

**MITIGATION PLAN**

February 20, 2020

**Pond Haven Buffer Restoration Site  
Granville County, North Carolina  
DMS Project # 100118  
DWR Project # 20190646**

**Tar-Pamlico River Basin  
Cataloging Unit 03020101**

Prepared for:

North Carolina Department of Environmental Quality  
Division of Mitigation Services  
1652 Mail Service Center  
Raleigh, NC 27699-1652

Prepared by:



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This mitigation plan was written in conformance with the following:

North Carolina consolidated buffer mitigation rule 15A NCAC 02B .0295, effective November 1, 2015 and the Nutrient Offsets Payments Rule 15A NCAC 02B. 0240, amended effective September 1, 2010.





ISO 9001:2015 CERTIFIED

ENGINEERS • PLANNERS • SCIENTISTS • CONSTRUCTION MANAGERS

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Date: February 20, 2020

From: Charlie Morgan, Project Manager  
KCI Technologies, Inc.

Re: DWR# 2019-0646 Pond Haven Buffer Restoration Site Mitigation Plan NCDWR Comments

Katie Merritt,

Please see the attached response to your mitigation plan comments letter dated 24 January 2020. If you have any questions please contact me at 919-278-2470 or via email at [charlie.morgan@kci.com](mailto:charlie.morgan@kci.com).

CC: Lindsay Crocker, NCDMS  
Tim Morris, KCI Technologies, Inc.

Pond Haven Riparian Buffer Mitigation Plan DWR# 2019-0646  
DWR staff (Katie Merritt) Comments submitted 1/24/2020:

1. General Comments:

- a. The plan is incomplete and somewhat hard to follow with having Figures placed within each section. The preferred template has the figures provided at the end of the plan's text and before the Appendices. [Figures have been moved to the end before the appendices.](#)
- b. Add a service area map to the Figures. The Service area map should show the TarPamlico 03020101 8-digit HUC being serviced by this buffer project. [Service Area figure has been added.](#)
- c. Figures need to show where the fence will be installed. Especially where cattle exclusion enhancement is being proposed. [Figure updated. Fence will be installed on the easement boundary.](#)
- d. Consistent misuse of the term "riparian buffer" or "buffer" is used throughout the text and can lead to confusion or misleading information. These terms are only to be used to describe the Tar-Pamlico buffers, which is 0-50' from top of bank and has a Zone 1 & Zone 2. Please correct terminology where it is being misused and replace with "riparian area" where applicable. [Text updated.](#)
  - Example: "The project includes the restoration of riparian buffers and adjacent riparian areas."

2. Section 1.0; pages 5-6

- a. Define PHBRS. [Added "Pond Haven Buffer Restoration Site \(PHBRS\)".](#)
- b. Table 2 may have unrealistic expectations for Initial Planting Date. [Changed Date to March](#)

3. Photos provided do not have dates describing when they were taken. Please add dates. [Photo dates have been added to the photo appendix.](#)

4. Section 2.0

- a. This section is missing a summary of the results from the Cat-Ex findings, and should reference any and all correspondence relative to the Cat-Ex findings. The Cat-Ex signature page is signed, but the form is not filled out completely. See attached Checklist for the missing components. [Catex summary has been added.](#)

5. Table 2:

- a. Feature Names need to match the stream features in the figures. Example: T1, T1-A, T2, etc. Please update table to reflect this. [Feature names in table 2 reflect feature names on DWR viability letter](#)



- b. T4 was noted in the viability letter as having an existing fence boundary, where only buffer credits were attainable on the inside of the boundary (both Restoration & Preservation). Address this in the table and please update Figures to show where this existing fence boundary is currently located. Please make sure you do not show nutrient offset credits to be convertible within the areas inside the fence boundary
- c. Ephemerals were not measured correctly and this will affect the total area measured. See comment on figures below. [No credits will be convertible and the ephemerals have been adjusted.](#)

6. Figure 6-

- a. The current scale is difficult to use when measuring to confirm widths of features meet the rule. Can the scale be adjusted to 200' instead? [Scale has been updated.](#)
- b. T3B is noted in the viability letter has having forested areas at the lower end of the easement. Update maps and tables to reflect this area as either Enhancement or Preservation depending on your fence installation plan. [Forested area is now depicted and total credits have been adjusted.](#)

7. Figure 7 –

- a. Need to show fence boundary
- b. Need to show forested areas on T3B, see viability letter. [Forested area now shown.](#)
- c. Legend needs to show the Credit Type along features so that I can confirm no areas are receiving nutrient credit that shouldn't be according to the viability letter. That includes all cattle exclusion areas and the areas noted in previous comments along T4 within existing fence boundary. Please address. [No areas on the project are receiving nutrient credit.](#)
- d. Legend needs to show the Credit Type being represented by the Mitigation Type & Extent. At this time, I am unable to compare this figure with Table 2.0 to confirm compliance with 0240 & 0295 for Nutrient offset and buffer mitigation respectively.
- e. There is a radius measured along T3B and T2B that is measured incorrectly. The only place a radius can be used, is at the top of the feature itself on this project. That means, only the top of T4, T3A, T2A, TI-IA and TI can have a radius. The width of riparian areas along the ephemeral channels need to be measured perpendicular and landward from top of bank. Please address this error and update figures and tables with corrected assets. [Radii have been removed and all tables and figures have been updated.](#)

8. Section 3.1 -

- a. Describe how will cattle access within the project will be controlled during site preparation and planting. [Cattle will be restricted to other pastures until planting is complete and fences are erected.](#)
- b. Invasives are noted. Where are they onsite? [This statement intended to show that if there were any encountered they would be removed.](#)

#### 9. Section 3.2 -

a. The Planting Plan is incomplete and lacks sufficient detail for DWR review. Stems are described as "potential species that may be included". Revise plan to include exactly what is intended to be planted along with the percentage of each species that will be planted. The performance std for success of the site in 0295 (n)(2) states that no one species planted can be more than 50% of the stems. Therefore, this information is necessary to provide for each species of tree being chosen for the planting plan. [Species percentages have been included.](#)

b. The plot data is used to help determine whether performance is being achieved at the site. Additionally, the plots have to show at least 4 different species and have none of those species represent 50% of the stems in the plot. Therefore, since no detail are provided thus far, please explain how the planting plan will address this? [Addressed in the previous comment.](#)

c. Provide detail on the riparian widths that will be planted. There is a figure showing this, but there should be information provided within the text that speaks to more detail than the figure can provide. [Verbiage added to say that the entire easement will be planted.](#)

d. How will diffused flow be achieved or is there no problem? [There are no areas of concentrated flow entering the easement that will require the incorporation of flow diffusers to disperse runoff.](#)

e. Remove Tag Alder from the selected species, it is not an appropriate species for buffer mitigation sites [Alder has been removed.](#)

f. Green Ash should either be removed or limited to no more than 5% of stems that are planted. The Emerald Ash borer is a risk to this species. [Green ash has been removed.](#)

g. It isn't clear if the herbaceous seed mix noted in this section refers to temporary or permanent seeding. However, DWR requests that permanent riparian seeding also be applied and established where bare areas caused from cattle are present. It is important to maintain a healthy and diverse herbaceous layer within the riparian areas to reduce the potential of runoff, nutrients and sediments into the streams.

h. Planting with a seed mix that is abundant in annual and perennial pollinator species is strictly voluntary but is being encouraged by DWR in other mitigation plans to promote diversity and enhance the health of the herbaceous layer, which can also greatly benefit planted stems. [Seed mix and its status as a permanent mix has been included](#)

#### 10. Section 4.0-

a. The Monitoring Plan is incomplete and lacks significant details needed to confirm compliance of .0295 (2)(B & E) and (4). [The monitoring plan has been updated.](#)

b. There is no clear understanding of what data is going to be collected, it only says, "data will include a count of individuals by species". DWR requires the Quantity & Quality of the stems in the plots be provided in monitoring reports. Therefore, it is expected that heights of species counting towards your perf. Criteria are included in the data along with the species name. [Height class has been added to the data to be collected.](#)

c. Will data include Planted &/or Volunteers? CVS level I or II? [Desirable plants will count toward Performance Standards and CVS will not be used.](#)

d. Figure 8 shows 9 permanent plots, but the text says there will be 8 perm. plots. Typo? [This was a typo. It has been corrected.](#)

e. Random vs Permanent plots: All plots, including the Permanent plots should be chosen at random. Explain the difference here. Do you mean, "rotating plots"? [Plots where chosen at random. 9 of the plots are permanent and 9 will be randomly selected each year. The 9 random plots will not be in the same location every monitoring year.](#)

f. For Random/Rotating plots: Acknowledge in this section that the location of the random plots used for recording vegetation data need to be representative of the areas planted. These plots have to be the same size as the permanent plots but can be different shapes. What will the shapes be of these plots? [10 meters by 10 meters. Verbiage has been added to quantify permanent vs random plots and that the random plots will rotate annually.](#)

g. Stems are supposed to be flagged in the plots. State this will be done. [Planted stems in permanent plots will be flagged as is our standard practice.](#)

h. Clarify that monitoring will be conducted for 5 years or until performance standards have been achieved. [This is now explicitly stated in the monitoring plan.](#)

11. Figure 8 - update figure to address other comments on Figures 6 & 7. [Figure has been updated.](#)

12. Section 5.0: Instead of Success Criteria, please use "Performance Standards" to be consistent with .0295 terminology [Changed "Success Criteria" to "Performance Standards"](#)

a. Explain what is meant by "vegetation plantings". Trees? Shrubs? Herbaceous? ["Trees and shrubs" now replaces vegetation](#)

b. The rule 0295 (n)(2)(B) provides two options for planting plans, Is it Trees? Or Trees & Shrubs combined? please pick the one that applies to this site and cite the rule. [Trees and Shrubs](#)

c. There was only one shrub, Buttonbush, listed in Section 4.0. What is the% of this shrub in your planting plan? [1%](#)

d. If planning to count volunteers, it must be stated that "desirable native hardwood tree may count towards performance standards only upon DWR approval". [Text updated to include this language.](#)

e. Without knowing what data will be collected in Section 4.0, reviewing this section for completion and compliance with 0295 is difficult. [Section 4.0 has been updated.](#)

f. Clarify that a photograph will be taken of the random/rotating plots each year as well ["A photograph will be taken of each monitoring plot, allowing yearly qualitative comparison of vegetation conditions."](#)

g. How are "qualitative conditions" going to be measured? What data will this consist of? [Height class](#)

h. In previous comments it was requested to add the boundary where fencing will be erected. Add that figure reference to this section. [Figure reference added](#)

1. It has been requested to add the following language regarding visual inspections to sites where cattle exclusion or Preservation is being proposed:

A visual assessment of the cattle exclusion areas within the conservation easement will be performed each year to confirm:

- Fencing is in good condition throughout the site;
- no cattle access within the conservation easement area;
- no encroachment has occurred;
- diffuse flow is being maintained in the conservations easement area; and
- there has not been any cutting, clearing, filling [Specific verbiage for the cattle exclusion areas has been added](#)

13. Section 6.0

a. This section describes what DENR stewardship will do. But what is the Provider expected to do during their monitoring years 1-5? Identify how the boundary will be marked at as-built. It says the stewardship program will install signage ... but isn't that done at closeout? If so, the provider needs to install their own temporary signs and mark the easement boundary before As-Built as to avoid any confusion of where the boundaries are. [Added verbiage to state boundary marking would be done after planting is complete and KCI will institute a long-term management plan.](#)

14. Was there an AD-1006 form required? [No](#)

15. Overall, if the riparian restoration, Enhancement and Preservation is done according to the plan and addresses all comments and corrections provided by DWR, the site should provide a good buffer mitigation project.

A response to all comments above, along with edits made to the final draft are requested by DWR prior to final review & issuance of any plan approval. No work is to be done on the site until written DWR approval has been provided in accordance with 15A NCAC 02B .0295 (n)(2).

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## 1.0 PROJECT SUMMARY

### 1.1 Project Location

The Pond Haven Buffer Restoration Site (PHBRS) is situated in central Granville County. The site is located approximately three miles northeast of Creedmoor, North Carolina. Specifically, the site is on the west side of NC-96, south of Cannady Road. The center of the site is at approximately 36.1591 N and -78.5954 W in the Wilton USGS Quadrangle. The location of the project is shown in Figure 1 and the USGS quadrangle is shown in Figure 2.

### 1.2 Project Description

The PHBRS is a buffer restoration project in the Tar-Pamlico River Basin in Granville County, North Carolina. As evidenced by historic aerial photos and site investigations, the buffers at this site have been substantially modified by agricultural practices, impacted from cattle, and other anthropogenic impacts.

**Table 1. Buffer Project Attributes**

<b>Project Name</b>	<b>Pond Haven Buffer Restoration Site</b>
<b>Hydrologic Unit Code</b>	<b>3020101</b>
<b>River Basin</b>	<b>Tar-Pamlico</b>
<b>Geographic Location (Lat, Long)</b>	<b>36.1591 N , -78.5954 W</b>
<b>Site Protection Instrument (DB, PG)</b>	<b>Conservation Easement</b>
<b>Total Credits (BMU)</b>	<b>610,000</b>
<b>Types of Credits</b>	<b>Buffer</b>
<b>Mitigation Plan Date</b>	<b>Dec-20</b>
<b>Initial Planting Date</b>	<b>Mar-20</b>
<b>Baseline Report Date</b>	<b>Mar-20</b>
<b>MY1 Report Date</b>	<b>Oct-20</b>
<b>MY2 Report Date</b>	<b>Oct-21</b>
<b>MY3 Report Date</b>	<b>Oct-22</b>
<b>MY4 Report Date</b>	<b>Oct-23</b>
<b>MY5 Report Date</b>	<b>Oct-24</b>

The site is within the 03020101 Watershed Cataloging Unit (8-digit HUC) of the Tar-Pamlico River Basin and the 14-digit HUC 03020101010060 (Bollens and Johnson Creeks).

The Bollens and Johnson Creeks watershed includes 99 miles of stream in an area covering 31 square miles. Twenty-two percent of the streams lack significant, contiguous woody buffers. Seven percent of the watershed is developed with about 1% imperviousness. Approximately 63% of the watershed is wooded with small isolated wetlands occurring throughout these forested areas. Twenty-nine percent of the HUC is used for agriculture including three animal operations.

In DMS's most recent publication of excluded and Targeted Local Watersheds/Hydrologic Units, this 14-digit HUC has been identified as a TLW.

The project tributaries have not been rated by DWR, but the Tar River (NCDWR Index# 28-(5.7)), located approximately two miles downstream of the site, is classified for surface water as Class WS-V; NSW. WS V waters are used as sources of water supply for drinking, culinary, or food processing purposes and are generally in moderately to highly developed watersheds or protected areas. Nutrient Sensitive Waters (NSW) is a supplemental classification intended for waters needing additional nutrient management due to being subject to excessive growth of microscopic or macroscopic vegetation.

This section of the Tar River is not listed on the 2016 or draft 2018 303(d) list of impaired waters. The watershed boundary is shown in Figure 3. The watershed for each project tributary is summarized below in Table 2.

**Table 2. Project Tributary Watersheds**

<b>Tributary</b>	<b>Status</b>	<b>Watershed (ac)</b>
T1	Intermittent/Perennial	51.552
T1-1A	Ephemeral	5.453
T1-1B	Intermittent	0.647
T2A	Ephemeral	6.850
T2B	Intermittent	5.390
T3A	Ephemeral	8.555
T3B	Intermittent	7.757
T4	Perennial	14.617

The project site is centered on approximately 3782 linear feet of stream. Currently the project site is an active cattle pasture that supports approximately 150 head. Tributary 1 has some existing buffer consisting of typical riparian. Tributaries 2 and 3 are devoid of buffer. Tributary 4 has some existing buffer that the cattle are currently excluded from that will be expanded by the project.



## 2.0 REGULATORY CONSIDERATIONS

This site offers substantial opportunity for restoring a riparian buffer along stable streams in Granville County. The following descriptions of mitigation type and extent are based on the *Consolidated Buffer Mitigation Rule (15A NCAC 02B .0295)*. Additionally alternative mitigation following Consolidated Buffer Mitigation Rules (15A NCAC 02B 0.0295 (o)) in the form of buffer restoration on ephemeral streams, livestock exclusion, and preservation of forested buffer on subject streams. This project is in compliance with Buffer Restoration on Ephemeral Channels (15A NCAC 02B 0.0295(o) (7)) due to the factors below:

- NCDWR performed an evaluation of the Site (2018) and identified the perennial, intermittent, and ephemeral channels on the property.
- The mitigation area on the site's ephemeral channels is located completely within the ephemeral channel's drainage areas.
- The ephemeral channels are directly connected to intermittent or perennial stream channels and will be protected under the same easement boundary.
- The mitigation area on the ephemeral channels is less than 25% of the total buffer mitigation area on the site

Livestock Exclusion (15A NCAC 02B 0.0295(o) (6)):

- NCDWR performed an evaluation of the Site (2018) and identified that grazing was the predominant land use
- Livestock will be permanently removed from the stream via easement wording and physical fencing.
- 

Preservation on Subject Streams (15A NCAC 02B 0.0295(o) (5)):

- The buffer width is at least 30 feet from the stream.
- The area meets the requirements of 15A NCAC 02R 0.0403(c) (7), (8), and (11) with no known structures, infrastructure, hazardous substances, solid waste, or encumbrances within the mitigation boundary.
- Preservation mitigation is being requested on no more than 25% of the total buffer mitigation area.

A categorical exclusion for this project has been approved by the Federal Highway Administration. The Coastal Zone Management Act does not apply to this project. A limited Phase I site assessment determined that there are no known or potential hazardous waste sites within the project area. No properties on the project site are listed or eligible for listing on the National Register of Historic Places. The property owner has been informed of all policies under the Relocation Assistance and Real Property Acquisition Policies Act of 1970.

**Table 1. Pond Haven Buffer Restoration Site, 100118, Project Mitigation Credits**

Tar-Pamlico 03020101				Project Area												
19.16394				N Credit Ratio (sf/credit)												
297.54099				P Credit Ratio (sf/credit)												
Credit Type	Location	Subject? (enter NO if ephemeral or ditch <sup>1</sup> )	Feature Type	Mitigation Activity	Min-Max Buffer Width (ft)	Feature Name	Total Area (sf)	Total (Creditable) Area of Buffer Mitigation (sf)	Initial Credit Ratio (x:1)	% Full Credit	Final Credit Ratio (x:1)	Convertible to Riparian Buffer?	Riparian Buffer Credits	Convertible to Nutrient Offset?	Delivered Nutrient Offset: N (lbs)	Delivered Nutrient Offset: P (lbs)
Buffer	Rural	Yes	I / P	Restoration	0-100	Restoration I/P (T1, T1-1B, T2B, T3B, T4-Orange Shaded Fig. 7)	323,101	323,101	1	100%	1.00000	Yes	323,101.000	Yes	16,859.842	1,085.904
Buffer	Rural	Yes	I / P	Restoration	101-200	Restoration I/P >101 (T1, T3B, T4-Red Shaded Fig. 7)	45,113	45,113	1	33%	3.03030	Yes	14,887.305	Yes	2,354.057	151.619
Buffer	Rural	No	Ephemeral	Restoration	0-100	Restoration Eph (T1-1A, T2A, T3A-Yellow Shaded Fig. 7)	179,203	179,203	1	100%	1.00000	Yes	179,203.000	Yes	9,351.052	602.280
Buffer	Rural	No	Ephemeral	Restoration	101-200	Restoration Eph >100 (T2A, T3A-Pink Shaded Fig. 7)	17,943	1,215	1	33%	3.03030	Yes	400.950	Yes	936.290	60.304
Buffer	Rural	Yes	I / P	Enhancement via Cattle Exclusion	0-100	Cattle Exclusion (T1, T1-1B, T3B-Green Shaded Fig. 7)	104,918	104,918	2	100%	2.00000	Yes	52,459.000	No	—	—
Buffer	Rural	Yes	I / P	Restoration	0-100	Restoration I/P (T4-Orange Dotted Fig. 7)	48,911	48,911	1	100%	1.00000	Yes	48,911.000	No	—	—
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<b>Totals:</b>							719,189	702,461								

**Enter Preservation Credits Below**

								Eligible for Preservation (sf):					
								234,154					
Credit Type	Location	Subject?	Feature Type	Mitigation Activity	Min-Max Buffer Width (ft)	Feature Name	Total Area (sf)	Total (Creditable) Area for Buffer Mitigation (sf)	Initial Credit Ratio (x:1)	% Full Credit	Final Credit Ratio (x:1)	Riparian Buffer Credits	
Buffer	Rural	Yes	I / P	Preservation	0-100	Pres inside fence (T4-Hatching Fig. 7)	19,183	19,183	10	100%	10.00000	1,918.300	
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<b>Preservation Area Subtotal (sf):</b>								19,183					
<b>Preservation as % Total Area of Buffer Mitigation:</b>								2.0%					
<b>Ephemeral Reaches as % Total Area of Buffer Mitigation:</b>								25.0%					

TOTAL AREA OF BUFFER MITIGATION (TABM)		
Mitigation Totals	Square Feet	Credits
<b>Restoration:</b>	597,543	566,503.255
<b>Enhancement:</b>	104,918	52,459.000
<b>Preservation:</b>	19,183	1,918.300
<b>Total Riparian Buffer:</b>	721,644	620,880.555
TOTAL NUTRIENT OFFSET MITIGATION		
Mitigation Totals	Square Feet	Credits
<b>Nutrient</b>	<b>Nitrogen:</b>	0.000
<b>Offset:</b>	<b>Phosphorus:</b>	0
		0.000

1. The Randleman Lake buffer rules allow some ditches to be classified as subject according to 15A NCAC 02B .0250 (5)(a).

