




North Carolina Wildlife Resources Commission

Gordon Myers, Executive Director

Memorandum

To: Braxton Davis, Director
Division of Coastal Management

From: Gordon Myers, Executive Director 
N.C. Wildlife Resources Commission

Date: January 29, 2020

Re: Delineation of Fishing Waters Information

Pursuant to our recent conversation and correspondence, I am forwarding the following information for distribution to the members of the N.C. Coastal Resources Commission:

List of documents transmitted:

- I. Information presented to Wildlife Resources Commission (WRC) Fisheries Committee and on August 28, 2019.
- II. Timeline chart that describes key steps of delineation of fishing waters process.
- III. Minutes of the August 29, 2019 WRC business meeting.
- IV. Minutes of the October 24, 2019 WRC business meeting.
- V. December 4, 2019 letter from WRC Executive Director Gordon Myers and WRC Chairman David Hoyle, Jr. responding to October 17, 2019 letter from NCDEQ Chief Deputy Secretary John Nicholson.

As a point of clarification, please note that no rulemaking actions pursuant to the N.C. Administrative Procedures Act have occurred to date. As reflected in the included timeline chart, actions to date have been focused on science review and impact analysis phases. Rulemaking is currently identified to begin on or about January 1, 2022.

I hope there is an opportunity in the future to meet with you and your team at the Division of Coastal Management along with the members of the Coastal Resources Commission to clarify perspectives, outline the process the WRC is following to fulfill its responsibilities, and productively discuss any associated concerns.

Delineation of Waters



Fisheries Committee Update August 28, 2019

Jeremy McCargo
Anadromous Research Coordinator

Delineation of Fishing Waters – Rules Review

Why is a new delineation required now?

- The General Assembly amended North Carolina’s Administrative Procedure Act (APA) in 2013 to include a “Periodic Review and Expiration of Existing Rules.”
 - Affected agencies must review all of their active rules every 10 years.
 - Key requirements include:
 - Any rules designated as Necessary with Substantive Public Interest must be readopted using the permanent rulemaking process.
 - Failure to complete the review for any covered rules would lead to automatic expiration.
- Rules that delineate Coastal, Joint, and Inland Fishing Waters, were determined to be Necessary with Substantive Public Interest and therefore must be readopted through the permanent rulemaking process.

Rules must be readopted no later than

June 30, 2022



Delineation of Fishing Waters – Rules Review

What is it and Who is responsible?

- § 113-129 establishes definitions for Inland, Coastal, and Joint Fishing Waters.
- In accordance with § 113-129 and § 113-132, the Wildlife Resources Commission and Marine Fisheries Commission must jointly agree on the dividing line between Inland and Coastal Fishing Waters, and any designations of Joint Fishing Waters.



Definitions relating to resources under § 113-129

- **Coastal Fishing Waters.** – The Atlantic Ocean; the various coastal sounds; and estuarine waters **up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission.**
- **Inland Fishing Waters.** – All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:
The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or North Carolina's boundary with another state.
- **Joint Fishing Waters.** – Those coastal fishing waters in which are found a significant number of freshwater fish, **as agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission** in accordance with G.S. 113-132(e).

Operational constraints:

- Inland Fishing Waters ***cannot be in the Atlantic Ocean or in coastal sounds***
- The agreed upon dividing line between Inland and Coastal Fishing Waters ***is within estuarine waters***
- Coastal Fishing Waters ***cannot be in inland waters***
- Joint Fishing Waters ***are within Coastal Fishing Waters***



Approach

1. Consider Statutory Factors, including:

- Definitions relating to resources under § 113-129
- Description of Joint Fishing Waters outlined under § 113-132 (e)

Coupled with:

2. An objective science-based approach for determining the transition between Coastal and Inland Fishing Waters



Incorporating Scientific Research Into Review

- Aggregate salinity data to map long-term averages of low and high salinity
- Utilize available peer-reviewed published science to objectively derive estuarine salinity zones
 - Consistent with Section 2.1.5. Fish assemblages by system of the N.C. Coastal Habitat Protection Plan (CHPP) Source Document:

“Salinity and proximity to inlets are key factors in estuarine fish distribution”

(Noble and Monroe 1991a; Ross and Epperly 1985; Szedlmayer and Able 1996).(CHPP, Page 21)

- **Neuse River Study** (Keup and Bayless 1964)
 - Freshwater fishes (sunfish, catfish, pickerel, shiners) most abundant at sites less than **2.6 ppt**



NCWRC Fisheries Committee Motion

On July 18, 2019, the Commission approved a motion from the Fisheries Committee to adopt the use of less than 2.6 parts per thousand (ppt) during low salinity periods and greater than 2.6 ppt during high salinity periods to delineate the locations for the dividing lines between inland and coastal fishing waters, and for staff to provide the Commission with specific lines using that criteria.



Staff Update Following July Motion

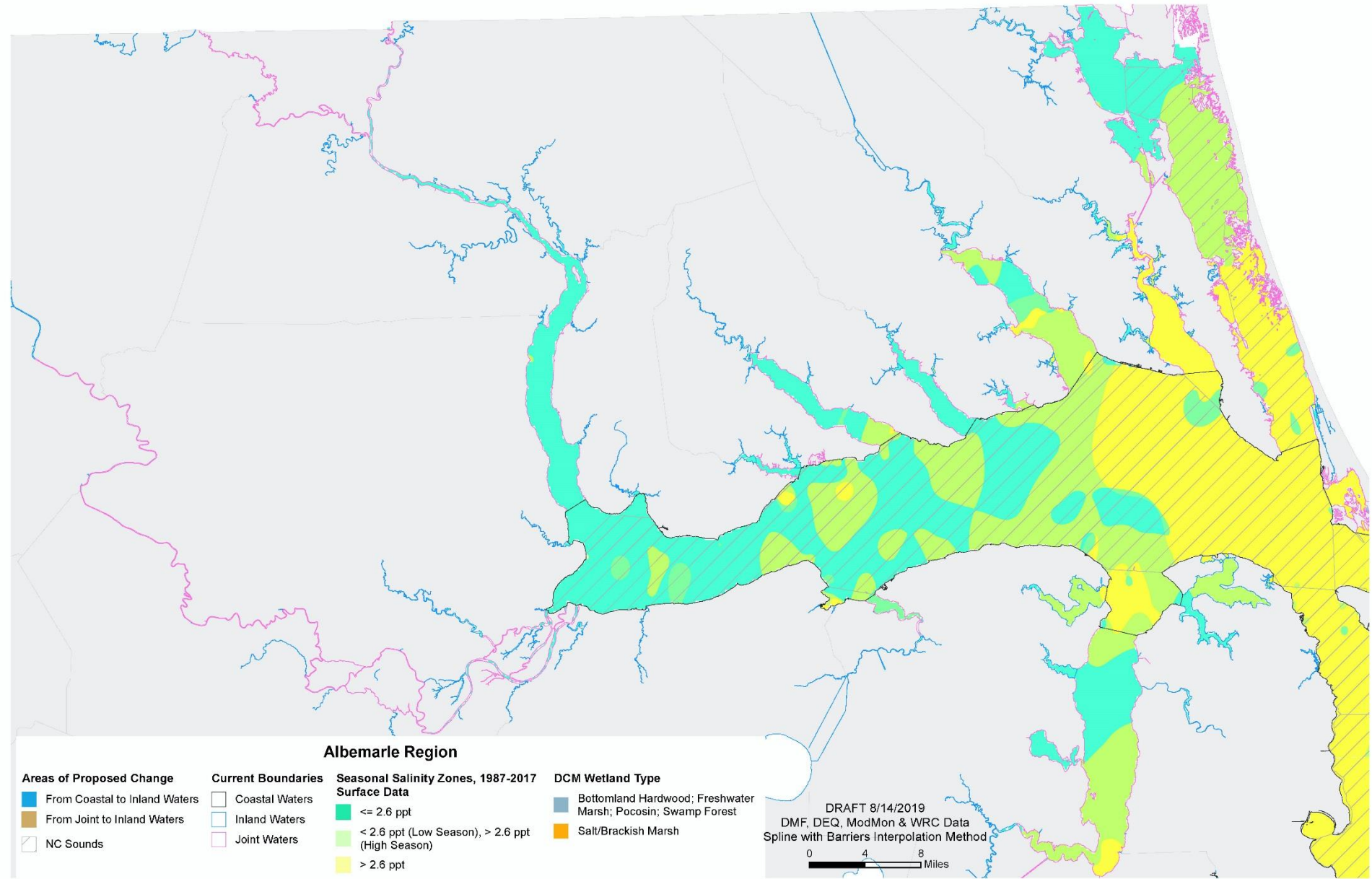
- Anna Stefanowicz (WRC GIS Specialist) updated salinity models and produced maps for Albemarle, Tar-Pamlico, Neuse, White Oak/New River/Bogue Sound, and Cape Fear regions
- Director Myers, Deputy Director Briggs, Christian Waters, Chad Thomas, and Jeremy McCargo met on Friday, August 2nd to review maps and evaluate boundary lines
- Criteria and Constraints:
 - Sounds remain coastal waters
 - Inland waters boundary lines within the zone of <2.6ppt in low season and >2.6ppt and high season
 - Use existing boundaries where possible
 - Use physical structure to delineate new boundaries if possible and necessary



Staff Update Following July Motion

- Series of three maps
 1. Salinity model results with 2.6 ppt contours
 2. Proposed boundary lines in relation to salinity models
 3. Exhibit E – proposed boundaries and areas of change
- Regional approach
 1. Albemarle
 2. Tar-Pamlico River & Pungo River
 3. Neuse River
 4. Cape Fear River
- No changes proposed for White Oak, New River, Bogue Sound, or south of Cape Fear River





Albemarle Region

Areas of Proposed Change

- From Coastal to Inland Waters
- From Joint to Inland Waters
- NC Sounds

Current Boundaries

- Coastal Waters
- Inland Waters
- Joint Waters

**Seasonal Salinity Zones, 1987-2017
Surface Data**

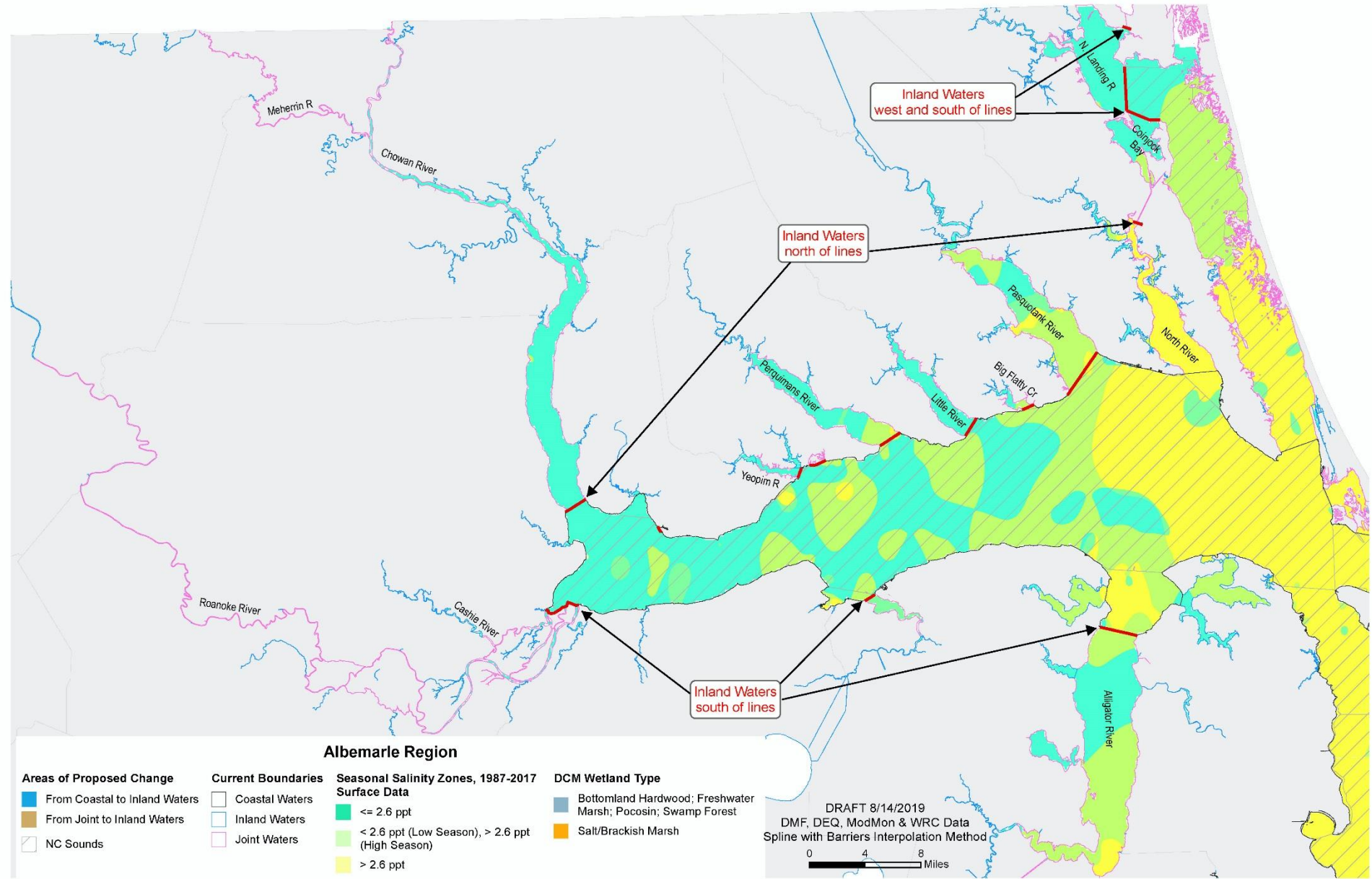
- <= 2.6 ppt
- < 2.6 ppt (Low Season), > 2.6 ppt (High Season)
- > 2.6 ppt

DCM Wetland Type

- Bottomland Hardwood; Freshwater Marsh; Pocosin; Swamp Forest
- Salt/Brackish Marsh

