it is consistent with the goals of all major bird conservation plans.

Ratio of the Non-Federal Match to the Grant Request: 2.20:1

10% Matching Partners: 4
Ducks Unlimited, Inc. -
North Carolina Wildlife Resources Commission -
Neuse River Investments LLC -
North Carolina Clean Water Management Trust Fund -
Important Partnership Aspects (new grant recipient, significant new partners, unique partners, large numbers of partners under any category in C. above, non-financial contributions): This Proposal includes two North Carolina state agencies, including the state wildlife agency (NCWRC) and one state conservation trust (CWMTF). The NCWRC has objectives and responsibilities pertaining to migratory bird management whereas the CWMTF seeks primarily to improve water quality and uses wetland protection as a tool to accomplish this goal. This Proposal therefore takes two state agencies with diverse goals and focuses their individual efforts to meet the goals and objectives of NAWCA. The CWMTF brings match funding via monies used to purchase the Nevil’s Creek Tract and the NCWRC is providing matching funds in the form of monies used to purchase the Whitehurst Tract as well as cash and in-kind services toward the enhancement projects on Pamlico Point and Campbell’s Creek Impoundments.

Ducks Unlimited Inc., the only NGO participating in this proposal, brings to the partnership match funding in the form of cash and in-kind services as well as its considerable expertise in wetland restoration and enhancement. This expertise will assure that the enhancement projects will be functional, efficient, and durable.

In this proposal, Neuse River Investments LLC, a private landowner, will provide match funding from the purchase of the Swan Creek Tract as well as provide cash for the enhancement project on this tract.

Why each non-matching partner listed in the Proposal Summary is important to the proposal and what work they will do to support and complement the match- and grant-funded work: NA
ATTACHMENTS

Tract Table:

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<tr>
<th>Tract ID</th>
<th>Wetland Acres</th>
<th>Upland Acres</th>
<th>Riparian Miles</th>
<th>Funding Sources</th>
<th>County and State</th>
<th>Central Tract Location in Decimal Degrees</th>
<th>Final Title Holder</th>
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Restoration/Enhancement/Established

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Abbreviations:  SCT= Swan Creek Tract, WHT=Whitehurst Tract, NCT= Nevil's Creek Tract, PPI= Pamlico Point Impoundment, CCI= Campbell’s Creek Impoundment, SCI= Swan Creek Impoundment

Partner Contribution Forms: Forms from Ducks Unlimited, North Carolina Wildlife Resources Commission, North Carolina Clean Water Management Trust Fund and Neuse River Investments LLC are attached.

Optional Matching Contributions Plan? Yes.

Matching Contributions Plan:

What is the Match Plan Amount and Purpose? We are requesting that ___% of private match be kept eligible for future proposals. The conservation goals of this match would be similar in scope to what is presented in this proposal in that they would likely target the enhancement or protection of critical managed coastal wetlands. The Pamlico Sound and coastal areas in North Carolina contain aging yet important state, federal and privately managed wetland complexes that are in need of enhancement as the region is very important to over-wintering and migrating Atlantic Flyway waterfowl.

What is the Match Plan Intent? The additional match value lies in the acquisition cost of the Swan Creek tract. In 2005, Neuse River Investments LLC, a private matching partner in this proposal, acquired the Swan Creek tract at an appraised value of ___%, of which ___% is being offered for match in this proposal. Neuse River Investments acquired the Swan Creek tract for conservation purposes and their intent is to enhance and intensively manage the existing coastal impoundments for waterfowl and migratory bird habitat. It is likely that future NAWCA proposals in this region will be submitted and that Neuse River Investments would again like to partner in subsequent proposals.
What is the Match Plan Need? Finding conservation partners with substantial qualifying match to offer for a NAWCA grant proposal is not easily accomplished. Finding “private” partners with critical wetland holdings, potential wetland projects, financial match and a strong commitment to enhance and manage their wetlands for migratory waterfowl is even more difficult. Presently, we have the opportunity to provide an additional [redacted] in match for future grant proposals which will have a significant positive impact on critical coastal wetlands in North Carolina. The chances of finding a private partner such as Neuse River Investments with such a large amount of available match for future proposals would be unlikely. We need the additional [redacted] of private match contributions protected for future NAWCA proposal applications. If these funds are not protected via this Matching Contributions Plan, then conservation partners will lose a valuable source of matching funds.

Is there a Match Plan Chart? Yes.

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<tr>
<th>Match Plan Partners</th>
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<th>Proposal II</th>
<th>Proposal III</th>
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</table>

Standard Form 424 and Assurances B and/or D (NA to U.S. Fish and Wildlife Service applicants)? Attached

Optional aerial photographs? Attached.

Maps? Attached.

EASEMENTS, LEASES, AND INDIRECT COST RATE AGREEMENT

Have you included a copy of the following:

Copies of easements and leases? NA

Current approved negotiated indirect cost rate agreement or statement that Council Coordinator has a copy? Yes.
May 2, 2008

Robbie L. Stallings, IV
P.O. Box 12327
New Bern, NC 28561

RE: Neuse-Pamlico Wetland Conservation Initiative
US-NC-60-1

Dear Mr. Stallings:

Enclosed is a fully executed original of the above listed NAWCA Grant Partner Agreement.

If you have questions or need additional information do not hesitate to contact me at (601) 206-5457 or e-mail me at mgoldsmith@ducks.org.

Sincerely,

Mary Ann Goldsmith
Project Coordinator

MAG: fh

cc: Craig LeSchack

Enclosures
DUCKS UNLIMITED, INC.                      NEUSE RIVER INVESTMENTS, LLC

North American Wetlands Conservation Act Grant Partner Agreement
US-NC-60-1
Neuse-Pamlico Wetland Conservation Initiative – Swan Creek Impoundment Project

This Agreement is effective this 21st day of April, 2008, between Ducks Unlimited, Inc. (hereinafter "DU") and Neuse River Investments, LLC, (hereinafter "Partner") to facilitate completion of the Neuse-Pamlico Wetlands Conservation Initiative NAWCA project (hereinafter "Project").

WHEREAS, the North American Wetlands Conservation Act (NAWCA) provides federal grants to conserve wetland and associated upland for the benefit of migrating waterfowl, shorebirds and other wildlife.

WHEREAS, DU’s Neuse-Pamlico Wetlands Conservation Initiative NAWCA proposal dated July 27, 2007 (hereinafter “Proposal”), has been submitted for approval for NAWCA funding by the Migratory Bird Conservation Commission on March 12, 2008.

WHEREAS, DU intends to serve as the NAWCA grant recipient on behalf of the Project partners and to administer grant funds received under a NAWCA grant (hereinafter “Grant”) if and when such Grant is issued by the U.S. Fish and Wildlife Service (USFWS) and accepted by DU.

WHEREAS, the Partner intends to be a sub-recipient of Grant funds and/or a match provider.

WHEREAS, Partner is the owner of certain property (hereinafter “Site”) to be developed for the benefit of wetlands and waterfowl in compliance with the Proposal and the Project and as such has the authority to enter into this Agreement for the purposes stated herein.

WHEREAS, DU and the Partner intend to cooperate to complete the Project by the development of the Site as described in Exhibit A of this Agreement (hereinafter “Site Development”).

NOW, THEREFORE, in consideration of the above premises and other terms and conditions listed herein, DU and the Partner agree to undertake the Site Development as follows:

I. DEFINITIONS

When used in this Agreement, the following terms shall have the meanings in this section.

A. "Project Period" - The Project Period starts on the date that the USFWS Contracting Officer signs the Grant and ends two years later unless an extension to the Grant has been authorized.

B. “Contractor Charges” - The total amount paid by Partner to a third party for material or work to be performed on the Project Site.
II. SCOPE OF THE AGREEMENT

This Agreement will be in force for the Project Period plus 25 years.

A. DU agrees:

1. Subject to the execution of the Grant, to receive and administer Grant funds in accordance with the Proposal.

2. To provide funding in cash from funds received via the Grant for the Site Development in the amount not to exceed [redacted].

3. To reimburse Partner upon completion of project and subject to approval by DU. Partner will submit a request for payment accompanied by receipts which identifies all incurred charges for the work performed. Partner shall not be obligated to perform any portion of the Site Development work except to the extent of Partner's receipt of funds from DU.

4. DU agrees that it will indemnify, defend and save Partner harmless from all losses and all claims, demands, payments, suits, actions, recoveries, judgments, costs and expenses of every nature and description for bodily injury (including death) to persons or property damage to the property of others that arise directly from and during the performance of DU, any of DU's contractors, subcontractor's, and/or their respective employees agents, servants and assigns of DU's obligations under this Agreement on the Site that are brought or recovered against a Partner or expended by the Partner, including payment of attorneys' fees.

B. PARTNER agrees:

1. That it accepts and will comply, as a sub-recipient with the provisions of the Grant that apply to the Partner and the Project on the Site.

2. To perform contract administration and inspection services necessary for the completion of the Project on the Site.

3. To provide information and materials in a timely manner as requested by DU that are necessary to meet DU's obligations under the Grant.

4. To obtain or provide, at the Partner's expense, all required permits, agreements, leases, approvals and access rights necessary for the development of the Site Development and provide to DU, its officers, employees, agents and the like all reasonable assistance and cooperation necessary for the implementation of this Agreement.

5. Provide routine inspection, operation, and maintenance necessary to maintain the continuing viability and functioning of the Site Development throughout the term of this Agreement pursuant to the Site Management Guidelines included in Exhibit A of this Agreement.

6. That all pre-agreement costs incurred by the Partner are incurred at the Partner's risk. Such costs are allowable only to the extent that they would have been
allowable if incurred after the date that the USFWS signs the Grant and during the Project Period.

7. After completion of construction, to ensure that any habitat restored, enhanced, and/or created is managed for the purposes for which it was intended in the Project and Exhibit A and to immediately reimburse DU for DU costs and any repayment or reimbursement DU must make to the USFWS under the Grant that is caused by or results from the Partner’s failure to comply with the terms and conditions of this Agreement.

8. If Partner does not ensure that such habitat is managed for that purpose in whole or in part, or elects to terminate agreement, it agrees to pay DU as follows:

   For years 1-10: 100% of the total funds expended on the project.
   
   For the remaining years: 31% of the current fair market value of the original habitat enhancement not to exceed [redacted].

   Partner must determine the current fair market value by obtaining at their expense an appraisal completed according to nationally recognized appraisal standards and subject to DU’s review and approval. The requirements of this Section shall be in force for 25 years from the end of the Project Period unless limited by easements, leases, other legal instruments, or special considerations of the Grant, and approved by the DU Project Officer.

9. To ensure that any habitats restored, enhanced, or created in the Site Development (including such work completed with matching funds or as a matching in-kind contribution) are available for site-inspection upon reasonable notice to any owner by DU and USFWS or their respective designee to ensure that such habitat is managed for the purposes for which it was intended in the Project and Exhibit A.

10. To immediately reimburse DU for any repayment or reimbursement DU must make to the USFWS under the Grant that is caused by or results from the Partner’s failure to comply with the terms and conditions of this Agreement.

11. Partner agrees that it will indemnify, defend and save DU harmless from all losses and all claims, demands, payments, suits, actions, recoveries, judgments, costs and expenses of every nature and description for bodily injury (including death) to persons or property damage to the property of others that arise directly from and during the performance of Partner, any of Partner’s contractors, subcontractor's, and/or their respective employees agents, servants and assigns of Partner's obligations under this Agreement on the Site that are brought or recovered against a Partner or expended by the Partner, including payment of attorneys' fees.

12. To provide documentation of match for audit purposes. Documentation for acquisition match includes: copies of closing statement, appraisal, bargain sale letter (if applicable), deed or assignment of ownership, recorded Notice of Grant Requirement.
C. DU and PARTNER mutually agree:

1. That this Agreement and its obligations are contingent upon DU’s receipt, acceptance and execution of a Grant, the terms and conditions of which are acceptable to DU, that will fund this Site Development. If DU should not receive or accept the Grant or if this Site Development is excluded from the Grant, this Agreement shall be rescinded as of its effective date and neither party shall have any obligations to the other under this Agreement.

2. That a mutually approved copy of the Site development plans and specifications shall become a part of this Agreement.

3. That the Site Development will be completed in accordance with Exhibit A, including any mutually agreed modifications by all owners.

4. That neither DU or the Partner shall be responsible for the failure of the Project or for damage to or repair of the Project resulting from any cause beyond DU’s or the Partner’s reasonable control, including, but not limited to, hurricanes, tornadoes, earthquake or erosion caused by such occurrences, an act of God or an act of war.

5. To consider any substantial changes in the plans and specifications as the implementation of the Site Development plans and specifications progresses.

6. To cooperate in a final inspection prior to acceptance of the Site Development as set forth in the Site Development plans and specifications. In the event the parties hereto are unable to agree that all parties have fulfilled their obligations, a mutually acceptable third party shall be selected to decide the issue and their decision shall be binding.

7. To review periodically, the Site Management Guidelines for the Site Development contained in Exhibit A of this Agreement and to study and consider any needed modifications with the understanding that the Site shall continue under the primary jurisdiction of the Partner and they shall be solely responsible for the Site’s administration and management as waterfowl habitat.

8. To acknowledge the contribution of each party in oral or written communications related to the Site Development. Partner and/or DU may provide mutually acceptable signs and will erect and reasonably maintain these signs at a convenient viewing location in close proximity to the Site.

9. That DU appoints Craig LeSchack as its Project Officer.

That Partner appoints Robbie Stallings as its Project Officer.

The parties may change their respective Project Officer at any time by providing written notification to the other party identifying the name of their new Project Officer. Correspondence pertaining to this Agreement shall be sent to the following addresses:

DU
- Ducks Unlimited, Inc.
3294 Ashley Phosphate Road, Suite 1-F
North Charleston, SC  29418

PARTNER - Robbie Stallings
P.O. Box 12327
New Bern, NC  28561

Notice to DU’s Project Officer shall be deemed as notice to DU. Notice to Partner’s Project Officer shall be deemed as notice to all Partners.

10. To cooperate in recognizing outside contributors who might provide significant funding to help underwrite costs of the Site Development or who otherwise are mutually deemed to deserve special recognition. The principal costs of such recognition shall be borne by the party initiating the recognition.

III. EXECUTION AND MODIFICATION OF AGREEMENT

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above. Further, only the mutual prior written agreement of both parties may modify this Agreement.

DUCKS UNLIMITED, INC.

Curtis R. Hopkins, Ph.D.
(TYPED NAME)

TITLE: Director

Partner

Robert L. Stallings, IV
(TYPED NAME)

TITLE: Manager
EXHIBIT A

Project Name: Neuse-Pamlico Wetland Conservation Initiative- Swan Creek Impoundment Project

Joint Venture Status: Atlantic Coast Joint Venture- Neuse/ Pamlico Rivers Waterfowl Focus Areas

Location: Pamlico County, North Carolina

Ownership & Management: Neuse River Investments, LLC (a private landowner)

Size: 271 acres

Project Activity:
Water management is critical to managing impoundments and the ability to maintain water circulation on these areas enhances productivity on these sites by stimulating desirable plant and invertebrate growth, while reducing stagnant water quality conditions. Severe erosion from boat traffic and storms has resulted in dike damage on the Swan Creek impoundment. Continued erosion is anticipated and will likely result in dike failure. As a result, approximately 271 acres of prime waterfowl and wetland bird habitat will be significantly reduced in value. This project plans to restore dike integrity by installing bulkheading and reinforcing the eroded areas of the dike.

History & Management:
The project site is considered to be a brackish marsh managed impoundment originally constructed 30-40 years ago for the primary purposes of mosquito control and benefits to waterfowl. These areas provide a unique habitat type found in only a few locations in coastal North Carolina that cannot be duplicated due to current wetlands regulations. The proposed sites are located in an area (Pamlico & Beaufort Counties) where most of the mosquito control impoundments were constructed. In recent years this property has been managed for waterfowl habitat.

Estimated Project Cost: DU: [Redacted] (construction costs-source NAWCA)
Partner: [Redacted] (construction costs)
(match land acquisition)

Agreement Length: 25 years
DEED

Parcel: M07-1 and M08-2
Revenue Stamps: $0

STATE OF NORTH CAROLINA
COUNTY OF PAMLICO

THIS DEED is made and entered into this the 27th day of June, 2005, by and between BAY RIVER INVESTMENTS, LLC, hereinafter party of the first part; and NEUSE RIVER INVESTMENTS, LLC having an address of PO Box 12327, New Bern, NC 28561, party of the second part;

WITNESSETH:

That the party of the first part in consideration of Ten and No/100 Dollars ($10.00) and in consideration of other good and valuable considerations paid to the party of the first part by the party of the second part, the receipt and sufficiency of which hereby are acknowledged, has granted, bargained, sold and conveyed and by these presents does grant, bargain, sell and convey unto the party of the second part, said party's successors and assigns, the following described property to wit:

All that certain tract or parcel of land lying and being situate in Pamlico County, North Carolina and being more particularly

Prepared by WARD AND SMITH, P.A., 1001 College Court, PO Box 867, New Bern, NC 28563-0867
Please return to WARD AND SMITH, P.A., 1001 College Court, PO Box 867, New Bern, NC 28563-0867
Attention: C. H. Pope, Jr.

Ward & Smith
7-1-05

No opinion on title is rendered by WARD AND SMITH, P.A., without a separate written opinion on title from WARD AND SMITH, P.A.
described on Exhibit A attached hereto and incorporated herein by reference.

This conveyance is made subject to easements of record or on the ground, restrictive covenants of record and ad valorem taxes for the current year which taxes the party of the second part, by accepting this deed, agrees to pay.

This conveyance is further made subject to that certain deed of trust dated June 27, 2005 recorded in Book 448, Page 897 in the office of the Register of Deeds of Pamlico County from Bay River Investments, LLC to BB&T Collateral Service Corporation, Trustee for Branch Banking and Trust Company in the principal sum of Three Million Eight Hundred Seventy Thousand and No/100 Dollars ($3,870,000.00).

In accepting this deed, the party of the second part, as a portion of the consideration for this conveyance, hereby assumes and agrees to pay the balance due on the note to Branch Banking and Trust Company secured by the deed of trust dated June 27, 2005 recorded in Book 448, Page 897 in the office of the Register of Deeds of Pamlico County from Bay River Investments, LLC to BB&T Collateral Service Corporation, Trustee for Branch Banking and Trust Company in the principal sum of Three Million Eight Hundred Seventy Thousand and No/100 Dollars ($3,870,000.00) and further assumes all the obligations as specified in said note and deed of trust including, but not being limited to, the obligation to repay the indebtedness.

TO HAVE AND TO HOLD said property and all privileges and appurtenances thereunto belonging to the party of the second part, said party's successors and assigns, forever.

And the party of the first part covenants that said party is seized of said property in fee and has the right to convey same in fee simple; that the same is free from encumbrances
except any encumbrances or restrictions mentioned above and that said party will warrant and defend the title to the same against the lawful claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the party of the first part has caused this instrument to be executed under seal and in such form as to be binding, this the day and year first above written.

BAY RIVER INVESTMENTS, LLC (SEAL)
A Limited Liability Company

By: ____________________________ (SEAL)
ROBERT L. STALLINGS, IV, Manager

By: ____________________________ (SEAL)
DAVID M. F. STALLINGS, Manager
STATE OF NORTH CAROLINA
COUNTY OF CRAVEN

I, Deanna M. Copeland, a Notary Public in and for said County and State, do hereby certify that ROBERT L. STALLINGS, IV and DAVID M. F. STALLINGS before me this day personally appeared, who being by me first duly sworn, says that they are managers of BAY RIVER INVESTMENTS, LLC, the limited liability company described in and which executed the foregoing instrument; that they executed said instrument in the limited liability company name by subscribing his name thereto; and that the instrument is the act and deed of said limited liability company.

WITNESS my hand and notarial seal, this the 27th day of June, 2005.

Deanna M. Copeland  
Notary Public

My Commission Expires:  
March 7, 2009

Notary seal or stamp must appear within this box.
STATE OF NORTH CAROLINA
COUNTY OF PAMLICO

The foregoing certificate of Deanna M. Copeland, a Notary Public of said County and State, is certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Pamlico County, North Carolina, in Book 448, Page 913.

This the 27th day of June, 2005, at 3:54 o'clock P.M.

Sue H. Whitford
Register of Deeds
By: Lynne N. Lewis, Asst.
EXHIBIT A

The subject property is more particularly described as follows:

Beginning at a concrete monument which marks a common corner between the property hereinbelow described and the registered estate of the Weyerhaeuser Company being Registered Estate No. 1, of record in Book 1, at Page 20, in the office of the Register of Deeds of Pamlico County, said point of beginning being the eastern terminus of the line which appears in "THE CERTIFICATE OF TITLE OF WEYERHAEUSER COMPANY" in lines 18, 19 and 20 of the description in said certificate which reads as follows: "thence crossing the marsh, South 89° East 485 feet to an iron pipe near two oaks between the forks of Bonner's Bay . . . ."; thence from said point of beginning, North 81° 17' East 2410.00 feet to a point 1 foot north of the lock end of the steel gate located on the north end of the ditch running from Deep Oak Gulch to Swan Creek; thence North 42° 27' East 177.5 feet to a point 1 foot from the canal leading to the pump and filling ditch for Number 4 Pond and the water's edge of Deep Oak Gulch; thence North 85° 39' East 25.4 feet across the mouth of said canal to a point 1 foot past the east side of said canal near the water's edge of Deep Oak Gulch; thence South 12° 14' East along the canal 561.6 feet to the point that the first ditch intersects the canal; thence North 67° 00' East 576.7 feet to the northeast side of the mouth of the first ditch northeast of Number 4 Pond; thence South 68° 00' East along the northeast side of said ditch to the end thereof, and continuing a total of 1990.0 feet to the Neuse River, also known as Pamlico Sound in this area; thence southwardly with the western edge of Pamlico Sound and Neuse River past Wading Creek and along the eastern shore of Swan Island, to Piney Point (including all of Swan Island, in its entirety); thence westwardly with the northern shoreline of Neuse River to the mouth of Broad Creek; thence westwardly along and with the northern shore of Broad Creek to the mouth of Green Creek, thence northwardly up and with Green Creek to a corner of Registered Estate No. 1 of the Weyerhaeuser Company, to which reference is made above, on said Green Creek; thence along and with the lines of the Weyerhaeuser Company Registered Estate No. 1, identified above, to the POINT OF BEGINNING.