### 3.0 PROJECT IMPLEMENTATION PLAN

#### 3.1 Site Preparation

Site preparation for the PHBRS will include chemical control of pasture grasses and any non-native invasive species following all applicable label recommendations and pesticide application regulations. Disking will be used in any areas of fescue or other allelopathic plants. Cattle will be restricted to other pastures until planting and fencing is complete.

#### 3.2 Planting

The PHBRS is currently devoid of a forested buffer. In order to restore a forested buffer, the site will be planted with bare root hardwood seedlings from the list below. Trees will be planted at a density of 680 trees per acre. Every other tree will be fitted with 4' Tubex Treeshelter and a VisPore Weedmat to assist with establishment and competition control. Woody species to be planted may consist of the following and any substitutions to the planting plan will be taken from this list. No single species may account for more than 50% of the total.

**Table 3a. Planting List – Woody Species**

Common Name	Scientific Name	Wetland Status	% of Total	Estimated # of Plants
Black Gum	<i>Nyssa sylvatica</i>	FAC	5.0%	595
River Birch	<i>Betula nigra</i>	FACW	10.0%	1,189
American Persimmon	<i>Diospyros virginiana</i>	FAC	10.0%	1,189
Silky Dogwood	<i>Cornus amomum</i>	FACW	5.0%	595
Button Bush	<i>Cephalanthus Occidentalis</i>	OBL	1.0%	119
Pin Oak	<i>Quercus palustris</i>	FACW	5.0%	595
Tulip Poplar	<i>Liriodendron tulipifera</i>	FACU	10.0%	1,189
American Sycamore	<i>Platanus occidentalis</i>	FACW	10.0%	1,189
White Oak	<i>Quercus alba</i>	FACU	10.0%	1,189
Swamp Chestnut Oak	<i>Quercus michauxii</i>	FACW	10.0%	1,189
Willow Oak	<i>Quercus phellos</i>	FAC	14.0%	1,665
American Elm	<i>Ulmus americana</i>	FACW	10.0%	1,189
			100.0%	11,893.2

Acreage	17.49	ac
Density	680	stems/ac
Total Plants	11,893	

A custom herbaceous seed mix composed of native species will also be used to further stabilize the easement area as needed.

**Table 3b. Permanent Herbaceous Seed Mix**

Common Name	Scientific Name	% of Mix	LB/acre
Autumn Bentgrass	<i>Agrostis perennans</i>	10	3
Big Bluestem	<i>Andropogon gerardii</i>	8	2.4
Lanceleaf Coreopsis	<i>Coreopsis lanceolata</i>	10	3
Virginia Wild Rye	<i>Elymus virginicus</i>	15	4.5
Soft Rush	<i>Juncus effusus</i>	3	0.9
Switchgrass	<i>Panicum virgatum</i>	10	3
Black-Eyed Susan	<i>Rudbeckia hirta</i>	10	3
Little Bluestem	<i>Schizachyrium scoparium</i>	3	0.9
Indian Grass	<i>Sorghastrum nutans</i>	3	0.9
Eastern Gamma	<i>Tripsacum dactyloides</i>	3	0.9
SUBTOTAL		75	22.5
Winter Nurse Species (August 15-May 15)			
Rye Grain	<i>Secale cereal</i>	25	7.5
Summer Nurse Species (May 15-August 15)			
Pearl Millet	<i>Pennisetum glaucoma</i>	25	7.5
<b>TOTAL</b>		<b>100</b>	<b>30</b>

The site will be marked and surveyed as per DMS’s requirements.

**4.0 MONITORING PLAN**

Monitoring will consist of the collection and analysis of data to support the evaluation of the project in meeting established restoration objectives. Specifically, project success will be assessed using vegetation monitoring plots that account for approximately 2% of the planted acreage of the project. Each plot will be 10 meters by 10 meters. This will result in approximately 1 plot per planted acre. Eight plots will be randomly placed and permanently installed, while the other seven will be randomly placed at the time of each monitoring visit in representative areas and used for just that monitoring event. Random and permanent plot locations will be included in the monitoring reports. In the permanent plots, the plant’s height class, species, location, and origin (planted versus volunteer) will be noted. In the random plots, species and height class will be recorded, and an effort will be made to differentiate planted from volunteer species. In all plots, invasive stems will also be recorded to determine the percentage of invasive stems present. Additionally, a photograph will be taken of each plot. Monitoring will be conducted for a period of five years following project implementation or until performance standards have been achieved. Desirable volunteers may count toward reaching performance standards only upon DWR approval. The first scheduled monitoring event will be conducted during the first full growing season following project completion and at least six months after the completion of planting. The monitoring report format will follow the DMS monitoring report template available at the time of this mitigation plan submittal.

**5.0 PERFORMANCE STANDARDS**

The survivability of the tree and shrub plantings will be evaluated from the data collected in the monitoring plots. Plots must achieve an average stem density of 260 stems/acre after five years with a minimum of four native hardwood tree species or four native hardwood tree and native shrub species, where no one species is greater than 50 percent of stems. Native hardwood and native shrub volunteer species may be included to meet the final performance standard of 260 stems/acre upon DWR approval.

A photograph will be taken of each monitoring plot, allowing yearly qualitative comparison of vegetation conditions. Additionally fencing to exclude livestock to prevent grazing, trampling and waste deposition will completely encompass the easement boundary (Figure 7). Completed fencing will be the success criteria for cattle exclusion. A visual assessment of the cattle exclusion areas within the conservation easement will be performed each year to confirm:

- Fencing is in good condition throughout the site;
- No cattle access within the conservation easement area;
- No encroachment has occurred;
- Diffuse flow is being maintained in the conservations easement area; and
- There has not been any cutting, clearing, or filling.

**6.0 MAINTENANCE/STEWARDSHIP**

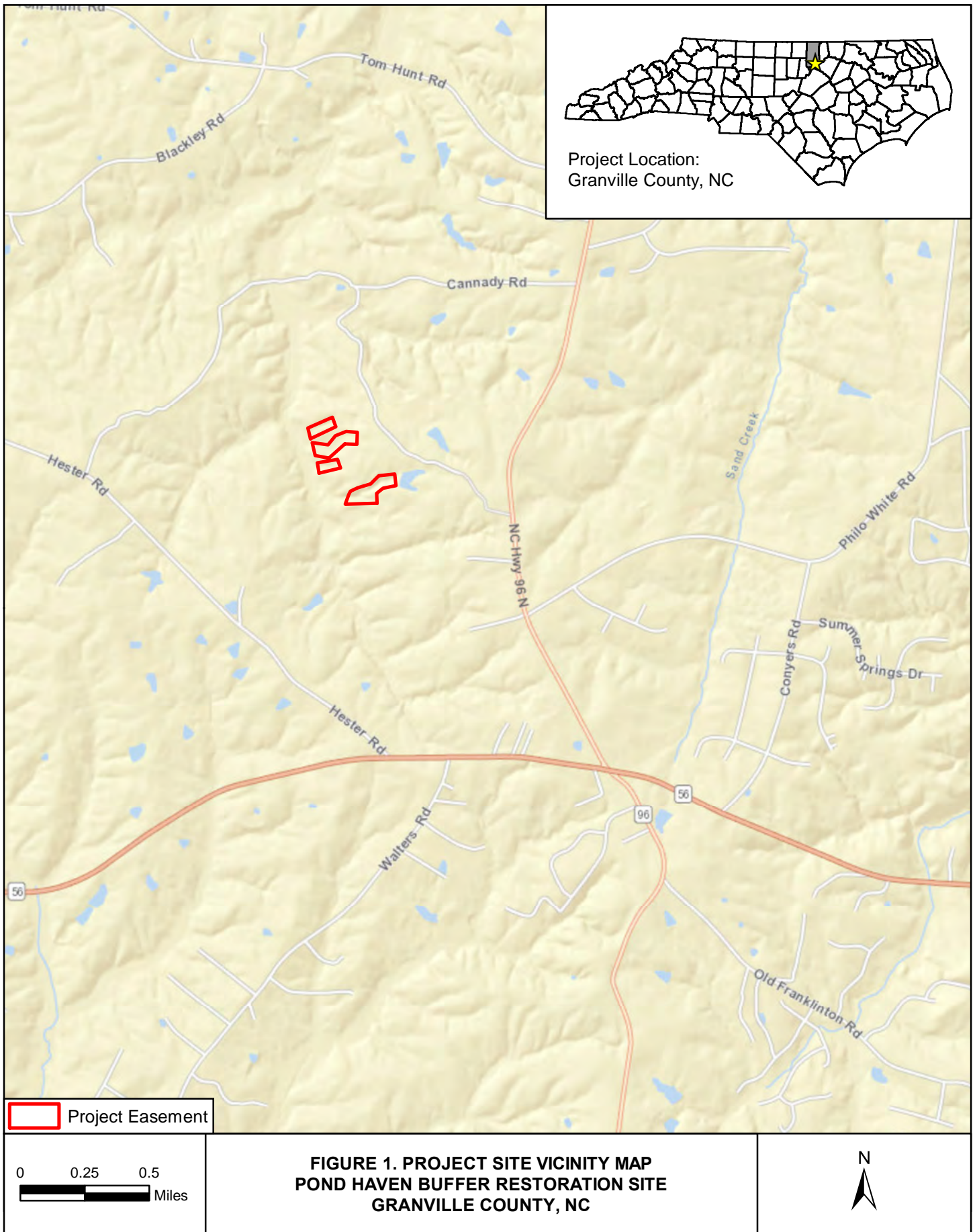
The easement boundary will be marked following planting of the project area. The marking will be with visible signs that conform to DMS and DEQ Stewardship Program standard. The project area will be monitored on a regular basis, with a physical inspection of the site conducted a minimum of once per year throughout the post-construction monitoring and maintenance period. These site inspections may identify site components and features that require routine maintenance. Maintenance needs or actions will be recorded in the annual monitoring reports. The following items are examples of the potential maintenance issues that may arise at the project.

**Table 4. Planned Maintenance**

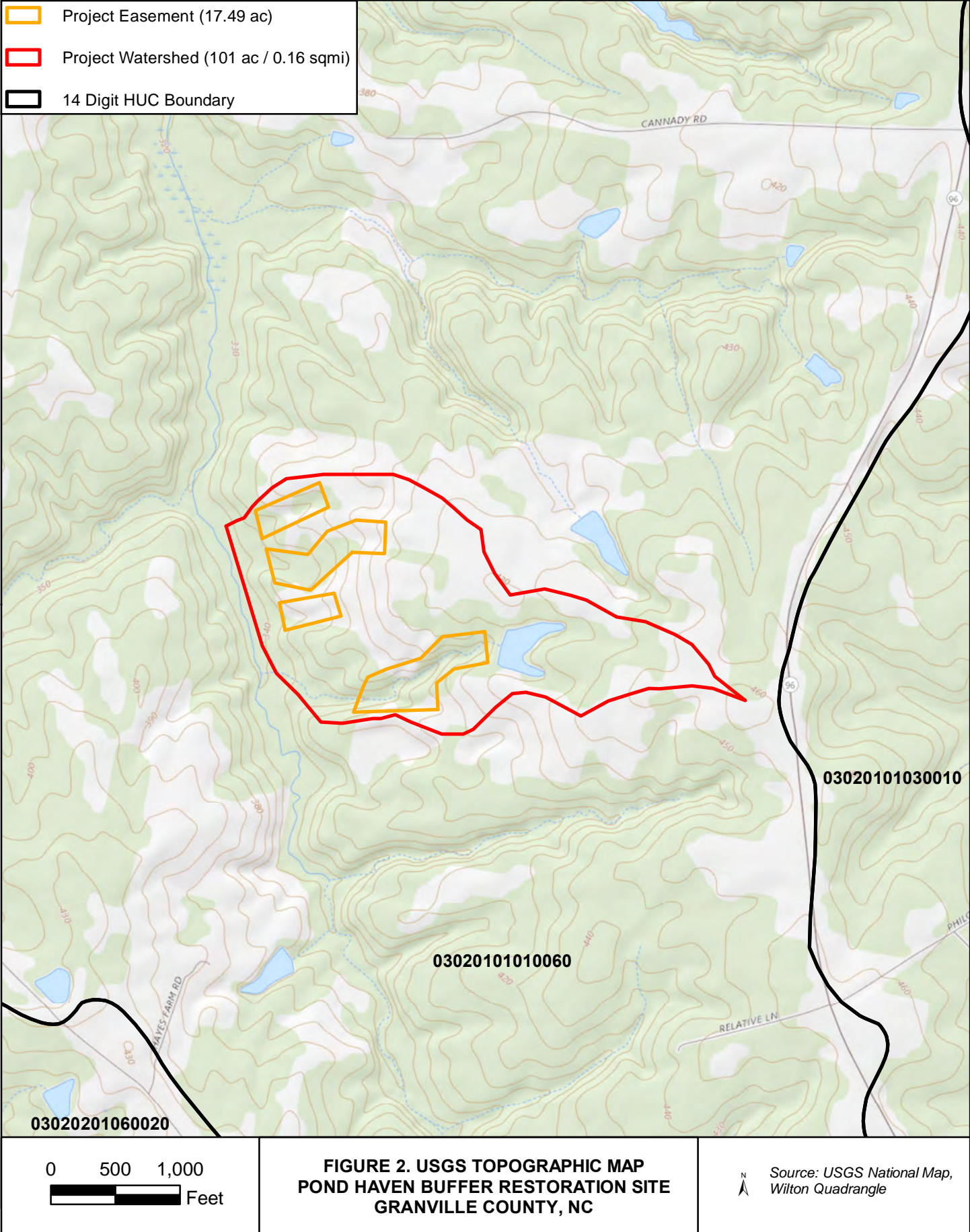
Component/Feature	Maintenance Through Project Close-Out
Vegetation	Vegetation shall be maintained to ensure the health and vigor of the targeted plant community. Any vegetation control requiring herbicide application will be performed in accordance with NC Department of Agriculture (NCDA) rules and regulations.
Site Boundary	Site boundaries shall be identified in the field to ensure clear distinction between the mitigation site and adjacent properties. Boundaries may be identified by fence, marker, bollard, post, tree-blazing, or other means as allowed by site conditions and/or conservation easement. Boundary markers disturbed, damaged, or destroyed will be repaired and/or replaced on an as needed basis up until the project is closed out.
Beaver and Other Nuisance Fauna	The site will be monitored for the presence of beaver or other fauna that may impact the success of the project. Adaptive management approaches will be used to evaluate whether or not beaver or their structures or other animals should be controlled or managed at the site.
Cattle Exclusion Areas	In order to comply with 0295 (o)(6), KCI will conduct a visual assessment in order to determine that: <ul style="list-style-type: none"> <li>• Fencing is in good condition throughout the site;</li> <li>• no cattle access within the conservation easement area;</li> <li>• no encroachment has occurred;</li> <li>• diffuse flow is being maintained in the conservation easement area; and</li> <li>• there has not been any cutting, clearing, filling, grading, or similar activities that would negatively affect the functioning of the riparian buffer.</li> </ul>

Upon approval for closeout by the DWR, the site will be transferred to the DEQ Stewardship Program. This program shall be responsible for periodic inspection of the site to ensure that restrictions required in the conservation easement are upheld. The Stewardship Program shall monitor the site and conduct physical inspections of the site as necessary to ensure that the integrity of the easement is upheld in perpetuity.

