

**NC Land and Water Fund  
Report Required per S.L. 2019-032, 1.(e)  
July 2020**

**TO: Joint Legislative Commission on Government Operations**

The Honorable Phil Berger, Chair

The Honorable Tim Moore, Chair

**Environmental Review Commission**

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**Division of Fiscal Research, North Carolina General Assembly**

Mark Trogdon, Director, Fiscal Research Division

Kristine Leggett, Fiscal Research Division

**FROM:** Walter Clark, Executive Director NCLWF on behalf of Greer Cawood, Chair of the Board of Trustees for the NC Land and Water Fund

**RE:** NC Land and Water Fund Report Required per S.L. 2019-032, 1.(e)

## Introduction

The Department of Natural and Cultural Resources and the staff and Board of Trustees of the NC Land and Water Fund (NCLWF), formerly known as the Clean Water Management Trust Fund, thank the members of the General Assembly of North Carolina for their continued and substantial commitments to protect safe and clean drinking water, natural and cultural resources, and the U.S. military mission within North Carolina. The NCLWF hereby presents this report summarizing implementation of Section 1.(a) of S.L. 2019-032.

## Background

In 2019, the General Assembly passed an act to reconstitute several boards and commissions held to have unconstitutionally appointed membership pursuant to *McCrory v. Berger* and *Cooper v. Berger*. In addition to those changes in the appointing authority, several other changes to the enabling statute for the NCLWF were made that primarily affected the purposes and scoring criteria. The act also changed the Fund's name. Those changes will be addressed in order, by section.

### § 143B-135.234. Clean Water Management Trust Fund.

(a) Fund Established. – The Clean Water Management Trust Fund is established as a special revenue fund to be administered by the Department of Natural and Cultural Resources. The Clean Water Management Trust Fund shall also be known as the "Land and Water Fund."

1. Name Change to "NC Land and Water Fund" - The Fund is nearing completion of a rebranding effort and expects to roll out a new logo and publicly adopt the new name on September 1, 2020.

The Fund receives revenue from the following sources and may receive revenue from other sources:

- (1) Annual appropriations.
- (2) Special registration plates under G.S. 20-81.12.
- (3) Other special registration plates under G.S. 20-79.7.
- (4) Hazard mitigation funds from the Federal Emergency Management Agency and other agencies.

2. Hazard Mitigation Funds – NCLWF has been collaborating with the North Carolina Office of Resilience and Recovery and Federal agency staff to ensure that we are aware of any federal funds

that would be appropriate to complement our funds or that may need a State agency partner to act as a sub-grantee.

(7) ~~To provide buffers around military bases or for State matching funds for the Readiness and Environmental Protection Initiative, a federal funding initiative that provides funds for military buffers.~~ To prevent encroachment, provide buffers, and preserve natural habitats around military installations or military training areas, or for State matching funds of federal initiatives that provide funds to prevent encroachment, provide buffers, and preserve natural habitats around military installations or military training areas.

3. Change to Fund Purpose #7 – This was a clarification for the military buffer protection part of NCLWF’s mission that makes the connection between the military projects and preserving natural habitats clear. The program implementation was consistent with this language and no additional action was necessary our part.

(12) To protect and restore floodplains and wetlands for the purpose of storing water, reducing flooding, improving water quality, providing wildlife and aquatic habitat, and providing recreational opportunities.

4. Change to Fund Purpose #12 – NCLWF already works in floodplains and wetlands. However, changes were made to the rating system to more clearly reflect the benefit of projects in these areas.

**§ 143B-135.240. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of nine members appointed to three-year terms as follows:

- (1) ~~One member~~ Two members appointed by the Governor to ~~a term~~ terms that ~~expires~~ expire on July 1 of years that precede by one year those years that are evenly divisible by three.
- (2) ~~One member~~ Two members appointed by the Governor to ~~a term~~ terms that ~~expires~~ expire on July 1 of years that follow by one year those years that are evenly divisible by three.
- (3) One member appointed by the Governor to a term that expires on July 1 of years that are evenly divisible by three.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.
- (5) ~~One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.~~
- (6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on July 1 of years that are evenly divisible by three.
- (7) ~~One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that precede by one year those years that are evenly divisible by three.~~
- (8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that follow by one year those years that are evenly divisible by three.
- (9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on July 1 of years that are evenly divisible by three.

The initial terms of members appointed pursuant to subdivisions (2) and (8) of this subsection shall expire July 1, 2020. The initial terms of members appointed pursuant to subdivisions (1) and (4) of this subsection shall expire July 1, 2021. The initial terms of members appointed pursuant to subdivisions (3), (6), and (9) of this subsection shall expire July 1, 2022.

1. Membership – The appointments to the Board of Trustees were adjusted such that one each of the members previously appointed the President Pro Tempore and Speaker of the House of Representatives was assigned to the Governor. Appointments are reflected in the following table.