A portion of said description was taken from plat entitled "Survey for Coastal Land Company, Inc.", bearing date April 20, 1982, by Edward B. Latham, R.L.S., copy of which is recorded in Book 215, Page 989 in the office of the Register of Deeds of Pamlico County.
Being the southern part of the property conveyed by Joseph G. Blow and wife and Ralph T. Morris and wife to Coastal Land Company by deed bearing date August 14, 1963, which appears of record in Book 138, at Page 369, in the office of the Register of Deeds of Pamlico County.

The above described property contains 2,310 acres, more or less, and includes the 100 acres described in deeds recorded in the office of the Register of Deeds of Pamlico County in Book 234 at Page 492, and in Book 282 at Page 947. There is recorded in Book 338, Page 786 and incorporated herein by reference a "sketch" which shows the subject property located generally from Deep Oak Gulch on the north to Broad Creek on the south.

A portion of Registered Estate No. 1 referenced above now is owned by grantors and is being conveyed to grantee and is now depicted as Registered Estate No. 21.

The aforesaid property is depicted on a map entitled Coastal Land Co., Inc. recorded in Map Book 3, Page 108.
PREPARED BY AND RETURN TO: Howard, Stallings, From & Hutson, P.A., P.O. Box 975, New Bern, NC 28563

NORTH CAROLINA

PAMLICO COUNTY

THIS DEED, made and entered into this the 23rd day of May, 2005, by and between JAMES Y. MORRIS and wife, TERESA F. MORRIS, PATRICIA MORRIS ROSEMAN and husband, IRVIN A. ROSEMAN, LINDA MORRIS HEISABECK, and husband, JAMES R. HEISABECK, parties of the first part;

-TO-

BAY RIVER INVESTMENTS, LLC, a North Carolina Limited Liability Company, whose address is: P.O. Box 1234, Smithville, NC 28563, party of the second part;

WITNESSES:

That said parties of the first part in consideration of the sum of ONE HUNDRED AND NO/100 ($100.00) DOLLARS and other good and valuable considerations to them paid by said party of the second part, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell, and convey to said party of the second part, its successors

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina

Ward & Smith
7/11/05
and assigns, a certain tract or parcel of land, lying and being in Pamlico County, North Carolina, and being more particularly described in Exhibit A incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging to the said party of the second part, its successors and assigns, in fee simple, to its only use and behoof forever.

And the said parties of the first part for themselves and their heirs and assigns, covenant with the said party of the second part, its successors and assigns, that they are seized of said premises in fee and have the right to convey in fee simple; that the same are free and clear from all encumbrances except as above set out; and that they do hereby forever warrant and will forever defend the title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said parties of the first part, have executed this Deed and adopted as their seals the typewritten word "SEAL," appearing beside their names, this day and year first above written.

[Signatures]

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina
STATE OF North Carolina
COUNTY OF _________________

I, Margie B. Wingate, a Notary Public, do hereby certify that JAMES Y. MORRIS and wife, TERESA P. MORRIS personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 25th day of April, 2005.

My Commission Expires: June 14, 2009

STATE OF _________________
COUNTY OF Surry

I, Donna S. Davis, a Notary Public, do hereby certify that LINDA MORRIS HEISABECK and husband, JAMES R. HEISABECK personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 23rd day of October, 2005.

My Commission Expires: 10-23-2005
STATE OF North Carolina
COUNTY OF New Hanover

I, [Name], a Notary Public, do hereby certify that PATRICIA MORRIS ROSEMAN and husband, IRVAN A. ROSEMAN personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 3rd day of April, 2005.

[Signature]
NOTARY PUBLIC

Commission Expires: April 21, 2009

STATE OF NORTH CAROLINA
COUNTY OF PAMLICO

The foregoing certificate of __SEE BELOW________ is certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the Office of the Register of Deeds of Pamlico County, North Carolina in Book 448, Page 871.

This 27th day of June, 2005 at 3:53 o'clock P.M.

[Signature]
REGISTER OF DEEDS

BY:
Assistant/Deputy

MARGIE B. WINGATE, PITTS COUNTY NC
DONNA S. DAVIS, SURRY COUNTY NC
NANCY O. LANGLEY, NEW HANOVER COUNTY NC

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina
The subject property is more particularly described as follows:

Beginning at a concrete monument which marks a common corner between the property hereinbelow described and the registered estate of the Weyerhaeuser Company being Registered Estate No. 1, of record in Book 1, at Page 20, in the office of the Register of Deeds of Pamlico County, said point of beginning being the eastern terminus of the line which appears in "THE CERTIFICATE OF TITLE OF WEVERHAEUSER COMPANY" in lines 18, 19 and 20 of the description in said certificate which reads as follows: "thence crossing the marsh, South 89° East 485 feet to an iron pipe near two oaks between the forks of Bonner's Bay..."; thence from said point of beginning, North 81° 17' East 2410.00 feet to a point 1 foot north of the lock end of the steel gate located on the north end of the ditch running from Deep Oak Gulch to Swan Creek; thence North 42° 21' East 177.5 feet to a point 1 foot from the canal leading to the pump and filling ditch for Number 4 Pond and the water's edge of Deep Oak Gulch; thence North 85° 39' East 25.4 feet across the mouth of said canal to a point 1 foot past the east side of said canal near the water's edge of Deep Oak Gulch; thence South 12° 14' East along the canal 561.6 feet to the point that the first ditch intersects the canal; thence North 67° 00' East 576.7 feet to the northeast side of the mouth of the first ditch northeast of Number 4 Pond; thence South 68° 00' East along the northeast side of said ditch to the end thereof, and continuing a total of 1990.0 feet to the Neuse River, also known as Pamlico Sound in this area; thence southwardly with the western edge of Pamlico Sound and Neuse River past Wading Creek and along the eastern shore of Swan Island, to Pinney Point (including all of Swan Island, in its entirety); thence westwardly with the northern shoreline of Neuse River to the mouth of Broad Creek; thence westwardly along and with the northern shore of Broad Creek to the mouth of Green Creek; thence northwardly and with Green Creek to a corner of Registered Estate No. 1 of the Weyerhaeuser Company, to which reference is made above, on said Green Creek; thence along and with the lines of the Weyerhaeuser Company Registered Estate No. 1, identified above, to the POINT OF BEGINNING.

A portion of said description was taken from plat entitled "Survey for Coastal Land Company, Inc.", bearing date April 20, 1982, by Edward B. Latham, R.L.S., copy of which is recorded in Book 215, Page 999 in the office of the Register of Deeds of Pamlico County.

Being the southern part of the property conveyed by Joseph G. Blow and wife and Ralph T. Morris and wife to Coastal Land Company by deed bearing date August 14, 1963, which appears of record in Book 138, at Page 369, in the office of the Register of Deeds of Pamlico County.

The above described property contains 2,310 acres, more or less, and includes the 100 acres described in deeds recorded in the office of the Register of Deeds of Pamlico County in Book 234 at Page 492, and in Book 282 at Page 947. There is recorded in Book 338, Page 786 and incorporated herein by reference a "sketch" which shows the subject property located generally from Deep Oak Gulch on the north to Broad Creek on the south.

A portion of Registered Estate No. 1 referenced above now is owned by grantors and is being conveyed to grantee and is now depicted as Registered Estate No. 21.

The aforesaid property is depicted on a map entitled Coastal Land Co., Inc. recorded in Map Book 3, Page 108.

991298-00004-001
NBMAIN6338924
PREPARED BY AND RETURN TO: Howard, Stallings, From & Hutson, P.A., P.O. Box 975, New Bern, NC 28563

NORTH CAROLINA

PAMLICO COUNTY

THIS DEED, made and entered into this the 23rd day of MAY, 2005, by and between JAMES Y. MORRIS and wife, TERESA F. MORRIS, PATRICIA MORRIS ROSEMAN and husband, IRVIN A. ROSEMAN, LINDA MORRIS HELSABECK, and husband, JAMES R. HELSABECK, parties of the first part;

TO

ROBERT L. STALLINGS, III, ROBERT L. STALLINGS, IV, and DAVID M. F. STALLINGS, whose address is: 1470 W. 125TH ST., TAMPA, FL 33612, Party of the second part (whether one or more);

W I T N E S S E T H:

That said parties of the first part in consideration of the sum of ONE HUNDRED AND NO/100 ($100.00) DOLLARS and other good and valuable considerations to them paid by said party of the second part, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell, and convey to said party of the second part, their heirs

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina
and assigns, certain tracts or parcels of land, lying and being in Pamlico County, North Carolina, and being more particularly described in Exhibit A incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid tracts or parcels of land, and all privileges and appurtenances thereto belonging to the said party of the second part, its successors and assigns, in fee simple, to its only use and behoof forever.

And the said parties of the first part for themselves and their heirs and assigns, covenant with the said party of the second part, its successors and assigns, that they are seized of said premises in fee and have the right to convey in fee simple; that the same are free and clear from all encumbrances except as above set out; and that they do hereby forever warrant and will forever defend the title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said parties of the first part, have executed this Deed and adopted as their seals the typewritten word "SEAL," appearing beside their names, this day and year first above written.

JAMES Y. MORRIS (SEAL)

Teresa F. Morris (SEAL)

PATRICIA MORRIS ROSEMAN (SEAL)

IRVIN A. ROSEMAN (SEAL)

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina
STATE OF North Carolina

COUNTY OF Pitt

Linda Morris Helsabeck

(SIGNATURE)

JAMES R. HELSABECK

(SIGNATURE)

I, Marjorie B. Wingate, a Notary Public, do hereby certify that JAMES Y. MORRIS, his wife, TERESA F. MORRIS, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 25th day of April, 2005.

Marjorie B. Wingate

Notary Public

My Commission Expires: June 14, 2009

STATE OF N.C.

COUNTY OF Surry

I, Donna S. Davis, a Notary Public, do hereby certify that LINDA MORRIS HELSABECK and husband, JAMES R. HELSABECK, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 28th day of __________.

DONNA S. DAVIS

Notary Public


HOWARD, STALLINGS, FROM & HUTSON, P.A.

Attorneys at Law

New Bern, North Carolina
STATE OF North Carolina
COUNTY OF New Hanover

I, Nancy D. Langley, a Notary Public, do hereby certify that PATRICIA MORRIS ROSEMAN and her husband, IRVINE ROSEMAN personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official stamp or seal, this 33rd day of April, 2005.

NOTARY PUBLIC

My Commission Expires: April 21, 2009

STATE OF NORTH CAROLINA
COUNTY OF PAMLICO

The foregoing certificate of SEE BELOW is certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the Office of the Register of Deeds of Pamlico County, North Carolina in Book 448, Page 866.

This 27TH day of JUNE, 2005 at 3:52 o'clock P.M.

Margie B. Wingate, Pitt County NC
Donna S. Davis, Surry County NC
Nancy D. Langley, New Hanover County NC

BY: Assistant/Deputy

HOWARD, STALLINGS, FROM & HUTSON, P.A.
Attorneys at Law
New Bern, North Carolina
TRACT NO. 1: Near the village of Whortonsville, and a part of the Sound View Subdivision, BEGINNING at an iron stake on the edge of the main road, and running thence south 66 degrees west 112 feet to the edge of Buxton Creek, thence along and with the various courses of Buxton Creek to an iron stake, thence 200 feet to the point of beginning.

This being lots number 101 and 102 of the Sound View Subdivision, a map of which is recorded in the office of the Register of Deeds of Pamlico County, reference to which is hereby made.

It is stipulated that this lot shall be used for residential purposes only.

TRACT NO. 2: Near the village of Whortonsville, and a part of the Sound View Subdivision.

BEGINNING at a stake in the edge of the main road, thence south 66 west 114 feet to edge of Buxton Creek; thence northwarkdly along said creek about 75 feet to an iron stake; thence north 66 east 112 feet to the road; thence along said road 75 feet to the point of beginning.

This being Lot No. 103 of the Sound View Sub-Division, a Map of which is recorded in the Office of the Register of Deeds of Pamlico County, reference to which is hereby made.

Being the same lands described in that certain deed from Vernon J. Silverthorn and wife, Mildred Silverthorn, to Lynwood P. Meadows, dated January 23, 1959, and recorded in Book 122, Page 135, Pamlico County Registry, and also being the same lands described in that certain deed of record in Book 168, Page 235, Pamlico County Registry, and said lands are conveyed subject to any restrictive covenants appearing of record and affecting the same.

It is stipulated that this lot shall be used for residential purposes only.

TRACT NO. 3:

THIS lot being in the Sound View Development Area near the Village of Whortonsville, North Carolina, in Pamlico County and on the east side of Buxton Creek described as follows: BEGINNING at an iron stake on the edge of Buxton Creek, and running southwardly 208 feet and adjoining Lot #101 to another iron stake; thence North 66 East 27 feet to another iron stake; northwardly 208 feet and running with Lynwood Meadows line to another iron stake on the edge of Buxton Creek; thence westwardly 27 feet and with the various courses of Buxton Creek to the point of beginning containing 1/4 acre more or less.

IT is agreed and understood that this lot is to be used for residential purposes only, forever.

THIS being the same property conveyed by deed from Vernon J. Silverthorn and wife, Mildred C. Silverthorn, to Edgar M. Barwick and wife, Dorothy M. Barwick, recorded in Book 131, Page 69, of the Pamlico County Registry.

THIS property was conveyed to the parties of the first part by Mr. and Mrs. Edgar M. Barwick by deed bearing date September 8, 1983, which is of record in Book 222, at Page 594, in the office of the Register of Deeds of Pamlico County. That conveyance was made subject to a non-exclusive personal easement reserved by Mr. and Mrs. Barwick for and during the lifetimes of Edgar M. Barwick and Dorothy M. Barwick. The deed specifically provided that the easement was neither assignable nor inheritable. The deed also set forth the fact that during the term of the easement, the property would not be blocked by the grantors or the grantees, their agents, or employees.
DIVISION OF COASTAL MANAGEMENT
FIELD INVESTIGATION REPORT

APPLICANT'S NAME: Robert Stallings IV

LOCATION OF PROJECT SITE: The project is located adjacent to a tributary of Pittman Creek at 52 Silverwood Drive, near Merritt, Pamlico County.

Latitude: 35° 6'13.25"N  Longitude: 76°36'17.30"W

INVESTIGATION TYPE: CAMA/D&F
INVESTIGATIVE PROCEDURE: Date(s) of Site Visit – 8/30/16
Was Applicant or Agent Present – Yes
Photos Taken – No

PROCESSING PROCEDURE: Application Received – cc: 9/22/17
Office – MHC

SITE DESCRIPTION:
(A) Local Land Use Plan – Pamlico County (January 28, 2005)
Land Classification from LUP – Rural with Services
(B) AEC(s) Involved: CW, ES, EW, PTA
(C) Water Dependent: Yes
(D) Intended Use: Private
(E) Wastewater Treatment: Existing – septic
               Planned - none
(F) Type of Development: Existing – dwelling, bulkhead, and dock
               Planned - excavation, bulkhead, and boat ramp
(G) Estimated Annual Rate of Erosion: N/A
               Source – N/A

<table>
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<tr>
<th>HABITAT DESCRIPTION:</th>
<th>DREDGED</th>
<th>FILLED</th>
<th>INCORP/SHADED</th>
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<tbody>
<tr>
<td>(A) Shallow Bottom</td>
<td>2,300 ft²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(B) High Ground</td>
<td>750 ft²</td>
<td>10,160 ft²</td>
<td></td>
</tr>
<tr>
<td>(C) Coastal Wetlands</td>
<td></td>
<td>225 ft²</td>
<td></td>
</tr>
<tr>
<td>(D) 404 Wetlands</td>
<td>875 ft²</td>
<td>1,275 ft²</td>
<td></td>
</tr>
</tbody>
</table>

(E) Total Area Disturbed: 15,585 ft²
(F) Primary Nursery Area: Yes
(G) Water Classification: SA; HQW, NSW  Open: No
(H) Cultural Resources: None

Project Summary: The applicant wishes to construct a bulkheaded upland basin and channel excavation for personal use adjacent to Pittman Creek, Pamlico County.
Field Investigation Report:
Stallings
Page 2

Narrative Description:

Located within the Neuse River Basin, the property is adjacent to Pittman Creek (off Lower Broad Creek) at 52 Silverwood Drive, near Merritt in Pamlico County. This private property is currently developed with a dwelling, vinyl bulkhead, and dock. The adjacent riparian properties are similarly developed.

The elevation of the high ground of the parcel is about 4’ above the normal water level (nwl). Vegetation on the parcel mainly consists of native trees and shrubs. There are Coastal Wetlands (Juncus roemerialus) and non-Coastal Wetlands within the project area. The 26.5-acre parcel has approximately 1,353’ of continuous shoreline along Pittman Creek. Immediate offshore water depths adjacent to the parcel range from -0.5’ to -3’ nwl. The subaqueous substrate is soft without shell.

There is not a cultural resource in the nearby vicinity of the project area. This tributary of the Pittman Creek waterbody is approximately 190’ across at this location. These coastal waters are classified as a Primary Nursery Area (PNA). Submerged aquatic vegetation (SAV) is not present at this location. This area is closed to shellfish harvest and is classified as SA; HQW; Nutrient Sensitive Waters. There is not a defined Federal Channel near this project area. This project area is subject to the Neuse River Riparian Buffer Rules. This area has not been previously dredged.

Proposed Development:

The applicant proposes to construct an upland basin, boat ramp, and excavation adjacent to Pittman Creek, near Merritt. The proposed development would take place at 52 Silverwood Drive, Pamlico County. The proposal would be for the exclusive private use of the property owner.

The proposed boat basin would be 65’ landward of the nwl and 25’ wide (1,625 ft²). It would be excavated through approximately 30’ of non-Coastal Wetlands down to -3.3’ NWL. A 40’ long and 21’ wide boat ramp is proposed at the west end of the proposed basin and would extend 20’ waterward into the basin. The excavated basin shoreline and boat ramp would be stabilized with 204’ of vinyl bulkhead. A side-to staging dock is proposed within the basin along the south side. This proposed dock would aid in the launch and retrieval of vessels at the proposed boat ramp. This proposed dock would be 4’ wide and 65’ long.

The proposed excavation of an access channel would connect the proposed boat basin to the natural -3.3’ NWL contour of this tributary of Pittman Creek. The proposed access channel would be 92’ long and 25’ wide with depths proposed to -3.3’ nwl.

The proposed excavated spoil material is to be contained in a high ground area on site approximately 120’ west of the proposed boat basin. The proposed spoil area would be 60’ by 60’. A proposed gravel access drive for ingress to the proposed boat ramp would be 328’ long and 20’ wide.
Anticipated Impacts:

The proposed boat basin would excavate 750 square feet of high ground and 875 square feet of 404 Wetlands. The proposed access channel would excavate 2,300 square feet of shallow bottom PNA habitat. The proposed boat ramp, vinyl bulkhead, gravel driveway, and spoil disposal area would fill 10,160 square feet of high ground and 1,500 square feet of Section 404 Wetlands. The northern terminus of the proposed bulkhead would impact 225 square feet of Coastal Wetlands (*Juncus roemerianus*). Traditional marine construction methodology would be utilized during the construction of this project. Turbidity impacts would be anticipated during construction activities in Pittman Creek. Future on-going maintenance of the proposed access channel is anticipated.

These waters of Pittman Creek are classified as a Primary Nursery Area and have not been previously excavated. There is not a cultural resource in the nearby vicinity of the project area. This project area is subject to the Neuse River Riparian Buffer Rules. The presence of submerged aquatic vegetation was not observed. This area is closed to shellfish harvest and is classified as SA; HQW; Nutrient Sensitive Waters. There is not a defined Federal Channel near the project area.
February 9, 2018

CERTIFIED MAIL: 7008 1300 0000 1124 5204
RETURN RECEIPT REQUESTED

Mr. Robert L. Stallings, IV
PO Box 12327
New Bern, NC 28561

Subject: DENIAL OF 401 WATER QUALITY CERTIFICATION AND BUFFER AUTHORIZATION CERTIFICATE
Stallings Property – Upland Basin and Ramp

Dear Mr. Stallings:

On October 11, 2017, the Division of Water Resources (Division) received your application dated October 9, 2017, requesting a 401 Water Quality and Buffer Authorization Certifications from the Division for the subject project, with subsequent information received on January 8, 2018.

Pursuant to 15A NCAC 02H .0506, a certification shall be issued when the Director determines that water quality standards are met, including protection of existing uses. The project has not met the following requirements:

- **15A NCAC 02H .0506(b)(1), (c)(1) and (d)(1)(A)**
  "has no practical alternative as described in Paragraph (f) of this Rule"
  There are practical alternatives available utilizing other construction methodologies or alternative designs and layouts that would avoid or result in less adverse impact to open waters (Class SA; HWQ, NSW, designated Primary Nursery Area (PNA)), wetlands (Class WL) and coastal wetlands (Class SWL).

- **15A NCAC 02H .0506(c)(2)**
  "does not result in the degradation of groundwater or surface waters"
  There would be degradation of surface waters from proposed dredging for an access channel within the waters of Pittman Creek, which are classified as SA; HQW, NSW (by the Environmental Management Commission) and PNA (by the Division of Marine Fisheries). In addition, there would be degradation of surface waters as the wetland system proposed to be impacted by the upland basin and dredging is riparian wetlands, which serves as a buffer to protect water quality of Pittman Creek.
In accordance with 15A NCAC 02H .0507(e) your application for a 401 Water Quality Certification is hereby denied.

Pursuant to 15A NCAC 02B .0233(8), a buffer Authorization Certificate shall be issued upon a no practical alternatives determination. The project has not met the following requirements:

- **15A NCAC 02B .0233(8)(a)**
  
  "... make a finding of fact as to whether the following requirements have been met in support of a “no practical alternatives” determination..."

There are practical alternatives available utilizing other construction methodologies or alternative designs and layouts that would avoid or result in less adverse impact to open waters (Class SA; HWQ, NSW, designated Primary Nursery Area (PNA)), wetlands (Class WL) and coastal wetlands (Class SWL).

In accordance with 15A NCAC 02B .0233(8) your application for a buffer Authorization Certificate is hereby denied.

This decision can be contested as provided in General Statute 150B by filing a written petition for an administrative hearing to the Office of Administrative Hearings (hereby known as OAH) within sixty (60) calendar days.

A petition form may be obtained from the OAH at [http://www.ncoah.com/](http://www.ncoah.com/) or by calling the OAH Clerk’s Office at (919) 431-3000 for information. A petition is considered filed when the original and one (1) copy along with any applicable OAH filing fee is received in the OAH during normal office hours (Monday through Friday between 8:00am and 5:00pm, excluding official state holidays).