7.0 FIGURES

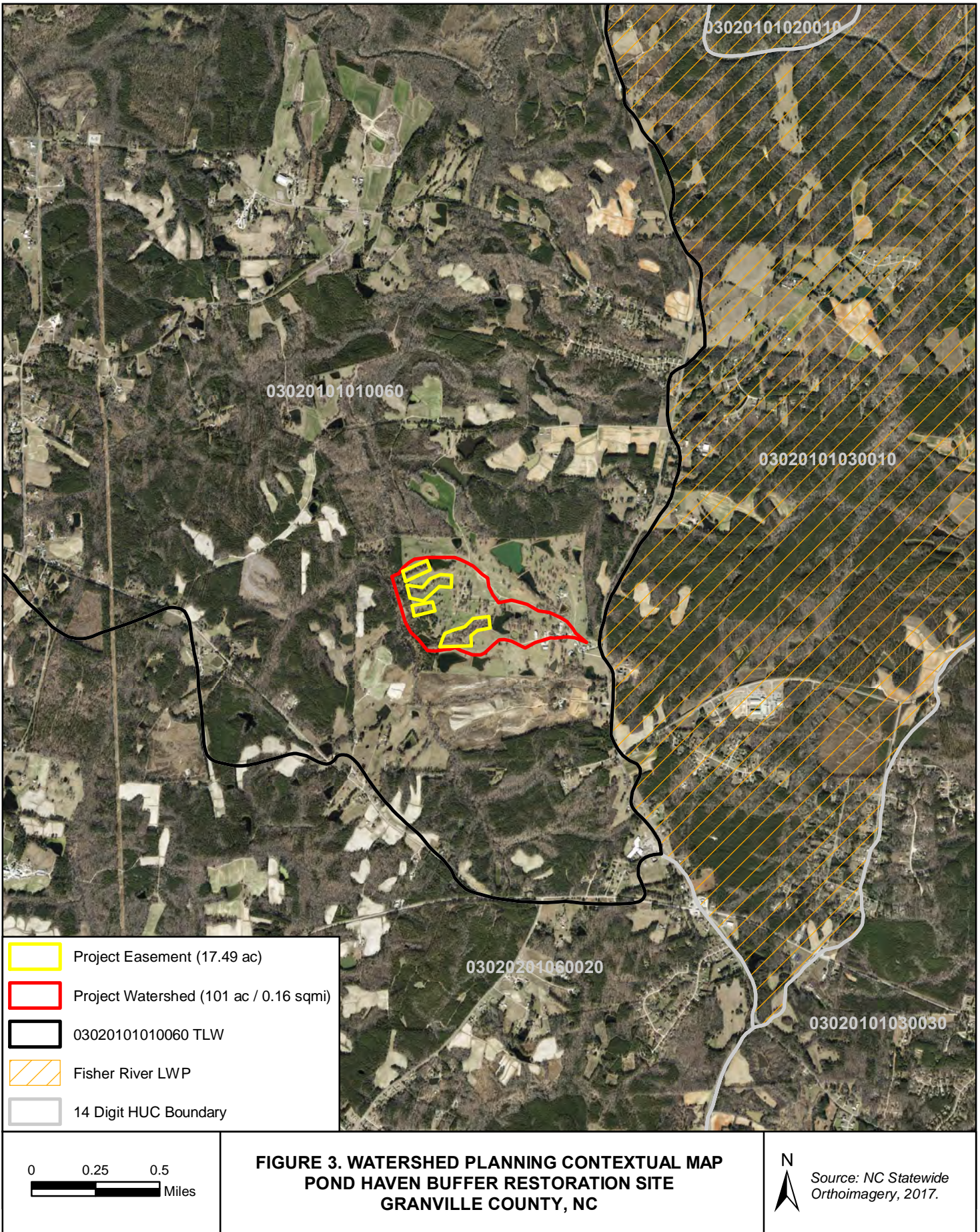




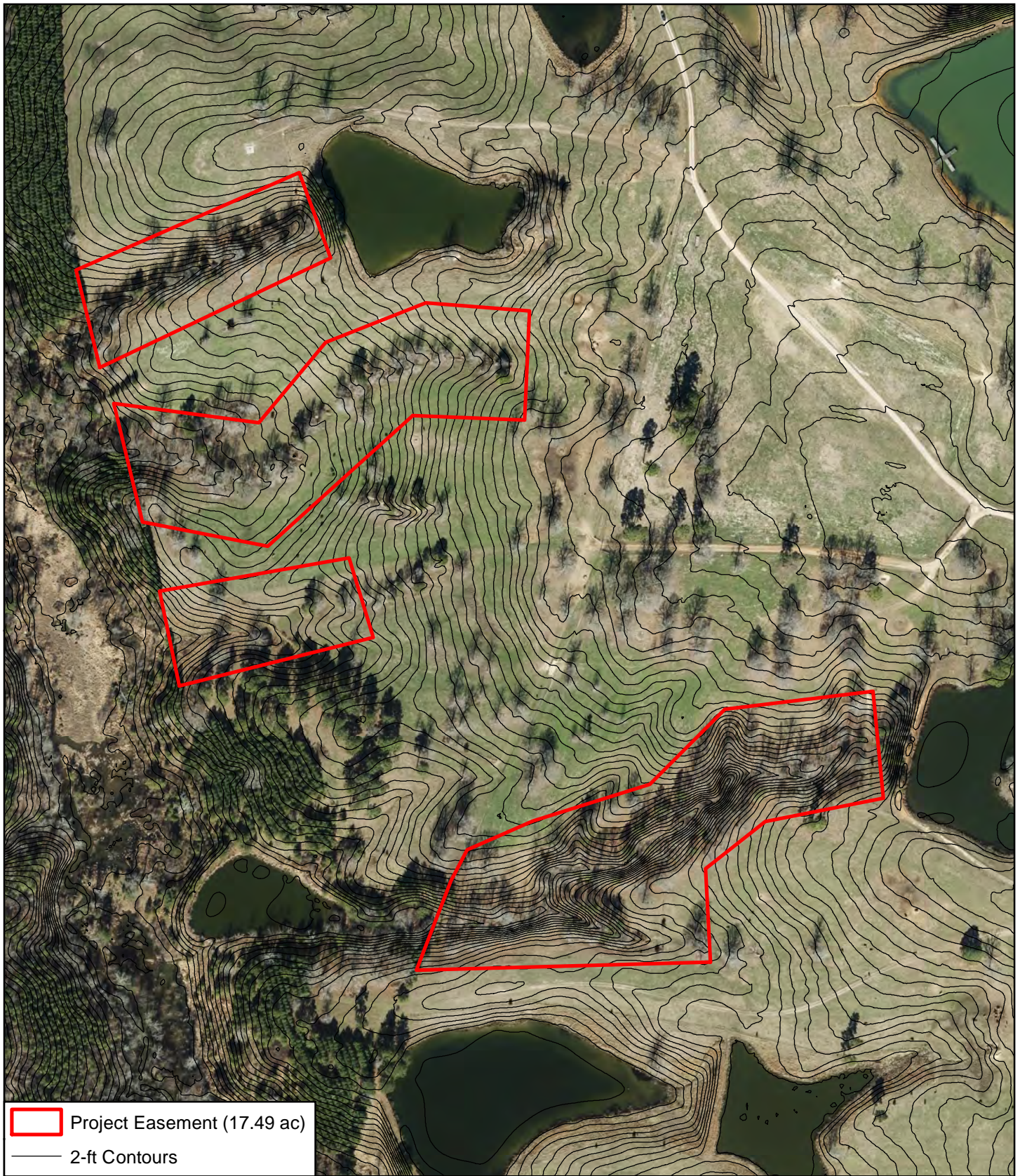


**FIGURE 2. USGS TOPOGRAPHIC MAP  
POND HAVEN BUFFER RESTORATION SITE  
GRANVILLE COUNTY, NC**





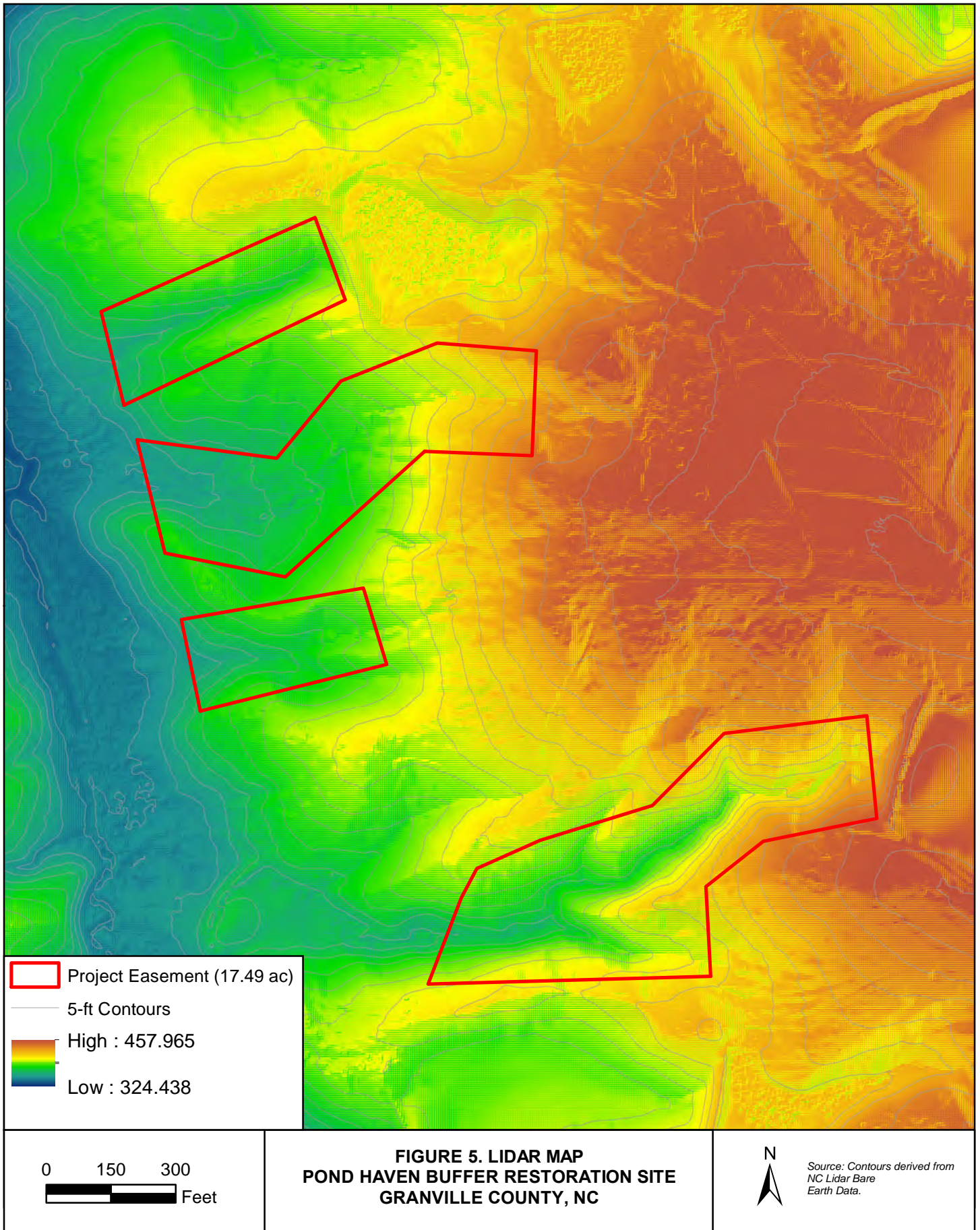




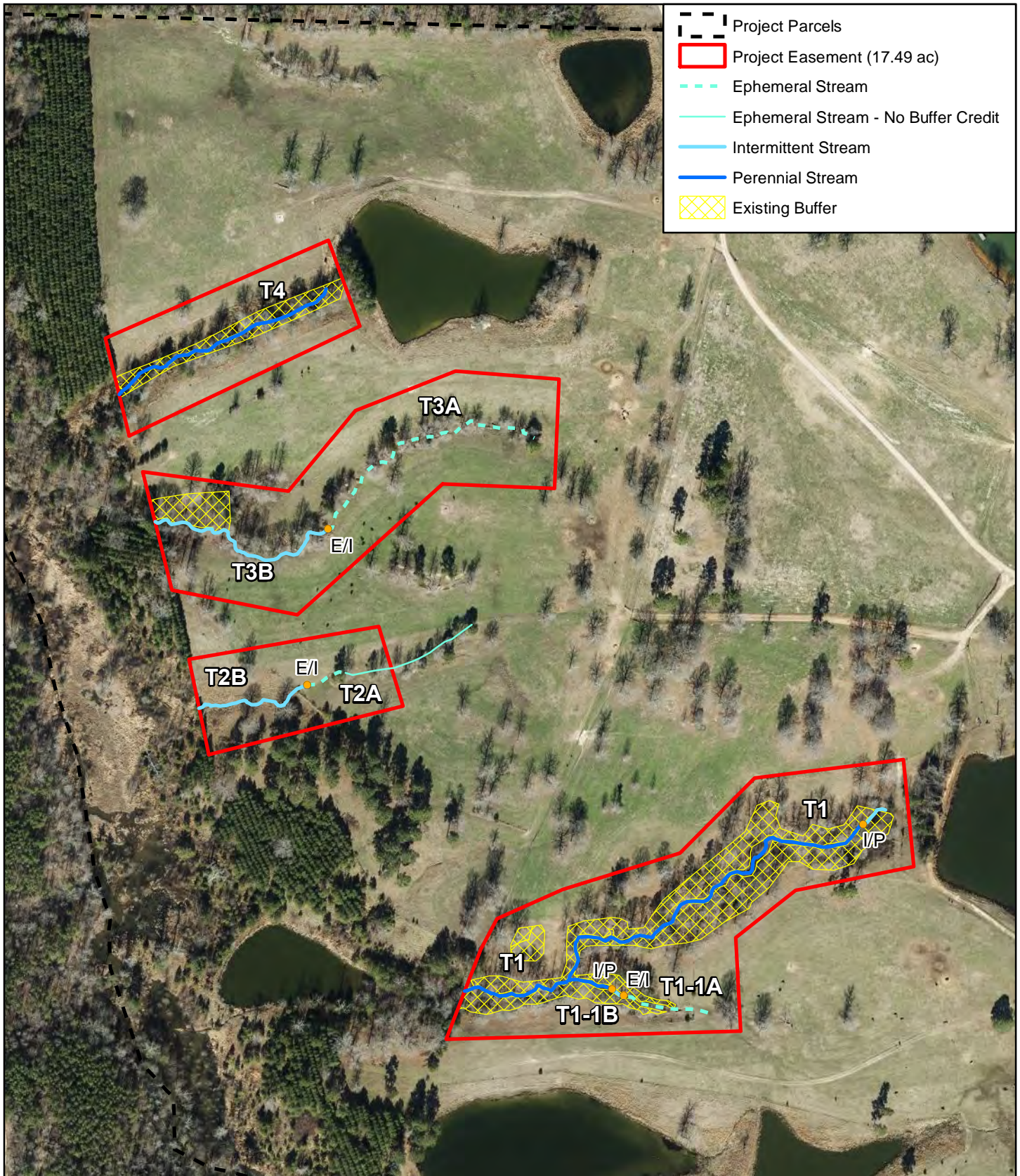
**FIGURE 4. EXISTING SITE TOPOGRAPHY**  
**POND HAVEN BUFFER RESTORATION SITE**  
**GRANVILLE COUNTY, NC**

N  
Source: Contours derived from  
 NC Lidar Bare  
 Earth Data.







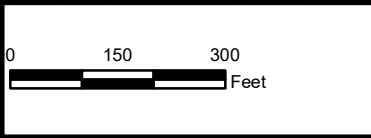
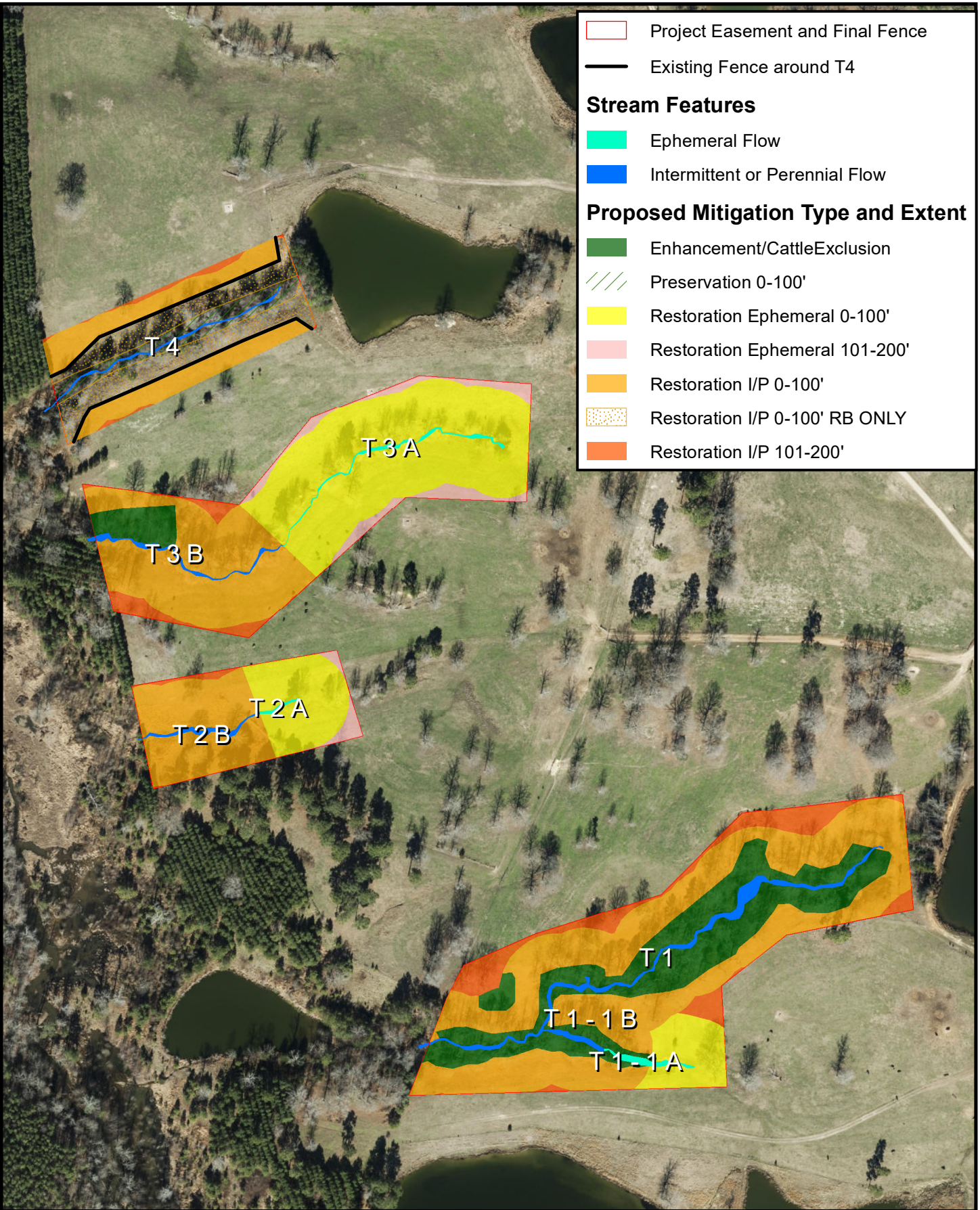


**FIGURE 6. EXISTING CONITIONS  
POND HAVEN BUFFER RESTORATION SITE  
GRANVILLE COUNTY, NC**



Sources: NC Statewide Orthoimagery, 2017.



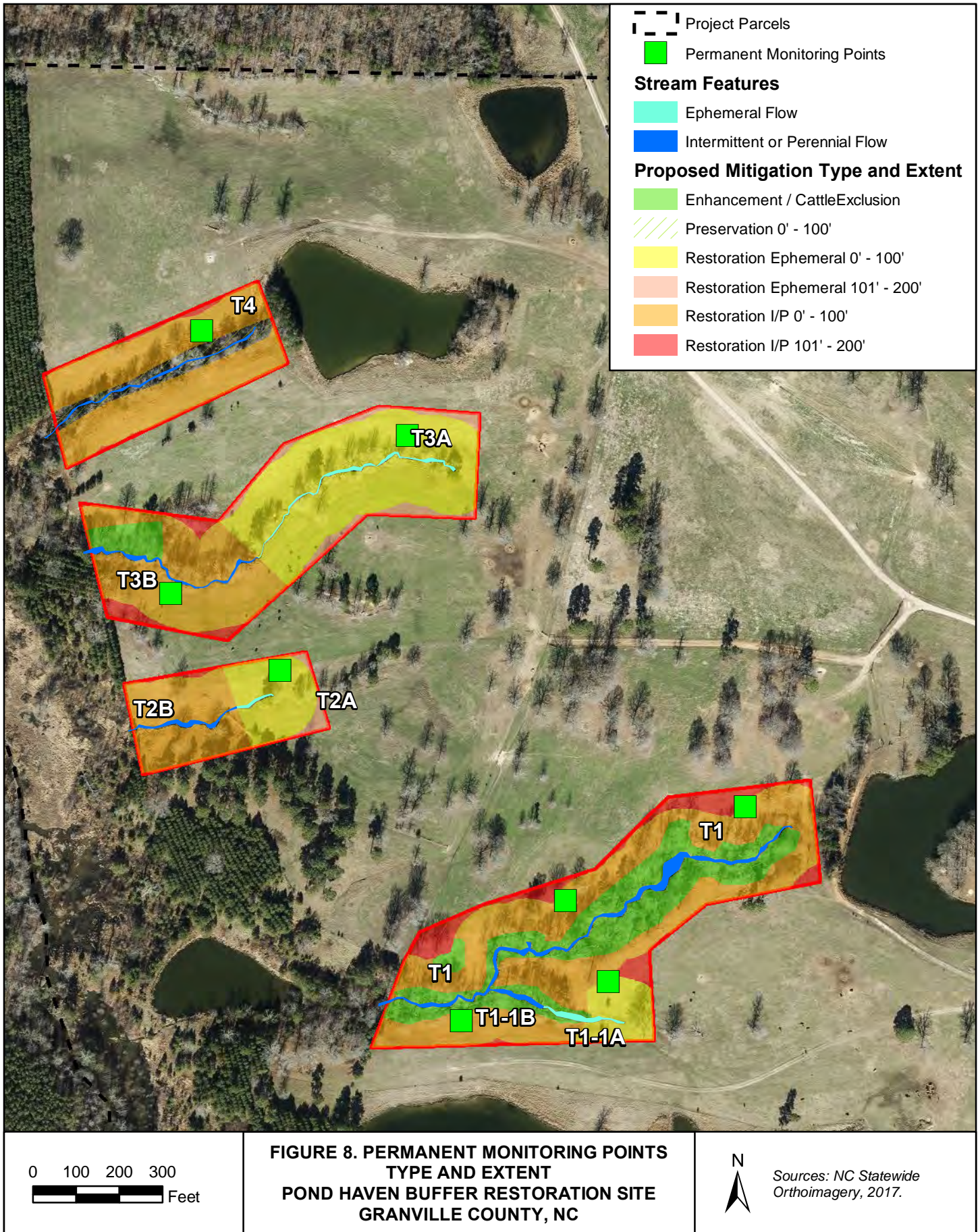


**Figure 7. Proposed Mitigation Type and Extent**  
**Pond Haven Buffer Restoration Site**  
**Granville County, NC**

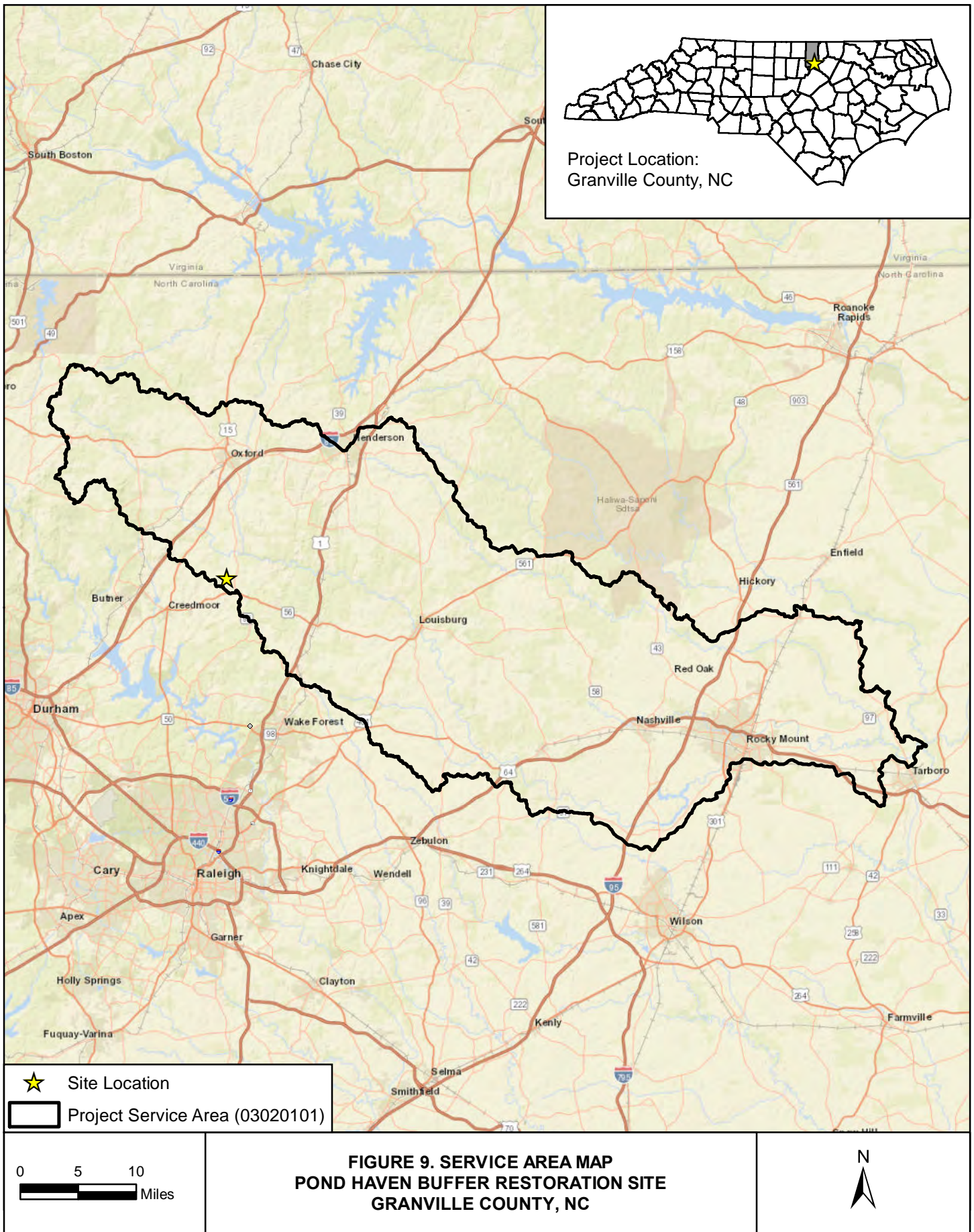
Image Source: North Carolina Statewide Orthoimagery, 2010.