DRAFT 8/14/2019
DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method







Albemarle Region

304 miles changed

- 303.3 miles from joint to inland
- 0.7 miles from coastal to inland

Albemarle Region

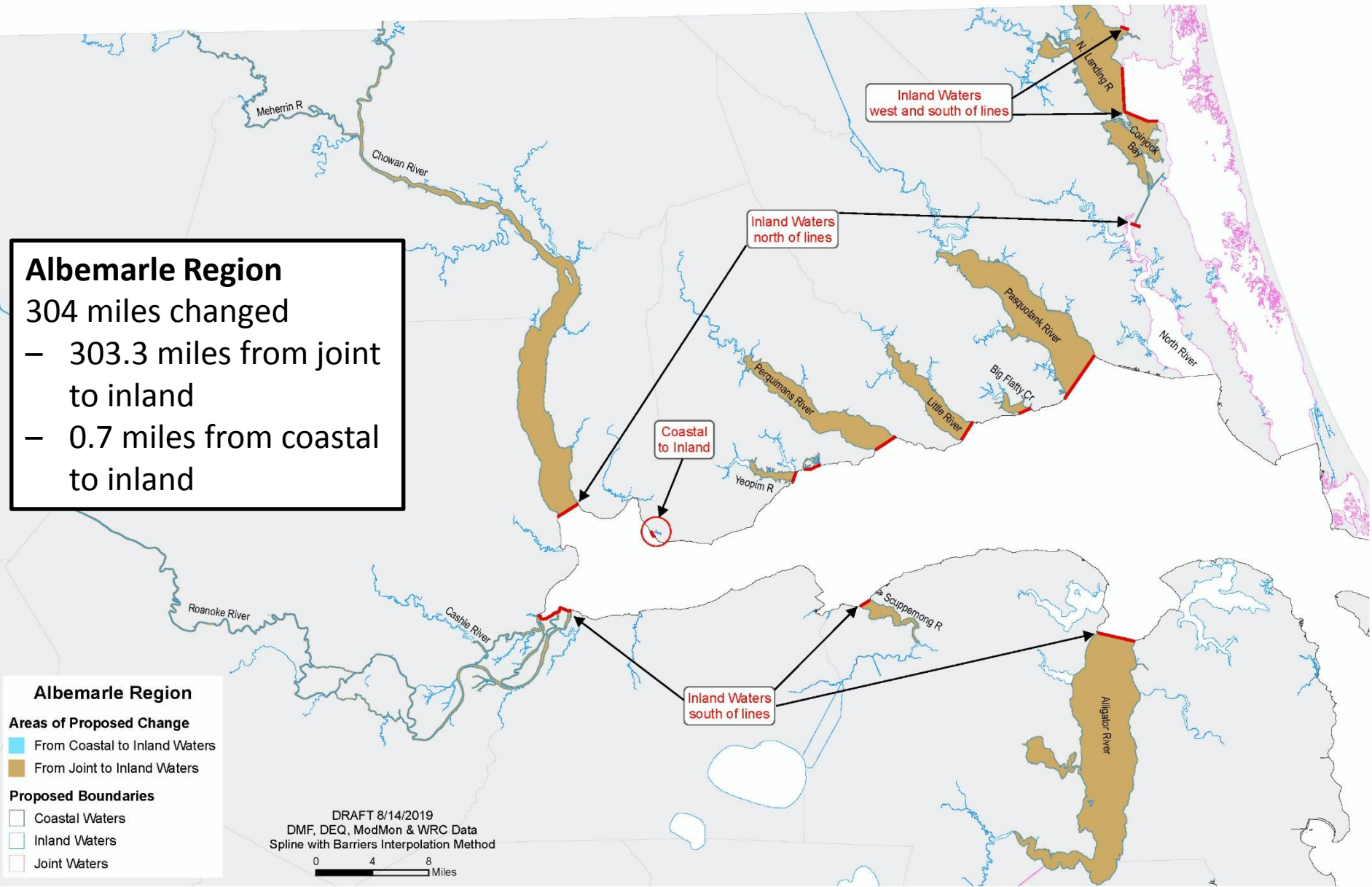
Areas of Proposed Change

-  From Coastal to Inland Waters
-  From Joint to Inland Waters

Proposed Boundaries

-  Coastal Waters
-  Inland Waters
-  Joint Waters

DRAFT 8/14/2019
DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method



Pamlico & Pungo Rivers

Current Boundaries

- Coastal Waters
- Inland Waters
- Joint Waters

Areas of Proposed Change

- From Inland to Coastal Waters
- From Coastal to Inland Waters

Seasonal Salinity Zones, 1987-2017 Surface Data

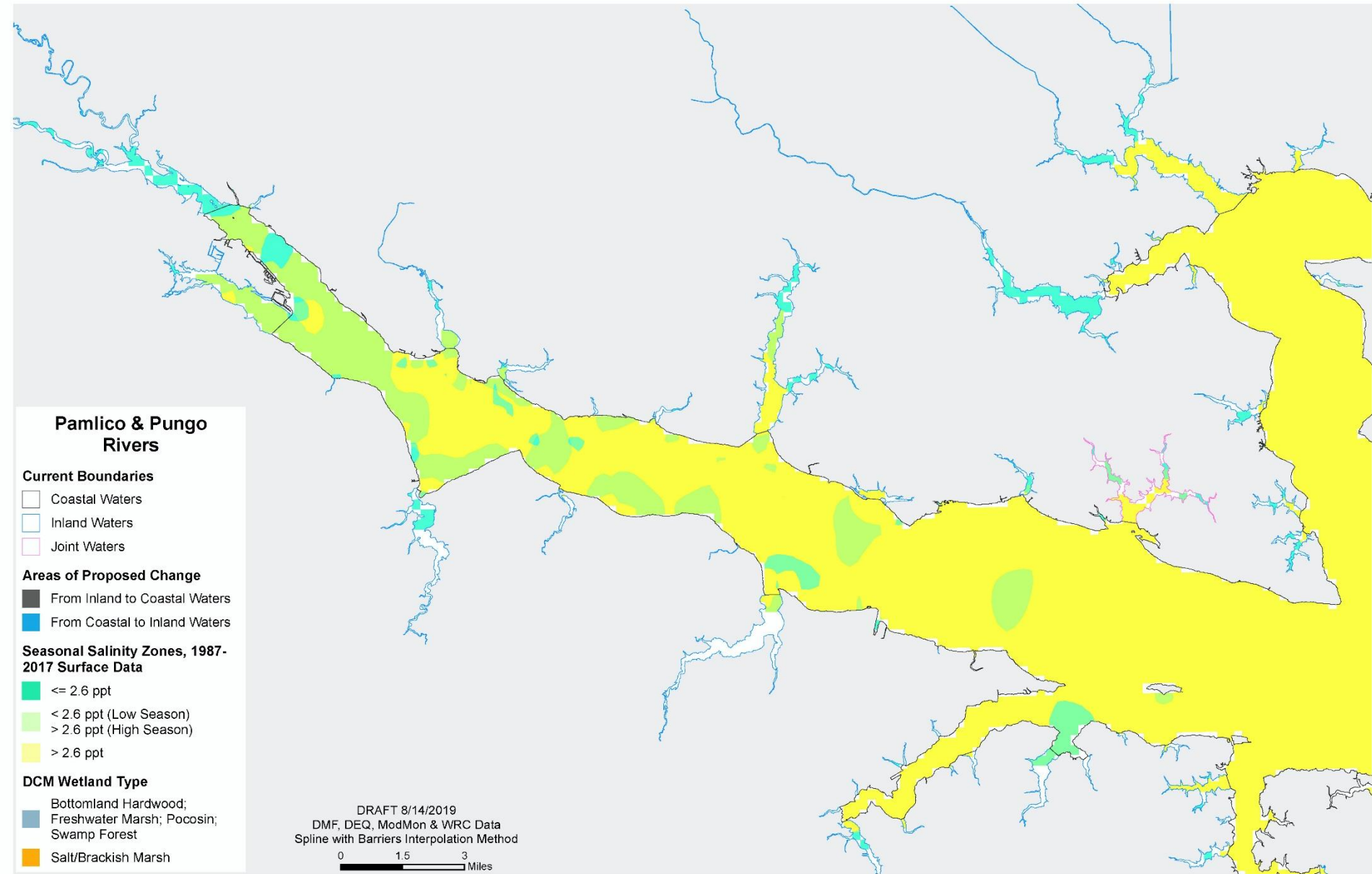
- ≤ 2.6 ppt
- < 2.6 ppt (Low Season)
- > 2.6 ppt (High Season)
- > 2.6 ppt

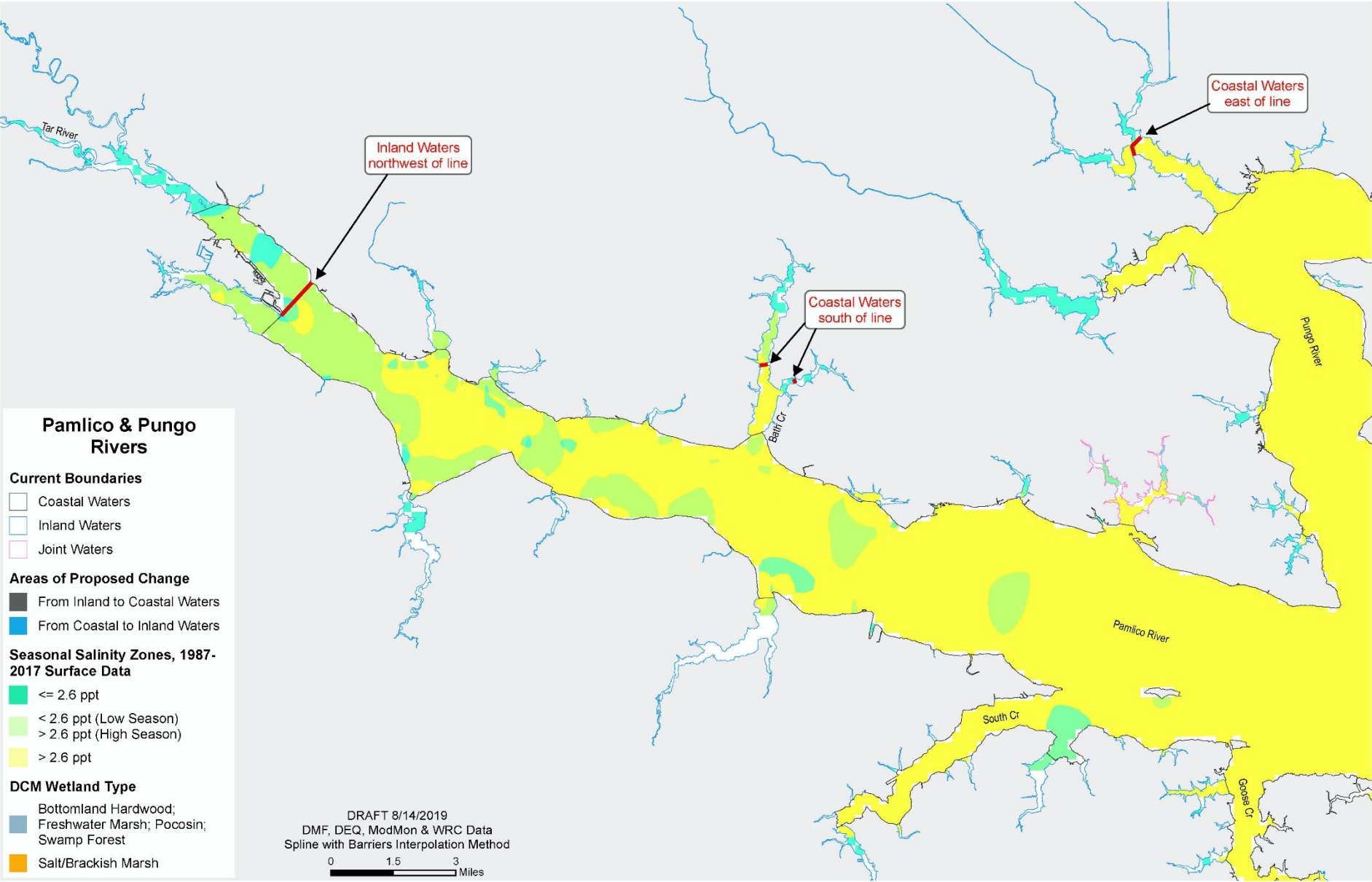
DCM Wetland Type

- Bottomland Hardwood;
- Freshwater Marsh; Pocosin;
- Swamp Forest
- Salt/Brackish Marsh

DRAFT 8/14/2019
DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method

0 1.5 3
Miles





Pamlico & Pungo Rivers

Current Boundaries

- Coastal Waters
- Inland Waters
- Joint Waters

Areas of Proposed Change

- From Inland to Coastal Waters
- From Coastal to Inland Waters

Seasonal Salinity Zones, 1987-2017 Surface Data

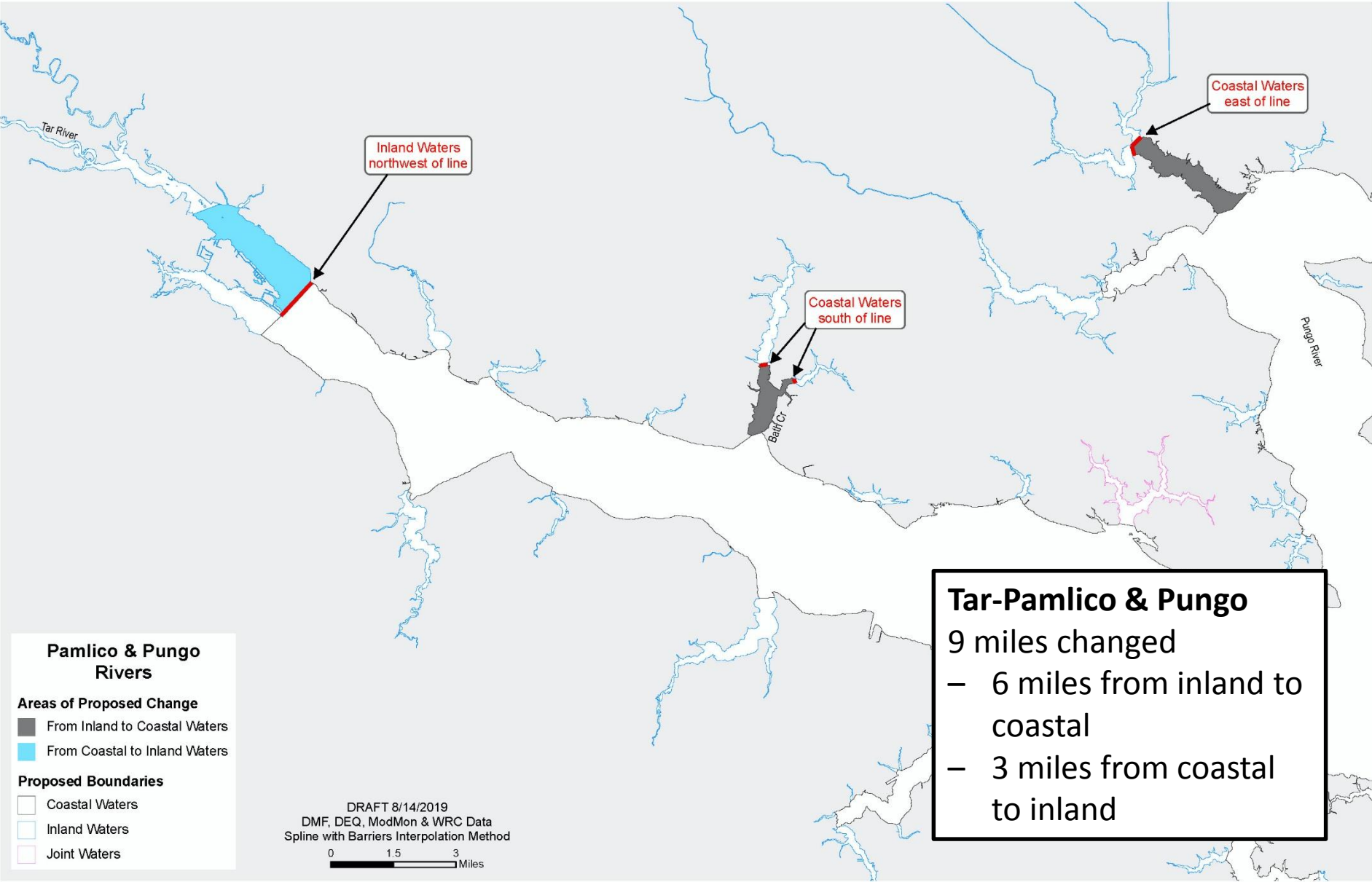
- <= 2.6 ppt
- < 2.6 ppt (Low Season)
- > 2.6 ppt (High Season)

DCM Wetland Type

- Bottomland Hardwood;
- Freshwater Marsh; Pocosin;
- Swamp Forest
- Salt/Brackish Marsh

DRAFT 8/14/2019
 DMF, DEQ, ModMon & WRC Data
 Spline with Barriers Interpolation Method

