

**AGENDA**  
**UNION COUNTY BOARD OF COMMISSIONERS**  
**Regular Meeting**  
**Monday, June 18, 2007**  
**7:00 P.M.**  
**Board Room, First Floor**  
**Union County Government Center**  
**500 North Main Street**  
**Monroe, North Carolina**

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[www.co.union.nc.us](http://www.co.union.nc.us)

1. **Opening of Meeting**
  - a. Invocation
  - b. Pledge of Allegiance
  
2. **Public Hearing - Re: Town of Marshville's ETJ Appointments to Marshville's Planning Board and Board of Adjustment**  
**ACTION REQUESTED:** Conduct public hearing
  
3. **Informal Comments**
  
4. **Additions, Deletions and/or Adoption of Agenda**  
**ACTION REQUESTED:** Adoption of Agenda
  
5. **Consent Agenda**  
**ACTION REQUESTED:** Approve items listed on the Consent Agenda
  
6. **Union County Public Schools**
  - a. Weddington High School Stadium Upgrade Construction Contract in the Amount of \$1,499,100
  - b. Elementary School K Construction Contract in the Amount of \$13,745,400  
**ACTION REQUESTED:** Adopt Capital Project Ordinance (CPO) #78
  
7. **Homeland Security**
  - a. Radio Project  
**ACTION REQUESTED:** Adopt Capital Project Ordinance #79 which provides \$59,110 for costs associated with obtaining approval of four tower sites
  
8. **Regional Library Plan**  
**ACTION REQUESTED:** Refer to the Library Board of Trustees for analysis and recommendation
  
9. **Stormwater**
  - a. Permits Required by the State  
**ACTION REQUESTED:** Receive information
  
10. **Amend Various Fee Schedules**
  - a. Solid Waste
  - b. Parks and Recreation  
**ACTION REQUESTED:** Adopt amended schedules

11. **2007 Variable Rate General Obligation School Bonds**  
**ACTION REQUESTED:** Adopt Resolution Approving Financing Team Members
  
12. **Announcements of Vacancies on Boards and Committees**
  - a. Nursing Home Advisory Committee (1 Vacancy)
  - b. Juvenile Crime Prevention Council (JCPC) - 1) District Attorney or designee; 2) Substance Abuse Professional; 3) Two (2) persons under age 18; 4) Juvenile Defense Attorney; 5) Representative of United Way/other non-profit; and two (2) County Commissioner appointees  
**ACTION REQUESTED:** Announce vacancies
  
13. **Appointments to Boards and Committees**
  - a. Adult Care Home Community Advisory Committee (2 Vacancies)
  - b. Agricultural Advisory Board (3 Vacancies as of June 2007)
  - c. Region F Aging (3 Vacancies for Regular Members and 1 Vacancy for Alternate Member)
  - d. Criminal Justice Partnership Program Advisory Board (Judge of Superior Court Appointee, District Court Judge, Employment and Training Vacancy, 4 Members at Large, Health Department Representative - as of June 2007)  
**ACTION REQUESTED:** Consider appointments
  
14. **Interim Manager's Comments**
  
15. **Commissioners' Comments**

**CONSENT AGENDA**  
**June 18, 2007**

1. **Parks and Recreation**

- a. ADA/AED Funding Requests from Remaining Athletic Association Funds for Prospect Athletic Association and South Union Athletic Association  
Totaling \$5,854
- b. Community Grant Applications from the Town of Waxhaw Public Services Department and the Town of Marshville Totaling \$24,166.28
- c. Expenditure of Remaining Community Grant Funds in the Amount of \$25,833.72 for Recreation Equipment at the Union County Group Home  
**ACTION REQUESTED:** 1) Approve ADA funding requests from remaining Athletic Association Funds for Prospect and South Union Athletic Associations totaling \$5,854; 2) Approve Community Grant Applications for Town of Waxhaw Public Services Department and the Town of Marshville Totaling \$24,166.29; and 3) Approve the expenditure of the remaining Community Grant Funds in the amount of \$25,833.72 for recreation equipment at the Union County Group Home

2. **Finance Department**

- a. Motor Vehicle Tax Refund Overpayments for May 2007 in the Amount of \$1,602.63  
**ACTION REQUESTED:** Approve

3. **Sheriff's Office**

- a. Justice Assistance Grant (JAG) - Digital Media Technology Improvements  
**ACTION REQUESTED:** Authorize County Manager to submit the FY 2007 Justice Assistance Grant (JAG) to the Bureau of Justice Assistance

4. **Tax Administrator**

- a. Eleventh Motor Vehicle Refund Register for the Period of May 1, 2007 - May 31, 2007 in the Net Grand Total of \$1,557.79-  
**ACTION REQUESTED:** Approve
- b. Eleventh Motor Vehicle Release Register for the Period of May 1, 2007 - May 31, 2007 in the Net Grand Total of \$17,627.06-  
**ACTION REQUESTED:** Approve

5. **Health Department**

- a. Budget Amendment #60 for the Health - Bioterrorism Budget to Accept \$10,000 in Cities Readiness Initiative (CRI) State Funding from the Mecklenburg County Health Department for the Development of a Medical Reserve Corp (MRC) database. [Funding should cover the establishment of a database, the development of an informational website, and the development of an interface with hospital systems and community preparedness organizations] (No Additional County Dollars Requested)  
**ACTION REQUESTED:** Approve Budget Amendment #60

6. **Contracts Over \$5,000**

- a. Natural Concepts, Inc. - Lawn Services at Animal Services Center  
**ACTION REQUESTED:** Authorize Manager to approve contracts

7. **Communications**
  - a. Radio Tower Lease Agreement (Piedmont Site)  
**ACTION REQUESTED:** Authorize the County Manager to terminate the existing lease and approve a new lease or to approve an amendment to the current lease allowing for month-to-month occupancy
  
8. **FY 2008 Compensation Adjustments**  
**ACTION REQUESTED:** Amend the Pay Plan schedule of grades and ranges and provide for a three and one-half percent (3.5%) market adjustment to the compensation of eligible regular, regular part-time, and temporary part-time employees, and all appointed and elected officials effective with compensation paid on July 12, 2007
  
9. **Amended and Restated Budget Ordinance for FY 2006-2007**  
**ACTION REQUESTED:** Adopt Amended and Restated Ordinance
  
10. **The One North Carolina Fund Application**  
**ACTION REQUESTED:** Authorize Interim County Manager to submit Application to The One North Carolina Fund for financial assistance in connection with the expansion of Tensylon
  
11. **\$150,000 Grant Money from HAVA Electronic Access System**  
**ACTION REQUESTED:** Accept and Adopt Budget Ordinance Amendment #62

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**INFORMATION**  
**(No Action Required)**

1. Department of Inspection's Monthly Report for May 2007
2. Personnel Department's Monthly Report for May 2007



**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: June 18, 2007

Action Agenda Item No.   2  

(Central Admin. use only)

**SUBJECT:** Public Hearing - Re: Town of Marshville's ETJ  
Appointments to Marshville's Planning Board and Board of Adjustment

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**DEPARTMENT:** Board of  
Commissioners

**PUBLIC HEARING:** Yes

**ATTACHMENT(S):**  
Copy of Letter from Town of  
Marshville requesting appointments  
with attachments

**INFORMATION CONTACT:**  
Richard Black  
Interim County Manager

Copy of E-Mail from Jeff Crook,  
Senior Staff Attorney dated May 10,  
2007

**TELEPHONE NUMBERS:**

704-283-3500

Copies of advertisements from  
newspapers

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**DEPARTMENT'S RECOMMENDED ACTION:** Conduct public hearing

**BACKGROUND:** On May 4, 2007, a letter was received from the Town of Marshville requesting that the Board of Commissioners appoint Members to the Town of Marshville Planning Board and Board of Adjustment. Advertisements seeking applicants to serve on these boards along with the required notice of public hearing were published in both The Enquirer Journal and The Home News. At the time of the completion of the agenda, no applications had been received.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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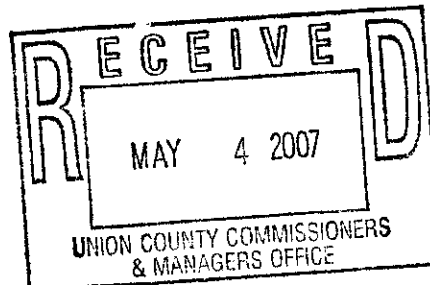
# Town of Marshville

Mayor Franklin D. Deese  
Mayor Pro Tem Dora Bridget  
Council Member Margaret Bivens  
Council Member Doug High, Jr.  
Council Member Gail Kiker  
Council Member Ned V. Beachum



Town Administrator Carl Webber  
Park Director Jim Chaffin  
Chief of Police Mike Gaddy  
Public Works Director Bivens Steele  
Tax Collector Carolyn Haigler  
Finance Officer/Clerk Scott Howard

May 2, 2007



Lynn West  
500 North Main Street, Room 921  
Monroe NC 28112

Dear Ms. West:

Enclosed please find a copy of the Extra Territorial Jurisdiction Boundary Ordinance; A Resolution requesting the Union County Board of Commissioners appoint Members to the Town of Marshville Planning Board and Board of Adjustment; and a map describing the area of ETJ.

Please forward this material to Mr. Black and to Chairman Pressley. Feel free to contact me should you have any questions.

Regards,

Carl Webber.  
Town Administrator

201 West Main Street Marshville North Carolina Phone 704-624-2515 Fax 704-624-0175 email: marshvilletownhall@alltel.net

#### **MISSION STATEMENT OF THE TOWN OF MARSHVILLE**

The Town Government of Marshville shall seek to provide the highest standard of service to its citizens by the efficient and comprehensive efforts of its elected officials and employees. Priorities for service shall promote equality, accessibility, communication, teamwork, and prudent vision for an ever - changing and diverse community in accordance with the General Statutes of the State of North Carolina.

**AN ORDINANCE  
ESTABLISHING THE EXTRATERRITORIAL JURISDICTION BOUNDARIES OF THE  
TOWN OF MARSHVILLE, NORTH CAROLINA**

**WHEREAS,** the Marshville Town Council wishes to establish an extraterritorial jurisdiction boundary as permitted under Article 19, Chapter 160A of the North Carolina General Statutes; and

**WHEREAS,** the boundary established is identified as encompassing approximately one mile in width ringing the present corporate limits of the Town of Marshville and;

**WHEREAS,** the Marshville Town Council deems it to be in the public interest and beneficial to the public health, safety, and general welfare to adopt such an ordinance.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Marshville Town Council as follows:

**Section 1.** The Town of Marshville hereby establishes boundaries for the extraterritorial enforcement and implementation of the following ordinances, regulations and plans:

1. Marshville Zoning Map
2. Marshville Land Use Ordinance

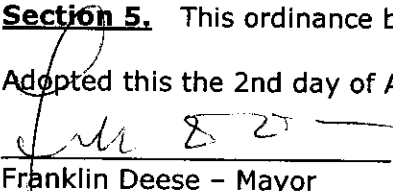
**Section 2.** Said boundary is delineated on the face of a map entitled "Marshville ETJ Area", which is hereto attached and is hereby adopted by reference.

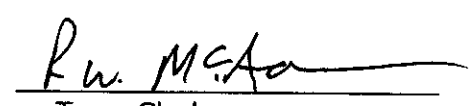
**Section 3.** The official copy of the ordinance and map shall be on record in the office of the Town Clerk for public inspection during normal business hours. The Town Clerk shall cause a certified copy of this ordinance and map and any subsequent amendments to be recorded in the office of the Register of Deeds in Union County.

**Section 4.** All ordinances in conflict with the provision of this Ordinance are hereby repealed to the extent of such conflict.

**Section 5.** This ordinance becomes effective immediately upon adoption.

Adopted this the 2nd day of April, 2007.

  
Franklin Deese - Mayor

  
Town Clerk

(seal)



RESOLUTION  
REQUEST UNION COUNTY BOARD OF COMMISSIONERS APPOINT ETJ  
MEMBERS

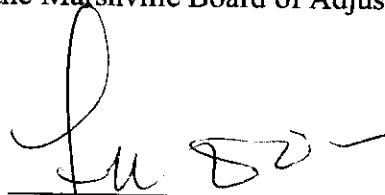
WHEREAS, the Marshville Town Council wishes to comply with NCGS 160A- 362 which states that as a result of extraterritorial jurisdiction, a means of proportional representation based on population for residents of the extraterritorial area be provided, and;

WHEREAS, the Union County Board of Commissioners is the appointing authority for the extraterritorial jurisdiction area of Marshville; and

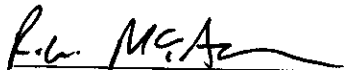
WHEREAS, two such representatives shall be appointed to the Marshville Planning Board and two such representatives shall be appointed to the Marshville Board of Adjustments;

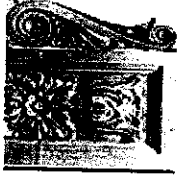
THEREFORE BE IT RESOLVED that the Marshville Town Council hereby requests the Union County Board of County Commissioners appoint two representatives from the extraterritorial jurisdiction area to the Marshville Planning Board and two representatives from the extraterritorial jurisdiction area to the Marshville Board of Adjustments, in accordance with NC GS 160A-362.

Adopted this 2<sup>nd</sup> day of April, 2007.

  
\_\_\_\_\_  
Mayor Franklin Deese

Attest:





Jeff Crook/UnionCounty

05/10/2007 09:41 AM

To Lynn West/UnionCounty@UnionCounty

cc Richard Black/UnionCounty@UnionCounty

bcc

Subject Appointments to Marshville BOA and PB

You have provided me with a letter dated May 2 to you from Carl Webber requesting (via resolution of the Marshville board of commissioners dated April 2) that the Union County Board of Commissioners appoint two members to both the Marshville board of adjustment and planning board. In order for the County Board of Commissioners to make these appointments, they must do so within 90 days of receipt of this resolution.

Pursuant to G.S. 160A-362, "when selecting a new representative on the planning board or to the board of adjustment as a result of an extension of the extraterritorial jurisdiction, the board of county commissioners shall hold a public hearing on the selection. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The board of county commissioners shall select appointees only from those who apply at or before the public hearing. The county shall make the appointments within 45 days following the public hearing." Note that appointees should be residents within the ETJ area. Note also that if the County Board of Commissioners fails to make appointments as required, they will be made by the Marshville board of commissioners.

You will probably want to confirm with the Chairman that you are authorized to go ahead and give notice of the public hearing. Then, you will need to publish the required notice. I have attached a copy of G.S. 160A-362 for your information.



G.S. 160A-362.rtf

NORTH CAROLINA

UNION COUNTY

I, John Edmondson, Editor and publisher of *The Home News*, a newspaper published in Union County, do hereby certify the attached notice to have been published in said newspaper, once a week for

2 successive weeks, beginning with the issue of May 31, 2007, and ending with the issue of June 7, 2007.

JAE

Sworn to and subscribed before me, this the 7th day of June, 2007.

Brenda R. Thomas  
My commission expires 2/18/2008  
February 18, 2008  
Marshville, N.C. June 7, 2007

M \_\_\_\_\_  
\_\_\_\_\_

In account with *The Home News*

## PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that in accordance with North Carolina General Statutes §160A-362, the Union County Board of Commissioners is seeking applications from citizens residing within the Town of Marshville's Extraterritorial Jurisdiction (ETJ) Area who are interested in serving on the Town of Marshville's Planning Board and/or Board of Adjustment. Marshville's ETJ area has been identified as encompassing approximately one mile in width through the present corporate limits of the Town of Marshville. Anyone who wishes to apply to serve on these boards may obtain a profile sheet by calling Lynn West at 704-283-3859 or from the County's website at [www.co.union.nc.us](http://www.co.union.nc.us). Please submit completed profile sheets by Tuesday, June 12, 2007, to the Office of the Clerk to the Board of Commissioners, 500 North Main Street, Room 922, Monroe, NC 28112, by fax at (704) 282-0121, or by email to [west@co.union.nc.us](mailto:west@co.union.nc.us).

NOTICE IS HEREBY FURTHER GIVEN that the Union County Board of Commissioners will hold a public hearing on Monday, June 18, 2007, at 7:00 p.m. in the Board Room located on the first floor of the Union County Government Center, 500 North Main Street, Monroe, North Carolina, to receive public comments regarding the selection of applicants who reside within the Town of Marshville's ETJ area to serve on the Town of Marshville's Planning Board and/or Board of Adjustment. The Board of County Commissioners shall select appointees only from those who apply at or before the public hearing.

Any person requesting a sign language interpreter, please call (704) 225-8554 and make a request at least 96 hours in advance. Any other special assistance needed by an individual due to a disability under the Americans with Disabilities Act should call (704) 283-3810 and make a request at least 96 hours in advance.

Lynn G. West  
Clerk to the Board  
May 31, June 7, 2007. Ch.



**PUBLIC NOTICE**  
 NOTICE IS HEREBY GIVEN that in accordance with North Carolina General Statutes § 160A-382, the Union County Board of Commissioners is seeking applications from citizens residing within the Town of Marshville's Extra-territorial Jurisdiction (ETJ) Area who are interested in serving on the Town of Marshville's Planning Board and/or Board of Adjustment. Marshville's ETJ area has been identified as encompassing approximately one mile in width within the present corporate limits of the Town of Marshville. Anyone who wishes to apply to serve on these boards may obtain a profile sheet by calling Lynn West at 704-283-3853 or from the County's website [www.co.union.nc.us](http://www.co.union.nc.us). Please submit completed profile sheets by Tuesday, June 12, 2007, to the Office of the Clerk to the Board of Commissioners, 500 North Main Street, Room 922, Monroe, NC 28112, by fax at (704) 282-0121, or by email to [west@co.union.nc.us](mailto:west@co.union.nc.us).  
**NOTICE IS HEREBY FURTHER GIVEN** that the Union County Board of Commissioners will hold a public hearing on Monday, June 18, 2007, at 7:00 p.m. in the Board Room located on the first floor of the Union County Government Center, 500 North Main Street, Monroe, North Carolina, to receive public comments regarding the selection of applicants who reside within the Town of Marshville's ETJ area to serve on the Town of Marshville's Planning Board and/or Board of Adjustment. The Board of County Commissioners shall select appointees only from those who apply at or before the public hearing.  
 Any person requesting a sign language interpreter, please call (704) 225-8554 and make a request at least 96 hours in advance. Any other special assistance needed by an individual due to a disability under the Americans with Disabilities Act should call (704) 283-3810 and make a request at least 96 hours in advance.  
 Lynn G. West  
 Clerk to the Board  
 May 29 & June 5, 2007

NORTH CAROLINA,  
 UNION COUNTY.

**AFFIDAVIT OF PUBLICATION**

Before the undersigned, a Notary Public of said County and State, duly commissioned, qualified, and authorized by law to administer oaths,

personally appeared **Pat Deese**

who being first duly sworn, deposes and says: that he is

**Principal Clerk** engaged in the publication of a newspaper known as **The Enquirer-Journal**, published, issued, and entered as second class mail in the City of Monroe in said County and State; that he is authorized to make this affidavit and sworn statement; that the notice or other legal advertisement, a true copy of which is attached hereto, was published in **The Enquirer-Journal** on the following dates:

*May 29 June 5, 2007*

and that the said newspaper in which such notice, paper, document, or legal advertisement was published was, at the time of each and every such publication, a newspaper meeting all the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

This *5* day of *June* 2007  
*Pat Deese*

Sworn to and subscribed before me, this *5* day of *June* 2007  
*Bruce O. Chittz* Notary Public

My Commission expires: **May 11, 2008**

Inches: *7 1/4*  
 MONROE, N.C. *June 5* 2007

M **U. C. Bd. Of Commissioners**  
**500 North Main St., Room 921**  
**Monroe, NC 28112**

ACCOUNT #: *02100167*  
 COST: \$ *140.66*

—IN ACCOUNT WITH—

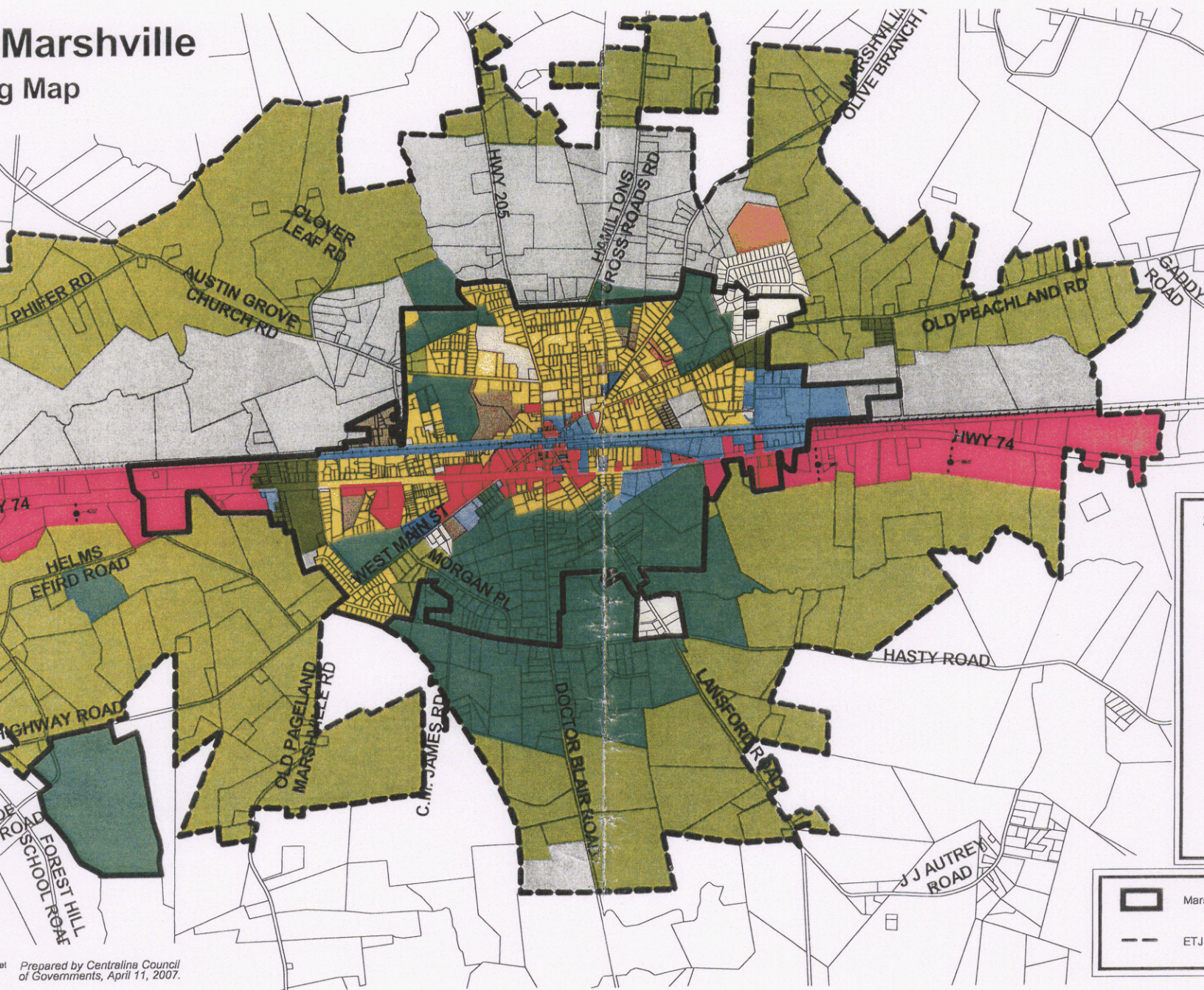
**The Enquirer-Journal**

P.O. Box 5040  
 500 W. Jefferson St.  
 Monroe, N.C. 28111-5040

Important Legal Document, Please Retain



# Marshville g Map



Prepared by Centraline Council of Governments, April 11, 2007.

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: June 18, 2007

Action Agenda Item No. 6a&b  
(Central Admin. use only)

**SUBJECT:** UCPS Elementary School K and Weddington High School Stadium

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**DEPARTMENT:** Finance

**PUBLIC HEARING:** No

**ATTACHMENT(S):**  
Capital Project Ordinance Amendment  
78

**INFORMATION CONTACT:**  
Kai Nelson

Correspondence from UCPS

**TELEPHONE NUMBERS:**  
704.292.2522

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**DEPARTMENT'S RECOMMENDED ACTION:** Adoption of Capital Project Amendment 78

**BACKGROUND:** UCPS has received construction bids on two CIP/Bond projects - Elementary School K in the amount of \$13,745,400 and Weddington High School Stadium Upgrades in the amount of \$1,499,100. The ES K project is approximately \$2M under budget while the Stadium bid came in at budget. ES K is to be co-located at the existing Shiloh ES site.

**FINANCIAL IMPACT:** Included in the CIP 2006 - debt service incorporated in the current tax rate structure

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





# UNION COUNTY PUBLIC SCHOOLS

500 North Main Street, Suite 700 • Monroe, North Carolina 28112 - 4786  
704/283-3733 Or 704/283-3654 Fax: 704/289-1536

Dr. Ed Davis  
Superintendent

L. Dean Arp, Jr., Chairman  
John Collins, Vice Chairman

John H. Crowder Dr. Sharon Gallagher  
Carolyn Lowder Kimberly Morrison-Hansley  
John Parker Kim Rogers Richard Weiner

## MEMORANDUM

To : Dick Black, Interim County Manager

513

From: Dr. Ed Davis, Superintendent *ZED*

RE: Fund and Award  
Weddington High School Stadium Upgrade Construction Contract

Date: June 7, 2007

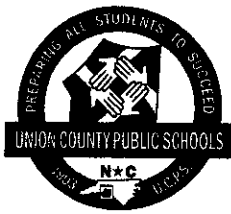
We are requesting funding for and award of the construction contract for the Weddington High School Stadium Upgrade. This project is scheduled to be complete in July 2008.

There were four bids submitted. Godfrey Construction of Wingate, North Carolina submitted the low and responsive bid. The funding requested for the construction contract is for \$1,499,100.00 and is under budget.

The Board of Education voted to award the construction contract to Godfrey Construction at their regularly scheduled meeting on June 5, 2007 contingent upon funding from the County.

We hope you agree with our findings and fund the project.

	0 - *
	1,499,100.00 +
	13,745,400.00 -
002	15,244,500.00 +
	15,244,500.00 -
001	0 - 006 +



# UNION COUNTY PUBLIC SCHOOLS

500 North Main Street, Suite 700 • Monroe, North Carolina 28112 - 4786  
704/283-3733 Or 704/283-3654 Fax: 704/289-1536

Dr. Ed Davis  
Superintendent

L. Dean Arp, Jr., Chairman  
John Collins, Vice Chairman

John H. Crowder Dr. Sharon Gallagher  
Carolyn Lowder Kimberly Morrison-Hansley  
John Parker Kim Rogers Richard Weiner

## MEMORANDUM

To: Dick Black, Interim County Manager

From: Dr. Ed Davis, Superintendent *ED*

RE: Fund and Award  
Elementary School K Construction Contract

#559

Date: June 7, 2007

We are requesting funding for and award of the construction contract for Elementary School K to be located behind Shiloh Elementary School. This school is scheduled to open in August 2008.

There were six bids submitted. LeChase Construction of Huntersville, North Carolina submitted the low and responsive bid. The funding requested for the construction contract is for \$13,745,400.00 and is well under budget.

The Board of Education voted to award the construction contract to LeChase Construction at their regularly scheduled meeting on June 5, 2007 contingent upon funding from the County.

We hope you agree with our findings and fund the project.

**CAPITAL PROJECT ORDINANCE AMENDMENT**

BUDGET School Bond Fund - 55  
 FISCAL YEAR FY 2006-2007

REQUESTED BY Kai Nelson  
 DATE June 18, 2007

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
G.O. Bond Proceeds	353,604,111	15,244,500	368,848,611
All Other Revenue	1,363,308	-	1,363,308
	<u>354,967,419</u>	<u>15,244,500</u>	<u>370,211,919</u>

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
Weddington High School Athletic Facilities (115C-429b project allocation)	150,000	1,499,100	1,649,100
New Elementary School K (115C-429b project allocation)	840,700	13,745,400	14,586,100
All Other School Projects	353,976,719	-	353,976,719
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	<u>354,967,419</u>	<u>15,244,500</u>	<u>370,211,919</u>

EXPLANATION: Additional funding requests submitted by UCPS associated with projects listed above pursuant to 115C-429b.

DATE: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

Bd of Comm/County Manager  
 Lynn West/Clerk to the Board

**ANCE POSTING PURPOSES ONLY**

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
G.O. Bond Proceeds 55491100-4710-530	353,604,111	15,244,500	368,848,611
	<u>353,604,111</u>	<u>15,244,500</u>	<u>368,848,611</u>

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
Weddington High School Athletic Facilities (115C-429b project allocation) 55559200-5586-513	150,000	1,499,100	1,649,100
New Elementary School K (115C-429b project allocation) 55559200-5586-559	840,700	13,745,400	14,586,100
	-	-	-
	-	-	-
	-	-	-
	-	-	-
	<u>990,700</u>	<u>15,244,500</u>	<u>16,235,200</u>

Prepared By dnc  
 Posted By \_\_\_\_\_  
 Date \_\_\_\_\_

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: June 18, 2007

Action Agenda Item No. 7a  
(Central Admin. use only)

**SUBJECT:** Radio Project

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**DEPARTMENT:** Homeland Security

**PUBLIC HEARING:** No

**ATTACHMENT(S):**  
Breakdown of cost estimate

**INFORMATION CONTACT:**  
Patrick Beekman  
Gary Thomas

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**TELEPHONE NUMBERS:**  
292-2670  
283-3550

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**DEPARTMENT'S RECOMMENDED ACTION:** Adopt Capital Project Ordinance # 79 which provides \$59,110 for costs associated with obtaining approval of four tower sites.

**BACKGROUND:** The radio project cannot go forward until the four remaining tower sites are determined. We have tentatively selected the four sites but need to go through various steps before we can go forward with putting communication towers on each site. We need to obtain survey and impact appraisals for each site before we can go to the planning board in Fairview (for the Old Fairview Elementary School Site) and to the Union County Board of Adjustment for the other three tower sites to receive the necessary approvals to build communication towers on these sites. We are asking for approval to spend the cost to conduct these impact appraisals and surveys.

We also need the site locations before the final engineering of the project can be completed by Charlotte so that they can provide us with a final cost estimate for the build-out of the radio system's infrastructure.

This project is included in the adopted 2007 CIP. The BOCC has a number of policy decisions regarding this project that they must make before the County commits substantial more resources to the project. Depending on which policy alternatives the BOCC chooses can have significant impact on the County's annual costs - ranging from \$2.1M to \$2.8M. Policy questions include, but are not limited to the following:

1. Allocation of capital costs, both subscriber and infrastructure – who pays?
2. Allocation of DHS assets – who benefits from equipment and grant funds

3. Infrastructure maintenance – who pays?

4. Subscriber maintenance – who pays?

County staff is working toward identifying all policy considerations, seeking a range of potential recommendations and providing full information to the BOCC in the August/September timeframe.

**FINANCIAL IMPACT:** Future installment financing \$59,110

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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**CAPITAL PROJECT ORDINANCE AMENDMENT**

BUDGET General CPO Fund  
 FISCAL YEAR FY 2006-2007

REQUESTED BY Kai Nelson  
 DATE June 18, 2007

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
Installment Financing	-	59,110	59,110
	-	59,110	59,110

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
Radio Project	-	59,110	59,110
	-	59,110	59,110

EXPLANATION: Appropriate installment financing proceeds for the radio project.

