Moore County
Board of Commissioners

February 18, 2025 | 5:30 PM
Historic Courthouse
1 Courthouse Square
Carthage, NC 28327

MINUTES

COMMISSIONERS PRESENT
Chairman Kurt Cook, Vice-Chairman Nick Picerno, Jim Von Canon, John Ritter, and Tom Adams

CALL TO ORDER
Chairman Cook called the meeting to order.

INVOCATION
County Manager Wayne Vest offered the invocation.

PLEDGE OF ALLEGIANCE
Chairman Cook led the Pledge of Allegiance.

1. **PUBLIC COMMENT PERIOD**
The following offered comments: John Misiaszek
Vice-Chairman Picerno offered comments as well.

2. **ADDITIONAL AGENDA**
There were no additional agenda items.

Chairman Cook asked if any Commissioner had a conflict of interest concerning agenda items the Board would address in this meeting and there were none.

3. **CONSENT AGENDA**
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to approve the following consent items and the budget amendments, insolvent list, tax release/refunds, bid request, travel reimbursement, and uncollectable beer and wine license and schedule B License are hereby incorporated as a part of these minutes by attachment as Appendices A, B, C, D, E, and F respectively:

A. Board of Commissioners - January 15, 2025, Special Meeting Minutes

B. Board of Commissioners - February 4, 2025, Regular Meeting Minutes and February 4, 2025, Closed Session Minutes

C. Finance - Budget Amendments

D. Tax - Insolvent List

E. Tax - Tax Releases/Refunds for Month of January 2025

F. Public Works - County Bid Request of NCDOT Parcel Donated for Seven Lakes Sewer Project

G. Board of Commissioners - Board of Commissioners Travel Reimbursement

H. Tax - Uncollectable Beer and Wine License and Schedule B License

4. RECOGNITIONS

There were no recognitions.

5. PRESENTATIONS

A. Board of Commissioners - Museum Project

Chairman Cook made the Board aware the presenter for this item was unable to attend due to inclement weather. This item will be moved to the March 18, 2025, at 5:30 pm Regular Meeting.

6. PUBLIC HEARINGS

A. GIS/IT - Public Hearing - Amendment to the Road Name and Addressing Ordinance to Remove Three Road Names

GIS Coordinator Rachel Smith requested the Board remove three (3) road names from the Moore County Road Name and Addressing ordinance. Section 3 of the Moore County Road Name and Addressing Ordinance states "The Addressing Administrator may remove a road name previously approved by the Moore County Board of Commissioners if the road name was approved pursuant to a preliminary subdivision plat approved by the Moore County Planning Department Subdivision Review Board, the road does not exist, and the Subdivision Review Board's approval of the preliminary subdivision plat has expired. The removal must be approved by the Moore County Board of Commissioners." The road listed here is for removal as the subdivision plans changed and is no longer needed; SANCTUARY TRL (P4244). The roads listed here are also for removal as the final subdivision plans changed to not include roads; NORTON CT (P4227) and PANORAMA VISTA (P4229). The developer plans to reuse Sanctuary Trl for another development.

Chairman Cook opened the Public Hearing on the Amendment to the Road Name and Addressing Ordinance to Remove Three Road Names and closed it after everyone who wished to speak had done so.

Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to remove three (3) roads (Sanctuary Trail, Norton Court, and Panorama Vista), from the Moore County Road Name and Addressing Ordinance as an amendment which is hereby incorporated into these minutes by attachment as Appendix G.

B. GIS/IT - Public Hearing - Amendment to the Road Name and Addressing Ordinance to Add Three Road Names

GIS Coordinator Rachel Smith presented a request for the Board to add three (3) road names to the Moore County Road Name and Addressing Ordinance. Section 3 of the Moore County Road Name and Addressing Ordinance states "No new roads outside of municipal limits in the County of Moore, whether a part of the State Secondary Road System or Private, shall be named without approval of the Board of Commissioners." The roads listed here are for initial naming and are privately maintained; LANDON WAY (P4286), SANCTUARY TRL (P4287) and PEELE FARM LN (P4288). The easement for LANDON WAY is shown on Plat Cabinet 20, Slide 516.

Chairman Cook opened the Public Hearing and closed it after everyone who wished to speak had done so.

Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Von Canon, the Board voted 5-0 to add three (3) road names (Landon Way, Sanctuary Trial, and Peel Farm Lane) to the Moore County Road Name and Addressing Ordinance by amendment, and is hereby incorporated as a part of these minutes by attachment as Appendix H.

C. GIS/IT - Public Hearing -Revision to the Road Name and Addressing Ordinance

GIS Coordinator Rachel Smith requested the Board of Commissioners amend the Moore County Road Naming and Addressing Ordinance to adopt revisions to the Moore County Road Name and Addressing Ordinance. On July 10, 1989, the Moore County Board of Commissioners enacted the Moore County Road Name and Addressing Ordinance, establishing the names of roads, a procedure for the future naming or renaming of roads, and the numbering of all houses, mobile homes, and commercial and industrial buildings. In adopting this Ordinance, the Board recognized the need for the naming of roads outside of municipal limits in the County of Moore and the numbering of residential, commercial, and industrial structures, and accessory buildings thereto, as being essential for the operation of the enhanced 911 dispatch system in the County of Moore.

Chairman Cook opened the Public Hearing and closed it after everyone who wished to speak had done so.

Upon motion made by Commissioner Ritter, seconded by Commissioner Von Canon, with discussion that followed, the Board voted 3-2, with Picerno and Adams voting no, to adopt revisions to the Moore County Road Name and Addressing Ordinance which is hereby made a part of these minutes by attachment as Appendix I.

Commissioner Adams requested the Board consider a motion to remove the verbiage of military conflicts from the Moore County Road Name and Addressing Ordinance.

Adams expressed concern about prohibiting descriptive words regarding structure and infrastructure types and would like to see that removed as well.

Public Safety Director Bryan Phillips offered remarks regarding the naming of roads and why some names are not used. He explained there have been some road signs that have continuously been replaced because of the name of the road and them being stolen. There is a system that is used to select or reject road names based on several criteria.

D. Planning - Public Hearing for a Conditional Rezoning Request: Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a Mining / Quarry Operation – 985 NC 211 Highway (ParID 20170089, ParID 20180537, and ParID 00013401)

Planning Director Debra Ensminger presented a request for a Conditional Rezoning of approximately 618 acres, on ParID 20170089, per Deed Book 6234, Page 258, owned by Williams Sand and Clay, LLC, ParID 20180537, per Deed Book 5070, Page 596, which corrected Deed Book 5064, Page 355, owned by William Arthur Williams, and wife, Jan Harman Williams, ParID 00013401, per Deed Book 6131, Page 176, owned by William Arthur Williams, and wife, Jan Harman Williams, located at 985 NC 211 Highway, from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a mining/quarry operation.

Public notification consisted of publishing a legal notice in the local newspaper for two consecutive weeks, publishing a legal notice on the Moore County website, notification by mail to adjacent property owners, and placing public hearing signs on the property.

The applicant is currently operating a mining/quarry operation on approximately 50 acres that was completed in two phases of approximately 25 acres each of an overall approximate 660-acre parcel on ParID 00013401, under a previously approved, 2016, Conditional Use Permit (CUP). At the time of the CUP, the 660-acre parcel was one parcel under ParID 00013401; however, since that time, the parcel has been subdivided into three parcels, ParID 20170089, ParID 20180537, and ParID 00013401, containing 618 acres instead of 660 acres, due to approximately 42 acres being relocated to another tract during the subdivision.

Due to revisions to the County Unified Development Ordinance (UDO), an expansion of the existing mining/quarry operation requires a Conditional Rezoning of the property. The applicant intends to continue and expand the permitted mining/quarry usage that has been operating since 2016.

The property is currently used for the mining and processing of sand and clay. The proposed expansion will include the following: a new mobile office, new weight scales, and fuel tanks. The structures are semi-permanent and may be removed once mining is complete.

A portion of the property is located within the Highway Corridor Overlay District Urban Transition NC 211 Hwy boundary; however, the mining/quarry use is located outside of the Highway Corridor Overlay Urban Transition NC 211 boundary, which will negate any additional normally required development criteria.

The applicant believes that the benefits of this mining/quarry operation expansion include job creation, material production for local infrastructure projects, and increased tax revenue for the County.

The estimated phasing plan for the overall site and approximate completion time for the project is approximately thirty (30) years. This may vary slightly +/- ten years.