0 1.5 3 Miles



Inland Waters northwest of line

Coastal Waters east of line

Coastal Waters south of line

Pamlico & Pungo Rivers

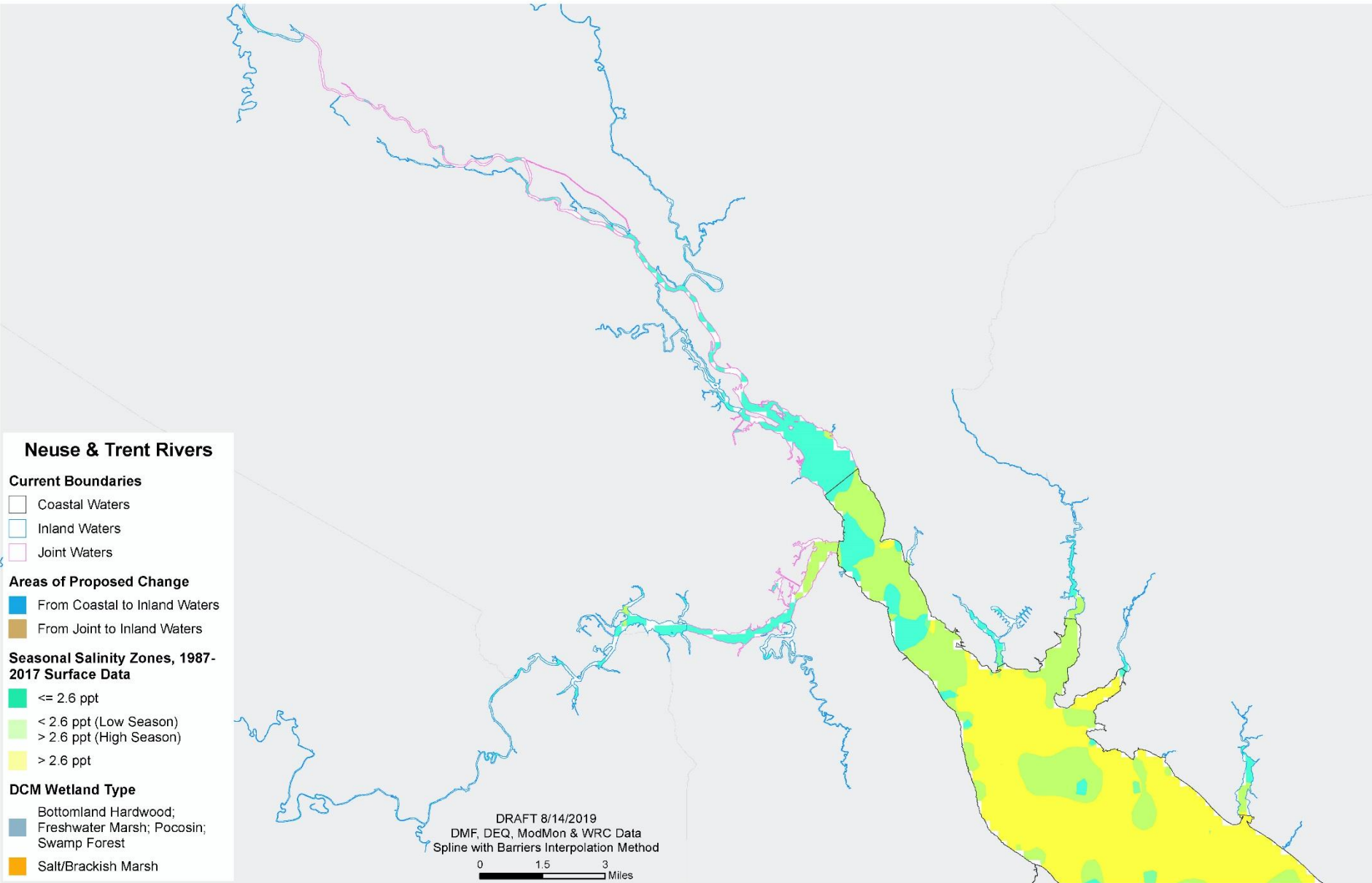
- Areas of Proposed Change**
- From Inland to Coastal Waters
 - From Coastal to Inland Waters

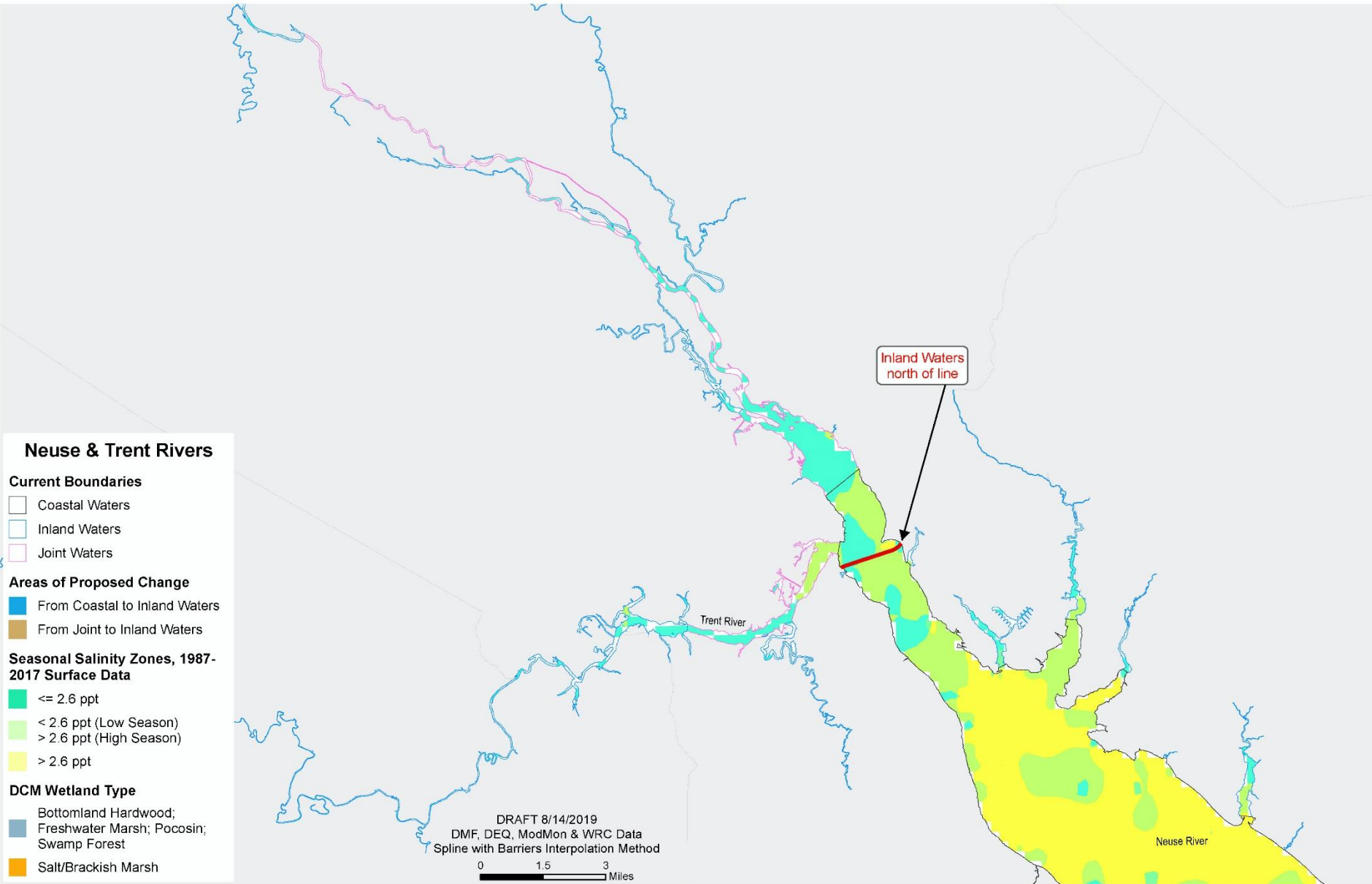
- Proposed Boundaries**
- Coastal Waters
 - Inland Waters
 - Joint Waters

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 DMF, DEQ, ModMon & WRC Data
 Spline with Barriers Interpolation Method

0 1.5 3 Miles

Tar-Pamlico & Pungo
 9 miles changed
 - 6 miles from inland to coastal
 - 3 miles from coastal to inland





Neuse & Trent Rivers

Areas of Proposed Change

- From Coastal to Inland Waters
- From Joint to Inland Waters

Proposed Boundaries

- Coastal Waters
- Inland Waters

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DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method

0 1.5 3 Miles

Neuse

32 miles changed

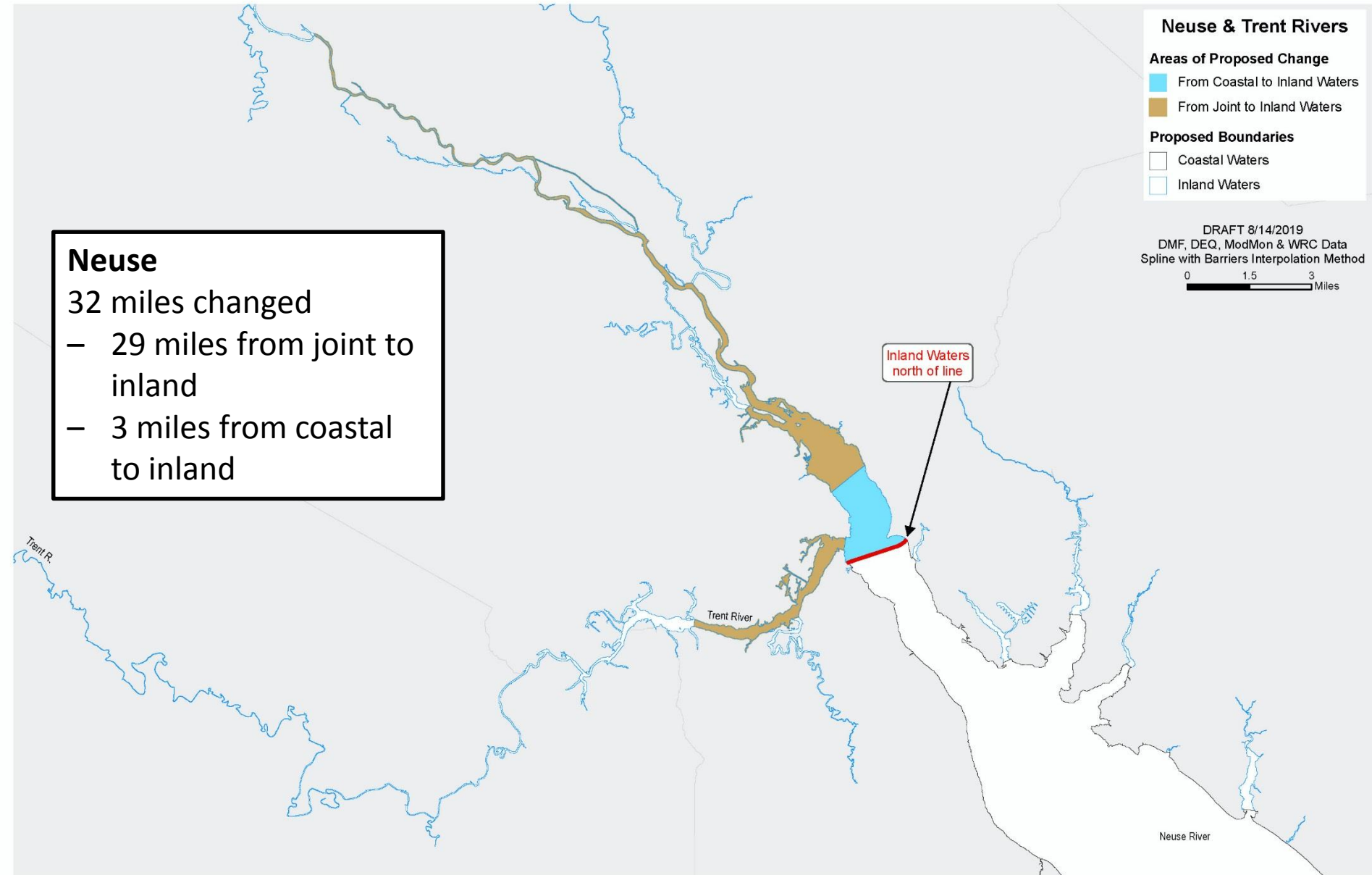
- 29 miles from joint to inland
- 3 miles from coastal to inland

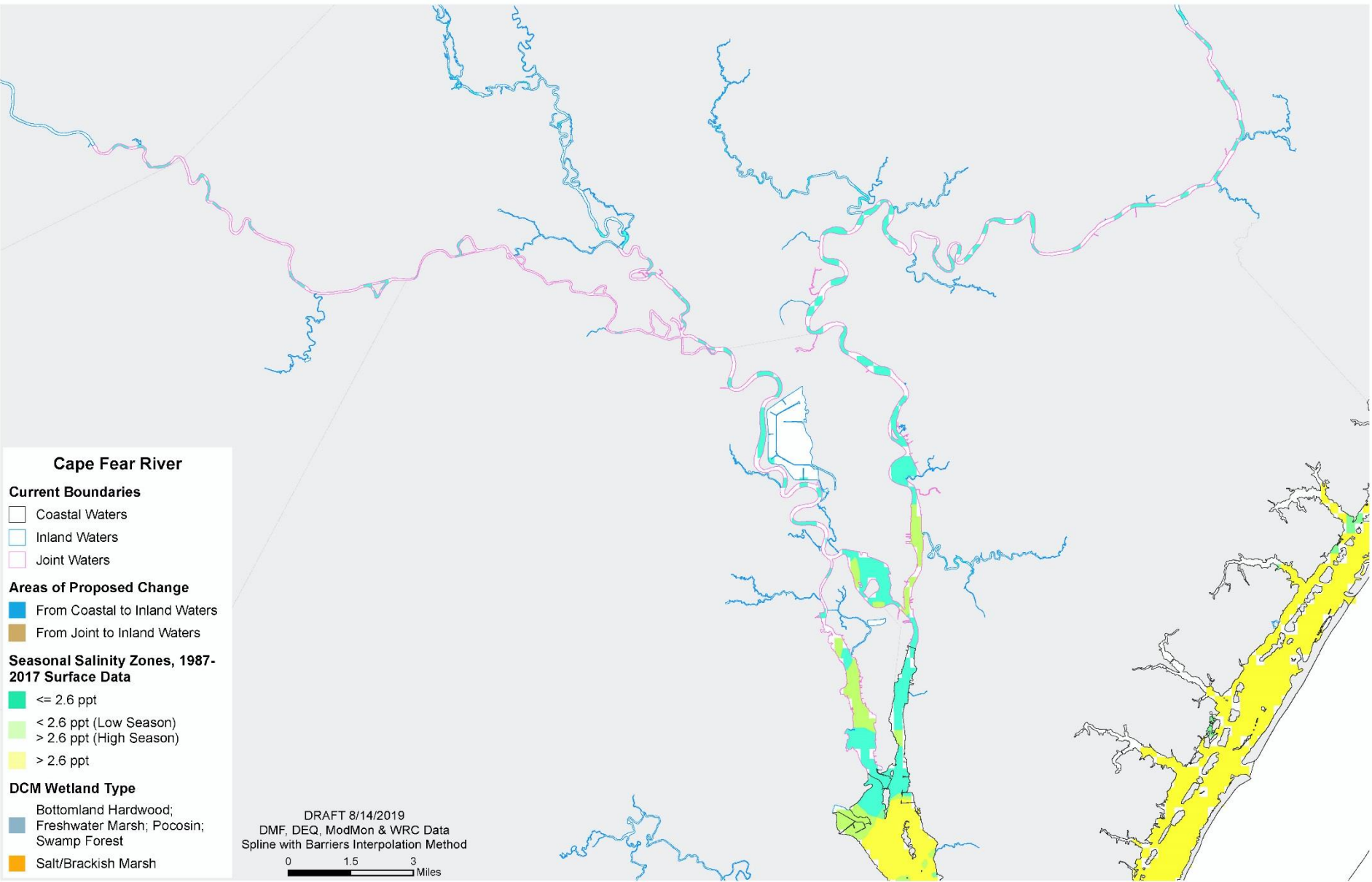
Inland Waters
north of line

Neuse River

Trent River

Trent R.