DATE: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
 Bd of Comm/County Manager  
 Lynn West/Clerk to the Board

**ANCE POSTING PURPOSES ONLY**

**PROJECT SOURCES**

Source Description and Code	Project To Date	Requested Amendment	Revised Project
Installment Financing 40443200-4730-PR039	-	59,110	59,110
	-	59,110	59,110

**PROJECT USES**

Project Description and Code	Project To Date	Requested Amendment	Revised Project
Radio Project 40543200-5550-PR039	-	59,110	59,110
	-	59,110	59,110

Prepared By   aar    
 Posted By \_\_\_\_\_  
 Date \_\_\_\_\_

Number CPO - 79

<b>Additions</b>	<b>Costs</b>
<b><i>Old Fairview</i></b>	
CUP application fee	\$250.00
variance appl. Fee	\$200.00
survey	
site plan	\$7,500.00
appraisal/appearance/mileage	\$3,500.00
NEPA checklist	\$3,000.00
<b><i>Cuthbertson Road</i></b>	
SUP application fee	\$220.00
survey	
site plan	<b>\$8,500.00</b>
appraisal/appearance/mileage	\$3,500.00
NEPA checklist	\$3,000.00
<b><i>Crow Road</i></b>	
SUP application fee	\$220.00
survey	
site plan	\$8,000.00
appraisal/appearance/mileage	\$3,500.00
NEPA checklist	\$3,000.00
<b><i>New Salem Road</i></b>	
SUP application fee	\$220.00
survey	
site plan	<b>\$8,000.00</b>
appraisal/appearance/mileage	\$3,500.00
NEPA checklist	\$3,000.00
<b>Grand Total</b>	<b>\$59,110.00</b>

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: 06/18/2007

Action Agenda Item No. 8  
(Central Admin. use only)

**SUBJECT:** Regional Library Plan in re size of South Western Union Regional Library

**DEPARTMENT:** Library

**PUBLIC HEARING:** No

**ATTACHMENT(S):**  
Letter from Martie Smith  
Letter from Thomas Carlson-Reddig  
Map of Library Service Regions

**INFORMATION CONTACT:**  
Martie Smith

**TELEPHONE NUMBERS:**  
704-283-8184 x222  
704-242-0180 (mobile)

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**DEPARTMENT'S RECOMMENDED ACTION:** To provide direction to the Library Board of Trustees regarding the Regional Library Plan

**BACKGROUND:** This is information requested by Chairman Pressley as a result of discussions on May 29 with two Weddington Council members on ways to expedite building South Western. The two questions were:

1. Is it feasible to build a smaller two-story library in Weddington?
2. Implications of combining the South Western and Waxhaw Regions and building only 1 larger regional library to serve both? This would require a modification to the County Regional Library Plan.

**FINANCIAL IMPACT:** none

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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To:     Union County Board of Commissioners

From:   Martie Smith, Director

Re:     South Western Union Regional Library – size considerations

Date:   07 June 2007

In 2005, the town of Weddington offered the County one acre of land adjacent to the town hall for the South Western Union Regional Library. In order to adequately serve the population of Marvin, Weddington and Wesley Chapel for the next 20 years, our building program calls for a 20,000 sq. ft. building. Because of the constraints of the site, the library is designed as a two-story building, with a footprint of about 10,000 square feet. Had the site permitted, a one-story building would have been preferable.

Members of the Weddington Council have proposed reducing the library to 15,000 sq. ft. in order to eliminate the need for further fundraising. A one-story 15,000 sq. ft. building will not fit on the site. Attached please find a letter from Thomas Carlson-Reddig, our architect for the South Western Regional Library, expressing his professional opinion about the feasibility of building a 15,000 sq. ft. two-story library.

My professional opinion as the library director is much the same as the architect's. Because of the high ratio of unassignable space in a two-story public building that small, the net usable space would be both inadequate and difficult to utilize in a way that would be conducive to good public service. Services would be fragmented, the space wouldn't provide flexibility to adapt to changing needs, and the same amount of staff would be required as for a 20,000 sq. ft. building. I strongly advise against building a smaller two-story building.

The Library Board and staff have the responsibility to plan and build a well-designed, efficient building of adequate size to meet the current and future needs of the residents, and to do it as quickly as possible, in accordance with the County's Regional Library Plan. Our current schedule calls for a 20,000 sq. ft. regional library in Weddington and a 20,000 sq. ft. regional library in Waxhaw to fulfill the original (1999) plan.

However, delay in beginning the library in Weddington has become a concern, as was expressed by Councilman Gilmartin during a meeting on May 29<sup>th</sup> with Chairman Pressley, Commissioner Openshaw, and Mayor Anderson. The Library Board and staff share that concern.



# UNION COUNTY PUBLIC LIBRARY

Main Library, Monroe   Edwards Memorial Library, Marshville   Union West Regional Library   Unionville Express Library   Waxhaw Library

During the discussion about the size of the library, the Finance Director suggested an alternative approach. The idea was to combine the South Western Region (Marvin, Weddington & Wesley Chapel) and the Waxhaw Region (Mineral Springs, Waxhaw and unincorporated areas south of Waxhaw) into a single region, and to build a larger “super-regional library” to serve it. A library of this sort would be comparable to Mecklenburg’s South County Regional Library on Rea Road.

There is no question that this would be the most cost-effective way to provide library service in the southwestern areas of the County. If a 35,000 sq. ft. library were built instead of two 20,000 sq. ft. buildings, cost savings would occur in capital expenses and in annual operating costs:

Capital cost savings	1,400,000.
Financing cost savings (if not financed)	1,500,000.
Annual operating cost savings	600,000.

Of course, cost savings is not the only consideration. The Library Board has not had an opportunity to explore this concept, to determine whether it would provide the best public service. Location would be crucial, since the library would have to be strategically located for easy access from all neighborhoods of the “super-region”.

If the Board of Commissioners would like for the Library Board to consider such a modification to the existing Regional Library Plan, we next meet on Tuesday, June 19, and could present a recommendation to you at your July 2<sup>nd</sup> meeting.

**Attachments:** Letter from Thomas Carlson-Reddig of ADW Architects  
Map of library regions established in 1999

**CC:** Union County Public Library Trustees  
Kai Nelson, Finance Director



Architects, p.a.

To Whom It May Concern:

ADW Architects understands that there is a consideration to reduce Southwestern Union County's Library from 20,000 s.f. to 15,000 s.f. As you are hopefully aware, this library has been designed as a two-story facility due to the site limitations. The 20,000 s.f. original two-story design was not nearly as efficient in space utilization as a one-story facility, but through collaborative efforts with the library staff we were able to create an acceptable plan. Two-story libraries by nature are less efficient than one-story buildings unless the library has a large (35-40,000 s.f.) program and the inefficiencies can be absorbed in the larger footprint.

Architecture  
Planning  
Interiors

All two-story buildings require a minimum of two egress stairs, an elevator and machine room, and it is desirable to have an open, communicating stair. Additionally, restrooms, mechanical rooms, electrical rooms, storage, and staff administration have to be adequately dispersed over two floors instead of more tightly compacted on one floor. Programs for libraries are also complex and it is critical that certain areas are not split between floors; often this means uneven floor plates, with the larger floor plate dictating the overall square footage, further contributing to less efficiency.

In essence, reducing the Southwestern Union Library from 20,000 to 15,000 s.f. over two floors would severely limit the library's operation and would fall very short of the program space required, for the reasons stated above. All of the support, whether it is 20,000 sf or 15,000 sf essentially remains the same. For example, the 20,000 sf library had about 5,000 sf unassignable area for a usable program area of about 15,000 sf. For a 15 k library you would still have approximately 5,000 sf unassignable area for a usable program area of about 10,000 sf.

If you have any questions, please feel free to contact me.

Sincerely,

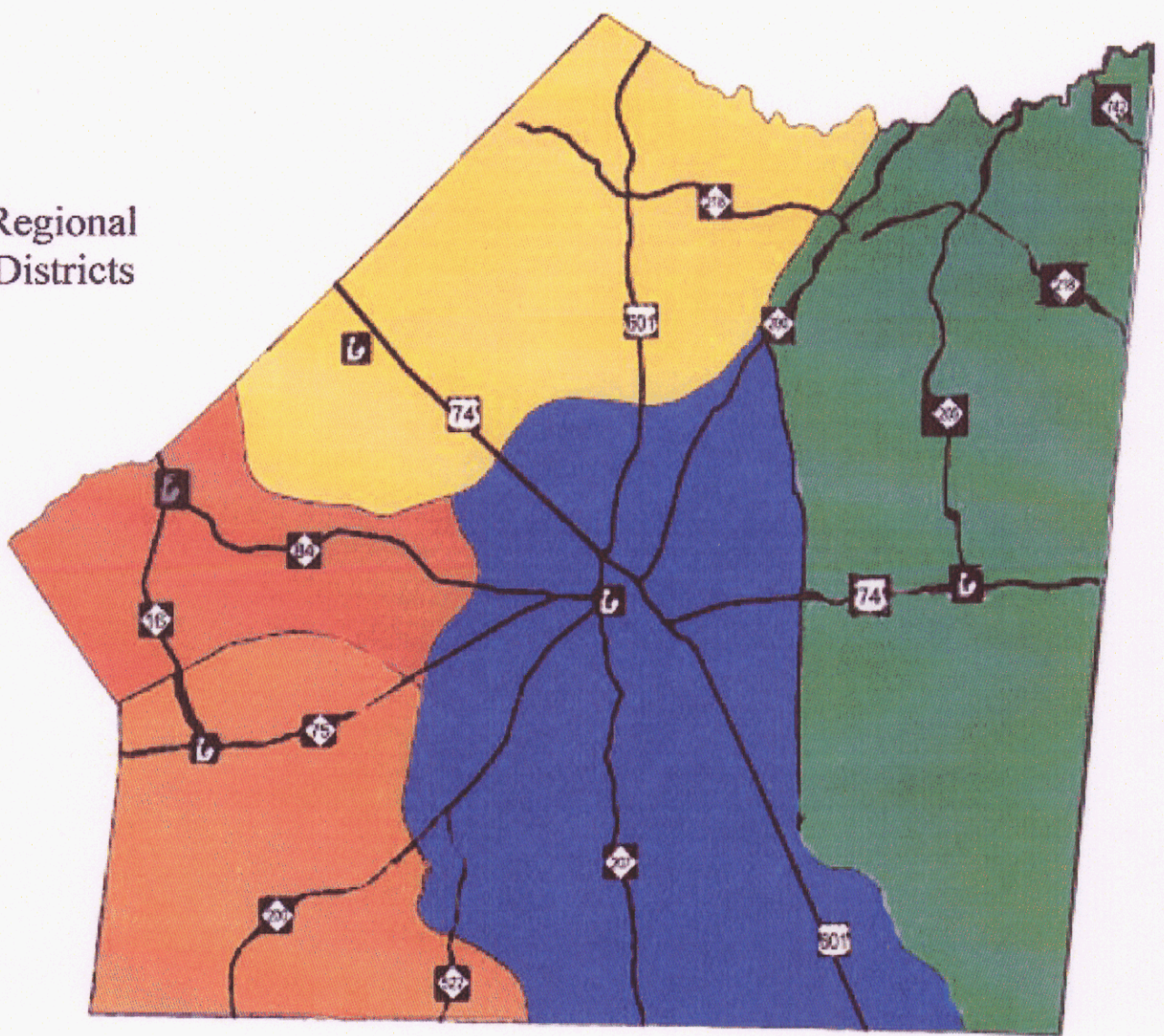
Thomas Carlson-Reddig AIA LEED AP

Richard E. Atkinson  
Michael L. Dyer  
John W. Watson  
James G. Powell  
Robert J. Lauer Jr.  
Tom Carlson-Reddig

ADW Architects, p.a.  
1401 W. Morehead St., Suite 100  
Charlotte, North Carolina 28208  
704.379.1919  
Fax 704.379.1920  
www.adwarchitects.com

# Developing Public Libraries in Union County

Map of Regional  
Library Districts



A Plan of Action developed by the Staff of the Union County (NC) Public Library in  
conjunction with the Board of Trustees, Friends, and the Union County Library Foundation





**§ 153A-266. Powers and duties of trustees**

If a board of trustees is appointed, it shall elect a chairman and may elect other officers. The governing body may delegate to the board of trustees any of the following powers:

- (1) To formulate and adopt programs, policies, and regulations for the government of the library;
- (2) To make recommendations to the governing body concerning the construction and improvement of buildings and other structures for the library system;
- (3) To supervise and care for the facilities of the library system;
- (4) To appoint a chief librarian or director of library services and, with his advice, to appoint other employees of the library system. If some other body or official is to appoint the chief librarian or director of library services, to advise that body or official concerning that appointment;
- (5) To establish, a schedule of fines and charges for late return of, failure to return, damage to, and loss of library materials, and to take other measures to protect and regulate the use of such materials;
- (6) To participate in preparing the annual budget of the library system;
- (7) To extend the privileges and use of the library system to nonresidents of the county or city establishing or supporting the system, on any terms or conditions the board may prescribe.
- (8) To otherwise advise the board of commissioners on library matters.

The board of trustees shall make an annual report on the operations of the library to the governing body of the county or city and shall make an annual report to the Department of Cultural Resources as required by G.S. 125-5. If no board of trustees is established, the governing body shall make the annual report to the Department.

Added by Laws 1973, c. 822, § 1. Amended by Laws 1973, c. 476, § 84.



**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: June 18, 2007

Action Agenda Item No. 9a  
(Central Admin. use only)

**SUBJECT:** Stormwater Permits Required by the State

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**DEPARTMENT:** Public Works - Stormwater                      **PUBLIC HEARING:** No

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**ATTACHMENT(S):** Session Law 2006-246                      **INFORMATION CONTACT:** Richard Black

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**TELEPHONE NUMBERS:**

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**DEPARTMENT'S RECOMMENDED ACTION:** Receive information.

**BACKGROUND:** Beginning July 1, 2007, the North Carolina Division of Water Quality (DWQ) will begin to review plans and issue permits for post-construction stormwater control in Union County as required by 2006 legislative session law. This includes all incorporated areas that do not currently have a NPDES Phase II permit. The post-construction stormwater control permit will be required for new development or redevelopment that will cumulatively disturb one acre or more of land. Session Law 2006-246 included counties that contain an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004. Local stormwater ordinance is being reviewed by Planning Board.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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## STORMWATER POST-CONSTRUCTION REQUIREMENTS

Beginning July 1, 2007, the North Carolina Division of Water Quality (DWQ) will begin to review plans and issue permits for post-construction stormwater control in Union County as required by 2006 legislative session law. Session Law 2006-246 included counties that contain an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004. [Section 4.(a)(a)(5)] This includes all incorporated areas that do not currently have a NPDES Phase II permit. [Section 4.(b)] The post-construction stormwater control permit will be required for new development or redevelopment that will cumulatively disturb one acre or more of land and sets forth these following requirements based on density:

### Low Density Projects

A project is a low-density project if it contains no more than twenty-four percent (24%) built-upon area or no more than two dwelling units per acre.

Low-density projects shall comply with each of the following standards:

- Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.
- All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using division-approved methodology.
- Deed restrictions and protective covenants are required by the permittee to ensure that subsequent development activities

maintain the development (or redevelopment) consistent with the approved plans. The permittee shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

### High Density Projects

A project is a high-density project if it contains more than twenty-four percent (24%) built-upon area or more than two dwelling units per acre.

High-density projects shall implement stormwater control measures that comply with each of the following standards:

- High-density projects must use structural stormwater management systems that will control and treat runoff from the first one inch of rain.
- Draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.
- Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
- All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids;
- General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual;
- All built-upon area shall be at a minimum of 30 feet landward of all perennial and intermittent surface waters. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture, or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-

specific determination made using division-approved methodology.

- Deed restrictions and protective covenants are required by the Permittee to ensure that subsequent development activities maintain the development (or redevelopment) consistent with the approved plans. The Permittee shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

The post-construction stormwater control permit will also include requirements for:

- A recorded Operations & Maintenance agreement that is binding on subsequent owners to ensure the adequate long-term operation of the structural stormwater control measures
- Annual maintenance inspections by the owner(s) on each structural stormwater control measure
- Annual maintenance inspection reports on each stormwater control measure submitted by the owner(s) to DWQ
- Record-keeping

Session Law 2006-246 is attached.

## PROTECTED WATERSHED REQUIREMENTS

The NPDES Phase II permits for Mecklenburg County, the Town of Stallings, and the Town of Indian Trail were challenged by environmental groups as unprotective of the Carolina Heelsplitter. As a result of that challenge, the Administrative Law Judge ruled in favor of the environmental groups. Based on the recommendation given by the Administrative Law Judge, the Environmental Management Commission (EMC) did find that the existing 30 foot and 24% requirements were not adequate to protect the endangered species.

For the protection of the endangered species, the EMC did order permit modifications. These modifications will result in a comprehensive site-specific management plan for the Carolina Heelsplitter protected watersheds. The EMC is instituting the below

temporary protection measures while the site-specific stormwater control measures are being established. Since the EMC directs DWQ on regulations, it is DWQ's plan to implement these measures as well.

In addition to Session Law 2006-246 requirements, the North Carolina Division of Water Quality will implement the following stricter measures in the protected watersheds where the listed endangered species Carolina heelsplitter is found (Duck, Goose, Six Mile, and Waxhaw Creek Watersheds):

- Instead of requiring built-upon areas to be located at least 30 feet landward of all perennial and intermittent surface waters, a two-hundred foot undisturbed buffer on perennial streams and a one-hundred foot undisturbed buffer on intermittent streams will be required. The buffer is measured landward perpendicular to the bank of each side of the stream.
- Instead of a 24% threshold for low-density and high-density projects, a ten percent built-upon area threshold for structural stormwater management controls will be required.

Final agency decision is attached.

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2006-246  
SENATE BILL 1566**

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF FEDERAL PHASE II  
STORMWATER MANAGEMENT REQUIREMENTS AND TO PROTECT  
WATER QUALITY, AS RECOMMENDED BY THE ENVIRONMENTAL  
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Disapproval of Certain Rules. – Pursuant to G.S. 150B-21.3 and S.L. 2003-229, the following rules, as adopted by the Environmental Management Commission and approved by the Rules Review Commission on 17 November 2005, are disapproved:

- 15A NCAC 2H.1014 (Stormwater Management for Urbanizing Areas)
- 15A NCAC 2H.1015 (Urbanizing Area Definitions)
- 15A NCAC 2H.1016 (Urbanizing County Designations)
- 15A NCAC 2H.1017 (Application Schedule and Required Contents)
- 15A NCAC 2H.1018 (Post-Construction Model Practices)
- 15A NCAC 2H.1019 (Exceptions)
- 15A NCAC 2H.0126 (Stormwater Discharges)
- 15A NCAC 2H.0150 (Definitions)
- 15A NCAC 2H.0151 (Public Entity Designations)
- 15A NCAC 2H.0152 (Petitions)
- 15A NCAC 2H.0153 (Application Schedule and Required Contents)
- 15A NCAC 2H.0154 (Implementation Schedule)
- 15A NCAC 2H.0155 (Post-Construction Model Practices)
- 15A NCAC 2H.0156 (Exceptions)

**SECTION 1.(b)** Sunset of 2004 Phase II Stormwater Management Legislation. – Section 15 of S.L. 2004-163 reads as rewritten:

**"SECTION 15.** This act is effective when it becomes law and expires ~~1 October 2011~~ 1 July 2006."

**SECTION 2.** Definitions. – The following definitions apply to this act and its implementation:

- (1) The definitions set out in 40 Code of Federal Regulations § 122.2 (Definitions) and § 122.26(b) (Storm Water Discharges) (1 July 2003 Edition).
- (2) The definitions set out in G.S. 143-212 and G.S. 143-213.
- (3) The definitions set out in 15A NCAC 2H .0103 (Definitions of Terms).

- (4) The definitions set out in 15A NCAC 2H .1002 (Definitions), except for the definitions of "Built-upon area", "Development", and "Redevelopment", which are defined below.
- (5) "One-year, 24-hour storm" means a rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.
- (6) "BMP" means Best Management Practice.
- (7) "Built-upon area" means that portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.
- (8) "Development" means any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.
- (9) "Division" means the Division of Water Quality in the Department.
- (10) "Planning jurisdiction" means the territorial jurisdiction within which a municipality exercises the powers authorized by Article 19 of Chapter 160A of the General Statutes, or a county may exercise the powers authorized by Article 18 of Chapter 153A of the General Statutes.
- (11) "Public entity" means the United States; the State; a city, village, township, county, school district, public college or university, or single-purpose governmental agency; or any other governing body that is created by federal or State law.
- (12) "Redevelopment" means any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control than the previous development.
- (13) "Regulated entity" means any public entity that must obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management for its municipal separate storm sewer system (MS4).
- (14) "Sensitive receiving waters" means any of the following:
  - a. Waters that are classified as high quality, outstanding resource, shellfish, trout, or nutrient-sensitive waters in accordance with subsections (d) and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures).
  - b. Waters that are occupied by or designated as critical habitat for aquatic animal species that are listed as threatened or endangered by the United States Fish and Wildlife Service or the National Marine Fisheries Service under the provisions of



the Endangered Species Act of 1973 (Pub. L. No. 93-205; 87 Stat. 884; 16 U.S.C. §§ 1531, et seq.), as amended.

- c. Waters for which the designated use, as described by the classification system set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures), have been determined to be impaired in accordance with the requirements of subsection (d) of 33 U.S.C. § 1313.
- (15) "Shellfish resource waters" means Class SA waters that contain an average concentration of 500 parts per million of natural chloride ion. Average concentration is determined by averaging the chloride concentrations of five water samples taken one-half mile downstream from the project site that are taken on separate days, within one hour of high tide, and not within 48 hours following a rain event. The chloride ion concentrations are to be determined by a State-certified laboratory.
  - (16) "Significant contributor of pollutants" means a municipal separate storm sewer system (MS4) or a discharge that contributes to the pollutant loading of a water body or that destabilizes the physical structure of a water body such that the contribution to pollutant loading or the destabilization may reasonably be expected to adversely affect the quality and uses of the water body. Uses of a water body shall be determined pursuant to 15A NCAC 2B .0211 through 15A NCAC 2B .0222 (Classifications and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina) and 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).
  - (17) "Total maximum daily load (TMDL) implementation plan" means a written, quantitative plan and analysis for attaining and maintaining water quality standards in all seasons for a specific water body and pollutant.

**SECTION 3.** Program Implementation. – The Commission shall implement the federal Phase II stormwater management requirements set out in 40 Code of Federal Regulations §§ 122.21, 122.26, and 122.28 through 122.37 (1 July 2003 Edition).

**SECTION 4.(a)** Development in Unincorporated Areas of Counties. –

(a) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Section 9 of this act beginning 1 July 2007 if the development is located in:

- (1) An area that is designated as an urbanized area under the most recent federal decennial census.
- (2) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:
  - a. One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.

- b. Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.
  - c. Three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
- (3) An area delineated pursuant to subsection (b) of this section.
- (4) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in subdivision (2) of subsection (a) of this section; (iii) the area delineated pursuant to subsection (b) of this section; (iv) the jurisdiction of a regulated entity designated pursuant to Section 5 of this act; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Section 6 of this act; and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed seventy-five percent (75%) of the total geographic area of the county. For purposes of this subdivision, the stormwater programs administered by the Division are:
- a. Water Supply Watershed I (WS-I) – 15A NCAC 2B.0212.
  - b. Water Supply Watershed II (WS-II) – 15A NCAC 2B.0214.
  - c. Water Supply Watershed III (WS-III) – 15A NCAC 2B.0215.
  - d. Water Supply Watershed IV (WS-IV) – 15A NCAC 2B.0216.
  - e. High Quality Waters (HQW) – 15A NCAC 2H.1006.
  - f. Outstanding Resource Waters (ORW) – 15A NCAC 2H.1007.
  - g. The Coastal Stormwater Program – 15A NCAC 2H.1005.
  - h. The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 2B.0235.
  - i. The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 2B.0258.
  - j. The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 2B.0251.
  - k. Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 2B.0223.
- (5) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.
- (b) Delineation Process. – The Commission shall delineate regulated coverage areas as provided in this subsection.

- (1) Schedule. – The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
- (2) Potential candidate coverage areas. – A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to subdivisions (2) and (3) of Section 5 of this act that:
  - a. Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.
  - b. Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.
  - c. Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
- (3) Identification of candidate coverage areas. – The Commission shall identify an area within a potential candidate coverage area described in sub-subdivision b. of subdivision (2) of this subsection as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
- (4) Notice and comment on candidacy. – The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
- (5) Delineation of regulated coverage areas. – After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
  - a. Adversely impacts water quality.
  - b. Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set

out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).

- (6) Notice of delineation. – The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.

(c) Except as provided in this subsection and Section 10 of this act, the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Section 10 of this act.

**SECTION 4.(b)** Development in Non-Phase II Incorporated Areas in Certain Counties. – Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in subdivisions (4) and (5) of subsection (a) of this section, that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Section 9 of this act beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Section 10 of this act.

**SECTION 5.** Designation of Regulated Entities. – A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity through federal designation, through a State designation process, or under a total maximum daily load (TMDL) implementation plan as provided in this section.

- (1) Federal designation. – A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity pursuant to 40 Code of Federal Regulations § 122.32 (1 July 2003 Edition).
- (2) State designation process. – The Commission shall designate a public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated entity as provided in this subdivision.
  - a. Designation schedule. – The Commission shall implement the designation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
  - b. Identification of candidate regulated entities. – The Commission shall identify a public entity as a candidate for

designation as a regulated entity if the municipal separate storm sewer system (MS4) either:

1. Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that causes or contributes to a violation of water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
  2. Serves a public entity that has not been designated pursuant to subdivision (1) of this section and that has either a population of more than 10,000 or more than 4,000 housing units and either a population density of 1,000 people per square mile or more or more than 400 housing units per square mile.
- c. Notice and comment on candidacy. – The Commission shall notify each public entity identified as a candidate for designation as a regulated entity. After notification of each public entity, the Commission shall publish a list of all public entities within a river basin that have been identified as candidates for designation. The Commission shall accept public comment on the proposed designation of a public entity as a regulated entity for a period of not less than 30 days.
- d. Designation of regulated entities. – After review of the public comment, the Commission shall make a determination on designation for each of the candidate public entities. The Commission shall designate a candidate public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated public entity only if the Commission determines either that:
1. The public entity has an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years.
  2. The public entity has a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years.
  3. The public entity has an actual population increase that exceeds fifteen percent (15%) of its previous population for the previous two years.
  4. The municipal separate storm sewer system (MS4) discharges stormwater that adversely impacts water quality.
  5. The municipal separate storm sewer system (MS4) discharges stormwater that results in a significant contribution of pollutants to receiving waters, taking into

account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications).

- e. Notice of designation. – The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission.
  - f. Application schedule. – A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.
- (3) Designation under a total maximum daily load (TMDL) implementation plan. – The Commission shall designate an owner or operator of a small municipal separate storm sewer system (MS4) as a regulated entity if the municipal separate storm sewer system (MS4) is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

**SECTION 6.** Petition Process. – A petition may be submitted to the Commission to request that an owner or operator of a municipal separate storm sewer system (MS4) or a person who discharges stormwater be required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management as follows:

- (1) Connected discharge petition. – An owner or operator of a permitted municipal separate storm sewer system (MS4) may submit a petition to the Commission to request that a person who discharges into the permitted municipal separate storm sewer system (MS4) be required to obtain a separate Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management. The Commission shall grant the petition and require the person to obtain a separate Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management if the petitioner shows that the person's discharge flows or will flow into the permitted municipal separate storm sewer system (MS4).
- (2) Adverse impact petition. – Any person may submit a petition to the Commission to request that an owner or operator of a municipal separate storm sewer system (MS4) or a person who discharges stormwater be required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
  - a. Petition review. – The Commission shall grant the petition and require the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management if the petitioner shows any of the following:
    1. The municipal separate storm sewer system (MS4) or the discharge discharges or has the potential to discharge stormwater that may cause or contribute to a water quality standard violation.
    2. The municipal separate storm sewer system (MS4) or the discharge provides a significant contribution of pollutants to receiving waters.
    3. The municipal separate storm sewer system (MS4) or the discharge is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313.
  - b. Types of evidence for required showing. – Petitioners may make the required showing by providing to the Commission the following information:
    1. Monitoring data that includes, at a minimum, representative sampling of the municipal separate storm sewer system (MS4) or discharge and information describing how the sampling is representative. The petitioner must notify the owner or operator of the

- municipal separate storm sewer system (MS4) or the person who discharges stormwater of its intent to conduct monitoring activities prior to conducting those activities.
2. Scientific or technical literature that supports the sampling methods.
  3. Study and technical information on land uses in the drainage area and the characteristics of stormwater runoff from these land uses.
  4. A map that delineates the drainage area of the petitioned entity; the location of sampling stations; the location of the stormwater outfalls in the adjacent area of the sampling locations; general features, including, but not limited to, surface waters, major roads, and political boundaries; and areas of concern regarding water quality.
  5. For stormwater discharges to impaired waters, documentation that the receiving waters are impaired or degraded and monitoring data that demonstrates that the municipal separate storm sewer system (MS4) or discharge contributes pollutants for which the waters are impaired or degraded.
  6. For stormwater discharges to nonimpaired waters, monitoring data that demonstrates that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is a significant contributor of pollutants to the receiving waters.
- c. Water quality protection program offset. – If the petitioner makes the required showing, the Commission shall review the effectiveness of any existing water quality protection programs that may offset the need to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in subsections (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 2B .0300, et seq. (Assignment of Stream Classifications). The Commission may deny the petition if it finds that existing water quality protection programs are adequate to address stormwater impacts



on sensitive receiving waters and to ensure compliance with a TMDL implementation plan.

- (3) Petition administration. – The Commission shall process petitions in the following manner:
- a. The Commission shall only accept petitions submitted on Department forms.
  - b. A separate petition must be filed for each municipal separate storm sewer system (MS4) or discharge.
  - c. The Commission shall evaluate only complete petitions. The Commission shall make a determination on the completeness of a petition within 90 days of receipt of the petition, or it shall be deemed complete. If the Commission requests additional information, the petitioner may submit additional information; and the Commission will determine, within 90 days of receipt of the additional information, whether the information completes the petition.
  - d. The petitioner shall provide a copy of the petition and a copy of any subsequent additional information submitted to the Commission to the chief administrative officer of the municipal separate storm sewer system (MS4) or the person in control of the discharge within 48 hours of each submittal.
  - e. The Commission shall post all petitions on the Division Web site and maintain copies available for inspection at the Division's office. The Commission shall accept and consider public comment for at least 30 days from the date of posting.
  - f. The Commission may hold a public hearing on a petition and shall hold a public hearing on a petition if it receives a written request for a public hearing within the public comment period, and the Commission determines that there is a significant public interest in holding a public hearing. The Commission's determination to hold a public hearing shall be made no less than 15 days after the close of the public comment period. The Commission shall schedule the hearing to be held within 45 days of the close of the initial public comment period and shall accept and consider additional public comment through the date of the hearing.
  - g. An additional petition for the same municipal separate storm sewer system (MS4) or discharge received during the public comment period shall be considered as comment on the original petition. An additional petition for the same municipal separate storm sewer system (MS4) or discharge received after the public comment period ends and before the final determination is made shall be considered incomplete and held pending a final determination on the original petition.

1. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, any petitions for that municipal separate storm sewer system (MS4) or discharge that were held shall be considered in the development of the Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management.
  2. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is not required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, an additional petition for the municipal separate storm sewer system (MS4) or discharge must present new information or demonstrate that conditions have changed in order to be considered. If new information is not provided, the petition shall be returned as substantially incomplete.
- h. The Commission shall evaluate a petition within 180 days of the date on which it is determined to be complete. If the Commission determines that the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater is required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, the Commission shall notify the owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater within 30 days of the requirement to obtain the permit. The owner or operator of the municipal separate storm sewer system (MS4) or the person who discharges stormwater must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.