The applicant has a current permit, Mining Permit Number 63-43, through the State of North Carolina, Department of Environmental Quality, Division of Energy, Mineral and Land Resources, permitting mining, which currently approves a modification to increase the permitted acreage to 221.47 acres. The applicant will be required to apply for additional acreage permits for expansion of the mining area a minimum of six (6) months before any new phase of the mine

expansion until the total mining area of the project of approximately 341.96 acres is reached.
Chairman Cook opened the Public Hearing.
Public Comment was offered by Art Williams who spoke in favor of the request.
Chairman Cook closed the Public Hearing after everyone who wished to speak had done so.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Von Canon, the Board voted 5-0 to adopt the Board of Commissioners Land Use Plan Consistency Statement which is Consistent and authorize the Chairman to execute the document as required by North Carolina General Statute 160D-605.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Von Canon, the Board voted 5-0 to Approve the Conditional Rezoning of approximately 618 acres, on ParID 20170089, per Deed Book 6234, Page 258, owned by Williams Sand and Clay, LLC, ParID 20180537, per Deed Book 5070, Page 596, which corrected Deed Book 5064, Page 355, owned by William Arthur Williams, and wife, Jan Harman Williams, ParID 00013401, per Deed Book 6131, Page 176, owned by William Arthur Williams, and wife, Jan Harman Williams, located at 985 NC 211 Highway, from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a mining/quarry operation.
All of the documentation reflecting this item is hereby incorporated into these minutes by attachment as Appendix J.
Chairman Cook, Vice-Chairman Picerno, and Commissioner Von Canon offered comments regarding this request.

E. Planning - Continued Public Hearing for a Conditional Rezoning Request: Rural Agricultural (RA) to Neighborhood Business Conditional Zoning (B-1-CZ) for a Mini-Warehouse (Self-Service) – 1280 Leaman Rd-**Continued from January 21, 2025**

Planning Director Debra Ensminger presented a request for a Conditional Rezoning of one parcel of approximately 2.382 acres, located at 1280 Leaman Rd, from Rural Agricultural (RA) to Neighborhood Business Conditional Zoning (B-1-CZ) to construct a 116-unit Mini-Warehouse (Self Service), owned by Linda Dunlap per Deed Book 4349, Page 119 and Deed Book 6248, Page 408.
Public notification consisted of publishing a legal notice in the local newspaper for two consecutive weeks, publishing a legal notice on the Moore County website, notification by mail to adjacent property owners, and placing public hearing signs on the property.
The property is currently wooded. Adjacent properties include a single-family dwelling, wooded areas, and the Davis Community Center. The nearest B-1 zoned parcel is approximately 700 feet away, on the corner of Leaman Rd and NC 705 Hwy, and contains a funeral home. The subject property is approximately ½ mile from the Town of Robbins ETJ. A Moore County solid waste collection site, which is classified as a Government Facility permitted in every zoning district, is approximately 0.3 miles away on 1465 Leaman Rd, which is zoned RA. The applicant is proposing a 116-unit mini-warehouse (self-service) facility consisting of two buildings. A Type 3 buffer consisting of natural vegetation and supplementation shall be required to meet the UDO standards and will remain along the subject property boundaries.

The North Carolina Department of Transportation's Annual Average Daily Traffic Count on Leaman Rd at this specific location is approximately 600 trips per day. Access to the property is provided by an access easement.
Chairman Cook opened the Public Hearing and closed it after everyone who wished to speak had done so.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to adopt the Board of Commissioners Land Use Plan Consistency Statement which is Consistent and authorize the Chairman to execute the document as required by North Carolina General Statute 160D-605.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to Approve the Conditional Rezoning of one parcel of approximately 2.382 acres, located at 1280 Leaman Rd, from Rural Agricultural (RA) to Neighborhood Business Conditional Zoning (B-1-CZ) to construct a 116-unit Mini-Warehouse (Self Service), owned by Linda Dunlap per Deed Book 4349, Page 119 and Deed Book 6248, Page 408.
All of the documents reflecting this item are hereby incorporated as a part of these minutes by attachment as Appendix K.

F. Planning - Continued Public Hearing for a Conditional Rezoning Request: Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a Wireless Communication Facility – 9739 NC 24-27 Highway-**Continued from January 21, 2025**

Planning Director Debra Ensminger requested the Board to continue a public hearing for a request for a Conditional Rezoning of an approximately 0.11-acre portion of one parcel of approximately 631.63 acres, located at 9739 NC 24-27 Highway, from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) to construct a 259' Wireless Communication Facility, owned by Jordan Three, LLC, to March 4, 2025 or April 15, 2025 at the request of the applicant.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to continue the Public Hearing for a request for a Conditional Rezoning of an approximately 0.11-acre portion of one parcel of approximately 631.63 acres, located at 9739 NC 24-27 Highway, from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) to construct a 259' Wireless Communication Facility, owned by Jordan Three, LLC, per Deed Book 4092, Page 40. The tower setbacks on the 631.63-acre lot are: North ±467'-8"; South ±3,395'-9"; East ±2,586'-5"; and West ±677'-9" to March 4, 2025 at 10:30 am.

G. Board of Commissioners - Call to Public Hearing regarding Levy of an Additional 3% Occupancy Tax Pursuant to SL 2015-256 and NCGS 153A-55

County Manager Wayne Vest requested a call for a public hearing regarding the levy of an additional 3% occupancy tax.
The Board of Commissioners has had several previous discussions regarding increasing the room occupancy tax and the purpose in use of the additional revenue that would be generated. The most recent discussion was held during the Board's January 15, 2025, work session. The Board is considering increasing the occupancy tax up to and including 3%. This action would be by

resolution and after holding a public hearing on March 18, 2025, at 5:30pm and is pursuant to SL 2015-256 and NCGS 153A-55, as well as a Memorandum of Understanding between the County of Moore and Convention and Visitors Bureau.

Vice-Chairman Cook offered comments regarding the occupancy tax.

President and CEO of the Convention and Visitors Bureau (CVB) Phil Werz offered comments regarding reasons the CVB Board would like to increase the occupancy tax. Funding would be used for tourism, project development and marketing in Moore County.

County Manager Wayne Vest stated in the Memorandum of Understanding, that with the 3% occupancy tax increase the CVB would not provide funding to the Moore County Airport for commercial airline(s).

Vice-Chairman Picerno offered comment regarding commercial airline services at the airport and that the additional tax dollars would not be used for commercial airline services.

Commissioner Von Canon requested a list of projects where these monies have gone over the past several years. He would like to see some of these funds be used in all parts of Moore County and not just in a concentrated area.

Commissioner Adams offered comments regarding the competitiveness of the tourism industry. Moore County should be certain of the efforts used to promote what Moore County currently has, what is to come, and what is the most effective use of funds to keep Moore County competitive.

Vice-Chairman Picerno asked if a request from Moore County Schools would be a valid request to submit to the CVB Board. Mr. Werz said he could make a recommendation to his Board, and they would make that determination.

Chairman Cook offered comments that these funds would not be provided to the Moore County Airport for commercial airline(s).

Commissioner Ritter offered comments regarding the CVB working with the potteries in Moore County and thanked Mr. Werz and the CVB Board for all they do.

Upon motion made by Chairman Cook, seconded by Commissioner Ritter, the Board voted 5-0 to call for a public hearing on Tuesday, March 18, 2025, at 5:30 pm regarding the levy of an additional 3% occupancy tax pursuant to SL 2015-256 and NCGS 153A-55.

7. **QUASI-JUDICIAL HEARINGS**

There were none

8. **OLD BUSINESS**

There was none

9. **NEW BUSINESS**

A. Finance - The RISE - Moore Buddies Mentoring - IIS Program Application

Executive Director of the CARE Group, Inc. Joyce Clevenger requested the Board authorize the CARE Group, Inc. to submit the FY2025-2026 grant application with the amount not to exceed $156,316 for the RISE - Moore Buddies Mentoring – IIS Program from the North Carolina Department of Public Safety, Division of Juvenile Justice/Juvenile Crime Prevention Council and authorize the Finance Director to sign the grant application. Upon the award of

the grant, authorize the Finance Director to sign any State agreement and State agreement revisions; and authorize the County Manager to sign any grant agreements between the CARE Group, Inc. and the County, not to exceed the amount of $156,316 upon the approval of the County Attorney. This is a pass-through grant with the County of Moore as the direct grantee.

Ms. Clevenger offered the following information:

RISE stands for "Realize my potential, Invest in myself and others, Strengthen my resolve and Envision the possibilities."