Cape Fear River

Current Boundaries

- Coastal Waters
- Inland Waters
- Joint Waters

Areas of Proposed Change

- From Coastal to Inland Waters
- From Joint to Inland Waters

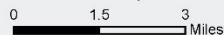
Seasonal Salinity Zones, 1987-2017 Surface Data

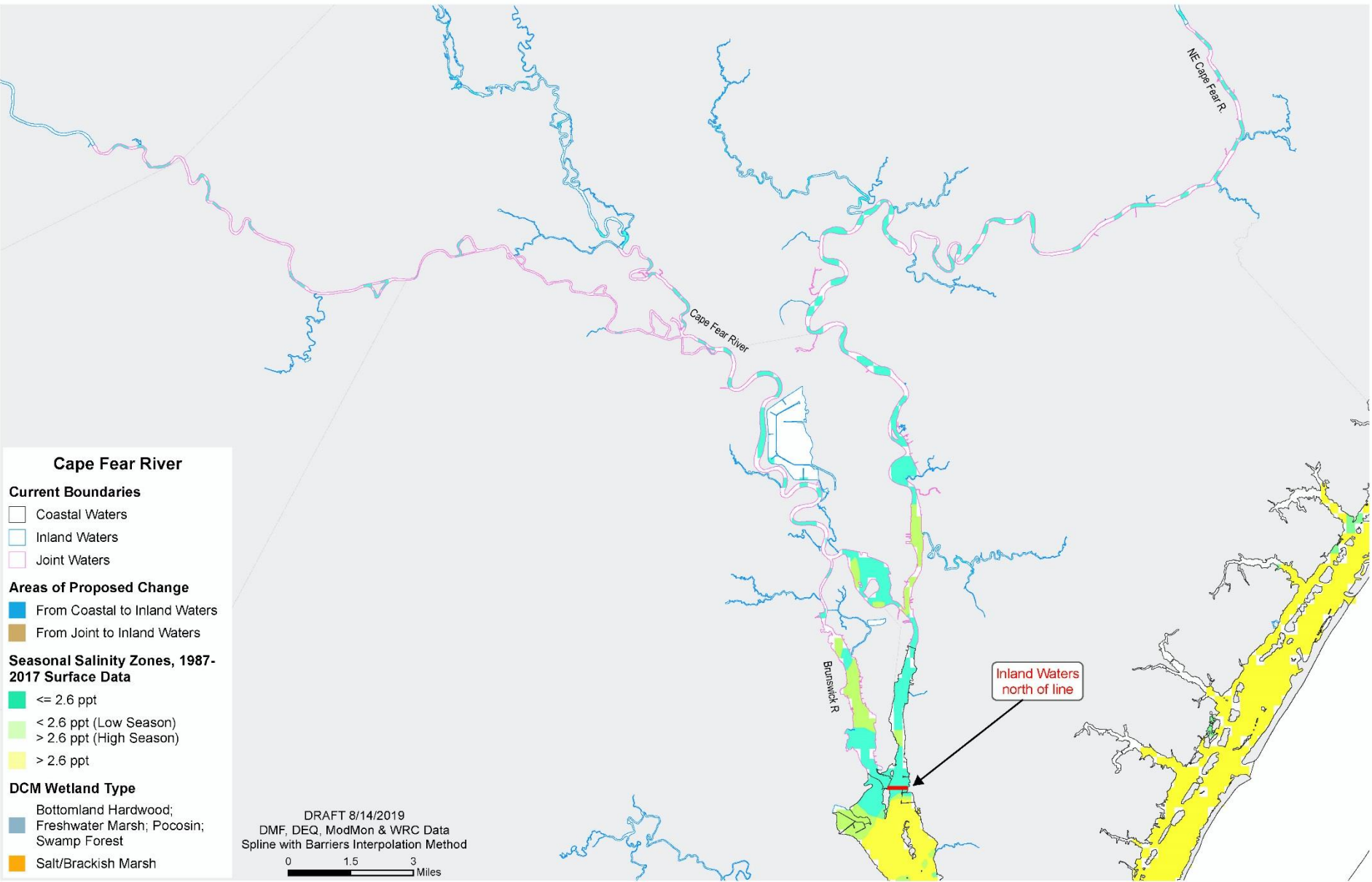
- ≤ 2.6 ppt
- < 2.6 ppt (Low Season)
- > 2.6 ppt (High Season)

DCM Wetland Type

- Bottomland Hardwood;
Freshwater Marsh; Pocosin;
Swamp Forest
- Salt/Brackish Marsh

DRAFT 8/14/2019
DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method





Cape Fear River

Current Boundaries

- Coastal Waters
- Inland Waters
- Joint Waters

Areas of Proposed Change

- From Coastal to Inland Waters
- From Joint to Inland Waters

Seasonal Salinity Zones, 1987-2017 Surface Data

- ≤ 2.6 ppt
- < 2.6 ppt (Low Season)
- > 2.6 ppt (High Season)

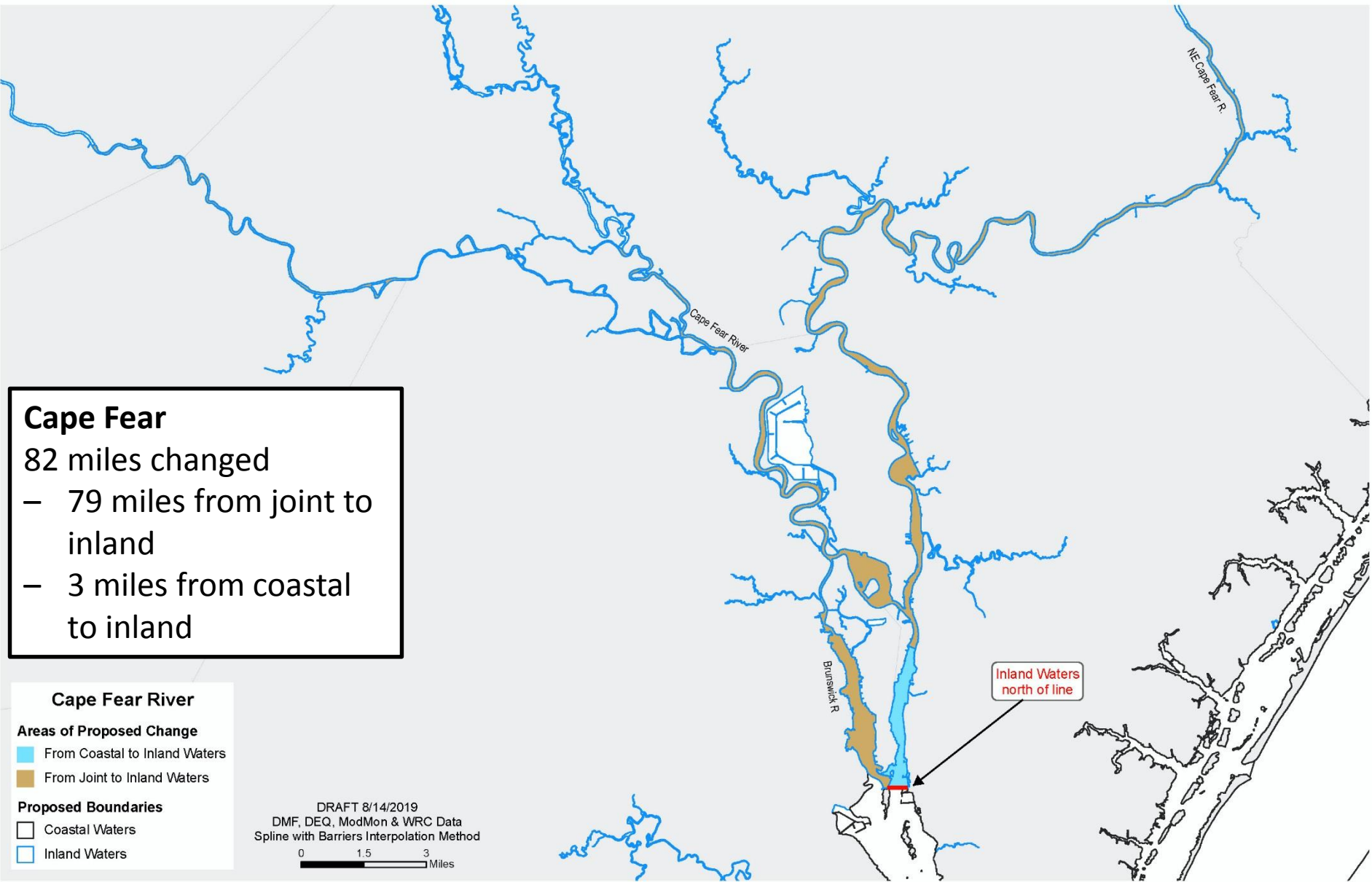
DCM Wetland Type

- Bottomland Hardwood;
- Freshwater Marsh; Pocosin;
- Swamp Forest
- Salt/Brackish Marsh

DRAFT 8/14/2019
 DMF, DEQ, ModMon & WRC Data
 Spline with Barriers Interpolation Method

0 1.5 3
 Miles

Inland Waters
 north of line



Cape Fear
82 miles changed
– 79 miles from joint to inland
– 3 miles from coastal to inland

Cape Fear River

Areas of Proposed Change

- From Coastal to Inland Waters
- From Joint to Inland Waters

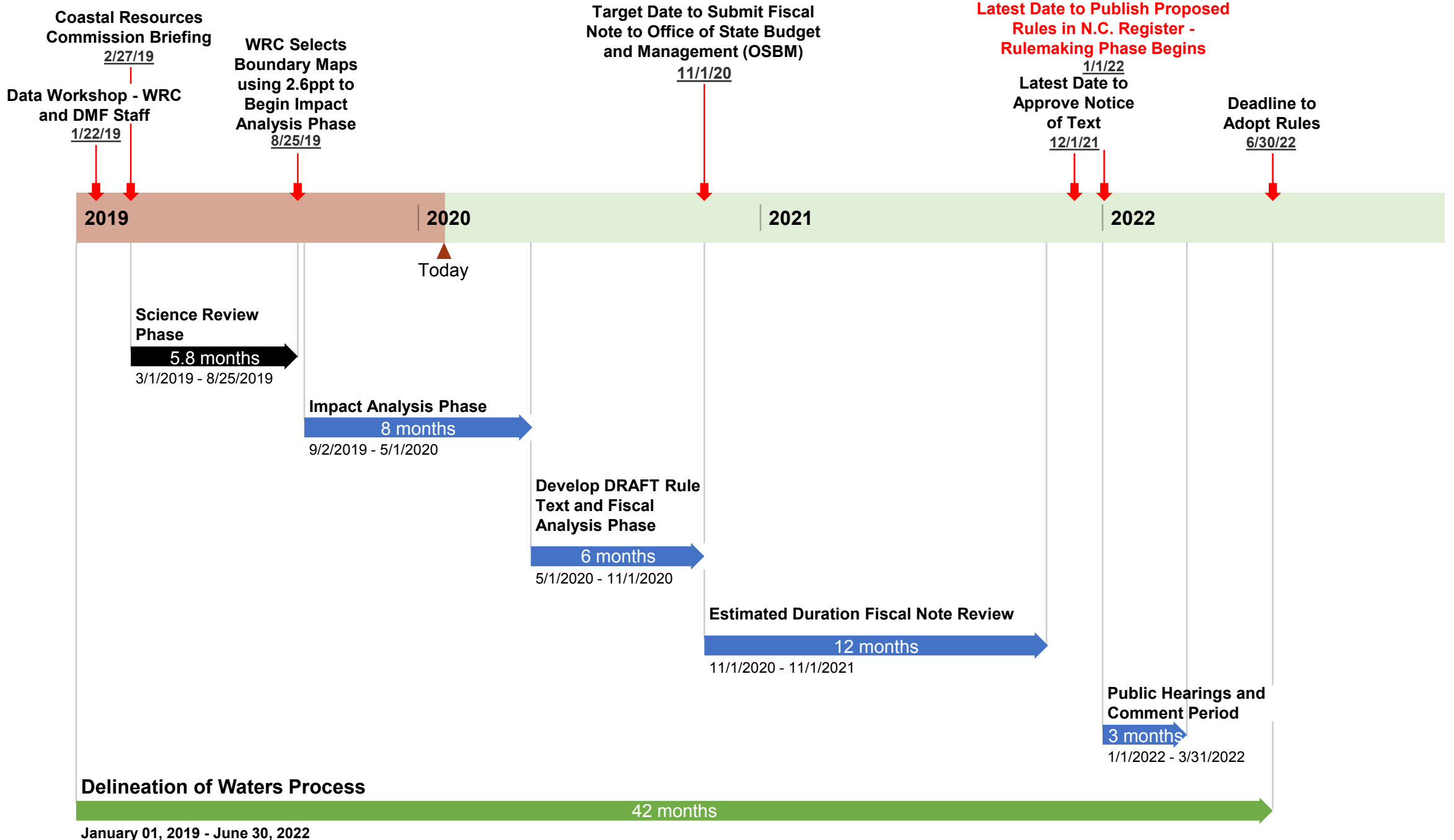
Proposed Boundaries

- Coastal Waters
- Inland Waters

DRAFT 8/14/2019
DMF, DEQ, ModMon & WRC Data
Spline with Barriers Interpolation Method

Inland Waters north of line

Delineation of Fishing Waters



**EXHIBIT A
December 5, 2019**



**MINUTES
October 24, 2019
N.C. Wildlife Resources Commission Meeting
Wilmington, North Carolina**

Chairman David Hoyle, Jr. called the October 24, 2019 N.C. Wildlife Resources Commission meeting to order at 9:00 a.m. in the Cape Fear Ballroom Starboard Side at the Hotel Ballast in Wilmington, North Carolina. Commissioners Tom Berry, Mark Craig, Mike Johnson, and Wes Seegars were absent.

Commissioner Steve Windham led the Pledge of Allegiance.

Commissioner Tommy Fonville gave the invocation.

COMMISSIONER ATTENDANCE

John Coley
Kelly Davis
David Hoyle, Jr.
Monty Crump
Brad Stanback
Ray Clifton
John Stone
Steve Windham

Richard Edwards
Jim Cogdell
Nat Harris
Joe Budd
Tommy Fonville
Landon Zimmer
Hayden Rogers

VISITORS

M. Renee Cahoon – Coastal Resources Commission
Liz Rutledge – N.C. Wildlife Federation

MANDATORY ETHICS INQUIRY

Chairman Hoyle welcomed guests present. He thanked Commissioners Steve Windham, Landon Zimmer, and Richard Edwards for their hospitality in making Commissioners and staff welcome in Wilmington during the three days of meetings. Hoyle advised the Commission of the mandatory ethics inquiry as mandated in N.C. General Statute 163A-159(e).

AUGUST 29, 2019 MEETING MINUTES

Upon a motion by Joe Budd and second by John Coley, the Commission approved the August 29, 2019 Commission minutes as presented in **Exhibit A**, which is incorporated into the official record of this meeting.

SEPTEMBER 12, 2019 TELEPHONIC MEETING MINUTES

Upon a motion by Ray Clifton and second by Joe Budd, the Commission approved the September 12, 2019 telephonic meeting minutes as presented in **Exhibit B**, which is incorporated into the official record of this meeting.

ADMINISTRATION

Financial Status Report - Melissa Earp, Finance Office Chief, presented a status report in **Exhibit C** on the Wildlife Operating Fund and the Wildlife Endowment Fund. As of September 30, 2019, the Wildlife Operating Fund year-to-date revenues were \$21,250,377.36 and expenditures were \$21,633,102.88. The Endowment Fund balance as of August 31, 2019 was \$136,726,699.75, with \$104,336,789.69 in the Bond Index Fund and \$31,551,162.36 in the Equity Index Fund. Non-expendable interest was \$13,412,249.58. Expendable interest was \$29,888,919.66. **Exhibit C** is incorporated into the official record of this meeting.

COMMITTEE REPORTS

Executive Committee Report October 17, 2019 – Chairman David Hoyle, Jr. reported that the Executive Committee held a short meeting on October 17, 2019 in Raleigh, to discuss Executive Director succession planning. Hoyle stated that more discussions will follow in December 2019.