**SECTION 7. Permit Standards.** – To obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management, an applicant shall, to the extent authorized by law, develop, implement, and enforce a stormwater management plan approved by the Commission that satisfies the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). The evaluation of the post-construction stormwater management measures required by 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition) shall be conducted as provided in Section 9 of this act. Regulated entities may

propose using any existing State or local program that relates to the minimum measures to meet, either in whole or in part, the requirements of the minimum measures.

**SECTION 8.** Exclusions from Post-Construction Practices. – The post-construction practices required by Section 9 of this act shall not apply to any of the following:

- (1) Development in an area where the requirements of Section 9 of this act are applicable that is conducted pursuant to one of the following authorizations, provided that the authorization was obtained prior to the effective date of the post-construction stormwater control requirements in the area and the authorization is valid, unexpired, unrevoked, and not otherwise terminated:
  - a. A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.
  - b. A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5).
  - c. A phased development plan approved pursuant to G.S. 153A-344.1 for a project located in the unincorporated area of a county that is subject to the requirements of Section 9 of this act, if the Commission is responsible for implementation of the requirements of Section 9 of this act, that shows:
    1. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved pursuant to G.S. 153A-330 through G.S. 153A-335.
    2. For any subsequent phase of development, sufficient detail so that implementation of the requirements of Section 9 of this act to that phase of development would require a material change in that phase of the plan.
  - d. A vested right to the development under G.S. 153A-344(b), 153A-344.1, 160A-385(b), or 160A-385.1 issued by a local government that implements Section 9 of this act.
  - e. A vested right to the development pursuant to common law.

(2) Redevelopment.

**SECTION 9.** Post-Construction Practices. –

(a) For post-construction requirements, a program will be deemed compliant for the areas where it is implementing any of the following programs:

- (1) Water Supply Watershed I (WS-I) – 15A NCAC 2B.0212.
- (2) Water Supply Watershed II (WS-II) – 15A NCAC 2B.0214.
- (3) Water Supply Watershed III (WS-III) – 15A NCAC 2B.0215.
- (4) Water Supply Watershed IV (WS-IV) – 15A NCAC 2B.0216.
- (5) Freshwater High Quality Waters (HQW) – 15A NCAC 2H.1006.
- (6) Freshwater Outstanding Resource Waters (ORW) – 15A NCAC 2H.1007.

- (7) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 2B.0235.
- (8) The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 2B.0258.
- (9) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 2B.0251.

(b) In order to fulfill the post-construction minimum measure program requirement, a permittee, delegated program, or regulated entity may use the Department's model ordinance, design its own post-construction practices based on the Department's guidance on scientific and engineering standards for best management practices (BMPs), incorporate the post-construction model practices described in this act, or develop its own comprehensive watershed plan that is determined by the Department to meet the post-construction stormwater management measure required by 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition).

(c) Permittees, delegated programs, and regulated entities must require stormwater controls for a project that disturbs one acre or more of land, including a project that disturbs less than one acre of land that is part of a larger common plan of development or sale. The stormwater controls shall be appropriate to the project's level of density as follows:

- (1) Post-construction model practices for low-density projects. – A project that is located within one-half mile of and draining to Shellfish Resource Waters is a low-density project if it contains no more than twelve percent (12%) built-upon area. A project that is not located within one-half mile of Shellfish Resource Waters is a low-density project if it contains no more than twenty-four percent (24%) built-upon area or no more than two dwelling units per acre. Low-density projects must use vegetated conveyances to the maximum extent practicable to transport stormwater runoff from the project. On-site stormwater treatment devices such as infiltration areas, bioretention areas, and level spreaders may also be used as added controls for stormwater runoff. A project with an overall density at or below the low-density thresholds, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for low-density projects and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.
- (2) Post-construction model practices for high-density projects. – A project that is located within one-half mile of and draining to Shellfish Resource Waters is a high-density project if it contains more than twelve percent (12%) built-upon area. A project that is not located within one-half mile of Shellfish Resource Waters is a high-density project if it contains more than twenty-four percent (24%) built-upon area or more than two dwelling units per acre. High-density projects

must use structural stormwater management systems that will control and treat runoff from the first one inch of rain unless the project is in a county that is subject to the Coastal Area Management Act of 1974, in which case the project must use structural stormwater management systems that will control and treat runoff from the first one and one-half inches of rain. In addition, projects that are located within one-half mile and draining to Shellfish Resource Waters must control and treat the difference in the stormwater runoff from the predevelopment and post-development conditions for the one-year, 24-hour storm. The structural stormwater management system must also meet the following design standards:

- a. Draw down the treatment volume no faster than 48 hours, but no slower than 120 hours.
- b. Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one-year, 24-hour storm.
- c. Remove an eighty-five percent (85%) average annual amount of Total Suspended Solids.
- d. Meet the General Engineering Design Criteria set out in 15A NCAC 02H .1008(c).
- e. Wet detention ponds designed in accordance with the requirements of subsection (h) of this section may be used for projects draining to Class SA waters.

(d) Permittees, delegated programs, and regulated entities must require built-upon areas to be located at least 30 feet landward of all perennial and intermittent surface waters. For purposes of this section, a surface water shall be present if the feature is shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). Relief from this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 02B .0233(3)(a). In addition, an exception to this requirement may be pursued in accordance with subsection (a) of Section 11 of this act.

(e) Permittees, delegated programs, and regulated entities must implement or require a fecal coliform reduction program that controls, to the maximum extent practicable, the sources of fecal coliform. At a minimum, the program shall include the development and implementation of an oversight program to ensure proper operation and maintenance of on-site wastewater treatment systems for domestic wastewater. For municipalities, this program may be coordinated with local county health departments.

(f) Permittees, delegated programs, and regulated entities must impose or require recorded deed restrictions and protective covenants that ensure development activities will maintain the project consistent with approved plans.

(g) Permittees, delegated programs, and regulated entities must implement or require an operation and maintenance plan that ensures the adequate long-term operation of the structural BMPs required by the program. The operation and

maintenance plan must require the owner of each structural BMP to submit a maintenance inspection report on each structural BMP annually to the local program.

(h) For areas draining to Class SA waters, permittees, delegated programs, and regulated entities must:

- (1) Use BMPs that result in the highest degree of fecal coliform die-off and control to the maximum extent practicable sources of fecal coliform while still incorporating the stormwater controls required by the project's density level.
- (2) Implement a program to control the sources of fecal coliform to the maximum extent practicable, including a pet waste management component, which may be achieved by revising an existing litter ordinance, and an on-site domestic wastewater treatment systems component to ensure proper operation and maintenance of such systems, which may be coordinated with local county health departments.
- (3) Prohibit new points of stormwater discharge to Class SA waters and prohibit both increases in the volume of stormwater flow through conveyances and increases in capacity of conveyances in existing stormwater conveyance systems that drain to Class SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin must not increase the net amount or rate of stormwater discharge through existing outfalls to Class SA waters. Diffuse flow of stormwater at a nonerosive velocity to a vegetated buffer or other natural area capable of providing effective infiltration of the runoff from the one-year, 24-hour storm shall not be considered a direct point of stormwater discharge. Consideration shall be given to soil type, slope, vegetation, and existing hydrology when evaluating infiltration effectiveness.

(i) For areas draining to Trout Waters, permittees, delegated programs, and regulated entities must:

- (1) Use BMPs that avoid a sustained increase in the receiving water temperature, while still incorporating the stormwater controls required for the project's density level.
- (2) Allow on-site stormwater treatment devices such as infiltration areas, bioretention areas, and level spreaders as added controls.

(j) For areas draining to Nutrient Sensitive Waters, permittees, delegated programs, and regulated entities must:

- (1) Use BMPs that reduce nutrient loading, while still incorporating the stormwater controls required for the project's density level. In areas where the Department has approved a Nutrient Sensitive Water Urban Stormwater Management Program, the provisions of that program fulfill the nutrient loading reduction requirement. Nutrient Sensitive Water Urban Stormwater Management Program requirements are found in 15A NCAC 02B .0200.

- (2) Implement a nutrient application management program for both inorganic fertilizer and organic nutrients to reduce nutrients entering waters of the State.

(k) For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.

(l) Nothing in this section shall limit, expand, or alter the requirement that a discharge fully comply with all applicable State or federal water quality standards.

**SECTION 10.** Delegation. – A public entity that does not administer a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management throughout the entirety of its planning jurisdiction and whose planning jurisdiction includes a regulated coverage area under Section 4 of this act may submit a stormwater management program for its regulated coverage area or a portion of its regulated coverage area to the Commission for approval pursuant to G.S. 143-214.7(c). An ordinance or regulation adopted by a public entity shall at least meet and may exceed the minimum requirements of Section 9 of this act. Two or more public entities are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolution, memorandum of agreement, or other document that establishes any joint program must be duly recorded in the minutes of the governing body of each public entity participating in the program, and a certified copy of each resolution must be filed with the Commission. The Commission shall review each proposed program submitted to it to determine whether the submission is complete. Within 90 days after the receipt of a complete submission, the Commission shall notify the public entity submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of Section 9 of this act. If the Commission determines that any public entity is failing to administer or enforce an approved stormwater management program, it shall notify the public entity in writing and shall specify the deficiencies of administration and enforcement. If the public entity has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the public entity indicates its willingness and ability to resume administration and enforcement of the program.

**SECTION 11.(a)** Exceptions. – The Department or an appropriate local authority, pursuant to Article 18 of G.S. 153A or Article 19 of G.S. 160A, may grant exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirement as follows:

- (1) An exception may be granted if the application meets all of the following criteria:
  - a. Unnecessary hardships would result from strict application of the act.

- b. The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
  - c. The hardships did not result from actions taken by the petitioner.
  - d. The requested exception is consistent with the spirit, purpose, and intent of this act; will protect water quality; will secure public safety and welfare; and will preserve substantial justice. Merely proving that the exception would permit a greater profit from the property shall not be considered adequate justification for an exception.
- (2) Notwithstanding subdivision (1) of this section, exceptions shall be granted in any of the following instances:
- a. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
  - b. When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.
  - c. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.
- (3) Reasonable and appropriate conditions and safeguards may be imposed upon any exception granted.
- (4) Local authorities must document the exception procedure and submit an annual report to the Department on all exception proceedings.
- (5) Appeals of the Department's exception decisions must be filed with the Office of Administrative Hearings, under G.S. 150B-23. Appeals of a



local authority's exception decisions must be made to the appropriate Board of Adjustment or other appropriate local governing body, under G.S. 160A-388 or G.S. 153A-345.

**SECTION 11.(b) Exemption.** – A municipality with a population of less than 1,000, including a municipality designated as an urbanized area under the most recent federal decennial census, is not required to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management unless the municipality is shown to be contributing to an impairment of State waters, as determined under the requirements of 33 U.S.C. § 1313(d).

**SECTION 11.(c) Waiver.** – The Department may waive the Phase II National Pollutant Discharge Elimination System (NPDES) permit requirement pursuant to 40 Code of Federal Regulations §§ 122.32(d) or (e) (1 July 2003 Edition).

**SECTION 12. Implementation Schedule.** – The requirements of this act shall be implemented as follows:

- (1) A regulated entity must apply within 18 months of notification by the Department that the regulated entity is subject to regulation pursuant to Sections 4, 5, or 6 of this act.
- (2) Public education and outreach minimum measures shall be implemented no later than 12 months from date of permit issuance.
- (3) A regulated entity must implement its post-construction program no later than 24 months from the date the permit is issued.
- (4) The Department shall include permit conditions that establish schedules for implementation of each minimum measure of the regulated entity's stormwater management program based on the submitted application so that the regulated entity fully implements its permitted program within five years from permit issuance.

**SECTION 13. Federal and State Projects.** – The Commission shall have jurisdiction, to the exclusion of local governments, to issue a National Pollutant Discharge Elimination System (NPDES) permit for stormwater management to a federal or State agency that applies to all or part of the activities of the agency or that applies to the particular project. If a federal or State agency does not hold a Phase I or Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management that applies to the particular project, then the project is subject to the stormwater management requirements of this act as implemented by the Commission or by a local government. The provisions of G.S. 153A-347 and G.S. 160A-392 apply to the implementation of this act.

**SECTION 14. General Permit.** – The Commission shall develop and issue a Phase II National Pollutant Discharge Elimination System (NPDES) general permit for stormwater management. The general permit requirements for post-construction stormwater management measures required by 40 Code of Federal Regulations § 122.34(b)(5) (1 July 2003 Edition) shall require a permittee to meet the standards set out in Section 9 of this act but shall not impose any requirement on the permittee that exceeds the standards set out in Section 9 of this act. After the Commission has issued a Phase II National Pollutant Discharge Elimination System (NPDES) general permit for

stormwater management, a public entity that has applied for a permit may submit a notice of intent to be covered under the general permit to the Commission. The Commission shall treat an application for a permit as an application for an individual permit unless the applicant submits a notice of intent to be covered under a general permit under this section.

**SECTION 15. Additional Rule Making.** – The Commission may adopt rules to replace the rules that are disapproved as provided in subsection (a) of Section 1 of this act. If the Commission adopts rules pursuant to this section, notwithstanding G.S. 150B-19(4), the rules shall be substantively identical to the provisions of Sections 2 through 13 of this act. The Commission may reorganize or renumber any of the rules to which this section applies at its discretion. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).

**SECTION 16.(a)** G.S. 47-29.1 is amended by adding a new subsection to read:

"(h) A land-use restriction that provides for the maintenance of stormwater best management practices or site consistency with approved stormwater project plans shall be recorded as provided in G.S. 143-214.7(c1)."

**SECTION 16.(b)** G.S. 143-214.7 is amended by adding a new subsection to read:

"(c1) Any land-use restriction providing for the maintenance of stormwater best management practices or site consistency with approved stormwater project plans filed pursuant to a rule of the Commission, local ordinance, or permit approved by the Commission shall be enforced by any owner of the land on which the best management practice or project is located, any adjacent property owners, any downstream property owners who would be injured by failure to enforce the land-use restriction, any local government having jurisdiction over any part of the land on which the best management practice or project is located, or the Department through the remedies provided by any provision of law that is implemented or enforced by the Department or by means of a civil action, without first having exhausted any available administrative remedies. A land-use restriction providing for the maintenance of stormwater best management practices or site consistency with approved stormwater project plans filed pursuant to a rule of the Commission, local ordinance, or permit approved by the Commission shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this section shall abide by the land-use restriction."

**SECTION 17.(a)** County Stormwater Control Ordinances. – Article 23 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-454. Stormwater control.**

(a) A county may adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. A county may adopt a stormwater

management ordinance pursuant to this Chapter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a county stormwater control ordinance unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A county may take enforcement action to compel a State or local government agency to comply with a stormwater control ordinance that implements the National Pollutant Discharge Elimination System (NPDES) stormwater permit issued to the county. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a county may take enforcement action to compel a federal government agency to comply with a stormwater control ordinance.

(c) A county may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A county that holds a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to G.S. 143-214.7 may adopt an ordinance to establish the stormwater control program necessary for the county to comply with the permit. A county may adopt an ordinance that bans illicit discharges. A county may adopt an ordinance that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project."

**SECTION 17.(b) City Stormwater Control Ordinances.** – Part 8 of Article 19 of Chapter 160A of the General Statutes is amended by adding a new section to read: "**§ 160A-459. Stormwater control.**

(a) A city may adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. A city may adopt a stormwater management ordinance pursuant to this Chapter, its charter, other applicable laws, or any combination of these powers.

(b) A federal, State, or local government project shall comply with the requirements of a city stormwater control ordinance unless the federal, State, or local government agency has a National Pollutant Discharge Elimination System (NPDES) stormwater permit that applies to the project. A city may take enforcement action to compel a State or local government agency to comply with a stormwater control ordinance that implements the National Pollutant Discharge Elimination System (NPDES) stormwater permit issued to the city. To the extent permitted by federal law, including Chapter 26 of Title 33 of the United States Code, a city may take enforcement action to compel a federal government agency to comply with a stormwater control ordinance.

(c) A city may implement illicit discharge detection and elimination controls, construction site stormwater runoff controls, and post-construction runoff controls

through an ordinance or other regulatory mechanism to the extent allowable under State law.

(d) A city that holds a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to G.S. 143-214.7 may adopt an ordinance, applicable within its corporate limits and its planning jurisdiction, to establish the stormwater control program necessary for the city to comply with the permit. A city may adopt an ordinance that bans illicit discharges within its corporate limits and its planning jurisdiction. A city may adopt an ordinance, applicable within its corporate limits and its planning jurisdiction, that requires (i) deed restrictions and protective covenants to ensure that each project, including the stormwater management system, will be maintained so as to protect water quality and control water quantity and (ii) financial arrangements to ensure that adequate funds are available for the maintenance and replacement costs of the project.

(e) Unless the city requests the permit condition in its permit application, the Environmental Management Commission may not require as a condition of a National Pollutant Discharge Elimination System (NPDES) stormwater permit issued pursuant to G.S. 143-214.7 that a city implement the measure required by 40 Code of Federal Regulations § 122.34(b)(3) (1 July 2003 Edition) in its extraterritorial jurisdiction."

**SECTION 18.** Construction of Act. –

- (1) Except as specifically provided in Section 15 of this act, nothing in this act shall be construed to limit, expand, or otherwise alter the authority of the Environmental Management Commission or any unit of local government.
- (2) The exclusions from the requirement to obtain a Phase II National Pollutant Discharge Elimination System (NPDES) permit set out in 40 Code of Federal Regulations § 122.3 (1 July 2003 Edition), including the exclusions for certain nonpoint source agricultural and silvicultural activities, apply to the provisions of this act.
- (3) This act shall not be construed to affect any delegation of any power or duty by the Commission to the Department or subunit of the Department.
- (4) The definitions of 'development' and 'redevelopment' set out in this act do not alter or amend the definition of 'redevelopment' set out in G.S. 113A-103 and do not apply to the Coastal Area Management Act of 1974, Article 7 of Chapter 113A of the General Statutes.
- (5) As used in Section 9 of this act, the phrase 'common plan of development or sale' shall be interpreted and implemented in a manner consistent with the memorandum referenced as 'Guidance Interpreting Phase II Stormwater Requirements' from the Director of the Division of Water Quality of the Department of Environment and Natural Resources to Interested Parties dated 24 July 2006.

**SECTION 19.** Certain Provisions of Act Not Codified; Set Out As Note. – Except for Sections 16 and 17 of this act, notwithstanding G.S. 164-10, the Revisor of Statutes shall not codify any of the provisions of this act. The Revisor of Statutes shall

set out the text of this act as a note to G.S. 143-214.7 and may make notes concerning this act to other sections of the General Statutes as the Revisor of Statutes deems appropriate.

**SECTION 20. Effective Date.** – This act is effective retroactively to 1 July 2006. Sections 2 through 13 of this act expire when permanent rules to replace those sections have become effective as provided by Section 15 of this act.

In the General Assembly read three times and ratified this the 27<sup>th</sup> day of July, 2006.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 11:50 a.m. this 16<sup>th</sup> day of August, 2006

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE  
ENVIRONMENTAL MANAGEMENT  
COMMISSION  
05 EHR 2055  
06 EHR 0164

NORTH CAROLINA WILDLIFE )  
FEDERATION, CENTRAL PIEDMONT )  
GROUP of the NC SIERRA CLUB )

Petitioner, )

v. )

NORTH CAROLINA )  
DEPARTMENT OF ENVIRONMENT )  
AND NATURAL RESOURCES, )  
DIVISION OF WATER QUALITY, )  
Respondent. )

**FINAL AGENCY DECISION**

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THIS MATTER came before the NPDES Committee of the Environmental Management Commission (hereinafter the "Committee") for final agency decision pursuant to N.C.G.S. §150B-36 and § 143B-282.1 at the regularly scheduled meeting in Raleigh, North Carolina on January 10, 2007, and was concluded at the adjourned meeting on February 8, 2007. The North Carolina Wildlife Federation and Central Piedmont Group of the NC Sierra Club (hereinafter "Petitioners") were represented by John Suttles, Esquire and Amy Pickle, Esquire of Chapel Hill, North Carolina and the Department of Environment and Natural Resources, Division of Water Quality (hereinafter "Respondent") was represented by Assistant Attorney General Donald W. Laton.

This matter was heard before Fred G. Morrison, Jr., Senior Administrative Law Judge, on July 19 and 20, 2006 in Raleigh, North Carolina. The Joint Motion to Consolidate the cases was allowed on March 23, 2006 and the Respondent's Motion to Join Additional Parties was denied on July 5, 2006. The Judge's recommendation for decision and the official administrative record were transmitted to the Environmental Management Commission on October 24, 2006. The Chairman entered an Order on December 1, 2006, extending the time for making the final agency decision. This contested case is an appeal of the NPDES Phase II stormwater permits issued to Mecklenburg County, the Town of Stallings and the Town of Indian Trail for the control of stormwater discharges into the Goose Creek watershed in Mecklenburg and Union Counties.

After considering the administrative record as originally received from the Office of Administrative Hearings, the Judge's recommendation for decision, written exceptions and arguments, the NPDES Committee of the Environmental Management Commission, upon duly made motion and unanimous vote, made the final agency decision on February 8, 2007. This Final Agency Decision orders the remand of the three NPDES Phase II stormwater permits to the Director of the

Division of Water Quality for modification and re-issuance with the following option for terms and conditions applicable to those portions of the Goose Creek watershed present within each permittee's local government jurisdiction where the listed endangered species Carolina heelsplitter is found:

- a. contain two-hundred foot undisturbed buffers on perennial streams; one-hundred foot undisturbed buffers on intermittent streams; and a ten percent impervious surface threshold for engineered stormwater management controls in the interim period until the comprehensive plan for the Carolina heelsplitter in the Goose Creek watershed is adopted; or
- b. the permits shall comply with the conditions and management measures of the site-specific comprehensive plan for protection of the Carolina heelsplitter when adopted by Environmental Management Commission; and
- c. the permits shall provide, at a minimum, the criteria set forth in the applicable statutes and rules for meeting the minimum requirements for NPDES Phase II stormwater permits and comply with the pollutant load limitations of the TMDL for the Goose Creek watershed.

#### ISSUES

1. Whether Respondent exceed its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily and capriciously, or failed to act as required by law or rule in issuing NPDES Permit Nos. NCS000453, NCS000454, and NCS000395 without ensuring the permits will comply with all applicable state water quality standards as required by 40 C.F.R. § 122.44(d) (2006) and N.C.G.S. § 143-215.1(a)(6) (2006)?
2. Whether Respondent erred in issuing NPDES Permit Nos. NCS000453, NCS000454, and NCS000395 without requiring measures that will reduce discharges of pollutants to the maximum extent practicable as required by 40 C.F.R. § 122.34(a) (2005)?
3. Whether Respondent erred in issuing NPDES Permit Nos. NCS000453, NCS000454, and NCS000395 without including effluent limits and conditions necessary to meet the requirements of the waste load allocation in the Goose Creek Total Maximum Daily Load (TMDL) as required by 40 C.F.R. § 122.44(d)(1)(vii)(B) (2006)?

#### STIPULATIONS BY THE PARTIES

##### Procedural Stipulations:

1. North Carolina Wildlife Federation and Central Piedmont Group of the NC Sierra Club are entitled to bring these consolidated contested cases as "person[s] aggrieved" within the meaning of N.C.G.S. § 150B-2(6) and 23 (2006).
2. Petitioners timely filed Petitions for Contested Case Hearings to challenge three Phase



II Stormwater Permits identified as NPDES Permit No. NCS000453 issued to the Town of Stallings, NPDES Permit No. NCS000454 issued to the Town of Indian Trail, and NPDES Permit No. NCS000395 issued to Mecklenburg County.

3. Petitioners have the burden of proof to establish facts that Respondent has erred in one or more of the ways set forth in N.C.G.S. § 150B-23(a).

4. Presentation of Evidence:

(a) Petitioners shall present evidence first to show that the three stormwater permits do not “reasonably ensure compliance with applicable water quality standards and regulations of all effected states.” 15A NCAC 2H .0112(c) (2006).

(b) If necessary, respondent may then present evidence to show that the three stormwater permits at issue “reasonably ensure compliance with applicable water quality standards and regulations of all effected states.”

5. Each of the Exhibits identified in the prehearing order is an authentic copy of the original, is a public record or a business or agency record kept in the ordinary course of business, and may be introduced into evidence without further identification of proof, all subject to objections for relevance.

#### Factual Stipulations:

1. The federal Clean Water Act requires certain governmental entities to control stormwater pollution into public waters. 33 U.S.C. § 1342(p)(2) (2005).

2. These governmental entities are required to obtain National Pollutant Discharge Elimination System (“NPDES”) permits to eliminate or reduce to the maximum extent practicable discharges of pollution from stormwater.

3. The permitting program for stormwater discharges has been implemented in two phases. In Phase II, certain municipalities designated as “urbanizing” that serve less than 100,000 are required to obtain NPDES Phase II stormwater permits.

4. To meet federal Clean Water Act and state law requirements, the Towns of Indian Trail and Stallings, and Mecklenburg County, including the town of Mint Hill, were required to obtain Phase II stormwater discharge permits.

5. The federal regulations governing Phase II require owners and operators of municipal storm sewer systems (“MS4s”) to apply for NPDES permits which require the implementation of six minimum measures within their stormwater systems to control pollution. 40 C.F.R. §122.21(a) (2005). The six minimum measures consist of: (1) public education and outreach on stormwater impacts; (2) public involvement and participation in program design; (3) illicit discharge detection and elimination; (4) construction site stormwater pollution control; (5) post construction stormwater management; and (6) pollution prevention and good housekeeping measures. 40 C.F.R. § 122.34(b)

(2005).

6. Respondent issued a final NPDES Phase II stormwater permit to Mecklenburg County, including the Town of Mint Hill, on June 15, 2005, with effective dates of July 1, 2005, through June 30, 2010.

7. Respondent issued a final NPDES Phase II stormwater permit to the Town of Indian Trail on September 1, 2005, with effective dates of October 1, 2005, through September 30, 2010.

8. Respondent issued a final NPDES Phase II stormwater permit to the Town of Stallings on September 7, 2005, with effective dates of October 1, 2005, through September 30, 2010.

9. Goose Creek is a perennial stream fed by a number of perennial, intermittent and ephemeral tributaries. Goose Creek is a tributary to the Rocky River, which is in turn a tributary to the Pee Dee River (the lower part of the Yadkin River). The Goose Creek watershed is located in southeastern Mecklenburg County and northwestern union County, North Carolina. Portions of the Towns of Indian Trail, Stallings, and Mint Hill drain into the goose Creek watershed.

10. The Carolina heelsplitter is a species of freshwater mussel. The US Fish & Wildlife Service ("USFWS") listed the Carolina heelsplitter as endangered pursuant to the provisions of the Endangered Species Act on June 30, 1993. 58 Fed. Reg. 34,926 (June 30, 1993).

11. The Goose Creek watershed contains one of only seven remaining populations of the Carolina heelsplitter. In July 2003, the USFWS designated critical habitat for the Carolina heelsplitter, including portions of the main stems of Goose Creek and Duck Creek in Union County. 67 Fed. Reg. 44,502-44, 521 (July 2, 2002) Since the USFWS listed the Carolina heelsplitter as endangered, it has discovered two additional populations, raising the total to nine.

12. Goose Creek has its headwaters in southeastern Mecklenburg County within the jurisdiction of the Town of Mint Hill. Stormwater runoff from Mint Hill flows into Goose Creek at its headwaters and travels downstream into the critical habitat for the Carolina heelsplitter. Stormwater runoff from Indian Trail and Stallings flows into Goose Creek and travels downstream into the critical habitat for the Carolina heelsplitter.

13. The North Carolina Wildlife Resources Commission ("WRC") and the USFWS have jointly submitted to Respondent a draft technical support document containing their recommendations for a sit-specific management plan to protect and preserve habitat for threatened or endangered species in Goose Creek.

14. The WRC, in coordination with the USFWS, also has issued guidelines regarding water quality conditions required to sustain and recover federally listed endangered species, including the Carolina heelsplitter.

15. The NPDES Phase II stormwater permits Respondent issued to the Towns of Indian Trail and Stallings and Mecklenburg County, set the imperviousness threshold at twenty-four percent and require thirty-foot buffers on perennial and intermittent streams in the Goose Creek watershed.

16. Under the NPDES Phase II permits Respondent issued to the Towns of Indian Trail and Stallings and Mecklenburg County, developments with a built upon area less than twenty-four percent are not required to implement engineered stormwater management controls to treat stormwater pollution.

17. Goose Creek does not meet water quality standards for fecal coliform. In 1998, Respondent placed Goose Creek on the 303(d) list of impaired waters due to fecal coliform violations. According to Respondent's listing document, the causes of water quality impairment in Goose Creek include construction activities and urban runoff/storm sewers. Goose Creek remains on the 303(d) list of impaired waters through the present.

18. On April 20, 2005, Respondent finalized and submitted to the US EPA Total Maximum Daily Loads ("TMDL") for Fecal Coliform for Goose Creek. The TMDL allocates allowable pollutant loads from known sources so that required actions may be taken to restore the water to its intended uses.

19. The US EPA approved and finalized the Goose Creek TMDL without substantial change on July 8, 2005.

20. The waste load allocation in the Goose Creek TMDL requires a ninety-two point five percent reduction of fecal coliform discharges from existing MS4s. EPA approved and finalized the Goose Creek TMDL without substantial change on July 8, 2005.

21. The Goose Creek TMDL specifically requires a ninety-two point five percent reduction of fecal coliform discharges from the MS4s in Indian Trail, Stallings, and Mint Hill. in order to meet water quality standards.

22. Petitioners voluntarily agree to dismiss as a non-suit and without prejudice claims brought under Section 9 of the Endangered Species Act in these consolidated cases.

23. Each of the Exhibits identified in the prehearing order is an authentic copy of the original, is a public record or a business or agency record kept in the ordinary course of business, and may be introduced into evidence without further identification of proof, all subject to objections for relevance.

Based upon careful consideration of the whole record and by a preponderance of the admissible evidence, including the testimony and evidence received during the contested case hearing, the NPDES Committee of the Environmental Management Commission makes the following:

## FINDINGS OF FACT<sup>1</sup>

1. Petitioner Central Piedmont Group of the North Carolina Sierra Club is a nonprofit organization. Central Piedmont Group is the local Sierra Club member group in Mecklenburg County. Central Piedmont Group members use, enjoy, and benefit aesthetically and recreationally from the Goose Creek watershed. Central Piedmont Group also had members who live within the Goose Creek watershed.

2. Petitioner North Carolina Wildlife Federation is a not-for-profit corporation founded in 1945. NCWF, which is an affiliate of the National Wildlife Federation (“NWF”), has 17,000 members in North Carolina. NWF has approximately 5 million members, including 25,000 members in North Carolina. NCWF has members who use, enjoy, and benefit aesthetically and recreationally from the goose Creek watershed. NCWF also has members who live within the Goose Creek watershed.

3. Respondent North Carolina Department of Environment and Natural Resources (“NCDENR”) Division of Water Quality (“DWQ”) is the state agency charged with protecting water quality and has been delegated the authority to issue NPDES permits under the Clean Water Act.

4. Petitioners’ witness, Thomas Blue, is an expert in the field of stormwater engineering and hydrology with a particular expertise in engineered stormwater controls, impervious surface limits, land development, and water quality modeling related to developing Total Maximum Daily Loads (“TMDL”).

5. Petitioners’ witness, John Fridell, a wildlife biologist with the United States Fish and Wildlife Service (“USFWS”), is an expert in wildlife biology with a particular expertise in the protection and recovery of the federally endangered Carolina heelsplitter.