The brief description of the RISE Program: A trained, paid adult mentor will be paired one-on-one with a youth aged 10-18, or 18-21, and still under the jurisdiction of the juvenile court, for intensive intervention services. They will meet for a minimum of 8 hours monthly for a minimum of one year. The primary youth targeted for referral will be adjudicated juveniles with a level II or level III disposition or PRS. Mentors will provide Behavior Contracting services, working on skills and preventing recidivism.

The Rise Program is funded through – NCDPS Intensive Intervention Service Funds (formally known as Level 2 Dollars): Intensive Intervention Services are evidence-based or research-supported community-based or residential services that are necessary for a juvenile to (i) prevent the juvenile's commitment to a youth development center or detention facility, or (ii) facilitate the juvenile's successful return to the community following commitment.

The Target Population includes juveniles who meet the below criteria:

a) All adjudicated juveniles ages 10 and up, including juveniles who are ages 18 up to age 21 and still under the jurisdiction of juvenile court, may be accepted by Intensive Intervention services as appropriate for the proposed model and the needs of the juvenile.

b) Youth must be referred by a Juvenile Court Counselor.

c) The primary target populations for the identified services are juveniles who have received a Level II Disposition and their parent(s)/guardian(s) of those juveniles. Level III juveniles transitioning from a Youth Development Center are also eligible.

d) Selected Level I adjudicated juveniles with a Medium/High Risk, or a Medium/High Needs Score may be referred.

Service Area:

The Service Area incorporated into this programming will cover Youth referred by Court Services out of Moore, Montgomery, and Randolph Counties.

The County was awarded $175,000 in Fiscal Year 2024-2025 for the RISE - Moore Buddies Mentoring – IIS Program, and there was no local match required.

If the Board approves the submission of the grant application, then the documents required by the State will be submitted through NC Allies.

Vice-Chairman Picerno asked what the success rate is with this program. Ms. Clevenger stated she does not have statistical information on this due to this program being less than one year old.

Upon motion made by Chairman Cook, seconded by Commissioner Ritter, the Board voted 5-0 to authorize the CARE Group, Inc. to submit the FY2025-2026 grant application with the amount not to exceed $156,316 for the RISE - Moore Buddies Mentoring – IIS Program from the North Carolina Department of Public Safety, Division of Juvenile Justice/Juvenile Crime Prevention Council and authorize the Finance Director to sign the grant application. Upon the award of the grant, authorize the Finance Director to

sign any State agreement and State agreement revisions; and authorize the County Manager to sign any grant agreements between the CARE Group, Inc. and the County, not to exceed the amount of $156,316 upon the approval of the County Attorney. This is a pass-through grant with the County of Moore as the direct grantee.

B. Public Safety - Approve Apparatus Purchase for Crains Creek Fire Department for Engine Replacement

Public Safety Director Bryan Phillips requested approval for the purchase of a Toyne 1,750 GPM, 3,000-gallon Pumper Tanker on a Spartan FC 94 chassis to replace Engine 231 a 2002 Pierce apparatus for Crains Creek Fire Department.
Crains Creek is in the process of replacing a 2002 Pierce Fire engine with approximately 40,000 miles. The Fire Commission has approved the purchase per the capital apparatus replacement plan at the January 9, 2025 meeting.
Chief Mackey has provided all documentation to the Fire Commission including multiple financing options and non-county portion of funding.
This proposed purchase is for a 1,750 GPM, 3,000-gallon Pumper Tanker on a Spartan FC 94 chassis from Toyne, Inc. This pumper tanker will also help extend the life of the existing tanker scheduled to be replaced next fiscal year. The apparatus is expected to take approximately two years to build before the Crains Creek Fire Department receives the new apparatus.
The County will need to receive a copy of the final invoice for the final County portion to be paid. The total purchase for the vehicle is $766, 254 which includes a contingency amount of $20,000 that will be returned if unused.
The funding formula includes $732,000 for this type of apparatus.
Crains Creek Fire Department received funding from both Moore County and Harnett County for the service they provide. The Moore County portion of funding to the Crains Creek Fire Department is 78.7%; therefore, of the $732,000 Moore County's portion equates to $576,084 for the purchase per the funding formula. The apparatus that will be replaced has a value at $40,000. The County's portion of this value is $31,480 or 78.7% of the $40,000 value. Applying this to the acquisition cost would reduce the County's portion for the apparatus purchase to $544,604.
Three options were presented to the Board for consideration as follows:
Option 1: The County pay their portion of the amount ($544,604) due upon delivery of the apparatus. Crains Creek Fire Department along with Harnett County would be responsible for the estimated balance of $221,650 ($766,254-$544,604). The estimated time for completion of the apparatus is 750 days per the Toyne, Inc. proposal.
Option 2: The County pays the full price of the chassis when invoiced ($325,716), then the purchase price falls from $766,254 to $744,542, a savings of $21,712. The remainder that the County would owe at the completion of the apparatus would be $218,888 ($544,604 - $325,716). Crains Creek Fire Department along with Harnett County would be responsible for the estimated balance of $199,938. The chassis payment is due within 15 days of the arrival of the chassis at Toyne, Inc. If Crains Creek can get a 0% interest loan/grant, the County would then pay its remaining portion over the life of the loan to Crains Creek.
Option 3: Authorize the Crains Creek Fire Department to move forward with the purchase of the Toyne 1,750 GPM 3,000-gallon Pumper Taner to replace Engine

231, a 2002 Pierce apparatus for a total cost not to exceed $766,254. The total would be paid from the County Fire Apparatus Capital Reserve Fund 258 with Crain Creek/Harnett County paying back their portion to the County not to exceed $221,650 over time up to the number of years of the life of the apparatus at the current North Carolina Capital Management Trust (NCCMT) interest rate if Crains Creek FD cannot get a zero-interest loan to cover their portion due.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, the Board voted 5-0 to authorize Crains Creek Fire Department to move forward with the purchase of a Toyne 1,750 GPM 3,000-gallon Pumper Tanker to replace Engine 231, a 2002 Pierce, and pay the full price of the chassis when invoiced ($325,716), then the purchase price falls from $766,254 to $744,542, a savings of $21,712. The total would be paid from the County Fire Apparatus Capital Reserve Fund 258 with Crains Creek/Harnett County paying back their portion to the County not to exceed $221,650 over time up to the number of years of the life of the apparatus at the current North Carolina Capital Management Trust (NCCMT) interest rate if Crains Creek FD cannot get a zero-interested loan to cover their portion due.

C. Administration - Moore County Board of Education and Board of Commissioners Joint Meeting Request

County Manager Wayne Vest presented a request for a quarterly joint meeting to be scheduled between a subcommittee of the Moore County Board of Education and the Moore County Board of Commissioners. This request was made during the Board of Commissioners' Work Session on January 15, 2025.
The Moore County Board of Education attendees would depend on what topics would be discussed during these meetings.
Commissioner Von Canon offered comments regarding more conversations that need to be had between the two entities. He also offered comments regarding his concern with the process of bussing students to the new school, as well as other items.
Vice-Chairman Picerno offered comments regarding how important communication is between the Board and Moore County Schools.
Commissioner Adams agreed with Vice-Chairman Picerno's comments.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Ritter, to initially appoint the Chairman and Vice-Chairman to a subcommittee that will meet with the Moore County Board of Education, and these two members bring back items to the full Board after the initial subcommittee meeting.

D. Administration - Veterans Treatment Court

County Manager Wayne Vest presented a request to approve the Memorandum of Understanding (MOU) between the County of Moore and the Veterans Treatment Court Board for the administrative and programmatic management of the Veterans Treatment Court program.
On June 6, 2024, Mr. Todd Maness, Clerk of Court requested authorization to apply for a grant from the Bureau of Justice to implement a veterans treatment court. The Moore County Board of Commissioners authorized the County Manager, Finance, and Legal to complete and submit the Veterans Treatment Court application.