Migratory Birds and Waterfowl Committee Report – Richard Edwards, Committee Chair, reported that the Migratory Birds and Waterfowl Committee met Tuesday, October 22, 2019 at the Hotel Ballast in Wilmington. Landowners and conservation partners attended the committee meeting with special interest in 2021-2025 duck hunting seasons statewide. Migratory Bird Coordinator Doug Howell gave a presentation that explained the USFWS process for establishing duck seasons and specifically presented on the time frame for considering zoning of the waterfowl hunting seasons in North Carolina. It was presented that a recent change by the USFWS has allowed for a new option regarding the number of splits (periods that are closed to hunting) that will be allowed in zones for the 2021-2025 seasons. North Carolina has until July 1, 2020 to make decisions on whether the state will zone for ducks and which zoning option might be the best fit for duck hunter desires. Additionally, staff was asked to examine former survey sampling methods and make an effort to increase the sample size for future surveys to reach more active duck hunters. Finally, Chief Deputy Director Kyle Briggs presented an informational only overview of the Outdoor Heritage Act passed by the General Assembly and potential paths to implementation of Sunday hunting. No action was taken, and no action is under consideration.

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Finance Committee Report – Landon Zimmer, Committee Chair, reported that the Finance Committee met on October 23, 2019 at the Hotel Ballast in Wilmington. Melissa Earp reviewed the Financial Status Report with Finance Committee members and indicated that the report formatting has changed to include details to make the report easier to read. Ms. Earp provided a presentation regarding the agency’s budget code structure to aid in the understanding of transfers between budget codes. During this discussion, the committee asked that staff bring forth a presentation at the next meeting about timber revenue optimization. Ms. Earp discussed the return on investment for the Bond Index Fund and the Equity Index Fund investments of the Wildlife Endowment Fund over the period of June 2018 to June 2019 and the period July to September 2019. She reported a cumulative return on investment of 7.87% in bonds and 3.89% in equities for this period and a cumulative rate for the period July to September 2019 of 2.83% in bonds and -2.04% in equities. Ms. Earp provided an update on the agency’s license fee increases which includes legislative increases and Consumer Price Index increases and are planned to be implemented together January 1, 2020. Ms. Earp also provided an update on the Actuarial Study contract awarded to Southwick Associates, Inc. Data analysis is on track and the agency should receive Southwick’s report in late November. Janice Underwood provided an update on the purchase of domain names that could be associated with the N.C. Wildlife Resources Commission. The committee asked that the agency move forward with negotiations for those domain names and requested that staff bring further information back to the committee at the next meeting.

Small Game and Wild Turkey Committee Report – John Stone, Committee Chair, reported that the Small Game and Wild Turkey Committee met on October 23, 2019 at the Hotel Ballast in Wilmington. The Committee welcomed National Wild Turkey Federation (NWTF) staff and State Chapter President Robert Smith. Smith reiterated the NWTF’s long-time support for the Commission and highlighted the efforts of North Carolina chapters to assist with turkey management and research statewide. Brian McRae, Land and Water Access Section Chief gave an update on the status of the Game Lands Quail Management Area evaluation process. The Committee received an update on the status of the Wildlife Conservation Lands Program and the new criteria for qualification. Staff reported significant public interest in the program and enrollment is underway. The Committee received the staff recommendation for the recipient of this year’s Lawrence G. Diedrick Small Game Award.

Motion from Small Game and Wild Turkey Committee: Upon a motion by Ray Clifton and second by Hayden Rogers, the Commission approved Tim Eaton as the recipient of the 2019 Lawrence G. Diedrick Small Game Award.

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Education, Shooting, and Archery Committee Report – Joe Budd, Committee Chair, reported that the Education, Shooting, and Archery Committee met on October 23, 2019 at the Hotel Ballast in Wilmington. Wildlife Education Division Chief Kris Smith presented the 4-H Youth Development proposal by Dr. Yoder. The NCWRC does not have the funding to pay for the proposal. The Committee directed staff to refer the request for funding the 4-H proposal to the Outdoor Heritage Advisory Council. Shooting range updates were provided by Engineering Chief Gary Gardner. Ten are completed and operating and six are in the process of being constructed. It was discussed that future ranges are needed in central North Carolina and Johnston County was mentioned as a possible location if land can be found. Discussion included the environmental impact of lead and plastic wads with a recommendation to continue to switch to steel ammunition and fiber wads. Kris Smith provided a Wildlife Education Programming year in review.

Land and Property Committee Report – Tommy Fonville, Committee Vice Chair, reported that the Land and Property Committee met on October 23, 2019 at the Hotel Ballast. Land Acquisition and Grants Manager Jessie Birkhead provided an update about current land projects and reviewed the land status spreadsheet. Staff was directed to provide an update on the status of fundraising for the Alcoa Tuckertown acquisition which is expected to cost \$8.5 million. The Committee evaluated and approved one Phase I Land Acquisition Project. Additionally, the Committee evaluated and endorsed two Phase II Land Acquisition Projects which are donations. Disposal of the Gibson Fox Trial Facility in Scotland County (Exhibit F) will be removed from the agenda pending working with the State Property Office on disposition of the property. In the meantime, staff will post No Trespassing signs along the property and report back to the Committee in December. Chairman Berry advised the Committee that work on the Sustainable Forestry Initiative is continuing.

Big Game Committee Report – John Coley, Committee Chair, reported that the Big Game Committee met on October 23, 2019 at the Hotel Ballast in Wilmington. Staff presented examples showing the locations of elk, alligators, and bears that are fitted with the agency's GPS collars. Staff updated the Committee on the agency's injured bear protocols and the agency bear rehabilitation program. Finally, the Committee discussed the ongoing need to increase bear tooth submission rates. The Committee decided that the agency should move forward with a mandatory tooth submission requirement. Staff was instructed to examine how the process might work and report back on potential paths forward at the December meeting.

Committee of the Whole (COW) Report – Chairman David Hoyle reported that the COW met on October 23, 2019 at the Hotel Ballast in Wilmington. Staff reviewed and endorsed rules proposals for fisheries, lands management, and wildlife management prior to a vote to take them to statewide public hearings in January 2020. The Committee reviewed and endorsed adoption of a temporary rule for requirements for land to qualify for present-use value taxation as wildlife conservation land that is used as a reserve for hunting, fishing, shooting, wildlife observation or wildlife activities; and reviewed and endorsed adoption of a temporary rule to establish license fees in rule and adjust the fees by the Consumer Price Index for all Urban Consumers. The Committee received an update on a trout angling access working group, and update on Sunday hunting on game lands project, and a law enforcement update. The Committee reviewed and endorsed the proposed 2020 Commission meeting schedule for a vote later in the meeting. Executive Director Gordon Myers gave a short update on delineation of waters.

AGENCY SPOTLIGHT – 2019 BOATING SAFETY UPDATE

Law Enforcement Division Major Ben Meyer, North Carolina Boating Law Administrator, gave an update about boating safety efforts in the state this year. The emphasis has been on promoting boating safety through education classes and programs, outreach, proactive law enforcement, and pre-launch safety checks. Safety videos and social media including 144 media interviews have been used to educate the public. Pre-launch safety checks have been held on holidays and weekends. Education campaigns in English and Spanish have been produced, including “Preserve Your Life” at each boat ramp and “Wake Responsibly” brochures. Last year there were 35 boating fatalities in North Carolina and the aim is to continue to reduce that number through education and encouragement to wear life preservers when boating. Meyer mentioned the “On the Road, On the Water” campaign in partnership with the State Highway Patrol and other law enforcement agencies during the Memorial Day and Labor Day holidays. The “Operation Dry Water” campaign during the July 4 holiday included partnership where 166 officers worked to prevent Boating While Impaired (BWI) citations and boating incidents. The agency received the National Operation Dry Water Award, in the Large Agency Category, based on the number of officers employed in the operation along with the number of Boating While Intoxicated (BWI) operators arrested. Finally Major Meyer reviewed some new tools that NCWRC Law Enforcement is using for boating safety. The agency recently received a port security grant and bought a boat that is designed for use in crowded ports and is outfitted with plates for port security. Drones are being used increasingly for law enforcement and new maps have been developed to assist with activity areas. Finally, Major Meyer mentioned the 2019 boating fatalities so far. While 2020 did yield substantially fewer fatalities than 2018, he said there have been drownings and other deaths, and most have resulted from not wearing personal flotation devices (PFDs). Meyer stated that there are 50,000 fewer boat registrations in N.C. this year and hurricanes and storm damage have contributed to the decline.

WILDLIFE EDUCATION

Division Update –Kris Smith, Wildlife Education Division Chief, reported on recent activities of the Division including National Hunting and Fishing Day activities at Pisgah, Durham, and Corolla; citizen science activities at the North Carolina Arboretum; fly tying activities at the Pisgah Center for Wildlife Education; Youth Hunts; and fishing activities at White Lake.

LAND AND WATER ACCESS SECTION

Rulemaking 2020-2021 Game Land Rule Proposals – On a motion by Landon Zimmer and second by Nat Harris, the Commission approved proposed changes in the 2020-2021 game land rule proposals to be presented at statewide public hearings, presented by Land and Water Access Section Chief Brian McRae in **Exhibit D-1**, which is incorporated into the official record of this meeting:

1. Create the designation of a “Sensitive Habitat Zone” that can restrict access or usage in specific areas on game lands. Proposals for this designation will be presented at a public input meeting and at an official Commission meeting for final approval.

15A NCAC 10D .0102 General regulations regarding use

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2. Allow veterans, active duty members of the armed forces, active duty national guardsmen, and active duty reservists with valid credentials to hunt on game lands and impoundments not designated as permit-only areas.
15A NCAC 10D .0103 Hunting on game lands
3. Clarify NCAC rule text that posted impoundments and Wildlife Resources Commission managed hunting blinds at Croatan, Currituck Banks, Goose Creek, and White Oak River game lands are permit-only areas during designated veterans/military waterfowl days.
15A NCAC 10D .0103 Hunting on game lands
4. Expand the timeframe in which pursuing or taking foxes with dogs is prohibited on Bladen Lakes State Forest Game Land.
15A NCAC 10D .0103 Hunting on game lands
5. Expand horseback riding opportunities at South Mountains Game Land by allowing it to occur on designated trails from January 2 – March 31 and on Sundays April 1 – May 15 and September 1 – January 1.
15A NCAC 10D .0103 Hunting on game lands
6. Prohibit target shooting on Sandy Mush Game Land.
15A NCAC 10D .0103 Hunting on game lands
7. Prohibit the pursuing or chasing of deer and bear with dogs for the purposes of training or hunting on the Pee Dee River Game Land.
15A NCAC 10D .0103 Hunting on game lands
8. Designate deer hunting on the Campbell Tract of Columbus County Game Land as permit-only.
15A NCAC 10D .0103 Hunting on game lands
9. Designate bear hunting on the Salters Creek Tract of Carteret County Game Land as permit-only.
15A NCAC 10D .0103 Hunting on game lands
10. Align the squirrel season with the rabbit season and deer with visible antlers season at the J. Robert Gordon Field Trial Area at Sandhills Game Land.
15A NCAC 10D .0103 Hunting on game lands
11. Restrict the use of bicycles to designated trails only on the State-owned Linville River Tract of Pisgah Game Land. This restriction will not apply to hunters using bicycles during open days of applicable hunting seasons.
15A NCAC 10D .0103 Hunting on game lands
12. Clarify NCAC rule text that deer of either sex may be taken during the blackpowder firearms season at Buffalo Cove Game Land and South Mountains Game Land.
15A NCAC 10D .0103 Hunting on game lands

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13. Clarify NCAC rule text that hunting and trapping at J. Morgan Futch, Roanoke River Wetlands, and Texas Plantation game lands is by permit only.
15A NCAC 10D .0103 Hunting on game lands

14. Clarify NCAC rule text that at Sandhills Game Land deer of either sex may be taken with archery equipment during the archery season, with archery equipment and blackpowder firearms during the blackpowder season, and by permit during the deer with visible antlers season. Also clarify that only deer with visible antlers may be taken during the extended primitive weapons season.
15A NCAC 10D .0103 Hunting on game lands

Fiscal Note for Proposed 2020-2021 Game Land Rules – On a motion by Landon Zimmer and second by Nat Harris, the Commission approved the Fiscal Note for proposed changes in the 2020-2021 game land rules, presented in **Exhibit D-2**, which is incorporated into the official record of this meeting.

PROPERTY MATTERS

Phase II Land Acquisitions

On a motion by Ray Clifton and second by John Stone, the Commission gave final approval to proceed with acquisitions of two properties by donation, presented by Land Acquisition and Grants Manager Jessie Birkhead in **Exhibits E-1 and E-2**. **Exhibits E-1 and E-2** are incorporated into the official record of this meeting:

- McDowell Shooting Range Tract – McDowell County (Exhibit E-1)
- Lahuis Tract – Henderson County (Exhibit E-2)

Property Matter Removed from Agenda – Exhibit F, consideration of disposition of the Gibson Fox Trial Facility in Scotland County, was removed from the agenda.

INLAND FISHERIES DIVISION

Division Update – Inland Fisheries Division Chief Christian Waters presented an update about the activities of the Division. Staff has conducted surveys on aquatic species relative to the Endangered Species Act. Among other species, data was contributed pertaining to the Carolina pygmy sunfish. Waters gave an update on invasive snakehead fish that have been in the news recently, stating there has been no snakehead reported in North Carolina waters for the past ten years. Waters mentioned ongoing education efforts about lessening the impacts of aquatic nuisance species by reminding vessel owners to clean, drain and dry their vessels after removal from any body of water. Informational signs are being prepared for Boating Access Areas and Public Fishing Areas.

Rulemaking – 2020-2021 Fishing Rule Proposals

On a motion by John Stone and second by Richard Edwards, the Commission approved proposed changes to the 2020-2021 fishing rule proposals to be presented at statewide public hearings, presented in **Exhibit G-1** by Christian Waters. **Exhibit G-1** is incorporated into the official record of this meeting:

Trout

1. Modify the upper boundary of Delayed Harvest Trout Waters on Fires Creek in Clay County adding 200 feet to Public Mountain Trout Waters. The designated reach will be Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area.
15A NCAC 10C .0205 Public Mountain Trout Waters
2. Modify the upper boundary of Hatchery Supported Trout Waters on West Fork French Broad River in Transylvania County adding 200 feet to Public Mountain Trout Waters. The designated reach will be S.R. 1312 to confluence with North Fork French Broad River.
15A NCAC 10C .0205 Public Mountain Trout Waters
3. Modify the lower boundary of Hatchery Supported Trout Waters on South Prong Lewis Fork in Wilkes County adding approximately 0.2 miles to Public Mountain Trout Waters. The designated reach will be Fall Creek to U.S. 421 bridge adjacent to the S.R. 1155 intersection.
15A NCAC 10C .0205 Public Mountain Trout Waters
4. Modify the upper boundary of Hatchery Supported Trout Waters on Puncheon Fork in Madison County removing 0.6 miles from Public Mountain Trout Waters. The designated reach will be Wolf Laurel Branch to Big Laurel Creek.
15A NCAC 10C .0205 Public Mountain Trout Waters
5. Clarify the lower boundary of Delayed Harvest Trout Waters on Mitchell River in Surry County. This proposal will not add or remove any Public Mountain Trout Waters. The designated reach will remain 0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330.
15A NCAC 10C .0205 Public Mountain Trout Waters
6. Define “artificial fly” when used in Public Mountain Trout Waters as one single hook dressed with feathers, hair, thread, tinsel, rubber, or any similar material to which no additional hook, spinner, spoon or similar device is added.
15A NCAC 10C .0205 Public Mountain Trout Waters
7. Define “single hook” when used in Public Mountain Trout Waters as a fishhook with only one point.
15A NCAC 10C .0205 Public Mountain Trout Waters

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8. Specify the impounded waters of power reservoirs and municipally owned water supply reservoirs that are open to the public for fishing when Hatchery Supported Trout Waters are closed to fishing. The reservoirs are: Bear Creek Lake, Buckeye Creek Reservoir, Calderwood Reservoir, Cedar Cliff Lake, Cheoah Reservoir, Cliffside Lake, Tanssee Creek Lake, Queens Creek Lake, and Wolf Lake.