N









**8.0 APPENDICES**

On-Site Determination of Applicability  
to Tar-Pamlico Buffer Rules



ROY COOPER  
Governor  
MICHAEL S. REGAN  
Secretary  
LINDA CULPEPPER  
Director



July 15, 2019

DWR Project # 2019-0646 V2  
Granville County

Herber Windley Jr.  
Windley Family Utility Partnership  
2635 Hwy 96 South  
Franklinton NC 27525

**Subject:** On-Site Determination for Applicability to the Tar-Pamlico Buffer Rules (15A NCAC 02B .0259)  
**Project Name:** Pond Haven Buffer Restoration Site  
**Parcel ID Number:** 182700173047  
**Address/ Location:** 2635 Hwy 96 South, Franklinton, Granville County, NC  
**Stream(s) Evaluated:** Unnamed Tributaries to Tar River, Classified as WS-V; NSW  
**Determination Date:** 6/14/2019                      **Staff:** DWR, Shelton Sullivan

Dear Mr. Windley,

On June 14, 2019, Shelton Sullivan of the Division of Water Resources (DWR) Central Office conducted an on-site review of features located on the subject property at the request of Charlie Morgan of KCI Associates of NC. The purpose of the inspection was to determine the presence or absence of streams on the site and their ephemeral / intermittent / perennial (E/I/P) characteristics and transition points and the applicability of the Tar-Pamlico Riparian Area Protection Rules (15A NCAC 02B .0259) within the proposed project easement.

The enclosed maps depict the features evaluated and this information is also summarized in the table below. Streams that are "Subject" are shown on the most recently published NRCS Soil Survey of Granville County and/or the most recent copy of the USGS Topographic (at 1:24,000 scale) maps, have been located on the ground at the site, and possess characteristics that qualify them to be at least intermittent streams. Features that are "Not Subject" are not depicted on the required maps, not present on the property, or have been determined to not be at least intermittent.

**Please note that there may be other streams or ponds located on the property beyond the proposed project easement that may be subject to the Tar-Pamlico Riparian Area Protection Rules, considered jurisdictional according to the US Army Corps of Engineers, and subject to the Clean Water Act.**



North Carolina Department of Environmental Quality | Division of Water Resources  
512 North Salisbury Street | 1617 Mail Service Center | Raleigh, North Carolina 27699-1617  
919.707.9000

See the following table for the features rated during the DWR site visit:

Feature ID	Feature Type	*E/I/P/ Other	Subject to Buffer Rules	Start @	Stop @	Depicted on Soil Survey	Depicted on USGS Topo
T1	Stream	"I" at least	Yes	Labeled as T1 on Figure 3. At eastern project easement of T1	Continues downstream to the project easement	Yes	Yes
T1-1A	Stream	"E"	No	Labeled T1-1A on Figure 3	Continues to the flagged head cut labeled T1-1B	No	No
T1-1B	Stream	"I" at least	No	Labeled T1-1B on Figure 3 at head cut	Continues downstream to confluence with T1	No	No
T2A	Stream	"E"	No	Labeled as T2A on Figure 3	Continues to T2B, where it becomes Intermittent	No	No
T2B	Stream	"I" at least	No	Labeled as T2B on Figure 3	Continues downstream to the project easement	No	No
T3A	Stream	"E"	No	Labeled as T3A on Figure 3	Continues to T3B, where it becomes Intermittent	No	No
T3B	Stream	"I" at least	No	Labeled as T3B on Figure 3	Continues downstream to the project easement	No	No
T4	Stream	"I" at least	Yes	Labeled as T4 on Figure 3. At eastern project easement of T4.	Continues downstream to the project easement	Yes	Yes

\* E: Ephemeral, I: Intermittent P: Perennial

**This on-site determination shall expire five (5) years from the date of this letter. Landowners or affected parties that dispute a determination made by the DWR may request a determination by the Director. An appeal request must be made within sixty (60) calendar days of the date of this letter to the Director in writing.**

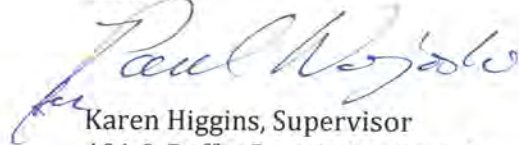
*If sending via U.S. Postal Service:*  
 DWR- 401 & Buffer Permitting Branch  
 c/o Karen Higgins  
 1617 Mail Service Center  
 Raleigh, NC 27699-1617

*If sending via delivery service (UPS, FedEx, etc.)*  
 DWR- 401 & Buffer Permitting Branch  
 c/o Karen Higgins  
 512 N Salisbury St  
 Raleigh, NC 27604

This determination is final and binding as detailed above, unless an appeal is requested **within sixty (60) calendar days**.

This letter only addresses the stream features on the subject property and within the proposed project easement and the applicability of the buffer rules and does not approve any activity within buffers or within waters of the state. If you have any additional questions or require additional information, please call Shelton Sullivan at (919) 707-3636. This determination is subject to review as provided in Articles 3 & 4 of G.S. 150B.

Sincerely,

A handwritten signature in blue ink, appearing to read "Karen Higgins".

Karen Higgins, Supervisor  
401 & Buffer Permitting Branch

Enclosures: Photographs with Description; Site Map, USGS Topo, Soil Survey

cc: Charlie Morgan, KCI Associates of NC, [charlie.morgan@kci.com](mailto:charlie.morgan@kci.com)  
401 & Buffer Permitting Branch files



Photographs 6-14-2019

T1 Start location; At least Intermittent



T1 Near project easement boundary



T1-1A Ephemeral; Looking upslope



T1-1B Headcut; At least Intermittent





Photographs 6-14-2019 (continued)

T1-1B Above confluence with T1; Looking upslope



T2B Start; At least intermittent; Looking upslope



T3B Start; Looking downslope



T4 (No photo taken)



Shelton Sullivan DWR 6/14/19

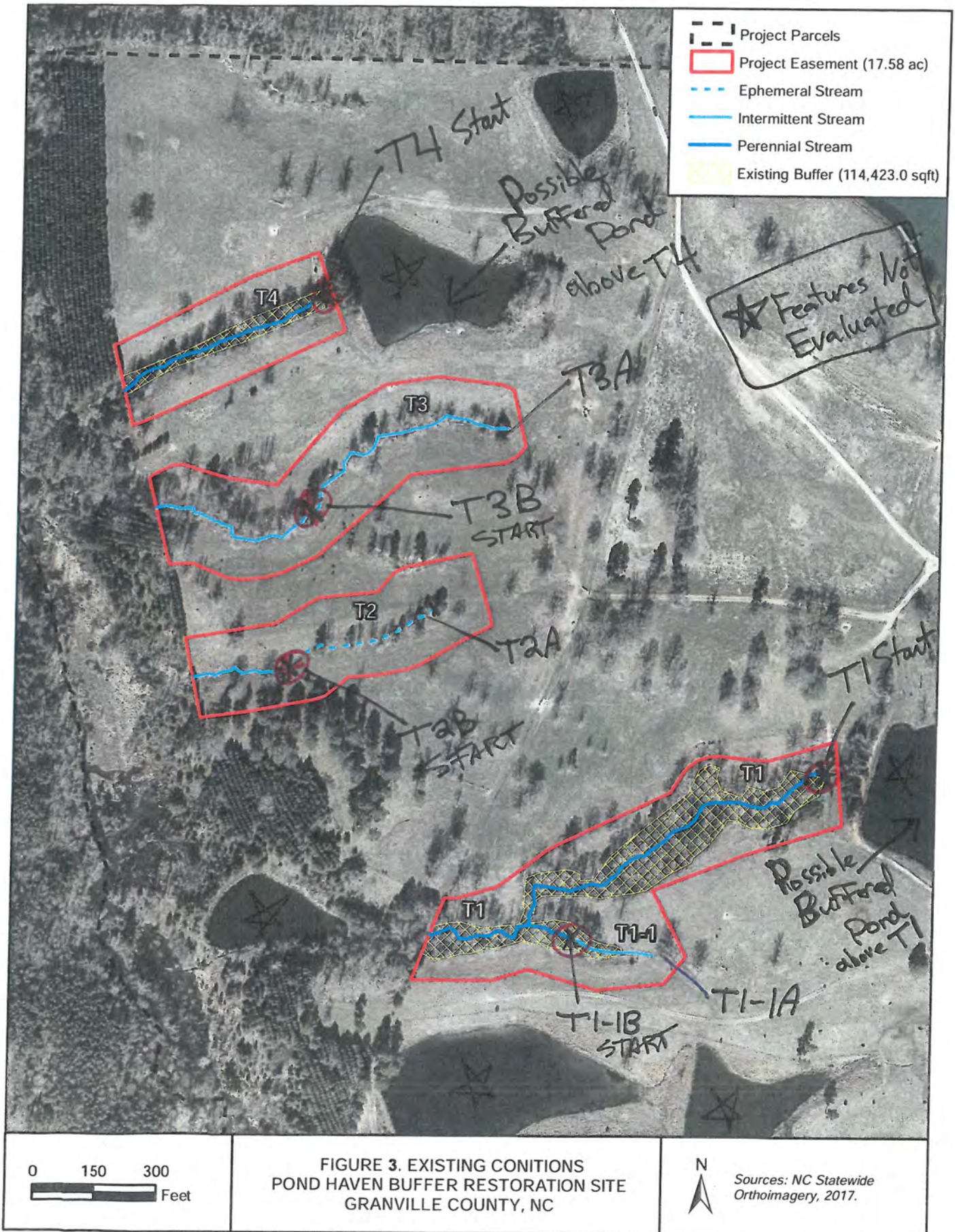
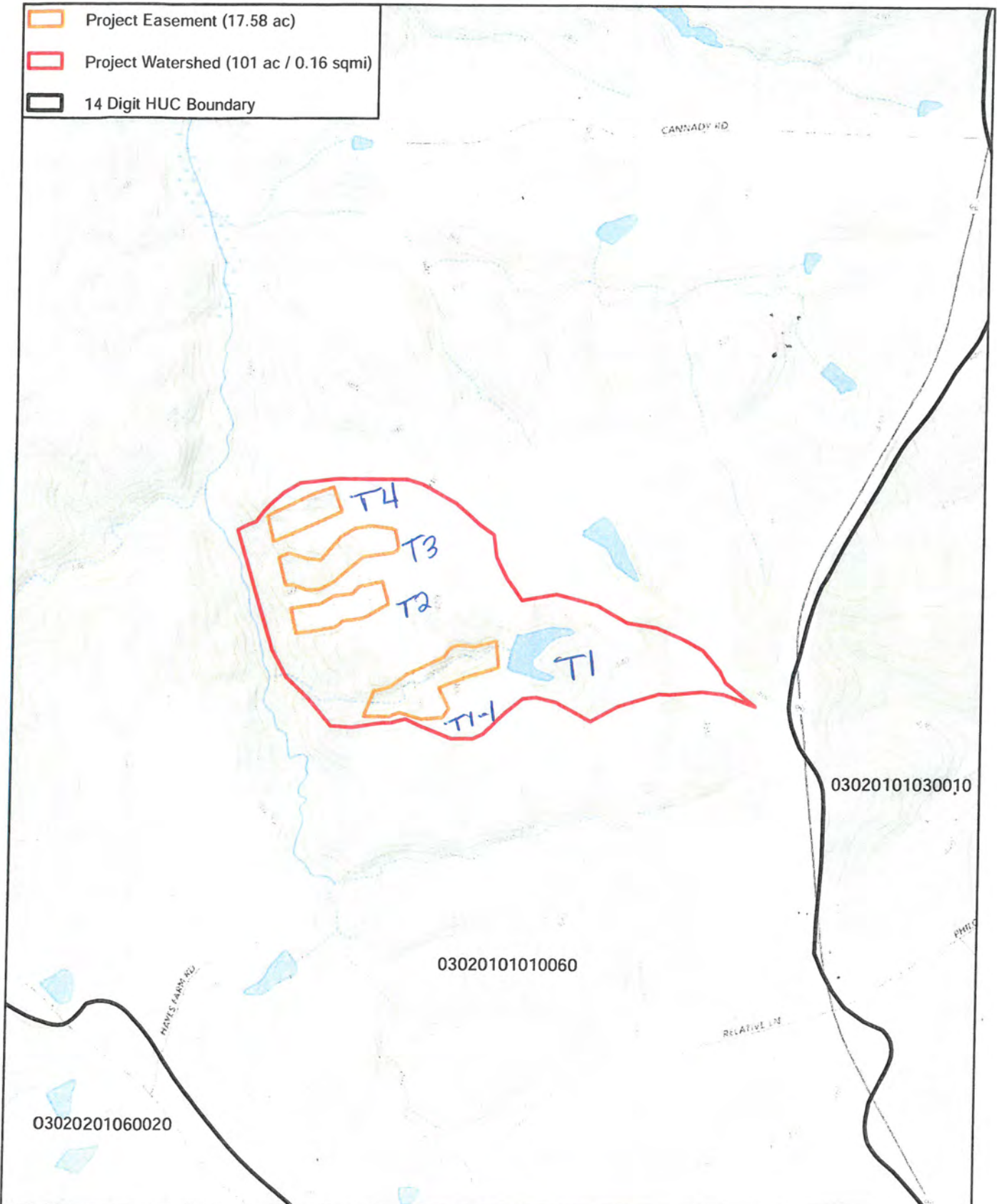


FIGURE 3. EXISTING CONITIONS  
POND HAVEN BUFFER RESTORATION SITE  
GRANVILLE COUNTY, NC



- Project Easement (17.58 ac)
- Project Watershed (101 ac / 0.16 sqmi)
- 14 Digit HUC Boundary

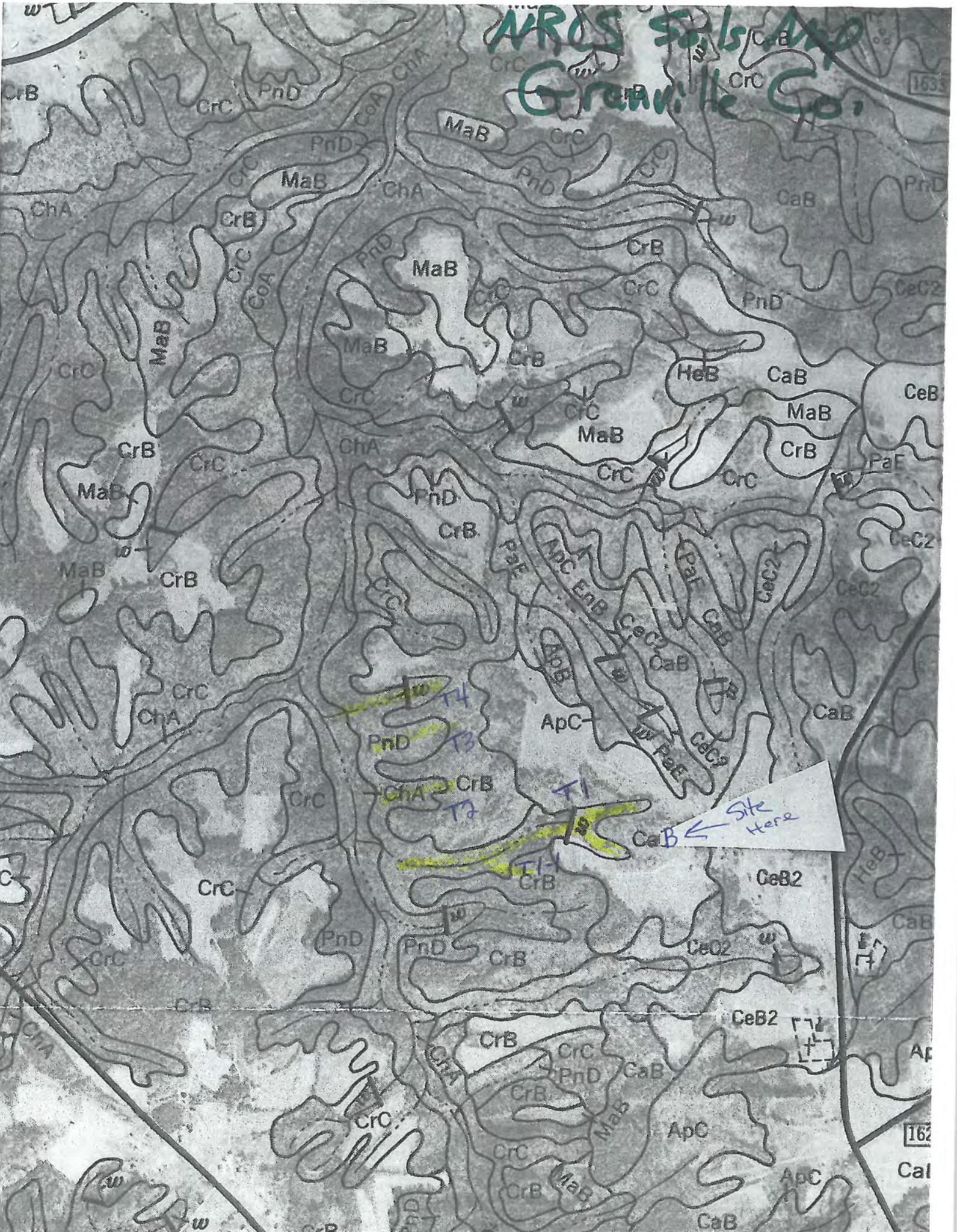


**FIGURE 2. USGS TOPOGRAPHIC MAP**  
**POND HAVEN BUFFER RESTORATION SITE**  
**GRANVILLE COUNTY, NC**

**N**  
 Source: USGS National Map,  
 Wilton Quadrangle



NRCS Soils App  
Granville Co.





ROY COOPER  
Governor

MICHAEL S. REGAN  
Secretary

LINDA CULPEPPER  
Director



NORTH CAROLINA  
Environmental Quality

July 17, 2019

Charlie Morgan  
KCI  
4505 Falls of Neuse Rd, Suite 400  
Raleigh, NC 27609  
(via electronic mail: [Charlie.morgan@kci.com](mailto:Charlie.morgan@kci.com))

DWR# 2019-0646  
Granville County

Re: Site Viability for Buffer Mitigation & Nutrient Offset – Pond Haven Site  
Located near 2369 Hwy 96 South, Franklinton, NC  
Tar-Pamlico 03020101

Dear Mr. Morgan,

On May 10, 2019, Katie Merritt, with the Division of Water Resources (DWR), received a request from KCI for an onsite mitigation determination near the above-referenced site (Site). The Site is located within the Tar-Pamlico River Basin in the 8-digit Hydrologic Unit Code 03020101. The Site is being proposed as part of a full-delivery nutrient offset and riparian buffer mitigation project for the Division of Mitigation Services (RFP #16-007711). Staff from the Division of Mitigation Services were also present onsite. At your request, Ms. Merritt performed an onsite assessment of riparian land uses adjacent to streams and channels onsite, which are shown on the attached map labeled "Figure 10-Existing Conditions".

Ms. Merritt's evaluation of the features onsite and their associated mitigation determination for the riparian areas are provided in the table below. This evaluation was made from Top of Bank (TOB) and landward 200' from each feature for buffer mitigation pursuant to 15A NCAC 02B .0295 (effective November 1, 2015) and for nutrient offset credits pursuant to 15A NCAC 02B .0240.