In September of 2024, the grant was awarded to the County in a total amount of $900,000 with a performance start date of 10/1/2024 and a duration of 48 months (end date 9/30/28). The grant included $616,000 in personnel costs, $197,120 in fringes, $34,575 in travel, $30,195 in supplies, and $22,110 in other costs for the four years.
At the January 15, 2025, Work Session, a discussion took place about the position of the Veterans Treatment Court. The Board's direction was to move to a contracting position. Since the January 15th meeting, the contracting route has proven to provide more hurdles and unknowns than we feel we can comfortably clear.
At the February 4, 2025 Board meeting the position for the Veterans Treatment Court Director was approved.
This request for the MOU is to ensure clarity regarding oversight management, and compliance responsibilities with the Veterans Treatment Court program funded by the Bureau of Justice Assistance grant.
A discussion was had regarding adding a statement in the MOU to provide a VTC Director position and staff position provided these positions are solely funded by grants fund and no County funds will be used for VTC.
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Adams, the Board voted 5-0 to approve the Memorandum of Understanding between the County of Moore and the Veterans Treatment Court (VTC) Board concerning the administrative and programmatic management of the VTC program funded by the Bureau of Justice Assistance and include under 1.1 Moore County Responsibilities (Grantee) item e. To provide a VTC Director position and staff position provided these positions are solely funded by grant funds. No County funds will be used for VTC; and authorize the Chair to sign, and this document will become an official part of these minutes by attachment as Appendix L.

10. APPOINTMENTS

A. Tax - Appointments to the Tax Board of Equalization and Review
Upon motion made by Vice-Chairman Picerno, seconded by Commissioner Von Canon, the Board voted 5-0 to appoint Jerry Daeke as an alternate member for the 2025-2026 session, appoint Andy Wilkison as a full-time board member for the 2025-2026 session and to appoint Susan Adams as Chairman for 2025-2026 session.

B. Board of Commissioners – Appointments to the Juvenile Crime Prevention Council
Upon motion made by Commissioner Ritter, seconded by Commissioner Adams, the Board voted 5-0, to reappoint Gayle Alston, Beth Tanner, Tony Kirk, and Lindsey Smith to the Moore County Juvenile Crime Prevention Council.

11. ADDITIONAL AGENDA
None

12. MANAGER'S REPORT

County Manager Vest offered comments regarding the impending inclement weather and that staff is continuously monitoring the situation. All general operations have been canceled for tomorrow.

13. COMMISSIONERS' COMMENTS

Commissioner Adams offered comments regarding an article in the Pilot about the County of Moore's debt and ways to reduce it. He recommended the Budget Task Force investigate this item.

Vice-Chairman Picerno offered comments regarding the debt in Moore County. He recommended looking at bonds and capital reserve options to pay down debt.

Commissioner Ritter appreciates the debt discussions, and he is looking forward to the meetings with the Moore County Board of Education. He also offered comment regarding the joint meeting with the Fire Commission earlier and he feels like these meetings are a great way to keep the line of communication open for everyone.

Chairman Cook offered comments regarding building concerns in the school system.

Commissioner Von Canon advised everyone if they do not have to be on the road tomorrow, please do not travel them impending the inclement weather, and look after their neighbors and animals.

Vice-Chairman Picerno offered comments regarding vacant positions in the County of Moore currently and the reasoning why the Budget Task Force is looking into whether these positions are needed. Some of these positions have been vacant since July 2024.

Commissioner Ritter thanked the Budget Task Force for all the work they do and have done for the County of Moore.

Commissioner Von Canon stated everyone on the Board puts Moore County first and continuously seeks ways to make Moore County better.

14. CLOSED SESSION

None needed

ADJOURNMENT

There being no further business, upon motion made by Chairman Cook, seconded by Vice-Chairman Picerno, the Board voted 5-0 to adjourn the February 18, 2025, Regular Meeting of the Moore County Board of Commissioner at 7:42 pm.

Kurt Cook

Kurt Cook, Chairman

Jennifer Parks, Clerk to the Board

COUNTY OF MOORE
CORPORATE
SEAL
NORTH CAROLINA

APPENDIX A

Fiscal Year 2024/2025

	Budget Line Item Number		Budgeted Amount	Increase/ (Decrease)	Revised Budget
	Aging - Donations				
Revenue	24018024 32502	Donations	239,504	13,430	252,934
Expense	24030024 53922	Donations	239,131	13,430	252,561

Approved this 18 day of February, 2025

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks

Jennifer Parks
Clerk to the Board

Fiscal Year 2024/2025

	Budget Line Item Number		Budgeted Amount	Increase/ (Decrease)	Revised Budget
Aging - Seniors' Health Insurance Information Program(SHIIP) Grant					
Revenue	10032024 32608	Aging SHIIP Grant	13,948	(4,205)	9,743
Expense	10030058 51200	Salaries	12,958	(3,908)	9,050
Expense	10030058 51810	FICA/Medicare	991	(297)	694

Approved this 18 day of February, 2025

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks

Jennifer Parks
Clerk to the Board

Fiscal Year 2024/2025

	Budget Line Item Number		Budgeted Amount	Increase/ (Decrease)	Revised Budget
	Property Management - Insurance Reimbursement				
Revenue	10018000 36053	Insurance Proceeds	61,676	17,769	79,445
Expense	10047055 55401	Vehicle Purchase	350,134	17,769	367,903

Approved this 18 day of February, 2025

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks

Jennifer Parks
Clerk to the Board

1340

Fiscal Year 2024/2025

	Budget Line Item Number		Budgeted Amount	Increase/ (Decrease)	Revised Budget
	Property Management - Insurance Reimbursement				
Revenue	10018000 36053	Insurance Proceeds	61,676	17,070	78,746
Expense	10047087 54250	Accident Repairs	135,603	17,070	152,673

Approved this 18 day of February, 2025

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks
Clerk to the Board

80007

REPORT OF INSOLVENTS

TO: Moore County Board of Commissioners

The undersigned tax collector respectfully reports that certain personal property taxes levied for 2010-2013, remain uncollected, such uncollected taxes are being set out below. The undersigned tax collector has made diligent efforts to collect said taxes by use of remedies against personal property as provided by law but has been unable to locate sufficient property belonging to delinquent taxpayers out of which the taxes might be collected. In every instance in which the tax collector has been able to discover through diligent inquiry the existence of property belonging to delinquent taxpayers within other taxing units in North Carolina, the undersigned has proceeded under the provisions of G.S. 105-364.

Per Attached Printouts	County General, ALS, Fire	$10,033.58
	County Late	875.74
	Municipals	4,061.94
	Municipal Late	351.90
	Cost/Garnishment	204.84
	Total	$15,528.00

The undersigned requests that the above-listed taxes be declared insolvent and credited to his charge.

This 18th day of February, 2025.

Gary E. Briggs
Tax Administrator

Sworn and subscribed to before me,
this the 18th day of February, 2025.

Jennifer Parks
Clerk to the Board of Commissioners

UNCOLLECTABLE REPORT

TO: Moore County Board of Commissioners

The undersigned tax collector respectfully reports that certain Beer and Wine license and Schedule B license levied for 2013-2021, remain uncollected. Such uncollected taxes are being set out below. The undersigned tax collector has made diligent efforts to collect said taxes by use of remedies against personal property as provided by law but has been unable to locate sufficient property belonging to delinquent taxpayers out of which the taxes might be collected. In every instance in which the tax collector has been able to discover through diligent inquiry the existence of property belonging to delinquent taxpayers within other taxing units in North Carolina, the undersigned has proceeded under the provisions of G.S. 105-364.

Per Attached Printouts	Beer & Wine License	$187.50
	Schedule B License	$337.50
	Total	$525.00

The undersigned requests that the above-listed taxes and fees be declared uncollectable and credited to his charge.

This 18th day of February, 2025.

Gary E. Briggs
Tax Administrator

Sworn and subscribed to before me,
this the 18th day of February, 2025.

Jennifer Parks
Clerk to the Board of Commissioners

JENNIFER C. PARKS NOTARY PUBLIC RANDOLPH COUNTY, N.C.

RESOLUTION

WHEREAS, Moore County Tax Administrator has provided a list of the names of persons owing 2010-2013 personal property; and

WHEREAS, North Carolina General Statute 105-378(a) designates the personal list as insolvent due to ten-year statute of limitations against the enforcement of any remedy for the collection of property taxes; and

WHEREAS, a diligent effort has been made to collect these taxes out of the personal property of the taxpayers concerned; and

WHEREAS, other means open to the Administrator have been used for collection of such taxes; and

WHEREAS, where applicable, collection outside the taxing unit has been attempted; and

WHEREAS, all information has been provided concerning those taxpayers as may be of interest to or required by the governing body; and

WHEREAS, the Board of Commissioners by resolution should designate this list and enter in it's minutes as insolvent list to be credited to the Tax Administrator in accordance to North Carolina General Statute 105-373(a)(2).

NOW, THEREFORE, BE IT RESOLVED, that the insolvent list is credited to the Tax Administrator.

Adopted this the 18th day of February, 2025.