6. Respondent’s witness, Michael F. Randall, is an environmental engineer with the Division of Water Quality’s Stormwater Permitting Unit. He has over thirty-four years of experience with environmental issues including stormwater permit applications and development of stormwater management plans. Mr. Randall was one of four permit writers and was involved in discussions regarding the development of the three challenged NPDES permits, but was not in charge of drafting any of them. After the Mecklenburg County permit was issued, he took over the implementation of the permit.

G.S. § 150B-36 justification: Mr. Randall testified to his work experience involving stormwater management prior to joining the Division of Water Quality and to his current responsibilities in the Stormwater Permitting Unit. (T pp 178-79; 181, 188) On this evidence, which is a preponderance,

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<sup>1</sup> Deletions from the findings of fact and conclusions of law of the Administrative Law Judge are marked with strike-throughs, thusly: ~~deletion~~. Additions to the findings of fact are marked with underlines, thusly: addition.

the finding of fact is clarified with the additional language.

7. Respondent's witness, Kenneth Pickle, is a civil engineer with a masters degree in environmental engineering and is an environmental engineer with the Division of Water Quality's Stormwater Permitting Unit. Mr. Pickle was involved in drafting and noticing the NPDES Phase II stormwater permits for the towns of Indian Trail and Stallings. He was identified as the individual to provide public information on the draft permits.

G.S. § 150B-36 justification: Mr. Pickle testified to his educational background and his responsibility in the Stormwater Permitting Unit for drafting and noticing NPDES stormwater permits. (T pp 258, 262) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

8. Respondent's witness, Tilman Bradley Bennett, holds bachelor and masters degrees in biological and agricultural engineering and is the supervisor of the Division of Water Quality's Stormwater Permitting Unit. Mr. Bennett's responsibilities include oversight for all of the State's stormwater permitting programs, including the NPDES Phase II program

G.S. § 150B-36 justification: Mr. Bennett testified to his educational background and his current responsibilities in the Stormwater Permitting Unit. (Tp 313) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

9. Respondent's witness, Thomas Reeder, is the manager of the Division of Water Quality's Wetlands and Stormwater Branch. Mr. Reeder's responsibilities include oversight of any programs that are associated with wetlands and stormwater management in the State. Mr. Reeder holds a masters degree in science and engineering and environmental management and, with past experience with endangered species issues for the military. Before his current assignment, he was responsible for the development and implementation of the site-specific management plans under 15A NCAC .2B .0110 for the protection of federally listed aquatic species in North Carolina.

G.S. § 150B-36 justification: Mr. Reeder testified to his work experience involving listed endangered species prior to joining the Division of Water Quality and to his prior responsibilities for developing the State's site-specific management plans for threatened and endangered aquatic species. (T pp 382-86) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

10. ~~None of Respondent's witnesses were offered as experts or qualified as experts in the field of stormwater management or wildlife biology.~~

G.S. § 150B-36 justification: No evidence supports this finding of fact. Instead, the Respondent's witnesses were shown to be qualified by knowledge, experience and education to offer testimony in the fields of their expertise as set forth above, Mr. Randall (T pp 178-79), Mr. Pickle (T pp 258-59) and Mr. Bennett (T pp 312-13) in the subjects of stormwater management and permitting and Mr.

Reeder (T pp 382-85) on the subject of threatened and endangered species. Petitioner's witnesses Blue and Fridell possess similar educational backgrounds and experience and have been accepted as expert witnesses. (T pp 34-44; 131-38) The Committee is invested with certain judicial functions by G.S. § 143B-282.1, and possesses the powers and incidents of a court necessary to determine the rights and liabilities of the parties, including the qualifications and admissibility of testimony by experts. G.S. § 8C-1, Rule 702.

On the foregoing evidence which is a preponderance, the following additional finding of fact should be made:

All of the witnesses were qualified by education and experience to offer opinion testimony in their areas of training and experience.

11. Water degradation occurs when alterations are made to the natural character of the watershed without effective stormwater runoff control and treatment measures. The natural character of a watershed includes its physical integrity, such as the way in which water travels downstream and the amount of groundwater recharging the stream's base flow; its biological integrity, such as the biological diversity of organisms living in the streams; and its chemical integrity, such as the distribution of chemicals in the water. A system is considered degraded when one of these characteristics is altered by non-natural activities. For example, a stream may no longer be able to support the natural biological diversity in the stream.

G.S. § 150B-36 justification: Witness Blue equated degradation to man made development and the alteration of the natural functions of a watershed as primarily caused by stormwater runoff from impervious surfaces. He did not differentiate uncontrolled runoff from controlled runoff. Blue acknowledged that having stormwater management controls that are adequate would prevent significant degradation of the watershed or surface water. (T pp 48-49, 59-61, 124) Witness Bennett explained the difference using the State's program for managing stormwater runoff through structural and non-structural control measures associated with development. (T pp 314-18, 326) Also according to Mr. Reeder, increased development without effective stormwater controls can lead to decreased water quality. (T pp 397-98). The Phase II stormwater permits contain stormwater runoff controls for development sites in Part II, pages 8-11.(Indian Trail, p. B-24 - B-27; Stallings, p. B-57 - B-60; Mecklenburg, p. B-93 - B97) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

12. Land development is one type of non-natural activity that causes water quality degradation. In particular, uncontrolled increased stormwater runoff arising from construction and post-construction land development activities causes significant water quality degradation and aquatic habitat loss, resulting in lowered biological integrity for aquatic systems.

G.S. § 150B-36 justification: Witness Blue equated degradation to land development and the alteration of the natural functions of a watershed primarily caused by stormwater runoff from impervious surfaces. He did not differentiate uncontrolled runoff from controlled runoff and

acknowledged that adequate stormwater controls would prevent degradation of the watershed. ( T pp 48-49, 59-61, 124). On this evidence, which is a preponderance, the finding of fact is clarified to show uncontrolled runoff.

13. Stormwater runoff occurs when impervious surfaces increase within a watershed and rainfall can no longer infiltrate into soils. Surfaces that water cannot effectively pass through, such as asphalt, concrete, roof shingles, metal, gravel and compacted soils.

14. Impervious surfaces collect pollutants, such as nutrients, sediment, petroleum products, and fecal coliform, deposited from other sources. During storm events these collected pollutants are washed into aquatic systems as stormwater runoff.

15. Numerous scientific studies have shown that increases impervious surface in a watershed is correlated with water quality degradation. These studies have documented significant water quality degradation in streams draining watersheds with impervious surface area rom zero to thirteen percent. One such study found there is no safe threshold for impervious surface area because any increase in impervious surface results in detrimental impacts to sensitive aquatic species.

16. Increased stormwater runoff from impervious surfaces also causes increased runoff volume which detrimentally affects channel stability in aquatic systems. Stream channels will either widen their stream banks, down cut the steam bed. or do both to accommodate larger and more severe runoff events. The sediment form the eroded stream banks and bed will increase sediment loading in the stream.

17. Because increases impervious surfaces reduce the amount of natural infiltration in a watershed, groundwater recharge is also reduced. Groundwater contributes to a stream's base flow, which is the portion of water that comes from sources other than surface runoff. Thus, when groundwater recharge is reduced, base flow in streams is also reduced.

18. The NPDES Phase II stormwater permits at issue in these proceedings are intended to regulate new discharges of stormwater pollution from urban land development and to ameliorate the effects of stormwater pollutant. Each permit contains six minimum measures consisting of: (1) public education; (2) public involvement in designing programs; (3) Illicit discharge detection and elimination; (4) construction site stormwater pollution control; (5) post-construction stormwater management; and (6) pollution prevention. Each permit incorporates an approved stormwater management plan which identifies how each measure is to be implemented. In addition, because the waters in Goose Creek are subject to a TMDL and have been identified as habitat for a threatened or endangered species, each permit provides for the incorporation of the site-specific management plan for the endangered species and a water quality recovery plan for the TMDL.

G.S. § 150B-36 justification: The NPDES Phase II stormwater permits include terms and conditions in addition to the six minimum measures listed by the ALJ. The permits require implementation of an applicable TMDL Water Quality Recovery Program and a site-specific stormwater management

requirements for streams supporting federally-listed threatened and endangered aquatic species. (T pp 206-209; 233; 265-69; 284; 309; 387-391; Indian Trail Permit, Part II, pp 2-3; Stallings Permit, Part II, pp 2-3; Mecklenburg Permit, Part II, pp 2-3). On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

19. The NPDES Phase II stormwater permits at issue in these proceedings establish model practices for post-construction stormwater controls that constitute the minimum measures that must be implemented under the NPDES Phase II program. The model practices include a low-density option and a high-density option for stormwater controls in new development.

20. The low-density option applies to any new development that involves up to, but no more than, twenty-four percent impervious surface area or “built-upon area.” Under this option, the only post-construction stormwater management measures are the use of vegetated conveyances to the maximum extent practicable for transporting stormwater to the nearest stream and a thirty-foot setback from the stream for all impervious surfaces. The effectiveness of vegetative conveyances depends on the site specific conditions and the design.

G.S. § 150B-36 justification: The permits require post-construction site runoff controls that are at least as stringent as the model practices set forth for low-density development. The permits require the use of vegetative conveyances to the maximum extent practicable. Mr. Blue stated that the conditions at the site determine the effectiveness of the vegetative conveyance. (T pp 66-67; Indian Trail Permit, Part II, p. 10, P. B-26; Stallings Permit, Part II, p. 10, p. B-59; Mecklenburg Permit Part II, p. 11, p. B-96) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

21. The high-density option applies to any new development that involves more than twenty-four percent impervious surface area. Under this option, the stormwater measures require a thirty-foot setback from the stream for all impervious surfaces and require the installation of engineered structural controls. The structural controls must control and treat the difference between the pre and post-development runoff of a one year, twenty-four hour storm, remove eighty-five percent of all total suspended solids (“TSS”) and draw down within no less than twenty-four hours and no more than one hundred twenty hours. The design storm included in the model practices is the one year, twenty-four hour storm.

G.S. § 150B-36 justification: The permits require post-construction site runoff controls that are at least as stringent as the model practices set forth for high-density development. The structural controls are required to control and treat the rainfall from the designated storm event and release it over a period of time. (Indian Trail Permit, Part II, p. 10, P. B-26; Stallings Permit, Part II, p. 10, p. B-59; Mecklenburg Permit Part II, p. 11, p. B-96). On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

22. All three of the challenged NPDES Phase II stormwater permits incorporate these model practices as the post-construction measures included in the permits themselves. These three



NPDES Phase II stormwater permits authorize discharges of stormwater pollution into the Goose Creek watershed from the following sources: (1) Mecklenburg County, specifically as includes discharges from the Town of Mint hill; (2) the Town of Indian Trail; and (3) the Town of Stallings.

23. Goose Creek is a perennial stream with its watershed located in southeastern Mecklenburg County and northwestern Union County, North Carolina. Goose Creek has its headwaters in southeastern Mecklenburg County within the jurisdiction of the Town of Mint Hill. Stormwater runoff from portions of the Towns of Indian Trail, Stallings and Mint Hill drains into Goose Creek. Duck Creek is the other main tributary in the Goose Creek watershed and is a perennial stream.

24. Goose Creek depends on base flow, particularly during dry or drought periods. Without adequate base flow, streams in the Goose Creek watershed will not be able to maintain adequate flows during dry or drought periods and will become an intermittent stream.

25. Stormwater runoff from Mint Hill flows into Goose Creek at its headwaters and travels downstream into the critical habitat for the Carolina heelsplitter. Stormwater runoff from Indian Trail and Stallings flows into Goose Creek and travels downstream into the critical habitat for the Carolina heelsplitter.

26. The Carolina heel splitter is a species of mussel and was federally listed by the USFWS as endangered pursuant to the provision of the Endangered Species Act on June 30, 1993. The Goose Creek watershed contains one of only nine remaining populations of the Carolina heelsplitter.

27. Urban land development is the most significant land use change in the Goose Creek watershed.

28. As urban development and impervious surface cover increases in the Goose Creek watershed, the upper reaches of Goose Creek and Duck Creeks have experienced significant stream bank and stream bed erosion due to increased stormwater runoff.

29. Increased urban development, with its increased runoff, and deep water wells, has also caused base flow in Goose and Duck Creeks to decline. The USFWS has seen portions of Duck Creek completely dry up during dry periods due to low groundwater recharge levels.

G.S. § 150B-36 justification: Activities affecting the groundwater level and base flow in the Goose Creek watershed are increased runoff and deep water wells. (T pp 146-47) On this evidence, which is a preponderance, the finding of fact is clarified with the additional language.

30. Increased urban development has also caused the levels of several pollutants associated with stormwater to increase in the Goose Creek watershed. These pollutants include fecal coliform, ammonia, phosphorus, nitrate-nitrite, copper, and sediment. Although a TMDL has been

developed to deal with fecal coliform issues, water quality standards are not in place for ammonia, phosphorus, nitrate-nitrite, copper, or sediment in the Goose Creek watershed.

31. As stated above, all three permits include the minimum model practices as the post-construction measures specified within the permits. Respondent issued the three NPDES Phase II stormwater permits with an impervious threshold for structural stormwater controls at twenty-four percent and a thirty-foot setback on perennial and intermittent streams in the Goose Creek watershed. For development at or below twenty-four percent imperviousness, the only requirement beyond the thirty-foot setback is the use of vegetated conveyances. For developments above twenty-four percent imperviousness, the required measures include structural stormwater controls to treat the difference in pre- and post-development runoff of the one year, twenty-four hour storm and the controls must be designed to remove at least eighty-five percent TSS.

~~32. It is undisputed that water quality is degraded at impervious surface levels ranging between six and thirteen percent. It is also undisputed that there are many pollutant constituents in stormwater runoff beyond TSS. Those pollutants include nutrients, fecal coliform, pesticides, and petroleum products.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. Mr. Blue's personal definition of built-upon area was more strict than that found in the applicable stormwater statute. Mr. Blue did not author or identify any studies that would support his opinion that to six to thirteen percent of impervious surface will adversely impact water quality. (T pp 123 Mr. Reeder was aware of studies showing that 24 % increased built-upon area without effective stormwater controls can lead to decreased water quality. He was also aware of studies that show when built-upon area exceeds 10% to 15% without effective controls, that may lead to some degradation in water quality. The existing stormwater rules have built-upon surface specifications for high and low density ranging between 12% and 30%. 15A NCAC 2H .1005-.1007; 15A NCAC 2B .0214; 15A NCAC 2B .0215; 15A NCAC 2B .0126. Petitioner's witness identified several substances generally found in stormwater runoff but provided no basis for finding the evidence to be undisputed. (T p 68)

On the foregoing evidence, which is a preponderance, the following additional finding of fact should be made:

Studies of the effect of stormwater on water quality in a water shed have concluded that, without effective stormwater controls, water quality is degraded at impervious surface levels ranging between six and twenty-four percent. There are many pollutant constituents in stormwater runoff beyond TSS. Those pollutants include nutrients, fecal coliform, pesticides, and petroleum products.

~~33. Because the permits do not adequately regulate impervious surfaces and pollutant constituents in stormwater runoff, the permits as drafted will not protect the biological integrity of the Goose Creek watershed and will result in water quality degradation.~~

G.S. § 150B-36 justification: This mixed finding of fact and conclusion of law is not supported by the evidence. As shown above, there has not been a conclusive determination of the percentage of impervious surface that , without effective runoff controls, will lead to decreased water quality. Petitioner’s witnesses believe the permits do not require implementation of measures that are sufficient to protect the existing uses and water quality in Goose Creek. (T pp ) Respondent’s witnesses believe the permits meet the minimum requirements of the statute and regulations and, when implemented, will effectively control and treat stormwater in Goose Creek and protect its water quality and existing uses. ( ) The permits require the municipalities to incorporate into their stormwater management plan the site-specific management measures and schedules developed by the Commission pursuant to the provisions of 15A NCAC 2B .0110 for streams supporting a federally-listed endangered aquatic species. (Permits, Part II, p. 3, pp B-19, B-52, B-88) The permits also require the municipalities, when subject to a TMDL, to implement a TMDL Water Quality Recovery Program. (Permits, Part II, p. 2, pp B-18, B-51, B-87) Until finally adopted, the final additional measures required by these additional programs are not known.

On the foregoing evidence, which is a preponderance, the following additional finding of fact should be made:

The Phase II stormwater permits’ requirement for structural control measures when impervious surface is twenty-four percent or greater is at the high end of the range of percentages at which uncontrolled runoff results in a decrease in water quality. Until the site-specific management measures schedules developed by the Commission for Goose Creek pursuant to the provisions of 15A NCAC 2B .0110 for streams supporting a federally-listed endangered aquatic species are adopted and implemented by the municipalities, it is uncertain that the three permits as written will adequately regulate increased impervious surfaces and treat and control pollutant constituents in stormwater runoff to protect the biological integrity of the Goose Creek Watershed.

34. Furthermore it is undisputed that the protection of biological integrity also requires the protection of the most sensitive species in a stream. It is also undisputed that protecting the biological integrity in the Goose Creek watershed includes protecting the Carolina heelsplitter.

35. The historic range of the federally endangered Carolina heelsplitter included wide portions of the Catawba, Pee Dee, Savannah, and Saluda river basins.

36. The current range of the Carolina heelsplitter is limited to nine surviving populations in the Catawba, Pee Dee, and Savannah river basins. One of the populations is found in the Goose Creek watershed.

37. Because the federally endangered Carolina heelsplitter is found in so few places today, the USFWS has determined that “any factors that adversely modify habitat or water quality in the stream reaches it now inhabits could further endanger the species.”

38. The USFWS has determined that “channel and streambank scouring associated with

increased storm-water run-off; and the run-off of silt, fertilizers, pesticides, and other pollutants from various land disturbance activities with inadequate or poorly maintained erosion and stormwater control” are among the factors that adversely modify Carolina heelsplitter habitat.

39. The USFWS has documented a correlation between increased urban development and Carolina heelsplitter habitat degradation in the Goose Creek watershed. As urban development has increased in the upper portion of the watershed, Carolina heelsplitter habitat is being eliminated. Surveys conducted by the USFWS of Carolina heelsplitter habitat from the time of listing through 2004 show that habitat had steadily decreased as urban development has increased in the watershed.

40. The federally endangered Carolina heelsplitter lives in the gravely rocky substrate found along the stream bed in Goose and Duck Creeks in the Goose Creek watershed. The majority of the substrate in the upper reaches of both creeks had been eroded away by increased stormwater runoff, thereby significantly reducing the available habitat for the endangered mussel.

41. ~~Pollutants, such as sediment, ammonia, phosphorus, nitrate-nitrite, and copper, found in stormwater runoff have been determined to be harmful to the Carolina heelsplitter.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. John Fridell discussed the four pollutants as being a concern for freshwater mussels in Goose Creek. (T pp 143-45) The July 2005 Review Draft Technical Support Document for the Goose Creek watershed identified levels at which these substances affect the freshwater mussels in Goose Creek. Resp. Ex. 4.

On the foregoing evidence, which is a preponderance, the following additional finding of fact should be made:

USFWS has identified sediment, ammonia, phosphorus, nitrate-nitrite, and copper, substances commonly found in stormwater runoff, as present in Goose Creek at levels of concern for freshwater mussels. At excessive and toxic levels, these have been determined to be harmful to the Carolina heelsplitter.

42. Sediment from stormwater runoff affects the Carolina heelsplitter in four ways. First, because the mussels are filter feeders, the increased sediment loading in stormwater runoff can clog their gills affecting their respiration and feeding. Increased sediment in the streams can ultimately suffocate the mussels by accumulating on top of the mussels' habitat and burying the mussels. Second, sediment affects the stability of the stream bottom and can result in mussels being washed out of their habitat because the substrate becomes unstable. Third, other pollutants bind to sediment particles and get carried down into the substrate as the sediment settles out of the water column, thereby increasing the mussels' exposure to the pollutant. Finally, sediment detrimentally affects the health of fish in streams. The mussels rely upon a fish host in order to reproduce by having mussel larvae attach to the fish's gill to mature.

43. Ammonia is a pollutant that has been associated with stormwater runoff and is of particular concern with regard to mussels. Ammonia is extremely toxic to freshwater mussels. Ammonia levels in the Goose Creek watershed have been identified as already exceeding the levels of concern for mussels and monitoring indicates that the levels are on an increasing trend in the watershed.

G.S. § 150B-36 justification: John Fridell stated that ammonia is a pollutant of concern to freshwater mussels and water quality testing has shown ammonia exceeding the concern level in Goose Creek. (T p154) The July 2005 Review Draft Technical Support Document to support the Division of Water Quality's development of the site-specific management strategies to restore water quality in the Goose Creek watershed contains a section on ammonia and a graph indicating an increasing trend. Respondent Ex. 4, p. 7.

On the foregoing evidence, which is a preponderance, the following modified finding of fact should be made:

Ammonia is a pollutant that has been associated with stormwater runoff and is of particular concern with regard to mussels. Excessive levels of ammonia are extremely toxic to freshwater mussels. Ammonia levels in the Goose Creek watershed have been identified as already exceeding the levels of concern for mussels and monitoring the draft Goose Creek Technical Support Document indicates that the levels are on an increasing trend in the watershed.

44. Phosphorus and nitrate-nitrite are also associated with stormwater runoff. While neither is particularly important from a toxicity standpoint, both pollutants are nutrients and at excessive levels in a watershed can lead to algal blooms, which deplete oxygen levels in the streams. Low oxygen levels detrimentally affect the Carolina heelsplitter. Algal blooms from excessive nutrient levels have been documented in the Goose Creek watershed. Monitoring in the watershed also indicates that phosphorus and nitrate-nitrite levels in the watershed are on an increasing trend.

G.S. § 150B-36 justification: The draft Goose Creek Technical Support Document explained that phosphorus affects freshwater mussels, not by being toxic, but by leading to algal blooms and oxygen depletion in water bodies. Respondent Exhibit 4, p. 16 . On the foregoing evidence, which is a preponderance, the finding of fact is clarified with the additional language.

45. Copper is also a constituent in stormwater runoff and has been found harmful to mussels at high concentrations. Copper levels exceeding the concern level for mussels have been documented in the Goose Creek watershed.

46. The USFWS, in conjunction with the N.C. Wildlife Resources Commission and the N. C. Natural Heritage Program, has identified and recommended measures for controlling stormwater runoff and mitigating its detrimental impacts to the Carolina heelsplitter and its habitat in the Goose Creek watershed.

G.S. § 150B-36 justification: The three agencies submitted the draft Goose Creek Technical Support Document to the Division of Water Quality with recommended measures for controlling stormwater runoff. Stipulation 13. USFWS employee Fridell explained the submission contained the recommendations of his agency. (T pp 149-52) On the foregoing evidence, which is a preponderance, the finding of fact is clarified with the additional language.

47. The USFWS provided Respondent with its ~~determinations~~ recommendations prior to the issuance of the three NPDES Phase II permits challenged in this proceeding, in the form of a letter and a draft site specific management plan.

G.S. § 150B-36 justification: USFWS submitted a comment letter and the draft Goose Creek Technical Support Document to the Division of Water Quality that set forth its recommendations for controlling stormwater runoff to Goose Creek. Stipulation 13. (T pp 148-52, 160-61, 167) On the foregoing evidence, which is a preponderance, the finding of fact is clarified by replacing ~~determinations~~ with recommendations.

48. Based on a review of scientific literature regarding appropriate buffer widths and on the field observations of its staff, ~~the USFWS's own experts~~, the USFWS ~~determined~~ recommended that two-hundred foot undisturbed riparian buffers on perennial streams and one-hundred foot undisturbed riparian buffers on intermittent streams are required to protect the Carolina heelsplitter in Goose Creek.

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. USFWS submitted a comment letter and the draft Goose Creek Technical Support Document to the Division of Water Quality that set forth its recommendations for controlling stormwater runoff to Goose Creek. Stipulation 13. There is no evidence that the recommendations in the document were developed by USFWS experts. The field observations were made by Mr. Fridell, no others are named. (T pp 149-61)

On the foregoing evidence, which is a preponderance, the following modified finding of fact should be made:

Based on a review of scientific literature regarding appropriate buffer widths and on the field observations of its staff, the USFWS recommended that two-hundred foot undisturbed riparian buffers on perennial streams and one-hundred foot undisturbed riparian buffers on intermittent streams are required to protect the Carolina heelsplitter in Goose Creek.

49. Based on a review of scientific literature regarding impervious surface or disturbance in the flood plain, and on the field observations of its staff ~~the USFWS's own experts~~, the USFWS ~~determined~~ recommended that impervious, active management, and other land disturbances, such as sewer lines and water lines, should be prohibited in the Goose Creek flood plain.

G.S. § 150B-36 justification: The evidence cited in support of the modifications to finding of fact

48 is applicable here. On the foregoing evidence, which is a preponderance, the finding of fact should be modified to replace ~~the USFWS's own experts~~ with its experts and replace ~~determined~~ with recommendations.

50. Based on a review of scientific literature regarding impervious surface thresholds and on the field observations of ~~the USFWS's own experts~~, the USFWS ~~determined~~ that any further increases in impervious surface in the Goose Creek watershed should be required to implement engineered stormwater controls to offset impacts to the stream.

G.S. § 150B-36 justification: The evidence cited in support of the modifications to finding of fact 49 is applicable here. Additionally in the draft Goose Creek Technical Support Document, USFWS recommended an impervious surface threshold of 6% for triggering the use of structural stormwater controls designed to replicate and maintain the hydrographic condition of the site prior to development. Respondent Ex. 4, p. 19.

On the foregoing evidence, which is a preponderance, the following modified finding of fact should be made:

Based on a review of scientific literature regarding impervious surface thresholds and on the field observations of the its own staff, the USFWS recommended that any future increases in impervious surface in the Goose Creek watershed beyond a threshold of six percent should be required to implement engineered stormwater controls to offset impacts to the stream. At a minimum, permits for new development exceeding six percent imperviousness should be required to include stormwater controls designed to replicate and maintain the hydrographic condition at the site prior to change in landscape.

51. Based on a review of scientific literature regarding imperious surface thresholds and on the field observations of its staff ~~the USFWS' own experts~~, the USFWS ~~determined~~ recommended that water quality standards for phosphorus, nitrate-nitrite, copper, and ammonia should be in place in the Goose Creek watershed to protect the Carolina heelsplitter from toxic levels of these pollutants. For Ammonia, the USFWS has ~~determined~~ recommended that an acute water quality standard of 1.75 milligrams per liter and a chronic water quality standard of 0.50 milligrams per liter are necessary to protect the Carolina heelsplitter in the Goose Creek watershed. The USFWS has ~~determined~~ recommended that a phosphorus water quality standard of 0.1 milligrams per liter and a nitrate-nitrite water quality standard of 0.4 milligrams per liter are necessary to protect the Carolina heelsplitter in the Goose Creek watershed. For copper, the USFWS has ~~determined~~ recommended that an acute water quality standard of 3.6 micrograms per liter and a chronic water quality standard of 2.2 micrograms per liter are necessary to protect the Carolina heelsplitter in the Goose Creek watershed. Acute water quality standards constitute the level of a particular pollutant that can be tolerated for a short period of time. Chronic water quality standards constitute the level of a particular pollutant that can be tolerated repeatedly over time.

G.S. § 150B-36 justification: The evidence cited in support of the modifications to finding of fact

48 is applicable here. Additionally, USFWS submitted the draft Goose Creek Technical Support Document and recommended measures to control stormwater designed to replicate and maintain the hydrographic condition of the site prior to development. Respondent Ex. 4, p. 19. On the foregoing evidence, which is a preponderance, the finding of fact should be modified to replace ~~the USFWS's own experts~~ with its experts and replace ~~determined~~ with recommended.

52. ~~In issuing the three challenged NPDES Phase II permits, Respondent did not include the determinations made by the USFWS and did not include adequate protections for the federally endangered Carolina heelsplitter.~~

G.S. § 150B-36 justification: This mixed finding of fact and conclusion of law is not supported by the evidence. As fully explained above, USFWS made recommendations regarding measures for controlling stormwater from development occurring in the Goose Creek watershed. (T pp 149-61), Stipulation 13, Respondent Ex. 4. The statement that the permits did not include adequate protections for the endangered species is properly denominated a conclusion of law.

On the foregoing evidence, which is a preponderance, the following additional finding of fact should be made:

Respondent did not include in the three challenged NPDES Phase II permits the recommended stormwater control measures that USFWS believes are necessary to provide adequate protections for the federally endangered Carolina heelsplitter.

53. ~~If development is allowed in the Goose Creek watershed pursuant to post-construction conditions and limitations in these three permits, the Carolina heelsplitter population in Goose Creek will be extirpated in two to five years.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. Mr. Fridell expressed his opinion that, without the stormwater management measures recommended by his agency being in the permits, that the Carolina heelsplitter population in Goose Creek would be extirpated. (T pp 156, 170)

On the foregoing evidence, which is a preponderance, the following additional finding of fact should be made:

Witness Fridell expressed his opinion that if development is allowed in the Goose Creek watershed pursuant to post-construction conditions and limitations in these three permits, the Carolina heelsplitter population in Goose Creek will be extirpated.

54. As noted above, and not disputed by any of Respondent's witnesses, stormwater pollution causes water quality degradation by increasing the volume of water entering an aquatic system, decreasing groundwater recharge and base flow, increasing pollutant loadings to streams, and detrimentally impacting biological communities within the aquatic system.



G.S. § 150B-36 justification: As expressed in finding of fact 11, uncontrolled stormwater runoff has been shown to result in adverse impacts to the water quality in a watershed. Having stormwater management controls that are adequate will prevent significant degradation of the watershed or surface water. (T p 124) Increased development without effective stormwater controls can lead to decreased water quality. (T pp 397-98).

On the foregoing evidence, which is a preponderance, the following modified finding of fact should be made:

55. As stated above, under the low-density development option, the permits allow increased development up to and including twenty-four percent impervious surface without any stormwater management measures other than a vegetated conveyance and a thirty-foot setback. Scientific studies documenting the correlation between increases in impervious surface area and decreases in water quality have shown that impervious surface areas between six and thirteen percent result in significant water quality degradation. Thus, increased uncontrolled stormwater runoff under the low-density option in the three challenged NPDES permits will also result in further water quality degradation in the Goose Creek watershed.

G.S. § 150B-36 justification: Decreases in water quality result from uncontrolled stormwater runoff. Petitioner's witness Thomas Blue acknowledged that having stormwater management controls that are adequate would prevent significant degradation of the watershed or surface water. (T pp 48-49, 59-61, 124) Also according to Mr. Tom Reeder, increased development without effective stormwater controls can lead to decreased water quality. (T pp 397-98)

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

As stated above, under the low-density development option, the permits allow increased development up to and including twenty-four percent impervious surface without any stormwater management measures other than a vegetated conveyance and a thirty-foot setback. Scientific studies documenting the correlation between increases in impervious surface area and decreases in water quality have shown that impervious surface areas between six and thirteen percent result in significant water quality degradation. Thus, increased stormwater runoff under the low-density option in the three challenged NPDES permits will also result in further water quality degradation in the Goose Creek watershed

56. The permits state that vegetated conveyances must be used to the maximum extent practicable, but do not include any specific design requirements ~~and are not required to be constructed as~~ to remove any of the major pollutant constituents of stormwater (e.g., sediment, nutrients, fecal coliform, heavy metals, and pesticides). Specific information on the design of vegetative conveyances (swales) is provided in the design manual and general engineering criteria in the existing stormwater rules.