<u>Feature</u>	<u>Classification onsite</u>	<u><sup>1</sup>Subject to Buffer Rule</u>	<u>Riparian Land uses adjacent to Feature (0-200')</u>	<u>Buffer Credit Viable</u>	<u><sup>2</sup>Nutrient Offset Viable</u>	<u><sup>6</sup>Mitigation Type Determination w/in riparian areas</u>
T1	Stream	Yes	Combination of forested and non-forested pasture grazed by cattle (see map)	<sup>3,4</sup> Yes	Yes ( <i>non-forested ag fields only</i> )	Non-forested areas - <b>Restoration Site</b> per 15A NCAC 02B .0295 (n)  Forested Areas - <b>Preservation Site</b> per 15A NCAC 02B .0295 (o)(5) <i>or</i> <b>Enhancement Site</b> per 15A NCAC 02B .0295 (o)(6) if fence is installed



<b>Feature</b>	<b>Classification onsite</b>	<b><sup>1</sup>Subject to Buffer Rule</b>	<b>Riparian Land uses adjacent to Feature (0-200')</b>	<b>Buffer Credit Viable</b>	<b><sup>2</sup>Nutrient Offset Viable</b>	<b><sup>6</sup>Mitigation Type Determination w/in riparian areas</b>
T1-1A	Ephemeral	No	Combination of forested and non-forested pasture grazed by cattle	<sup>3,5</sup> Yes	Yes ( <i>non-forested ag fields only</i> )	Non-forested areas - <b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(7)  Forested Areas - <b>Preservation Site</b> per 15A NCAC 02B .0295 (o)(7)
T1-1B	Stream	No	Combination of forested and non-forested pasture grazed by cattle	<sup>3,4</sup> Yes	Yes ( <i>non-forested ag fields only</i> )	Non-forested areas - <b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(3)  Forested Areas - <b>Preservation Site</b> per 15A NCAC 02B .0295 (o)(4) <b>or</b> <b>Enhancement Site</b> per 15A NCAC 02B .0295 (o)(6) if fence is installed
T2A	Ephemeral	No	Non-forested pasture grazed by cattle	<sup>5</sup> Yes	Yes	<b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(7)
T2B	Stream	No	Non-forested pasture grazed by cattle	Yes	Yes	<b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(3)
T3A	Ephemeral	No	Non-forested pasture grazed by cattle	<sup>5</sup> Yes	Yes	<b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(7)
T3B	Stream	No	Combination of forested and non-forested pasture grazed by cattle (see map)	<sup>3,4</sup> Yes	Yes ( <i>non-forested ag fields only</i> )	Non-forested areas - <b>Restoration Site</b> per 15A NCAC 02B .0295 (o)(3)  Forested Areas - <b>Preservation Site</b> per 15A NCAC 02B .0295 (o)(4) <b>or</b> <b>Enhancement Site</b> per 15A NCAC 02B .0295 (o)(6) if fence is installed
T4	Stream	Yes	Within fence line is a Combination of forested and non-forested areas. Beyond fence line is non-forested pasture grazed by cattle (see map)	<sup>3</sup> Yes	Yes ( <i>outside of fence line only</i> )	Non-forested areas <u>within</u> fence-line - <b>Restoration Site</b> per 15A NCAC 02B .0295 (n)  Forested Areas <u>within</u> fence-line - <b>Preservation Site</b> per 15A NCAC 02B .0295 (o)(5)  Non-forested areas <u>outside</u> of fence-line - <b>Restoration Site</b> per 15A NCAC 02B .0295 (n)

<sup>1</sup>Subjectivity calls for the features were determined by DWR in correspondence dated July 15, 2019 using the 1:24,000 scale quadrangle topographic map prepared by USGS and the most recent printed version of the soil survey map prepared by the NRC'S .

<sup>2</sup>NC Division of Water Resources - Methodology and Calculations for determining Nutrient Reductions associated with Riparian Buffer Establishment

<sup>3</sup>The area of preservation credit within a buffer mitigation site shall comprise of no more than 25 percent (25%) of the total area of buffer mitigation per 15A NCAC 0295 (o)(5) and 15A NCAC 0295 (o)(4). Site cannot be a Preservation Only site to comply with this rule.

<sup>4</sup>The area described as an Enhancement Site was assessed and determined to comply with all 15A NCAC 02B .0295(o)(6). Cattle exclusion fencing is required to be installed around the mitigation area to get buffer credit under this part of the rule.

<sup>5</sup>The area of the mitigation site on ephemeral channels shall comprise no more than 25 percent (25%) of the total area of buffer mitigation per 15A NCAC 02B .0295 (o)(7).

<sup>6</sup>All features proposed for buffer mitigation or nutrient offset, must have a conservation easement established that includes the tops of channel banks when being measured perpendicular and landward from the banks, even when no credit is viable within the 50' riparian buffer.

The maps attached to this letter were prepared by KCI and were initialed by Ms. Merritt on July 17, 2019.

This letter does not constitute an approval of this site to generate mitigation credits. Pursuant to 15A NCAC 02B .0295, a mitigation proposal and a mitigation plan shall be submitted to DWR for written approval **prior** to conducting any mitigation activities in riparian areas and/or surface waters for buffer mitigation credit. Pursuant to 15A NCAC 02B .0240, a proposal regarding a proposed nutrient load-reducing measure for nutrient offset credit shall be submitted to DWR for approval prior to any mitigation activities in riparian areas and/or surface waters.

All vegetative plantings, performance criteria and other mitigation requirements for riparian restoration, enhancement and preservation must follow the requirements in 15A NCAC 02B .0295 to be eligible for buffer and/or nutrient offset mitigation credits. For any areas depicted as not being viable for nutrient offset credit above, one could propose a different measure, along with supporting calculations and sufficient detail to support estimates of load reduction, for review by the DWR to determine viability for nutrient offset in accordance with 15A NCAC 02B .0240.

This viability assessment will expire on July 17, 2021 or upon the submittal of an As-Built Report to the DWR, whichever comes first. **This letter should be provided in all stream and wetland, buffer and/or nutrient offset mitigation plans for this Site.**

Sincerely,



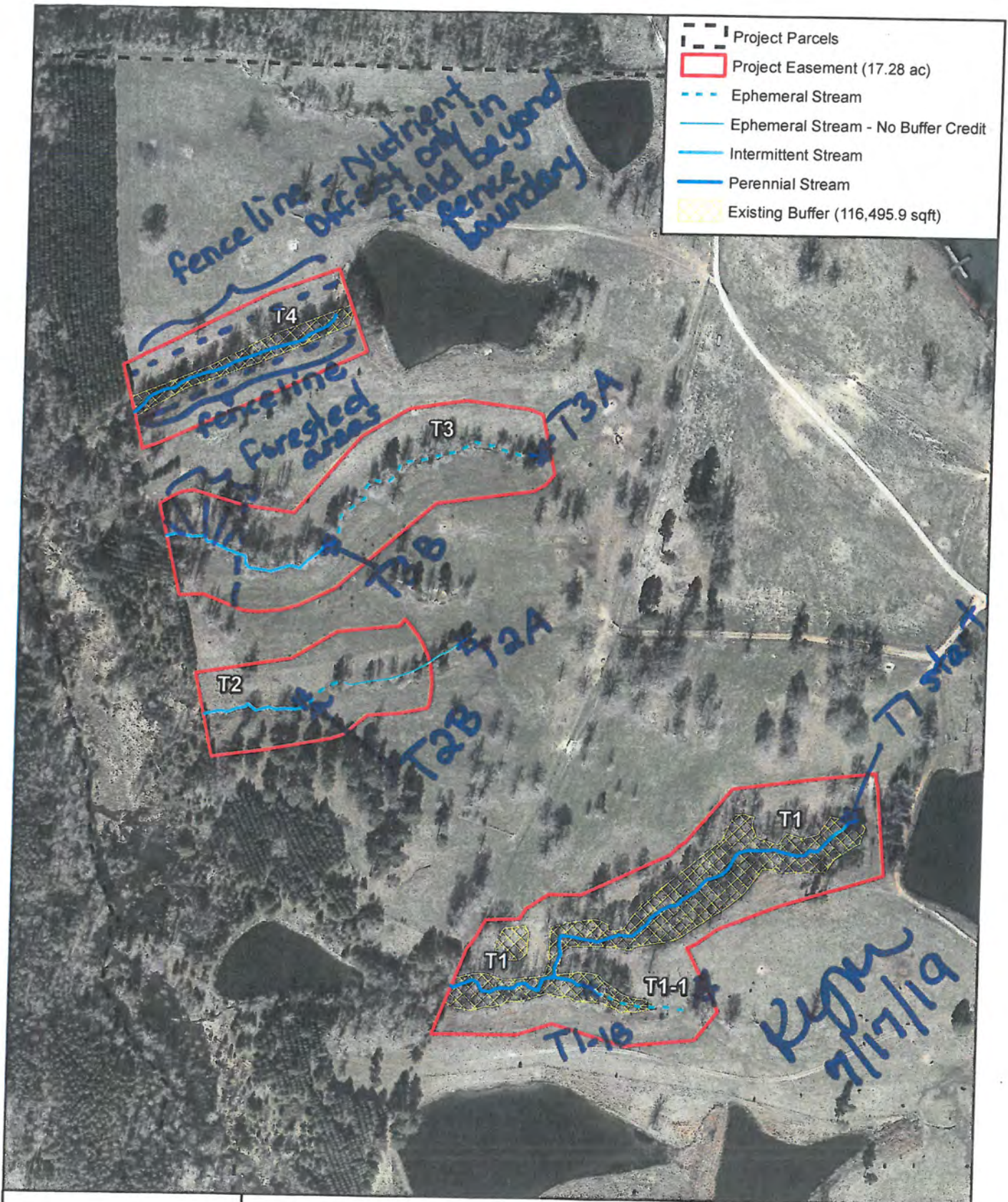
Karen Higgins, Supervisor  
401 and Buffer Permitting Branch








KAH/km


Attachments: Figure 10-Existing Conditions Map

cc: File Copy (Katie Merritt)  
Jeff Schaffer- DMS ( via electronic mail)






-  Project Parcels
-  Project Easement (17.28 ac)
-  Ephemeral Stream
-  Ephemeral Stream - No Buffer Credit
-  Intermittent Stream
-  Perennial Stream
-  Existing Buffer (116,495.9 sqft)

0 150 300  
 Feet

**FIGURE 10. EXISTING CONITIONS  
 POND HAVEN BUFFER RESTORATION SITE  
 GRANVILLE COUNTY, NC**

N  
  
 Sources: NC Statewide  
 Orthoimagery, 2017.

# Protection Instrument

**STATE OF NORTH CAROLINA**

**DEED OF CONSERVATION EASEMENT  
AND RIGHT OF ACCESS PROVIDED  
PURSUANT TO  
FULL DELIVERY  
MITIGATION CONTRACT**

**GRANVILLE COUNTY**

**SPO File Number:**

**DMS Project Number: 100118**

Prepared by: Office of the Attorney General  
Property Control Section  
Return to: NC Department of Administration  
State Property Office  
1321 Mail Service Center  
Raleigh, NC 27699-1321

**THIS DEED OF CONSERVATION EASEMENT AND RIGHT OF ACCESS**, made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by The Windley Family Unity Partnership, a/k/a The Windley Family Unity Limited Partnership, a Georgia limited partnership (“**Grantor**”), whose mailing address is 2635 HWY 96 South, Franklinton, NC 27525, to the State of North Carolina, (“**Grantee**”), whose mailing address is State of North Carolina, Department of Administration, State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321. The designations of Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

**WITNESSETH:**

**WHEREAS**, pursuant to the provisions of N.C. Gen. Stat. § 143-214.8 et seq., the State of North Carolina has established the Division of Mitigation Services (formerly known as the Ecosystem Enhancement Program and Wetlands Restoration Program) within the Department of Environment and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, creating and preserving wetland and riparian resources that contribute to the protection

and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; and

**WHEREAS**, this Conservation Easement from Grantor to Grantee has been negotiated, arranged and provided for as a condition of a full delivery contract between *KCI Technologies Inc., 4505 Falls of Neuse Road, Suite 400, Raleigh NC 27609* and the North Carolina Department of Environmental Quality, to provide stream, wetland and/or buffer mitigation pursuant to the North Carolina Department of Environmental Quality Purchase and Services Contract Number 7528.

**WHEREAS**, The State of North Carolina is qualified to be the Grantee of a Conservation Easement pursuant to N.C. Gen. Stat. § 121-35; and

**WHEREAS**, the Department of Environment and Natural Resources and the United States Army Corps of Engineers, Wilmington District entered into a Memorandum of Understanding, (MOU) duly executed by all parties on November 4, 1998. This MOU recognized that the Wetlands Restoration Program was to provide effective compensatory mitigation for authorized impacts to wetlands, streams and other aquatic resources by restoring, enhancing and preserving the wetland and riparian areas of the State; and

**WHEREAS**, the Department of Environment and Natural Resources, the North Carolina Department of Transportation and the United States Army Corps of Engineers, Wilmington District entered into a Memorandum of Agreement, (MOA) duly executed by all parties in Greensboro, NC on July 22, 2003, which recognizes that the Division of Mitigation Services (formerly Ecosystem Enhancement Program) is to provide for compensatory mitigation by effective protection of the land, water and natural resources of the State by restoring, enhancing and preserving ecosystem functions; and

**WHEREAS**, the Department of Environment and Natural Resources, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the North Carolina Wildlife Resources Commission, the North Carolina Division of Water Quality, the North Carolina Division of Coastal Management, and the National Marine Fisheries Service entered into an agreement to continue the In-Lieu Fee operations of the North Carolina Department of Natural Resources' Division of Mitigation Services (formerly Ecosystem Enhancement Program) with an effective date of 28 July, 2010, which supersedes and replaces the previously effective MOA and MOU referenced above; and

**WHEREAS**, the acceptance of this instrument for and on behalf of the State of North Carolina was granted to the Department of Administration by resolution as approved by the Governor and Council of State adopted at a meeting held in the City of Raleigh, North Carolina, on the 8<sup>th</sup> day of February 2000; and

**WHEREAS**, the Division of Mitigation Services in the Department of Environmental Quality, which has been delegated the authority authorized by the Governor and Council of State to the Department of Administration, has approved acceptance of this instrument; and



**WHEREAS**, Grantor owns in fee simple certain real property situated, lying, and being in Brassfield Township, Granville County, North Carolina (the "**Property**"), and being more particularly described as that certain parcels of land containing approximately 270.913 acres being more particularly described on "**Exhibit B**" attached hereto and incorporated herein; and

**WHEREAS**, Grantor is willing to grant a Conservation Easement and Right of Access over the herein described areas of the Property, thereby restricting and limiting the use of the areas of the Property subject to the Conservation Easement to the terms and conditions and purposes hereinafter set forth, and Grantee is willing to accept said Easement and Access Rights. The Conservation Easement shall be for the protection and benefit of the waters of *the Tar Pamlico River Basin*.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement along with a general Right of Access.

The Conservation Easement Area consists of the following:

Conservation Easement A containing 7.23 acres and Conservation Easement B containing a total of 2.01 acres and Conservation Easement C containing a total of 5.56 acres and Conservation Easement D containing a total of 2.69 acres as shown on the plats of survey entitled "FINAL PLAT CONSERVATION EASEMENT FOR STATE OF NORTH CAROLINA DEPARTMENT OF MITIGATION SERVICES PROJECT NAME: POND HAVEN BUFFER RESTORATION SITE", dated September 26, 2019 by *Jim Gellenthin*, PLS Number L-3860 and recorded in the Granville County, North Carolina Register of Deeds at **Plat Book** \_\_\_\_\_ **Pages** \_\_\_\_\_.

See attached "**Exhibit A**", Legal Description of area of the Property hereinafter referred to as the "Conservation Easement Area"

The purposes of this Conservation Easement are to maintain, restore, enhance, construct, create and preserve wetland and/or riparian resources in the Conservation Easement Area that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Conservation Easement Area in its natural condition, consistent with these purposes; and to prevent any use of the Easement Area that will significantly impair or interfere with these purposes. To achieve these purposes, the following conditions and restrictions are set forth:

#### **I. DURATION OF EASEMENT**

Pursuant to law, including the above referenced statutes, this Conservation Easement and Right of Access shall be perpetual and it shall run with, and be a continuing restriction upon the use of, the Property, and it shall be enforceable by the Grantee against the Grantor and against Grantor's heirs, successors and assigns, personal representatives, agents, lessees, and licensees.



## II. GRANTOR RESERVED USES AND RESTRICTED ACTIVITIES

The Conservation Easement Area shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Conservation Easement Area by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor have been acquired by the Grantee. Any rights not expressly reserved hereunder by the Grantor, including the rights to all mitigation credits, including, but not limited to, stream, wetland, and riparian buffer mitigation units, derived from each site within the area of the Conservation Easement, are conveyed to and belong to the Grantee. Without limiting the generality of the foregoing, the following specific uses are prohibited, restricted, or reserved as indicated:

**A. Recreational Uses.** Grantor expressly reserves the right to undeveloped recreational uses, including hiking, bird watching, hunting and fishing, and access to the Conservation Easement Area for the purposes thereof.

**B. Motorized Vehicle Use.** Motorized vehicle use in the Conservation Easement Area is prohibited except within a Crossing Area(s) or Road or Trail as shown on the recorded survey plat.

**C. Educational Uses.** The Grantor reserves the right to engage in and permit others to engage in educational uses in the Conservation Easement Area not inconsistent with this Conservation Easement, and the right of access to the Conservation Easement Area for such purposes including organized educational activities such as site visits and observations. Educational uses of the property shall not alter vegetation, hydrology or topography of the site.

**D. Damage to Vegetation.** Except within Crossing Area(s) as shown on the recorded survey plat and as related to the removal of non-native plants, diseased or damaged trees, or vegetation that destabilizes or renders unsafe the Conservation Easement Area to persons or natural habitat, all cutting, removal, mowing, harming, or destruction of any trees and vegetation in the Conservation Easement Area is prohibited.

**E. Industrial, Residential and Commercial Uses.** All industrial, residential and commercial uses are prohibited in the Conservation Easement Area.

**F. Agricultural Use.** All agricultural uses are prohibited within the Conservation Easement Area including any use for cropland, waste lagoons, or pastureland.

**G. New Construction.** There shall be no building, facility, mobile home, antenna, utility pole, tower, or other structure constructed or placed in the Conservation Easement Area.

**H. Roads and Trails.** There shall be no construction or maintenance of new roads, trails, walkways, or paving in the Conservation Easement.

All existing roads, trails and crossings within the Conservation Easement Area shall be shown on the recorded survey plat.

**I. Signs.** No signs shall be permitted in the Conservation Easement Area except interpretive signs describing restoration activities and the conservation values of the Conservation Easement Area, signs identifying the owner of the Property and the holder of the Conservation Easement, signs giving directions, or signs prescribing rules and regulations for the use of the Conservation Easement Area.

**J. Dumping or Storing.** Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, or any other material in the Conservation Easement Area is prohibited.

**K. Grading, Mineral Use, Excavation, Dredging.** There shall be no grading, filling, excavation, dredging, mining, drilling, hydraulic fracturing; removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

**L. Water Quality and Drainage Patterns.** There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or diverting, causing, allowing or permitting the diversion of surface or underground water in the Conservation Easement Area. No altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns is allowed. All removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides in the Conservation Easement Area is prohibited. In the event of an emergency interruption or shortage of all other water sources, water from within the Conservation Easement Area may temporarily be withdrawn for good cause shown as needed for the survival of livestock on the Property.

**M. Subdivision and Conveyance.** Grantor voluntarily agrees that no further subdivision, partitioning, or dividing of the Conservation Easement Area portion of the Property owned by the Grantor in fee simple (“fee”) that is subject to this Conservation Easement is allowed. Any future transfer of the Property shall be subject to this Conservation Easement and Right of Access and to the Grantee’s right of unlimited and repeated ingress and egress over and across the Property to the Conservation Easement Area for the purposes set forth herein.

**N. Development Rights.** All development rights are permanently removed from the Conservation Easement Area and are non-transferrable.

**O. Disturbance of Natural Features.** Any change, disturbance, alteration or impairment of the natural features of the Conservation Easement Area or any intentional introduction of non-native plants, trees and/or animal species by Grantor is prohibited.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is not inconsistent with the purposes of this Conservation Easement, and the Grantor obtains advance written approval from the Division of Mitigation Services, 1652 Mail Services Center, Raleigh, NC 27699-1652.

### **III. GRANTEE RESERVED USES**

**A. Right of Access, Construction, and Inspection.** The Grantee, its employees and agents, successors and assigns, receive a perpetual Right of Access to the Conservation Easement Area over the Property at reasonable times to undertake any activities on the property to restore, construct, manage, maintain, enhance, protect, and monitor the stream, wetland and any other riparian resources in the Conservation Easement Area, in accordance with restoration activities or a long-term management plan. Unless otherwise specifically set forth in this Conservation Easement, the rights granted herein do not include or establish for the public any access rights.

**B. Restoration Activities.** These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterranean water flow.

**C. Signs.** The Grantee, its employees and agents, successors or assigns, shall be permitted to place signs and witness posts on the Property to include any or all of the following: describe the project, prohibited activities within the Conservation Easement, or identify the project boundaries and the holder of the Conservation Easement.

**D. Fences.** Conservation Easements are purchased to protect the investments by the State (Grantee) in natural resources. Livestock within conservations easements damages the investment and can result in reductions in natural resource value and mitigation credits which would cause financial harm to the State. Therefore, Landowners (Grantor) with livestock are required to restrict livestock access to the Conservation Easement area. Repeated failure to do so may result in the State (Grantee) repairing or installing livestock exclusion devices (fences) within the conservation area for the purpose of restricting livestock access. In such cases, the landowner (Grantor) must provide access to the State (Grantee) to make repairs.

**E. Crossing Area(s).** The Grantee is not responsible for maintenance of crossing area(s), however, the Grantee, its employees and agents, successors or assigns, reserve the right to repair crossing area(s), at its sole discretion and to recover the cost of such repairs from the Grantor if such repairs are needed as a result of activities of the Grantor, his successors or assigns.