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

ATTEST:

Jennifer Parks
Clerk to the Board



RESOLUTION AUTHORIZING AND APPROVING

(CURRENT) RELEASES AND REFUNDS BY THE

TAX ADMINISTRATOR

WHEREAS, Gary E. Briggs, Moore County Tax Administrator, has certified a list comprised of various county taxes illegally levied and assessed, the amount certified as being in excess of the amount legally due by the taxpayer and therefore should be released or refunded in accordance with General Statute 105-381.

BE IT RESOLVED by the Board of Commissioners of Moore County that the taxpayers shown on said list of releases and refunds submitted by Gary E. Briggs, Tax Administrator, are hereby granted such tax release or refund of the county taxes shown and the County Finance Director is directed to make said refunds.

Adopted this the 18 day of February, 2025.

Kurt Cook

Kurt Cook, Chairman

ATTEST:

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks
Clerk to the Board

RESOLUTION AUTHORIZING AND APPROVING

(DELINQUENT) RELEASES AND REFUNDS BY THE

TAX ADMINISTRATOR

WHEREAS, Gary E. Briggs, Moore County Tax Administrator, has certified a list comprised of delinquent taxes illegally due by the taxpayer and therefore should be released or refunded in accordance with General Statute 105-381.

BE IT RESOLVED by the Board of Commissioners of Moore County that the taxpayers shown on said list of releases and refunds submitted by Gary E. Briggs, Tax Administrator, are hereby granted such tax release or refund of the county taxes shown and the County Finance Director is directed to make said refunds.

Adopted this the 18 day of February, 2025.

Kurt Cook

Kurt Cook, Chairman

ATTEST:

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Jennifer Parks

Clerk to the Board

NEGOTIATED/AUCTION SALE OF RESIDUE

COUNTY OF MOORE WBS 50218.2.1 DATE:
CLAIM OF CRUTCHFIELD/MATTHEWS TIP/PARCEL R-5726 133 ASSET #: 261043

I, the undersigned, agree to pay to the Department of Transportation the sum of $ 0.00*
for the portion of the lands formerly owned by THELMA L. CRUTCHFIELD & CLARA C. MATTHEWS

(The bidder's attention is directed to the fact that the State of North Carolina does not warrant title to lands. It will be the responsibility of the buyer to satisfy himself as to the title to the property involved. The buyer should also examine the property carefully inasmuch as it is his responsibility, through survey or otherwise, to satisfy himself on the area of land being offered for sale. The purchaser also agrees to accept title to the property subject to any outstanding liens, taxes, or other assessments.)

No submission of funds is required to accompany this sealed bid. In the event of being the highest bidder at the end of the rolling 10-business day upset period (N.C.G.S. 136-19.7), as a guarantee that I will comply with my bid; I acknowledge that if the bid amount is less than $1,000.00, the full bid amount in the form of a personal check is due within 5 business days. It is also recognized that if the bid amount is greater than $1,000.00 a certified or cashier's check in the amount of $1,000.00 or 10% of the bid amount, whichever is larger, is required as a deposit within 5-business days.

I further acknowledge that if my bid is not accepted by the Board of Transportation or by the Council of State my deposit will be returned to me.

It is my understanding, in placing the bid on this property, that the sale of the subject land must be approved by the Council of State of the State of North Carolina, and that there could be a delay of several months in confirming the sale and delivering the deed. It is my further understanding that upon notification that the deed has been executed and delivered to the Division Right of Way office, I will have a maximum of thirty (30) days to submit via certified or cashier's check for the outstanding balance of the bid amount to the Department and take possession of the deed. If the transaction is not completed within the thirty (30) days, it is no longer valid, and all monies paid to the Department of Transportation as a part of this agreement will be forfeited.

Convey property to: COUNTY OF MOORE

RECOMMEND ACCEPTANCE

MANAGER OF RIGHT OF WAY

Email

SIGNATURE OF BIDDER J. Wayne Vest

Typed Name: J. WAYNE VEST
Address: PO BOX 905
1 COURTHOUSE CIRCLE
CARTHAGE, NC 28327
Telephone #: 910-947-6363

*PUBLIC USE DONATION, CONVEYANCE DOCUMENT WILL INCLUDE REVERTER CLAUSE

EMAIL: WVest@moorecountync.gov

FRM14-ZZ
Revised 08-22-2022

1347

MOORE COUNTY TRAVEL REPORT

APPENDIX E

DATE: 02/05/225

DEPARTMENT: Governing Body

TRAVELER: Tom Adams

ACCOUNT NUMBER 10011500 53100

MILEAGE

DATE	ROUND TRIP TO		PURPOSE (CONFERENCE, ETC.)	MILEAGE
1/22/25 to 1/24/25	Winston-Salem, NC		Essentials of County Government	164.00
			Conference Training for New	
			Commissioners	
			TOTAL MILES	164.00
			REIMBURSEMENT x 0.700	114.80

EXPENSES (RECEIPTS MUST BE ATTACHED FOR NON-PER DIEM)

DATE	DESCRIPTION (MEAL, ETC.)		PURPOSE (CONFERENCE, ETC.)	AMOUNT
1/22/25	Hotel		Training (Essentials of County Gov	252.59
			TOTAL	252.59

TRAVELER*

SUPERVISOR

DEPARTMENT HEAD

TOTAL EXPENSES (THIS PAGE)	252.59
TOTAL MILEAGE (THIS PAGE)	114.80
LESS ADVANCE RECEIVED	
CHECK # _____	(_____)
GRAND TOTAL (ALL PAGES)	367.39

*I hereby certify that the distances for which charge is made in this statement have been necessarily traveled and that expenses for which reimbursement is claimed were incurred in the service to the County.

REV. 02-20-2023

ESSENTIALS OF COUNTY GOVERNMENT

Agenda | Essentials of County Government
Winston Salem | January 23rd & 24th, 2025

DAY 1: County Government – Roles and Responsibilities

8:00am – 9:00am	Registration & Breakfast
9:00am – 9:15am	Welcome & Introductions *Kevin Leonard & Aimee Wall & Wallace Nelson*
9:15am – 9:35am	Mock Board Meeting Scene 1
9:35am – 10:25am	Welcome to County Government / County Government 101 *Kara Millonzi*
10:25am – 10:40am	Break
10:40am – 12:20pm	Open Meetings & Public Records *Amy Bason & Kristina Wilson*
12:20pm – 1:15pm	Lunch
1:15pm – 1:35pm	Mock Board Meeting Scene 2
1:35pm – 3:30pm	Building & Managing Relationships *Neil Emory, Kim Nelson, & Carl Stenberg*
3:30pm – 3:45pm	Snack Break
3:45pm – 4:15pm	Small table discussions and debrief

ESSENTIALS OF COUNTY GOVERNMENT

DAY 2: Budget, Financial Oversight, Internal Controls, & Ethics

8:00am – 9:00am	Registration & Breakfast
9:00am – 9:20am	Mock Board Meeting Scene 3
9:20am – 10:20am	County Finance Top 10 *William Rivenbark*
10:20am – 10:35am	Break
10:35am – 11:20am	Budget Overview and Exercise *Denise Canada & Johnna Sharpe*
11:20am – 11:35am	Break
11:35am – 12:20pm	Financial Oversight and Internal Controls *Rebecca Badgett & Greg Allison*
12:20pm – 1:15pm	Lunch
1:15pm – 3:15pm	Ethics & Mock Board Meeting Scene 4 *Amy Bason, Bob Hagemann, Kristina Wilson, Kara Millonzi*

RESOLUTION

WHEREAS, Moore County Tax Administrator has provided a list of the names of persons or entities owing for a Beer & Wine or Schedule B License for 2013-2021; and

WHEREAS, a diligent effort has been made to collect these taxes and fees from the taxpayers or entities concerned; and

WHEREAS, other means open to the Administrator have been used for collection of such taxes and fees; and

WHEREAS, where applicable, collection outside the taxing unit has been attempted; and

WHEREAS, all information has been provided concerning those taxpayers or entities as may be of interest to or required by the governing body; and

WHEREAS, the Board of Commissioners by resolution should designate this list and enter in its minutes as an uncollectable list to be credited to the Tax Administrator in accordance to North Carolina General Statute 105-373.

NOW, THEREFORE, BE IT RESOLVED, that this uncollectable list is credited to the Tax Administrator.

Adopted this the 18th day of February 2025.