15A NCAC 10C .0316 Trout

Largemouth Bass

1. Remove the restriction of only one Largemouth Bass greater than 20 inches may be possessed at Randleman Reservoir and implement the general statewide regulation for Largemouth Bass. The daily creel limit is five fish, and there is no minimum size limit for Largemouth Bass, but only two of them may be less than 14 inches.

15A NCAC 10C .0305 Black Bass

2. Modify the current rule applying to all black bass species making the rule specific to Largemouth Bass and relocating rule text for other black bass species to new separate rules.

15A NCAC 10C .0305 Black Bass

Smallmouth Bass

1. Establish a rule specific to Smallmouth Bass and relocate rule text specific to Smallmouth Bass from the current rule applying to all black bass species.

15A NCAC 10C .0321 Smallmouth Bass

Alabama Bass and Spotted Bass

1. Update the Inland Game Fishes Designation for black bass to include Alabama Bass, *Micropterus henshalli*.

15A NCAC 10C .0301 Inland Game Fishes Designated

2. Establish a general statewide regulation of no minimum size limit and no daily creel limit for Alabama Bass and Spotted Bass.

15A NCAC 10C .0322 Alabama and Spotted Bass

Redeye Bass

1. Establish a general statewide regulation of no minimum size limit for Redeye Bass, *Micropterus coosae*, but only two of them may be less than 14 inches and a five-fish daily creel limit.

15A NCAC 10C .0323 Redeye Bass

Crappie

1. Remove the 8-inch minimum size limit and 20-fish daily creel limit for crappie in Badin Lake, Falls Lake (Stanly and Montgomery counties), Lake Tillery, Blewett Falls Lake, and the Pee Dee River from Blewett Falls Dam to the South Carolina state line.
15A NCAC 10C .0306 Crappie
2. Clarify the 20-fish daily creel and 8-inch minimum length limit for crappie applies to Cane Creek Lake in Union County.
15A NCAC 10C .0306 Crappie

Striped Bass and Bodie Bass (Hybrid Striped Bass)

1. Remove the 16-inch minimum size limit for Bodie Bass on Arrowhead Lake (Anson County) and High Rock Pond (Caswell County). The general statewide regulation of a 20-inch minimum size limit and a four fish daily creel limit for Striped Bass and its hybrids will apply.
15A NCAC 10C .0314 Striped Bass
2. Establish an exception to the general statewide regulation for Bodie Bass in Hyco Reservoir by implementing a 16-inch minimum size limit. The daily creel limit will be four fish.
15A NCAC 10C .0314 Striped Bass

Kokanee Salmon

1. Decrease the general statewide daily creel limit for Kokanee Salmon from seven fish to four fish.
15A NCAC 10C .0308 Kokanee Salmon

Catfish

1. Designate Black Bullhead, Brown Bullhead, Flat Bullhead, Snail Bullhead, White Catfish, and Yellow Bullhead as Inland Game Fish when found in Inland Fishing Waters. *15A NCAC 10C .0301 Inland Game Fishes Designated*
2. Establish a general statewide regulation for Black Bullhead, Brown Bullhead, Flat Bullhead, Snail Bullhead, White Catfish, and Yellow Bullhead by implementing a 10-fish daily creel limit in combination. There is no minimum size limit or closed season.
15A NCAC 10C .0324 Catfish

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3. Increase the daily creel limit for Channel Catfish from six to seven fish in waters stocked and managed for catfish and located on game lands, on Commission-owned property, or on the property of a cooperator, including waters within the Community Fishing Program. The daily creel will no longer apply to White or Blue Catfish.
15A NCAC 10C .0401 Manner of Taking Nongame Fishes
4. Add Blue Catfish to the list of species for which no permit shall be issued to stock into inland fishing waters.
15A NCAC 10C .0209 Transportation of Live Fish
5. Prohibit the harvest and possession of Margined Madtom and Tadpole Madtom in inland fishing waters.
15A NCAC 10C .0401 Manner of Taking Nongame Fishes

Prohibited Species

1. Add the Redtail Catfish to the list of species for which it is unlawful to transport, purchase, possess, sell or stock in the public or private waters of North Carolina.
15A NCAC 10C .0211 Possession of Certain Fishes

Fiscal Note for Proposed 2020-2021 Fishing Rules – On a motion by Nat Harris and second by John Coley, the Commission approved the Fiscal Note for proposed changes in the fishing rules, presented in **Exhibit G-2** which is incorporated into the official record of this meeting.

WILDLIFE MANAGEMENT DIVISION

Rulemaking 2020-2021 Wildlife Management Rule Proposals – On a motion by Jim Cogdell and second by John Coley, the Commission approved proposed changes to the 2020-2021 Wildlife Management rule proposals to be presented at statewide public hearings, presented in **Exhibit H-1** by Wildlife Management Division Chief Brad Howard. **Exhibit H-1** is incorporated into the official record of this meeting:

Deer

1. Require the successful turkey, deer, or bear (big game) hunter to validate his/her Big Game Harvest Report Card by cutting or notching out the corresponding day and month immediately after harvest, and clarify that registration shall be made via the Electronic Big Game Reporting System before the big game is: skinned, dismembered, left unattended by the successful hunter, or placed in the possession of another person. Harvested big game that have not been skinned, dismembered, left unattended by the successful hunter, or placed in the possession of another person, including deer harvested in accordance with the Deer Management Assistance Program, shall be registered by 12 noon the day following the harvest. Big game harvested in remote areas shall be registered by 12 noon the day after leaving the remote area. Big game harvested in remote areas that cannot be transported intact may be skinned and dismembered before registration.

15A NCAC 10B .0113 Big Game Harvest Reports

2. Prohibit the use of cervid excrement (urine, feces, saliva, and other bodily fluids) for taking or attracting wildlife.

15A NCAC 10B .0201 Prohibited Taking and Manner of Take

3. Change the current blackpowder firearms season in those parts of Buncombe and Henderson counties enrolled in the maximum deer either-sex firearms season to allow for take of either sex deer during the entire blackpowder firearms season.

15A NCAC 10B .0203 Deer (White-tailed)

Alligator

1. Amend the alligator rule to clearly articulate that the Agency may specify minimum size restrictions and allowable methods of restraint on an alligator take permit. Require immediate release of alligators not meeting the minimum size limit stated on the permit.

15A NCAC 10B .0224 American Alligator

Bullfrog

1. Establish seasons and a daily bag limit for the take of bullfrogs and clarify that artificial lights for taking bullfrogs are legal.

15A NCAC 10B .0226 Bullfrogs

15A NCAC 10D .0105 Possession and Removal of Animals, Plants and Materials

Fiscal Note for Proposed 2020-2021 Wildlife Management Rules – On a motion by Ray Clifton and second by Landon Zimmer, the Commission approved the Fiscal Note for proposed changes in 2020-2021 Wildlife Management rules, presented in **Exhibit H-2** which is incorporated into the official record of this meeting.

TEMPORARY RULEMAKING

Adoption of Temporary Rule 15A NCAC 10F .0101 Wildlife Reserve – On a motion by Ray Clifton and second by Nat Harris, the Commission adopted a temporary rule presented in **Exhibit I** by Michael Smallwood, Policy Analyst for Rules, addressing the activities required for land to qualify for present-use value taxation as wildlife conservation land that creates and is actively and regularly used as a reserve for hunting, fishing, shooting, wildlife observation or wildlife activities. **Exhibit I** is incorporated into the official record of this meeting.

Review of Public Comments and Adoption of Temporary Rule 15A NCAC 10A .1601 License Fees – The Commission reviewed one public comment in **Exhibit J-1**, and on a motion by John Coley and second by Ray Clifton adopted a temporary rule, presented in **Exhibit J-2**, moving all licenses, permits, stamps, and certifications issued and administered by the Commission and associated fees from statute to rule and adjusting existing fees by the CPI-U. **Exhibits J-1 and J-2** are incorporated into the official record of this meeting.

2020 WILDLIFE RESOURCES COMMISSION SCHEDULE

On a motion by Ray Clifton and second by Richard Edwards, the Commission adopted the proposed 2020 schedule of Wildlife Resources Commission meetings as presented in **Exhibit K**:

THURSDAY, FEBRUARY 27, 2020

THURSDAY, APRIL 23, 2020

THURSDAY, JULY 23, 2020

THURSDAY, AUGUST 27, 2020

THURSDAY, OCTOBER 22, 2020

THURSDAY, DECEMBER 10, 2020

COMMENTS BY THE CHAIRMAN

Chairman David Hoyle, Jr. asked staff to consider locations and date or dates for one or two Commission meetings elsewhere in the state in 2020, for consideration by the Commission. He thanked the IT staff for their hard work in restoring the IT capabilities of the agency with the IT security breach in September. Hoyle thanked staff for making the Wilmington event a success and thanked Commissioners for attending and for providing social activities during the three meeting days.

COMMENTS BY THE EXECUTIVE DIRECTOR

Executive Director Gordon Myers thanked Commissioners Zimmer, Edwards, and Windham for hosting events in Wilmington. He announced that there is growing momentum for the Recovering America's Wildlife Act. The Act may provide significant funding to augment the Wildlife Action Plan and provide for species of greatest conservation need. North Carolina could gain 25 million dollars. Myers expressed appreciation for the sponsorship by Congressmen McHenry, Budd, and Rouzer.

ADJOURNMENT

The meeting was adjourned by Chairman Hoyle at 10:04 a.m.

All exhibits are incorporated into the official record of this meeting by reference and are filed with the minutes.

David Hoyle, Jr., Chairman

Date

Gordon Myers, Executive Director

Date

EXHIBIT A
October 24, 2019



MINUTES
August 29, 2019
N. C. Wildlife Resources Commission Meeting
Raleigh, North Carolina

The August 29, 2019 N. C. Wildlife Resources Commission meeting was called to order by *Commission Chairman* David Hoyle, Jr. at 9:00 a.m. in the Commission Room at Wildlife Resources Commission Headquarters in Raleigh. Hoyle reminded everyone that the meeting audio is being streamed live and will be available on the Wildlife Resources Commission website. He requested that everyone silence electronic devices. Commissioner Ray Clifton was absent.

Commissioner Tommy Fonville led the Pledge of Allegiance.

Commissioner Hayden Rogers gave the invocation.

WELCOME AND MANDATORY ETHICS INQUIRY

Chairman Hoyle welcomed the Commissioners and guests. Chairman Hoyle advised the Commission of the mandatory ethics inquiry as mandated in North Carolina General Statute §163A-159(e).

COMMISSIONER ATTENDANCE

John Coley	Jim Cogdell
Wes Seegars	John Stone
Monty Crump	Joe Budd
David Hoyle, Jr.	Brad Stanback
Tom Berry	Tommy Fonville
Landon Zimmer	Mark Craig
Mike Johnson	Hayden Rogers
Richard Edwards	Kelly Davis
Nat Harris	Steve Windham

VISITORS

John Wallace

MINUTES OF JULY 18, 2019 MEETING

On a motion by Monty Crump and second by John Coley the Commission approved the July 18, 2019 Wildlife Resources Commission (WRC) minutes as presented in **Exhibit A**. The Minutes are incorporated into the official record of this meeting.

ADMINISTRATION

Financial Status Report - Melissa Earp, *Finance Office Chief*, presented a status report in **Exhibit B** on the Wildlife Operating Fund and the Wildlife Endowment Fund. As of June 30, 2019, the expenditures from the Wildlife Operating Fund are \$82,338,552.33 and the revenues are \$73,594,641.78. The Fund Balance as of July 1, 2019 is \$14,838,043.55. Balances in the Endowment Fund as of June 30, 2019 are \$104,422,052.47 in the Bond Index Fund and \$29,181,320.13 in the Equity Index Fund for a total of \$133,812,403.02. Expendable interest is \$31,451,754.16. Non-expendable interest is \$13,879,519.78. Expendable interest transferred to operations for the fiscal year is \$2,757,746.76. **Exhibit B** is incorporated into the official record of this meeting.

COMMITTEE REPORTS

Boating Safety Committee Report – Mike Johnson, *Committee Chair*, reported that the Boating Safety Committee met on August 28, 2019. Three proposed water safety zone proposals were discussed for approval of Notice of Text – a Fiscal Note and a no-wake zone at Carolina Beach, a Fiscal Note and no-wake zone at Carova in Currituck County, and a marked swim area on Badin Lake in Montgomery County. The committee will recommend approval of the proposed water safety zones later in the meeting. Chairman Johnson reported that he has received reports of wake boats on inland waters and damages to shoreline and property. Staff will study the issue and report back to the Commission.

Migratory Birds and Waterfowl Committee Report – Wes Seegars, *Committee Vice Chair*, reported that the Migratory Birds and Waterfowl Committee met on August 28, 2019. Joe Fuller provided an overview of the zoning timeline for the 2021-2025 waterfowl seasons. An out-of-cycle Migratory Birds and Waterfowl Committee meeting is being planned. Sunday Hunting for migratory waterfowl may be discussed.

Finance Committee Report – Landon Zimmer, *Committee Chair*, reported that the Finance Committee met on August 28, 2019. Melissa Earp reviewed the Financial Status Report with Finance Committee members and explained what changes there have been to the amounts reported since reporting at the July meeting. Ms. Earp provided an overview of the Wildlife Endowment Fund for new committee members and discussed the return on investment for the Bond Index Fund and the Equity Index Fund investments of the Wildlife Endowment Fund over the period of June, 2018 to June 30, 2019. She reported a cumulative return on investment of 7.63% in bonds and 3.89% in equities for this period. Ms. Earp provided an update on the procurement process for the actuarial study the committee approved for completion at the April 2019 meeting. The purchase order was cut on August 7, 2019 and WRC IT has downloaded 10 years of license holder data and submitted it to the vendor this week. Chairman Zimmer requested that the Department of State Treasurer or Blackrock come to the next meeting to discuss the investments in the Wildlife Endowment Fund.

Land Acquisitions and Property Committee Report – Tom Berry, *Committee Chair*, reported that the Land Acquisitions and Property Committee met on August 28, 2019. The 2019-2020 Running Schedule for the J. Roger Gordon Sandhills Field Trial Area was discussed by Chris Jordan.

Motion from the LAP Committee: Tom Berry made a motion, seconded by Tommy Fonville, for the Executive Director to have the authority, beginning after today's meeting, to approve the Field Trial Schedule. The motion carried and is incorporated into the record of this meeting.

The Committee reviewed the spreadsheet of current land acquisition projects. Jessie Birckhead provided an update on a delay on funding from the National Fish and Wildlife Foundation for the High Rock acquisition. The Committee endorsed staff's recommendation to utilize expendable interest from the Wildlife Endowment Fund as a stopgap to cover the delayed funds and allow us to proceed to closing.

Fisheries Committee Report – Tommy Fonville, *Committee Chair*, reported that the Fisheries Committee met on August 28, 2019. Doug Besler gave a presentation outlining existing managed trout fisheries and various considerations and options for providing year-round, catch and release stocked trout fisheries. Committee consensus was for staff to continue to evaluate potential opportunities for developing such fisheries and report back at a future Committee meeting. Christian Waters presented a high-level summary of the recent study conducted by Commission staff in collaboration with UNC- Wilmington to estimate the economic activity associated with inland recreational fishing. In 2017, inland fishing resulted in over four billion dollars of economic activity in North Carolina. Staff are working on developing a one-page report highlighting the report that can be shared. Gordon Myers and Jeremy McCargo provided an overview of the delineation of waters process. Jeremy then presented maps showing proposed boundary line changes between inland and coastal fishing waters developed using a salinity threshold of 2.6 parts per thousand. A motion was made, seconded, and approved unanimously to endorse the use of the maps as presented for a thorough review and assessment of the potential impacts of the proposed boundary line changes. The maps (**Exhibit E**) will be presented later in this meeting for consideration by the full Commission.