The petition may be faxed to the OAH at (919) 431-3100, provided the original and one copy of the petition along with any applicable OAH filing fee is received by the OAH within five (5) business days following the faxed transmission.

Mailing address for the OAH:

**If sending via US Postal Service:**
Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

**If sending via delivery service (UPS, FedEx, etc):**
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285

**RECEIVED**

FEB 12 2018

MP SECTION MHD
One (1) copy of the petition must also be served to DEQ:

William F. Lane, General Counsel  
Department of Environment and Natural Resources  
1601 Mail Service Center  
Raleigh, NC 27699-1601

This completes the review of the Division under section 401 of the Clean Water Act and the Neuse River Basin Riparian Buffer Rules. Please be aware that you have no authorization under Section 401 of the Clean Water Act or 15A NCAC 02B .0233 for this activity and any work done within waters of the state or protected riparian buffers may be a violation of North Carolina General Statutes and Administrative Code.

Contact Anthony Scarbraugh at 252-948-3924 or anthony.scarbraugh@ncdenr.gov or Karen Higgins at 919-807-6360 or karen.higgins@ncdenr.gov if you have any questions or concerns.

Sincerely,

Linda Culpepper, Interim Director  
Division of Water Resources

cc: Ms. Amy P. Wang, Ward and Smith, P.A., P.O. Box 867, New Bern, NC  
Jesse Cahoon, Bobby Cahoon Construction, Inc., 6003 Neuse Rd, Grantsboro, NC 28529  
Josh Pelletier, USACE Washington Regulatory Field Office (via email)  
Todd Bowers, EPA (via email)  
Doug Huggett, DCM Morehead City (via email)  
Brad Connell, DCM WaRO  
DWR WaRO 401 files  
Laserfiche

Filename: 171298StallingsProperty(Pamlico)_401_Denial

RECEIVED

FEB 12 2018

MP SECTION MHD
MEMORANDUM

TO: Gregg Bodnar, Major Permits Processing Coordinator  
Division of Coastal Management

FROM: Rachel Love-Adrick, District Planner  
Division of Coastal Management

SUBJECT: Major Permit Request by Robert Stallings, IV

DATE: October 25, 2017

Consistency Determination: Multiple relevant policies to this proposed development in the Pamlico County Joint CAMA Land Use Plan defer to CRC Rules regarding to uses in AECs. The proposed dredging in PNA is not consistent with CRC Rule 15A NCAC 07H.0208(2)(A), NCAC 07H.0208(b)(1), and 15A NCAC 07H .1505(10). As the Land Use Plan defers to CRC Rules, the request is found to be consistent with the Pamlico County Joint CAMA Land Use Plan certified by the CRC on January 28, 2005, provided the applicant is granted a variance to these rules by the CRC.

Overview: The applicant is proposing to construct an upland basin, boat ramp, vinyl bulkhead, gravel driveway excavation, and spoil disposal area adjacent to Pittman Creek at 52 Silverwood Drive, near Merritt, Pamlico County. The 26.5-acre parcel has approximately 1,353’ of continuous shorelines along Pittman Creek. Existing onsite development includes a dwelling, vinyl bulkhead, and dock. Vegetation on the parcel is mainly native trees and shrubs. There are Coastal Wetlands (Juncus roemerianus) and non-coastal wetlands within the project area. Areas of Environmental Concern affected include: Coastal Wetlands (CW), Estuarine Shoreline (ES), Estuarine Waters (EW) and Public Trust Areas (PTA).

The tributary of Pittman Creek is approximately 190’ across at this location. The waterbody is classified as SA;HWQ;NSW. The site is classified as a Primary Nursery Area, and is closed to shellfishing. Submerged Aquatic vegetation (SAV) is not present at this location. There is not a defined Federal Channel in the nearby vicinity of the project area. The project is subject to the Neuse River Riparian Buffer Rules. This area has not previously been dredged.

Anticipated impacts resulting from this project are expected to include: the proposed boat basin would excavate 750 ft² of high ground and 875 ft³ of 404 wetlands. The proposed access channel would excavate 2,300 ft² of shallow bottom PNA habitat. The boat ramp, vinyl bulkhead, gravel driveway, and spoil disposal area would fill 10,160 ft² of high ground and 1,500 ft² of Section 404 Wetlands. The northern terminus of the proposed bulkhead would impact 225 ft² of Coastal Wetlands (Juncus roemerianus). Traditional marine methodology would be utilized during construction. Turbidity impacts are
MEMORANDUM:

TO: Shane Staples
Division of Coastal Management

FROM: Gregg Bodnar
Major Permits Processing Coordinator

SUBJECT: CAMA/DREDGE & FILL Permit Application Review

Applicant: Robert Stallings, IV

Project Location: Pamlico County, adjacent to a tributary of Pittman Creek at 52 Silverwood Dr., near Merritt.

Proposed Project: Proposes to construct a bulkheaded upland basin and channel excavation for personal use adjacent to Pittman Creek.

Please indicate below your agency's position or viewpoint on the proposed project and return this form by October 29, 2017. If you have any questions regarding the proposed project, please contact Brad Connell, permit officer at (252)808-2808. Ext. 214. When appropriate, in-depth comments with supporting data is requested.

REPLY: □ This agency has no objection to the project as proposed.

□ This agency has no comment on the proposed project.

□ This agency approves of the project only if the recommended changes are incorporated. See attached.

☑ This agency objects to the project for reasons described in the attached comments.

SIGNED Shane Staples DATE 10/26/17
MEMORANDUM:

TO: Gregg Bodnar, Assistant Major Permits Coordinator
FROM: Shane Staples, DCM Fisheries Resource Specialist
SUBJECT: Robert Stallings, IV
DATE: 10/26/17

A North Carolina Division of Coastal Management (DCM) Fisheries Resource Specialist has reviewed the subject permit application for proposed actions that impact fish and fish habitats. The applicant proposes to construct an upland boat basin, boat ramp, as well as excavate an access channel to the basin in Pittman Creek, a tributary of Lower Broad Creek in the Neuse River basin near Merritt, NC. The basin is proposed as a rectangular cut landward 65' and 25' in width and stabilized by 204' of vinyl bulkhead. The boat ramp would be at the head of the basin and would measure 40' in length and 21' in width. An access channel is proposed to excavated into Pittman Creek 92' in length and 25' wide to a depth of -3.3 NWL. Spoil will be stored on site and an access gravel drive is proposed for access to the ramp. Impacts include 750 square feet of high ground and 875 square feet of 404 wetlands for the boat basin; 2,300 square feet of shallow bottom PNA for the access channel; the bulkhead would impact 225 square feet of coastal wetlands; and the ramp, spoil disposal, and gravel drive would incorporate 10,160 square feet of high ground and 1,500 square feet of 404 wetlands.

Pittman Creek has been designated by the Division of Marine Fisheries as Primary Nursery Area. This designation means the area has been deemed extremely important habitat for larval and juvenile finfish and shellfish such as red drum, speckled trout, spot, croaker, blue crabs, and shrimp. The project as proposed will have significant adverse impacts to shallow bottom PNA habitat in Pittman Creek and this office objects to the project as proposed. These concerns were expressed to an agent of the applicant on March 15, 2017. Alternatives to avoid and minimize impacts were expressed by agency representatives at this meeting including building a pier and platform with slips to keep vessels and launching vessels at an existing ramp, the closest of which exists less 1 mile from the property by land or water. Little can be done to the project as proposed to remove this office objection based on the significant negative habitat impact. Alternatives that do not require the excavation of PNA bottom habitat should be explored as expressed during the scoping process.

Contact Shane Staples at (252) 948-3950 or shane.staples@ncdenr.gov with further questions or concerns.
MEMORANDUM:

TO: Gregg Bodnar, Assistant Major Permits Coordinator
FROM: Shane Staples, DCM Fisheries Resource Specialist
SUBJECT: Robert Stallings, Additional Information
DATE: 1/9/18

A North Carolina Division of Coastal Management (DCM) Fisheries Resource Specialist has reviewed the additional information provided to the NC Division of Water Resources regarding the Stallings Property Boat Basin in Pamlico County. DCM fisheries still strongly object to the new dredging proposed within this project. Primary Nursery Areas (PNA) are most critical to the early life stages of marine and estuarine organisms. Locations, such as the project area, in the upper portion of an estuarine tributary are where larval and post larval development occurs. The proposed excavation of an access channel will be detrimental to PNA function due to the removal of detrital benthic substrate, increased turbidity, and altering the benthic substrate. Furthermore, the attached study conducted by NCDMF in the late 80's on the differences in dredged versus natural systems showed a significant drop in abundance of species in dredged systems.

Contact Shane Staples at (252) 948-3950 or shane.staples@ncdenr.gov with further questions or concerns.
MEMO TO: Jess Hawkins
FROM: David Moye
SUBJECT: Effects of D/F Activities
DATE: March 6, 1990

During 1988 and 1989, two systems were sampled to see if any difference could be found in species composition and relative abundance between natural creeks and dredged creeks.

Pierce Creek in Pamlico County was sampled in 1988 in the natural portion and in the dredged area where a marina development had been built. Sampling took place monthly from April through July and the catches were sorted by species and counted. A subsample of 30-60 individuals of each economically important species were measured to the nearest mm. Both sample sites had a mean depth of 1.5 m and both had mud for bottom composition. Table one shows a comparison of the two sites in respect to species diversity and relative abundance.

Wright Creek in Beaufort County was sampled 1988-1989 in the natural portion and in the area that was dredged for commercial boat traffic. Sampling was identical to Pierce Creek. The natural side of Wright's Creek had a mud bottom and a mean depth of 1 m while the dredge side had a mud bottom and a mean depth of 3.2 m. Table 2 shows a comparison of the two sites in Wright Creek.

Both study sites suggest that, while species diversity may not be affected by dredging activities, relative abundance is affected. This information is useful due to the increasing number of D/F permit applications in primary nursery areas.
Table 1. Catch per unit effort (CPUE) data for Pierce Creek from dredged and natural stations in 1988. CPUE is expressed as the average number per tow.

<table>
<thead>
<tr>
<th>Species</th>
<th>Natural</th>
<th>Dredged</th>
</tr>
</thead>
<tbody>
<tr>
<td>spot</td>
<td>439.8</td>
<td>172.8</td>
</tr>
<tr>
<td>bay anchovy</td>
<td>35.0</td>
<td>119.3</td>
</tr>
<tr>
<td>Atlantic croaker</td>
<td>26.8</td>
<td>13.3</td>
</tr>
<tr>
<td>brown shrimp</td>
<td>18.0</td>
<td>15.5</td>
</tr>
<tr>
<td>blue crab</td>
<td>10.5</td>
<td>2.0</td>
</tr>
<tr>
<td>pinfish</td>
<td>7.5</td>
<td>0.8</td>
</tr>
<tr>
<td>Atlantic menhaden</td>
<td>3.8</td>
<td>-</td>
</tr>
<tr>
<td>southern flounder</td>
<td>2.5</td>
<td>0.5</td>
</tr>
<tr>
<td>silver perch</td>
<td>1.8</td>
<td>0.3</td>
</tr>
<tr>
<td>naked goby</td>
<td>1.8</td>
<td>-</td>
</tr>
<tr>
<td>green goby</td>
<td>1.8</td>
<td>0.3</td>
</tr>
<tr>
<td>hogchoker</td>
<td>1.8</td>
<td>-</td>
</tr>
<tr>
<td>pink shrimp</td>
<td>0.5</td>
<td>-</td>
</tr>
<tr>
<td>red drum</td>
<td>0.5</td>
<td>-</td>
</tr>
<tr>
<td>killifishes</td>
<td>0.3</td>
<td>-</td>
</tr>
<tr>
<td>striped mullet</td>
<td>0.3</td>
<td>-</td>
</tr>
</tbody>
</table>

**OBSERVED:**

- shore shrimp: x
- widgeon grass: x

**Stations:**
- F3N - natural
- F3D - dredged
Table 2. Catch per unit effort (CPUE) data for Wright Creek from dredged and natural stations in 1988-1989. CPUE is expressed as the average number per tow.

<table>
<thead>
<tr>
<th>Species</th>
<th>Natural</th>
<th>Dredged</th>
</tr>
</thead>
<tbody>
<tr>
<td>spot</td>
<td>277.6</td>
<td>145.6</td>
</tr>
<tr>
<td>bay anchovy</td>
<td>82.6</td>
<td>192.4</td>
</tr>
<tr>
<td>Atlantic croaker</td>
<td>19.5</td>
<td>20.1</td>
</tr>
<tr>
<td>Atlantic menhaden</td>
<td>17.5</td>
<td>0.8</td>
</tr>
<tr>
<td>brown shrimp</td>
<td>4.6</td>
<td>1.5</td>
</tr>
<tr>
<td>southern flounder</td>
<td>4.3</td>
<td>1.4</td>
</tr>
<tr>
<td>blue crab</td>
<td>2.5</td>
<td>0.4</td>
</tr>
<tr>
<td>naked goby</td>
<td>2.3</td>
<td>0.4</td>
</tr>
<tr>
<td>hogchoker</td>
<td>0.8</td>
<td>0.9</td>
</tr>
<tr>
<td>Tidewater silverside</td>
<td>0.3</td>
<td>-</td>
</tr>
<tr>
<td>green goby</td>
<td>0.3</td>
<td>0.3</td>
</tr>
<tr>
<td>American eel</td>
<td>0.1</td>
<td>0.5</td>
</tr>
<tr>
<td>inshore lizardfish</td>
<td>0.1</td>
<td>-</td>
</tr>
<tr>
<td>pipefish</td>
<td>-</td>
<td>0.1</td>
</tr>
<tr>
<td>rainwater killifish</td>
<td>-</td>
<td>0.1</td>
</tr>
<tr>
<td>silver perch</td>
<td>-</td>
<td>0.5</td>
</tr>
</tbody>
</table>

OBSERVED:

<table>
<thead>
<tr>
<th>Species</th>
<th>Natural</th>
<th>Dredged</th>
</tr>
</thead>
<tbody>
<tr>
<td>shore shrimp</td>
<td>x</td>
<td>x</td>
</tr>
<tr>
<td>widgeon grass</td>
<td>x</td>
<td>x</td>
</tr>
</tbody>
</table>

Stations: PUR3 - natural
PUR47 - dredged
LENGTH FREQUENCY
ATLANTIC CROAKER

1988 PROGRAM 120 DATA

MIDPOINT LENGTH

FREQUENCY

PIerce Creek
Natural
Dredged
WRIGHT CREEK

LENGTH FREQUENCY

ATLANTIC CROAKER

1988-89 PROGRAM 120 DATA
LENGTH FREQUENCY
BLUE CRAB

1989-90 PROGRAM 120 DATA

MIDPOINT LENGTH

DREDGED NATURAL
WRIGHT CREEK

FREQUENCY
From: Bodnar, Gregg  
Sent: Thursday, March 01, 2018 4:02 PM  
To: Deaton, Anne <anne.deaton@ncdenr.gov>  
Subject: Attachments

Afternoon Anne,

Per the voicemail that I left. Please give me a call to discuss when you have a moment.

Thanks,

 Gregg

Gregg Bodnar  
Assistant Major Permits Coordinator  
Division of Coastal Management  
Department of Environmental Quality

252 808 2808 ext 215 office  
Gregg.Bodnar@ncdenr.gov

400 Commerce Ave  
Morehead City, NC 28557

Nothing Compares.

Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties.
October 9, 2017

MEMORANDUM:

TO: Maria Dunn
NC Wildlife Resources Commission

FROM: Gregg Bodnar
Major Permits Processing Coordinator

SUBJECT: CAMA/DREDGE & FILL Permit Application Review

Applicant: Robert Stallings, IV

Project Location: Pamlico County, adjacent to a tributary of Pittman Creek at 52 Silverwood Dr., near Merritt.

Proposed Project: Proposes to construct a bulkheaded upland basin and channel excavation for personal use adjacent to Pittman Creek.

Please indicate below your agency’s position or viewpoint on the proposed project and return this form by October 29, 2017. If you have any questions regarding the proposed project, please contact Brad Connell, permit officer at (252)808-2808. Ext. 214. When appropriate, in-depth comments with supporting data is requested.

REPLY:  

_____ This agency has no objection to the project as proposed.

_____ This agency has no comment on the proposed project.

_____ This agency approves of the project only if the recommended changes are incorporated. See attached.

_____ This agency objects to the project for reasons described in the attached comments.

SIGNED ___________________________ DATE 11-8-2017

Nothing Compares...
MEMORANDUM

TO: Gregg Bodnar
   Division of Coastal Management
   North Carolina Department of Environmental Quality

FROM: Maria T. Dunn, Coastal Coordinator
       Habitat Conservation Division

DATE: November 8, 2017

SUBJECT: CAMA Dredge/Fill Permit Application for Robert Stallings, IV, Pamlico County, North Carolina.

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the permit application with regard to impacts on fish and wildlife resources. The project site is located at 52 Silverwood Drive adjacent a tributary to Pitman Creek in Merritt, NC. Our comments are provided in accordance with provisions of the Coastal Area Management Act (G.S. 113A-100 through 113A-128), as amended, Sections 401 and 404 of the Clean Water Act, as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The applicant proposes to construct a bulkheaded upland basin, boat ramp, and excavate an access channel for personal use. The basin would be 65’ by 25’ and positioned 65’ landward the NWL. Excavation for the basin would include a 30’ wide area of Section 404 wetlands. Final water depths are proposed to be -3.3’ NWL. A 21’ by 20’ wide ramp is proposed to be installed at the west end of the basin and extend 20’ into the newly excavated basin. The basin and shoreline would be stabilized with vinyl bulkhead. A 4’ by 65’ long staging dock would be constructed within the basin. To access deeper water within the waterbody, a 25’ by 92’ channel to a depth of -3.3’ is proposed to be dredged. Material from the excavation activities would be placed onsite within a 60’ by 60’ spoil area. A 20’ by 328’ gravel access drive would be constructed to the basin to give access to the applicant’s 26.5-acre parcel. Pitman Creek and its tributaries are classified SA HQW by the Environmental Management Commission, are subject to the NC Division of Water Resources’ Neuse Basin Buffer Rules, and are designated a Primary Nursery Area (PNA) by the NC Division of Marine Fisheries (NCDMF).

The NCWRC has reviewed the permit application and is very concerned with the impacts associated with the project. We do not believe avoidance and minimization to wetlands and PNA functioning waters have been demonstrated. There is no history of previously permitted or even historically dredged projects in the
area; therefore, this would be a newly permitted project in an area that functions as a PNA. The NCDMF defines a PNA as "those areas in the estuarine system where initial – post larval development takes place. These are areas where populations are uniformly early juveniles". These designated areas and areas that function as PNAs are vital to numerous fish and crustacean populations and should be protected. Because of this habitat’s importance, the NCWRC generally does not support new dredge activities in areas that function as PNAs.

Therefore, the NCWRC requests the applicant present an alternative analysis that demonstrates avoidance and minimization of impacts to PNA, shallow water habitat, and riparian wetland resources. This analysis should include a purpose and need for the private access and depending upon impacts after avoidance and minimization, a mitigation proposal. Other than not supporting new dredging in functioning PNAs, the NCWRC also does not support boat ramps that terminate in water depths less than -3’ NWL. This should be considered when considering alternatives.

We appreciate the opportunity to review and comment on this permit application and look forward to any additional information as it becomes available. If it is determined a scoping meeting with agencies should be conducted, we request an invitation. Please do not hesitate to contact me at (252) 948-3916 or at maria.dunn@ncwildlife.org if I can be of additional assistance.
March 5, 2018

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Stallings IV
PO Box 12327
New Bern, NC 28561

Dear Mr. Stallings:

This letter is in response to your application for a Major Permit under the Coastal Area Management Act (CAMA) and the State Dredge and Fill Law, in which authorization was requested to perform new excavation of an upland boat basin and channel that extends into a tributary of Pittman Creek, and construct a boat ramp, docking facility and bulkhead, near Merritt in Pamlico County. Processing of the application, which was received as complete by the N.C. Division of Coastal Management’s Morehead City Office on September 22, 2017, and which was placed on hold for additional information on November 20, 2017, is now complete. Based on the state’s review, the Division of Coastal Management has made the following findings:

1) The subject property is located at 52 Silverwood Drive, Merritt, in Pamlico County.

2) The proposed project is located within the Neuse River Basin, and is therefore subject to the buffer requirements of the N.C. Division of Water Resources.

3) The waters of Pittman Creek are designated as Primary Nursery Area (PNA) by the N.C. Division of Marine Fisheries’ Marine Fisheries Commission (MFC). 15A NCAC 07H. 0208(a)(4) of the Rules of the Coastal Resources Commission further define PNA’s as “Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC);”
4) The proposed project would involve development within Public Trust, Estuarine Waters, Estuarine Shoreline, and Coastal Wetland Areas of Environmental Concern (AEC).

5) The proposed project involves application under the Coastal Area Management Act and the State Dredge and Fill Law requesting authorization to perform dredging to create an upland basin and access channel to connect to a tributary of Pittman Creek. In addition, the proposed project requests authorization to construct a boat ramp, access pier and bulkhead, as associated structures of the boat basin.

6) The proposed project would involve the excavation of 2,300 square feet of shallow bottom PNA habitat.

7) During the course of the joint state and Federal review of the application, the Division of Coastal Management’s Fisheries Resource Specialist, in consultation with the Division of Marine Fisheries, objected to the proposal due to significant adverse impacts to shallow bottom PNA habitat, and notes that these concerns were expressed during the scoping meeting on March 15, 2017. N.C. Wildlife Resources Commission staff also stated that their agency does not support new dredging within PNA’s or boat ramps that terminate in waters less than -3’ normal water level. The Division of Coastal Management field staff recommended denial of the permit based upon the inconsistency with rules of the Coastal Resources Commission concerning new dredging within PNA habitat.

8) On February 9, 2018, the Division of Water Resources denied the Section 401 Water Quality Certification and buffer authorization for the proposed project. This denial was based upon determinations that practical alternatives exist that would avoid or lessen adverse impacts and impacts to the riparian buffer, and that the project would result in degradations of surface waters.

9) Based upon the above referenced findings, the Division of Coastal Management has determined that the proposed project to perform new dredging for the construction of an upland basin and access channel and therefore the associated boat ramp, access pier and bulkhead that are an accessory to the upland basin and access channel, are inconsistent with the following rules of the Coastal Resources Commission:

a) 15A NCAC 07H .0206 (c) (Management Objectives for Estuarine Waters), which states “To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system.”
b) 15A NCAC 07H .0208(b)(1) (Specific Use Standards), which states in part, "Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC."

c) 15A NCAC 07H .0208(a)(2)(A), and 15A NCAC 07H .0208(a)(2)(B) which states that before being granted a permit, a determination shall be made that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas; and

(B) Development shall comply with state and federal water and air quality standards;

d) 15A NCAC 07H .0601, which states that "No development shall be allowed in any AEC which would result in a contravention or violation of any rules, regulations, or laws of the State of North Carolina or of local government in which the development takes place."