#### **IV. ENFORCEMENT AND REMEDIES**

**A. Enforcement.** To accomplish the purposes of this Conservation Easement, Grantee is allowed to prevent any activity within the Conservation Easement Area that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features in the Conservation Easement Area that may have been damaged by such unauthorized activity or use. Upon any breach of the terms of this Conservation Easement by Grantor, the Grantee shall, except as provided below, notify the Grantor in writing of such breach and the Grantor shall have ninety (90) days after receipt of such notice to correct the damage caused by such breach. If the breach and damage remains uncured after ninety (90) days, the Grantee may enforce this Conservation Easement by bringing appropriate legal proceedings including an action to recover damages, as well as injunctive and other relief. The Grantee shall also have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Conservation Easement Area by acts which may be unlawful or in violation of this Conservation Easement; (b)

to otherwise preserve or protect its interest in the Property; or (c) to seek damages from any appropriate person or entity. Notwithstanding the foregoing, the Grantee reserves the immediate right, without notice, to obtain a temporary restraining order, injunctive or other appropriate relief, if the breach is or would irreversibly or otherwise materially impair the benefits to be derived from this Conservation Easement, and the Grantor and Grantee acknowledge that the damage would be irreparable and remedies at law inadequate. The rights and remedies of the Grantee provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available to Grantee in connection with this Conservation Easement.

**B. Inspection.** The Grantee, its employees and agents, successors and assigns, have the right, with reasonable notice, to enter the Conservation Easement Area over the Property at reasonable times for the purpose of inspection to determine whether the Grantor is complying with the terms, conditions and restrictions of this Conservation Easement.

**C. Acts Beyond Grantor's Control.** Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury or change in the Conservation Easement Area caused by third parties, resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life or damage to the Property resulting from such causes.

**D. Costs of Enforcement.** Beyond regular and typical monitoring expenses, any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, including, without limitation, any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by Grantor.

**E. No Waiver.** Enforcement of this Easement shall be at the discretion of the Grantee and any forbearance, delay or omission by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be construed to be a waiver by Grantee.

## V. MISCELLANEOUS

**A.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of the Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

**B.** Grantor is responsible for any real estate taxes, assessments, fees, or charges levied upon the Property. Grantee shall not be responsible for any costs or liability of any kind related to the ownership, operation, insurance, upkeep, or maintenance of the Property, except as expressly provided herein. Upkeep of any constructed bridges, fences, or other amenities on the Property are the sole responsibility of the Grantor. Nothing herein shall relieve the Grantor of the obligation to comply with federal, state or local laws, regulations and permits that may apply to the exercise of the Reserved Rights.

**C.** Any notices shall be sent by registered or certified mail, return receipt requested to the parties at their addresses shown herein or to other addresses as either party establishes in writing upon notification to the other.

**D.** Grantor shall notify Grantee in writing of the name and address and any party to whom the Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees that any subsequent lease, deed, or other legal instrument by which any interest in the Property is conveyed is subject to the Conservation Easement herein created.

**E.** The Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof.

**F.** This Conservation Easement and Right of Access may be amended, but only in writing signed by all parties hereto, or their successors or assigns, if such amendment does not affect the qualification of this Conservation Easement or the status of the Grantee under any applicable laws, and is consistent with the purposes of the Conservation Easement. The owner of the Property shall notify the State Property Office and the U.S. Army Corps of Engineers in writing sixty (60) days prior to the initiation of any transfer of all or any part of the Property or of any request to void or modify this Conservation Easement. Such notifications and modification requests shall be addressed to:

Division of Mitigation Services Program Manager  
NC State Property Office  
1321 Mail Service Center  
Raleigh, NC 27699-1321

and

General Counsel  
US Army Corps of Engineers  
69 Darlington Avenue  
Wilmington, NC 28403

**G.** The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable provided, however, that the Grantee hereby covenants and agrees, that in the event it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified holder under N.C. Gen. Stat. § 121-34 et seq. and § 170(h) of the Internal Revenue Code, and the Grantee further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue in perpetuity the conservation purposes described in this document.

## **VI. QUIET ENJOYMENT**

Grantor reserves all remaining rights accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in only those uses of the Conservation Easement Area that are expressly reserved herein, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserves to the Grantor, and the Grantor's invitees and licensees, the right of access to the Conservation Easement Area, and the right of quiet enjoyment of the Conservation Easement Area,

**TO HAVE AND TO HOLD**, the said rights and easements perpetually unto the State of North Carolina for the aforesaid purposes,

**AND** Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent Conservation Easement herein granted; that the same is free from encumbrances and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever.



**IN TESTIMONY WHEREOF**, the Grantor has hereunto set his hand and seal, the day and year first above written.

The Windley Family Unity Partnership,  
a/k/a The Windley Family Unity Limited Partnership,  
a Georgia limited partnership

By: \_\_\_\_\_ (SEAL)

Name: \_\_\_\_\_

Title: General Partner

**NORTH CAROLINA**  
**COUNTY OF** \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the County and State aforesaid, do hereby certify that \_\_\_\_\_, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

**IN WITNESS WHEREOF**, I have hereunto set my hand and Notary Seal this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

Exhibit A

## **POND HAVEN CONSERVATION EASEMENT A**

A PARCEL OF LAND TO BE USED FOR CONSERVATION EASEMENT PURPOSES LOCATED ON LANDS NOW OR FORMERLY OWNED BY WINDLEY FAMILY UNITY PARTNERSHIP (TAX PIN 1827-17-3047) AS RECORDED IN BOOK 749, PAGE 41, LOCATED IN BRASSFIELD TOWNSHIP, GRNAVILLE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 2" IRON PIPE, AT A DEFLECTION POINT ON THE NORTH LINE OF SAID WINDLEY LANDS AND BEING ON THE SOUTH LINE OF LANDS NOW OR FORMERLY OWNED BY TAMARA KAY WHEELER (DB 801 PG 177); SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N:878,475.03 AND E:2,121,417.08 (NAD 83/2011).

THENCE S 26°14'45" W, ON A TIE LINE A DISTANCE OF 1774.31 FEET (GRID) TO **THE POINT OF BEGINNING**; BEING A 5/8" REBAR SET WITH ALUMINUM CAP NO. 1;

THENCE, S 05° 24' 47" E A DISTANCE OF 238.96 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 2;

THENCE, S 78° 39' 46" W A DISTANCE OF 267.78 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 3;

THENCE, S 51° 46' 48" W A DISTANCE OF 169.78 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 4;

THENCE, S 03° 11' 46" E A DISTANCE OF 208.35 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 5;

THENCE, S 88° 25' 34" W A DISTANCE OF 655.43 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 6;

THENCE, N 20° 59' 38" E A DISTANCE OF 213.76 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 7;

THENCE, N 27° 43' 08" E A DISTANCE OF 77.17 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 8;

THENCE, N 66° 12' 33" E A DISTANCE OF 160.28 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 9;

THENCE, N 72° 33' 36" E A DISTANCE OF 273.23 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 10;

THENCE, N 44° 56' 04" E A DISTANCE OF 235.63 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 11;

THENCE, N 83° 02' 30" E A DISTANCE OF 333.18 FEET TO THE POINT OF BEGINNING.

CONSERVATION EASEMENT CONTAINING 315,040 SQUARE FEET OR 7.23 ACRES MORE OR LESS.

## **POND HAVEN CONSERVATION EASEMENT B**

A PARCEL OF LAND TO BE USED FOR CONSERVATION EASEMENT PURPOSES LOCATED ON LANDS NOW OR FORMERLY OWNED BY WINDLEY FAMILY UNITY PARTNERSHIP (TAX PIN 1827-17-3047) AS RECORDED IN BOOK 749, PAGE 41, LOCATED IN BRASSFIELD TOWNSHIP, GRNAVILLE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 2" IRON PIPE, AT A DEFLECTION POINT ON THE NORTH LINE OF SAID WINDLEY LANDS AND BEING ON THE SOUTH LINE OF LANDS NOW OR FORMERLY OWNED BY TAMARA KAY WHEELER (DB 801 PG 177); SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N:878,475.03 AND E:2,121,417.08 (NAD 83/2011).

THENCE S 52°12'15" W, ON A TIE LINE A DISTANCE OF 2401.60 FEET (GRID) TO **THE POINT OF BEGINNING**; BEING A 5/8" REBAR SET WITH ALUMINUM CAP NO. 12;

THENCE, S 75° 57' 52" W A DISTANCE OF 445.47 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 13;

THENCE, N 11° 43' 46" W A DISTANCE OF 216.01 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 14;

THENCE, N 80° 06' 34" E A DISTANCE OF 428.64 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 15;

THENCE, S 16° 54' 19" E A DISTANCE OF 185.08 FEET TO THE POINT OF BEGINNING.

CONSERVATION EASEMENT CONTAINING 87,443 SQUARE FEET OR 2.01 ACRES MORE OR LESS.

## **POND HAVEN CONSERVATION EASEMENT C**

A PARCEL OF LAND TO BE USED FOR CONSERVATION EASEMENT PURPOSES LOCATED ON LANDS NOW OR FORMERLY OWNED BY WINDLEY FAMILY UNITY PARTNERSHIP (TAX PIN 1827-17-3047) AS RECORDED IN BOOK 749, PAGE 41, LOCATED IN BRASSFIELD TOWNSHIP, GRNAVILLE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 2" IRON PIPE, AT A DEFLECTION POINT ON THE NORTH LINE OF SAID WINDLEY LANDS AND BEING ON THE SOUTH LINE OF LANDS NOW OR FORMERLY OWNED BY TAMARA KAY WHEELER (DB 801 PG 177); SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N:878,475.03 AND E:2,121,417.08 (NAD 83/2011).

THENCE S 57°40'19" W, ON A TIE LINE A DISTANCE OF 1846.831 FEET (GRID) TO **THE POINT OF BEGINNING**; BEING A 5/8" REBAR SET WITH ALUMINUM CAP NO. 16;

THENCE, N 87° 44' 09" W A DISTANCE OF 249.12 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 17;

THENCE, S 48° 00' 23" W A DISTANCE OF 435.34 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 18;

THENCE, N 78° 54' 23" W A DISTANCE OF 284.00 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 19;

THENCE, N 13° 46' 10" W A DISTANCE OF 271.34 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 20;

THENCE, S 82° 26' 20" E A DISTANCE OF 326.65 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 21;

THENCE, N 39° 43' 27" E A DISTANCE OF 232.43 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 22;

THENCE, N 68° 31' 02" E A DISTANCE OF 239.93 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 23;

THENCE, S 85° 41' 37" E A DISTANCE OF 231.21 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 24;

THENCE, S 02° 27' 15" W A DISTANCE OF 243.28 FEET TO THE POINT OF BEGINNING.

CONSERVATION EASEMENT CONTAINING 242,066 SQUARE FEET OR 5.56 ACRES MORE OR LESS.

**POND HAVEN  
CONSERVATION EASEMENT D**

A PARCEL OF LAND TO BE USED FOR CONSERVATION EASEMENT PURPOSES LOCATED ON LANDS NOW OR FORMERLY OWNED BY WINDLEY FAMILY UNITY PARTNERSHIP (TAX PIN 1827-17-3047) AS RECORDED IN BOOK 749, PAGE 41, LOCATED IN BRASSFIELD TOWNSHIP, GRNAVILLE COUNTY, NORTH CAROLINA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 2" IRON PIPE, AT A DEFLECTION POINT ON THE NORTH LINE OF SAID WINDLEY LANDS AND BEING ON THE SOUTH LINE OF LANDS NOW OR FORMERLY OWNED BY TAMARA KAY WHEELER (DB 801 PG 177); SAID POINT HAVING NORTH CAROLINA STATE PLANE COORDINATES OF N:878,475.03 AND E:2,121,417.08 (NAD 83/2011).

THENCE S 72°32'43" W, ON A TIE LINE A DISTANCE OF 2089.50 FEET (GRID) TO **THE POINT OF BEGINNING**; BEING A 5/8" REBAR SET WITH ALUMINUM CAP NO. 25;

THENCE, S 64° 34' 36" W A DISTANCE OF 568.18 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 26;

THENCE, N 13° 44' 42" W A DISTANCE OF 223.59 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 27;

THENCE, N 66° 22' 28" E A DISTANCE OF 541.67 FEET TO A 5/8" REBAR SET WITH ALUMINUM CAP NO. 28;

THENCE, S 20° 11' 44" E A DISTANCE OF 202.81 FEET TO THE POINT OF BEGINNING.

CONSERVATION EASEMENT CONTAINING 117,034 SQUARE FEET OR 2.69 ACRES MORE OR LESS.

Exhibit B


BEGINNING at an iron stake in the western right of way of N. C. Highway 96, said stake lying 5,178 feet north of the intersection of the center line of Highway 56 and Highway 96; runs thence with the western right of way of N. C. Highway 96, N. 02 deg. 54 min. 30 sec. W. 684.17 feet to an iron stake; thence, leaving the western edge of the right of way of N. C. Highway 96, N. 68 deg. 56 min. 39 sec. W. 60.13 feet to an iron stake; thence, S. 76 deg. 44 min. 35 sec. W. 291.36 feet to an iron stake; thence, N. 89 deg. 28 min. 41 sec. W. 138.76 feet to an iron stake cornering; thence, N. 00 deg. 38 min. 17 sec. W. 238.81 feet to an iron stake cornering; thence S. 87 deg. 25 min. 33 sec. E. 207.12 feet to an iron stake in the line of the Bobbitt Estate; thence, along said Bobbitt line N. 01 deg. 56 min. 56 sec. W. 1403.39 feet to a railroad spike set in a gum stump; continues thence with the line of the Bobbitt Estate, N. 07 deg. 05 min. 26 sec. E. 809.64 feet to an iron stake; the northwest corner of the Bobbitt Estate land and a point in the line of the property now or formerly belonging to Richard Wheller; runs thence with the Wheller line, S. 86 deg. 19 min. 20 sec. W. 1231.96 feet to an iron stake; continues thence N. 85 deg. 43 min. 48 sec. W. 3529.31 feet with the property line of Richard Wheller and the property belonging to the Cannady Estate to an iron stake; runs thence S. 02 deg. 21 min. 02 sec. W. 717.19 feet to an iron stake in the center of a branch; runs thence with the center line of said branch and creek the following courses and distances: N. 54 deg. 26 min. 07 sec. E. 117.16 feet; N. 84 deg. 12 min. 27 sec. E. 58.45 feet; S. 78 deg. 54 min. 05 sec. E. 93.33 feet; S. 50 deg. 46 min. 36 sec. E. 91.11 feet; S. 65 deg. 35 min. 22 sec. E. 170.11 feet; S. 41 deg. 36 min. 53 sec. E. 245.08 feet; S. 18 deg. 18 min. 21 sec. E. 301.01 feet; S. 20 deg. 33 min. 59 sec. E. 165.19 feet; S. 08 deg. 46 min. 07 sec. E. 145.62 feet; S. 15 deg. 17 min. 03 sec. E. 160.06 feet; S. 05 deg. 46 min. 31 sec. E. 263.25 feet; S. 14 deg. 56 min. 20 sec. E. 100.86 feet; S. 01 deg. 03 min. 21 sec. W. 120.25 feet; S. 15 deg. 25 min. 38 sec. E. 222.03 feet; S. 39 deg. 25 min. 31 sec. E. 106.16 feet; S. 01 deg. 55 min. 56 sec. W. 113.83 feet; S. 60 deg. 08 min. 02 sec. E. 88.14 feet; S. 74 deg. 00 min. 25 sec. E. 94.19 feet; S. 07 deg. 12 min. 06 sec. W. 154.79 feet; S. 38 deg. 20 min. 28 sec. W. 87.62 feet to an iron stake in the center of said creek; runs thence with the northern line of the Berry Parker Estate, S. 84 deg. 39 min. 22 sec. E. 3935.33 feet to an iron stake in the western right of way of N. C. Highway 96, the point and place of BEGINNING and containing 270.913 acres, more or less, according to survey prepared by A. R. Barnes, R. L. S., dated September 13, 1978, which reference is made for further clarification and description.

## Categorical Exclusion



## Categorical Exclusion Form for Division of Mitigation Services Projects Version 2

**Note: Only Appendix A should to be submitted (along with any supporting documentation) as the environmental document.**

Part 1: General Project Information	
<b>Project Name:</b>	<b>Pond Haven Buffer Restoration Site</b>
<b>County Name:</b>	<b>Granville</b>
<b>DMS Number:</b>	<b>100118</b>
<b>Project Sponsor:</b>	<b>KCI Technologies, Inc.</b>
<b>Project Contact Name:</b>	<b>Charlie Morgan</b>
<b>Project Contact Address:</b>	<b>4505 Falls of Neuse Road Suite 400 Raleigh NC 27609</b>
<b>Project Contact E-mail:</b>	<b>charlie.morgan@kci.com</b>
<b>DMS Project Manager:</b>	<b>Lindsay Crocker</b>
Project Description	
<p>The PHBRS is a buffer restoration site in the Tar-Pamlico River Basin in Granville County, North Carolina. As evidenced by historic aerial photos and site investigations, the buffers at this site have been substantially modified by agricultural practices, impacted from cattle, and other anthropogenic impacts. Restoring these stream buffers will not only return a functional riparian buffer, but will also lower the supply of sediment entering the Tar River.</p>	
For Official Use Only	
<b>Reviewed By:</b>  <div style="border-bottom: 1px solid black; width: 80%; margin-left: 0;"></div>	 <div style="border-bottom: 1px solid black; width: 80%; margin-left: auto; margin-right: auto;"></div>
<b>Date</b>  <div style="border-bottom: 1px solid black; width: 80%; margin-left: 0;"></div>	<b>DMS Project Manager</b>
<b>Conditional Approved By:</b>  <div style="border-bottom: 1px solid black; width: 80%; margin-left: 0;"></div>	<b>For Division Administrator FHWA</b>
<input type="checkbox"/> Check this box if there are outstanding issues	
<b>Final Approval By:</b>  <div style="border-bottom: 1px solid black; width: 80%; margin-left: 0;"> <i>Donald W. Brew</i> </div>	<div style="border-bottom: 1px solid black; width: 80%; margin-left: auto; margin-right: auto;"> <i>9-24-19</i> </div>
<b>Date</b>	<b>For Division Administrator FHWA</b>

Part 2: All Projects Regulation/Question		Response
<b>Coastal Zone Management Act (CZMA)</b>		
1. Is the project located in a CAMA county?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Does the project involve ground-disturbing activities within a CAMA Area of Environmental Concern (AEC)?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
3. Has a CAMA permit been secured?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
4. Has NCDCCM agreed that the project is consistent with the NC Coastal Management Program?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)</b>		
1. Is this a "full-delivery" project?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Has the zoning/land use of the subject property and adjacent properties ever been designated as commercial or industrial?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
3. As a result of a limited Phase I Site Assessment, are there known or potential hazardous waste sites within or adjacent to the project area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
4. As a result of a Phase I Site Assessment, are there known or potential hazardous waste sites within or adjacent to the project area?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
5. As a result of a Phase II Site Assessment, are there known or potential hazardous waste sites within the project area?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
6. Is there an approved hazardous mitigation plan?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>National Historic Preservation Act (Section 106)</b>		
1. Are there properties listed on, or eligible for listing on, the National Register of Historic Places in the project area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Does the project affect such properties and does the SHPO/THPO concur?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
3. If the effects are adverse, have they been resolved?		<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
<b>Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)</b>		
1. Is this a "full-delivery" project?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Does the project require the acquisition of real estate?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Was the property acquisition completed prior to the intent to use federal funds?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
4. Has the owner of the property been informed: * prior to making an offer that the agency does not have condemnation authority; and * what the fair market value is believed to be?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>Part 3: Ground-Disturbing Activities</b>	
<b>Regulation/Question</b>	<b>Response</b>
<b>American Indian Religious Freedom Act (AIRFA)</b>	
1. Is the project located in a county claimed as "territory" by the Eastern Band of Cherokee Indians?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the site of religious importance to American Indians?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Is the project listed on, or eligible for listing on, the National Register of Historic Places?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Have the effects of the project on this site been considered?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Antiquities Act (AA)</b>	
1. Is the project located on Federal lands?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will there be loss or destruction of historic or prehistoric ruins, monuments or objects of antiquity?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Will a permit from the appropriate Federal agency be required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Has a permit been obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Archaeological Resources Protection Act (ARPA)</b>	
1. Is the project located on federal or Indian lands (reservation)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will there be a loss or destruction of archaeological resources?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Will a permit from the appropriate Federal agency be required?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Has a permit been obtained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Endangered Species Act (ESA)</b>	
1. Are federal Threatened and Endangered species and/or Designated Critical Habitat listed for the county?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is Designated Critical Habitat or suitable habitat present for listed species?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Are T&E species present or is the project being conducted in Designated Critical Habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Is the project "likely to adversely affect" the specie and/or "likely to adversely modify" Designated Critical Habitat?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
5. Does the USFWS/NOAA-Fisheries concur in the effects determination?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
6. Has the USFWS/NOAA-Fisheries rendered a "jeopardy" determination?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