Kurt Cook

Kurt Cook, Chairman
Moore County Board of Commissioners

ATTEST:

Jennifer Parks
Clerk to the Board

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

AMENDMENT TO

THE MOORE COUNTY ROAD NAME AND ADDRESSING ORDINANCE

ADOPTED JULY 10, 1989
AND AS SUBSEQUENTLY AMENDED

RESOLVED by the Board of Commissioners of the County of Moore that Section III ROAD NAMING OF THE ABOVE REFERENCED ORDINANCE BE AMENDED TO ADD, RENAME, OR REMOVE THE FOLLOWING ROAD(S) AS INDICATED:

REMOVE:

SANCTUARY TRL (P4244) ..... *Located at the northwestern corner of Love Grove Church Rd (SR 1238) and Carthage Rd (SR 1229). Original approved August 18, 2020.*

NORTON CT (P4227)..... *Located off Gretchen Rd approximately 0.3 miles south off Page Storage Rd (SR 1172) approximately 1.2 miles east of the intersection of Bass Rd (SR 2001) and Page Store Rd. Located on the western side of Valor Trl. Originally approved for Gretchen Pines Subdivision on February 18, 2020.*

PANORAMA VISTA (P4229)..... *Located off Gretchen Rd approximately 0.3 miles south off Page Storage Rd (SR 1172) approximately 1.2 miles east of the intersection of Bass Rd (SR 2001) and Page Store Rd. Located on the western side of Valor Trl. Originally approved for Gretchen Pines Subdivision on February 18, 2020.*

AND, FURTHER, that the effective date of this amendment to the above-described Ordinance shall be upon adoption.

Adopted this 18th day of February 2025.

Kurt J. Cook, Chairman
Moore County Board of Commissioners

Jennifer Parks, Clerk to the Board
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

AMENDMENT TO

THE MOORE COUNTY ROAD NAME AND ADDRESSING ORDINANCE

ADOPTED JULY 10, 1989
AND AS SUBSEQUENTLY AMENDED

RESOLVED by the Board of Commissioners of the County of Moore that Section III ROAD NAMING OF THE ABOVE REFERENCED ORDINANCE BE AMENDED TO ADD, RENAME, OR REMOVE THE FOLLOWING ROAD(S) AS INDICATED:

ADD:

LANDON WAY (P4286).....*Located off S NC 705 Hwy on the eastern side, approximately 0.17 miles south of the intersection of Adams Rd (SR 1410) and S NC 705 Hwy. Shown as easement on Plat Cabinet 20, Slide 516.*

SANCTUARY TRL (P4287) .....*Located off Atkins Rd (SR 2005) on the eastern side, approximately 0.2 miles south of the intersection of NC 24-27 Hwy and Atkins Rd.*

PEELE FARM LN (P4288).....*Located off Atkins Rd (SR 2005) on the eastern side, approximately 0.54 miles south of the intersection of NC 24-27 Hwy and Atkins Rd.*

AND, FURTHER, that the effective date of this amendment to the above-described Ordinance shall be upon adoption.

Adopted this 18th day of February 2025.

Kurt J. Cook, Chairman
Moore County Board of Commissioners

Jennifer Parks, Clerk to the Board
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

MOORE COUNTY ROAD NAME AND ADDRESSING ORDINANCE

WHEREAS, the Board of Commissioners for the County of Moore recognizes the benefit of a road naming and sign program; and

WHEREAS, the naming of roads outside of municipal limits in the County of Moore and the numbering of residential, commercial and industrial structures, and accessory buildings thereto, is essential for the operation of the enhanced 911 dispatch system in the County of Moore; and

WHEREAS, the Board of County Commissioners enacted the Moore County Road Name and Addressing Ordinance on June 19, 2000, which was revised on April 16, 2013, and February 21, 2017. The Moore County Road Name and Addressing Ordinance repealed the previous Ordinance Establishing the Names of Road a Procedure for the Future Naming or Renaming of Roads and the Numbering of all Houses, Mobile Homes, Commercial and Industrial Buildings adopted on July 10, 1989.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the County of Moore, as follows:

SECTION I. IN GENERAL

A. Title. The name of this Ordinance is Moore County Road Name and Addressing Ordinance and may be cited as *An Ordinance Establishing the Names of Roads, A Procedure for the Future Naming or Renaming of Roads and the Numbering of All Houses, Mobile Homes, Commercial and Industrial Buildings* (hereinafter referred to as the "Ordinance").

B. Authority. This Ordinance is hereby adopted under the authority and provisions of G.S. §§ 153A-238 and 153A-239.1(a) and 147-54.7, and the police powers of the County to protect the health, safety and welfare of its citizens.

C. Jurisdictional Coverage. All public and private roads in the unincorporated portions of the County are included within the jurisdiction of this Ordinance, unless the municipalities within the County elect to be covered by the Ordinance. Every addressable structure within the unincorporated area in the county shall be included within the jurisdiction of this Ordinance.

D. Purpose and Intent. The purpose and intent of this Ordinance is to hereby establish a uniform system of addressing and numbering all houses and buildings within the jurisdiction of the County and to establish a process for changing existing addresses, streets and road names so that street, road and highway names are not duplicated in the County. This Ordinance provides a method to correct inaccurate addresses, ensure that road name identification signs are placed at all road intersections, establish a procedure for reviewing road names and provide an enforcement mechanism to ensure compliance with the uniform system of addressing and numbering. This Ordinance is necessary to facilitate the provision of adequate public safety and emergency services and to minimize the difficulty in locating properties and buildings for postal delivery, public service agencies and the general public.

E. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. **Address Administrator or Administrator**. The official designated by the County Manager to administer this Ordinance, including his/her authorized representatives.

2. **Addressable Structure**. Any structure requiring the installation of a dedicated, permanent electrical meter or that serves as a utility route management location.

3. **Driveway**. A private way beginning at the property line of a lot abutting a public road, private road, easement or private right-of-way that will give access from public road, recorded easement, recorded private road or private right-of-way, and serves not more than two habitable structures.

4. **Habitable Structure**. Any structure the meets the minimum housing standards. Standards include but are not limited to the current North Carolina State Building Codes, National Electrical Code, and applicable ADA codes.

5. **Public/Private Road**. Any road, street, highway, thoroughfare or other way of passage that has been dedicated for ingress and/or egress that serves three or more habitable structures.

6. **Subdivision Road**. Any dedicated and accepted public right-of-way for vehicular traffic, or a private road, either of which were established pursuant to the Moore County subdivision regulations.

SECTION II. ADDRESS ADMINISTRATOR RESPONSIBILITIES

A. Responsibilities. The Address Administrator shall be responsible for the administration of this Ordinance, including, but not limited to:

1. Maintaining a system and assigning all numbers for addressable structures; and

2. Approval of change of existing addresses when necessary to facilitate sequential house number assignments along existing roads; and

3. Establishment of interdepartmental infrastructure to ensure continued operation of addressing system to meet the spirit and the intent of this Ordinance; and

4. Notification to appropriate citizens, governments, agencies, and post offices as required by law.

B. Clerical or Administrative Errors. The Address Administrator is authorized to correct such clerical or administrative errors that may from time to time occur in keeping with the overall plan and the intent of this Ordinance and to approve alternate methods of displaying house numbers which meet the intent of this Ordinance when strict adherence to these standards cannot be reasonably met.

C. That, pursuant to G.S. 153A-239.1, after naming or renaming a road or assigning or reassigning street numbers on a road the County shall cause notice of its action to be given to the local postmaster with jurisdiction over the road, to the Board of Transportation and to any city within five miles of the road.

SECTION III. ROAD NAMING

Roads located within the unincorporated areas of Moore County, whether public and private, shall not be named or renamed by any method except those set forth in this Ordinance. All existing, proposed, or constructed public or private roads or driveways that provides access to three (3) or more habitable structures use the road for access from the main road shall have a street name and address range assigned.

In naming or renaming a public road, the County may not change the name of any road name designation provided by the North Carolina Board of Transportation or the Moore County Board of County Commissioners unless the respective body agrees to such change. Numbers assigned to a road by the North Carolina Board of Transportation shall not be changed. However, the Moore County Board of County

Commissioners may name the road in addition to the number given to it by the North Carolina Board of Transportation. G.S. 153A-239.1.a.

Plats recorded at the Moore County Register of Deeds for the unincorporated area of the County of Moore with road names displayed are not official road names until approved by the process explained in this Ordinance.

A. New Road Naming.

1. No new roads outside of municipal limits in the County of Moore, whether a part of the State Secondary Road System or Private, shall be named without approval of the Moore County Board of County Commissioners.