Given the preceding findings, it is necessary that your request for issuance of a CAMA Major Permit under the Coastal Area Management Act and State Dredge and Fill Law be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8) which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or local land use plans, and N.C.G.S. 113-229, which requires that a permit be denied for cases where a proposed development will lead to a significant adverse impact to fisheries resources.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. A copy of this petition should be filed with this office.

Another response to a permit denial available to you is to petition the Coastal Resources Commission for a variance to undertake a project that is prohibited by the Rules of the Coastal Resources Commission. Applying for a variance requires that you first acknowledge and
March 5, 2018
Page 4

recognize that the Division of Coastal Management applied the Rules of the Coastal Resources Commission properly in processing and issuing this denial. You may then request an exception to the Commission's Rules based on hardships to you resulting from unusual conditions of the property. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General's Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time, but must be filed a minimum of six weeks before a scheduled Commission meeting for the variance request to be eligible to be heard at that meeting. The standard variance forms may be obtained by contacting a member of my staff, or by visiting the Division's web page at: https://deq.nc.gov/about/divisions/coastal-management/coastal-management-permits/variances-appeals.

Members of my staff are available to assist you should you desire to modify your proposal in the future. If you have any questions concerning this matter, please contact Mr. Gregg Bodnar at (252) 808-2808 extension 215.

Sincerely,

Braxton C. Davis

cc: Col. Robert J. Clark - U.S. Army Corps of Engineers, Wilmington, NC
Josh Pelletier – U.S. Army Corps of Engineers, Washington, NC
Linda Culpepper – Interim Director, NC Division of Water Resources, Raleigh, NC
Karen Higgins – NC Division of Water Resources, Raleigh, NC
Anthony Scarbraugh – NC Division of Water Resources, Washington, NC
Samir Dumpor - DEMLR Storm Water, Washington, NC
Bobby Cahoon – Bobby Cahoon Construction 6003 Neuse Rd., Grantsboro, NC 28529
APPLICANT'S NAME: Robert Stallings IV

LOCATION OF PROJECT SITE: The project is located adjacent to a tributary of Pittman Creek at 52 Silverwood Drive, near Merritt, Pamlico County.

Latitude: 35° 6'13.25"N   Longitude: 76°36'17.30"W

INVESTIGATION TYPE: CAMA/D&F
INVESTIGATIVE PROCEDURE: Date(s) of Site Visit – 8/30/16
Was Applicant or Agent Present – No
Photos Taken – No

PROCESSING PROCEDURE: Application Received – cc: 1/23/19
Office – MHC

SITE DESCRIPTION:
(A) Local Land Use Plan – Pamlico County (January 28, 2005)
    Land Classification from LUP – Rural with Services
(B) AEC(s) Involved: ES, EW, PTA
(C) Water Dependent: Yes
(D) Intended Use: Private
(E) Wastewater Treatment: Existing – septic
    Planned - none
(F) Type of Development: Existing – dwelling, bulkhead, and dock
    Planned - access channel, basin, bulkhead, and boat ramp
(G) Estimated Annual Rate of Erosion: N/A
    Source – N/A

HABITAT DESCRIPTION:  DREDGED       FILLED      INCORP/SHADED

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(A) Shallow Bottom</td>
<td>283 ft²</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(B) High Ground</td>
<td>833 ft²</td>
<td>10,750 ft²</td>
<td></td>
</tr>
<tr>
<td>(C) Coastal Wetlands</td>
<td>225 ft²</td>
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<td></td>
</tr>
<tr>
<td>(D) 404 Wetlands</td>
<td>871 ft²</td>
<td>1,500 ft²</td>
<td></td>
</tr>
</tbody>
</table>

(E) Total Area Disturbed: 14,462 ft²
(F) Primary Nursery Area: Yes
(G) Water Classification: SA; HQW, NSW   Open: No
(H) Cultural Resources: None

Project Summary: The applicant wishes to construct a bulkheaded upland basin and channel excavation for personal use adjacent to Pittman Creek, Pamlico County.
Field Investigation Report:
Stallings
Page 2

Narrative Description:

This applicant previously applied for a CAMA Major Permit at this location on September 22, 2017 proposing to excavate an access channel and boat basin with a boat ramp adjacent to Pittman Creek. That permit request was denied on March 5, 2018 primarily based upon the Specific Use Standards found in 15A NCAC 07H .0208(b)(1).

Located within the Neuse River Basin, the property is adjacent to Pittman Creek (off Lower Broad Creek) at 52 Silverwood Drive, near Merritt in Pamlico County. This private property is currently developed with a dwelling, vinyl bulkhead, and dock. The adjacent riparian properties are similarly developed.

The elevation of the high ground of the parcel is about 4’ above the normal water level (nwl). Vegetation on the parcel mainly consists of native trees and shrubs. There are Coastal Wetlands (Juncus roemerianus) and non-Coastal Wetlands within the project area. The 26.5-acre parcel has approximately 1,353’ of continuous shoreline along Pittman Creek. Immediate offshore water depths adjacent to the parcel range from -0.5’ to -3’ nwl. The subaqueous substrate is soft without shell.

There is not a cultural resource in the nearby vicinity of the project area. This tributary of the Pittman Creek waterbody is approximately 190’ across at this location. These coastal waters are classified as a Primary Nursery Area (PNA). Submerged aquatic vegetation (SAV) is not present at this location. This area is closed to shellfish harvest and is classified as SA; HQW; Nutrient Sensitive Waters. There is not a defined Federal Channel near this project area. This project area is subject to the Neuse River Riparian Buffer Rules. This area has not been previously dredged.

Proposed Development:

The applicant proposes to construct an upland basin, boat ramp, and excavation adjacent to Pittman Creek, near Merritt. The proposed development would take place at 52 Silverwood Drive, Pamlico County. The proposal would be for the exclusive private use of the property owner.

The proposed boat basin would be 65’ landward of the nwl and 25’ wide (1,625 ft²). It would be excavated through approximately 30’ of non-Coastal Wetlands down to -3.3’ NWL. A 40’ long and 21’ wide boat ramp is proposed at the west end of the proposed basin and would extend 20’ waterward into the basin. The excavated basin shoreline and boat ramp would be stabilized with 204’ of vinyl bulkhead. This proposed bulkhead would impact 225 square feet of Coastal Wetlands on the north side of the basin. A side-to-staging dock is proposed within the basin along the south side. This proposed dock would aid in the launch and retrieval of vessels at the proposed boat ramp. This proposed dock would be 4’ wide and 65’ long.

The proposed excavation of an access channel would connect the proposed boat basin to the natural -2.0’ NWL contour of this tributary of Pittman Creek. The proposed access channel would be 23’ long and 12’ wide with depths proposed to -2.0’ NWL.

Brad Connell
January 29, 2019
Morehead City
The proposed excavated spoil material is to be contained in a high ground area on site approximately 120’ west of the proposed boat basin. The proposed spoil area would be 60’ by 60’. A proposed gravel access drive for ingress to the proposed boat ramp would be 328’ long and 20’ wide.

**Anticipated Impacts:**

The proposed boat basin would excavate 754 square feet of high ground and 871 square feet of 404 Wetlands. The proposed access channel would excavate 283 square feet of shallow bottom PNA habitat. The proposed boat ramp, vinyl bulkhead, gravel driveway, and spoil disposal area would fill 10,160 square feet of high ground and 1,500 square feet of Section 404 Wetlands. The northern terminus of the proposed bulkhead would impact 225 square feet of Coastal Wetlands (*Juncus roemelianus*). Traditional marine construction methodology would be utilized during the construction of this project. Turbidity impacts would be minimized during construction activities in Pittman Creek based upon the proposed turbidity curtain. Future on-going maintenance of the proposed access channel is anticipated.

These waters of Pittman Creek are classified as a Primary Nursery Area and have not been previously excavated. There is not a cultural resource in the nearby vicinity of the project area. This project area is subject to the Neuse River Riparian Buffer Rules. The presence of submerged aquatic vegetation was not observed. This area is closed to shellfish harvest and is classified as SA; HQW; Nutrient Sensitive Waters. There is not a defined Federal Channel near the project area.
January 21, 2019

NC Division of Coastal Management
Morehead City Headquarters
Brad Connell
400 Commerce Avenue
Morehead City, NC 28577

Re: 52 Silverwood Drive – Stallings Upland Boat Basin
Merritt, Pamlico County
CAMA Major Development Permit Application Submittal
WR Project #03180177.00

Dear Mr. Connell:

Robert Stallings IV requests a CAMA Major Development Permit for the Stallings Upland Boat Ramp Basin, located on Mr. Stallings’ property at 52 Silverwood Drive in Merritt, Pamlico County (Lat: 35.103670°N; Long: -76.604607°W).

The proposed project is located on a ± 26.5 acre property (PIN: 7510514126) owned by Mr. Robert Stallings IV, which is located in the Neuse River Basin (HUC 03020204). The property drains to Pittman Creek, a tributary to Lower Broad Creek. The Water Quality Classification for Pittman Creek is SA; HQW; NSW and the Stream Index Number is: 27-141-6. Pittman Creek is a coastal water, designated as Primary Nursery Area (PNA), and is subject to both CAMA jurisdiction and Neuse River Basin Riparian Buffers.

The purpose of the proposed project is to construct an upland boat basin and ramp to provide a permanent launch for the 30-ft pontoon skiff used to transport maintenance equipment to and from the Swan Creek Tract, located approximately 2 miles east of the project location, for repair and maintenance of the water control structures, levees and water pumps.

**Existing Conditions**

The subject property is currently developed with a dwelling, vinyl bulkhead and dock. The adjacent riparian properties are similarly developed.

The elevation of the high ground of the parcel is 4’ above the normal water level (NWL). Vegetation within the project area mainly consists of loblolly pine and other native trees and shrubs. There are coastal wetlands (*L. hexandra*) and non-coastal wetlands (404) wetlands within the project area. The 26.5 acre parcel has approximately 1,353 ft of continuous shoreline along Pittman Creek, most of the length of which is populated by coastal wetlands except for in the proposed project area. Immediate offshore water depth adjacent to the project range from -0.5' to -3' nwl. The subaqueous substrate is soft without shell.
The tributary to Pittman Creek is approximately 190-ft across at the project location. These waters adjacent to the project are classified as PNA. Submerged Aquatic Vegetation (SAV) is not present at this location.

**Proposed Project**

The proposed project consists of the construction of a gravel driveway, bulkheaded boat basin, concrete boat ramp and minor excavation within Pittman Creek (see Project Details). The proposed project is necessary to provide a permanent water access to facilitate maintenance of the Swan Creek Tract, located approximately 2-miles east of the proposed project location. The Swan Creek Tract contains over 2,000 acres of brackish impoundments that are owned by Mr. Stallings' family and maintained by Mr. Stallings.

The proposed project will provide a permanent dedicated launch for the 30-ft pontoon skiff to transport equipment and fuel to/from the Swan Creek Tract for maintenance of the pumps and structures associated with the impoundments. The Swan Creek Tract is only accessible by boat, and therefore all equipment necessary to maintain the levees, pumps and water control devices must be transported in and out by boat. The 30-ft pontoon skiff is customized to transport equipment (tractors, bush hogs, bobcats, etc) to the Swan Creek Tract and navigate the small canals in and around the impoundments. Equipment is driven onto the skiff, and transported to the Swan Creek Tract through a small canal, where it is driven off the skiff onto the dikes/levees for maintenance of the structures. The canals throughout the Swan Creek Tract are all approximately 20-ft wide x 2.5-ft deep. The water pumps are refueled and maintained by navigating the 30-ft skiff through the network of small canals and ditches to each water pump. A larger boat would not be able to navigate the network of small canals.

The applicant believes that the proposed project is consistent with the spirit, purpose and intent of the NCDCM CAMA Rules because the proposed activities will not adversely impact the large presence of coastal wetlands on the property, will not result in the loss of designation of Pittman Creek as a PNA, or alter the current use of Pittman Creek and therefore will not result in degradation of the water quality within Pittman Creek.

**Project History**

Wetlands within the project area were delineated by staff with Herbert J. Nobles, Jr. Surveying. Josh Pelletier with the USACE conducted a site meeting with Derrik Ipbck with Bobby Cahoon Marine Construction on 12/13/17 and verified that the delineation was accurate. The wetland limits field verified by Josh Pelletier are depicted in the Survey/Impact Maps, which have been provided as an Appendix.

Buffer subjectivity for Pittman Creek was conceded, and therefore a formal Buffer Determination by NCDWR was not requested.

A previous CAMA Major Development Permit application, dated 9/28/17, was submitted by Bobby Cahoon Construction, Inc. for the subject property, which proposed a 65-ft x 25-ft boat basin, a 40-ft boat ramp and dredging of a 92-ft long x 25-ft wide access channel into Pittman Creek to reach -3.0' water depth. On 2/9/18, NCDWR issued a formal Denial of 401 Water
Quality Certification and Buffer Authorization Certificate (NCDWR Proj #17-1298) for the previously proposed project on the basis of there being practical alternatives to the project and degradation of waters within Pittman Creek. Subsequently, NCDCM issued a CAMA Permit Denial Letter, dated 3/5/18 for the previously proposed project. Mr. Stallings did not exercise his right to formerly appeal the denial.

After the denial of the previously proposed project, Mr. Stallings enlisted the services of WithersRavenel to design a project that meets the NCDCM CAMA Rules and criteria identified by NCDWR and NCDCM agency staff as the basis for denial. This project represents significant changes in design for access to Pittman Creek by completely eliminating the previously proposed 92-ft long x 25-ft wide dredged channel within the PNA and reducing the size of the boat basin.

Mr. Stallings and representatives of WithersRavenel attended a multi-agency scoping meeting that was held on July 31, 2018 with representatives from NCDCM, USACE, NCDWR, NCWRC, USFWS, DMLR, NOAA NMF and NCDMF. Concerns raised by the agencies’ representatives were taken into consideration for this application.

**Project Purpose and Need**

The purpose of the proposed project is to provide a permanent launch into Pittman Creek within Mr. Stallings’ property for his 30-ft pontoon skiff that is needed for the maintenance of the Swan Creek Track impoundments, which is owned by Mr. Stallings’ family. The proposed project will facilitate the launching and extraction for the 30-ft pontoon style skiff used to transport equipment and fuel for the management and maintenance of the Swan Creek Tract, a 2,000 acre waterfowl impoundment located approximately two miles east of the project site.

The Swan Creek Tract waterfowl impoundment is located within the Atlantic Flyway, and Ducks Unlimited has identified it as a priority habitat zone for neotropical migratory songbirds. The Swan Creek Tract impoundment provides a critical stopover and foraging habitat for priority species to support the North American Waterfowl Management Plan (NAWMP). Mr. Stallings maintains approximately 2,000 acres of brackish marsh through impoundment pumps and levees to adjust seasonal water levels to optimize water management in the impoundments to improve habitat for waterfowl, wading birds, songbirds and a plethora of other species that utilize this area for critical stages of their respective lifecycles. Mr. Stallings manages the Swan Creek Tract impoundments through regular maintenance of the pumps and water control devices.

Brackish water management impoundments such as the Swan Creek Tract are a unique habitat feature in coastal North Carolina that can no longer be constructed due to environmental regulations. The Swan Creek Tract is only accessible by water, and therefore all equipment necessary to maintain the levees, pumps and water control devices must be transported in and out by boat. The maintenance of the levees and other water control devices requires heavy equipment, including tractors, bush hogs and backhoes. Additionally, all fuel for the water pumps must be brought in by boat as well. Mr. Stallings primarily uses a 30-ft pontoon skiff (see attached photos) to transport necessary maintenance equipment to the Swan Creek Tract impoundments. Additionally, the 30-ft pontoon skiff is equipped with a 200-gallon fuel tank for refueling the water control pumps. The frequency of trips necessary to maintain the vast amount of levees, water control structures and water control pumps on the 2,000 acre Swan Creek Tract is significant. The
frequency of the trips to transport equipment to/from the Swan Creek Tract ranges from twice a month to several times a week depending on the time of year. The equipment cannot be left on the Swan Creek Tract, as unexpected storms could cause the equipment to be flooded with salt water, thereby ruining the equipment. So the equipment must be transported in and out of the Swan Creek Tract on each trip.

Mr. Stallings currently launches the 30-ft pontoon skiff from property his family owns in nearby Whortonsville, located at 182 Buxton Avenue, to transport equipment and fuel to the Swan Creek Tract impoundments. However, the Whortonsville property no longer meets the needs for the Stallings family and is currently for sale, and therefore may not be available for use much longer. Mr. Stallings is not the sole owner of the Whortonsville property, and co-owns the property with other family members. The ownership group has decided to sell this property, and Mr. Stallings does not have majority ownership to prevent the property from being sold. Therefore, he must provide another means of water access for the 30-ft pontoon skiff for maintenance of the Swan Creek Tract. Due to the frequency of trips to the Swan Creek Tract required for proper maintenance of the impoundments, Mr. Stallings needs a consistent and dedicated access to the water. The proposed boat basin/ramp provides a permanent location for the transport of equipment and fuel to the Swan Creek Tract impoundments, as Mr. Stallings has no intention of ever selling this property.

**Project Details**

The proposed boat basin will be 65-ft landward of the NWL and 25-ft wide (1,550 sf). The boat basin will be excavated within approximately 30-ft of non-coastal wetlands (404) down to a -3.3’ NWL. The proposed project will not result in impacts to coastal wetlands. The boat basin will be constructed using an excavator, and spoil will be staged onsite in a designated 60-ft x 60-ft spoil area in uplands outside of the Neuse River Riparian Buffers near the proposed gravel driveway. The spoil staging area will be surrounded with silt fencing to prevent sediment from escaping into nearby wetlands. Upon completion of excavation of the boat basin, the new shoreline will be stabilized with vinyl bulkhead sheeting along with wooden wale, pilings and wall cap. The wall will be secured with driven dead man tieback anchors. The south side of the basin will have a 4-ft wide wooden walkway extending the entire length of the basin (65-ft long). The wooden walkway is necessary to aid in the launch and retrieval of the skiff at the proposed boat ramp. The pilings and wall sheeting will be installed using an excavator with a vibratory hammer. All other work will be done using necessary hand tools required for proper construction methods.

A 21-ft wide x 40-ft long x 5.5-inch thick concrete boat ramp will be constructed, beginning 20-ft landward of the boat basin and extending 20-ft waterward into the boat basin. The ramp will have steel #4 rebar installed 12-inches on center squared and will be poured using 4000 psi concrete that will have a rough finish to promote traction and prevent slipping. The ramp will be poured in place by installing a temporary coffer dam and continuously pumping water until the concrete has set. The water will be pumped into the adjacent uplands in order to allow the water to sheetflow through the vegetation to allow filtration and trapping of sediment out by the vegetation prior to reentering Pittman Creek. The coffer dams will provide primary sediment control during pumping, and a floating turbidity curtain installed in Pittman Creek will provide secondary protection against sediment from entering Pittman Creek.
Excavation within Pittman Creek is also proposed in order to provide a small ±12-ft wide channel from the basin to -2.0' depth within Pittman Creek to provide sufficient depth for the skiff to navigate in and out of the boat basin. The proposed excavation will extend an average of 22.75-ft waterward to reach a -2.0' nwl depth, where current water depth reaches -1.65' nwl. The proposed access channel within Pittman Creek will result in the excavation of approximately 11.8 cubic yards of soft bottom. The 30-ft pontoon skiff has a draft of ±10-inches when empty, and a draft of ±18-inches when fully loaded with equipment and fuel. Therefore, excavating a channel to reach -2.0' water depth will provide sufficient water depths for navigation of the skiff when fully loaded with equipment. The excavation of the small channel will be conducted using a long boom excavator sitting on the shoreline. This method avoids the use of a floating dredge which would have significant impacts to the PNA due to the turbidity caused during dredging activities. Spoil will be deposited in the designated 60-ft x 60-ft spoil area, which will be located north of the "T" turnaround in the gravel access driveway, located approximately 100 ft west of the boat basin. A floating turbidity curtain will be installed in Pittman Creek around the proposed excavation area and anchored on the bank on both sides of the excavation area, encapsulating the area to be dredged. The floating turbidity curtain will trap all disturbed sediment, thereby protecting the water quality of the PNA within Pittman Creek. The turbidity curtain will be left in place a minimum of two months after the excavation has been completed in order to allow disturbed sediment to stabilize and turbidity levels return to normal in order to prevent impact to the water quality within Pittman Creek and the PNA.

The proposed 30-ft wide x 125-ft long gravel driveway will begin at the existing driveway to the residence, will run north to a hammerhead style turn around, then run east to the proposed concrete boat ramp, stopping ±80 ft from the NHW line of Pittman Creek. The gravel driveway has been aligned to avoid the wetlands and Neuse River Riparian Buffers except for where a perpendicular crossing over the Buffers is necessary to access the boat ramp/basin.

The following table provides a breakdown of the cubic yards of spoil to be excavated from each habitat type:

<table>
<thead>
<tr>
<th>Habitat Type</th>
<th>Reason for Excavation</th>
<th>Square Feet</th>
<th>Cubic Yards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pittman Creek</td>
<td>Access Channel</td>
<td>283 sf</td>
<td>11.8 cy</td>
</tr>
<tr>
<td>(below NHW)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>404 Wetlands</td>
<td>Boat Basin</td>
<td>871 sf</td>
<td>7.5 cy</td>
</tr>
<tr>
<td>Uplands</td>
<td>Boat Basin/Ramp</td>
<td>679 sf</td>
<td>10.3 cy</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,833 sf</td>
<td>29.6 cy</td>
</tr>
</tbody>
</table>

**Proposed Impacts**

The proposed boat basin would excavate 679 sf (10.3 cy) of high ground and 871 sf (7.5 cy) of 404 wetlands. The proposed access channel would excavate 263 sf (11.8 cy) of shallow bottom PNA habitat. The proposed boat ramp, boat basin, vinyl bulkhead, gravel driveway and spoil disposal area would permanently impact 11,204 sf of high ground and 871 sf of Section 404 wetlands. Additionally, the installation of the tie backs for the bulkhead would result in temporary disturbance of 1,316 sf of uplands and 1,611 sf of 404 wetlands. The northern terminus of the wingback wall of the bulkhead has been designed to follow the coastal marsh line, thereby avoiding impacts to coastal wetlands (*Juncus roemerianus*).
Additionally, the proposed project would result in permanent impacts to 1,041 sf of Zone 1 and 413 sf of Zone 2 of the Neuse River Riparian Buffers for construction of the driveway and boat basin. Please note that the 50’ Neuse River Buffer will be established from the normal high water within the boat basin as shown in the impact plans.