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. Mr. Bennett explained that low density by its nature utilizes pervious surfaces such as grassed areas for stormwater control by having runoff pass through it. The general engineering criteria of the existing stormwater management programs rules cover specific information on swales as does the design manual that is referenced in the post-construction site runoff controls section of each Phase II permit. (T pp 351-53; Indian Trail Phase II permit, Part II, pp. B-25-27; Stallings Phase II permit, Part II, pp B-58-60; Mecklenburg Phase II permit, Part II, pp. B-95-97)

On the foregoing evidence, which is a preponderance, the following modified finding of fact should be made:

The permits state that vegetative conveyances must be used to the maximum extent practicable, but do not include any specific design requirements ~~and are not required to be constructed~~ as to remove any of the major pollutant constituents of stormwater (e.g. sediment, nutrients, fecal coliform, heavy metals, and pesticides). Specific information on the design of vegetative conveyances (swales) is provided in the design manual and general engineering criteria in the existing stormwater rules.

57. Vegetative conveyances have been shown to cause a net increase in pollutant loading in streams from stormwater runoff. The grassed areas become an attractant for water fowl and other wildlife, which then defecate in the conveyances causing a net increase in fecal coliform, ammonia, and nitrogen loading.

58. Under the high-density development option (for development above twenty-four percent impervious surface), the permits require that new developments include stormwater structural controls designed to control and treat the difference in the pre and post-development runoff for the one year, twenty-four hour storm event, ~~and~~ remove eighty-five percent of total suspended solids, have a draw down of no less than twenty-four hours and no longer than one hundred twenty hours, management measures comply with established design criteria, and built upon area set back of thirty feet.

G.S. § 150B-36 justification: Structural controls for the high density option are designed to control stormwater and treat it. The Phase II permits fully set forth the model practices contained in the permits and clarify the finding of fact. (Indian Trail Phase II permit, Part II, pp. B-25-27; Stallings Phase II permit, Part II, pp B-58-60; Mecklenburg Phase II permit, Part II, pp. B-95-97)

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

Under the high-density development option (for development above twenty-four percent impervious surface), the permits require that new developments include stormwater structural controls designed to control and treat the difference in the pre and post-development runoff for the one year, twenty-four hour storm event, ~~and~~ remove eighty-five percent of total suspended solids,

have a draw down of no less than twenty-four hours and no longer than one hundred twenty hours, management measures comply with established design criteria, and built upon area set back of thirty feet.

59. TSS are particles of soil or sediment suspended in the water column. TSS have a variety of effects on water quality. TSS can transport into streams other pollutants that attach to the solids. When it settles out of the water column, TSS can settle out to the bottom of the stream affecting the stability of the stream bed. TSS also affects the health of fish and can impair the biological integrity of an aquatic system.

60. ~~Although Structural controls are required to be designed to remove eight-five percent TSS, the permits do not have any requirements to ensure that the structural controls actually continue to perform at an eighty-five percent removal rate during the terms:~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. The three permits specifically require that each permittee at all times properly operate and maintain all facilities and systems of treatment and control. In addition, each must provide a mechanism to require long-term operation and maintenance of BMPs and an annual inspection performed and reported by a qualified professional. (Indian Trail permit, Part II, pp. B-25-27, 36; Stallings permit, Part II, pp. B-58-60, 69; Mecklenburg permit, Part II, pp. B-95-97, 106) The intention of the post-construction program is that the municipalities, through their permitting program, will assure the controls are properly designed and maintained to perform the stormwater control and treatment over time. (T p 289)

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

~~Although Structural controls are required to be designed to remove eight-five percent TSS. The permits require the permittees to provide a mechanism for long term operation and maintenance for structural BMPs and an annual inspection. the permits do not have any requirements to ensure that the structural controls actually continue to perform at an eighty-five percent removal rate during the terms:~~

61. The permits require that the structural controls be designed to treat the difference in pre and post-development runoff for the one year, twenty-four hour storm event. In Goose Creek, the one year, twenty-four hour storm event is a rainfall event with about 2.9 inches of rain.

62. The structural controls will not be able to remove eighty-five percent TSS in storm events larger than the one year, twenty-four hour storm event.

63. It is the opinion of witness Thomas Blue that [t]he one year, twenty-four hour storm event as a design standard is not sufficient to protect water quality in Goose Creek from degradation because it does not take into account antecedent conditions on a site, such as saturated soils from

previous storm events.

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. The one year, twenty-four hour storm event represents about eighty-five percent of the storms events that occur in the Goose Creek area so the structural controls will capture eighty-five percent of the rainfall that occur on a regular basis. It is Mr. Blue's opinion that use of this design storm standard is not sufficient to protect the Goose Creek watershed. (T pp 356-57; 76-80)

On the foregoing evidence, which is a preponderance, the finding of fact should be modified and clarified by the additional language.

64. Other than the one year, twenty-four hour storm event required to be controlled and treated under the high-density development option, the permits do not contain any volumetric requirements to protect channel stability, maintain base flow, or groundwater recharge for low-density or high-density development. Under the permits, the volume of uncontrolled stormwater during storm events will increase in the Goose Creek watershed and base flow to the water shed will be significantly reduced.

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. The one year, twenty-four hour storm event has a calculated volume of stormwater that is to be controlled by the structural controls. In fact, the continuous simulation modeling that can calculate runoff frequency which Mr. Blue stated was preferable for designing adequate stormwater controls is used for the TMDL that is required by the permits to be implemented in the Goose Creek watershed. (T pp 76-82)

On the foregoing evidence, which is a preponderance, the finding of fact should be modified and clarified by the additional language.

65. The three challenged NPDES stormwater permits do not have specific requirements directing how a structural control is to reduce the discharge of stormwater pollutants to the maximum extent practicable.

66. ~~The three challenged NPDES Phase II stormwater permits do not require specific stormwater control measures to be in place for a particular development.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. Determination of the appropriate BMPs for the variable conditions at each location is best left to the local government. The BMP manual was developed to offer alternative strategies and measures for managing stormwater based on the different variables present. (T pp 199-201) Each permit contains the condition that site-specific stormwater management measures adopted by the Environmental Management Commission pursuant to 15A NCAC 2B .0110 for protection of the endangered species in Goose Creek are incorporated into the permit and are to be implemented by the permittees through their permitting of local development. (Indian Trail permit, Part II, p. B-19; Stallings permit, Part II, p. B-52; Mecklenburg permit, Part II, p. B-88)

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

The three challenged NPDES Phase II stormwater permits require the site specific stormwater management requirements for streams supporting federally-listed threatened and endangered species to be adopted by the Commission under the provisions of 15A NCAC 2B .0110 to be incorporated into the NPDES Phase II stormwater permits. The Commission site-specific management plan will identify specific structural and non-structural BMPs and other measures to control and treat stormwater in the Goose Creek watershed.

~~67. Rather than include specific requirements, the permits require the permittees to develop a stormwater management plan at some point in the future to reduce the discharge of pollutants to the maximum extent practicable.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. In Part I, Permit Coverage, each permit specifically states that the “permit covers activities associated with the discharge of stormwater from the MS4 within the jurisdiction area fo the permittee as described in the approved Stormwater Plan to control potential pollution from the MS4.” Thus the Stormwater plan for each municipality was approved and made part of the permit at the time it was issued. (Indian Trail permit, Part I, p. B-15; Stallings permit, Part I, p. B-48; Mecklenburg permit, Part I, p. B-83)

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

Each of the three permits incorporate the permittee’s approved Comprehensive Stormwater Management Program Report, referred to as the Stormwater Plan, into the permit and require the permittee to implement the plan to reduce the discharge of pollutants to the maximum extent practicable.

68. The stormwater management plan is to contain more specific terms and provisions for controlling pollutants and can include additional measures to treat stormwater runoff. The terms include “effluent limitations” in the form of best management practices.

~~69. Although Respondent contends that the stormwater management plans are enforceable parts of the NPDES Phase II permits, the stormwater management plans are not attached or annexed to the NPDES Phase II stormwater permits.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence or law. The application for the NPDES Phase II stormwater permit was accompanied by the municipality’s Comprehensive Stormwater Management Program Report, therein referred to as the Stormwater Plan. (T p 187, 209) Each permit specifically approved the municipality’s stormwater plan and incorporated the plan into the NPDES Phase II stormwater permit. Persons may inspect the application, permit and related documents on the premisses of the Division of Water Quality. 15A

NCAC 2H .0109.

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

Each stormwater plan submitted with the application was approved and incorporated into the NPDES Phase II permit. The stormwater plan, as part of the permit, is enforceable and is to be implemented by the municipality.

70. ~~Respondent did not include the stormwater management plans in the public notices for the draft permits:~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence or law. Notice of the NPDES permit application is published in the newspaper with area circulation and includes the name and address of the agency and applicant, brief description of the applicant's activities that result in the discharge, location and name of water way receiving the discharge, tentative decision to issue or deny the permit, and the address and phone number of the agency where persons may obtain further information and request a copy of the draft permit, fact sheet and inspect the application and related documents. 15A NCAC 2H .0109. Each permit specifically referred to the municipality's Comprehensive Stormwater Management Program Report, therein referred to as the Stormwater Plan, and incorporate the plans into the NPDES Phase II stormwater permits. The permits were noticed in the newspaper, the Stormwater Permitting Unit website, and the North Carolina Register. (T p 261) Persons requesting to inspect or copy the plans were provided the documents by the Division of Water Quality. (T pp 261-63) The draft permits, application and stormwater plans were not required to be published in the public notice. 15A NCAC 2H .0109.

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

The permits were publically noticed as required by 15A NCAC 2H .0109. The Stormwater Plans were specifically referenced in the draft permits and were made available to persons requesting to inspect the permits and plans.

71. ~~When members of the public requested copies of the draft permits to comment upon; Respondent provided only the draft permit and not the stormwater management plan:~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. The permits were publically noticed and were made available for inspection by persons requesting to see them. If requested, the Stormwater Plan could be inspected either in Raleigh or at the offices of the municipalities. No members of the public testified at the hearing and there is no evidence to support the inference that the plans were not made available for inspection. (T pp 229, 261-264)

On the foregoing evidence, which is a preponderance, the following modified and clarified

finding of fact should be made:

The permits and Stormwater Plans were available for inspection and copying by members of the public interested in the permits.

72. Goose Creek does not meet water quality standards for fecal coliform. In 1998, Respondent placed Goose Creek on the 303(d) list of impaired waters due to fecal coliform violations. According to Respondent's listing document, the causes of water quality impairment in Goose Creek include construction activities and urban runoff/storm sewers. Goose Creek remains on the 303(d) list of impaired waters through the present. (Stipulation 17)

73. Respondent submitted the Total Maximum Daily Loads (TMDL) for Fecal Coliform for Goose Creek to the US Environmental Protection Agency (EPA) for final approval on April 20, 2005. The TMDL allocates allowable fecal coliform loads from known sources so that remedial measures may be implemented to remove the water quality impairment. (Stipulation 18)

74. The EPA approved and finalized the Goose Creek TMDL without substantial change on July 8, 2005. (Stipulation 18)

75. The finalized waste load allocation in the Goose Creek TMDL requires a ninety-two point five percent (92.5%) reduction of current fecal coliform discharges from existing municipal separate sewer systems. (Stipulations 19, 20 & 21)

76. Indian Trail, Stallings, and Mecklenburg County own and operate MS4s in the Goose Creek watershed. (Stipulation 21)

77. The Goose Creek TMDL specifically requires a ninety-two point five percent (92.5%) reduction in current fecal coliform discharges from Indian Trail, Stallings, and the portions of Mecklenburg County within the Goose Creek watershed, in order to meet water quality standards. (Stipulation 21)

78. ~~The three NPDES Phase II stormwater permits for Indian Trail, Stallings, and Mecklenburg County do not contain terms and conditions that would require reductions from current loadings of fecal coliform from stormwater runoff.~~

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. Each permit requires the municipality, upon notice it is subject to an approved TMDL, to implement the TMDL Water Quality Recovery Program within its jurisdiction. NPDES Permit, Part II, Section A, paragraph 11. The TMDL and Recovery Program are to identify the locations of discharges within its jurisdiction within the watershed contributing to the impaired segments and the measures necessary to return the impaired segments to compliance with the water quality standard for the identified pollutant. The Water Quality Recovery Program must be implemented within two years of notification that the permittee is subject to the TMDL.

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

The three NPDES Phase II stormwater permits for Indian Trail, Stallings, and Mecklenburg County require the permittees, after notification that they are subject to the approved TMDL, to implement the TMDL for fecal coliform for the impaired segments of the Goose Creek watershed within their jurisdictions within two years.

79. If development continues in the Goose Creek watershed before the three municipalities are notified and implement a Water Quality Recovery Program in their jurisdictions, as permitted under these three NPDES Phase II stormwater permits, fecal coliform loading will increase from the current level.

G.S. § 150B-36 justification: This finding of fact is not supported by the evidence. The three permits require the permittees to implement the approved TMDL for fecal coliform within their jurisdiction in the Goose Creek watershed. The Recovery program have to be implemented within two years of notification that the permittee is subject to the TMDL. NPDES Permit Part II, Section A, paragraph 11. It is during the period before notification and full implementation of the Recovery Program that new development and redevelopment will probably result in an increase in fecal coliform from the current level.

On the foregoing evidence, which is a preponderance, the following modified and clarified finding of fact should be made:

If development continues in the Goose Creek watershed before the three municipalities are notified and implement a Water Quality Recovery Program in their jurisdictions, fecal coliform loading will increase from the current level.

Based upon the foregoing Stipulations and Findings of Fact, the NPDES Committee of the Environmental Management Commission makes the following:

#### CONCLUSIONS OF LAW

1. The NPDES Committee of the Environmental Management Commission has jurisdiction to hear this contested case pursuant to N.C.G.S. § 150B-36 and § 143-282.1.
2. Petitioners are persons aggrieved by the issuance of these three NPDES Phase II permits within the meaning of the Administrative Procedure Act, N.C.G.S. § 150B-2(6).
3. All parties have been correctly designated and are properly before the NPDES Committee of the Environmental Management Commission which has jurisdiction over the parties and the subject matter.



4. Petitioners bear the burden of proof on the issues.

5. Pursuant to Session Law 2004-163 that incorporates certain provisions of the federal Clean Water Act, certain governmental entities are required to obtain NPDES Phase II stormwater permits to reduce and control stormwater pollution into public waters. 33 U.S.C. § 1342(p)(2) (2006). In particular, with regard to the issues in these consolidated cases, Mecklenburg County and the Towns of Mint Hill, Indian Trail, and Stallings are required to obtain NPDES Phase II stormwater permits for discharges of stormwater pollution from new development. 40 C.F.R. § 122.23 (2006); Act of July 12, 2004, 2004 Session, S.L. 2004-163, sec. 7.

G.S. § 150B-36 justification: The authority of the Commission is limited to the authority delegated by General Assembly and is set forth in the statutes and session laws. The conclusion of law is modified to correctly show the authority over NPDES Phase II stormwater permits being exercised by the Commission.

Contested Issue No. 1:

6. Pursuant to 40 C.F.R. § 122.44(d) and N.C.G.S. § 143-215.1(a)(6), Respondent is responsible for ensuring that the NPDES Phase II permits for Indian Trail, Stallings, and Mecklenburg County comply with all applicable state water quality requirements.

7. North Carolina's state water quality regulations recognize the protection of biological integrity as a state water quality standard and as a best usage of all fresh waters. 15A NCAC 2B .0211(1).

8. 15A NCAC 2B .0211(2) provides the following conditions related to best usage: [t]he waters shall be suitable for aquatic life propagation and maintenance of biological integrity, wildlife, secondary recreation, and agriculture; sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard.

9. Biological integrity "means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition, diversity, population densities and functional organization similar to that of reference conditions." 15A NCAC 2B .0202(11). Respondent's legal obligation to protect biological integrity necessarily includes the protection of the most sensitive species within a watershed. *Id.* Therefore, in the Goose Creek watershed, biological integrity encompasses the ability of the watershed to maintain the federally endangered Carolina heelsplitter population.

10. Furthermore, North Carolina's antidegradation policy requires that "existing uses" of all waters must be maintained. 15A NCAC 2B .0201(b) North Carolina water quality standards recognize that an existing use of a water body, as defined in 15A NCAC 2B .0202(30), includes providing habitat for endangered or threatened species. 15A NCAC 2B .0110. Because providing habitat for the Carolina heelsplitter is an existing use in the Goose Creek watershed, the NPDES

Phase II stormwater permits must ensure that habitat for the Carolina heelsplitter is maintained and protected. 15A 2B .0201(b).

11. ~~Respondent violated the Clean Water Act and N.C.G.S. § 143-215.(a)(6) when it issued the permits without ensuring compliance with all applicable state water quality standards. This conclusion is supported by numerous Findings of Fact, which will not be recited again in detail here but which may be summarized as follows:~~

~~a. The USFWS determined that certain stormwater mitigation measures were necessary to protect the federally endangered Carolina heelsplitter in Goose Creek. These measures include two-hundred foot buffers on perennial streams and one-hundred foot buffers on intermittent streams; a zero to six percent impervious surface threshold for triggering the need for structural stormwater controls, and water quality standards for the major constituents of concern.~~

~~b. The USFWS provided its determinations to Respondent in the form of a draft Technical Support Document for the Goose Creek Site-Specific Management Plan well before the permits were issued.~~

~~c. Respondent issued the three challenged NPDES Phase II stormwater permits with measures that fall well short of the USFWS' determinations. The permits set the impervious surface threshold at twenty-four percent and only require a thirty-foot setback of impervious surfaces from streams. According to the USFWS, the Carolina heelsplitter population in Goose Creek will be extirpated within two to five years if development is allowed as permitted by the three challenged NPDES Phase II stormwater permits.~~

G.S. § 150B-36 justification: The foregoing conclusion of law is not adopted because it is not supported by the law or the evidence. The Commission's authority over permits is delegated by the General Assembly and is found in the General Statutes. The Commission has no authority to adjudicate whether Respondent has violated federal law by issuing the permits. Additionally, the Commission exercises its quasi-judicial authority in determining the credibility of the evidence and has concluded that, on the record before it, that the stormwater control recommendations in the Technical Support Document for Goose Creek submitted by USFWS are appropriate for inclusion in the permits at this time. For these reasons, the following conclusion of law is supported by the evidence and the law:

Until the site-specific management strategies for maintenance and recovery of the federally-listed endangered Carolina heelsplitter are adopted by the Commission pursuant to 15A NCAC 2B .0110, the better evidence before Respondent of stormwater control measures that are adequate for protecting the species was presented by the draft Technical Support Document for the Goose Creek watershed that, according the USFWS, will ensure water quality protective of the mussel. Stormwater control measures adequate to protect the portions of Goose Creek that are habitat for the endangered Carolina heelsplitter were not contained in the three NPDES Phase II permits as required by N.C.G.S. § 143-215.(a)(6).

12. Respondent also violated the state antidegradation policy when it issued the permits without ensuring that the existing use of providing habitat for the federally endangered Carolina heelsplitter was adequately protected from stormwater discharges. Again, as detailed in the Findings of Fact, Respondent ignored the determinations made by the USFWS regarding stormwater measures that would be necessary to protect the Carolina heelsplitter population in Goose Creek:

G.S. § 150B-36 justification: The foregoing conclusion of law is not adopted because it is not supported by the law or the evidence. The Environmental Management Commission's antidegradation policy seeks to maintain, protect, and enhance water quality within the State by protecting existing uses by properly classifying surface waters and having water quality standards sufficient to protect these uses. The assignment of water quality standards and classification of waters are procedures separate from issuing NPDES Phase II Stormwater permits. 15A NCAC 2B .0101; N.C.G.S. § 143-214.1

13. ~~Because Respondent violated its own rules in issuing the permits without ensuring compliance with all state water quality standards and the state antidegradation policy, Respondent acted arbitrarily and capriciously in issuing the three challenged NPDES stormwater permits. N.C.G.S. § 150B-23(a)(4). An agency action is arbitrary and capricious if it clearly show "a lack of fair and careful consideration or want of impartial, reasoned decision-making. Comm'r. of Ins. v. Rate Bureau, 300 N.C. 381, 269 S.E.2d 547 (1980). When an agency's decision is not in accordance with its own rules or policies, the agency has shown a lack of fair and careful consideration and had acted arbitrarily and capriciously. Joyce v. Winston-Salem State University, 91 N.C. App. 153 (1988).~~

G. S. § 150B-36 justification: This conclusion is not supported by the evidence or law. The Respondent did not violate the antidegradation rule for the reasons presented above. Neither was the issuance of the permits arbitrary or capricious. Session Law 2004-163, ss. 1-13, require an applicant for the permit to develop, implement, and enforce a stormwater management plan approved by the Commission that satisfies the six minimum measures required by 49 C.F.R. § 122.34(b). This federal regulation explains that the requirement to reduce stormwater discharges to the maximum extent practicable includes at a minimum, including the six minimum control measures in the required stormwater management program and implementing best management practices consistent with those measures and that the provisions of the permit required pursuant to 40 C.F.R. § 122.33 constitute compliance with the standard of reducing pollutants to the "maximum extent practicable." Additionally, the session law set deadlines for implementing the programs and requires that, if other stormwater management programs apply, the most stringent control measures apply. The evidence reveals that Respondent's permits contained the minimum measures required by the federal regulations and the session law and each permittee is required to implement the stormwater control measures adopted by the Commission in the site-specific management plan and TMDL for Goose Creek. The evidence shows Respondent exercised judgment and reason in developing and issuing the permits with stormwater management measures by the statutory deadline. Therefore, Respondent's action was neither arbitrary nor capricious.

14. ~~Because Respondent violated its own regulations and the requirements of the federal Clean Water Act, Respondent also exceed its statutory authority, failed to use proper procedure, and acted contrary to law. N.C.G.S. § 150B-23(a)(1)-(5).~~

G. S. § 150B-36 justification: This conclusion of law as written is not supported by the findings of fact or the law. Respondent properly followed the procedure for noticing and issuing the permits in issue. Therefore it did not fail to follow proper procedure. As shown above, this agency has no authority to adjudicate violations of federal law, specifically the Clean Water Act. Respondent only failed to act as required by law or rule where the permits did not contain stormwater control measures adequate to protect the portions of Goose Creek that are habitat for the endangered Carolina heel splitter. For these reasons, the following conclusion of law is supported by the evidence and the law:

Respondent failed to act as required by law or rule by issuing the NPDES Phase II stormwater permits without including stormwater control measures adequate to protect the water quality in portions of Goose Creek that are habitat for the endangered Carolina heelsplitter.

Contested Issue No. 2:

15. ~~The federal regulations implementing the Phase II permitting program require regulated entities to “develop, implement, and enforce a stormwater management program designed to reduce the discharge of pollutants . . . to the maximum extent practicable, to protect water quality, and to satisfy the appropriate requirements of the Clean Water Act. 40 C.F.R. § 122.34(a).~~

G.S. § 150B-36 justification: This conclusion of law is not supported by the law. The Commission is limited to the authority granted by the General Assembly. Session Law 2004-163, sec. 1 provides that covered municipalities must implement and enforce stormwater management programs that satisfy the six minimum measures in 40 C.F.R. § 122.34(b). 40 C.F.R. § 122.34(a) explains what minimum stormwater control measures are required for a NPDES MS4 permit. This section states that implementation of BMPs consistent with the approved program and the six minimum measures constitutes compliance with the standard of reducing pollutants to the “maximum extent practicable.” For these reasons, the following conclusion of law is supported by the evidence and the law:

Session Law 2004-163, sec. 1 requires a covered municipality to develop, implement, and enforce an approved stormwater management plan that satisfies the six minimum control measures required by 40 C. F. R. § 122.34(b). 40 C. F. R. § 122.34(a) po provides that “implementation of best management practices, consistent with the provisions of the stormwater management program, required pursuant to this section and the provisions of the permit required pursuant to § 122.33 constitutes compliance with the standard of reducing pollutants to the ‘maximum extent practicable.’”

16. The requirements to reduce discharges to the maximum extent practicable is distinct

from other requirements under 40 C.F.R. 122.34(a). Under this requirement, permittees may be required to go beyond compliance with state water quality standards and implement stormwater measures that are more than standard practice.

17. “Maximum extent practicable” means to the fullest degree technology feasible for the protection of water quality, except where costs are wholly disproportionate to the potential benefits. See *Haeuser v. Department of Law*, 97 F.3d 1152, 1155 (9<sup>th</sup> Cir. 1996); *Rybachek v. United States E.P.A.*, 615 F.2d 1276, 1289 (9<sup>th</sup> Cir. 1990); *Ass’n of Pac. Fisheries v. United States E.P.A.*, 615 F.2d 794, 805 (9<sup>th</sup> Cir. 1980). This standard requires more of permittees than mere compliance with water quality standards or numeric effluent limitations designed to meet such standards. *Env’tl. Def. Center, Inc. v. United States E.P.A.*, 319 F.3d 398, 425-26 (9<sup>th</sup> Cir. 2003).

18. The term “maximum extent practicable” in the stormwater context implies that the mitigation measures in a stormwater permit must be more than simply adopting standard practices. This definition applies particularly in areas where standard practices are already failing to protect water quality, such as the goose Creek watershed.

19. ~~Respondent violated 40 C.F.R. § 122.34(a) because it failed to require stormwater measures that achieve the maximum extent practicable standard. As set out more fully in the findings of Fact, the permits set the impervious surface thresholds for structural controls at twenty-four percent and require only thirty-foot setbacks. These limits do not reduce discharges to the maximum extent practicable. the USFWS had provided Respondent with measures that, if implemented, would reduce stormwater pollution into Goose Creek to the maximum extent practicable. Those measures include a zero (or at a minimum six percent) impervious surface threshold for structural stormwater controls, two-hundred foot undisturbed riparian buffers on perennial streams, one-hundred undisturbed riparian buffers on intermittent streams, setbacks on all new disturbances in the one-hundred year flood plain, and water quality standards for ammonia, phosphorus, nitrate-nitrite, and copper. Those measures constitute what is “technologically feasible” in Goose Creek and thus should have been incorporated in the permits. Furthermore, other types of structural controls are available, such as infiltration measures, which would reduce discharges more than the measures contained in the permits. The limits in the permits are no more than standard practice and as such do not meet the maximum extent practicable standard.~~

G.S. § 150B-36 justification: This conclusion of law is not supported by the findings of fact or the law. The conclusion of law is not supported by the finding of fact that it is uncertain, until the site-specific management measures necessary to protect the water quality and habitat of the endangered Carolina heelsplitter are adopted for Goose Creek, that the three permits as currently written will adequately regulate increased impervious surfaces and treat and control stormwater pollution in Goose Creek. At present, the better evidence of the minimum buffer and impervious surface control measures necessary to protect the Carolina heelsplitter in Goose Creek is found in the Technical Support Document which will be considered by the Commission in determining the site-specific measures to be implemented in the Goose Creek watershed. While the post-construction control measures in the permits may satisfy the minimum requirements in Session Law 2004-163, they may

not provide protection adequate for the endangered species mussel found in Goose Creek. There is no evidence in the record that support a zero impervious surface requirement in the flood plain. Furthermore, as shown above, water quality standards are developed and implemented in proceedings separate from issuing permits and are not properly placed in permits. There is no evidence in the record as to the actual in stream levels of the individual named pollutants or that they are presently detrimental to the mussels. For these reasons, the following conclusion of law is supported by the evidence and the law:

The thirty foot set back from perennial and intermittent surface waters for built-upon-areas and twenty-four percent built-upon area threshold for requiring structural stormwater controls required by Session Law 2004-163 may not be adequate to protect the endangered Carolina heelsplitter in Goose Creek by reducing pollution to the maximum extent practicable. Until the site-specific stormwater control measures are determined pursuant to t15A NCAC 2B .0110, measures to control pollution to the maximum extent practicable include: (1) a two hundred foot undisturbed set back along perennial surface waters, (2) a one hundred foot undisturbed set back along intermittent surface waters, and (3) a maximum impervious surface of ten percent for the low-density development or redevelopment. The permits issued to municipalities for the portions of their jurisdictions in the Goose Creek watershed did not require stormwater control measures sufficient to achieve the “maximum extent practicable” standard and Respondent did not act in accord with Session Law 2004-163 in issuing the permits. N.C.G.S. § 150B-23(a)(4)

20. The Clean Water Act requires that all effluent limitations and pollution control terms and conditions must be included in the NPDES permit. See 33 U.S.C. §§ 1311(a)-(b), 1342(a).

21. An effluent limitation is “any restriction established by a State . . . on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources. 33 U.S.C. § 1362(11).

22. The challenged permits require the permittees to develop and implement stormwater management plans “to reduce the discharge of pollutants . . . to the maximum extent practicable, to protect water quality, and to satisfy the applicable water quality requirements of the Clean Water Act.” ~~As explained more fully in findings of Fact 66-71, these stormwater management plans contain effluent limitations which are not part of the NPDES permit because Respondent did not attach or annex the stormwater plans to the permits. Therefore, Respondent violated 33 U.S.C. §§ 1311(a)-(b) and 1342(a) in issuing the NPDES Phase II stormwater permits to Indian Trail, Stallings, and Mecklenburg County.~~ For these reasons, the conclusion of law is modified to strike the portion identified above.

G.S. § 150B-36 justification: This conclusion of law is not supported by the findings of fact or the law. Session Law 2004-163 requires the approved stormwater management plan to be implemented and enforced as part of the NPDES Phase II stormwater permit. Each of the three permits in issue included sections making the municipality’s approved stormwater management plan part of the permit. In addition, each permit includes sections incorporating the Commission’s site-specific

management plan for Goose Creek and the TMDL for fecal coliform and requires each affected municipality to implement and enforce these management measures. These management measures are clearly identified as part of the permit as are criteria and standards found in the Code of Federal Regulations that are incorporated by reference without being restated.

23. The clean Water Act further requires that state agencies issuing NPDES permits follow certain notice and comment procedures in developing new permits. “[P]ublic participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan or program established by . . . any State under this act shall provide for, encouraged, and assisted by . . . the States.” 33 U.S.C. § 1251(e). Respondent followed the statute and rules in noticing and issuing the permits. N.C.G.S. § 143-215.1; 15A NCAC 2H .0109.

G.S. 150B-36 justification: The conclusion of law as clarified is supported by the findings of fact. The notice procedures in N.C.G.S. § 143-215.1 and 15A NCAC 2H .0109 were followed by Respondent in issuing the three permits. For this reason the conclusion of law is modified by the additional language shown above.

~~24. The Second Circuit Court of Appeals recently invalidated federal regulations governing NPDES permitting for confined animal operations that did not require nutrient management plans to be included in the permit and noticed to the public. Waterkeeper Alliance, Inc., et al. v. EPA, 2005 U.S. Lexis 6533, 6540 (2<sup>nd</sup> Cir. 2005). “since nutrient management plans embody all the relevant ‘site specific management practices,’ it is clear that . . . nutrient management plans are a sine qua non of the ‘regulation, standard, plan or program’” under 33 U.S.C. § 1251(e). The Court held that because the management plans contained non-numerical effluent limitations in the form of best management practices, the rule “by failing to require the terms of the nutrient management plans to be included in NPDES Permits - violates the Clean Water Act and is otherwise arbitrary and capricious in violation of the Administrative Procedure Act.”~~

G.S. 150B-36 justification: This conclusion of law is not supported by North Carolina law. As shown above, the permits were properly noticed and issued in accordance with the North Carolina General Statutes and rules. For these reasons this conclusion of law is not adopted.

~~25. In the stormwater permitting context, stormwater management plans are equivalent to nutrient management plans. The stormwater management plans are supposed to contain “all relevant ‘site specific management measures’” that will be imposed in the Goose Creek watershed to reduce the discharge of stormwater pollution. Waterkeeper Alliance, Inc., 2005 U.S. App. Lexis at 43. Therefore, Respondent violated 33 U.S.C. §§ 1311(a)-(b) and 1342(a) by not including the plans in the NPDES Phase II stormwater permits.~~

G.S. § 150B-36 justification: This conclusion of law is not supported by North Carolina law. As shown above, the permits were properly noticed and issued in accordance with the North Carolina General Statutes and rules. For these reasons this conclusion of law is not adopted.