2. The name of any new road, whether it is public or private, shall not duplicate or be phonetically similar to any other road already named within Moore County. This subsection shall not apply to the extension of existing roads, which should whenever possible be given the same name.

3. New subdivision roads, whether public or private, shall be named prior to the approval of any proposed subdivision or plat, including but not limited to apartment and condominium complexes. The approval of a subdivision plat by the Moore County Planning Department and/or the recordation of a plat at the Register of Deeds, will **not** guarantee that a road name is in compliance with this Ordinance, or that a road name will be approved by the Board of Commissioners. With regards to the initial assignment of subdivision road names, see Subsection D. below.

4. Property owner(s) who want to have a public or private road named for personal reasons must comply with items below:

   i. A petition should include the proposed road name, the reason why the person(s) are requesting the name, and the signatures of 100% of those persons owning property adjacent to the road; and

   ii. Name requests shall conform to this Ordinance; and

   iii. The name request shall only be approved after a public hearing is held on the matter as provided in Section VI and the Moore County Board of County Commissioners have approved the petition for a road name.

B. Renaming Roads.

1. Renaming by Address Administrator. Road names may be changed by the Address Administrator when the road name is a duplicate of another road name within a designated postal area or within Moore County and interferes with the accurate dispatch of emergency service or postal delivery. The renaming of any road must be approved by the Moore County Board of County Commissioners.

2. Renaming Request by Property Owners. Property owners who want to have the name of a public or private road changed for personal reasons must comply with items below:

   i. A petition should include the existing road name, the proposed road name, the reason why the person(s) are requesting the name change, and the signatures of 100% of those persons owning property adjacent to the road; and

   ii. Name changes requests shall conform to this Ordinance; and

iii. The name change request shall only be approved after a public hearing is held on the matter as provided in Section VI and the Moore County Board of County Commissioners have approved the petition for a road name change; and

iv. A fee for each road shall accompany any petition requesting that an existing road name be changed. Refer to Moore County Budget Ordinance for the fee amount; and

v. In the event that the Board of Commissioners approves the petition, the petitioners shall reimburse the County of Moore, in advance, for the cost of purchasing and installing the new signs.

C. Removing Roads.

1. Removing Road Names by Address Administrator. The Addressing Administrator may remove a road name previously approved by the Moore County Board of Commissioners if the road name was approved pursuant to a preliminary subdivision plat approved by the Moore County Planning Department Subdivision Review Board, the road does not exist, and the Subdivision Review Board's approval of the preliminary subdivision plat has expired. The removal must be approved by the Moore County Board of Commissioners.

2. Removing Request by Property Owners. Roads that currently serve not more than two habitable structures may be considered for the road name to be removed. Property owners who want to have the name of a road removed for personal reasons must comply with items below:

i. A petition should include the existing road name, the reason why the person(s) are requesting the removal, and the signatures of 100% of those persons owning property adjacent to the road; and

ii. The name removal request shall only be approved after a public hearing is held on the matter as provided in Section VI and the Board of County Commissioners have approved the petition for a road name removal; and

iii. A fee for each road shall accompany any petition requesting that an existing road name be removed. Refer to Moore County Budget Ordinance for fee amount; and

iv. In the event that the Board of Commissioners approves the petition, the petitioners shall reimburse the County of Moore, in advance, for the cost of removing the existing road signs.

D. Initial Assignment of Subdivision Road Names. Pursuant to NCGS 153A-239.1, road names may be initially assigned to new roads by recordation of an approved subdivision plat. Therefore, upon approval of a preliminary subdivision plat by the Moore County Planning Department Subdivision Review Board, recordation of the plat with the Moore County Register of Deeds, and a copy of the plat submitted to the Addressing Administrator, the Addressing Administrator will reserve any road name upon the plat that is not in use and that is in compliance with this Ordinance. Upon expiration of the Subdivision Review Board's approval of the preliminary subdivision plat, the Addressing Administrator will remove the reserved status of any unused road name and make it available for others to use. The initial assignment of a road name only serves to reserve the road name and does not require the approval of the Moore County Board of Commissioners; however, the road name must be approved by the Board of Commissioners prior to or during construction of the road.

E. Intersections & Multi-Jurisdictional Roads. A road name should continue and only change names at an intersection. Roads that pass through more than one jurisdiction should have the same name throughout the county whenever possible.

F. Content of Road Names

1. No road shall be named that duplicates the name of an existing road. No road shall be phonetically similar to all existing road names. Municipalities are strongly encouraged to notify the County of Moore IT Department - GIS Division when naming or renaming a road.

2. No road shall be named that duplicates the name of an existing road across county lines in which are in the same US Postal District.

3. Road names must use common spelling found in a standard dictionary, i.e. Webster's Dictionary, current edition.

4. North, South, East and West are intended to be directional features of the address system and will be used only when necessary, such as for distinguishing regions of a continuous road traversing several municipalities. A directional word should not be contained within the name of a new road and shall be placed ahead of the road name. A street or road may have no more than one directional prefix.

5. Only letters of the alphabet and blank spaces should be included in a road name. Road names that are numbers (i.e. First Street) must be expressed using alphabetical characters and not numbers.

6. Road names should not contain the following:
   - Symbols or punctuation; or
   - Abbreviations of the main title of the street or road name; or
   - Initials; or
   - A single alphabetical character; or
   - Words that begin with "old" or "new"; or
   - Offensive words or language in accordance with G.S. 147-54.7; or
   - More than 24 letters including spaces; or
   - Celebrity or high-profile names; or
   - Sports teams or mascots; or
   - Names associated with past mass injuries, fatalities, or military conflicts; or
   - Descriptive words on a calendar including but not limited to the names of holidays, days of the week, and/or months; or
   - Descriptive words regarding structure and infrastructure types.

7. All road names shall contain one road name suffix designation. Double suffixes within a road name will be denied.

   Suffix designations of roads include, but are not limited to, the following terms: Avenue (AVE), Boulevard (BLVD), Circle (CIR), Court (CT), Drive (DR), Highway (HWY), Lane (LN), Loop (LOOP), Place (PL), Road (RD), Square (SQ), Street (ST), Trail (TRL), or Way (WAY). All street suffix designations may be abbreviated in compliance with United States Postal Service (USPS) Publication 28, Appendix C – C1 Street Suffix Abbreviations.

8. The County of Moore has the right to deny any road name that, in the sole opinion of the County, is inappropriate or would interfere with public safety and emergency services.

G. Physical Standards, Installation, and Maintenance for Road Name Signs

1. Signs for public or private roads or drives shall conform to the physical standards set forth in the United States Department of Transportation's Manual on Uniform Traffic Control Devices (MUTCD). The requestor is responsible for installing the initial sign at their expense that meets this standard. Moore County GIS has no responsibility for the installation or maintenance of signs. Moore County Public Safety maintains the County's road signage in the unincorporated areas of the County. Any County-maintained road signs will be green with white reflective lettering.

2. Identifying street markers should be located at each intersection of roads throughout the County of Moore, except for those areas lying within the corporate limits of Aberdeen, Cameron, Candor, Carthage, Foxfire, Pinebluff, Pinehurst, Robbins, Southern Pines, Taylortown, Vass and Whispering Pines and private subdivisions desiring to erect and maintain their own street sign system.

H. Legal Access

1. In order to request road naming under this Ordinance, the person shall have legal access or ownership to the road or easement. This includes but is not limited to legal access or ownership to recorded easements, utility encroachment easements, and pipeline easements.

2. The County has no obligation to verify legal access or ownership for any road naming under this Ordinance. It is the responsibility of the requestor to obtain legal access or ownership to the property prior to requesting road naming under this Ordinance.

SECTION IV. ADDRESSING

A. Use of assigned number required. No person may display or cause to be displayed on any house, building or box any number other than the number assigned by the Address Administrator.

B. Removal, obliteration and destruction prohibited. No person may remove, obliterate or destroy any number displayed in accordance with this Ordinance.

C. Road Address Number Assignment. The administrator shall assign house and building road address numbers in accordance with a system that adheres as closely as possible to the principles set forth in this section.

D. Methodology. The methodology used to determine the assignment of house and building address numbers shall be:

1. Addresses shall be assigned at ten (10) feet intervals along the length of the road. The intent of this practice is to ensure there are available addresses between addressable structures that can be assigned at a later date; and

2. The range of addresses shall begin with the lowest number in the range being closest to the road of origin with the numbers increasing as the distance from the road of origin increases. If the road to be addressed does not have an immediately discernible origin but connects two roads, the road closest to the intersection of the aforementioned axis shall be deemed the road of origin.