It is not anticipated that maintenance dredging of the proposed access channel will be required in the near future. In the event that maintenance dredging of the proposed access channel is needed in the future, Mr. Stallings will apply for a CAMA Permit for maintenance dredging.

The proposed boat basin design will maximize water exchange by having the widest possible opening and shortest practical entrance canal, but it will need to be excavated to a depth of -3.3’ NWL, ±1.3’ deeper than the connecting water depths. Due to the small size of the boat basin, it is anticipated that the launching and retrieval of the 30-ft pontoon skiff, along with tidal influences during storm events, will provide additional circulation of water to prevent water quality impacts.

The proposed project will not result in turbidity impacts to Pittman Creek. The small amount of excavation within Pittman Creek (PNA) will be constructed in a manner to avoid degradation of the water quality within the PNA. Specifically, a floating turbidity curtain will be installed around the proposed excavation, which will be anchored to the shoreline on each side of the excavation area. The floating turbidity curtain will capture sediment stirred up during excavation, preventing sediment from escaping into Pittman Creek, thereby protecting the water quality of the PNA. The floating turbidity curtain will remain in place a minimum of two months after construction is complete, allowing sufficient time for sediment to suspend and stabilize, further protecting the water quality within Pittman Creek. By encapsulating the excavation area with a floating turbidity curtain, the temporary impacts from turbidity during excavation are minimized and constrained to only the excavation area. The proposed minor excavation within Pittman Creek will be completed during winter, when spawning is not occurring and fish populations within the shallow waters of Pittman Creek are at its lowest.

Pittman Creek already experiences regular boat traffic from the existing boat ramps along Pittman Creek, as well as other recreational boaters. Therefore, the proposed project will not result in creating new boat traffic where boat traffic does not already exist. The proposed boat basin will be private, with a single user, and will not create high volumes of additional boat traffic that could create turbidity issues that could affect the quality of the PNA.

Please note that there will not be any “power loading” within the boat basin which could cause turbidity issues. The vessel to be launched/retrieved within the boat basin is a 30-ft pontoon skiff. Power loading of the pontoon skiff could result in damage to the pontoons, and therefore is not the method which Mr. Stallings uses to load the vessel onto the trailer for retrieval. The 30-ft pontoon skiff will be idled through the proposed access channel and over the end of the trailer, at which point the motor will be turned off and a winch will be used to pull the skiff onto the trailer.

The proposed activities will not result in the loss of designation of Pittman Creek as a PNA or alter the current use of Pittman Creek, and therefore will not result in degradation of the water quality within Pittman Creek.
Alternatives Analysis

Proposed Action – Construction of a Boat Basin/Ramp

The proposed action consists of the construction of a 65-ft x 25-ft upland boat basin, a 21-ft wide x 40-ft long concrete ramp, a gravel driveway to access the boat ramp/basin and minor excavation within Pittman Creek (to create a -2.0’ deep channel (approximately 12-ft wide and an average of 22.75-ft long) to reach -2.0 depth water.

The proposed boat basin/ramp, and its proposed location, was determined to be the most feasible option with the least impacts to resources for the following reasons:

- The precise location on the property was chosen because this location has the least amount of CAMA impact and minimal 404 wetland impacts. No coastal marsh vegetation will be disturbed or excavated for construction of the small ±12-ft wide by ±22.75-ft long channel to provide access to the -2.0’ water depth within Pittman Creek.
- The subject property has a wide coastal wetland fringe along the entire shoreline, except at the proposed project location. If the project was moved to a different location on the property, substantial impacts to coastal wetlands would be necessary, which could potentially have a negative impact on the PNA and fishery resource.
- The proposed boat ramp/basin allows for the equipment (tractors, bush hogs, bobcats, backhoes, etc) to be loaded on the 30-ft pontoon skiff in a safe, controlled environment over land. The skiff can be stabilized within the sheltered waters of the boat basin, making loading/unloading of equipment safer than a dock and pier configuration.
- The equipment can be stored and loaded/unloaded on Mr. Stallings property, rather than having to be trailered offsite to a public boat ramp.
- Once loaded, the skiff can navigate to the Swan Creek Tract impoundments through ±2.0 miles of relatively sheltered waters of Pittman Creek, Broad Creek and Green Creek before entering the canals within the Swan Creek Tract (see attached exhibit). This is important considering that when loaded with equipment the skiff can be susceptible to capsizing in turbulent waters and waves during an unexpected storm. The navigation route from the proposed project to Swan Creek Tract prevents the need to take the skiff into the Neuse River, which is more susceptible to turbulent conditions during and following a storm.
- There are no publicly accessible boat ramps that provide a closer point of access for navigation to the Swan Creek Tract. The closest publicly assessable boat ramp is the Vandemere Boat Ramp, which is located approximately 8-miles from the nearest point of the Swan Creek Tract.
- Various residences along Pittman Creek have existing docks and there are at least five private boat ramps within Pittman Creek in the immediate vicinity of the project. Currently there is regular boat traffic within Pittman Creek as a result of the numerous docks and boat ramps. The proposed boat basin would be private, with a single user and therefore will not create new boat traffic within the PNA where boat traffic doesn’t currently take place.
- The boat basin/ramp would be hidden by the surrounding vegetation, and would not affect the aesthetics of Pittman Creek for the property owners along Pittman Creek or boaters in general.
• The 30-ft pontoon skiff used to transport equipment has a draft of ±10-inches when empty, and a draft of ±18-inches when fully loaded with equipment and fuel. Due to the low draft of the skiff, only minor excavation is needed to deepen a 22.75-ft long (average length) x ±12-ft wide channel from an average of -1.65' water depth to a -2.0' water depth before reaching the natural -2.0' water depths within Pittman Creek. This will result in the unavoidable excavation of 263 sf (11.8 cubic yards) of shallow bottom habitat within the PNA.
• The water depths within Pittman Creek are relatively stable as the tides in this area are wind driven, and Pittman Creek experiences small tide fluctuations of only a few inches (<6 inches) under normal/average weather conditions. During storms events, the tidal fluctuation is much more drastic, with water levels being significantly higher when the wind is blowing out of the east and significantly lower when the wind is blowing out of the west. Therefore, while the average water depth in the access channel and immediately adjacent waters will only be -2.0' deep, this depth will be relatively stable and won’t prohibit the use of the boat basin/ramp except during extreme tidal fluctuations during a prolonged storm event.
• The 12-ft wide access channel within Pittman Creek can be excavated using a long boom excavator which will sit on the shoreline and reach out into the water. This eliminates the need for a floating dredge, which causes significant impacts to the water quality within the PNA due to turbidity during dredging operations. The proposed excavation method will protect the water quality of the PNA within Pittman Creek.
• The small amount of excavation within the PNA will be constructed in a manner to avoid degradation of the water quality within the PNA. Specifically, a floating turbidity curtain will be installed around the proposed excavation, which will be anchored to the shoreline on each side of the excavation area. The floating turbidity curtain will capture sediment stirred up during excavation, preventing sediment from escaping into Pittman Creek, thereby protecting the water quality of the PNA. The floating turbidity curtain will remain in place a minimum of two months after construction is complete, allowing sufficient time for sediment to suspend and stabilize, further protecting the water quality within Pittman Creek.
• By encapsulating the excavation area with a floating turbidity curtain, the temporary impacts from turbidity during excavation are minimized and constrained to only the excavation area.
• The proposed minor excavation within Pittman Creek will be completed during winter, when spawning is not occurring and fish populations within the shallow waters of Pittman Creek are at its lowest.
• The proposed activities will not result in the loss of designation of Pittman Creek as a PNA, or alter the current use of Pittman Creek and therefore will not result in degradation of the water quality within Pittman Creek.
• All proposed activities within the Neuse River Riparian Buffers are “Allowable”, and therefore a variance is not required. Specifically:
  o A boat ramp is specifically defined as a water dependent structure in 15A NCAC 2B .0202 (67). Therefore, the proposed boat ramp/basin is classified as “Allowable” in the Neuse River Riparian Buffer Rules Table of Uses.
  o The Neuse River Riparian Buffers impacted for the construction of the boat basin would be re-established around the boat basin with in-kind vegetation, which is classified as “Allowable” in the Neuse River Riparian Buffer Rules Table of Uses.
The proposed gravel driveway to the boat basin/ramp will cross the Neuse River Riparian Buffers at a perpendicular angle, and will impact less than 40 If of riparian buffers, which is classified as "Allowable" in the Neuse River Riparian Buffer Rules Table of Uses.

- The proposed project represents the least overall environmental impacts.

Alternative 1 – Construct a Pier and Platform with Slips

Agency staff suggested the construction of a pier and platform with slips in the location of the proposed basin. The construction of a pier and platform with a slip to dock the 30-ft pontoon skiff is neither a feasible nor practical alternative for the following reasons:

- The pier and platform would need to be constructed to be structurally sound enough to support large equipment (tractors, bush hogs, bobcats, backhoes, etc) weighing several thousands of pounds. Additionally, the pier and platform would need to be at least 12-ft wide, double the maximum width allowed, in order to safely drive equipment down the pier to the skiff, resulting in a very wide, massive pier/platform. Such a massive structure would create a navigational hazard for boaters accessing Pittman Creek from the northeast of the project. The aesthetics of a structure of this magnitude would not blend into the typical landscape of Pittman Creek, creating a blight on the landscape which would most likely be opposed by the other property owners along Pittman Creek.

- Large equipment (tractors, bush hogs, bobcats, backhoes, etc) would need to be driven down the dock, and then driven onto the skiff over deeper, open waters. This creates a significant safety issue, as the skiff could not be stabilized sufficiently within the deeper waters to safely load and unload equipment. The potential for an accident resulting in loss of equipment or even life is much greater than the proposed boat basin/ramp.

- The 30-ft pontoon skiff has a 200 gallon fuel tank used to fuel the water pumps within the Swan Creek Tract. Transporting 200 gallons of fuel in 5-gallon containers down the pier to the skiff is simply not feasible. Transferring 200 gallons of fuel into a tank 5 gallons at a time greatly increases the likelihood of a fuel spill, thereby creating an unnecessary risk of a fuel spill within the PNA of Pittman Creek.

- The construction of a 12-ft wide pier extending to deep water access would require a CAMA Major Permit. Appendix A of the CAMA Handbook for Development specifies that piers authorized under a CAMA Major Development Permit cannot extend more than ¼ width of the waterbody. The width of Pittman Creek at the proposed location is ±175 If, restricting the pier length to only ±44 If. In order to reach a depth of ±3.0’ NWL to have deep water access, the pier would need be approximately 50-60 If in length, which exceeds the ¼ width restriction. There are no docks within 200 If of the property/project area for the allowance to exceed the ¼ width body restriction. Furthermore, the necessary 50-60 If length of the pier would still exceed 1/3 width of the water body, and therefore would not be allowed.

- Appendix A of the CAMA Handbook for Development also specifies that piers must be six feet wide. Piers wider than six feet may be allowed only if the greater width is necessary for safer use, improved public access, or to support a water-dependent use that could not occur otherwise. The width of Pittman Creek at the proposed location is only ±200 If. A dock double the authorized width for private use in the narrow Pittman Creek is not considered a feasible alternative.
Furthermore, a 12-ft wide pier would create perpetual substantial shading, the environmental impacts of which would be much more adverse than the proposed boat ramp/ basin/access channel. The proposed project will result in fewer impacts to the PNA, and therefore Alternative 1 is not a feasible alternative.

**Alternative 2 – Utilize Existing Public Boat Ramps**

Agency staff suggested using public boat ramps in the area to launch the maintenance skiff with equipment. Utilizing public boat ramps is not a feasible alternative. WithersRavenel reviewed the NC Wildlife Resource Commission’s online Boating Access Area Locator, located at: [https://www.ncpaws.org/wrckmapbook/baa.aspx](https://www.ncpaws.org/wrckmapbook/baa.aspx), to identify publicly accessible boat ramps in the vicinity of the Swan Creek Tract. Based on the online Boating Access Area Locator, the two closest public boat ramps are:

- **Oriental Boat Ramp** - Located at 100 Midyette Street in Oriental on Smith Creek.
  - (Lat: 35.025662°N; -76.700664°W)
  - Travel route is approximately 11 miles from Oriental boat ramp to the Swan Creek Tract canal entrance (See Oriental Boat Ramp Travel Route Exhibit).
  - Travel route from Oriental Boat Ramp to the Swan Creek Tract requires navigation through Smith Creek, Greens Creek, the Neuse River, Broad Creek and Green Creek to the Swan Creek Tract canal entrance.

Launching from the Oriental boat ramp is not a feasible alternative due to the following reasons:

- The Oriental boat ramp is located 9 miles further from the Swan Creek Tract than the proposed project, resulting in substantially longer travel times to transport equipment and fuel to the Swan Creek Tract.
- Navigating from the Oriental boat ramp would require navigation through ±9 miles of the Neuse River. The Neuse River is not sheltered, and during and after storms the waters can be churned up to white capping waves resulting in frequent small craft advisories. As previously mentioned, when loaded, the 30-ft skiff can be susceptible to capsizing in turbulent water and waves. Due to the distance from the Oriental boat ramp to the Swan Creek Tract, the likelihood for getting caught in an unexpected storm would be greatly increased, creating a safety hazard for transporting equipment to/from the Swan Creek Tract and increasing the potential for loss of the boat, equipment and human life from the skiff capsizing.
- The hazards associated with navigating the Neuse River during choppy waters would require that equipment be transported only during days of forecasted clear weather, greatly reducing the ability to transport equipment to/from the Swan Creek Tract. This will adversely affect the ability to properly maintain and service the water control structures and fuel the water pumps when needed.
- The logistics of utilizing this public boat ramp renders this alternative as unfeasible due to:
  - The Oriental boat ramp is a small facility, with only 2 ramps and 20 boat trailer spaces.
  - The 30-ft pontoon skiff cannot be transported on its trailer when loaded with thousands of pounds of equipment (tractors, bush hogs, bobcats, backhoes, etc). Therefore the skiff and equipment would need to be trailered separately to the boat ramp. This would result in the use of 2 of the 20 truck/trailer parking spaces, thereby reducing the ability for the general public to utilize the boat ramp.
The skiff would need to be launched, and then the equipment would need to be unloaded from the trailer and driven onto the skiff. This process of launching the skiff, unloading the equipment from the trailer, loading the equipment onto the skiff and parking both trucks and trailers would take close to an hour. Therefore, 1 of the 2 ramps would be tied up for close to an hour before the skiff could launch. This process would be repeated at the end of the day when the equipment and skiff would be extracted. The logistics of unloading/loading this type of equipment on/off trailers and the skiff at a public boat ramp would cause major congestion and chaos for other boaters using such a small boat ramp facility. This also creates a public safety hazard.

- Vandemere Boat Ramp – Located at 86 Griffin Road in Vandemere on Log Pond Creek.
  - (Lat: 35.185744°N; -76.664074°W)
  - Travel route is approximately 8 miles from Vandemere boat ramp to the Swan Creek Tract canal entrance (See Vandemere Boat Ramp Travel Route Exhibit).
  - Travel route from Vandemere boat ramp to the Swan Creek Tract requires navigation through the Bay River, Bonner Bay and Deep Oak Gut to the canal entrance on the northern end of the Swan Creek Tract.

Launching from the Vandemere boat ramp is not a feasible alternative due to the following reasons:

- The Vandemere boat ramp is located 6 miles further from the Swan Creek Tract than the proposed project, resulting in substantially longer travel times to transport equipment and fuel to the Swan Creek Tract.
- Navigating from the Vandemere boat ramp would require navigation through ±5 miles of the Bay River. The Bay River is not sheltered, and during and after storms the waters can be churned up to white capping waves resulting in small craft advisories. As previously mentioned, when loaded, the 30-ft skiff can be susceptible to capsizing in turbulent water and waves. Due to the distance from the Vandemere boat ramp to the Swan Creek Tract, the likelihood for getting caught in an unexpected storm would be greatly increased, creating a safety hazard for transporting equipment to/from the Swan Creek Tract and increasing the potential for loss of the boat, equipment and human life from the skiff capsizing.
- The hazards associated with navigating the Bay River during choppy waters would require that equipment be transported only during days of forecasted clear weather, greatly reducing the opportunities to transport equipment to/from the Swan Creek Tract. This will adversely affect the ability to properly maintain and service the water control structures and fuel the water pumps when needed, possibly delaying maintenance for weeks at a time depending on the time of year.
- The logistics of utilizing this public boat ramp renders this alternative as not feasible due to:
  - The Vandemere boat ramp is a small facility, with only 2 ramps and 30 boat trailer spaces.
  - The 30-ft pontoon skiff cannot be transported on its trailer when loaded with thousands of pounds of equipment (tractors, bush hogs, bobcats, backhoes, etc). Therefore the skiff and equipment would need to be trailered separately to the
boat ramp, resulting in at least 2 trucks/trailers traveling to the boat ramp. This would result in the use of at least 2 of the 30 truck/trailer parking spaces, thereby reducing the ability for the general public to utilize the boat ramp.

- The skiff would need to be launched, and then the equipment would need to be unloaded from the trailer and driven onto the skiff. This process of launching the skiff, unloading the equipment from the trailer, loading the equipment onto the skiff and parking both trucks and trailers would take close to an hour. Therefore, 1 of the 2 ramps would be tied up for close to an hour before the skiff could launch. This process would be repeated at the end of the day when the equipment and skiff would be extracted. The logistics of unloading/loading this type of equipment on/off trailers and the skiff at a public boat ramp would cause major congestion and chaos for other boaters using such a small boat ramp facility. This also creates a public safety hazard by having large equipment moving around a public facility.

Finally, there are no privately owned existing boat ramps in the area that are open for public use. The Paradise Cove Marina, located on the south side of Broad Creek, approximately 2.0 miles south of the project, historically allowed non-owners to utilize the boat ramp for a small fee. However, the property was recently sold to a new owner who has closed the ramp to the public. Additionally, there are no known existing boat ramps on private residential lots that are available for lease to launch the 30-ft pontoon skiff loaded with equipment as an alternative. The residential lots containing existing boat ramps are not of sufficient size to handle the logistics associated with bringing in multiple trucks/trailers with the skiff and equipment and loading/offloading within someone's yard. Therefore, there are no private boat ramps in the vicinity open to public use that could be used to launch the 30-ft skiff, and the use of another citizen's privately owned existing boat ramp is not a feasible alternative.

**Alternative 3 – No Action**

The No Action Alternative is not feasible for the following reasons:

- The current launch utilized for transport of equipment and fuel to the Swan Creek Tract is located on property in nearby Whortonsville, which is currently for sale. As such, once the property is sold, Mr. Stallings will no longer have access to the boat ramp.
- As previously specified, the use of the public boat ramps at Oriental and Vandemere are not a feasible alternative for water access to transport the equipment and fuel necessary to maintain the Swan Creek Tract impoundments. Therefore, Mr. Stallings would not have a feasible location to transport equipment to and from the Swan Creek Tract impoundments.
- Without a permanent dedicated water access for the 30-ft skiff, Mr. Stallings will no longer be able to conduct the necessary maintenance of the Swan Creek Tract impoundments. As previously mentioned, construction of brackish managed impoundments is no longer allowed due to current environmental regulations. Therefore, if the levees, water control structures and water pumps are not properly maintained, the impoundments will fall into disrepair and ultimately fail, resulting in the loss of function and historic use of the Swan Creek Tract as a waterfowl impoundment, and ultimately the loss of very unique and important waterfowl habitat.
Mitigation

Proposed permanent 404 wetland impacts (2,482 sf) are less than 0.10 acres, and therefore wetland mitigation is not proposed.

All proposed activities are classified as "Allowable" in the Neuse River Basin Riparian Buffer Rules Table of Uses, and therefore buffer mitigation is not required.

In conclusion, the project proposes the least environmental impact to estuarine resources while accomplishing the needs to service the Swan Creek Impoundments. The project has been sited and designed to avoid significant adverse impacts on the PNA and coastal wetlands and to not violate state water quality standards.

Adjacent Property Owner Notification.

The CAMA Major Development Permit application and Adjacent Riparian Property Owner Statement was submitted to the two adjacent riparian property owners, Judy McLawhorne and Don & Nancy Nobles via certified mail. The signed return receipt from Ms. McLawhorne has been provided with this application.

The USPS attempted to deliver the notification to Don & Nancy Nobles on 10/22/18 but there was not a recipient available to sign for the package. A second notice was left at the residence notifying them that the package was to be picked up at the Pine Tops Post Office. The package was never picked up, and after the require 14 day holding period, the USPS processed the package for returned to sender on 11/9/18. We are providing the Certified Mail Receipt, along with a copy of the unclaimed/returned Adjacent Property Owner Notification Packet for Don & Nancy Nobles.

Please feel free to contact me if you have questions or require additional information to complete your review.

Sincerely

Troy Beasley
Senior Environmental Scientist
52 Silverwood Drive – Stallings Upland Boat Basin – Merritt, Pamlico Co.
Photographic Documentation

Photo 1: View of alignment of boat basin and proposed excavation to reach -2.0 water depth, facing north towards Pittman Creek.

Photo 2: View of alignment of boat basin and proposed excavation to reach -2.0 water depth, facing south from Pittman Creek.
Photo 3: Photo of 30' skiff used to transport equipment and fuel to the Swan Creek Tract. View of skiff in canal at Swan Creek Tract.

Photo 4: View of 30' skiff used to transport equipment and fuel to the Swan Creek Tract. Note that equipment is driven on and off the front of the skiff for transport.
Bodnar, Gregg

From: Connell, Brad
Sent: Wednesday, February 06, 2019 1:45 PM
To: Beasley, Troy
Cc: rstillings@easternaviationfuels.com; Bodnar, Gregg; Brownlow, Roy
Subject: RE: [External] Re: APO Stallings letter

Importance: High

Mr. Beasley,

The rule requirement has been met regarding proof of the APO notification. That letter was just an FYI.