26. ~~As a necessary part of the NPDES permits, the stormwater management plans should have been subject to the public participation requirement under 33 U.S.C. § 1251(e). Pursuant to 33 U.S.C. § 1342(j), “a copy of each permit application and each permit issued under this section shall be available to the public.” Since the three challenged NPDES Phase II permits were noticed without including the stormwater management plans, Respondent violated 33 U.S.C. §§ 1251(e) and 1342(a). Further Respondent violated 33 U.S.C. § 1342(j) by failing to provide copies of the stormwater management plans to members of the public who requested copies of the draft plans.~~

G.S. § 150B-36 justification: This conclusion of law is not supported by North Carolina law or the findings of fact. As shown above, the permits were properly noticed and issued in accordance with the North Carolina General Statutes and rules. For these reasons this conclusion of law is not adopted.

27. ~~Because Respondent violate the requirements of the federal Clean Water act and the federal regulations implementing the Phase II program, Respondent exceeded its statutory authority; failed to use proper procedure, acted contrary to law, and acted arbitrarily and capriciously. N.C.G.S. § 150B-23(a)(1)-(5).~~

G.S. § 150B-36 justification: This conclusion of law is not supported by North Carolina law or the findings of fact. As shown above, the permits were properly noticed and issued in accordance with the North Carolina General Statutes and rules. The Commission has only the authority delegated by the General Assembly and has no authority to adjudicate a violation of federal law. The failure to act in accord with Session Law 2004-163 in issuing the permits is found above in conclusion of law 19. For these reasons this conclusion of law is not adopted.

Contested Issue No. 3:

28. NPDES permits must contain “any more stringent limitation . . . necessary to meet water quality standards.” 33 U.S.C. § 1311(b)(1)(C). Pursuant to this requirement, NPDES permits for discharges to water for which a TMDL has been established must be consistent with the waste load allocation in the TMDL. 40 C.F.R. §§ 122.44(d)(a)(vii)(B); 130.12(a).

29. As discussed more fully in the Findings of Fact 72-79 (Stipulations 17-21), Goose Creek is subject to a final TMDL for fecal coliform discharges, The waste load allocation in the Goose Creek TMDL calls for a ninety-two point five percent (92.5%) reduction in current fecal coliform discharges.

30. ~~The challenged permits do not contain limits and conditions that will reduce current discharges. The permits as written will in fact increase fecal coliform discharges.~~

G.S. § 150B-36 justification: This conclusion of law is not supported by the findings of fact. The permits at issue require the permittees to implement the approved TMDL by developing and implementing a Water Quality Recovery program for the impaired segments in the Goose Creek



watershed that are within their jurisdictions. Permit, Part II, Section A, paragraph 11. The Recovery Programs will contain best management practices designed to control the pollutant of concern and return the impaired segments to compliance with the water quality standard. For these reasons, the following conclusion of law is supported by the findings of fact:

The NPDES Phase II stormwater permits require the Towns of Indian Trail and Stallings and Mecklenburg County to implement the approved TMDL for fecal coliform in "Goose Creek through a Water Quality Recovery Program within two years of notification that they are subject to the TMDL.

31. ~~By not including limits and conditions that will reduce current discharges of fecal coliform, Respondent has violated 33 U.S.C. § 1311(b)(1)(C) and 40 C.F.R. 122.44(d)(a)(vii)(B) and 130.12(a):~~

G.S. § 150B-36 justification: This conclusion of law is not supported by the findings of fact or the law. Part II, Section A, paragraph 11 of the NPDES Phase II stormwater permits requires the permittees subject to the TMDL to implement the TMDL Water Quality Recovery Program in their jurisdiction that identifies the locations of all discharges of the pollutant of concern within the watershed contributing to the impaired segments. The Recovery Program will identify the best management practices necessary to return the impaired segments to compliance with state water quality standards. The permits are in accord with the requirements for NPDES permits issued pursuant to N.C.G.S. § 143-215.1 For these reasons this conclusion of law is not adopted.

32. ~~Because Respondent violated the requirements of the federal Clean Water Act, Respondent also exceed its statutory authority, failed to use proper procedure, acted contrary to law, and acted arbitrarily and capriciously, N.C.G.S. § 150B-23(a)(1)-(5):~~

G.S. § 150B-36 justification: For all of the reasons set forth above, the foregoing conclusion of law is not supported by the findings of fact or the law and is not adopted.

Based upon the foregoing Findings of Fact and Conclusions of Law, the NPDES Committee of the Environmental Management Commission makes the following:

### **FINAL AGENCY DECISION**

The decision of the Administrative Law Judge and its recommendations are not adopted and the findings of fact and conclusions of law are modified as shown above.

The three NPDES Phase II stormwater permits in the two contested cases are ordered remanded to the Director of the Division of Water Quality for modification and re-issuance with the following option for terms and conditions applicable to those portions of the Goose Creek watershed present within each permittee's local government jurisdiction where the listed endangered species Carolina heelsplitter is found:

- a. contain two-hundred foot undisturbed buffers on perennial streams; one-hundred foot undisturbed buffers on intermittent streams; and a ten percent impervious surface threshold for engineered stormwater management controls in the interim period until the comprehensive plan for the Carolina heelsplitter in the Goose Creek watershed is adopted; or
- b. the permits shall comply with the conditions and management measures of the site-specific comprehensive plan for protection of the Carolina heelsplitter when adopted by Environmental Management Commission; and
- c. the permits shall provide, at a minimum, the criteria set forth in Session Law 2004-163 and the rules for meeting the minimum requirements for NPDES Phase II stormwater permits and comply with the pollutant load limitations of the TMDL for the Goose Creek watershed.

THEREFORE IT IS ORDERED:

1. The NPDES Phase II stormwater permits for the Towns of Indian Trail and Stallings and Mecklenburg County are remanded to the Director of the Division of Water Quality for modification as follows:

- a. contain two-hundred foot undisturbed buffers on perennial streams; one-hundred foot undisturbed buffers on intermittent streams; and a ten percent impervious surface threshold for engineered stormwater management controls in the interim period until the comprehensive plan for the Carolina heelsplitter in the Goose Creek watershed is adopted; or
- b. the permits shall comply with the conditions and management measures of the site-specific comprehensive plan for protection of the Carolina heelsplitter when adopted by Environmental Management Commission; and
- c. the permits shall provide, at a minimum, the criteria set forth in Session Law 2004-163 and the rules for meeting the minimum requirements for NPDES Phase II stormwater permits and comply with the pollutant load limitations of the TMDL for the Goose Creek watershed

This the \_\_\_\_\_ day of March, 2007.

NPDES COMMITTEE OF THE  
ENVIRONMENTAL MANAGEMENT COMMISSION

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Frank S. Shaw, Chairman



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**Manager Recommendation:** \_\_\_\_\_

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Union County  
Solid Waste  
Schedule of Fees and Charges  
Effective August 1, 2007

Municipal household waste - \$40.00 per ton [from \$39.00 per ton]

Construction and demolition waste - \$26 per ton [from \$24.00 per ton]

Yard waste and pallets - \$30 per ton

Recyclable materials from commercial haulers - \$40 per ton credit

Municipal household waste deposited at convenience sites - \$0.25 cents per bag



**UNION COUNTY PARKS & RECREATION DEPARTMENT  
CANE CREEK PARK**

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5213 HARKEY ROAD, WAXHAW, NORTH CAROLINA 28173  
PHONE • 704-843-3919 FAX • 704-843-4046  
WANDA M. SMITH, DIRECTOR

**MEMORANDUM**

**TO: UNION COUNTY BOARD OF COMMISSIONERS**

**VIA: LYNN WEST, CLERK TO THE BOARD**

**FROM: WANDA SMITH, DIRECTOR  
PARKS AND RECREATION**

**DATE: MAY 10, 2007**

**RE: INCREASE IN FEE STRUCTURE AT CANE CREEK PARK**

The Parks and Recreation Advisory Committee met in a special meeting on May 10, 2007 and addressed the current fee structure at Cane Creek Park. The Parks and Recreation Staff along with the Advisory Committee recommend for your consideration an increase in the fee structure at Cane Creek Park. There has not been an increase in most fees at Cane Creek Park in five years (since July 1, 2002).

The Athletic Field Rental Fee Schedule as well as the Shelter/Gazebo/Canopy Rental Fee Schedule and the Festival Area Fee Schedule have all been recently approved by the Board of Commissioners and have therefore not been changed/increased in this request.

Copies of the current fee structure and the recommended changes/increases are provided for your consideration. If approved, it is recommended that the new fee structure take affect on July 1, 2007. A thirty (30) day notice will be given to the general public of the change. Reservations that have been made under the current fee structure will be honored if paid prior to the July 1, 2007 date.

Thank you for your consideration in this matter. If additional information is required please do not hesitate to call.

cc: Kai Nelson, Finance Director  
Wes Baker, Internal Auditor

<b>Cane Creek Park / Day Use Area</b> (Effective 7/1/2006)	<b>FEE</b>	<b>PROPOSED FEE</b>	<b>COMMITTEE RECOMMENDATION</b>
<b>ENTRANCE</b>			
Pedestrian	\$1.00	\$1.00	\$1.00
Trail (bike or horse)	\$2.00	\$3.00	\$3.00
Vehicle	\$3.00	\$4.00	\$4.00
Vehicle (15 capacity)	\$10.00	\$15.00	\$15.00
Vehicle (16+ capacity)	\$15.00	\$20.00	\$20.00
<b>BOAT ACCESS</b>	\$3.00	\$4.00	\$4.00
<b>FISHING</b>	\$1.00	\$2.00	\$2.00
<b>SWIMMING</b>			
6 & older	\$3.00	\$4.00	\$4.00
2-5 yrs. of age	\$1.00	\$2.00	\$2.00
under 2	FREE	FREE	FREE
<b>ROWBOAT/CANOE RENTAL</b>			
1 hour	\$4.00	\$5.00	\$5.00
2 hours	\$7.50	\$9.00	\$9.00
4 hours	\$15.00	\$18.00	\$18.00
8 hours	\$25.00	\$30.00	\$30.00
<b>NOTE:</b>			
1. \$5.00 deposit charged in addition to rental fee	\$5.00	\$10.00	\$10.00
2. Rental includes paddles and life jackets			
3. Renter must be at least 18 yrs. of age and occupy boat at all times. Renter must comply with conditions of boat's capacity plate which may vary depending on size of boat selected.			
<b>LIFE JACKET/PADDLE RENTAL</b>	\$2.00	\$3.00	\$3.00
<b>NOTE:</b>			
1. \$5.00 deposit charged in addition to rental fee	\$5.00	\$10.00	\$10.00
<b>PEDALBOAT</b>	\$2.00	\$3.00	\$3.00
<b>EQUIPMENT RENTAL</b>	\$1.00	\$5.00	\$5.00
<b>NOTE:</b>			
1. \$10.00 deposit charged in addition to rental fee	\$10.00	\$10.00	\$10.00
<b>Game Court (Reservation Fee)</b>	1 Hour N/A	1 Hour \$10.00	1 Hour \$10.00
	2 Hour N/A	2 Hour \$20.00	2 Hour \$20.00
<b>Volleyball Court (Reservation Fee)</b>	1 Hour N/A	1 Hour \$8.00	1 Hour \$8.00
	2 Hour N/A	2 Hour \$16.00	2 Hour \$16.00
<b>Horseshoes Pit (Reservation Fee)</b>	1 Hour N/A	1 Hour \$4.00	1 Hour \$4.00
	2 Hour N/A	2 Hour \$8.00	2 Hour \$8.00

Cane Creek Park / Day Use Area	FEE	PROPOSED FEE	COMMITTEE RECOMMENDATION
<b>SOFTBALL FIELD</b> (See Athletic Field Rental Fee Schedule)		SAME	SAME
<b>MINIATURE GOLF</b>	\$1.50	\$2.00	\$2.00
<b>SENIOR CITIZEN PERMIT</b>	\$2.00	\$5.00	\$5.00
NOTE:			
1. Union County Residents 65+ yrs. of age			
2. Covers entrance and fishing			
3. Does not cover State License Requirements			
<b>INDIVIDUAL ANNUAL PERMIT</b>	\$100.00	\$150.00	\$150.00
NOTE:			
1. Union County Residents only			
2. Covers entrance/fishing/boat access/miniature golf/ bike & horse trails			
3. Does not cover State License Requirements			
<b>FAMILY ANNUAL PERMIT</b>	\$175.00	\$225.00	\$225.00
NOTE:			
1. Union County Residents/immediate household only			
2. Maximum 5 people - \$20.00 ea. Additional			
3. Covers entrance/fishing/boat access/miniature golf/ bike & horse trails			
4. Does not cover State License Requirements			
<b>NON-RESIDENT INDIVIDUAL ANNUAL PERMIT</b>	\$125.00	\$225.00	\$225.00
NOTE:			
1. Covers entrance/fishing/boat access/ miniature golf/ bike & horse trails			
2. Does not cover State License Requirements			
<b>NON-RESIDENT FAMILY ANNUAL PERMIT</b>	\$200.00	\$300.00	\$300.00
NOTE:			
1. Non-Residents/immediate household only			
2. Maximum 5 people - \$20.00 ea. Additional			
3. Covers entrance/fishing/boat access/miniature golf/ bike & horse trails			
4. Does not cover State License Requirements			
<b>DAY PASS / AGES TWO &amp; OLDER</b>	\$5.00	\$10.00	\$10.00
NOTE:			
1. Purchase at Operation Center Only			
2. Covers unlimited day swim/pedalboats/miniature golf			
3. NO REFUNDS!			
4. Rain checks issued only if beach closes for day with less than 2 hours of use			
<b>Replacement Copy</b>	\$2.00	\$5.00	\$5.00
NOTE:			
1. Park Permits			
<b>LATE DEPARTURE / EARLY OPENING FEE</b>	\$25.00	\$40.00	\$40.00
NOTE:			
1. Per hour (non-prorated) departure after posted closing time			
2. Gate Closing times are posted at main entrance			
<b>ADMIN. FEE (Reservation/Change/Cancellation)</b>	\$2.00	\$4.00	\$4.00



CANE CREEK PARK / CAMPGROUND	FEE	FEE	COMMITTEE RECOMMENDATION
<b>VISITOR/GUEST ENTRANCE FEE</b>		Flat rate of	Flat rate of
Per car/Plus per person	\$2.00/\$2.00	\$10.00/Car	\$10.00
NOTE:			
1. Visitors must leave campground prior to 10:30 p.m.			
<b>FAMILY CAMPING AREA (FCA)</b>			
Water/Electric Nightly	\$20.00	\$25.00	\$25.00
Water/Electric/Sewer Nightly	\$25.00	\$30.00	\$30.00
NOTE:			
1. Maximum 6 people including guests			
2. 1 camper and 1 tent, or 2 tents maximum (includes pup tents)			
3. Canopy may be used over picnic tables			
<b>FCA WEEKLY RATE</b>			
Water/Electric	\$120.00	\$150.00	\$150.00
Water/Electric/Sewer	\$150.00	\$180.00	\$180.00
NOTE:			
1. Must be paid in advance for 7 nights			
<b>GROUP CAMPING AREA (GCA)</b>			
<b>NOTE: GCA is by reservation only unless FCA/WCA have no vacancies</b>			
Small Site (E,G,I,K,L,M,O) nightly	\$25.00	\$30.00	\$30.00
NOTE:			
1. Maximum 20 people/4 Tents			<b>Recommend limit to 4 vehicles due to limited parking.</b>
Large Site (F,H,J,N) nightly	\$35.00	\$40.00	\$40.00
1. Maximum 30 people/6 tents			<b>Recommend limit to 6 vehicles due to limited parking.</b>
NOTE: Utility or Boat Trailer counts as one vehicle			
<b>WILDERNESS CAMPING AREA (WCA)</b>			
Maximum 5 people/2 tents per site	\$15.00	\$20.00	\$20.00
<b>HORSE CAMPING AREA (HCA)</b>			
Maximum 5 people/2 tents/1 trailer per site	\$15.00	\$20.00	\$20.00
<b>CABIN RENTAL</b>			
March - November (Nightly Monday - Thursday)	\$45.00 *	\$50.00	\$50.00
(Nightly Friday - Sunday)	\$55.00 *	\$65.00	\$65.00
(7 nights Monday - Sunday)	\$275.00 *	\$345.00	\$345.00
NOTE:			
1. *Rate covers 4 people			
2. Additional per person/nightly	\$5.00	\$8.00	\$8.00
3. Maximum 6 people per cabin			
4. One (1) four (4) person tent may be set up on site for additional group rate (small)			
<b>DISCOUNTS</b>			
Union County, North Carolina resident with valid I.D. receives a 25% discount on camping rates			

CANE CREEK PARK / CAMPGROUND	CURRENT FEE	PROPOSED FEE	ADVISORY COMMITTEE RECOMMENDATION
<b>CABIN RENTAL FEE</b>			
December - February (Nightly)	\$25.00	\$30.00	\$30.00
<b>NOTE:</b>			
1. No other discounts apply			
<b>SECURITY/KEY DEPOSIT</b>	\$25.00	\$40.00	\$40.00
<b>ANNUAL CAMPSITES</b>			
<b>Resident</b>			
Waterfront 3,5,7,9,11,13,15,17,19,21,23,25,27 29,31,33,35	\$1,500/yr.	\$2000/YR.	\$2000/YR.
Non-Waterfront 2,4,6,8,10,12,14,16,18,20,22	\$1,250/yr.	\$1750/YR.	\$1750/YR.
<b>Non-Resident</b>			
Waterfront 3,5,7,9,11,13,15,17,19,21,23,25,27 29,31,33,35	\$1,750/yr.	\$2500/YR.	\$2500/YR.
Non-Waterfront 2,4,6,8,10,12,14,16,18,20,22	\$1,500/yr.	\$2000/YR.	\$2000/YR.
<b>ANNUAL CAMPSITE SECURITY/KEY DEPOSIT</b>	\$100.00	\$200.00	\$200.00
<b>CAMPGROUND SHELTERS</b>			
<b>NOTE:</b>			
1. Shelters are for registered campers only and may be shared at no charge.			
2. Camping groups may reserve a shelter if <u>all</u> individuals are camping.			
3. Groups not camping and requesting use of these shelters will be referred to the Day Use Area.			
4. Published shelter and entrance fees will be required.			



tax rate.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

**Finance Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

**Manager Recommendation:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Extract of Minutes of a regular meeting of the Board of Commissioners of the County of Union, North Carolina, held in the Commissioners' Boardroom, 1<sup>st</sup> floor, Union County Government Center, Monroe, North Carolina, at 7:00 p.m. on June 18, 2007.

\* \* \*

A regular meeting of the Board of Commissioners of the County of Union, North Carolina (the "Board of Commissioners") was held in the Commissioners' Boardroom, 1<sup>st</sup> floor, Union County Government Center, Monroe, North Carolina, at 7:00 p.m. on June 18, 2007 (the "Meeting"), after proper notice, and was called to order by the Chairman, and on the roll being called, the following members of the Board of Commissioners answered present:

The following members of the Board of Commissioners were absent

Also present:

Commissioners \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, APPROVING THE FINANCING TEAM FOR THE COUNTY'S VARIABLE RATE GENERAL OBLIGATION BONDS.**

*WHEREAS*, the Board of Commissioners (the "Board") of the County of Union, North Carolina (the "County") has determined to proceed with the planning and implementation for the issuance of up to three series of County of Union, North Carolina Variable Rate General Obligation Bonds in an aggregate principal amount of approximately \$110,730,000 (the "Bonds") to finance and refinance the capital costs of acquisition, construction, renovation and equipping of public school facilities in the County;

*WHEREAS*, the Board has determined to retain Parker Poe Adams & Bernstein LLP, as bond counsel for the Bonds;

*WHEREAS*, the Board has determined to retain Regions Bank, as paying agent for the Bonds;

*WHEREAS*, the Board has determined (1) to retain Banc of America Securities LLC, Wachovia Bank, National Association, and Citigroup Global Markets Inc. to serve as underwriters and remarketing agents for the Bonds and (2) to approve the selection of Robinson, Bradshaw & Hinson, P.A., as underwriters' counsel for the Bonds;

*NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, AS FOLLOWS:*

**Section 1.** That Parker Poe Adams & Bernstein LLP. shall hereby be retained to serve as bond counsel for the Bonds and Regions Bank shall hereby be retained to serve as paying agent for the Bonds.

**Section 2.** That (1) Banc of America Securities LLC, Wachovia Bank, National Association, and Citigroup Global Markets Inc. shall hereby be retained to serve as underwriters and remarketing agents for the Bonds and (2) Robinson, Bradshaw & Hinson, P.A., shall hereby be approved as underwriters' counsel for the Bonds.

**Section 3.** That the Finance Director of the County is hereby authorized and directed to retain a financial institution that in his discretion offers the most favorable terms to the County to serve as liquidity provider for the Bonds.

**Section 4.** That this Resolution shall become effective on the date of its adoption.

On motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, the foregoing resolution entitled "**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, APPROVING THE FINANCING TEAM FOR THE COUNTY'S VARIABLE RATE GENERAL OBLIGATION BONDS**" was duly adopted by the following vote:

AYES:

NAYS:

STATE OF NORTH CAROLINA            )  
  )  
COUNTY OF UNION                    )            ss:

I, *Lynn West*, Clerk to the Board of Commissioners of the County of Union, North Carolina, **DO HEREBY CERTIFY** that the foregoing is a true and exact copy of a resolution entitled "**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, APPROVING THE FINANCING TEAM FOR THE COUNTY'S VARIABLE RATE GENERAL OBLIGATION BONDS**" adopted by the Board of Commissioners of the County of Union, North Carolina, at a meeting held on the 18<sup>th</sup> day of June, 2007.

**WITNESS** my hand and the corporate seal of the County of Union, North Carolina, this the \_\_\_\_ day of June, 2007.

\_\_\_\_\_  
Lynn West  
Clerk to the Board  
County of Union, North Carolina

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: June 18, 2007

Action Agenda Item No. 12ad6  
(Central Admin. use only)

**SUBJECT:** Announcements of Vacancies on Boards and Committees

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**DEPARTMENT:** Board of Commissioners

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

Lynn G. West  
Clerk to the Board of Commissioners

**TELEPHONE NUMBERS:**

704-283-3853

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**DEPARTMENT'S RECOMMENDED ACTION:** Announce vacancies

**BACKGROUND:** Vacancies exist on the following Boards and Committees:

- a. Nursing Home Advisory Committee (1 Vacancy)
- b. Juvenile Crime Prevention Council (JCPC) - 1) District Attorney or designee; 2) Substance Abuse Professional; 3) Two (2) persons under age 18; 4) Juvenile Defense Attorney; 5) Representative of United Way/other non-profit; and two (2) County Commissioner appointees

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

**Finance Dept. Comments if applicable:** \_\_\_\_\_

**Manager Recommendation:** \_\_\_\_\_

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**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**  
Meeting Date: 6/18/07

Action Agenda Item No. 5/1a-c  
(Central Admin. use only)

**SUBJECT:** ADA Funding Requests For Remaining Athletic Funds  
Community Grant Applications  
Approval for Expenditure of Remaining Grant Funds

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**DEPARTMENT:** Parks and Recreation      **PUBLIC HEARING:** No

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**ATTACHMENT(S):**  
Memorandum from Parks and Rec.  
Summary of Grant Applications  
Sketch for Layout of Equipment @  
Group Home

**INFORMATION CONTACT:**  
Wanda Smith, Director Parks & Rec.

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**TELEPHONE NUMBERS:**  
704-843-3919  
704-363-3692

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**DEPARTMENT'S RECOMMENDED ACTION:** Approve ADA Funding Requests from Remaining Athletic Funds in the amount of \$5,854.40; Approve Community Grant Applications in the amount not to exceed \$24,166.28; Approve expenditure of remaining Community Grant Funds for Recreation Equipment at the Union County Group Home (not to exceed \$25,833.72).

**BACKGROUND:** A portion of the Athletic Association funds in the current Parks and Recreation budget were previously requested, and the BOCC approved the remaining funds for ADA or AED improvements. The Community Grant Applications are in the amount not to exceed \$24,166.28, leaving a balance of \$25,833.72. These remaining funds are recommended for expenditure of Recreation Equipment for the Union County Group Home.

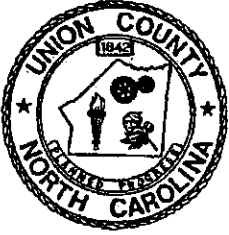
**FINANCIAL IMPACT:** Funds to cover these expenditures are included in current budget. No additional funds are required.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Finance Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**UNION COUNTY PARKS & RECREATION DEPARTMENT  
CANE CREEK PARK**

5213 HARKEY ROAD, WAXHAW, NORTH CAROLINA 28173  
PHONE • 704-843-3919 FAX • 704-843-4046  
WANDA M. SMITH, DIRECTOR

**MEMORANDUM**

**TO: UNION COUNTY BOARD OF COMMISSIONERS**

**VIA: LYNN WEST, CLERK TO THE BOARD**

**FROM: WANDA SMITH, DIRECTOR** *Wanda Smith*  
**PARKS & RECREATION**

**DATE: JUNE 6, 2007**

**RE: ADA/AED FUNDING REQUESTS FROM REMAINING ATHLETIC FUNDS  
COMMUNITY GRANT APPLICATIONS  
APPROVAL FOR EXPENDITURE OF REMAINING COMMUNITY FUNDS**

Please find enclosed, requests from Prospect Athletic Association and South Union Athletic Association for additional funding for ADA improvements. The BOCC approved the use of remaining Athletic Association Funds for ADA or AED purposes to Athletic Associations. Prospect and South Union requests have contingencies as noted on the attached summary sheets. These two request total \$5,854.40 with funding available in the current budget line 10-561372-5699.

Attached also are copies of Community Grant Applications received from the Town of Waxhaw Public Services Department, and the Town of Marshville. The ADA improvement applications, as well as the Community Grant applications, were reviewed by staff and presented to the Parks and Recreation Advisory Committee. The Advisory Committee recommends unanimously, that these applications be approved (with contingencies) and that funds be awarded accordingly.

Funds for both projects total a maximum of \$24,166.28 and are included in the Parks and Recreation budget line 10-561372-5699.

The Parks and Recreation Department with the endorsement of the Parks and Recreation Advisory Committee also recommend to the Board, that the remaining funds (\$25,833.72) from the Community Grant, be approved for expenditure by the Parks and Recreation Department, for recreation equipment at the Union County Group Home. This Home is operated under the direction of the Union County Department of Social Services and serves families and individuals in crisis situations.

Many of the individuals served through this Home are children, with most of those being 12-17 years of age. Currently on-site is an outdated slide, and swing set, neither of which has the proper fall zones or cushion materials for safety purposes. Also on-site is a picnic pad with a grill that is not large enough to

accommodate everyone if the home is at capacity. An outdated volleyball court and a basketball goal are available, but are in need of repair.

If approved by the Board, the Parks and Recreation Department will clear and prepare the site (approximately 60' x 100'), remove trees/debris, order materials, and will oversee the installation of the materials through the completion of the project. Once completed, certified playground inspectors (on staff) will add this equipment to the monthly cycle for inspections, will assist with any minor repairs, and will provide recommendations to DSS for repairs that are outside of Parks and Recreation capabilities.

Equipment recommended (depending on quotes) may include 2 large 8' accessible picnic tables, a large Park Standard grill, 2 swinging steel park benches, a lower swing set with 2 bench seats, 1 tire swing, work-out station equipment, horizontal bars, parallel bars, and a rope climb (see enclosed plan). This area will include a border to hold the engineered mulch (for safety in fall zones) as required. If funds permit, the volleyball court as well as the basketball goal will be upgraded. These are recommendations only, from the Parks and Recreation Department, and deletion or addition to this list can easily be accommodated.

By adding these items in a court yard fashion it will encourage use by the residents of the Group Home, will provide a space suitable for socialization, and will provide age-appropriate activities for the residents served at the Group Home.

This project has been discussed with Mr. Roy Young, Director for the Department of Social Services, and with Melinda Price-Smith, Supervisor over the Group Home.

Our request is to approve the ADA Application requests (with contingencies); the Community Grant Applications (with contingencies); and approve the remaining funds from the Community Grant to be used for the purchase of equipment as stated above (at the Union County Group Home).

Thank you for your consideration in this matter. I am available to discuss this matter with you further at your convenience.

cc: Roy Young, Director U.C. Dept. of Social Services  
Melinda Price-Smith, Supervisor

UCAC Additional Funds Proposal Summary

Applicant: Prospect Athletic and Recreation Association

Location of Project: Prospect Elementary, 3005 Ruben Rd., Monroe, NC

Overview: Installing sidewalks in ball park area to allow handicap access to field #1, bathroom and concession stand. This is a request for additional funding available from the UCAC grant monies to assist with ADA improvements.

Project Specifics: This project will provide sidewalks from the parking lot to the bathroom, concession stand and to field #1. It will provide access to field #1 by extending paved areas in a semi-circle pattern around outside of field between the first and third dugouts.

Estimated Start Date: As soon as grant monies are in place.

Cost & Funding: PARA is requesting \$2834.40 in UCAC funding for the project. The association will match with \$708.60, totaling \$3543.00.

Liability, Maintenance & Safety: All future liabilities, responsibility and maintenance will be provided by the PARA.

Is Property Owner's Letter Attached? N/A

Recommendation: Sidewalks would greatly improve the ball field access for everyone that uses the field, especially those with limited mobility.

Approval: Yes XX No \_\_\_\_\_

Approval is contingent upon: The sidewalk shall have at least one 6'X6' landing for ADA use by a wheelchair spectator. The landing shall be located where the spectator will have a clear view of the game. The landing shall be marked with appropriate signage to indicate the intended use of the landing.

UCAC Additional Funds Proposal Summary

Applicant: South Union Athletic Association

Location of Project: 4311 Old Pageland-Monroe Rd. Take 601 South approximately 8 miles and turn left onto Hargette Rd. at BP Station. Go approximately 2 miles to Old Pageland-Monroe Rd. Turn right and go approximately 1.5 miles, SUAA is on your left.

Overview: Installing sidewalks in ball park area to allow handicap access. This is a request for additional funding available from the UCAC grant monies to assist with ADA improvements.

Project Specifics: This project will provide sidewalks from the parking lot and down each side of the ball field. The sidewalk would extend approximately 100 ft. from the entry drive to the back of the 1<sup>st</sup> base dugout. The sidewalk would then turn and run behind the first base dugout approximately 60 ft. and stop. The sidewalk would also extend behind the backstop and along the 3<sup>rd</sup> base side of the field. This would allow spectator view for those with limited mobility.

Estimated Start Date: As soon as grant monies are in place.

Cost & Funding: SUAA is requesting \$3,020.00 in UCAC funding for the project. The association will match with \$760.00, totaling \$3780.00.

Liability, Maintenance & Safety: All future liabilities, responsibility and maintenance will be provided by the SUAA.

Is Property Owner's Letter Attached? N/A

Recommendation: Sidewalks would greatly improve the ball field access for everyone that uses the field, especially those with limited mobility.

Approval: Yes XX No \_\_\_\_\_

Approval is contingent upon: The sidewalk shall have at least one 6'X6' landing for ADA use by a wheelchair spectator. The landing shall be located where the spectator will have a clear view of the game. The landing shall be marked with appropriate signage to indicate the intended use of the landing.

From: Union Cty Parks and Recreation 7048434046

06/08/2007 19:25

#891 P.006/007

### Community Grant Proposal Summary

Town Applicant: Waxhaw

Location of Project: The town park is adjacent to 209 West South main St., Waxhaw (behind the old police department)

Overview: Restroom facilities at the town park.