Big Game Committee Report - John Coley, *Committee Chair*, reported that the Big Game Committee met on August 28, 2019. Major Cameron Ingram provided an update on proposals for improvements to big game tagging and reporting. For deer harvest reporting, the committee supported Ingram's suggestion to notch the month and the day of the harvest tag, from noon to noon. The committee discussed future topics for committee meetings, including adding white-tail deer research, revised Plan for Chronic Wasting Disease (CWD) and inviting other states to participate in the management discussion, and second bear tags, party tags, and depredation permits.

Committee of the Whole Report – David Hoyle, Jr., *Chair*, reported that the Committee of the Whole met on August 28, 2019. The Committee received reviews of proposed rules for the next regulatory cycle for Inland Fisheries, Lands Management, and Wildlife Management, to be considered by the Commission at the October meeting. Brad Howard reviewed Exhibit F, a request for Notice of Text for temporary rulemaking for land to qualify for present-use value taxation as wildlife conservation land. Michael Smallwood provide an overview of consideration of final adoptions of Game Bird Propagators and Furbearer Propagation rules (Exhibits G and H) and final adoption of amendments for reptiles and amphibians (Exhibit I). The COW reviewed for approval the proposed Archery Zone at Bladen Lakes State Forest Game Land.

Jessie Birkhead, *Land Acquisition and Grants Manager* and Hilary Morris, *User Support and Communications, USFWS South Atlantic and Southeast Conservation Blueprints*, provided an overview of land use maps. The Committee of the Whole endorsed moving the October WRC meeting to October 24, 2019, in Wilmington.

AGENCY SPOTLIGHT – Back to the Woods, Back to the Water R3 Program (Recruitment, Retention, and Reactivation)

Chet Clark, *R3 Manager, Wildlife Education Division*, gave an update about the agency's R3 Program, that connects resources in the Wildlife Education Division to create a balanced and programmatically focused workforce to better serve the agency and constituents to recruit individuals for activities in the outdoors. The R3 program offers social support and incentives to connect people to wildlife resources and to mentors, to retain those who already participate, and to reactivate people who have stopped connecting to wildlife resources. Clark mentioned the additional employee resources that are being added to the program, including hunting and angling R3 specialists who assist persons with no prior experience, R3 skills development specialist, R3 shooting specialist, and the R3 watchable wildlife archery specialist who introduces interested persons to game land activities. The R3 Program philosophy is that discoveries of connections to wildlife resources are essential to wellbeing.

WILDLIFE EDUCATION DIVISION UPDATE

Kris Smith, *Wildlife Education Division Chief*, provided an update on the activities of the Division. The Division assisted the Law Enforcement Division with the first Boater Education Class in Spanish in Charlotte. Fourteen participants took and passed the test. The advanced Hunter Education Instructor Workshop was held August 23-25, 2019 at Lake Logan Conference Center in Canton. Seventy volunteer instructors from across the state assisted in sessions designed to enhance knowledge and teaching skills for Hunter Education programming. Citizen science at the Outer Banks Center for Wildlife Education is ongoing, with 262 volunteers trained to monitor beaches from Nags Head to the Virginia state line for summer nesting and stranding activity. Fishing events at OBCWE have been held, including 26 Fishing the Sound classes with 497 participants and 25 Fish Sticks classes with 279 participants ages 2 to 6 years old. The Pisgah Center for Wildlife Education facilitate 20 fly fishing programs to 142 participants. Additionally, 20 Snorkeling in the Stream programs with 325 participants explored aquatic ecosystems while looking for game and nongame species of fish, as well as investigating water quality and river health. At the Pechmann Fishing Education Center, the first Boy Scouts of America Certified Angling Educator Workshop was held. Three staff members and seven volunteers attended the training to become the first CAIs in North Carolina and Virginia, and among the first in the nation. Four summer camps were held at the Pechmann Center with 39 participants, providing instruction in lure making, entomology, kayaking and fishing techniques for catching bass, bluegill, and Catfish. There were seventy participants in one beginner and three intermediate fly-tying programs.

LAND AND WATER ACCESS SECTION UPDATE

Brian McRae, *Land and Water Access Section Chief*, gave an update on the activities of the Land and Water Access Section. The Texas Plantation site is completed with three renovated impoundments and four new impoundments that have been created. Working with Ducks Unlimited, two pumps were installed, and ditches were cleaned. Four public meetings have been held for discussions of disability access to game lands. Social Scientist Chris Bova structured the meetings. The common theme was communication and topics of interest included the width of access gates and appropriate roads.

PROPERTY MATTERS

Field Trial Schedule – On a motion by Mike Johnson and second by John Coley, the Commission approved the 2019-2020 running schedule for the J. Robert Gordon Sandhills Field Trial Area, presented in **Exhibit C** by Chris Jordan, *Game Land and Forest Resource Manager*. **Exhibit C** is incorporated into the official record of this meeting.

Bladen Lakes State Forest Game Land – On a motion by Mike Johnson and second by Wes Seegars, the Commission approved **Exhibit D**, the proposed 72-acre Archery Zone at Bladen Lakes State Forest Game Land. **Exhibit D** is incorporated into the official record of this meeting.

INLAND FISHERIES UPDATE

Christian Waters, *Inland Fisheries Division Chief*, presented an update on the activities of the Inland Fisheries Division. Renovation, maintenance, and development of new Public Fishing Access Areas is ongoing, in collaboration with WRC Engineering and Land and Water Access Section and multiple external partners. Waters mentioned aquatic habitat enhancements, specifically at reservoirs. Native vegetation is being planted after development of the ability to cultivate and grow beneficial plant species at the Sykes Depot and McKinney Lake State Fish Hatchery. Artificial structures have been placed for habitat enhancement at Lake Gaston, Harris Reservoir, High Rock Lake, Lake Norman, and Lake Hickory. Waters reported that there have been fish kills in the Deep Reservoir connected to the introduction of Alewife and Blueback Herring. Lake Norman had a smaller kill, with twenty-plus Blue Catfish and three hybrid Striped Bass. An ongoing kill at Lake James is affecting Walleye populations. Waters explained that forage species migrate into deep cold water during the summer. Larger predator fish follow the forage and get trapped in a thin layer of oxygenated water. As oxygen levels naturally decline, fish die.

Draft Inland and Coastal Waters Delineation Maps – On a motion by John Stone and second by Monty Crump, the Commission approved the motion presented in **Exhibit E**, for the draft Inland and Coastal Waters Delineation maps showing proposed boundary line changes between Inland and Coastal fishing waters, based on salinity zones modeled using a salinity threshold of 2.6 ppt (parts per thousand), and the instruction for staff to examine potential impacts of such a delineation. **Exhibit E** is incorporated into the official record of this meeting.

WILDLIFE MANAGEMENT DIVISION UPDATE

On behalf of Brad Howard, *Wildlife Management Division Chief*, Dr. Sara Schweitzer presented a review of the activities of the Wildlife Management Division. Schweitzer announced that dove season and Canada good season will open on September 2, 2019. Surveys of hellbenders are ongoing. She announced that Commissioner Kelly Davis was one of 80 participants who attended the ForestHer workshop for women who are involved with forestry operations.

RULEMAKING

Temporary Rulemaking Notice of Text – On a motion by Monty Crump and second by Landon Zimmer, the Commission approved **Exhibit F**, presented by Carrie Ruhlman, *Rulemaking Coordinator*, to publish Notice of Text for 15A NCAC 10L .0101, a temporary Rule addressing the activities required for land to qualify for present-use value taxation as wildlife conservation land that creates and is used as a reserve for hunting, fishing, shooting, wildlife observation or wildlife activities. **Exhibit F** is incorporated into the official record of this meeting.

Final Readoption, Adoption - Game Bird Propagators 15A NCAC 10H .0900- On a motion by Monty Crump and second by Joe Budd, the Commission readopted 15A NCAC 10H .0901, .0903, and .0904, and adopted amendments to .0905 - .0907 pertaining to game bird propagators, presented in **Exhibit G** by Michael Smallwood, JD, *Policy Analyst for Rules*. **Exhibit G** is incorporated into the official record of this meeting.

Final Readoption, Adoption, and Repeal - Furbearer Propagation 15A NCAC 10H .1100 – On a motion by Monty Crump and second by Joe Budd, the Commission readopted 15A NCAC 10H .1106, adopted amendments to 10H .1101, .1104, and .1107, and repealed 10H .1102, .1103, .1105, and .1108, presented by Michael Smallwood in **Exhibit H**, which is incorporated into the record of this meeting.

Final Adoption – Reptiles and Amphibians 15A NCAC 10H .1300 – On a motion by Monty Crump and second by Joe Budd, the Commission adopted amendments to 15A NCAC 10H .1301 and .1032 pertaining to reptiles and amphibians, presented in **Exhibit I**, which is incorporated into the official record of this meeting.

WATER SAFETY RULEMAKING

Approval of Fiscal note and Notice of Text, Carova Beach, Currituck County – On a motion by Mike Johnson and second by Landon Zimmer, the Commission approved the Fiscal Note presented in **Exhibit J-1** and the request to publish Notice of Text in the *NC Register*, hold one public hearing, and open the public comment period, presented in **Exhibit J-2** by Betsy Haywood, *No-Wake Zone Coordinator*, for a proposed amendment to 15A NCAC 10F .0340, a no-wake zone within the canals at Wild Horse Estates Subdivision at Corova Beach. **Exhibits J-1 and J-2** are incorporated into the official record of this meeting.

Approval of Fiscal note and Notice of Text, Carolina Beach – On a motion by Mike Johnson and second by Landon Zimmer, the Commission approved the Fiscal Note presented in **Exhibit K-1** and the request to publish Notice of Text in the *NC Register*, hold one public hearing, and open the public comment period, presented in **Exhibit K-2** by Betsy Haywood, for a proposed amendment to 15A NCAC 10F .0306, for a no-wake zone within a portion of the Intracoastal Waterway in the vicinity of Oceana Marina and Carolina Beach Yacht Club and marina. Exhibits K-1 and K-2 are incorporated into the official record of this meeting.

Approval to Publish Notice of Text, Badin Lake Swim Zone, Montgomery County – On a motion by Landon Zimmer and second by Mike Johnson, the Commission approved **Exhibit L**, the request to publish Notice of Text in the *NC Register*, hold one public hearing and open the public comment period for a restricted swimming area where vessel entry is prohibited, at Pinehaven Village on Badin Lake in New London. **Exhibit L** is incorporated into the official record of this meeting.

2020 STATEWIDE PUBLIC HEARING SCHEDULE

On a motion by John Coley and second by Nat Harris, the Commission approved the January 2020 Public Hearing schedule, presented in **Exhibit M** by Executive Director Gordon Myers. **Exhibit M** is incorporated into the official record of this meeting.

OCTOBER 2019 WILDLIFE RESOURCES COMMISSION MEETING DATES AND LOCATION CHANGE

On a motion by John Coley and second by Nat Harris, the Commission voted to change the meeting dates and location of the October 2019 Commission meetings from Wednesday and Thursday, October 9 and 10, 2019 in Raleigh to Tuesday, Wednesday, and Thursday, October 22, 23, and 24, 2019 in Wilmington, NC.

COMMENTS BY THE CHAIRMAN

Chairman Hoyle thanked Commissioners and staff for preparing for and attending meetings. He also noted appreciation for reworking committees and adding new ones, and thanked staff for working on projects for which they are being tasked by the Commission.

COMMENTS BY THE EXECUTIVE DIRECTOR

Executive Director Gordon Myers thanked Jeremy McCargo and Anna Stefanowicz for their outstanding work on the Coastal Waters Delineation Maps. He noted House Bill 597, a very important bill for fees and licenses that adds 3.5 million dollars in recurring revenue. Myers stated that thanks to efforts of many, including Tim Gestwicki of the NC Wildlife Federation, Representative Jay Adams, Legislative Liaison Ashton Godwin, and much bi-partisan support, HB 597 is law.



☒ North Carolina Wildlife Resources Commission ☒

Gordon S. Myers, Executive Director

December 4, 2019

Mr. John Nicholson
Chief Deputy Secretary
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, NC 27699-1601

Dear Chief Deputy Secretary Nicholson:

Wildlife Resources Commission (WRC) Chairman, David Hoyle, Jr., and I are writing to you in response to your October 17, 2019 sent to me on behalf of the North Carolina Department of Environmental Quality (NCDEQ) concerning recent actions taken by the WRC as it works through a process to fulfill statutory responsibilities related to determining the dividing lines between inland and coastal fishing waters.

As identified in your letter, the WRC and Marine Fisheries Commission (MFC) are empowered to make agreements concerning the harmonious settlement of conflict between actions taken or regulations promulgated by either agency. Furthermore, in cases of conflict in which the two commissions cannot agree, the Governor is empowered to resolve the differences.

Contrary to insinuations in your letter, the WRC has sought and will continue to seek a collaborative pathway built on an objective science-based foundation and an inclusive process that assimilates full consideration of stakeholder impacts. We believe science-based objectivity and stakeholder inclusivity are primary requisite elements for determining the dividing lines between Coastal and Inland Fishing Waters. Over the past year and a half, we have strived for an approach reflective of those elements and have pursued opportunities to work in conjunction with the MFC and the NCDEQ through the Division of Marine Fisheries (DMF).

We began our initial outreach to NCDEQ in April 2018 via invitation to DMF Director, Steve Murphey, to give an overview of the DMF to WRC commissioners. Following that presentation, I invited you and Director Murphey to cooperatively evaluate the current delineations as part of the periodic review of rules process. Pursuant to that outreach, the WRC and NCDEQ each agreed to assign technical staff to jointly determine biological parameters and associated field measurement tools that would provide the best objective starting point.

Six months later, on January 3, 2019, Wildlife Resources Commission (WRC) Chairman John Coley wrote a letter to Marine Fisheries Commission (MFC) Chairman, Rob Bizzell, inviting Chairman Bizzell to consider selecting three commissioners to serve on a committee with three WRC commissioners to help integrate the work of the two commissions as they fulfill their statutory responsibilities to jointly determine the boundaries that define Inland, Coastal, and Joint Fishing Waters.

Chairman Coley further expressed the WRC position that the establishment of a joint committee comprised of WRC and MFC commissioners would provide a solid foundation for collaboration. Chairman Coley's invitation was accepted by MFC Chairman Rob Bizzell who appointed three MFC commissioners, including himself to serve on the Joint Committee for Delineation for Fishing Waters (JCDFW).

In keeping with our goal of collaboration and inclusivity, the WRC established a website, NCFishingwaters.org, to serve as a repository of meeting minutes, presentations, and other documents supporting the work of the JCDFW. The website remains active; however, the third JCDFW meeting was abruptly recessed immediately after WRC commissioners put forward a motion that the committee accept the use of salinity as an objective, scientifically valid, and biologically defensible methodology to determine delineation of Inland, Joint, and Coastal Fishing Waters; and consider all waters outside of coastal sounds with salinities less than 4 parts per thousand (ppt) year-round as Inland Fishing Waters, consider all waters with salinities greater than 4 parts per thousand (ppt) year-round as Coastal Fishing Waters; and request WRC and DMF staff work collaboratively to provide recommendations for determining the specific dividing lines between Inland and Coastal Fishing Waters within the areas where salinities are greater than 4ppt during high salinity periods and less than 4ppt during low salinity periods. Despite setbacks associated with the recessed meeting, the WRC believes the JCDFW provides an appropriate framework for the two commissions to work together with a shared goal of harmonious settlement of conflicts between the WRC and MFC.