Brad Connell
Environmental Specialist I
NC Division of Coastal Management
http://portal.ncdenr.org/web/cm/dcm-home
(252)808-2808 ext. 214
Brad.Connell@ncdenr.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

-----Original Message-----
From: Beasley, Troy <TBeasley@withersravenel.com>
Sent: Wednesday, February 06, 2019 12:28 PM
To: Connell, Brad <brad.connell@ncdenr.gov>
Cc: rstillings@easternaviationfuels.com; Bodnar, Gregg <gregg.bodnar@ncdenr.gov>; Brownlow, Roy <roy.brownlow@ncdenr.gov>
Subject: [External] Re: APO Stallings letter

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov<mailto:report.spam@nc.gov>

Brad,

Thanks for the letter.

As I mentioned previously, we sent the notification via certified mail twice, and it went unclaimed. I even spoke with the Post Master at the Pinetops post office to see if the address was vacant and they confirmed that the house was occupied. So I'm not sure why both packages were never claimed.

What other options for notification would be acceptable to NCDCM? If Mr. Stallings was able to go to the Nobles' home in Pinetops, hand deliver the notification and get them to sign a document acknowledging they've received it, would that be acceptable?
Mr. Stallings is happy to explore other options for getting the adjacent property owners notification to the Nobles, but need clarification from NCDCM on what other methods/documentation for notification is acceptable to address the issue in your letter.

Thanks for your help.

Troy Beasley

Sent from my iPhone

On Feb 5, 2019, at 4:42 PM, Connell, Brad <brad.connell@ncdenr.gov> wrote:

Gentlemen,

Please see the attached letter....

Brad Connell

<APO Stallings letter.pdf>
CAMA MAJOR PERMIT APPLICATION FORMS
Attachments:
- CAMA Major Permit Application Forms
  - MP-1 - Applicant Info
  - MP-2 - Excavation and Fill
  - MP-3 - Upland Development
- Adjacent Property Owner Notification Certified Mail Return Receipts
- Agent Authorization
- Property Deed
- Project Area Exhibit
- Existing Skiff Launch Location Exhibit
- USGS Quad
- Pamlico County Soil Survey
- Photographic Documentation
- Oriental Boat Ramp Travel Route
- Vandemere Boat Ramp Travel Route
- Contractors Drawings
- Survey/Impact Maps
- Proposed Water Depth Exhibit
# APPLICATION for Major Development Permit

(last revised 12/27/06)

North Carolina DIVISION OF COASTAL MANAGEMENT

## 1. Primary Applicant/ Landowner Information

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<td>Robert</td>
<td>L</td>
<td>Stallings IV</td>
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If additional applicants, please attach an additional page(s) with names listed.

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<td>252-671-5959 ext.</td>
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| Email | rstallings@easternaviationfuels.com |

## 2. Agent/Contractor Information

<table>
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<tr>
<th>Business Name</th>
<th>Withersravenel, Inc</th>
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<tr>
<td>Troy</td>
<td>H</td>
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<tr>
<td>219 Station Road, Suite 101</td>
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| Email | tbeasley@withersravenel.com |

<Form continues on back>
3. Project Location

County (can be multiple) Pamlico
Street Address 52 Silverwood Drive

Subdivision Name N/A
City Merritt
State NC
Zip 28556 -

Phone No N/A - ext
Lot No(s) (if any, attach additional page with list) N/A, , ,
a. In which NC river basin is the project located? Neuse River (HUC: 03020204)
b. Name of body of water nearest to proposed project Pittman Creek (Stream Index: 27-141-6)
c. Is the water body identified in (b) above, natural or manmade? ☑ Natural ☐ Manmade ☐ Unknown
d. Name the closest major water body to the proposed project site Broad Creek
e. Is proposed work within city limits or planning jurisdiction? ☑ Yes ☐ No
f. If applicable, list the planning jurisdiction or city limit the proposed work falls within Pamlico County

4. Site Description

a. Total length of shoreline on the tract (ft.) 1353 ft
b. Size of entire tract (sq. ft.) 1,154,340 sf
c. Size of individual lot(s) 26.5 acres,
(If many lot sizes, please attach additional page with a list)
d. Approximate elevation of tract above NHW (normal high water) or NWL (normal water level) 4.0’ ☑ NHW or ☐ NWL
e. Vegetation on tract
Vegetation within the project area mainly consists of loblolly pine and other native trees and shrubs. There are coastal wetlands (Juncus roemerianus) and non-coastal (404) wetlands within the project area.
f. Man-made features and uses now on tract
Single family dwelling, gravel driveway, dock and seawall.
g. Identify and describe the existing land uses adjacent to the proposed project site.
The land use adjacent the project site consists of undeveloped woodlands.

h. How does local government zone the tract? No zoning in this area.
i. Is the proposed project consistent with the applicable zoning? (Attach zoning compliance certificate, if applicable) ☑ Yes ☐ No ☐ NA
j. Is the proposed activity part of an urban waterfront redevelopment proposal? ☑ Yes ☐ No
k. Has a professional archaeological assessment been done for the tract? If yes, attach a copy ☑ Yes ☐ No ☐ NA
If yes, by whom?
l. Is the proposed project located in a National Registered Historic District or does it involve a National Register listed or eligible property? ☑ Yes ☐ No ☐ NA

<Form continues on next page>
m. (i) Are there wetlands on the site?  
   - Yes  No

   (ii) Are there coastal wetlands on the site?  
   - Yes  No

   (iii) If yes to either (i) or (ii) above, has a delineation been conducted?  
       (Attach documentation, if available)  
       - Yes  No

n. Describe existing wastewater treatment facilities  
   Convensional septic system

o. Describe existing drinking water supply source  
   County municipal water

p. Describe existing storm water management or treatment systems  
   N/A - low density development

5. Activities and Impacts

a. Will the project be for commercial, public, or private use?  
   - Commercial  Public/Government  Private/Community

b. Give a brief description of purpose, use, and daily operations of the project when complete.

   The proposed project consists of the construction of a gravel driveway, bulkheaded boat basin, concrete boat ramp and minor excavation within Pittman Creek. The proposed project is necessary to provide a permanent water access to facilitate maintenance of the Swan Creek Tract, located approximately 2-miles east of the proposed project location. The Swan Creek Tract contains over 2,000 acres of brackish impoundments that are owned by Mr. Stallings' family and maintained by Mr. Stallings.

   The proposed project will provide a permanent dedicated launch for the 30-ft pontoon skiff to transport equipment and fuel to/from the Swan Creek Tract for maintenance of the pumps and structures associated with the impoundments. The Swan Creek Tract is only accessible by boat, and therefore all equipment necessary to maintain the levees, pumps and water control devices must be transported in and out by boat. The 30-ft pontoon skiff is customized to transport equipment (tractors, bush hogs, bobcats, etc) to the Swan Creek Tract and navigate the small canals in and around the impoundments. Equipment is driven onto the skiff, and transported to the Swan Creek Tract through a small canal, where it is driven off the skiff onto the dikes/levees for maintenance of the structures. The water pumps are refueled and maintained by navigating the 30-ft skiff through the network of small canals and ditches to each water pump. A larger boat would not be able to navigate the network of small canals.

c. Describe the proposed construction methodology, types of construction equipment to be used during construction, the number of each type of equipment and where it is to be stored.

   Basin to be excavated and bulkhead/dock to be installed using an excavator. Proposed 12-ft wide x ±23-ft long channel to access -2 nwl depth will be excavated using an excavator sitting on the shoreline. All excavated material for the boat basin, ramp and access channel will be stored in a 60-ft x 60-ft spoil area located adjacent to the project area in uplands, which is located north of the "T" turnaround of the gravel access driveway, approximately 100 ft west of the boat basin excavation area. All equipment will be stored on land adjacent to the site for the duration of the project.

   The proposed excavation consists of the following:
   - Access Channel within Pittman Creek - 283 sf/11.8 cubic yards
   - Boat Basin - 404 Wetlands - 871 sf/7.5 cubic yards
   - Boat Basin/Ramp - Uplands - 1,833 sf/29.6 cubic yards

d. List all development activities you propose.

   Excavate the boat basin/ramp, excavate a small access channel, install bulkhead, install boat ramp, install gravel driveway

e. Are the proposed activities maintenance of an existing project, new work, or both?  
   new work

f. What is the approximate total disturbed land area resulting from the proposed project?  
   0.35  Sq.Ft or Acres
9. Will the proposed project encroach on any public easement, public accessway or other area that the public has established use of? ☐ Yes ☒ No ☐ NA

h. Describe location and type of existing and proposed discharges to waters of the state
N/A

i. Will wastewater or stormwater be discharged into a wetland? ☐ Yes ☒ No ☐ NA
If yes, will this discharged water be of the same salinity as the receiving water? ☐ Yes ☒ No ☐ NA

j. Is there any mitigation proposed? If yes, attach a mitigation proposal.

Form continues on back

6. Additional Information
In addition to this completed application form, the following items below, if applicable, must be submitted in order for the application package to be complete. Items (a) - (i) are always applicable to any major development application. Please consult the application instruction booklet on how to properly prepare the required items below.

a. A project narrative.

b. An accurate, dated work plat (including plan view and cross-sectional drawings) drawn to scale. Please give the present status of the proposed project. Is any portion already complete? If previously authorized work, clearly indicate on maps, plats, drawings to distinguish between work completed and proposed.

c. A site or location map that is sufficiently detailed to guide agency personnel unfamiliar with the area to the site.

d. A copy of the deed (with state application only) or other instrument under which the applicant claims title to the affected properties.

e. The appropriate application fee. Check or money order made payable to DENR.

f. A list of the names and complete addresses of the adjacent waterfront (riparian) landowners and signed return receipts as proof that such owners have received a copy of the application and plans by certified mail. Such landowners must be advised that they have 30 days in which to submit comments on the proposed project to the Division of Coastal Management.

Name Don and Nancy Nobles
Address 3608 NC 111 South, Pinetops, NC 27864
Phone No. 252-827-2709

Name Jane McLawhome
Address 5909 NC Hwy S , New Bern, NC 28562
Phone No. 252-633-1345

Name N/A
Address


g. A list of previous state or federal permits issued for work on the project tract. Include permit numbers, permittee, and issuing dates.

67780 CAMA - 08/30/2016

h. Signed consultant or agent authorization form, if applicable.

i. Wetland delineation, if necessary

j. A signed AEC hazard notice for projects in oceanfront and inlet areas. (Must be signed by property owner)

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DCM-MHD CITY
A statement of compliance with the N.C. Environmental Policy Act (N.C.G.S. 113A 1-10) if necessary. If the project involves expenditure of public funds or use of public lands, attach a statement documenting compliance with the North Carolina Environmental Policy Act.

7. Certification and Permission to Enter on Land

I understand that any permit issued in response to this application will allow only the development described in the application. The project will be subject to the conditions and restrictions contained in the permit.

I certify that I am authorized to grant, and do in fact grant permission to representatives of state and federal review agencies to enter on the aforementioned lands in connection with evaluating information related to this permit application and follow-up monitoring of the project.

I further certify that the information provided in this application is truthful to the best of my knowledge.

Date 01/21/2019_________________________ Print Name Troy Beasley - Withers Ravenel - Authorized Agent

Signature

Please indicate application attachments pertaining to your proposed project.

☒ DCM MP-2 Excavation and Fill Information
☒ DCM MP-3 Upland Development
☐ DCM MP-4 Structures Information
☐ DCM MP-5 Bridges and Culverts

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Form DCM MP-2

EXCAVATION and FILL
(Except for bridges and culverts)

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

Describe below the purpose of proposed excavation and/or fill activities. All values should be given in feet.

<table>
<thead>
<tr>
<th>Access Channel (NLW or NWL)</th>
<th>Canal</th>
<th>Boat Basin</th>
<th>Boat Ramp</th>
<th>Rock Groin</th>
<th>Rock Breakwater</th>
<th>Other (excluding shoreline stabilization)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length</td>
<td>±23</td>
<td>65</td>
<td>40</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Width</td>
<td>12</td>
<td>25</td>
<td>21</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Avg. Existing Depth</td>
<td>-1.65</td>
<td>+2.7</td>
<td>+2.7</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
<tr>
<td>Final Project Depth</td>
<td>-2.0</td>
<td>-3.3</td>
<td>+2.7 to -3.3</td>
<td>NA</td>
<td>NA</td>
<td></td>
</tr>
</tbody>
</table>

1. EXCAVATION

a. Amount of material to be excavated from below NHW or NWL in cubic yards.
   975 cubic yards

b. Type of material to be excavated
dirt, sand and muck

(c) Does the area to be excavated include coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.

☐CW     ☐SAV     ☐SB     ☐WL 871  ☐None

(i) Describe the purpose of the excavation in these areas:
Installation of boat ram and basin

2. DISPOSAL OF EXCAVATED MATERIAL

a. Location of disposal area.
   Adjacent to the project area (see drawing) in upland area outside of the Neuse River Buffers and undisturbed wetlands

b. Dimensions of disposal area
   60 ft x 60 ft

d. (i) Will a disposal area be available for future maintenance?
   ☒Yes  ☐No  ☐NA

   (ii) If yes, where?

f. (i) Does the disposal include any area in the water?
   ☒Yes  ☐No  ☐NA

   (ii) If yes, how much water area is affected?
   N/A

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DCM-MHD CRIA
revised: 12/26/08
3. SHORELINE STABILIZATION
(If development is a wood groin, use MP-4 – Structures)

a. Type of shoreline stabilization:
   - [ ] Bulkhead
   - [ ] Riprap
   - [ ] Breakwater/Sill
   - [ ] Other: __________

c. Average distance waterward of NHW or NWL: Bulkhead will be installed landward of the NHW line

e. Type of stabilization material:
   - Vinyl sheet pile and wooden timber framing

f. (i) Has there been shoreline erosion during preceding 12 months?
   - [ ] Yes
   - [ ] No
   - [ ] NA

   (ii) If yes, state amount of erosion and source of erosion amount information.
   - N/A

4. OTHER FILL ACTIVITIES
(Excluding Shoreline Stabilization)

a. (i) Will fill material be brought to the site? [ ] Yes [ ] No [ ] NA
   If yes,
   (ii) Amount of material to be placed in the water ______
   (iii) Dimensions of fill area ______
   (iv) Purpose of fill ______

b. (i) Fill material will be placed in coastal wetlands/marsh (CW), submerged aquatic vegetation (SAV), shell bottom (SB), or other wetlands (WL)? If any boxes are checked, provide the number of square feet affected.
   - [ ] CW ______
   - [ ] SAV ______
   - [ ] SB ______
   - [ ] WL ______
   - [ ] None

   (ii) Describe the purpose of the fill in these areas:

5. GENERAL

a. How will excavated or fill material be kept on site and erosion controlled?
   - Excavated material will be mounded up within the spoil area and will be surrounded by silt fencing.

b. What type of construction equipment will be used (e.g., dragline, backhoe, or hydraulic dredge)?
   - Excavator


c. (i) Will navigational aids be required as a result of the project?
   - [ ] Yes
   - [ ] No
   - [ ] NA

   (ii) If yes, explain what type and how they will be implemented.
   - N/A


d. (i) Will wetlands be crossed in transporting equipment to project site? [ ] Yes [ ] No [ ] NA

   (ii) If yes, explain steps that will be taken to avoid or minimize environmental impacts.
   - Access for the excavation of the access channel will occur within the footprint of the boat ramp/boathouse, which will be ultimately permanently impacted. During construction, temporary wood logging mats and silt fencing will be used to prevent disturbance to the unimpacted wetlands.

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DCM MHD CITY
01/21/19

Date

52 Silverwood Drive - Stallings Upland Boat Basin

Project Name

Robert L. Stellings, IV

Applicant Name

Authorized Agent

Applicant Signature
**Form DCM MP-3**

**UPLAND DEVELOPMENT**

*(Construction and/or land disturbing activities)*

Attach this form to Joint Application for CAMA Major Permit, Form DCM MP-1. Be sure to complete all other sections of the Joint Application that relate to this proposed project. Please include all supplemental information.

### GENERAL UPLAND DEVELOPMENT

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>a</strong></td>
<td>Type and number of buildings, facilities, units or structures proposed</td>
</tr>
<tr>
<td></td>
<td>Gravel driveway - dimensions 328 ft long x 20 ft wide (6150 sf)</td>
</tr>
<tr>
<td><strong>b</strong></td>
<td>Number of lots or parcels</td>
</tr>
<tr>
<td></td>
<td>1</td>
</tr>
<tr>
<td><strong>c</strong></td>
<td>Density (give the number of residential units and the units per acre)</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>d</strong></td>
<td>Size of area to be graded, filled, or disturbed including roads, ditches, etc.</td>
</tr>
<tr>
<td></td>
<td>0.35 acres (15,246 sf)</td>
</tr>
<tr>
<td><strong>e</strong></td>
<td>If the proposed project will disturb more than one acre of land, the Division of Land Resources must receive an erosion and sedimentation control plan at least 30 days before land-disturbing activity begins.</td>
</tr>
<tr>
<td></td>
<td>(i) If applicable, has a sedimentation and erosion control plan been submitted to the Division of Land Resources?</td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☐ No ☒ NA</td>
</tr>
<tr>
<td></td>
<td>(ii) If yes, list the date submitted:</td>
</tr>
<tr>
<td><strong>f</strong></td>
<td>List the materials (such as marl, paver stone, asphalt, or concrete) to be used for impervious surfaces.</td>
</tr>
<tr>
<td></td>
<td>marl/stone gravel stone</td>
</tr>
<tr>
<td><strong>g</strong></td>
<td>Give the percentage of the tract within the coastal shoreline AEC to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.</td>
</tr>
<tr>
<td></td>
<td>0.04%</td>
</tr>
<tr>
<td><strong>h</strong></td>
<td>Projects that require a CAMA Major Development Permit may also require a Stormwater Certification.</td>
</tr>
<tr>
<td></td>
<td>(i) Has a site development plan been submitted to the Division of Water Quality for review?</td>
</tr>
<tr>
<td></td>
<td>☒ Yes ☐ No ☐ NA</td>
</tr>
<tr>
<td></td>
<td>(ii) If yes, list the date submitted: 6/8/18</td>
</tr>
<tr>
<td><strong>i</strong></td>
<td>Give the percentage of the entire tract to be covered by impervious and/or built-upon surfaces, such as pavement, building, rooftops, or to be used for vehicular driveways or parking.</td>
</tr>
<tr>
<td></td>
<td>0.75%</td>
</tr>
<tr>
<td><strong>j</strong></td>
<td>Describe proposed method of sewage disposal.</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>k</strong></td>
<td>Have the facilities described in item (i) received state or local approval?</td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☒ No ☐ NA</td>
</tr>
<tr>
<td></td>
<td>If yes, attach appropriate documentation.</td>
</tr>
<tr>
<td><strong>l</strong></td>
<td>Describe location and type of proposed discharges to waters of the state (e.g., surface runoff, sanitary wastewater, industrial/commercial effluent, &quot;wash down&quot; and residential discharges).</td>
</tr>
<tr>
<td></td>
<td>surface runoff</td>
</tr>
<tr>
<td><strong>m</strong></td>
<td>Does the proposed project include an innovative stormwater design?</td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☒ No ☐ NA</td>
</tr>
<tr>
<td></td>
<td>If yes, attach appropriate documentation.</td>
</tr>
</tbody>
</table>

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**JAN 23 2019**

**DCM-MHD CITY**

revised: 12/26/06
m. Describe proposed drinking water supply source (e.g., well, community, public system, etc.)
   N/A
   
   o. When was the lot(s) platted and recorded?
   12/27/2007

   n. (i) Will water be impounded?  ☑Yes  ☑No  ☑NA
   (ii) If yes, how many acres?  

   p. If proposed development is a subdivision, will additional utilities be installed for this upland development?
   ☑Yes  ☑No  ☑NA

01/21/19
Date
52 Silverwood Drive - Stallings Upland Boat Basin
Project Name
Robert L. Stallings, IV
Applicant Name

[Signature]
Applicant Signature

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Drawing by Bobby Cahoon Construction for:
Robbie Stallings
52 Silverwood Dr., Merritt
Proposed Boat Ramp, Walkway and Basin
Drawing Date 8/18/18

Approx. 204 L/F Seawall

Approximate existing shoreline NWL

21' x 40' Boat Ramp

"Dig and dredge basin to an average 3.3' NWL depth"

4' x 65' Walkway along bulkhead

Upland Walland

Creek bank

Existing Grade

Wall details. See cross section diagram

N Scale 1"=10'

Creek Bottom

"10" x 20' pilings 7.5' O.C. on channel side of walkway to be extend 43" above docking"

N Scale 1"=5'

NTS Drawing 1/3
Vinyl Seawall Cross Section
Typical
Double Wale/With Pilings
NTS

- 2" x 12" Top Cap
- 2" x 8" Back Wale
- 6" x 6" Treated Double Timber Wale
- 3/4" x 12' Tie-Rod
- ESP 3.1 or Equivalent 12' Vinyl Sheet Pile
- 5'-6' x 6'-8" Deadman piling
- 8" x 12' Navy wall Pilings
- 5' or 7.5' OC for length of wall

This drawing is the sole property of Bobby Cahoon Construction Inc.
and is not intended for use by any other entity.

NTS Drawing 2-3

Approx 2-3'
Normal Water Line

Approx 2-3'
River Bottom

Approx 6'
AGENT AUTHORIZATION
AUTHORITY FOR APPOINTMENT OF AGENT

The undersigned Owner Robert L. Stallings IV (Client) does hereby appoint WithersRavenel, Inc. as his, her, or it's agent for the purpose of petitioning the appropriate local, state and federal environmental regulatory agencies (US Army Corps of Engineers, NC Division of Water Quality, NC Division of Coastal Management, local municipalities, etc.) for: a) review and approval of the jurisdictional boundaries of onsite jurisdictional areas (wetlands, surface waters, riparian buffers, etc.) and/or; b) preparation and submittal of appropriate environmental permit applications/requests for the Stallings Boat Ramp Basin, located on Pittman Creek in Pamlico County at 52 Silverwood Drive in Merritt, NC 28556.

The Client does hereby authorize that said agent has the authority to do the following acts on behalf of the owner:

(1) To submit appropriate requests/applications and the required supplemental materials;
(2) To attend meetings to give representation on behalf of the Client.
(3) To authorize access to subject property for the purpose of environmental review by appropriate regulatory agencies.

This authorization shall continue in effect until completion of the contracted task or termination by the Client.