Project Specifics: One restroom facility measuring 8'X12.5' and divided into male/female restrooms. The building itself is structured to minimize vandalism and should be ADA compliant (see attachment #1)

Estimated Start Date: As soon as grant monies are in place.

Cost & Funding: The Town of Waxhaw is requesting \$20,000 and will provide matching funds. Total costs will be \$40,000.

Liability, Maintenance & Safety: All future liabilities, responsibility and maintenance will be provided by the Town of Waxhaw.

Is Property Owner's Letter Attached? N/A

Recommendation: The town park has quickly developed into a popular place to go with the addition of the free skate park. The park is easily accessible for those with disabilities with sidewalks from one end the other. Citizens would benefit from a bathroom facility on the property.

Approval: Yes XX No \_\_\_\_\_

Approval is contingent upon: Funding should not exceed 50% or \$20,000, whichever is smaller. Must submit 3 original updated quotes from the contractors within 7 days to determine actual funding required (vendors should provide a 45 day estimate).

Community Grant Proposal Summary

Town Applicant: Marshville

Location of Project: 820 Park Drive, Marshville. From Monroe, travel 74E to Marshville, turn left on Marshville-Olive Branch Rd. and turn right on Park Drive.

Overview: Multi-purpose improvements to Ballfield #1 at Marshville Park.

Project Specifics: The improvements to Ballfield #1 will allow use of 60' or 70' youth league ball programs with the addition of portable fencing. Updates will include new base anchors, portable pitching mound and the portable outfield fence.

Estimated Start Date: As soon as grant monies are in place.

Cost & Funding: The Town of Marshville is requesting \$4,166.28 in Community Grants with the town matching \$4,166.29. Total projected cost of the project is \$8,332.57.

Liability, Maintenance & Safety: All future liabilities, responsibility and maintenance will be provided by the Town of Marshville. There are currently sidewalks leading up to the field and bleachers (see attachment #1).

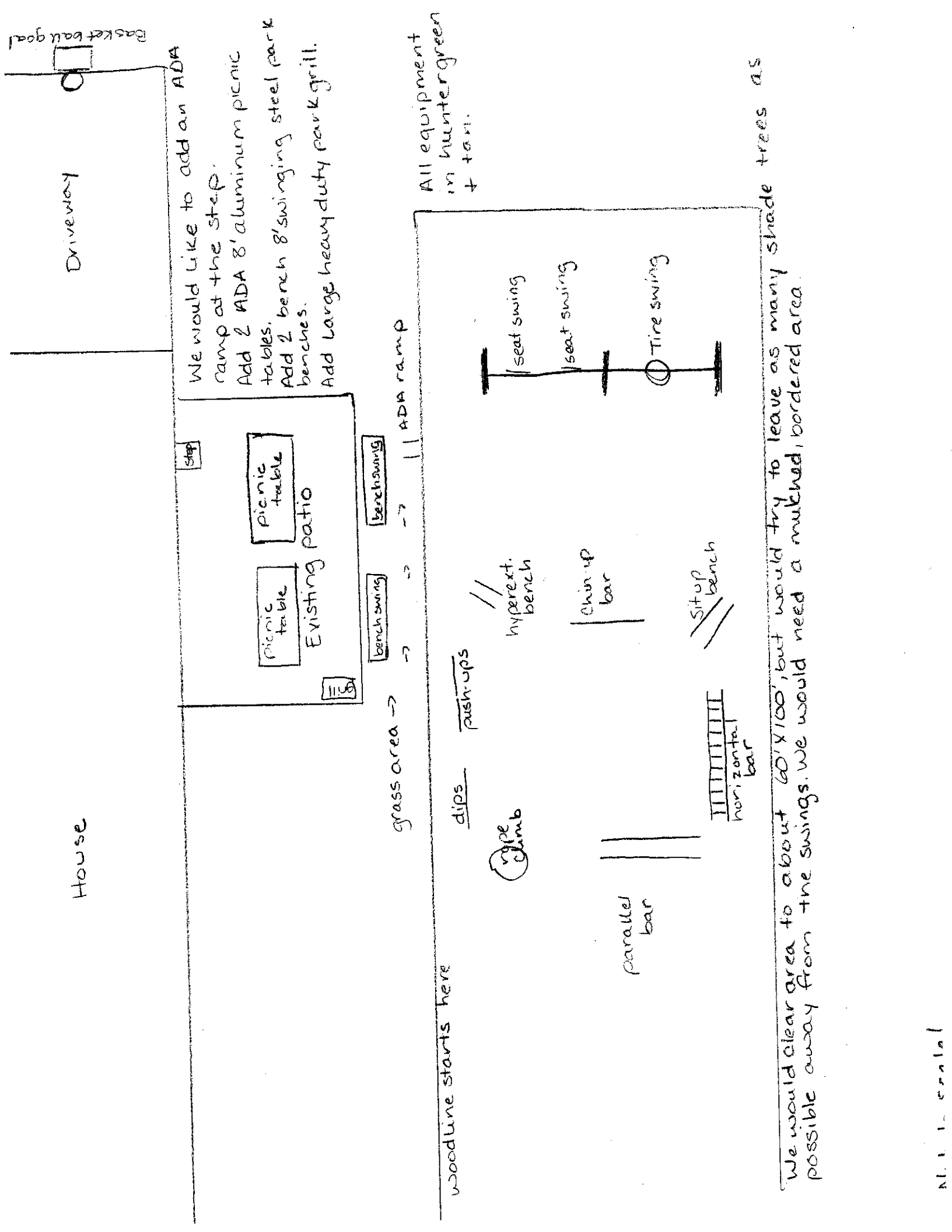
Is Property Owner's Letter Attached? N/A

Recommendation: The ballfield is under utilized by youth leagues due to limited base line adjustment and an overly large outfield. The small additions will make the ballfield better for league play.

Approval: Yes XX No \_\_\_\_\_

Approval is contingent upon: No contingencies.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Driveway

We would like to add an ADA ramp at the step.

Add 2 ADA 8' aluminum picnic tables.

Add 2 bench 8' swinging steel park benches.

Add large heavy duty park grill.

All equipment in huntergreen + tan.

We would clear area to about 60'x100', but would try to leave as many shade trees as possible away from the swings. We would need a mulched, bordered area.

MOTOR VEHICLE TAX REFUNDS  
for MAY 2007

AGENDA ITEM

# 5/2a

MEETING DATE 6-18-07

Approval of Board of County Commissioners not required:

Collector Refunds for MAY 2007	2,955.44
Adjustment to Collector Refund Register for May	(975.42)

To be approved by Board of County Commissioners on 6-18-07  
(to be submitted by Assessor's Office)

Assessor Refunds for MAY 2007	1,602.63
Adjustment to Assessor Refund Register for May	(546.65)

Approval requested for overpayments:

Overpayments for MAY 2007	<u>6,233.09</u>
---------------------------	-----------------

Total to be refunded for MAY 2007	<u><u>9,269.09</u></u>
-----------------------------------	------------------------

*Nelbio Cox*  
6-7-07



**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: 06/18/07**

**Action Agenda Item No. 5/3a**  
(Central Admin. use only)

**SUBJECT:** Justice Assistance Grant (JAG) -Digital Media Technology Improvements

**DEPARTMENT:** Sheriff's Office

**PUBLIC HEARING:** Yes

**ATTACHMENT(S):**  
Copy of Grant Application

**INFORMATION CONTACT:**  
Captain Steve Simpson

**TELEPHONE NUMBERS:**  
704-283-3578  
704-400-4584

---

**DEPARTMENT'S RECOMMENDED ACTION:** Accept JAG application and delegate signing authority to Captain Steve Simpson who will act as the grant administrator.

**BACKGROUND:** The Union County Sheriff's Office has made application for the FY 2007 Justice Assistance Grant (JAG) from the Bureau of Justice Assistance. If approved this grant will provide \$34,343.00 to the Sheriff's Office to be used to purchase Digital Media Technology that will store digital images taken by officers at crimes scenes, etc. \*Note\* This grant does not require any matching funds from the county.

**FINANCIAL IMPACT:** N/A No matching funds required.

---

**Legal Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_

---

**Finance Dept. Comments if applicable:** \_\_\_\_\_  
\_\_\_\_\_

---

**Manager Recommendation:** \_\_\_\_\_  
\_\_\_\_\_



# Grants Management System



Your password must meet the following requirements:

- Your password must be at least 8 characters long
- Your password must contain at least three of the following four types of characters:
  - English uppercase
  - English lowercase
  - numeric
  - special
- Your password must not contain significant portions of your user ID or full name

## Registration Information

\*Mandatory fields

*Dunn and Bradstreet DUNS Number:	94 - 710 - 4329 <a href="#">DUNS Number Help</a>
*Employer ID Number (EIN):	56 - 6000345
*Legal Name: (Legal Jurisdiction Name)	Union County
*Organizational Unit:	Sheriff's Office
*Address Line 1:	3344 Presson Rd.
Address Line 2:	
*City	Monroe
County:	Union
*State:	North Carolina <input type="button" value="v"/>
*Zip Code:	28112 - <input type="text"/> <a href="#">Need help for ZIP+4?</a>
*Type of Applicant:	County <input type="button" value="v"/>
Type of Applicant (Other):	<input type="text"/>
*Name Prefix:	Mr. <input type="button" value="v"/>
Prefix (Other):	<input type="text"/>
*User First Name:	Steven
User Middle Initial:	<input type="text"/>
*User Last Name:	Simpson
Name Suffix:	Suffix <input type="button" value="v"/>
Suffix (Other):	<input type="text"/>
*Title:	Captain, Executive Offi
*Phone Number:	704 - 283 - 3578 Ext: <input type="text"/>
Fax Number:	704 - 283 - 3614

*User E-Mail Address:	stevesimpson@co.union.nc.us
*User ID (6 Character Minimum):	UCSOJAG
*Password (8 Character Minimum):	
*Password (Confirmation):	
*Are you the Signing Authority?	Yes <input type="radio"/> No <input checked="" type="radio"/>
<b>Please make sure that all of the above information is correct before proceeding. Pressing Create Account will establish an account that will allow access to the on-line OJP Grant Management System.</b>	

[Create Account](#)

[Go Back](#)



## Grant Management System



---

An account has been created for **Simpson Steven**, identified by the User ID **UCSOJAG**.

You can now login to review available funding opportunities and start applications for the Department of Justice Office of Justice Program's grants. Your account status is currently restricted from completing the submission of grant applications. To successfully complete the process of submitting a grant application, your account has to be reviewed and approved by the sponsoring Program office. This account review process is automatically started as soon as you start a grant application.

---

## Applicant Sign In

---

User ID:

Password:



# Grant Management System Home



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## Funding Opportunities

[Awards](#)

### Search Criteria

[Funding Opportunities](#)

**Program Office:** Bureau of Justice Assistance  
**Solicitation Name:** BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG) Program  
**Keyword:** None

[Grant Adjustments](#)

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[Closeouts](#)

1 Solicitation(s) found.

[Program Guidance](#)

[Reports](#)

[Profile](#)

Bureau of Justice Assistance	Action	Release Date	Registration Deadline	Application Deadline
BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG) Program	<a href="#">Apply online</a>	05/01/2007 12:00 AM EDT	07/02/2007 8:00 PM EDT	07/02/2007 8:00 PM EDT

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AG grants are allocated to states including the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, and American Samoa.

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**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program 2007-F3377-NC-DJ**



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This handbook allows you to complete the application process for applying to the BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. At the end of the application process you will have the opportunity to view and print the SF-424 form.

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Program  
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[Assurances and  
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*Type of Submission	<input type="radio"/> Application Construction <input type="radio"/> Preapplication Construction <input checked="" type="radio"/> Application Non-Construction <input type="radio"/> Preapplication Non-Construction	
*Type of Application	If Revision,select appropriate option  If Other, specify	New ▾ Type of Revision ▾
*Is application subject to review by state executive order 12372 process?	<input type="radio"/> Yes This preapplication/application was made available to the state executive order 12372 process for review on <input type="text"/> ▾ <input type="text"/> ▾ <input type="text"/> ▾ <input checked="" type="radio"/> No Program is not covered by E.O. 12372 <input type="radio"/> N/A Program has not been selected by state for review	

[Save and Continue](#)



**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program 2007-F3377-NC-DJ**



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Verify that the following information filled is correct and fill out any missing information. To save changes, click on the "Save and Continue" button.

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*Is the applicant delinquent on any federal debt	<input type="radio"/> Yes <input checked="" type="radio"/> No
*Employer Identification Number (EIN)	56 - 6000345
*Type of Applicant	County ▾
Type of Applicant (Other):	
*Organizational Unit	Sheriff's Office
*Legal Name (Legal Jurisdiction Name)	Union County
*Vendor Address 1	3344 Presson Rd.
Vendor Address 2	
*Vendor City	Monroe
Vendor County/Parish	Union
*Vendor State	North Carolina ▾
*Vendor ZIP	28112 - 9140 <a href="#">Need help for ZIP+4?</a>
<b>Please provide contact information for matters involving this application</b>	
*Contact Prefix:	Mr. ▾
Contact Prefix (Other):	
*Contact First Name:	Steven
Contact Middle Initial:	
*Contact Last Name:	Simpson
Contact Suffix:	Select a Suffix ▾
Contact Suffix (Other) :	
*Contact Title:	Captain, Executive Offi
*Contact Address Line 1:	3344 Presson Rd.
Contact Address Line 2:	
*Contact City	Monroe
Contact County:	Union



*Contact State:	North Carolina
*Contact Zip Code:	28112 - 9140 <a href="#">Need help for ZIP+4?</a>
*Contact Phone Number:	704 283 3578 Ext:
Contact Fax Number:	704 283 3614
*Contact E-mail Address:	stevesimpson@co.union.nc.us

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**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program 2007-F3377-NC-DJ**



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<b>*Descriptive Title of Applicant's Project</b>	
Digital Media Technology Improvements ▾	
<b>*Areas Affected by Project</b>	
Union County North Carolina ▾	
Proposed Project	
*Start Date	July ▾   01 ▾   2007 ▾
*End Date	June ▾   30 ▾   2009 ▾
<b>*Congressional Districts of</b>	
Project	Congressional District 01, NC ▴ Congressional District 02, NC ▾ Congressional District 03, NC Congressional District 04, NC ▾
<b>*Estimated Funding</b>	
Federal	\$ 34343 .00
Applicant	\$ 0 .00
State	\$ 0 .00
Local	\$ 0 .00
Other	\$ 0 .00
Program Income	\$ 0 .00
<b>TOTAL</b>	<b>\$ 34343 .00</b>

Save and Continue



**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program 2007-F3377-NC-DJ**



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**Budget and Program Attachments**

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This form allows you to upload the Budget Detail Worksheet, Program Narrative and other Program attachments. Click the Attach button to continue.

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upload](#)

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<a href="#">Budget for JAG - UCSO - 07.doc</a>	<a href="#">Delete</a>
<a href="#">Program Narrative for JAG - UCSO - 07.doc</a>	<a href="#">Delete</a>
<a href="#">Review Narrative JAG - UCSO - 07.doc</a>	<a href="#">Delete</a>
Click on the Attach Button to upload an attachment	<a href="#">Attach</a>

[Continue](#)

Your files have been successfully attached, but the application has not been submitted to OJP. Please continue with your application.

## Budget for JAG / Union County Sheriff's Office

### Equipment

<u>Item</u>	<u>Computation</u>	<u>Cost</u>
Equipment entry 1	Multi-gigabyte computer server w/backup	\$34, 343.00
<b>TOTAL</b>		<b><u>\$34,343.00</u></b>

### Budget Summary

<u>Budget Category</u>	<u>Amount</u>
Equipment	\$34,343.00

**TOTAL PROJECTED COSTS      \$34,343.00**

**Federal Request                      \$34,343.00**

### **Program Narrative for JAG:**

The Union County Sheriff's Office will use the funding to purchase an additional server to house our digital media. The additional server is very important in that it provides much needed storage space in order to house digital media such as crime scene photos, etc., taken in the field. This technology allows our agency to perform our duties in a way that allows us to be more productive.

The Union County Sheriff's Office will address our current technology issues by purchasing an additional multi-gigabyte computer server with backup.

The Union County Sheriff's Office will receive \$34,343.00 for this project from the JAG funding.

**Review Narrative:**

The Justice Assistance Grant was made available by notifying the Union County Board of County Commissioners, the governing body for the County of Union. The Union County Board of County Commissioners was notified on June 18, 2007. The public was provided an opportunity to comment at a public hearing at the Union County Sheriff's Office to be held on June 18, 2007.



**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
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To the best of my knowledge and belief, all data in this application/preapplication is true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

[Applicant Information](#)

Your typed name, in lieu of your signature represents your legal binding acceptance of the terms of this application and your statement of the veracity of the representations made in this application. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the following:

[Project Information](#)

1. [Assurances](#)
2. [Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace requirements.](#)

[Budget and Program Attachments](#)

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If you are an applicant for any Violence Against Women grants, this includes the Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act.

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*Prefix:	Mr. <input type="button" value="v"/>
Prefix (Other):	<input type="text"/>
*First Name:	Steven
Middle Initial:	<input type="text"/>
*Last Name:	Simpson
Suffix	Suffix: <input type="button" value="v"/>
Suffix (Other):	<input type="text"/>
*Title:	Captain, Executive Offi
*Address Line 1:	3344 Presson Rd.
Address Line 2:	<input type="text"/>
*City:	Monroe
County:	Union
*State:	North Carolina <input type="button" value="v"/>
*Zip Code:	28112 - 9140
*Phone:	704 - 283 - 3578 Ext : <input type="text"/>
Fax:	<input type="text"/> - <input type="text"/> - <input type="text"/>
*E-mail:	stevesimpson@co.unic

I have examined the information provided here regarding the signing authority and certify it is accurate. I am the signing authority, or have been delegated or designated formally as the signing authority by the appropriate authority of official, to provide the information requested throughout this application system on behalf of this jurisdiction. Information regarding the signing authority, or the delegation of such authority, has been placed in a file and is available on-site for immediate review.

Save and Continue



**NOTE: You must click on the "Accept" button at the bottom of the page before closing this window**

**U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
OFFICE OF THE COMPTROLLER**

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND  
DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Acceptance of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace Grants." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

**1. LOBBYING** As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

**2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510

A. The applicant certifies that it and its principals:

a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

3. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

**3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620

.. The applicant certifies that it will or will continue to provide a drug-free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b) Establishing an on-going drug-free awareness program to inform employees about
  - 1) The dangers of drug abuse in the workplace;
  - 2) The grantee's policy of maintaining a drug-free workplace;
  - 3) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - 4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
  - 1) Abide by the terms of the statement; and
  - 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;
- f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted
  - 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Accept



**BJA FY 07 Edward Byrne Memorial Justice Assistance Grant (JAG)  
Program 2007-F3377-NC-DJ**



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<b>APPLICATION FOR FEDERAL ASSISTANCE</b>		<b>2. DATE SUBMITTED</b>	<b>Applicant Identifier</b>
<b>1. TYPE OF SUBMISSION</b>		<b>3. DATE RECEIVED BY STATE</b>	<b>State Application Identifier</b>
Application Non-Construction		<b>4. DATE RECEIVED BY FEDERAL AGENCY</b>	<b>Federal Identifier</b>
<b>5. APPLICANT INFORMATION</b>			
<b>Legal Name</b>		<b>Organizational Unit</b>	
Union County		Sheriff's Office	
<b>Address</b>		<b>Name and telephone number of the person to be contacted on matters involving this application</b>	
3344 Presson Rd. Monroe, North Carolina 28112-9140		Simpson, Steven (704) 283-3578	
<b>6. EMPLOYER IDENTIFICATION NUMBER (EIN)</b>		<b>7. TYPE OF APPLICANT</b>	
56-6000345		County	
<b>8. TYPE OF APPLICATION</b>		<b>9. NAME OF FEDERAL AGENCY</b>	
New		Bureau of Justice Assistance	
<b>10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE</b>		<b>11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT</b>	
NUMBER: 16.738 CFDA EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE TITLE: GRANT PROGRAM		Digital Media Technology Improvements	
<b>12. AREAS AFFECTED BY PROJECT</b>			
Union County North Carolina			
<b>13. PROPOSED PROJECT</b>		<b>14. CONGRESSIONAL DISTRICTS OF</b>	
Start Date: July 01, 2007 End Date: June 30, 2009		a. Applicant b. Project NC08	
<b>15. ESTIMATED FUNDING</b>		<b>16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?</b>	
Federal	\$34,343	Program is not covered by E.O. 12372	
Applicant	\$0		
State	\$0		
Local	\$0		
Other	\$0		
Program Income	\$0		
<b>TOTAL</b>	<b>\$34,343</b>	<b>17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?</b>	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS REQUIRED.

Continue

Steve Simpson/UnionCounty  
06/01/2007 11:22 AM

To Nicole P Hatch/UnionCounty@UnionCounty  
cc  
bcc  
Subject Public Hearing Notice

Nicole,  
Attached is the public hearing notice I would like to run in the Monroe Enquirer next week. Please let me know which paper it runs in so that I may make a copy for my files.

Thanks,  
Steve



Public Hearing Announcement 2007.doc



**UNION COUNTY**  
**Office of the Tax Administrator**  
300 N. Main Street  
P.O. Box 97  
Monroe, NC 28111-0097

**AGENDA ITEM**

# 5/4a ab

**MEETING DATE** 6-18-07

704-283-3746  
704-283-3616 Fax

John C. Petoskey  
Tax Administrator

**MEMORANDUM**

**TO:** Lynn West  
Central Administration

**FROM:** John C. Petoskey  
Tax Administrator

**DATE:** Thursday, May 31, 2007

**RE:** Eleventh Motor Vehicle Release/Refund Register

I hereby certify the following releases/refunds that were made during the period of 05/1/2007 – 05/31/2007. The releases/refunds represent releases/refunds of both monthly and annual vehicle values and taxes. Should you have any questions, please call.

JCP:tlm

--- M O T O R V E H I C L E S Y S T E M ---

---Date--- --Time  
05/31/2007 11:12:

Assessor Refund Register for the period 05/01/2007 to 05/31/2007

(Summary)

---Bdg No---	-----Description-----	--Key--	Bill Rate		-----Total-----	---Int---	
			Year	Year			
					--Value--	---Tax---	
10	County.....	CN99999	2004	2004	20,000	105.00-	21.8
10	County.....	CN99999	2005	2004	0	16.40-	.0
10	County.....	CN99999	2005	2005	5,350	29.96-	.0
10	County.....	CN99999	2006	2005	33,920	215.30-	.0
10	County.....	CN99999	2006	2006	81,185	806.68-	.0
Net Totals.....:					140,455	1,173.34-	21.8
76	School dist - Monroe.....	SC100	2004	2004	20,000	14.00-	3.0
76	School dist - Monroe.....	SC100	2006	2005	1,235	.00	.0
77	School dist - County.....	SC999	2005	2004	0	2.15-	.0
77	School dist - County.....	SC999	2005	2005	5,350	3.75-	.0
77	School dist - County.....	SC999	2006	2005	32,685	26.92-	.0
Net Totals.....:					59,270	46.82-	3.0
39	Fire Dist - Stallings.....	FR020	2006	2005	28,000	11.09-	.0
39	Fire Dist - Stallings.....	FR020	2006	2006	34,125	15.19-	.0
37	Fire dist - Wesley Chapel:	FR026	2006	2005	1,235-	.14-	.0
37	Fire dist - Wesley Chapel:	FR026	2006	2006	7,600-	7.66-	.0
34	Fire Dist - Waxhaw.....	FR028	2006	2006	2,230	.92-	.0
Net Totals.....:					55,520	35.00-	.0
78	220125 Taxes Payable - Marvin.....	MN01000	2006	2006	6,900	3.45-	.0
78	220130 Taxes Payable - Monroe.....	MN02000	2004	2004	20,000	96.00-	19.9
78	220130 Taxes Payable - Monroe.....	MN02000	2005	2005	5,350	31.22-	.0
78	220130 Taxes Payable - Monroe.....	MN02000	2006	2005	1,235	.00	.0
78	220130 Taxes Payable - Monroe.....	MN02000	2006	2006	26,622	86.98-	.0
78	220150 Taxes Payable - Waxhaw.....	MN05000	2006	2006	2,230	7.58-	.0
78	220110 Taxes Payable - Indian Trail:	MN06000	2006	2005	18,550	14.82-	.0
78	220110 Taxes Payable - Indian Trail:	MN06000	2006	2006	16,535	16.56-	.0
78	220140 Taxes Payable - Stallings.....	MN07000	2006	2006	17,590	44.13-	.0
78	220165 Taxes Payable - Wesley Chapel:	MN09700	2006	2005	9,450	1.89-	.0
Net Totals.....:					124,462	302.63-	19.9
84	220000 NC State Interest.....	NC00000	2005	2004	0	.00	.0
Net Totals.....:					0	.00	.0

MEETING DATE: 05/31/07 11:12:00

--- M O T O R V E H I C L E S Y S T E M ---

---Date--- --Time  
05/31/2007 11:12:

Assessor Refund Register for the period 05/01/2007 to 05/31/2007

(Summary)

Net Grand Totals.....:

1,557.79-

44.8



--- M O T O R V E H I C L E S Y S T E M ---

---Date--- --Time  
05/31/2007 11:12:

Assessor Release Register for the period 05/01/2007 to 05/31/2007

(Summary)

---Bdg No---	-----Description-----	--Key--	Bill Rate		-----Total-----		
			Year	Year	--Value--	---Tax---	---Int---
10	County.....	CN99999	2004	2003	0	4.10-	1.0
10	County.....	CN99999	2005	2004	0	254.81-	28.2
10	County.....	CN99999	2005	2005	48,740	323.70-	37.1
10	County.....	CN99999	2006	2005	242,260	1,666.69-	109.7
10	County.....	CN99999	2006	2006	1,816,020	11,590.98-	75.8
Net Totals.....					2,107,020	13,840.28-	252.0
76	School dist - Monroe.....	SC100	2005	2005	10,090	10.10-	1.1
76	School dist - Monroe.....	SC100	2006	2005	52,580	44.24-	2.6
77	School dist - County.....	SC999	2004	2003	0	.54-	.0
77	School dist - County.....	SC999	2005	2004	0	33.98-	3.9
77	School dist - County.....	SC999	2005	2005	38,650	30.36-	3.6
77	School dist - County.....	SC999	2006	2005	189,680	164.15-	11.3
Net Totals.....					291,000	283.37-	22.6
32	Fire Dist - Springs.....	FR015	2006	2006	89,231	27.93-	.0
39	Fire Dist - Stallings....	FR020	2006	2006	103,639	46.02-	.2
38	Fire dist - Hemby Bridge..	FR023	2005	2004	0	5.22-	.5
38	Fire dist - Hemby Bridge..	FR023	2005	2005	19,000	7.68-	.8
38	Fire dist - Hemby Bridge..	FR023	2006	2005	17,810	7.20-	.5
38	Fire dist - Hemby Bridge..	FR023	2006	2006	103,885	50.26-	.1
37	Fire dist - Wesley Chapel:	FR026	2004	2003	0	.13-	.0
37	Fire dist - Wesley Chapel:	FR026	2006	2005	22,190	3.33-	.2
37	Fire dist - Wesley Chapel:	FR026	2006	2006	204,738	31.11-	.2
34	Fire Dist - Waxhaw.....	FR028	2006	2006	70,090	28.94-	.2
Net Totals.....					630,583	207.82-	3.0
78	220125 Taxes Payable - Marvin.....	MN01000	2006	2005	13,450	6.95-	.3
78	220125 Taxes Payable - Marvin.....	MN01000	2006	2006	24,680	12.35-	.0
78	220130 Taxes Payable - Monroe.....	MN02000	2005	2005	10,090	88.20-	9.1
78	220130 Taxes Payable - Monroe.....	MN02000	2006	2005	52,580	338.00-	19.2
78	220130 Taxes Payable - Monroe.....	MN02000	2006	2006	319,589	1,783.64-	15.8
78	220170 Taxes Payable - Wingate.....	MN03000	2006	2006	62,110	236.02-	.0
78	220120 Taxes Payable - Marshville....	MN04000	2006	2006	57,445	218.29-	.0
78	220150 Taxes Payable - Waxhaw.....	MN05000	2006	2006	11,600	39.44-	.0
78	220110 Taxes Payable - Indian Trail..	MN06000	2006	2005	20,450	16.36-	1.1
78	220110 Taxes Payable - Indian Trail..	MN06000	2006	2006	237,954	237.95-	1.1
78	220140 Taxes Payable - Stallings....	MN07000	2006	2006	99,966	249.91-	1.1
78	220160 Taxes Payable - Weddington...	MN08000	2006	2006	74,774	22.43-	.0
78	220175 Taxes Payable - Fairview.....	MN09300	2006	2005	20,000	4.00-	.0
78	220175 Taxes Payable - Fairview.....	MN09300	2006	2006	38,100	7.62-	.0

--- M O T O R V E H I C L E S Y S T E M ---

---Date--- --Time  
05/31/2007 11:12:

Assessor Release Register for the period 05/01/2007 to 05/31/2007

(Summary)

78	220145	Taxes Payable - Hemby Bridge.:	MN09500	2006	2005	15,310	4.59-	.3
78	220165	Taxes Payable - Wesley Chapel:	MN09700	2006	2006	56,070	11.21-	.1
78	220135	Taxes Payable - Unionville.:	MN09800	2005	2005	19,650	3.93-	.5
78	220135	Taxes Payable - Unionville.:	MN09800	2006	2005	2,420	.48-	.0
78	220135	Taxes Payable - Unionville.:	MN09800	2006	2006	13,910	2.78-	.0
78	220155	Taxes Payable - Mnrl Sprngs.:	MN09900	2006	2006	42,391	11.44-	.0
Net Totals.....:						1,192,539	3,295.59-	51.1
84	220000	NC State Interest.....:	NC00000	2005	2004	0	.00	8.8
84	220000	NC State Interest.....:	NC00000	2005	2005	0	.00	13.9
84	220000	NC State Interest.....:	NC00000	2006	2005	0	.00	63.7
84	220000	NC State Interest.....:	NC00000	2006	2006	0	.00	82.2
Net Totals.....:						0	.00	168.7
Net Grand Totals.....:							17,627.06-	497.7

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: June 18, 2007**

**Action Agenda Item No. 5/5a**  
(Central Admin. use only)

**SUBJECT:** ACCEPTANCE OF FUNDS FOR BIOTERRORISM PROGRAM

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**DEPARTMENT:** HEALTH

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

Jenny Kirksey

**TELEPHONE NUMBERS:**

704-296-4801

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**DEPARTMENT'S RECOMMENDED ACTION:** Accept \$10,000 from the Mecklenburg County Health Department.

**BACKGROUND:** The Health Department has been offered \$10,000 in Cities Readiness Initiative (CRI) State funding from the Mecklenburg County Health Department for the development of a Medical Reserve Corp (MRC) database. The funding should cover the establishment of a database, the development of an informational website, and the development of an interface with hospital systems and community preparedness organizations.

**FINANCIAL IMPACT:** No financial impact to the county.

Increase revenue:

10451150-4840-1337    \$10,000

Increase expenditures:

10551150-5239-1337    \$10,000

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



Contract Summary of Major Terms and Conditions

6-18-2007

Reference	Vendor Name	Purpose	Payment Terms	Comprehensive Plans	Budget Amend.	S#
A	Natural Concepts, Inc	Lawn services at Animal Services Center	\$7,800 per year (renewable annually, paid monthly)	Operating Budget - 2007 Operating Budgets - Future	n/a	1629

AGENDA ITEM

# 5/6a

MEETING DATE 6-18-07

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: June 18, 2007

Action Agenda Item No. 5/7a  
(Central Admin. use only)

**SUBJECT:** Radio Tower Lease Agreement (Piedmont Site)

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**DEPARTMENT:** Communications                      **PUBLIC HEARING:** No

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**ATTACHMENT(S):**    **INFORMATION CONTACT:**  
Gary J. Thomas

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**TELEPHONE NUMBERS:**  
704-283-3550

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**DEPARTMENT'S RECOMMENDED ACTION:** Authorize the County Manager to either terminate the existing lease and approve a new lease, or approve an amendment to the current lease allowing for month-to-month occupancy.