<b>Executive Order 13007 (Indian Sacred Sites)</b>	
1. Is the project located on Federal lands that are within a county claimed as "territory" by the EBCI?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has the EBCI indicated that Indian sacred sites may be impacted by the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Have accommodations been made for access to and ceremonial use of Indian sacred sites?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Farmland Protection Policy Act (FPPA)</b>	
1. Will real estate be acquired?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has NRCS determined that the project contains prime, unique, statewide or locally important farmland?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Has the completed Form AD-1006 been submitted to NRCS?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Fish and Wildlife Coordination Act (FWCA)</b>	
1. Will the project impound, divert, channel deepen, or otherwise control/modify any water body?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Have the USFWS and the NCWRC been consulted?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Land and Water Conservation Fund Act (Section 6(f))</b>	
1. Will the project require the conversion of such property to a use other than public, outdoor recreation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has the NPS approved of the conversion?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Magnuson-Stevens Fishery Conservation and Management Act (Essential Fish Habitat)</b>	
1. Is the project located in an estuarine system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is suitable habitat present for EFH-protected species?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
3. Is sufficient design information available to make a determination of the effect of the project on EFH?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
4. Will the project adversely affect EFH?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
5. Has consultation with NOAA-Fisheries occurred?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Migratory Bird Treaty Act (MBTA)</b>	
1. Does the USFWS have any recommendations with the project relative to the MBTA?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Have the USFWS recommendations been incorporated?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<b>Wilderness Act</b>	
1. Is the project in a Wilderness area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has a special use permit and/or easement been obtained from the maintaining federal agency?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

Appendix  
Supporting Documentation for  
Categorical Exclusion Form for NC DENR Division of Mitigation  
Services (DMS) Projects

Contents

Limited Phase I ESA – EDR Report  
    Radius Report  
    Sanborn Map  
    Historic Aerial Photo Report

Agency Letters

    State Historic Preservation Office Letter  
    Uniform Act Letter  
    Letter References

    Figure 1 – Vicinity Map  
    Figure 2 – Project Watershed  
    Figure 3 – Watershed Land Use  
    Figure 4 – Project Area

Agency Response Letters

    State Historic Preservation Office Letter

## Limited Phase I ESA

1. Radius Report
2. Sanborn Map
3. Historic Topography



**Pond Haven Buffer Restoration Site**

2635 HWY 96 South  
Franklinton, NC 27525

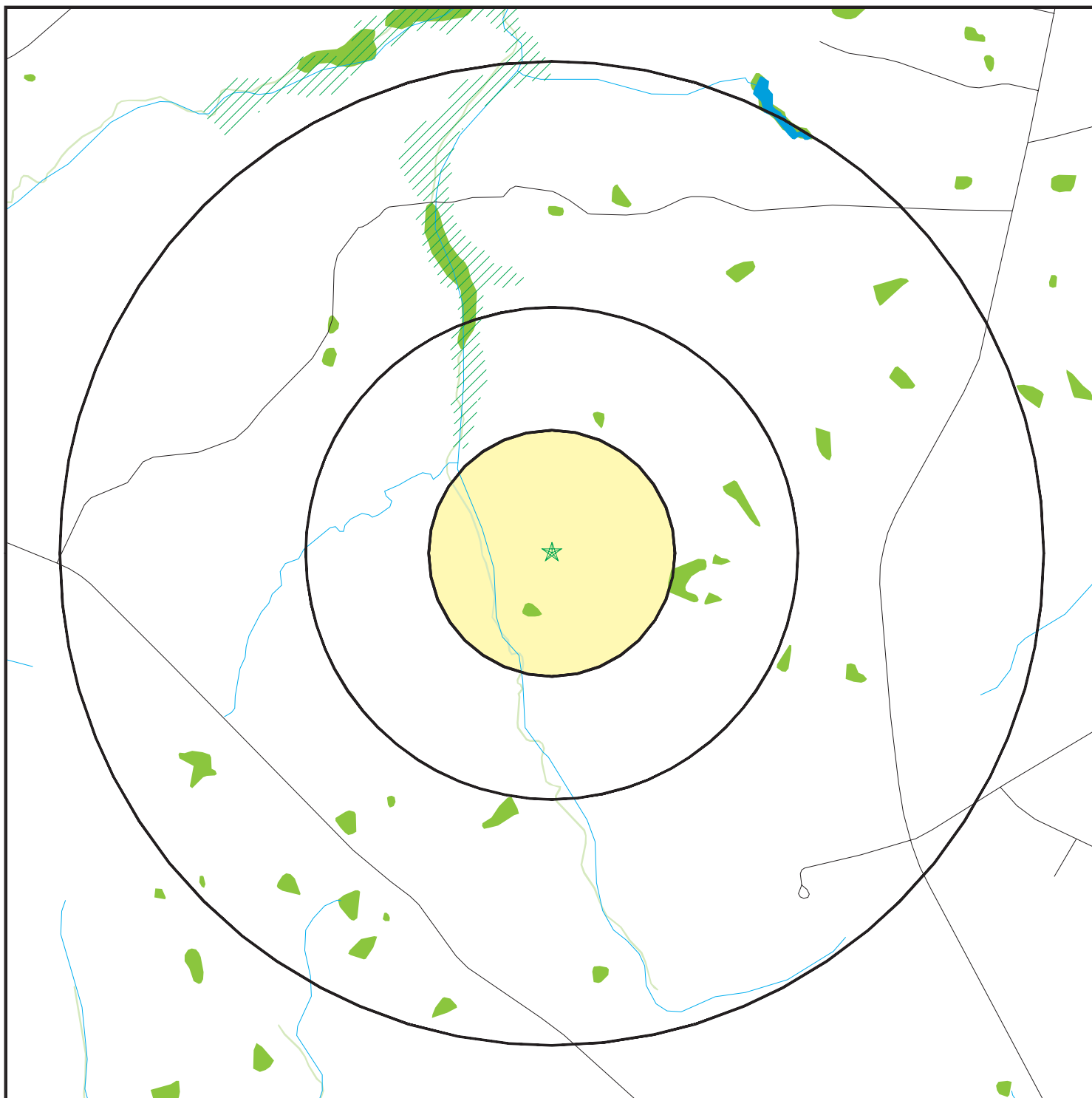
Inquiry Number: 5737069.2s  
August 01, 2019

**The EDR Radius Map™ Report with GeoCheck®**



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Toll Free: 800.352.0050  
[www.edrnet.com](http://www.edrnet.com)

# OVERVIEW MAP - 5737069.2S



- ★ Target Property
- ▲ Sites at elevations higher than or equal to the target property
- ◆ Sites at elevations lower than the target property
- ▲ Manufactured Gas Plants
- ☒ National Priority List Sites
- ☒ Dept. Defense Sites

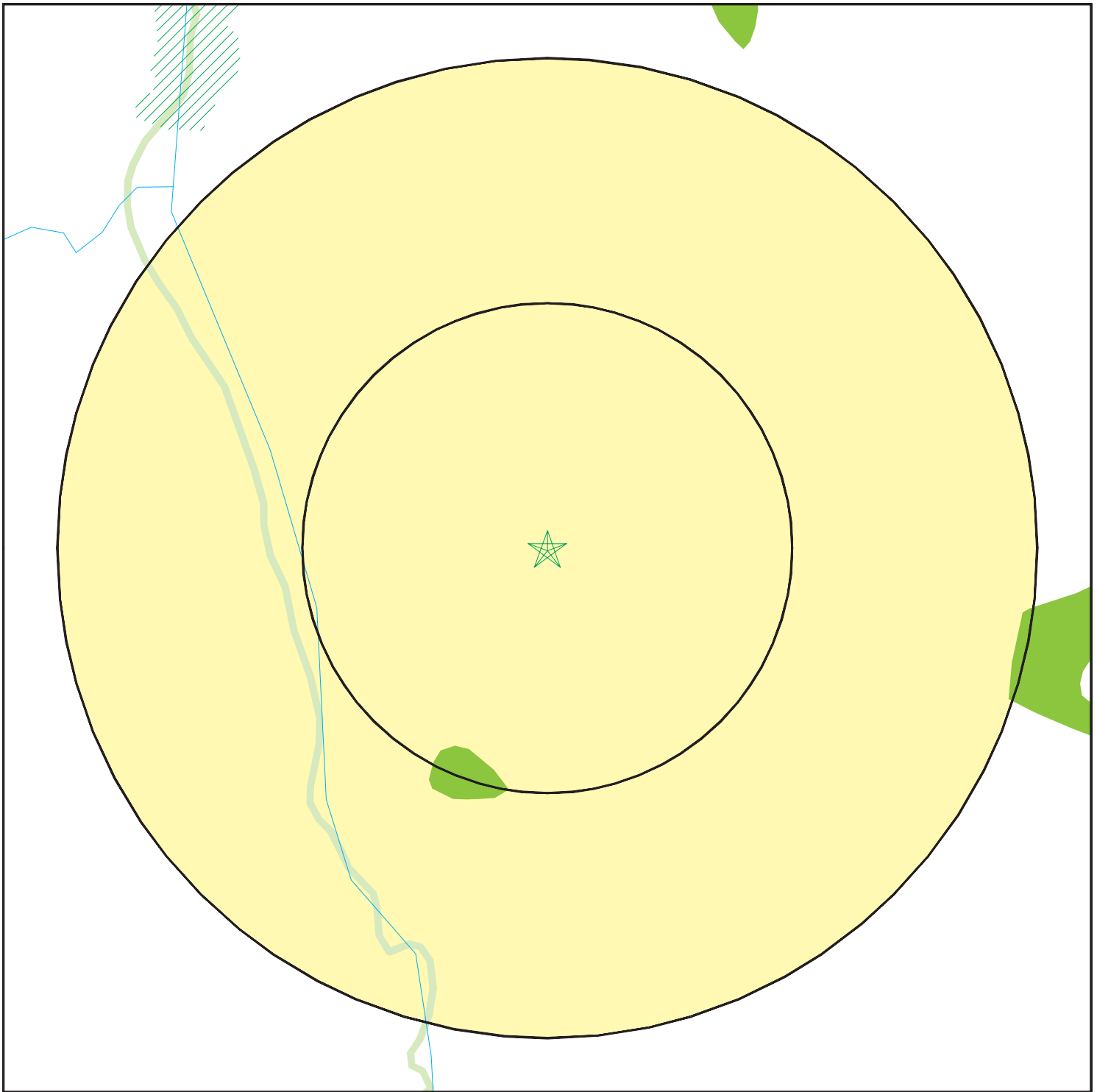
- 0 1/4 1/2 1 Miles
- ☒ Indian Reservations BIA
- ▨ 100-year flood zone
- ▨ 500-year flood zone
- National Wetland Inventory
- State Wetlands
- ☒ Hazardous Substance Disposal Sites

This report includes Interactive Map Layers to display and/or hide map information. The legend includes only those icons for the default map view.

SITE NAME: Pond Haven Buffer Restoration Site  
 ADDRESS: 2635 HWY 96 South  
 Franklinton NC 27525  
 LAT/LONG: 36.1591 / 78.5954

CLIENT: KCI Technologies, Inc.  
 CONTACT: Charlie Morgan  
 INQUIRY #: 5737069.2s  
 DATE: August 01, 2019 12:19 pm

# DETAIL MAP - 5737069.2S



- ★ Target Property
- ▲ Sites at elevations higher than or equal to the target property
- ◆ Sites at elevations lower than the target property
- ⚙ Manufactured Gas Plants
- ⚡ Sensitive Receptors
- 🚚 National Priority List Sites
- 🏠 Dept. Defense Sites



- 🏠 Indian Reservations BIA
- 🌊 100-year flood zone
- 🌊 500-year flood zone
- 🌿 National Wetland Inventory
- 🌿 State Wetlands
- 🚚 Hazardous Substance Disposal Sites



This report includes Interactive Map Layers to display and/or hide map information. The legend includes only those icons for the default map view.

SITE NAME: Pond Haven Buffer Restoration Site  
 ADDRESS: 2635 HWY 96 South  
 Franklinton NC 27525  
 LAT/LONG: 36.1591 / 78.5954

CLIENT: KCI Technologies, Inc.  
 CONTACT: Charlie Morgan  
 INQUIRY #: 5737069.2s  
 DATE: August 01, 2019 12:22 pm

## MAP FINDINGS SUMMARY

Database	Search Distance (Miles)	Target Property	< 1/8	1/8 - 1/4	1/4 - 1/2	1/2 - 1	> 1	Total Plotted
<b>STANDARD ENVIRONMENTAL RECORDS</b>								
<b><i>Federal NPL site list</i></b>								
NPL	1.000		0	0	0	0	NR	0
Proposed NPL	1.000		0	0	0	0	NR	0
NPL LIENS	1.000		0	0	0	0	NR	0
<b><i>Federal Delisted NPL site list</i></b>								
Delisted NPL	1.000		0	0	0	0	NR	0
<b><i>Federal CERCLIS list</i></b>								
FEDERAL FACILITY	0.500		0	0	0	NR	NR	0
SEMS	0.500		0	0	0	NR	NR	0
<b><i>Federal CERCLIS NFRAP site list</i></b>								
SEMS-ARCHIVE	0.500		0	0	0	NR	NR	0
<b><i>Federal RCRA CORRACTS facilities list</i></b>								
CORRACTS	1.000		0	0	0	0	NR	0
<b><i>Federal RCRA non-CORRACTS TSD facilities list</i></b>								
RCRA-TSDF	0.500		0	0	0	NR	NR	0
<b><i>Federal RCRA generators list</i></b>								
RCRA-LQG	0.250		0	0	NR	NR	NR	0
RCRA-SQG	0.250		0	0	NR	NR	NR	0
RCRA-CESQG	0.250		0	0	NR	NR	NR	0
<b><i>Federal institutional controls / engineering controls registries</i></b>								
LUCIS	0.500		0	0	0	NR	NR	0
US ENG CONTROLS	0.500		0	0	0	NR	NR	0
US INST CONTROL	0.500		0	0	0	NR	NR	0
<b><i>Federal ERNS list</i></b>								
ERNS	TP		NR	NR	NR	NR	NR	0
<b><i>State- and tribal - equivalent NPL</i></b>								
NC HSDS	1.000		0	0	0	0	NR	0
<b><i>State- and tribal - equivalent CERCLIS</i></b>								
SHWS	1.000		0	0	0	0	NR	0
<b><i>State and tribal landfill and/or solid waste disposal site lists</i></b>								
SWF/LF	0.500		0	0	0	NR	NR	0
OLI	0.500		0	0	0	NR	NR	0
DEBRIS	0.500		0	0	0	NR	NR	0
LCID	0.500		0	0	0	NR	NR	0



## MAP FINDINGS SUMMARY

Database	Search Distance (Miles)	Target Property	< 1/8	1/8 - 1/4	1/4 - 1/2	1/2 - 1	> 1	Total Plotted
<b>State and tribal leaking storage tank lists</b>								
LAST	0.500		0	0	0	NR	NR	0
LUST	0.500		0	0	0	NR	NR	0
INDIAN LUST	0.500		0	0	0	NR	NR	0
LUST TRUST	0.500		0	0	0	NR	NR	0
<b>State and tribal registered storage tank lists</b>								
FEMA UST	0.250		0	0	NR	NR	NR	0
UST	0.250		0	0	NR	NR	NR	0
AST	0.250		0	0	NR	NR	NR	0
INDIAN UST	0.250		0	0	NR	NR	NR	0
<b>State and tribal institutional control / engineering control registries</b>								
INST CONTROL	0.500		0	0	0	NR	NR	0
<b>State and tribal voluntary cleanup sites</b>								
VCP	0.500		0	0	0	NR	NR	0
INDIAN VCP	0.500		0	0	0	NR	NR	0
<b>State and tribal Brownfields sites</b>								
BROWNFIELDS	0.500		0	0	0	NR	NR	0
<b><u>ADDITIONAL ENVIRONMENTAL RECORDS</u></b>								
<b>Local Brownfield lists</b>								
US BROWNFIELDS	0.500		0	0	0	NR	NR	0
<b>Local Lists of Landfill / Solid Waste Disposal Sites</b>								
SWRCY	0.500		0	0	0	NR	NR	0
HIST LF	0.500		0	0	0	NR	NR	0
INDIAN ODI	0.500		0	0	0	NR	NR	0
DEBRIS REGION 9	0.500		0	0	0	NR	NR	0
ODI	0.500		0	0	0	NR	NR	0
IHS OPEN DUMPS	0.500		0	0	0	NR	NR	0
<b>Local Lists of Hazardous waste / Contaminated Sites</b>								
US HIST CDL	TP		NR	NR	NR	NR	NR	0
US CDL	TP		NR	NR	NR	NR	NR	0
<b>Local Land Records</b>								
LIENS 2	TP		NR	NR	NR	NR	NR	0
<b>Records of Emergency Release Reports</b>								
HMIRS	TP		NR	NR	NR	NR	NR	0
SPILLS	TP		NR	NR	NR	NR	NR	0
IMD	0.500		0	0	0	NR	NR	0

## MAP FINDINGS SUMMARY

Database	Search Distance (Miles)	Target Property	< 1/8	1/8 - 1/4	1/4 - 1/2	1/2 - 1	> 1	Total Plotted
SPILLS 90	TP		NR	NR	NR	NR	NR	0
SPILLS 80	TP		NR	NR	NR	NR	NR	0
<b>Other Ascertainable Records</b>								
RCRA NonGen / NLR	0.250		0	0	NR	NR	NR	0
FUDS	1.000		0	0	0	0	NR	0
DOD	1.000		0	0	0	0	NR	0
SCRD DRYCLEANERS	0.500		0	0	0	NR	NR	0
US FIN ASSUR	TP		NR	NR	NR	NR	NR	0
EPA WATCH LIST	TP		NR	NR	NR	NR	NR	0
2020 COR ACTION	0.250		0	0	NR	NR	NR	0
TSCA	TP		NR	NR	NR	NR	NR	0
TRIS	TP		NR	NR	NR	NR	NR	0
SSTS	TP		NR	NR	NR	NR	NR	0
ROD	1.000		0	0	0	0	NR	0
RMP	TP		NR	NR	NR	NR	NR	0
RAATS	TP		NR	NR	NR	NR	NR	0
PRP	TP		NR	NR	NR	NR	NR	0
PADS	TP		NR	NR	NR	NR	NR	0
ICIS	TP		NR	NR	NR	NR	NR	0
FTTS	TP		NR	NR	NR	NR	NR	0
MLTS	TP		NR	NR	NR	NR	NR	0
COAL ASH DOE	TP		NR	NR	NR	NR	NR	0
COAL ASH EPA	0.500		0	0	0	NR	NR	0
PCB TRANSFORMER	TP		NR	NR	NR	NR	NR	0
RADINFO	TP		NR	NR	NR	NR	NR	0
HIST FTTS	TP		NR	NR	NR	NR	NR	0
DOT OPS	TP		NR	NR	NR	NR	NR	0
CONSENT	1.000		0	0	0	0	NR	0
INDIAN RESERV	1.000		0	0	0	0	NR	0
FUSRAP	1.000		0	0	0	0	NR	0
UMTRA	0.500		0	0	0	NR	NR	0
LEAD SMELTERS	TP		NR	NR	NR	NR	NR	0
US AIRS	TP		NR	NR	NR	NR	NR	0
US MINES	0.250		0	0	NR	NR	NR	0
ABANDONED MINES	0.250		0	0	NR	NR	NR	0
FINDS	TP		NR	NR	NR	NR	NR	0
ECHO	TP		NR	NR	NR	NR	NR	0
UXO	1.000		0	0	0	0	NR	0
DOCKET HWC	TP		NR	NR	NR	NR	NR	0
FUELS PROGRAM	0.250		0	0	NR	NR	NR	0
AIRS	TP		NR	NR	NR	NR	NR	0
ASBESTOS	TP		NR	NR	NR	NR	NR	0
COAL ASH	0.500		0	0	0	NR	NR	0
DRYCLEANERS	0.250		0	0	NR	NR	NR	0
Financial Assurance	TP		NR	NR	NR	NR	NR	0
NPDES	TP		NR	NR	NR	NR	NR	0
UIC	TP		NR	NR	NR	NR	NR	0
AOP	TP		NR	NR	NR	NR	NR	0
PCSRP	0.500		0	0	0	NR	NR	0
SEPT HAULERS	TP		NR	NR	NR	NR	NR	0

## MAP FINDINGS SUMMARY

Database	Search Distance (Miles)	Target Property	< 1/8	1/8 - 1/4	1/4 - 1/2	1/2 - 1	> 1	Total Plotted
CCB	0.500		0	0	0	NR	NR	0
<b><u>EDR HIGH RISK HISTORICAL RECORDS</u></b>								
<b><i>EDR Exclusive Records</i></b>								
EDR MGP	1.000		0	0	0	0	NR	0
EDR Hist Auto	0.125		0	NR	NR	NR	NR	0
EDR Hist Cleaner	0.125		0	NR	NR	NR	NR	0
<b><u>EDR RECOVERED GOVERNMENT ARCHIVES</u></b>								
<b><i>Exclusive Recovered Govt. Archives</i></b>								
RGA HWS	TP		NR	NR	NR	NR	NR	0
RGA LF	TP		NR	NR	NR	NR	NR	0
RGA LUST	TP		NR	NR	NR	NR	NR	0
- Totals --		0	0	0	0	0	0	0

**NOTES:**

TP = Target Property

NR = Not Requested at this Search Distance

Sites may be listed in more than one database



Map ID  
Direction  
Distance  
Elevation

MAP FINDINGS

Site

Database(s)

EDR ID Number  
EPA ID Number

NO SITES FOUND

Pond Haven Buffer Restoration Site

2635 HWY 96 South

Franklinton, NC 27525

Inquiry Number: 5737069.3

August 01, 2019

## Certified Sanborn® Map Report



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# Certified Sanborn® Map Report

08/01/19

**Site Name:**

Pond Haven Buffer Restoration  
2635 HWY 96 South  
Franklinton, NC 27525  
EDR Inquiry # 5737069.3

**Client Name:**

KCI Technologies, Inc.  
4601 Six Forks Road  
Raleigh, NC 27609  
Contact: Charlie Morgan



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## Certified Sanborn Results:

**Certification #** 6E37-492E-861A  
**PO #** 161904105.1ER.CE  
**Project** PHBR5

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Sanborn® Library search results

Certification #: 6E37-492E-861A

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- Library of Congress
- University Publications of America
- EDR Private Collection

*The Sanborn Library LLC Since 1866™*

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**Pond Haven Buffer Restoration Site**

2635 HWY 96 South

Franklinton, NC 27525

Inquiry Number: 5737069.5

August 01, 2019

## The EDR Aerial Photo Decade Package



6 Armstrong Road, 4th floor  
Shelton, CT 06484  
Toll Free: 800.352.0050  
[www.edrnet.com](http://www.edrnet.com)

# EDR Aerial Photo Decade Package

08/01/19

**Site Name:**

Pond Haven Buffer Restoration  
2635 HWY 96 South  
Franklinton, NC 27525  
EDR Inquiry # 5737069.5

**Client Name:**

KCI Technologies, Inc.  
4601 Six Forks Road  
Raleigh, NC 27609  
Contact: Charlie Morgan



Environmental Data Resources, Inc. (EDR) Aerial Photo Decade Package is a screening tool designed to assist environmental professionals in evaluating potential liability on a target property resulting from past activities. EDR's professional researchers provide digitally reproduced historical aerial photographs, and when available, provide one photo per decade.