Agent's Name, Address & Telephone:

WithersRavenel, Inc.
115 MacKenan Drive
Cary, NC 27511
Tel. (919)-469-3340

Date: 2-22-18

Signature of Client:

Robert L. Stallings, IV
(Name - Print) (Title)

(Signature)

Mailing Address

New Bern, NC 28561
City State Zip

Phone: 252-633-066

Email: RStallings@easternaviationfuels.com
ADJACENT PROPERTY OWNER NOTIFICATION
CERTIFIED MAIL RETURN RECEIPTS
Article Addressed to:
Jane McLawhorn
5909 NC Hwy South
New Bern, NC 28562

Service Type:

Priority Mail Express®
Registered Mail™
Registered Mail Restricted Delivery
Return Receipt for Merchandise
Signature Confirmation™
Signature Confirmation Restricted Delivery

Date of Delivery: 10-1-18

Is delivery address different from Item 1? [ ] Yes [ ] No

Signature

Agent: [ ]
Address: [ ]

Tracking Number: 9590 9402 2232 6193 9772 89

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

Withers Ravenel
Troy Beasley
219 Station Rd
Suite 101
Wilmington, NC 28405
U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com.

OFFICIAL USE

Certified Mail Fee
$ 43.45

Extra Services & Fees (check box, add fee as appropriate)

☑ Return Receipt (marginal)

☑ Return Receipt (electronic)

☑ Certified Mail Restricted Delivery $ 0.00

☑ Adult Signature Required $ 10.00

☑ Adult Signature Restricted Delivery $ 2.00

Postage
$ 0.00

Total Postage and Fees
$ 43.45

Postmark Here

10/19/2018

Sent to
Don & Nancy Nobles
Street and Apt. No.: 2406 W. 3rd St.
City, State, Zip Code: Pine Top, NC 27864

PS Form 3800, April 2015 Pub 354-50-006 006179
See Reverse for Instructions
February 8, 2019

MEMORANDUM:

FROM: Greg Bodnar, Assistant Major Permits Coordinator
NCDEQ - Division of Coastal Management
400 Commerce Ave., Morehead City NC 28557
Fax: 252-247-3590 (Counter 11-12-89)
area.bodnar@ncdeq.gov

SUBJECT: CAMA / Credge & Fill Application Review

Applicant: Robert Stalling IV

Project Location: 62 Silverwood Drive, Merritt NC 28559

Proposed Project: To construct a bulkhead upland basin and channel excavation for personal use adjacent to Pittman Creek, Pamlico County.

Please indicate below your agency's position or viewpoint on the proposed project and return this form by February 28, 2019 at the address above. If you have any questions regarding the proposed project, please contact Greg Bodnar at (252) 808-2508. When appropriate, in-depth comments with supporting data is requested.

REPLY: ______ This agency has no objection to the project as proposed.

**Additional comments may be attached**

______ This agency has no comment on the proposed project.

______ This agency approves of the project only if the recommended changes are incorporated. See attached.

______ This agency objects to the project for reasons described in the attached comments.

PRINT NAME: Shane F. Stapler  
AGENCY: NCDAF  
SIGNATURE: Shane F. Stapler  
DATE: 2/20/19

DEQ
North Carolina Department of Environmental Quality  Division of Coastal Management
Morehead City Office  400 Commerce Avenue  Morehead City, North Carolina 28557
252.808.3508

RECEIVED
MAR 1 2019
MP SECTION MHD
MEMORANDUM:

TO: Gregg Bodnar, Assistant Major Permits Coordinator

THROUGH: Anne Deaton, Habitat Assessment Coordinator

FROM: Shane Staples, Fisheries Resource Specialist

SUBJECT: Robert Stalling IV, Basin and Channel, Pittman Creek, Pamlico County

DATE: 2/18/19

A North Carolina Division of Marine Fisheries (DMF) Fisheries Resource Specialist has reviewed the subject permit application for proposed actions that impact fish and fish habitats. The project proposed consists of a bulk headed boat basin with concrete ramp, an access channel dredged into Pittman Creek, and gravel driveway to access ramp. The stated purpose of the project is to provide docking and a loading area for an outboard powered 30ft pontoon barge to be loaded with equipment (tractors, bush hogs, bobcats, etc.) to service private duck hunting impoundments as well as allow for side by side docking of other vessels. The proposed upland basin would extend 65' landward of NWL and be 25' wide with a proposed final depth of -3.3' NWL. On the landward terminus of the basin a 40' x 21' concrete ramp is proposed. The basin would be stabilized with vinyl sheet pile and have a 4' x 65' walkway along the southern side for side to docking. An access channel dredged into Pittman Creek is also proposed that would extend 23' into the creek with a width of 12'; the final depth is also proposed to be -3.3 at NWL in an area where the connecting waters of Pittman Creek are only -2' at NWL. Pittman Creek is designated a Primary Nursery Area (PNA) by the N. C. Marine Fisheries Commission. The habitat in this area of the creek is best characterized as shallow soft bottom with detritus; this type of habitat not only provides a key foraging habitat for larval and juvenile finfish and shellfish it also provides ecosystem benefits of sediment storage and nutrient cycling.

This project only varies slightly in dredge footprint from a previous application from 9/28/17 by the applicant that was objected to by this office due to negative impacts to PNA soft bottom habitat. That project had an in-water dredge footprint of 25' in width matching the width of the basin and was 92' in length in order to reach connecting water depths of -3' at NWL.

The Division of Marine Fisheries objects to this project based on the significant negative impacts to PNA soft bottom habitat in the form of new dredging in a PNA from both the proposed project footprint and prop kicking. While the requested footprint of the access channel has been reduced in size from the previous application, the secondary and cumulative impacts to PNA soft bottom habitat will be the same if not greater due to prop scour likely to occur during the normal use of the basin as described in the application. The water depths in Pittman Creek at the end of the proposed -3.3' at NWL basin and channel are -2' at NWL which can limit the operations of even small outboard powered skiffs. The 12' width of the proposed access channel is marginal to allow for normal maneuvering of any outboard vessel attempting to come to dock. During the normal use of the proposed facility with the 30' outboard powered...
February 20, 2019

Gregg Bodnar, Assistant Major Permits Coordinator
NC DEQ Division of Coastal Management
400 Commerce Ave.
Morehead City, NC 28557

Re: CAMA Application for Robert Stalling IV, Basin and channel dredging, Pittman Creek, Pamlico County

Dear Mr. Bodnar:

After discussions with staff, I concur with their recommendation to deny this permit application for new dredging in a MFC designated Primary Nursery Area. The project includes dredging an upland basin, a boat ramp within the basin, and a 12' wide x 23'long access channel into Pittman Creek, which is designated as PNA habitat by the MFC. The applicant seeks to dredge the access channel to -3.3' NWL, although the adjoining waters are -2.2' NWL or less. Not only will the dredging cause bottom disturbance, but with the shallow surrounding area, prop dredging is highly likely. Maintaining nursery habitat for juvenile fish is critical to maintaining sustainable fisheries. The division therefore objects to the proposed dredging.

I would request that you keep Shane Staples informed on the final status of the proposed project. Thank you for the opportunity to comment on this application.

Sincerely,

Stephen W. Murphey, Director
NC Division of Marine Fisheries

SWM/ad

Cc: Braxton Davis, DCM Director
    Dee Lupton, DMF Deputy Director
    Anne Deaton, DMF Habitat Protection Manager
    Shane Staples, DMF Marine Biologist
equipment-laden barge described in the application, it is a near certainty that prop scour and kicking will occur outside of the dredge footprint. Even without direct contact with the bottom the thrust needed to propel a heavy laden vessel with an outboard motors' propeller within inches of soft bottom will cause prop dredging of the shallow soft bottom habitat. If the vessels intended to be used at this facility could operate reliably in water depths of -2' then dredging the basin to -3.3 would seem unnecessary. Additionally, dredging the basin to -3.3' at NWL when connecting water depths range from -1.5' to -2.0' at NWL will disrupt the normal exchange of the water creating conditions where low dissolved oxygen or "dead water" dead water is likely to occur.

Contact Shane Staples at (252) 948-3950 or share.staples@ncdenr.gov with further questions or concerns.
MEMORANDUM

TO: Gregg Bodnar  
Division of Coastal Management  
North Carolina Department of Environmental Quality

FROM: Maria T. Dunn, Coastal Coordinator  
Habitat Conservation Division

DATE: February 28, 2019

SUBJECT: CAMA Dredge/Fill Permit Application for Robert Stallings IV, Pamlico County, North Carolina.

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the permit application with regard to impacts on fish and wildlife resources. The project site is located at 52 Silverwood Drive in Merritt, NC adjacent to a tributary of Pittman Creek. Our comments are provided in accordance with provisions of the Coastal Area Management Act (G.S. 113A-100 through 113A-128), as amended, Sections 401 and 404 of the Clean Water Act, as amended, and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

The applicant proposes to construct a bulkheaded upland basin, boat ramp, and dredged access channel for personal use. The basin would be 65’ by 25’ and positioned 65’ landward the NWL. Excavation for the basin would include a 30’ wide area of Section 404 wetlands. Final water depths are proposed to be -3.3’ NWL. A 21’ by 40’ wide ramp is proposed to be installed at the west end of the basin and extend 20’ into the newly excavated basin. The basin and shoreline would be stabilized with vinyl bulkhead. A 4’ by 65’ long staging dock would be constructed within the basin. To access deeper water within the waterbody, a 12’ by 23’ channel to a depth of -2.0’ is proposed to be dredged. Material from the excavation activities would be placed onsite within a 60’ by 60’ spoil area. A 20’ by 328’ gravel access drive would be constructed to the basin to give access to the applicant’s 26.5-acre parcel. An earlier permit application submittal was reviewed and commented on by NCWRC (Dunn 8 November 2017). Comments from our agency in addition to comments from the NC Division of Marine Fisheries (NCDMF) raised concerns with regard to impacts to aquatic resources. Ultimately the permit application was denied by the NC Division of Coastal Management (NCDCM). The current proposal has lessened the depth and length of the access channel. The project proposal still includes new dredging within a primary nursery area (PNA). Pittman Creek and its tributaries are classified SA HQW by the Environmental

Mailing Address: Habitat Conservation • 1721 Mail Service Center • Raleigh, NC 27699-1721  
Telephone: (919) 707-0220 • Fax: (919) 707-0028
Management Commission, are subject to the NC Division of Water Resources' (NCDWR) Neuse Basin Buffer Rules and are designated a PNA by the NCDMF.

The NCWRC has reviewed the permit application and is still concerned with the impacts associated with the modified project proposal. There is no history of previously permitted or even historically dredged projects in the area; therefore, even though the current proposal has a reduced length and depth within the access channel from the previous proposal, it would still be a newly permitted excavation project in an area that functions as a PNA. The NCDMF defines a PNA as "those areas in the estuarine system where initial – post larval development takes place. These are areas where populations are uniformly early juveniles". These designated areas and areas that function as PNAs are vital to numerous fish and crustacean populations and should be protected. Because of this habitat's importance, the NCWRC generally does not support new dredge activities in areas that function as PNAs.

During the previous review of the project, the NCWRC requested an alternative analysis be demonstrated that showed avoidance and minimization of impacts to PNA, shallow water habitat, and riparian wetland resources. We appreciate the effort by the applicant to demonstrate minimization with the shallower depth and shorter length proposal for the access channel. However, the shallower depth is likely too shallow for the applicant's stated purpose and would likely lead to hull scraping and prop scour during vessel ingress and egress, especially if the vessel is drafting low due to heavy loads. Low water events due to wind direction may further increase bottom disturbance when the area is used during those times. In addition to the concerns of new dredging in a PNA and chronic bottom disturbance from the shallow access area, the connecting waters of the unaltered creek bottom or even the proposed access channel are more shallow than the proposed -3.3' basin and therefore would likely affect water quality conditions such as dissolved oxygen within the area. Excavation allowances should not be granted under conditions that may violate water quality standards and adversely affect habitat quality; therefore, connecting water depths should be equal to or greater than the excavated area.

Overall the NCWRC believes the project as proposed would have adverse impacts on aquatic resources and not be consistent with our general recommendations. We support the concerns stated by the NCDMF to protect marine resources and continue to encourage the applicant to consider alternate access opportunities.

We appreciate the opportunity to review and comment on this permit application. If you need further assistance or additional information, please contact me at (252) 948-3916 or at maria.dunn@ncwildlife.org

RECEIVED
MAR 1 2019
MP SECTION MHD
February 11, 2019

MEMORANDUM:

FROM: Greg Bodnar, Assistant Major Permits Coordinator
NCDEQ - Division of Coastal Management
400 Commerce Ave., Morehead City NC 28557
Fax: 252-247-3330 (Courier 11-12-09)
greg.bodnar@ncdenr.gov

SUBJECT: CAMA / Dredge & Fill Application Review

Applicant: Robert Stallings IV
Project Location: 52 Silverwood Drive, Merritt NC 28556
Proposed Project: To construct a bulkhead upland basin and channel excavation for personal use adjacent to Pittman Creek, Pamlico County.

Please indicate below your agency's position or viewpoint on the proposed project and return this form by February 28, 2019 at the address above. If you have any questions regarding the proposed project, please contact Greg Bodnar at (252) 808-2808. When appropriate, in-depth comments with supporting data is requested.

REPLY: 

________ This agency has no objection to the project as proposed.

**Additional comments may be attached**

________ This agency has no comment on the proposed project.

________ This agency approves of the project only if the recommended changes are incorporated. See attached.

________ This agency objects to the project for reasons described in the attached comments.

________ This agency cannot complete the review until the requested information is provided.

PRINT NAME Anthony Scarbraugh
AGENCY DWR
SIGNATURE Anthony Scarbraugh
DATE 03/11/19

RECEIVED
MAR 1 1 2019

MP SECTION MHD

North Carolina Department of Environmental Quality | Division of Coastal Management
Morehead City Office | 400 Commerce Avenue | Morehead City, North Carolina 28557
252.808.2808
CERTIFIED MAIL: 7018 2290 0001 8043 6517
RETURN RECEIPT REQUESTED

Robert L. Stallings, IV
PO Box 12327
New Bern, NC 28561

Subject: REQUEST FOR ADDITIONAL INFORMATION
          Stallings Property – Upland Basin and Ramp

Dear Mr. Stallings:

On February 15, 2019, the Division of Water Resources (Division) received your application dated February 11, 2019, requesting a 401 Water Quality and Buffer Authorization Certification from the Division for the subject project. The Division has determined that your application is incomplete and cannot be processed. The application is on-hold until all of the following information is received:

1. Buffer Restoration:

   Please provide this Office with a buffer restoration plan associated with the cutting and removal of buffer vegetation as described in your application. This planting plan must be developed such that at least two native tree species are to be planted at a density sufficient to provide 260 trees per acre at maturity. This density can be achieved by planting approximately 360 (11 x 11 feet spacing) to 538 (9 x 9 feet spacing) trees per acre. Restoration of trees/shrubs/forest must be completed by the first subsequent planting season (November 1 through March 30). Note, if the tree plantings do not survive, they will need to be replaced such that the density is sufficient to provide 260 trees per acre at maturity. As a part of this plan, your response must include an implementation/planting schedule with clear dates. This can be achieved by planting wooded stemmed vegetation as described in Guidelines for Riparian Buffer Restoration provided online (http://www.nceep.net/news/reports/buffers.pdf). [15A NCAC 02 .0233(4)(a)]

Pursuant to above referenced general statute and administrative code, the applicant shall furnish all of the above requested information for the proper consideration of the application. If all of the requested information is not received in writing within 30 calendar days of receipt of this letter, the Division will be unable to approve the application and it will be returned. The return of this project will necessitate reapplication to the Division for approval, including a complete application package and the appropriate fee.
Please respond in writing within 30 calendar days of receipt of this letter by sending three copies of all of the above requested information to the 401 & Buffer Permitting Unit, 1617 Mail Service Center, Raleigh, NC 27699-1617.

Please be aware that you have no authorization under Section 401 of the Clean Water Act and Neuse Riparian Buffer Rules for this activity and any work done within waters of the state and buffer may be a violation of North Carolina General Statutes and Administrative Code.

Please contact Anthony Scarbraugh at 252-948-3924 or anthony.scarbraugh@ncdenr.gov if you have any questions or concerns.

Sincerely,

Robert Tankard, Assistant Regional Supervisor
Water Quality Regional Operation Section
Division of Water Resources, NCDEQ

cc:  Josh Pelletier, USACE Washington Regulatory Field Office (via email)
     Gregg Bodnar, DCM Morehead City (via email)
     Brad Connell, DCM WaRO (via email)
     Samir Dumpor, DEmLR WaRO
     Laserfiche
     Troy Beasley, WithersRavenel, Inc. (via email: tbeasley@withersravenel.com)

Filename: 17-1298 V2_Stallings_52 Silverwood Drive_401_BA_HOLD

RECEIVED
MAR 11 2019
MP SECTION MHD
April 10, 2019

NC Department of Environmental Quality
NC Division of Water Resources Water Quality Regional Operations
Anthony Scarbraugh
400 943 Washington Square Mall
Washington, NC 27889

Re: 52 Silverwood Drive – Stallings Upland Boat Basin
Additional Information Submittal - Buffer Restoration Plan - Revised
Merritt, Pamlico County
USACE AID: SAW-2017-02141
NCDWR Project #17-1298 V2
WR Project #03180177.00

Dear Mr. Scarbraugh:

This letter is in response to your Request for Additional Information letter, dated 3/11/19, and email, dated 4/8/19, requesting a buffer restoration plan. Below is the buffer restoration plan with requested revisions.

Please note that you requested an implementation/planting schedule with clear dates. The applicant will be petitioning the CRC for a variance for the proposed project. In the event that the variance is granted, the final conditions of the variance, such restriction of construction to a certain time of the year, may dictate when the project can be constructed. As a result, we are unable to provide specific dates for implementation/planting schedule.

Riparian Buffer Restoration Plan for Temporary Buffer Impact Areas

The riparian buffers, as established from new NWL within boat basin, within the proposed limits of disturbance to be restored consist of 2,900 sf (0.07 acres). In order to meet the 260 trees per acre at maturity specified in the Request for Additional Information letter dated 3/11/19, a total of 19 trees must be planted. The applicant proposes to plant a total of 26 trees. The plantings will consist of thirteen (13) red maple (Acer rubrum) and thirteen (13) water oak (Quercus nigra) trees. The trees to be planted will be a minimum size of 1-gallon pots.

The restoration of the riparian buffers within the temporary buffer impact areas will be conducted as follows:

1) Zones 1 and 2, along with the limits of disturbance will be staked in the field prior to planting of the buffers.
2) Zone 1 on the north side of the boat basin/ramp will be planted with a total of six (6) water oaks and six (6) red maples as noted in the attached Buffer Restoration Planting Plan.
3) Zone 1 on the south side of the boat basin/ramp will be planted with seven (7) water oaks and seven (7) red maples as noted in the attached Buffer Restoration Planting Plan.
4) Upon completion of the buffer restoration plantings, photographic documentation will be provided to NCDWR for confirmation that the plantings have been completed.
5) In April of each year following the completion of the plantings, a live stem count will be conducted to determine if the survival rate of the plantings is sufficient to meet the 260 trees per acre at maturity requirement (19 trees). Should the annual stem count identify that the survival rate of the buffer plantings fall below a density of 260 trees per acre (19 trees), the applicant will provide supplemental plantings to restore the density to above 260 trees per acre.

Buffer Restoration Planting Schedule

The buffer restoration planting schedule will depend on when final approvals of the project are received, and when construction of the bulkhead is completed. Therefore, the buffer restoration plantings will be completed within 60-days of completion of the construction of the bulkhead.

Please contact me if you have any questions or require any additional information to complete your review.

Sincerely

WithersRavenel

Troy Beasley
Senior Environmental Scientist

Attachments:
- Buffer Restoration Planting Plan
NEW LIMITS OF RIPARIAN BUFFERS FROM NEW NLW WITHIN BOAT BASIN

BUFFER DISTURBANCE FOR INSTALLATION OF BULKHEAD

RIPARIAN BUFFER TO BE RESTORED:
ZONE 1 - 2,900 SF (0.07 AC)  
ZONE 2 - N/A

RESTORATION TO ACHIEVE 200 TREES PER ACRE AT MATURITY REQUIRES 19 TREES TO BE PLANTED.

TOTAL TREES TO BE PLANTED - 26.

BUFFER PLANTING LEGEND
- RED MAPLE (ACER RUBRUM) - 13 TOTAL
- WATER OAK (QUERCUS NIGRA) - 13 TOTAL

NOTES:
1) PLANTED TREES TO BE A MINIMUM SIZE OF 1-GALLON POTTED TREES.
2) PLANTINGS TO BE A MINIMUM OF 12-FT APART.

EXHIBIT BASED ON SURVEY DATA OBTAINED FROM HERBERT J. NOBLES, JR. SURVEYING.
May 30, 2019

DWR # 17-1298
Pamlico County

Mr. Robert L. Stallings, IV
PO Box 12327
New Bern, NC 28561

Subject: APPLICATION HOLD
Stallings Property – Upland Basin and Ramp

Dear Mr. Stallings:

On October 11, 2018 the Division of Water Resources (Division) received your application dated October 9, 2018 requesting a 401 Water Quality and Buffer Authorization Certifications from the Division for the above-referenced project. Subsequent information was received by the Division on January 8, 2018.

On May 28, 2019, your agent, Troy Beasley of WithersRavenel requested the application be put on administrative hold on your behalf pending the outcome of a Division of Coastal Management, Coastal Resources Commission Variance request. Therefore, the application is on-hold pending a decision by the Coastal Resources Commission on the variance request.
Please be aware that you have no authorization under Section 401 of the Clean Water Act for this activity and any work done within waters of the state may be a violation of North Carolina General Statutes and Administrative Code.

Please contact Anthony Scarbraugh at 252-948-3924 Anthony.Scarbraugh@ncdenr.gov or Paul Wojoski at 919-807-6364 or Paul.Wojoski@ncdenr.gov if you have any questions or concerns.

Sincerely,

[Signature]

Karen Higgins, Supervisor
401 & Buffer Permitting Branch

cc: Troy Beasley, WithersRavenel (via email)
    Josh Pelletier, USACE Washington Regulatory Field Office (via email)
    Doug Huggett, DCM Morehead City Office (via email)
    DWR WaRO
    DWR 401 & Buffer Permitting Branch file
Good Morning Troy,

Just a follow-up to our phone conversation today. The CAMA application for this project triggers a stormwater review. Based on the information provided to me thus far, it appears that a low density permit is probably the best fit. Please send the site plan we discussed that shows the development plans & stormwater control measures. I will review & get back with you before, or by next Wednesday. I will be glad to help with any questions about the stormwater review.