**BACKGROUND:** Currently Union County leases a tower located on Hagler Baucom Road from SBA Tower Inc. The lease will expire on 11-01-07 or automatically renew for another 5 years unless the County gives 120 days notice of termination. The current lease payment is \$2,431.01 per month with a 5% increase each year in payment. With the plan to implement a new 800 MHz radio system this tower will not meet the location and height requirements for the new communications system. I recommend that Union County enter into a month-to-month lease arrangement until which time Union County can migrate over to the new system. This will avoid locking into the current lease agreement for another 5 years that would result in Union County leasing tower space that we would not be using. Under the current plan, all the existing radio equipment on the Piedmont Piedmont site (SBA Tower) would be transferred onto the new proposed tower planned in the Fairview area.

**FINANCIAL IMPACT:**

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date: June 18, 2007**

**Action Agenda Item No. 5 / 9**

(Central Admin. use only)

**SUBJECT:** Amended and Restated FY2007 Budget Ordinance

---

**DEPARTMENT:** Finance

**PUBLIC**

**ATTACHMENT(S):**

Ordinance

**INFORMATION**

Kai Nelson

Reconciliation

**TELEPHONE NUMBERS:**

704.292.2522

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**DEPARTMENT'S RECOMMENDED ACTION:**

**BACKGROUND:** This amended and restated budget ordinance provides the external auditors with a cumulative final budget for FY2007 and incorporates Board actions throughout the fiscal year into a single, restated final budget ordinance. A reconciliation from the current budget and estimated amounts that appear on pages 26 through 29 of the Budget Book is included in the package.

The vast majority of the additional uses relate to the following functional area, all of which were discussed during the budget work sessions and are reflected in the Budget Book: Court Facilities (facility insurance allocation), General Services, Medical Examiner, Juvenile Detention Services (additional costs for detention of Union County youth, both days and number), Cooperative Extension (Conference Center and sponsored activities), Soil Conservation (mainly due to additional grant funds), Community Development (for water/sewer self help projects), Social Services (Medicaid, public assistance programs), Veterans' Services (transportation of clients), Mental Health (occupancy costs), Council on Aging (additional program revenue), UCPS Current Expense (occupancy costs), UCPS Capital and Debt Service (additional restricted revenue for debt service reserve), Historical Properties (occupancy costs), Fee Supported Fire Districts Fund (recognize additional revenue for distribution), E-911 System Fund (additional revenue to cover expenses), Water & Sewer (additional sales and expenses related thereto), Solid Waste (additional sales and expenses related thereto).

**FINANCIAL IMPACT:** None

**Legal Dept. Comments if applicable:**

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**Finance Dept. Comments if**

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**Manager**

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## SECTION I. GENERAL FUND

A. The following amounts are hereby appropriated in the GENERAL FUND for the operation of the county government and its activities for the fiscal year beginning July 1, 2006 and ending June 30, 2007 in accordance with the chart of accounts heretofore established for this county.

General Government:	
Board of Commissioners	541,187
Central Administration	732,390
County Dues & Memberships	108,843
Internal Audit	92,662
Legal	318,102
Personnel	608,002
Finance	897,487
Tax Administration	3,975,790
Court Facilities	1,744,842
Elections	1,416,481
Register of Deeds	1,198,138
Information Technology	2,354,445
General Services	1,658,674
Public Safety:	
Law Enforcement	18,214,046
Communications	2,001,791
Homeland Security	362,301
Fire Services	958,489
Inspections	2,278,160
Outside Agencies	3,896,970
Economic & Physical Development:	
Planning	738,473
Economic Development	682,165
Cooperative Extension	1,026,855
Soil Conservation	72,265
Community Development	300,000
Outside Agency	53,607
Human Services:	
Public Health	7,638,289
Social Services	27,287,683
Transportation and Nutrition	1,476,725
Veterans' Services	229,489
Outside Agencies	2,068,661
Education:	
School Current Expense (Regular)	57,042,554
School Current Expense (Occupancy Costs)	255,360
School Capital Outlay	11,043,050
School Debt Service	31,273,080
School Debt Service (Refunding)	8,000
Community College	281,540
Community College (Operations)	880,500
Outside Agency	2,500
Cultural and Recreational:	
Library	4,701,877
Parks & Recreation	3,992,502
Outside Agencies	89,551
Contingency/Nondepartmental	4,008
	<u>194,507,534</u>

Continued on next page.

**Amended & Resated Budget Ordinance**  
**Union County, NC**

**Fiscal Year 2006-2007**

B. It is estimated that the following revenues will be available in the GENERAL FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Ad Valorem Taxes	101,813,192
Local Option Sales Tax	35,091,009
Other Taxes	3,716,000
Intergovernmental	23,949,236
Functional Revenues	12,850,022
Miscellaneous	6,045,432
Interfund Transfers	263,178
Fund Balance Appropriated	10,779,465
	<u>194,507,534</u>

**SECTION II. FIRE TAX DISTRICTS**

A. The following amounts are hereby appropriated in the various FIRE TAX DISTRICT FUNDS for the operation of fire protection services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.

Wesley Chapel	<u>727,113</u>
Hemby Bridge	<u>925,000</u>
Stallings	<u>854,676</u>
Springs	<u>212,110</u>
Waxhaw	<u>347,055</u>

B. It is estimated that the following revenues will be available in the FIRE TAX DISTRICT FUNDS for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Ad Valorem Taxes	440,161
Local Option Sales Tax	217,795
Fund Balance Appropriated	69,157
	<u>727,113</u>
Fire Tax	659,900
Local Option Sales Tax	207,662
Fund Balance Appropriated	57,438
	<u>925,000</u>
Ad Valorem Taxes	587,342
Local Option Sales Tax	171,232
Fund Balance Appropriated	96,102
	<u>854,676</u>
Ad Valorem Taxes	212,110
Ad Valorem Taxes	347,055

**SECTION III. FEE SUPPORTED FIRE DISTRICTS**

A. The following amounts are hereby appropriated in the FEE SUPPORTED FIRE DISTRICTS FUND for the operation of fire protection services for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Public Safety:	<u>1,164,850</u>
----------------	------------------

B. It is estimated that the following revenues will be available in the FEE SUPPORTED FIRE DISTRICTS FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Fire Fees	1,161,850
Fund Balance Appropriated	3,000
	<u>1,164,850</u>

Continued on next page.

**SECTION V. EMERGENCY TELEPHONE SYSTEM**

**A.** The funds in this budget shall arise from subscriber charges set at ninety-six cents (\$.96) per month per telephone line. These funds are collected by the telephone companies in the County and remitted to the County for operation of an E-911 system.

**B.** The following amounts are hereby appropriated in the EMERGENCY TELEPHONE SYSTEM FUND for the emergency 911 services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.

Public Safety	<u>3,182,200</u>
---------------	------------------

**C.** It is estimated that the following revenues will be available in the EMERGENCY TELEPHONE SYSTEM FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Service Charges	1,047,354
Intergovernmental	31,840
Miscellaneous	59,300
Fund Balance Appropriated	<u>2,043,706</u>
	<u>3,182,200</u>

**SECTION VI. WATER AND SEWER**

**A.** The following amounts are hereby appropriated in the WATER AND SEWER FUND for the operation of water and sewer services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.

Water & Sewer	<u>42,950,000</u>
---------------	-------------------

**B.** It is estimated that the following revenues will be available in the WATER AND SEWER FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Fees for Services	33,668,902
Loan Proceeds	294,118
Miscellaneous	1,684,000
Retained Earnings Appropriated	<u>7,302,980</u>
	<u>42,950,000</u>

**SECTION VII. SOLID WASTE**

**A.** The following amounts are hereby appropriated in the SOLID WASTE FUND for the operation of solid waste services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.

Solid Waste	<u>4,950,000</u>
-------------	------------------

**B.** It is estimated that the following revenues will be available in the SOLID WASTE FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Fees for Services	3,928,063
Miscellaneous	298,985
Retained Earnings Appropriated	<u>722,952</u>
	<u>4,950,000</u>

**SECTION VIII. STORMWATER**

**A.** The following amounts are hereby appropriated in the STORMWATER FUND for the operation of stormwater services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.

Stormwater	<u>241,253</u>
------------	----------------

**B.** It is estimated that the following revenues will be available in the STORMWATER FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Transfer from Enterprise Fund	158,367
Retained Earnings Appropriated	<u>82,886</u>
	<u>241,253</u>

**Amended & Resated Budget Ordinance**  
**Union County, NC**

**Fiscal Year 2006-2007**

**SECTION IX. DEBT SERVICE FUND**

- A.** The following amounts are hereby appropriated in the DEBT SERVICE FUND for the operation of stormwater services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.
- B.** It is estimated that the following revenues will be available in the DEBT SERVICE FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Cultural and Recreational:	<u>4,136,882</u>	Fund Balance Appropriated	<u>4,136,882</u>
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**SECTION X. LIBRARY CAPITAL RESERVE FUND**

- A.** The following amounts are hereby appropriated in the LIBRARY CAPITAL RESERVE FUND for the operation of stormwater services for the fiscal year beginning July 1, 2006 and ending June 30, 2007 with the chart of accounts heretofore established for this county.
- B.** It is estimated that the following revenues will be available in the LIBRARY CAPITAL RESERVE FUND for the fiscal year beginning July 1, 2006 and ending June 30, 2007.

Cultural and Recreational:	<u>77,440</u>	Fund Balance Appropriated	<u>77,440</u>
----------------------------	---------------	---------------------------	---------------

- SECTION XI. A. GENERAL FUND:** That there is hereby levied for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following county-wide rate of tax on each one hundred dollars (\$100) valuation of taxable property situated in the County, as listed for taxes as of January 1, 2005, for the purpose of raising the revenue from current year's taxes, as set forth in the foregoing county-wide estimates of revenue, and in order to finance the foregoing county-wide appropriations:

General Fund - County-wide Rate	<u>.6367</u>
---------------------------------	--------------

- B. SPECIAL DISTRICTS:** That there is hereby levied for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following Special District tax rate on each one hundred dollars (\$100) valuation of estimated taxable property situated in each Special District, as listed for taxes as of January 1, 2006, for the purpose of raising the revenue from current year's taxes, as set out in the foregoing District estimates of revenue, and in order to finance the foregoing District appropriations:

Wesley Chapel Fire Protection District	<u>.0152</u>	Springs Fire Protection District	<u>.0313</u>
Hemby Bridge Fire Protection District	<u>.0464</u>	Waxhaw Fire Protection District	<u>.0413</u>
Stallings Fire Protection District	<u>.0444</u>		
Monroe Special School District - Current Expense	<u>.0000</u>	County Special School District - Current Expense	<u>.0000</u>

General Fund						
Current Budget as presented in the Interim Manager's Recommended Budget Reconciled to the Amended & Restated Budget Ordinance						
Dept/Agency	Desc	Document	Expense		Revenue	
			Appropriation Total	Other	Fund Bal. Appropriated	Total
<b>Current Budget (as stated in Interim Manager's Recommended Book)</b>						
Community Development	Appr contingency	BA-61 (11-20-06)	100,000	-	-	-
Contingency	Appr contingency for Community Development	BA-61 (11-20-06)	(100,000)	-	-	-
Parks & Recreation	Increase payments to Other Agencies	BA-54 (4-19-07)	149,592	-	149,592	149,592
School Current Expense (Reg)	Increase payments UCPS	BA-55 (4-19-07)	153,028	-	-	-
School Debt Service	Reduce contribution to Debt Reserve	BA-55 (4-19-07)	(153,028)	-	-	-
Juvenile Justice & Del. Prev.	Appr grant funds	BA-58 (6-04-07)	5,892	-	-	5,892
Social Services	Appr grant funds	BA-59 (6-04-07)	1,700	-	-	1,700
<b>Current Budget (as of 6-18-07)</b>			<b>191,569,281</b>	<b>180,789,816</b>	<b>10,779,465</b>	<b>191,569,281</b>
Public Health	Appr grant funds	BA-60 (6-18-07)	10,000	-	-	10,000
Board of Elections	Appr grant funds	BA-62 (6-18-07)	150,000	-	-	150,000
<b>Current Budget (including pending BA's as of 6-18-07)</b>			<b>191,729,281</b>	<b>180,949,816</b>	<b>10,779,465</b>	<b>191,729,281</b>
Court Facilities	Appr to cover facility insurance allocation	Amended & Restated	30,000	-	-	30,000
General Services	Appr IFT due to COP's proceeds savings	Amended & Restated	487,653	-	-	487,653
Medical Examiner	Appr to cover medical examiner charges	Amended & Restated	30,000	-	-	30,000
Juvenile Detention	Appr to cover juvenile detention charges	Amended & Restated	90,000	-	-	90,000
Cooperative Extension	Appr service charges to cover facility expenses	Amended & Restated	41,800	-	-	41,800
Soil Conservation	Appr additional grant funds, etc to cover expenses	Amended & Restated	12,000	-	-	12,000
Community Development	Appr for water & sewer self help projects	Amended & Restated	200,000	-	-	200,000
Social Services	Appr for medicaid, public assistance	Amended & Restated	300,000	-	-	300,000
Veterans' Services	Appr to cover expenses	Amended & Restated	5,000	-	-	5,000
Mental Health	Appr to cover facility insurance allocation	Amended & Restated	4,000	-	-	4,000
Council on Aging	Appr additional grant funds to cover expenses	Amended & Restated	30,000	-	-	30,000
School Current Exp (Occup.)	Appr to cover facility occupancy costs allocation	Amended & Restated	50,000	-	-	50,000
School Debt Service	Appr ad valorem, sales tax for IFT to debt reserve	Amended & Restated	1,600,000	-	-	1,600,000
Historical Properties	Appr to cover facility occupancy costs allocation	Amended & Restated	500	-	-	500
Nondepartmental	Reduce nondepartmental appropriation balance	Amended & Restated	(102,700)	-	-	(102,700)
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>194,507,534</b>	<b>183,728,069</b>	<b>10,779,465</b>	<b>194,507,534</b>
<b>Fee Supported Fire Districts Fund</b>						
Original Budget Reconciled to the Amended & Restated Budget Ordinance						
Dept/Agency	Desc	Document	Expense		Revenue	
			Appropriation Total	Other	Fund Bal. Appropriated	Total
<b>Current Budget (as stated in Interim Manager's Recommended Book &amp; at 6-18-07)</b>			<b>1,128,693</b>	<b>1,125,693</b>	<b>3,000</b>	<b>1,128,693</b>
Fee Supported Fire Districts	Recognize additional revenue for distribution	Amended & Restated	36,157	-	-	36,157
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>1,164,850</b>	<b>1,161,850</b>	<b>3,000</b>	<b>1,164,850</b>

<b>Emergency Telephone System</b>									
<b>Current Budget as presented in the Interim Manager's Recommended Budget</b>									
<b>Reconciled to the Amended &amp; Restated Budget Ordinance</b>									
Dept/Agency	Desc	Document	Expense			Revenue			Total
			Appropriation Total	Other	Fund Bal. Appropriated	Other	Fund Bal. Appropriated		
<b>Current Budget (as stated in Interim Manager's Recommended Book &amp; at 6-18-07)</b>									
E911 Communications	Appr additional revenue to cover expenses	Amended & Restated	3,172,446	1,128,740	2,043,706	9,754	-	9,754	3,172,446
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>3,182,200</b>	<b>1,138,494</b>	<b>2,043,706</b>				<b>3,182,200</b>
<b>Water &amp; Sewer Fund</b>									
<b>Current Budget as presented in the Interim Manager's Recommended Budget</b>									
<b>Reconciled to the Amended &amp; Restated Budget Ordinance</b>									
Dept/Agency	Desc	Document	Expense			Revenue			Total
			Appropriation Total	Other	Fund Bal. Appropriated	Other	Fund Bal. Appropriated		
<b>Current Budget (as stated in Interim Manager's Recommended Book &amp; at 6-18-07)</b>									
Water & Sewer Fund	Appr additional revenue to cover service expenses	Amended & Restated	42,135,463	34,832,483	7,302,980	814,537	-	814,537	42,135,463
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>42,950,000</b>	<b>35,647,020</b>	<b>7,302,980</b>				<b>42,950,000</b>
<b>Solid Waste Fund</b>									
<b>Current Budget as presented in the Interim Manager's Recommended Budget</b>									
<b>Reconciled to the Amended &amp; Restated Budget Ordinance</b>									
Dept/Agency	Desc	Document	Expense			Revenue			Total
			Appropriation Total	Other	Fund Bal. Appropriated	Other	Fund Bal. Appropriated		
<b>Current Budget (as stated in Interim Manager's Recommended Book &amp; at 6-18-07)</b>									
Solid Waste Fund	Appr additional revenue to cover service expenses	Amended & Restated	4,717,671	3,994,719	722,952	232,329	-	232,329	4,717,671
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>4,950,000</b>	<b>4,227,048</b>	<b>722,952</b>				<b>4,950,000</b>
<b>Stormwater Fund</b>									
<b>Current Budget as presented in the Interim Manager's Recommended Budget</b>									
<b>Reconciled to the Amended &amp; Restated Budget Ordinance</b>									
Dept/Agency	Desc	Document	Expense			Revenue			Total
			Appropriation Total	Other	Fund Bal. Appropriated	Other	Fund Bal. Appropriated		
<b>Current Budget (as stated in Interim Manager's Recommended Book &amp; at 6-18-07)</b>									
<b>Amended &amp; Restated Budget Ordinance (proposed 6-18-07)</b>			<b>241,253</b>	<b>158,367</b>	<b>82,886</b>				<b>241,253</b>



**Debt Service Reserve Fund**  
**Current Budget as presented in the Interim Manager's Recommended Budget**  
**Reconciled to the Amended & Restated Budget Ordinance**

Dept/Agency	Desc	Document	Expense		Revenue	
			Appropriation Total	Other	Fund Bal. Appropriated	Total
Current Budget (as stated in Interim Manager's Recommended Book & at 6-18-07)			4,136,882	-	4,136,882	4,136,882
Amended & Restated Budget Ordinance (proposed 6-18-07)			4,136,882	-	4,136,882	4,136,882

**Library Capital Reserve Fund**  
**Current Budget as presented in the Interim Manager's Recommended Budget**  
**Reconciled to the Amended & Restated Budget Ordinance**

Dept/Agency	Desc	Document	Expense		Revenue	
			Appropriation Total	Other	Fund Bal. Appropriated	Total
Current Budget (as stated in Interim Manager's Recommended Book & at 6-18-07)			77,440	-	77,440	77,440
Amended & Restated Budget Ordinance (proposed 6-18-07)			77,440	-	77,440	77,440

AGENDA ITEM

# 5/10  
MEETING DATE 6-18-07

LOCAL GOVERNMENT DEVELOPMENT FORM

THE ONE NORTH CAROLINA FUND

DOC Project No. 2006-0269  
DOC Developer Ron Leitch

*This Application is to be completed by the appropriate Local Government official with the assistance of any local economic development specialist working on the project for which the funds are requested. It is designed to be accompanied by an Application Cover Sheet that is prepared by the DOC Developer assigned to the project.*

*To be eligible for One North Carolina grant funds, a completed formal application must be received and approved prior to any announcement of the project.*

**General Information**

Name of Local Government: UNION COUNTY, NORTH CAROLINA

Federal Tax ID No.: 56-6000345

Local Government contact for grant administration: Dick Black, Interim County Manager

Contact information: 500 N. Main Street, Monroe, NC 28112, 704-283-3565, rblack@co.union.nc.us  
(phone, email, address)

Do you have a copy of a completed Application Cover Sheet? Yes

If so, is the information on it correct to the best of your knowledge? Yes

If no, please list any errors and the correct information below:

[Empty box for listing errors and correct information]

**Project Information**

*The information sought in this section is designed to enable the Secretary of Commerce and Governor to gauge the impact this project is likely to have on your county and region. Attach additional sheets if necessary to complete a particular response.*

In as much detail as you can, describe the expected economic impact of the project, including the impact the project is likely to have on your county and region.

Tensylon expects to add an investment of 8.7 million dollars and an additional 20 jobs.

*While such studies are not required, if you or any economic development association working with you have done any economic studies or analyses for the project that you wish to share, please attach those.*

Describe your local government's expectations for long-term growth and around the project site:

The current new investment is an expansion. Additional expansions are expected after this one is complete.

Do you expect the project to place unusual economic demands on your community or county in terms of government services expected to be consumed, local government costs expected to be incurred, ect.?

If yes, please describe the services and/or costs:

No

Describe the specific impact that you expect this project to have on your community or county's current unemployment situation?

The additional of 20 jobs will be above the Union County average wage for our manufacturing work force.

Do you expect this company to contribute to and/or support your local community in ways that are above and beyond the contributions and support your community typically receives from businesses in your area?        Yes

If yes, describe your expectations in that regard and the basis for them:

Tensylon has taken part in both the American Cancer Society and Special Olympics activites and campaigns in the county and plan to continue their participation with these organizations.

Describe the impact that the project is expected to have on the county's ad valorem property taxes. If you have prepared any written analyses of this issue that are appropriate for sharing, please feel free to attach them:

See attached documents.

### Competition for the Project

Please provide the following information to the best of your knowledge and understanding or the knowledge and understanding of your local developers.

Other states being considered for the Project (list state and city or region):

Jacksonville, Florida

\_\_\_\_\_  
\_\_\_\_\_

Describe the nature of the incentives being offered by these other states. Attach additional sheets, if necessary.  
For example, for each state:

Cash grants (dollar amount and source): Unknown at this time.  
Tax credits (dollar value and tax being offset): \_\_\_\_\_  
Tax abatements: \_\_\_\_\_  
Other incentives: \_\_\_\_\_

Do you view this project as being at risk of being developed or located in another state? yes

Based on your experience with the project, do you consider a grant from the  
One North Carolina Fund to be necessary to any final decision by the company to develop  
or locate the project in NC? \_\_\_\_\_ Yes

If this grant is made, is it your understanding that the Company will commit to go forward with  
this project in your county? \_\_\_\_\_ Yes

## Local Match

*A Local Government receiveing One North carolina Funds is required to match the grant and provide documentation supporting that match, N.C. Commerce Finance Center grant or loan funds may not be used for match.*

Describe all sources of local financial support being provided for this project. Use separate sheet if necessary.

Cash grants (dollar amount and source): \$155,296.51 over 4 years (see attached)  
Fee waivers (dollar amount and source): \_\_\_\_\_  
In-kind services: \_\_\_\_\_  
(describe value and method for accounting value)  
Contributions of land, buildings or other assets: \_\_\_\_\_  
(describe asset and value)  
Infrastructure for project: \_\_\_\_\_  
(describe infrastructure funded and value)  
Other incentives: \_\_\_\_\_  
(describe value and method for accounting value)

## Grant Administration

Do you understand that moneys granted from the Fund and allocated by your Local Government from the Fund  
may be used only for the following purposes? Yes

- (1) Installation or purchase of new equipment;
- (2) Structural repairs, improvements or renovations of existing buildings to be used for expansion; and
- (3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.
- (4) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for m manufacturing and industrial operations.

Is your local government currently in default on any loan or grant previously made by the NC Department of  
Commerce? No

**NOTE: By law, local governments in default of loans or grants made by the NC Department of Commerce are not eligible for further grants from the Department until the default is cured.**

## GRANT DISBURSEMENTS

Grant disbursements should be sent to the following individual with the local government:

Name: Dick Black  
Title: Interim County Manager  
Local Government Organization: County Offices  
Fed, Tax ID No.: 56-6000345  
Address: 500 N. Main Street  
City: Monroe State: NC Zip: 28112  
Phone: 704-283-3565 Fax: 704-282-0121 Email: rblack@co.union.nc.us

*NOTE: The award of any funds sought through this application is contingent upon negotiation of mutually agreeable company performance agreement and local government grant agreement, the submission of any necessary proofs of performance, and adequate and appropriate record-keeping and reporting by the Local Government and Company.*

The foregoing information is true and accurate to the best of my knowledge.

ATTEST:

\_\_\_\_\_  
Local Government Official

Richard Black  
\_\_\_\_\_  
Print Name

Interim County Manager  
\_\_\_\_\_  
Title

Union County, North Carolina  
\_\_\_\_\_  
Unit of Local Government

\_\_\_\_\_  
Date

State of North Carolina

County of \_\_\_\_\_

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

SEAL

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



**UNION COUTNY INCENTIVE REQUEST PRESENTATION**

Company Name..... Tensylon High Performance  
Materials a division of Armor  
Holdings

Representative..... Lisa Owens, VP & Gen. Mgr.

State of Incorporation..... Florida

Nature of Business ..... Ballistic Fibers

Current operations in Union..... 1901 Piedmont Dr. Monroe  
(Parcel # 09180069)

Current Employment in Union County..... 18

**Proposed new or additional Union County facility**

Proposed Location.....Expansion at 1901 Piedmont Dr. Monroe

Additional Square Feet..... 18,000 Square Feet

**New Investment**

Real Estate.....\$ 1,100,000  
Equipment.....\$ 7,600,000  
Total Investment.....\$8,700,000

**Schedule of Investment:**

<u>Year</u>	<u>Real Estate</u>	<u>M &amp; E</u>	<u>Total</u>
2007	\$1,100,000	\$ 7,600,000	\$ 8,700,000
2008	\$	\$ 6,600,000	\$ 6,600,000
2009	\$ ----	\$ ----	\$ ----
2010	\$ ----	\$ ----	\$ ----
<b>Total</b>	<b>\$ 1,100,000</b>	<b>\$ 14,200,000</b>	<b>\$ 15,300,000</b>

# of new full time jobs..... 40 @ \$ 37,170 Average  
Total new full time annual payroll.....+\$1,500,000

# of new contract labor jobs..... 2 @ \$37,170 Average  
Total new contract labor annual payroll.....\$ 74,340 Average

Total new payroll.....\$1,574,340

**Net County Tax Calculation**

**Estimated Total Tax Collection.....\$283,688**  
**Estimated Total Grant.....\$155,297**  
**Estimated Total Net of Grant.....\$128,391**

**City of Monroe cash Incentive Grant .....\$245,231**  
**Union County cash incentive (2 Grant Contracts).....\$150,983**  
**Total cash incentive.....\$396,214**



**UNION COUNTY INCENTIVE APPLICATION**

**COMPANY INFORMATION:**

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Company's Legal Name: Project Armor  
Representative:  
State of Incorporation:  
Nature of Business:  
Current Operations in Union County:  
Current Employment in Union County:

**Proposed new or Additional Union County Facility:**

Proposed Location:

Additional Square Feet:

New Investment: (Their Figures)

Real Estate:	\$ 1,100,000.00	
Equipment:	\$ 14,200,000.00	(made over 2 year pe
Less Equipment Leaving		
Total Investment	\$ 15,300,000.00	

# of New Full Time Jobs:

Total New Full Time Annual Payroll:

# of New Contract Labor Jobs:

Total New Contract Labor Annual Payroll:

Total New Payroll: \$ -

(City/Town) Incentive Level 2 Grant

Union County Incentive Level 2 Grant \$ 155,296.51

Total Incentive: (over the grant period) \$ 155,296.51

Total New Revenues to City/Town over the grant period:

Total New Revenues to Union County over the grant period: \$ 283,688.05

Total Net New Annual Tax Revenues: \$ 283,688.05

"But For" Declaration:

Company Name or Project Name: Project Armor					
	Year One 2009	Year Two 2010	Year Three 2011	Year Four 2012	Totals
Real Property	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000		
Machinery & Equipment	\$ 6,840,000	\$ 12,248,000	\$ 11,178,000	\$ 4,950,000	
Total Investment	\$ 7,940,000	\$ 13,348,000	\$ 12,278,000	\$ 4,950,000	
Tax Rate	0.6367	0.6367	0.6367	0.6367	
Taxes	\$ 50,554	\$ 84,987	\$ 78,174	\$ 69,973	\$ 283,688
Grant	\$ 32,014	\$ 53,819	\$ 49,505	\$ 19,958	\$ 155,297
Tier 2 Multiplier	0.004032	0.004032	0.004032	0.004032	
<b>ASSUMPTIONS &amp; CONDITIONS:</b>					
1. Assumes 10 year depreciation schedule for all Machinery & Equipment (using schedule A-10 pg 17).					
2. Assumes that Real Property & Machinery & Equipment are at appraised tax values.					
3. Grant is to be figured based on a tier 2 investment level using the tier 2 multiplier.					
4. Assumes current tax rate in effect now.					
5. No adjustment for a revaluation in 2008 is taken into consideration.					
6. Assumes equipment investment is completed over a two year period (7.6 million in 2007, 6.6 million in 2008)					
7. Assumes new equipment is same type as current equipment.					

**UNION COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

Meeting Date: 06/18/07

Action Agenda Item No. 5/11  
(Central Admin. use only)

**SUBJECT:** \$150,000.00 GRANT MONEY FOR HAVA ELECTRONIC ACCESS SYSTEM

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**DEPARTMENT:** BOARD OF ELECTIONS

**PUBLIC HEARING:** No

**ATTACHMENT(S):**

**INFORMATION CONTACT:**  
SHIRLEY SECREST

**TELEPHONE NUMBERS:**

704-283-3684

704-254-5888

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**DEPARTMENT'S RECOMMENDED ACTION:** ACCEPT AND ADOPT BUDGET ORDINANCE AMENDMENT #62

**BACKGROUND:** HAVA GRANT MONEY WILL PROVIDE \$3000 PER PRECINCT (\$150,000.00) FOR UNION COUNTY TO PURCHASE AN ELECTRONIC ACCESS SYSTEM. SOME TYPE OF ACCESS SYSTEM WILL MOST LIKELY BE REQUIRED BY THE 2008 PRESIDENTIAL ELECTION. OUR BOARD HAS CHOSEN THE 'EASY' PROGRAM. THIS PROGRAM ALLOWS US TO PURCHASE LAPTOPS & OTHER HARDWARE TO PROCESS VOTERS IN THE PRECINCTS. SOFTWARE WILL BE PROVIDED BY SBOE AT NO CHARGE FOR 5 YEARS.

**FINANCIAL IMPACT:** THIS MONEY WILL PURCHASE THE EQUIPMENT NEEDED FOR THE 'EASY' PROGRAM WITHOUT UNION COUNTY HAVING TO INVEST ANY ADDITIONAL FUNDS.

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**Legal Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**Finance Dept. Comments if applicable:** \_\_\_\_\_

\_\_\_\_\_

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**Manager Recommendation:** \_\_\_\_\_

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**BUDGET AMENDMENT**

BUDGET Board of Elections REQUESTED BY Shirley Secret  
 FISCAL YEAR FY2007 DATE June 13, 2007

**INCREASE**

Description

Capital Outlay 150,000

State Grant 150,000

**DECREASE**

Description

Explanation: Appropriate State HAVA Grant for the purchase of an electronic access system.

DATE \_\_\_\_\_

APPROVED BY \_\_\_\_\_  
 Bd of Comm/County Manager  
 Lynn West/Clerk to the Board

FOR POSTING PURPOSES ONLY

**DEBIT**

Code Account Amount  
10541700-5550 Equipment 150,000

**CREDIT**

Code Account Amount  
10441700-4408 State Grant 150,000

Total 150,000

Total 150,000

Prepared By aar  
 Posted By \_\_\_\_\_  
 Date \_\_\_\_\_

Number 62