**Search Results:**

<u>Year</u>	<u>Scale</u>	<u>Details</u>	<u>Source</u>
2016	1"=500'	Flight Year: 2016	USDA/NAIP
2012	1"=500'	Flight Year: 2012	USDA/NAIP
2009	1"=500'	Flight Year: 2009	USDA/NAIP
2006	1"=500'	Flight Year: 2006	USDA/NAIP
1999	1"=750'	Flight Date: February 22, 1999	USGS
1993	1"=500'	Acquisition Date: February 23, 1993	USGS/DOQQ
1983	1"=1000'	Flight Date: April 04, 1983	USGS
1980	1"=1000'	Flight Date: January 19, 1980	USGS
1974	1"=500'	Flight Date: February 28, 1974	USGS
1950	1"=500'	Flight Date: November 18, 1950	USGS

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INQUIRY #: 5737069.5

YEAR: 2016

— = 500'







INQUIRY #: 5737069.5

YEAR: 2012

— = 500'







INQUIRY #: 5737069.5

YEAR: 2009

— = 500'







INQUIRY #: 5737069.5

YEAR: 2006

— = 500'





-0388



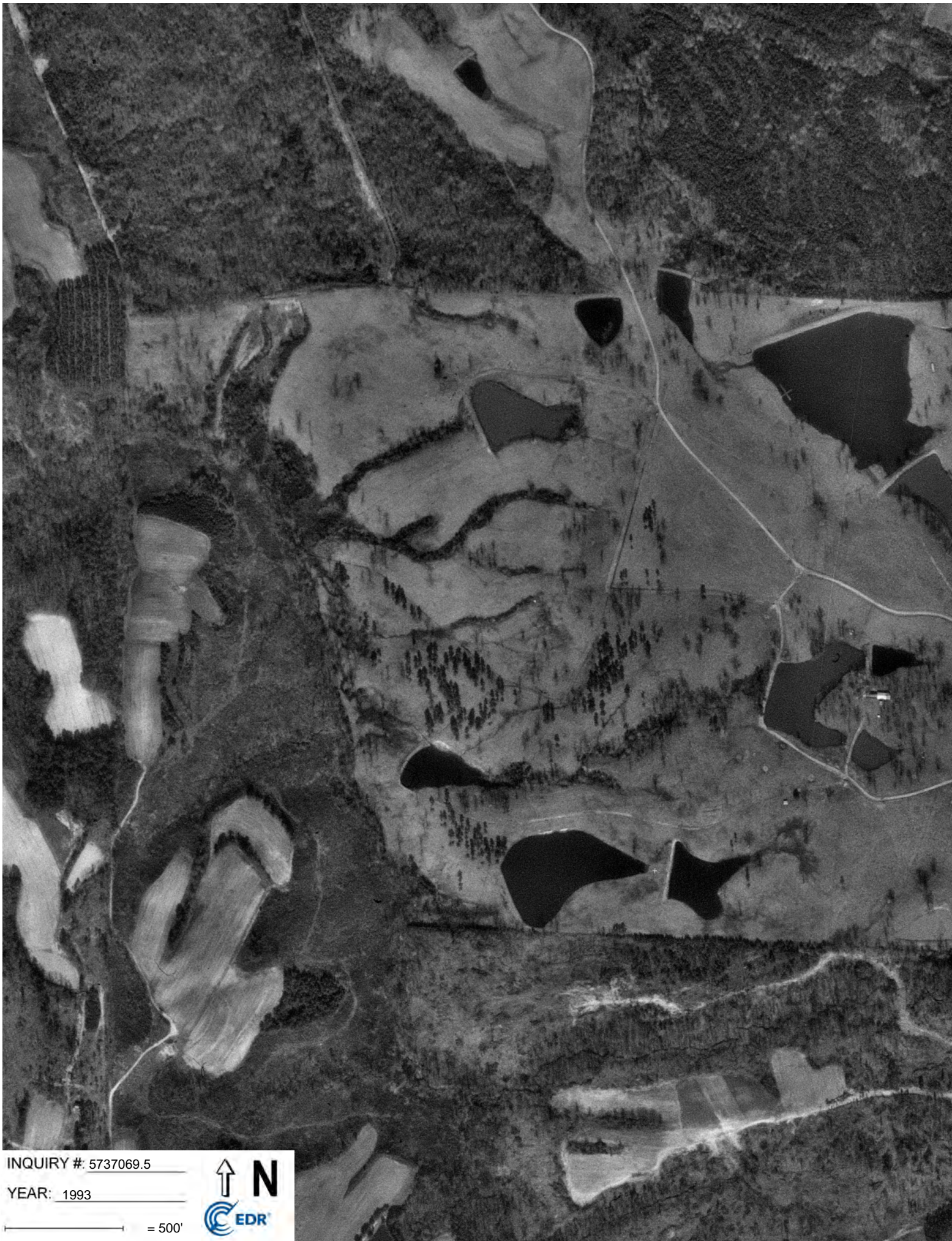
INQUIRY #: 5737069.5

YEAR: 1999

— = 750'







INQUIRY #: 5737069.5

YEAR: 1993

— = 500'






INQUIRY #: 5737069.5

YEAR: 1983

↑ N

— = 1000'







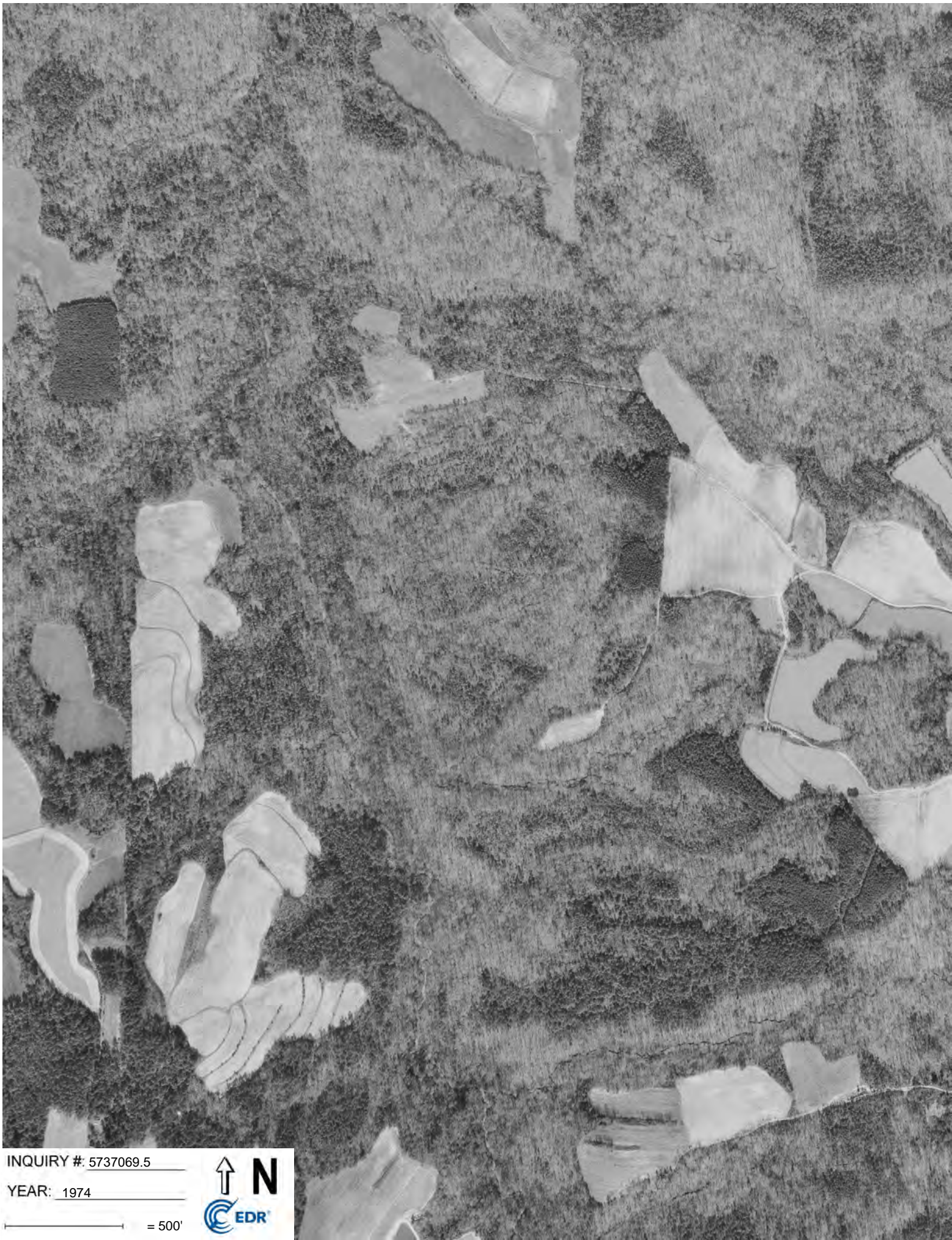
INQUIRY #: 5737069.5

YEAR: 1980

— = 1000'







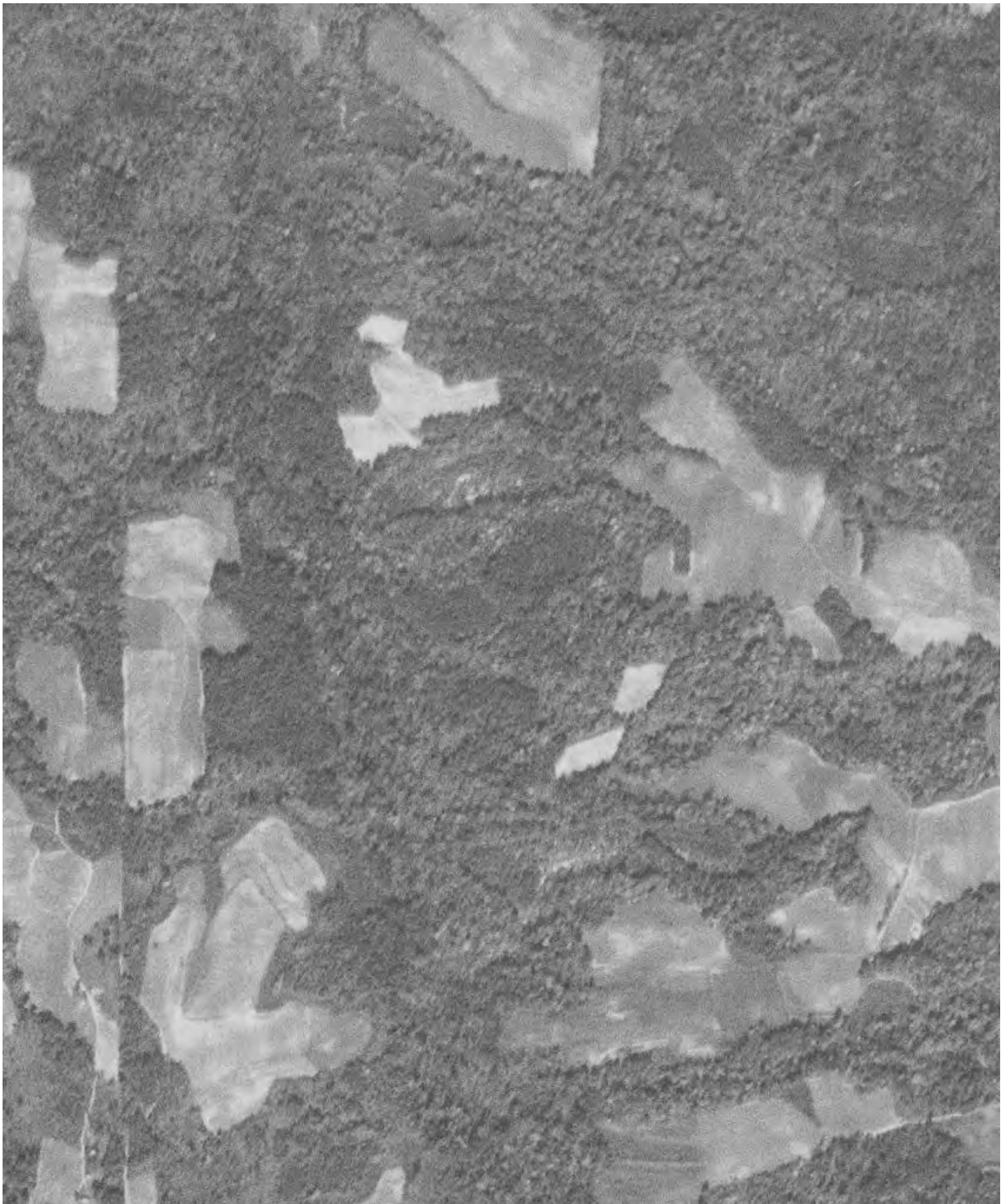
INQUIRY #: 5737069.5

YEAR: 1974

— = 500'







INQUIRY #: 5737069.5

YEAR: 1950

— = 500'



## Agency Letters





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ENGINEERS • SCIENTISTS • SURVEYORS • CONSTRUCTION MANAGERS

Landmark Center II, Suite 220 4601 Six Forks Road Raleigh, NC 27609 (919) 783-9214 (919) 783-9266 Fax

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9 August 2019

Ms. Renee Gledhill-Earley  
Environmental Review Coordinator  
State Historic Preservation Office  
4617 Mail Service Center  
Raleigh, NC 27699-4617

Subject: Cultural Resources Review  
Pond Haven Buffer Restoration Site  
KCI Job # 161904105

Dear Mrs. Gledhill-Earley:

On behalf of our client, the North Carolina Division of Mitigation Services (DMS), KCI Technologies, Inc. requests review and comment on any possible issues that might emerge with respect to archaeological or cultural resources associated with a potential buffer restoration project on the above referenced site. The PHBRS is situated in central Granville County. The site is located approximately three miles northeast of Creedmoor, North Carolina. Specifically, the site is on the west side of NC-96, south of Cannady Road. The center of the site is at approximately 36.1591 N and -78.5954 W in the Wilton USGS Quadrangle. The location of the project is shown in Figure 1 and the USGS quadrangle is shown in Figure 2. The site is within the 03020101 Watershed Cataloging Unit (8-digit HUC) of the Tar-Pamlico River Basin and the 14-digit HUC 03020101010060 (Bollens and Johnson Creeks). Current land use is primarily agricultural (Figure 3). Please accept the attached information as a submittal for cultural resources review by the State Historic Preservation Office and the Office of State Archaeology.

The PHBRS is a candidate site for buffer restoration in the Tar-Pamlico River Basin in Granville County, North Carolina. As evidenced by historic aerial photos and site investigations, the buffers at this site have been substantially modified by agricultural practices, impacted from cattle, and other anthropogenic impacts. Restoring these stream buffers will not only return a functional riparian buffer, but will also lower the supply of sediment entering the Tar River. Restoration work on the site will consist of cattle exclusion and establishment of a native riparian buffer. There will not be any impacts to existing structures (buildings, barns, etc.) on the subject property. No architectural structures or archeological artifacts have been observed or noted during preliminary surveys of the site for restoration purposes. Proposed mitigation actions are shown on Figure 4.

Please feel free to contact me at 919-278-2470, should you have any questions or require any further information concerning the extent of site disturbance associated with this project. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Charlie Morgan".

Charlie Morgan  
Project Scientist



ISO 9001:2015 CERTIFIED

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4505 Falls of Neuse Rd., Suite 400 • Raleigh, NC 27609 • Phone 919-783-9214 • Fax 919-783-9266

9 August 2019

Windley Family Unity Partnership  
c/o Heber Windley  
2635 HWY 96 South  
Franklinton, NC 27525

Subject: Notification of Uniform Act Provisions  
KCI Job Number – 161904105

Dear Mr. Windley:

As part of the environmental documentation process in preparation for the stream and wetland restoration project on your property, this letter is to inform you of provisions in the Federal Highway Administration Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, referred to as the Uniform Act.

The Uniform Act was developed to provide for uniform and equitable treatment of persons displaced from their homes, businesses, non-profit associations, or farms by federal and federally-assisted programs, and establishes uniform and equitable land acquisition policies. The Act assures that such persons are treated fairly, consistently, and equitably, and so that they will not suffer disproportionate injuries.

This act applies to any project which utilizes federal funds for the purchase of any interest in real property, including conservation easements. A portion of the funding for this project is ultimately provided by the US Department of Transportation, through the NC Department of Transportation for in-kind mitigation to offset impacts from transportation projects in the area, and therefore we are required to inform you of the following provisions.

The provisions of this act require that we inform you in writing that this conservation easement transaction is voluntary and that the project is being developed by KCI for the North Carolina Division of Mitigation Services (NCDMS), and as a result, KCI or NCDMS does not have the authority to acquire the property by eminent domain in the event negotiations fail to reach an amicable agreement. In addition, the Act requires that we indicate the agreed purchase price of \$10,000 per acre.

This letter is for your information, and no response is necessary. Please feel free to contact me at 919-278-7470, should you have any questions or require any further information.

Sincerely,

Charlie Morgan  
Project Scientist

## Agency Responses





**North Carolina Department of Natural and Cultural Resources**  
**State Historic Preservation Office**

Ramona M. Bartos, Administrator

Governor Roy Cooper  
Secretary Susi H. Hamilton

Office of Archives and History  
Deputy Secretary Kevin Cherry

September 16, 2019

Charlie Morgan  
KCI Technologies  
Landmark Center II, Suite 220  
4601 Six Forks Road  
Raleigh, NC 27609

Re: Pond Haven Buffer Restoration, NC 96, Creedmoor, Granville County, ER 19-2561

Dear Mr. Morgan:

Thank you for your email of August 12, 2019, concerning the above project.

We have conducted a review of the project and are aware of no historic resources which would be affected by the project. Therefore, we have no comment on the project as proposed.

The above comments are made pursuant to Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation's Regulations for Compliance with Section 106 codified at 36 CFR Part 800.

Thank you for your cooperation and consideration. If you have questions concerning the above comment, contact Renee Gledhill-Earley, environmental review coordinator, at 919-807-6579 or [environmental.review@ncdcr.gov](mailto:environmental.review@ncdcr.gov). In all future communication concerning this project, please cite the above referenced tracking number.

Sincerely,

A handwritten signature in blue ink that reads "Renee Gledhill-Earley".

*for* Ramona Bartos, Deputy  
State Historic Preservation Officer

## Existing Condition Photos

POND HAVEN BUFFER RESTORATION SITE PHOTOS 12/21/2019



**Photo 1:** Looking at cleared area at the bottom of T2.



**Photo 2:** Looking at narrow buffer along T3.



**Photo 3:** Looking at preservation buffer area along T1.



**Photo 4:** Looking at preservation buffer area along T1.



**Photo 5:** T1 channel.



**Photo 6:** Top of T1-1.





**Photo 7:** Looking at the start of T3



**Photo 8:** Example of cleared buffer.