Bill Moore, Environmental Engineer  
Division of Energy, Mineral and Land Resources  
943 Washington Square Mall  
Washington, NC  27889

(252) 946-6481
Hey Troy,

Got your email; reviewed the attached site plans. A low density permit could work for this project. Site survey appears to show this project on a separate deeded tract? Need to designate the site area and tie that to max 12% impervious. With the existing development already established, you may not want to include the entire tract in this LD permit? Define the drainage area; show/describe sw measures; ie, grass swales, sheet flow, vegetated buffers. If the owner wishes to add some impervious area in the future; you may want to include in this permit to avoid future permit modification? Please submit sw application, plans & specs, and $505 fee. Let me know if you have questions.

Thanks Bill. Attached are the permit application drawings. Give me a call when you’re back in the office next week to discuss.
Bill,

Thanks again for your time today to discuss the stormwater permitting for this project. Here’s a quick bullet point recap of our discussion. Feel free to add anything that I have omitted.

- The project is eligible for a low density stormwater permit. We will expand our “project area” to add additional project area so that the total impervious area is less than 12%.
- We will submit the low density stormwater permit application, which will include plans documenting that the runoff will sheetflow through naturally vegetated areas, and no formal SCM treatment is required.
- The plans will include information on sheets 1 of 5 and 3 of 5 in the Surveyors Impact Maps that were submitted with the CAMA Major application.

Please note that the CAMA permit has been denied as expected and we are in the process of applying for a variance through the CRC. Currently, the NCDWR 401 WQC application has been placed on hold until the CRC variance decision has been made, which will be later this year. The applicant is going to wait until the CRC variance decision has been made before submitting the Stormwater Permit application. Therefore, if the CRC variance is granted, we will then submit the stormwater permit application. So it will be late 2019 before we submit the stormwater permit application.

Thanks for your help with this project, and please let me know if you have any questions.
Good Afternoon Troy,

This is a follow-up to our recent emails regarding the Robert Stallings project. I understand that Mr. Stallings is seeking a variance from the CRC before proceeding with his proposed upland basin & bulkhead project. The outcome of the variance request is uncertain and may take some time. You indicated that if the variance is granted, then Mr. Stallings would submit a stormwater application along with plans & details. Based on the information provided thus far, I do not anticipate a problem with obtaining a stormwater permit. We will consider this project inactive at this time. Please feel free to contact me with any questions.

Bill Moore, Environmental Engineer
Division of Energy, Mineral and Land Resources
943 Washington Square Mall
Washington, NC 27889

(252) 946-6481
March 25, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Stallings IV
PO Box 12327
New Bern, NC 28561

Dear Mr. Stallings;

This letter is in response to your application for a Major Permit under the Coastal Area Management Act (CAMA) and the State Dredge and Fill Law, in which authorization was requested to perform new excavation of an upland boat basin and channel that extends into a tributary of Pittman Creek, and construct a boat ramp, docking facility and bulkhead, near Merritt in Pamlico County. Processing of the application, which was received as complete by the N.C. Division of Coastal Management’s Morehead City Office on January 23, 2019, is now complete. Based on the state’s review, the Division of Coastal Management has made the following findings:

1) The subject property is located at 52 Silverwood Drive, Merritt, in Pamlico County.

2) The proposed project is located within the Neuse River Basin, and is therefore subject to the buffer requirements of the N.C. Division of Water Resources.

3) The waters of Pittman Creek are designated as Primary Nursery Area (PNA) by the N.C. Division of Marine Fisheries’ Marine Fisheries Commission (MFC). 15A NCAC 07H. 0208(a)(4) of the Rules of the Coastal Resources Commission further define PNA’s as “Primary nursery areas are those areas in the estuarine and ocean system where initial post larval development of finfish and crustaceans takes place. They are usually located in the uppermost sections of a system where populations are uniformly early juvenile stages. They are designated and described by the N.C. Marine Fisheries Commission (MFC) and by the N.C. Wildlife Resources Commission (WRC).”
4) The proposed project would involve development within Public Trust, Estuarine Waters, Estuarine Shoreline, and Coastal Wetland Areas of Environmental Concern (AEC).

5) The proposed project involves application under the Coastal Area Management Act and the State Dredge and Fill Law requesting authorization to perform dredging to create a 65' x 25' upland basin and 23' x 12' access channel to connect to a tributary of Pittman Creek. The proposed upland basin would be excavated to a depth of -3.3' normal water level (NWL). The access channel would be excavated to a depth of -2.0' NWL. Existing water depths at the end of the proposed access channel are approximately -2.0' NWL. In addition, the proposed project requests authorization to construct a boat ramp, access pier and bulkhead, as associated structures of the boat basin.

6) The proposed project would involve the new excavation of 283 square feet of shallow bottom PNA habitat.

7) A previous CAMA permit application proposed identical facilities and a larger 92' long x 25' wide x -3.3' at NWL access channel, that would have resulted in the excavation of 2,300 square feet of shallow bottom PNA at the same property. This application was denied on March 5, 2018 due to inconsistencies with the following rules of the Coastal Resources Commission.

   (A) 15A NCAC 07H .0206(c)
   (B) 15A NCAC 07H .0208(b)(1)
   (C) 15A NCAC 07H .0208(a)(2)(A) and 15A NCAC 07H .0208(a)(2)(B)
   (D) 15A NCAC 07H .0601

8) During the joint state and Federal review of the application dated received as complete on January 23, 2019, the N.C. Division of Marine Fisheries (DMF) objected to the proposal due to the likelihood of significant adverse impacts to shallow bottom PNA habitat. In addition to the direct impacts of 283 square feet shallow bottom PNA habitat, the DMF notes that due to the shallow waters within and adjacent to the proposed basin and access channel, secondary and cumulative impacts to PNA soft bottom habitat will likely result from prop scour of the 30' pontoon skiff the applicant proposes to dock at the proposed ramp. The DMF also objected to the project because the basin depth that was deeper than the connecting waters of the proposed channel, resulting in possible disruption of the normal exchange of water creating conditions where low dissolved oxygen may occur. The N.C. Wildlife Resources Commission stated similar concerns to those of DMF staff.

9) As of the date of this letter, the NC Division of Water Resources is still reviewing the proposed project to determine if the project complies with State water quality standards.
10) Based upon the above referenced findings, the Division of Coastal Management has determined that the proposed project to perform new dredging for the construction of an upland basin and access channel are inconsistent with the following rules of the Coastal Resources Commission:

a) 15A NCAC 07H .0208 (c) (Management Objectives for Estuarine Waters), which states "To conserve and manage the important features of estuarine waters so as to safeguard and perpetuate their biological, social, aesthetic, and economic values; to coordinate and establish a management system capable of conserving and utilizing estuarine waters so as to maximize their benefits to man and the estuarine and ocean system."

b) 15A NCAC 07H .0208(a)(2)(A), which states that "before being granted a permit, a determination shall be made that the applicant has complied with the following standards:

(A) The location, design, and need for development, as well as the construction activities involved shall be consistent with the management objective of the Estuarine and Ocean System AEC (Rule .0203 of this subchapter) and shall be sited and designed to avoid significant adverse impacts upon the productivity and biologic integrity of coastal wetlands, shellfish beds, submerged aquatic vegetation as defined by the Marine Fisheries Commission, and spawning and nursery areas."

c) 15A NCAC 07H .0208(b)(1) (Specific Use Standards), which states in part, "Navigation channels, canals, and boat basins shall be aligned or located so as to avoid primary nursery areas, shellfish beds, beds of submerged aquatic vegetation as defined by the MFC", and

d) 15A NCAC 07H.0208(b)(1)(F), which states: "Any canal or boat basin shall be excavated no deeper than the depth of the connecting waters."

Given the preceding findings, it is necessary that your request for issuance of a CAMA Major Permit under the Coastal Area Management Act and State Dredge and Fill Law be denied. This denial is made pursuant to N.C.G.S. 113A-120(a)(8) which requires denial for projects inconsistent with the state guidelines for Areas of Environmental Concern or local land use plans, and N.C.G.S. 113-229, which requires that a permit be denied for cases where a proposed development will lead to a significant adverse impact to fisheries resources.

If you wish to appeal this denial, you are entitled to a contested case hearing. The hearing will involve appearing before an Administrative Law Judge who listens to evidence and arguments of both parties before making a final decision on the appeal. Your request for a hearing must be in the form of a written petition, complying with the requirements of §150B of the General Statutes of North Carolina, and must be filed with the Office of Administrative Hearings, 6714 Mail.
March 25, 2019
Page 4

Service Center, Raleigh, NC 27699-6714, within twenty (20) days from the date of this denial letter. A copy of this petition should be filed with this office.

Another response to a permit denial available to you is to petition the Coastal Resources Commission for a variance to undertake a project that is prohibited by the Rules of the Coastal Resources Commission. Applying for a variance requires that you first acknowledge and recognize that the Division of Coastal Management applied the Rules of the Coastal Resources Commission properly in processing and issuing this denial. You may then request an exception to the Commission’s Rules based on hardships to you resulting from unusual conditions of the property. To apply for a variance, you must file a petition for a variance with the Director of the Division of Coastal Management and the State Attorney General’s Office on a standard form, which must be accompanied by additional information on the nature of the project and the reasons for requesting a variance. The variance request may be filed at any time, but must be filed a minimum of six weeks before a scheduled Commission meeting for the variance request to be eligible to be heard at that meeting. The standard variance forms may be obtained by contacting a member of my staff, or by visiting the Division’s web page at: https://deq.nc.gov/about/divisions/coastal-management/coastal-management-permits/variances-appeals.

Members of my staff are available to assist you should you desire to modify your proposal in the future. If you have any questions concerning this matter, please contact Mr. Gregg Bodnar at (252) 808-2808 extension 215.

Sincerely,

Braxton C. Davis

cc: Col. Robert J. Clark - U.S. Army Corps of Engineers, Wilmington, NC
Josh Pelletier - U.S. Army Corps of Engineers, Washington, NC
Linda Culpepper – Director, NC Division of Water Resources, Raleigh, NC
Karen Higgins - NC Division of Water Resources, Raleigh, NC
Anthony Scarbraugh - NC Division of Water Resources, Washington, NC
Samir Dumpor – DEMLR Storm Water, Washington, NC
Troy Beasley – Withersravenel, Inc. 219 Station Road, Suite 101, Wilmington, NC 28405
Bodnar, Gregg

From: Beasley, Troy <TBeasley@withersravenel.com>
Sent: Friday, April 05, 2019 9:02 PM
To: Bodnar, Gregg
Subject: [External] 52 Silverwood Drive - Stallings Upland Boat Basin CAMA Major Permit Application - Merritt, Pamlico County - Response to Agency Comments

CAUTION: ATTACHED ATTACHMENT(S) MAY CONTAIN CONFIDENTIAL AND/ OR PRIVILEGED INFORMATION.

Gregg,

Attached is our formal response to specific comments received from NCDMF and NCWRC during the application review. While the CAMA Major Permit was denied for this project on 3/25/19, we request that the attached response letter be included in the public record for this project.

Thanks for your assistance! Please let me know if you have any questions.

Troy Beasley

219 Station Road, Suite 101 | Wilmington, NC 28405
Office: 910.256.9277 | Direct: 910.509.6512
Mobile: 910.622.0122
tbeasley@withersravenel.com

CONFIDENTIALITY AND NONDISCLOSURE
April 3, 2019

NC Division of Coastal Management
Morehead City Headquarters
Greg Bodnar
400 Commerce Avenue
Morehead City, NC 28577

Re: 52 Silverwood Drive – Stallings Upland Boat Basin – Response to Agency Comments
    Merritt, Pamlico County
    WR Project #03180177.00

Dear Mr. Bodnar:

This letter is in response to agency comments from the North Carolina Wildlife Resources Commission (NCWRC) and the NCDEQ Division of Marine Fisheries (DMF) received during the public notice period for the proposed project that you provided to us on March 11, 2019. While the CAMA Major Permit for this project was denied on March 25, 2019, the applicant will be pursuing a CRC Variance and we request our responses to the comments be included in the public record for this project. Below are the synopsized comments from NCWRC and DMF, with our responses provided below each comment.

**NC Wildlife Resources Commission**

1) There is no history of previously permitted or even historically dredged projects in the area.

There are five existing boat ramps on private residences within the immediate vicinity of the proposed project. A review of aerial imagery determined that there has been dredging in Pittman Creek historically. Specifically, properties located at 6, 24 & 42 Rich Street, on the eastern side of Pittman Creek directly across from the proposed project, contain boat ramps on a channel/canal that was obviously created by dredging. This portion of Pittman Creek has regular boat traffic from these existing boat ramps, as well as numerous docks along Pittman Creek.

2) We appreciate the effort by the applicant to demonstrate minimization with the shallower depth and shorter length proposal for the access channel. However, the shallower depth is likely too shallow for the applicant’s stated purpose and would likely lead to hull scraping and prop scour during vessel ingress and egress, especially if the vessel is drafting low due to heavy loads. Low water events due to wind direction may further increase bottom disturbance when the area is used during those times.

The vessel that the applicant uses is a 30-ft pontoon skiff with a flat deck customized to carry maintenance equipment to the Swan Creek Tract in very shallow waters. When fully loaded to the maximum carrying capacity, the pontoon skiff has a draft of 18 inches. Seldom is the skiff loaded to capacity, so the draft is usually shallower. Even when fully loaded, there will not be hull scrape during normal water depths since the proposed channel will be excavated to -2.0’ below NWL. The applicant is experienced in navigating the pontoon skiff in shallow
waters navigating to and from the Swan Creek Tract. During ingress/egress, the pontoon skiff will navigate at very slow speeds, barely more than idle. The slow speeds and the use of tilt and trim to raise the motor will help to prevent prop scour.

In general, the water depths within Pittman Creek are relatively stable except during storms where wind out of the west causes low water events, as noted by NCWRC. It should first be noted that not all storms result in low water conditions, as some storms have winds from the east that result in high water conditions. During low water events, the applicant will simply not be able to launch from the proposed boat ramp. It is important to remember that this boat ramp is only intended to be used for the 30-ft pontoon skiff for the primary purpose of transporting equipment to/from the Swan Creek Tract to maintain the levees, pumps and other water control structures. The frequency of launching from the proposed boat ramp will depend on the time of year, as well as water conditions, and launching will not be a daily or weekly occurrence.

The applicant is a native of eastern Pamlico County. He has been navigating the waters of this area since youth, and is skilled at navigating shallow waters in the intended vessel. The applicant has a keen knowledge of water depths associated with wind driven tides, and knows that there are times when launching from the proposed boat ramp is not feasible. The applicant has no intent to risk potential damage to the pontoons on the skiff by attempting to launch during low water conditions where hull scrape or prop scour could occur.

3) the connecting waters of the unaltered creek bottom or even the proposed access channel are more shallow than the proposed -3.3’ basin and therefore would likely affect water quality conditions such as dissolved oxygen within the area.

The -3.3’ NWL depth in the boat basin is necessary to provide the adequate depth for a trailer to deliver the pontoon skiff so that the pontoon skiff will float and the trailer can be removed. The -3.3 NWL depth is a little over 1 foot deeper than the proposed channel depth of -2.0’ NWL. Additionally, the water depths within Pittman Creek are also at -3.3’ within 100 feet of the proposed boat basin. Due to the small size of the boat basin (±840 sf), launching/landing of the skiff and tidal fluctuations during weather events will provide sufficient flushing of the boat basin. Also, please note that the excavated boat basin will abut the open water of Pittman Creek, and circulation of water will not be confined to only the 12 ft wide access channel.

NC Division of Marine Fisheries

1) While the requested footprint of the access channel has been reduced in size from the previous application, the secondary and cumulative impacts to PNA soft bottom habitat will be the same if not greater due to the prop scour likely to occur during normal use of the basin as described in the application. The water depths of Pittman Creek at the end of the proposed -3.3’ at NWL basin and channel are -2’ at NWL which can limit the operations of even small outboard powered skiffs.

During the normal use of the proposed facility with the 30’ outboard powered equipment-laden barge described in the application, it is near certainty that prop scour and kicking will occur outside of the dredge footprint. Even without direct contact with the bottom the thrust needed to propel a heavy laden vessel with an outboard motor’s propeller within inches of the soft bottom will cause prop dredging of the shallow soft bottom habitat.
The vessel that the applicant will launch at this facility is a 30-ft pontoon skiff with a flat deck, which is customized to carry equipment and supplies to the Swan Creek Tract in very shallow waters. When fully loaded to the maximum carrying capacity, the pontoon skiff has a draft of 18 inches. Seldom is the skiff loaded to capacity, so the draft is usually shallower. Even when fully loaded, there will not be hull scrape during normal water depths, as the proposed channel will be excavated to -2.0’ below NWL. The applicant is accustomed to navigating the pontoon skiff in shallow waters around the Swan Creek Tract. During ingress/egress, the pontoon skiff will navigate a very slow speeds, barely more than idle. The slow speeds, along with the use of tilt and trim to raise the motor will help to prevent prop scour.

2) **If the vessels intended to be used at this facility could operate reliably in water depths of -2’ then dredging the basin to -3.3’ would seem unnecessary.**

The proposed -3.3’ water depth in the basin is necessary to provide the adequate depth for a trailer to deliver and retrieve the pontoon skiff and so that the pontoon skiff will float and the trailer can be removed. While the pontoon skiff can easily navigate in -2.0’ water depths, it cannot be launched from a trailer in -2.0’ water depths. Please note that this project consists of a boat ramp and basin, as the intent is to launch the pontoon skiff from a trailer and to remove the skiff from the water after each trip. The pontoon skiff will not be permanently docked in the basin, and therefore the -3.3’ water depth within the basin is necessary to launch and retrieve the vessel with a trailer.

Sincerely,

WithersRavenel

Troy Beasley
Senior Environmental Scientist
Regulatory Division

Action ID. SAW-2017-02141

Mr. Robert Stallings
Post Office Box 12327
New Bern, North Carolina 28561

Dear Mr. Stallings:

By copy of the North Carolina Department of Environmental Quality (NCDEQ) letter to you of March 25, 2018, we have learned that the Coastal Management Consistency Determination necessary for you to perform excavation of an upland boat basin and channel that extends into a tributary of Pittman Creek, and to construct a boat ramp, docking facility and bulkhead, near Merritt, in Pamlico County, North Carolina, has been denied. Under the administrative rules of our regulatory program, denial of the required Coastal Management Consistency Determination precludes favorable consideration of a Federal permit. Accordingly, your Department of the Army (DA) permit application is hereby denied, without prejudice, and your file has been retired.

Additionally, we received unfavorable comments from the National Marine Fisheries Service regarding your proposed work due to anticipated adverse impacts to essential fish habitat. While appealing the NCDEQ consistency determination is your next step in pursuing State authorization, you should be aware that Federal agency comments will remain unchanged by the outcome of that appeal. Should you be successful in obtaining the State’s consistency certification, all issues raised by the federal agencies must be resolved before a final decision on your DA permit application can be made by the U.S. Army Corps of Engineers.

Thank you for your time and cooperation. If you have any questions, please contact Mr. Josh Pelletier of my Washington Regulatory Field Office staff, telephone 910-251-4605, or email josh.r.pelletier@usace.army.mil.

FOR THE COMMANDER

[Signature]
David M. Lekson, PWS
Chief, Washington Regulatory Field Office
Wilmington District Corps of Engineers
Mr. Todd Bowers  
Permit Review Specialist  
Wetlands Regulatory Section  
USEPA – Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, GA 30303-8960  

Ms. Twyla Cheatwood  
Fishery Biologist  
Habitat Conservation Division-Atlantic Branch  
101 Pivers Island Road  
Beaufort, North Carolina 28516-9722  

Mr. Pete Benjamin  
U.S. Fish and Wildlife Service  
Fish and Wildlife Enhancement  
Post Office Box 33726  
Raleigh, North Carolina 27636-3726  

Mr. Doug Huggett  
CAMA Major Permits Coordinator  
NC Division of Coastal Management  
400 Commerce Avenue  
Morehead City, North Carolina 28557  

Mr. Anthony Scarborough  
Division of Water Resources  
943 Washington Square Mall  
Washington, NC 27889
Robert Stallings IV variance request (CRC-19-06)

Brad Connell
Environmental Specialist II
Morehead City District
Division of Coastal Management

NC Coastal Resources Commission
Meeting on July 17, 2019

Department of Environmental Quality
Vicinity map of 52 Silverwood Drive, Pamlico County

Department of Environmental Quality
Petitioner’s exhibit of the proposed project area and the Swan Creek tract
Google Earth satellite imagery
ca. March 2019

also owned by Stallings

Stallings property
Petitioner’s Project Area Exhibit (2018 Aerial)
Stallings site plan overview
NCDMF Finfish Nursery Areas Map 14 lower Neuse River
NCDMF designated Nursery Areas
Lower Broad Creek tributary complex
NCDMF designated Primary Nursery Area
Pittman Creek

Project area

Stallings property

Pittman Creek
Petitioner’s exhibit of the vessel used to transport equipment to the Swan Creek tract
Existing vinyl bulkhead and docking facility (ref. CAMA General Permit #67780-C)

Photo taken by DCM staff on 6/19/2019
-3.3’ and -4.1’ NWL depths at existing docking facility (ref. CAMA General Permit #67780-C)

Photo taken by DCM staff on 6/19/2019
Aerial photograph taken June 19, 2019 of eastern shoreline of Stallings property

existing docking facility

I----------------------------------- approximately 500’ ----------------------------------------------I

proposed project location

Photo taken by DCM staff on 6/19/2019
Photograph on eastern shoreline of Stallings property facing south at project location taken June 19, 2019

Photo taken by DCM staff on 6/19/2019
-0.8’ NWL depth in proposed excavation project area

Photo taken by DCM staff on 6/19/2019
Photograph of eastern shoreline of Stallings property taken June 19, 2019

Photo taken by DCM staff on 6/19/2019
Aerial photograph of project area and tributary taken June 19, 2019

Photo taken by DCM staff on 6/19/2019
Petitioner’s Proposed Water Depth Exhibit – 01/21/19
Aerial photograph taken June 19, 2019 of eastern shoreline of Stallings property

Photo taken by DCM staff on 6/19/2019
(f) To grant a variance, the Commission must affirmatively find each of the four factors listed in G.S. 113A-120.1(a).

(1) that unnecessary hardships would result from strict application of the development rules, standards, or orders issued by the Commission;

(2) that such hardships result from conditions peculiar to the petitioner's property such as location, size, or topography;

(3) that such hardships did not result from actions taken by the petitioner; and

(4) that the requested variance is consistent with the spirit, purpose and intent of the Commission's rules, standards or orders; will secure the public safety and welfare; and will preserve substantial justice.