Table 1. Current Appointments

Seat No.	Appointing Authority	Current Appointments		
		Name	Appt Date	Exp. Date
1	Governor	John Wilson	7/1/2020	6/30/2023
2	Governor	David Womack	7/1/2020	6/30/2023
3	Governor	Darrel Williams	7/1/2020	6/30/2023
4	Governor	Amy Grissom	7/1/2019	6/30/2022
5	Governor	Ann Browning	7/1/2019	6/30/2021
6	House	E Greer Cawood	7/1/2019	7/1/2022
7	House	Renee Kumor	7/1/2020	6/30/2023
8	Senate	Jason Walser	7/1/2019	7/1/2022
9	Senate	Judith Kennedy	7/1/2019	7/1/2021

**§ 143B-135.242. Clean Water Management Trust Fund Board of Trustees: powers and duties.**

(2a) The objectives of basinwide integrated water management plans developed and adopted at the regional level.

1. Addition of Grant Criteria #2a – The NCLWF Board made adjustments to the planning criterion under the Acquisition, Restoration, and Planning Programs to ensure that integrated water management plans would receive credit in the project scoring.

(8) Water supply availability and the public's need for resources adequate to meet demand for essential water uses. Criteria developed pursuant to this subdivision may include ~~consideration of the likelihood of a proposed water supply project ultimately being permitted and built.~~ the value of preserving capacity by preventing sedimentation and nutrient pollution.

2. Change to Grant Criteria #8 – The NCLWF Board removed references to the “likelihood of a proposed water supply reservoir being built” from the Acquisition and Restoration Program Criteria and inserted “By preventing sediment and nutrient pollution, the proposed project preserves the capacity of existing reservoirs” into the Restoration Criteria.

(12) The rate and likelihood of land-use change and development, where such data is available.

3. Addition of Grant Criteria #12 – The NCLWF Board considered many ways to establish the rate and likelihood of land use change. The data for this criterion had to be objective, uniformly available across the state, and easy to interpret. The best data available is a threat layer in the Southeastern Conservation Blueprint – a probability of urbanization based on the SLEUTH Model. The SLEUTH model maps the probability of urbanization across the Southeast by looking at the pattern of road growth that occurred from 2000-2009 and predicting what the future would look like if those trends continue. To receive points, the project must be within the Probability of Urbanization 2050 areas of likelihood greater than 0% based on the SLEUTH Projected Urban Growth dataset or the Applicant must provide documentation that the project area will be developed or degraded to an extent it will not be available for conservation or restoration (e.g. mines, quarries, etc.). This criterion is awarded up to 2 points in the rating system.

(13) Priority shall be given to projects that are part of a comprehensive, long-term land-use plan by a State agency, local government unit, or a nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of the State's cultural, environmental, or natural resources.

4. Addition of Grant Criteria #13 – The NCLWF Board assigned up to 3 points to projects that meet the required elements of a comprehensive long term plan as defined below.

Comprehensive, long-term plans must meet the following requirements:

- Adopted prior to application deadline by a State agency, local government unit, or a nonprofit corporation whose primary purpose is the conservation, preservation, or restoration of the State's cultural, environmental, or natural resources.
- clearly stated goals and objectives that are consistent with one or more of NCLWF's statutory criteria

To receive full points, the parcel must be specifically mentioned as a priority in the plan, and the plan must meet the following standards:

- written for a 5-10-year planning horizon
- less than 10 years old
- includes multiple stake holders and/or data layers or sources (multiple organizations, input from public meetings or surveys, etc.)

- jurisdiction wide (local governments) and/or resource-wide (i.e. entire watershed, region, natural community, historic district, greenway corridor, etc.)

Partial points may be awarded if the parcel is not specifically mentioned in a plan that otherwise meets the requirements of a plan, or if the parcel is identified in a plan that meets most, but not all standards.

**§ 143B-135.248. Clean Water Management Trust Fund: Advisory Council.**

**~~"§ 143B-135.248. Clean Water Management Trust Fund: Advisory Council.~~**

~~There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:~~

- ~~(1) Commissioner of Agriculture.~~
- ~~(2) Chair of the Wildlife Resources Commission.~~
- ~~(3) Secretary of Environmental Quality.~~
- ~~(4) Secretary of the Department of Commerce.~~
- ~~(5) Secretary of Natural and Cultural Resources."~~

1. Advisory Council Abolished – This group has not been convened for many years, so no action was necessary.

**Summary**

The staff and Board of Trustees of the NC Land and Water Fund have worked diligently to ensure that all aspects of the changes made as part of S.L. 2019-032 have been implemented as expected by the General Assembly. All of the changes to the scoring criteria were made in time to be incorporated into the 2020 Grant Cycle, in which applications are currently being reviewed for funding. The rebranding efforts will be complete soon and the NC Land and Water Fund is looking forward to unveiling our new name and brand soon. A current draft of the new logo appears below.