As you know, the North Carolina General Assembly amended North Carolina's Administrative Procedure Act (APA) in 2013 to include a "Periodic Review and Expiration of Existing Rules." Key requirements of the APA changes include:

- Any rules designated as Necessary with Substantive Public Interest" must be readopted using the permanent rulemaking process; and
- Failure to complete the review for any covered rules would lead to automatic expiration.

In accordance with the APA and the procedures established under N.C. Administrative Code Section .0200 of 26 NCAC 05, the WRC reached a determination that the rules delineating Inland, Joint, and

Coastal Fishing Waters are “Necessary with Substantive Public Interest.” Pursuant to the schedule approved by the Rules Review Commission (RRC), those rules must be readopted no later than June 30, 2022.

On page 1 of your letter, you stated *“NCDEQ has serious concerns that WRC's legal theory for proposing new delineations will not survive Rules Review Commission (“RRC”) review or, if challenged in the courts, judicial scrutiny.”* It is unfortunate that the NCDEQ has taken this gratuitous position. The RRC is charged with reviewing administrative rules in accordance with Chapter 150B of the General Statutes. Their responsibilities include implementation and compliance roles associated with the Periodic Review and Expiration of Rules. To assist with agency compliance, the RRC established guidance for rulemaking agencies on how to best determine if a rule is Necessary with Substantive Public Interest. Under the APA, Necessary with Substantive Public Interest means any rule for which the agency has received public comments within the past two years *or* if the rule affects the property interest of the regulated public and the agency knows or suspects that any person may object to the rule. RRC interpretative guidance included the following:

- “Property Interest” is a broad term that includes ability to earn a living. Therefore, this can affect licenses for occupations, to operate facilities, or the issuance of permits.
- The intent behind this categorization is that the agency should know if it has rules that cause “grumbling” and categorize them as necessary with substantive public interest.

The WRC’s determination is consistent with this guidance. In fact, one might instead question how the MFC reached its conclusion that the delineation-related rules are Necessary *Without* Substantive Public Interest. Moreover, the WRC has clear statutory authority for promulgating rules that delineate fishing waters outside of the Periodic Review and Expiration of Existing Rules.

Next, you stated *“NCDEQ understands that WRC is relying on a 2.6 parts per thousand (“ppt”) salinity value for its proposal to define the boundary of inland waters. This is an arbitrary value of approximately half of what WRC staff presented to the Joint Committee as a defining line for inland and coastal waters. This value was suggested by the MFC chairman at a May 15, 2019 meeting of MFC and WRC directors, chairmen and legal counsel, only for consideration in map development to look at potential impacts. It is our further understanding that the MFC Chairman never intended to affirmatively advance the 2.6 ppt value to rulemaking or public comment. To the contrary, it was simply a suggestion to generate discussion.”*

At their August 29, 2019 meeting, the WRC selected a modeled salinity value of 2.6ppt as an objective, science-based foundation to derive dividing lines between inland and coastal fishing waters *and* to evaluate any impacts associated with those lines. Your claims that the 2.6ppt value is arbitrary and that the value was suggested by the MFC chairman are both false. At the May 15, 2019 meeting referenced in your letter and at which you were present, Chairman Bizzell specifically suggested consideration of 2.5ppt for discussion purposes. I recommended to Chairman Bizzell that the group consider using 2.6ppt. I explained the basis of my recommendation is derived from North Carolina specific research conducted in the Neuse River basin Keup and Bayliss (1964). In that research, fish

were collected from 18 Neuse River tributary stations that varied in salinity from freshwater to 12.25ppt. The data collected indicated:

1. In low salinities (to approximately 3.5ppt) there were more freshwater than salt-water species; and
2. Numbers of freshwater fishes *dominated* in salinities up to 2.63ppt.

Upon further consideration of the statutory definitions for Inland, Joint, and Coastal Fishing Waters and concerns expressed by DMF staff and MFC commissioners, the WRC determined it was most appropriate to calibrate Inland Fishing Waters using the salinity range in which freshwater fishes were demonstrated to dominate (salinities up to 2.63ppt) in waters within North Carolina.

Ironically, the status quo NCDEQ has adamantly advocated does not appear to be anchored in objective science, which seems inconsistent with the Department's mission to "provide science-based environmental stewardship for the health and prosperity of all North Carolinians." Further, NCDEQ's status quo appears incongruent with the statutory definitions of Coastal and Inland Fishing Waters. Pursuant to Session Law 1965-957, waters formerly defined as Commercial Fishing Waters were renamed Coastal Fishing Waters. Session Law 1965-957 also retained the boundary line between Inland Fishing Waters and Commercial Fishing Waters as the boundary line between Inland Fishing Waters and Coastal Fishing Waters subject to future modification by the [MFC] and WRC. General Statute 113-129 defines Coastal and Inland Fishing Waters to be:

Coastal Fishing Waters. – The Atlantic Ocean; the various coastal sounds; and estuarine waters up to the dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission. Except as provisions in this Subchapter or changes in the agreement between the Marine Fisheries Commission and the Wildlife Resources Commission may make such reference inapplicable, all references in statutes, regulations, contracts, and other legal or official documents to commercial fishing waters apply to coastal fishing waters.

Inland Fishing Waters. – All inland waters except private ponds; and all waters connecting with or tributary to coastal sounds or the ocean extending inland or upstream from:

- a. **The dividing line between coastal fishing waters and inland fishing waters agreed upon by the Marine Fisheries Commission and the Wildlife Resources Commission; or**
- b. **North Carolina's boundary with another state.**

On the basis of these definitions, it is rational to conclude that the dividing line determined by the WRC and MFC should be located within estuarine waters, not at or upstream of the endpoint of estuarine waters. Nevertheless, we believe certain waters currently designated as Coastal Fishing Waters, including sections of the Meherrin, Chowan, and Roanoke rivers, fall upstream of estuarine waters.

Further, NCDEQ's focus on determining the saltwater and freshwater interface using head of tide or other criteria such as the fall line is interesting and would be potentially useful if our charge was to establish lines at estuarine endpoints; however, WRC interpretation of its statutory responsibility is to determine dividing lines that optimally and rationally comport with the fishery resources for which each commission is mandated jurisdiction. This understanding is reflected in our position that the lines that define Inland Fishing Waters should be calibrated using the salinity range in which freshwater fish species are predominate.

Your letter also outlined concerns about the WRC's initial proposal, which was derived, in part, utilizing modeling based on a Chesapeake Bay study. You stated the study area is dissimilar to North Carolina's estuarine waters and you referenced research conducted along the Gulf Coast of Florida in Tampa Bay as basis to characterize our use of the Bulger et al. (1993) study as "*flawed assumptions.*" Your inference that Chesapeake Bay is as dissimilar to North Carolina waters as Tampa Bay is completely unfounded and you provided no scientific basis. Further, contrary to your assertions, Llano et al. (2002) conducted a classification analysis of estuarine sites in the mid-Atlantic region of the U.S., including Albemarle and Pamlico Sounds. Their research revealed assemblages of organisms were primarily associated with salinity gradients, which generally supports the WRC use of salinity as a surrogate for fish species assemblages. In their research, Llano et al. (2002) "were unable to identify any group of species unique to North Carolina estuaries. Differences in assemblages between North Carolina and Delaware-Chesapeake estuaries were related to the relative abundance contributions of species and not to differences in species composition resulting in geographic discontinuities. The North Carolina species assemblages identified in this study appear to be typical of estuarine habitats of other mid-Atlantic estuaries." In fact, the findings of Llano et al. (2002) reinforce the work of Engle and Summers (1999b) in which they suggested the boundary separating the Virginian and Carolinian Provinces, with respect to estuarine benthic assemblages, be moved to a new location south of Albemarle and Pamlico Sounds.

Consistent with the findings of Llano et al. (2002), many species included in the development of the salinity zones in Bulger et al. (1993) are also found in North Carolina estuaries and their salinity tolerances are likely to be similar. North Carolina inland gamefish found in waters for which the 0-4ppt zone was important in the Bulger et al. (1993) study include Black Crappie, White Crappie, Pumpkinseed, White Perch, and Yellow Perch. Additional freshwater species managed by the WRC for which the 0-4ppt zone was important includes Swamp Darter, Blue Catfish, Least Brook Lamprey, Satisfin Shiner, Eastern Mudminnow, Northern Redhorse, Golden Shiner, Brown Bullhead, and Tessellated Darter. Additionally, Zone 2 (2-15ppt) as established in Bulger et al. (1993) was important for Largemouth Bass and Yellow Perch.

Independent WRC surveys and research in waters less than or equal to 4ppt are consistent with the zone 1 findings of Bulger et al. (1993). In addition to establishing presence and absence of game and non-game fishes, WRC studies also document densities of various freshwater game fish species. Largemouth Bass and various sunfish are consistently found in relatively high abundance (approximately 20 fish per hour) in waters with salinities approaching 4ppt. Likewise, species

generally considered to be “estuarine” or “marine” are infrequent in WRC collections at salinities less than or equal to 4ppt; however, gear selectivity for non-target species caution this observation.

You also stated the WRC methodology “*fails to consider any thoughtful discussion of the impacts of climate change and saltwater intrusion where there is a confluence of ocean and fresh water in the many estuarine waterways and sounds at issue.*” First, the WRC recognizes they and the MFC are statutorily required to revisit the delineation at minimum every ten years. Thus, the recurring nature of this requirement establishes periodic opportunities to integrate climate science into factors that could affect the delineation of fishing waters. Further, over the past decade, the WRC has clearly demonstrated commitment to understanding and taking adaptive actions to respond to changing climate conditions. Those actions, which include survey and monitoring, applied scientific research, land acquisition, etc. are prominently reflected in our State Wildlife Action Plan and are vital to sustaining our ecosystems, natural resources, and the use and enjoyment of those resources. Your letter failed to point out any confounding complexities of the relationship between changing climate conditions and delineating fishing waters, including alterations in precipitation patterns and subsequent delivery of freshwater, nutrients, pathogens, and sediment. It is conceivable that our estuarine environments could become compressed such that saltwater intrusion could occur from the downstream end and freshwater intrusion could occur from the upstream end. Ultimately, it is the WRC’s desire that we work synergistically to allocate available resources to advance applied scientific research to better understand changing conditions and to inform policy decisions.

With respect to regulation of fishing within WRC jurisdictional waters, you asserted “*We can assume that many traditional commercial gear(s) such as gill nets, pound nets and pots, along with crab shedding operations, would be restricted or forbidden in these waters based on existing restrictions. The proposed boundary changes would also likely result in a significant negative economic impact on commercial fishermen in certain counties.*” The WRC has never stated or insinuated that current inland fishing regulations would be automatically applied to new waters. Thus, your assumptions on where, what, and how commercial gears may be used and negative economic impacts to commercial fishermen and coastal counties are presumptuous and misleading and they have short-circuited the deliberative process the WRC has established. For example, a recently adopted resolution from the Dare County Board of Commissioners included specific unsubstantiated language included in your letter to me.

Your letter described legal concerns that the “*residency requirement for MFC Commissioners could be affected where the appointment of MFC seats by the Governor is tied to named coastal regions (with specific named counties in each of the regions). Both Gates and Hertford counties (MFC northeast coastal region) could be impacted by a 2.6 ppt value because these counties would then have no coastal waters, conceivably resulting in an appointed MFC member being statutorily unable to sit on the Commission.*” General Statute 143B-289.54 outlines MFC member selection and appointment criteria and guidelines, including residential qualifications. Those statutorily prescribed qualifications are as follows:

For purposes of providing regional representation on the Commission, the following three coastal regions of the State are designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties, (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of subsection (a) of this section shall be residents of one of the coastal regions of the State. The membership of the Commission shall include at least one person who is a resident of each of the three coastal regions of the State.

Review of this statute confirms the MFC member residential requirements are statutorily described without reference to Coastal Fishing Waters or the boundaries separating them from Inland Fishing Waters as determined by the WRC and MFC. Thus, the statutory conflict you have inferred seems unlikely.

Next, you stated NCDEQ has “*identified serious concerns and unintended impacts of WRC's proposed boundaries on the regulatory authority of other NCDEQ Divisions beyond DMF.*” Up to this point in the delineation process, the WRC has focused on statutory and biological factors derived through analysis and data modeling. Biological factors led to the use of salinity as an objective and biologically defensible methodology to derive dividing lines between Inland and Coastal Fishing Waters. The WRC is still in the early stages of the delineation process and the maps approved by the WRC at their August meeting provide a foundation to transition from a science analysis phase to an impact analysis phase. Consistent with that approach, WRC action at their August meeting included an explicit directive to thoroughly review and assess potential impacts of the proposed boundary line changes. Over the course of the next eight months the WRC will conduct an inclusive process to examine potential impacts. That process will include additional analysis of affected regulations and public meetings to fully understand stakeholder impacts and to explore opportunities to address them.

As you know, we identified potential impacts early in the delineation process and we reached out to DCM Director, Braxton Davis, to make him aware of the observation. Director Davis has been very helpful throughout the process and we appreciate the comments concerning analysis conducted by Division of Coastal Management (DCM) counsel and staff. Your letter correctly identifies several regulations and statutes that, if left unaddressed, could result in undesirable impacts. This risk underscores the importance of working together as far in advance as possible. Further, we believe that establishing specific science-based delineation boundaries from which to evaluate potential impacts is a fundamental and necessary step to conduct impact analysis.

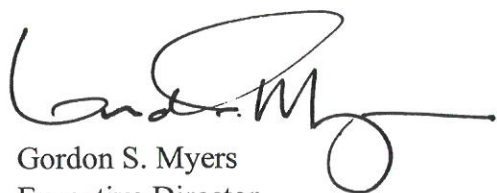
However, your statement that the “*WRC's proposed delineations would almost certainly reduce habitat and water quality protection in certain areas...*” is incorrect and misleading. It is unfortunate that many NCDEQ environmental regulations are directly linked by reference to the fishing waters boundaries, which are expressly required to delineate the fishery management jurisdictions of the WRC and MFC. Your baseless conclusion that moving the boundaries would degrade habitat and

water quality is inappropriate and fails to identify true root causes that would lead to such degradation. It is far more accurate to conclude that habitat and water quality impacts could occur if NCDEQ and the various commissions with appropriate jurisdiction decline to exercise their statutory authorities to address potential impacts. It is ill-conceived that the WRC should shirk away from its statutorily prescribed responsibilities simply because other state regulations have been implemented by reference to the fishing waters boundaries. Instead, it is far more appropriate to cooperatively identify potential impacts and work together with the responsible agencies or commissions with jurisdiction to investigate options to address them.

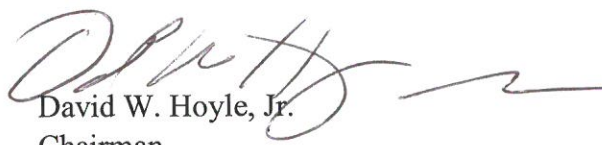
Finally, in your closing paragraph, you, on behalf of NCDEQ, urged the WRC to reconsider its action of August 29, 2019 stating that “*the consequences to the environment are simply not acceptable.*” Your statement is reflective of the misinformation communicated in your letter. You are familiar enough with rulemaking to know that the action taken by the WRC at their August 29, 2019 meeting was not a regulatory action. It was, as described in this letter and in prior meetings, a step along a deliberative and inclusive pathway to evaluate potential boundaries between inland and coastal fishing waters as statutorily prescribed. However, the assumptions, insinuations, and mischaracterizations contained in your widely distributed letter have already served to undermine the integrity of the process and the roles of each WRC commissioner, who are the sworn stewards of North Carolina’s Wildlife Resources.

As you requested, I disseminated your letter with Commission members for consideration at their October 24, 2019 meeting. The WRC unanimously agreed to proceed on the objective and deliberative path they have established. As we move forward, we invite NCDEQ and the MFC to work collaboratively and constructively with the WRC to help identify and address potential impacts associated with proposed dividing line between Inland and Coastal Fishing Waters.

Sincerely,



Gordon S. Myers
Executive Director



David W. Hoyle, Jr.
Chairman

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