3. The addresses will be numbered from the beginning point of the road, assign addresses as odd numbers to the left and even numbers to the right, based upon the driveway.

E. Apartment and Condominium Complexes

1. The Address Administrator shall assign apartment complexes a number to each building. Numbers are then assigned to individual apartments.

2. Streets within the complex shall be named.

F. Display of Road Address Numbers. Once assigned, road address numbers must be clearly displayed so the location can be easily identified from the road.

Residential & Commercial properties guidelines are in the current adopted version of the North Carolina Building Codes: Residential Code and/or Fire Code.

G. Address Corrections. The Address Administrator is authorized to correct any errors in a numeric address or street range. This includes:

1. Addresses that are out of sequence with other addresses on the same road; and
2. Addresses that are not inside the range of values assigned to the street of origin; and
3. Address ranges assigned to street segments that are not sequential or are out of sequence with preceding or succeeding segments of the same street; and
4. Area where no addresses were left for vacant lot(s); and
5. Street name change approved by Moore County Board of Commissioners; and
6. Person unknowingly displaying the wrong address; and
7. Change from rural route and box number to urban street address number.

The Address Administrator shall provide written notice to the owner of this Ordinance which shall include the reason for the error, the new numeric address and that the address change will be effective thirty (30) days from receipt of the notice. A resident who does not display the new address after the effective date shall be in violation of this Ordinance. The County of Moore does not provide physical address numbers to display on structures nor assumes addressing or readdressing costs for addressable structures.

H. Legal Authority. In order to request addressing under this Ordinance, the person shall have legal ownership to the property or be a contracted buyer, realtor/broker, or construction contractor with legal documentation proving authority. The County has no obligation to verify ownership or legal authority to the property. It is the responsibility of the owner or requestor to have legal authority to the property prior to requesting addressing under this Ordinance.

SECTION V. ROAD MAINTENANCE

The County of Moore does not maintain roads.

Public roads are maintained by the NC Department of Transportation (NCDOT) or city or town where it is located. State maintained roads are marked with an SR number.

Private roads are maintained by private entities like parcel owners or homeowner's associations (HOA's).

SECTION VI. PUBLIC HEARING AND NOTICE REQUIRED

A. Public Hearing. The County of Moore IT Department - GIS Division shall advertise the public hearing pertaining to the petition before the Moore County Board of Commissioners pursuant to G.S. 153A-239.1.

B. Naming, Renaming or Removing Public Roads. Prior to naming, renaming or removing a road, the Address Administrator shall request a public hearing date be set by the Moore County Board of Commissioners and provide notice in accordance with G.S. 153A-239.1(a).

C. Adoption of Ordinance. Prior to adopting an Ordinance to establish a procedure to assign or reassign street numbers on the road, the Moore County Board of Commissioners shall provide notice and hold a public hearing in accordance with G.S. 153A-239.1(a).

D. Notice. After naming or renaming a public or private road, or assigning or reassigning street numbers on a public or private road, the Address Administrator shall provide notice to be given to the local postmaster with jurisdiction over the road and to the North Carolina Department of Transportation.

SECTION VII. VIOLATIONS

A. Upon discovery of a condition in violation of this Ordinance, the Administrator shall provide a written Notice and description of the violation to the owner or occupant, of legal age, or other responsible entity or party, specifying that, the condition must be brought to compliance of this Ordinance within thirty (30) days.

B. If the owner, occupant, or other responsible entity or party fails to bring the condition described in the Notice to compliance of this Ordinance within thirty (30) days of receiving written Notice of violation, the owner, occupant, or other responsible entity or party shall be in violation of this Ordinance.

C. Means of notice deemed sufficient and property include but are not limited to registered or certified mail sent to the last known address of an owner or occupant as ascertained from Moore County tax records, posting on the front door of an addressable structure, or hand-delivery to an occupant of legal age found at the addressable structure.

D. Written notice of violation and citations pursuant to this section shall be deemed delivered and properly served upon depositing said notice and/or citation into a receptacle of the United States Postal Service, posting on the front door of the offending addressable structure, or hand-delivery to an occupant of legal age found at the offending addressable structure.

SECTION VIII. ENFORCEMENT

If an owner, occupant, or other responsible party or entity does not bring the violating condition or conditions into compliance with this Ordinance after proper written Notice (Section VII.A) and thirty (30) days from delivery (as defined in Section VII.D) have elapsed, the County Attorney may enforce this Ordinance by any one or more of the remedies in law or in equity authorized by G.S. § 153A-123.

SECTION IX. PENALTIES

A. After the effective date of this Ordinance, any person thereof who intentionally, purposely, or knowingly violates or causes violation of any provision of this Ordinance shall be guilty of a Class 3 misdemeanor pursuant to G.S. § 14-4(a), upon conviction of which, the maximum penalty by law may be imposed.

B. In addition to criminal penalties provided by G.S. §§ 153A-123, 14-4, violation of any provision of this Ordinance shall also subject the Owner or occupant to a civil penalty in the amount of fifty dollars ($50.00) for each violation, to be recovered by the County in a civil action in the nature of a debt. Each day's continuing violation is a separate and distinct offense.

C. Where a person, firm, corporation or other entity is found guilty of removing, destroying, and/or defacing a road sign, the person, firm, corporation, or other entity shall reimburse the County of Moore for all replacement costs associated with replacing said road sign(s).

SECTION X. APPEALS

The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance vary from the requirements any other adopted County, State, or Federal regulations, the most restrictive or that imposing the highest standard shall govern.

SECTION XI. LIMITATION OF LIABILITY

The County, directors, officers, and agents are not liable for any damages in a civil action for injuries, death, or loss to persons or property incurred by any person as a result of any act or omission of any of its employees, directors, officers, or agents.

SECTION XII. PREVIOUS ORDINANCES NULL AND VOID

This Ordinance shall supersede and replace all Moore County Road Name and Addressing Ordinances or portions thereof previously adopted.

SECTION XIII. SEPARABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid for any reason, such declaration shall not affect the Ordinance as a whole, or any part thereof other than the part so declared to be invalid.

SECTION XIV. EFFECTIVE DATE

This Ordinance shall be effective on the 18 day of February, 2025.

Kurt J. Cook, Chairman
Moore County Board of Commissioners

Jennifer Parks, Clerk to the Board
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

STATE OF NORTH CAROLINA		BEFORE THE MOORE COUNTY BOARD OF COMMISSIONERS
COUNTY OF MOORE		FILE NO.: _____
Applicant: Williams Sand and Clay, LLC	)	ORDER OF FINDINGS OF FACT AND
	)	CONCLUSIONS IN SUPPORT OF
ParID # 00013401	)	GRANTING A CONDITIONAL USE
	)	PERMIT

THIS CAUSE, being heard by the Moore County Board of Commissioners on September 6, 2016 at 5:30 p.m. in the Historic Courthouse, 2nd Floor Meeting Room, Carthage, NC for a hearing on Williams Sand and Clay, LLC's application for a Conditional Use Permit. It appearing that the Moore County Board of Commissioners has proper jurisdiction over the parties and subject matter and that the parties are properly before the Moore County Board of Commissioners. After reviewing the documents of record and hearing from all parties and witnesses, the Board of Commissioners by sufficient evidence, based on the standards and *Unified Development Ordinance of Moore County, NC* enters the following order.

FINDINGS OF FACT

1. That all parties were notified of the hearing.
2. That all witnesses were sworn and testified.
3. That the applicant requests to construct a Sand Mining Facility on the property as illustrated on the approved site plan.
4. That the property is zoned Rural Agricultural (RA) and allows the proposed use upon issuance of a Conditional Use Permit.
5. That the proposed site details are as follows:

Zoning	Rural Agricultural (RA)
Acreage	Approximately 660 acres
Watershed	WS-III-BW
Highway Corridor Overlay	Rural Highway Corridor Overlay District
Floodplain	No
Historical Use	Vacant

6. That the applicant agreed to the conditions below at public hearing of even date herewith:

   a. Williams Sand and Clay will abide by the Moore County Specific Use Standards Article 9.4.5 for Mining and Quarrying as shown on the following page in Figure 1.1.
   b. Business hours of operation will be: 6:00 AM – 5:30 PM during normal workweeks and occasionally on Saturday (no Sunday work). Holidays will be observed as well.
   c. A NCDOT entrance permit will be obtained within the next 4-6 weeks.
   d. A physical barrier to traffic and illicit entry onto the site will be constructed along NC HWY 211. Once digging activities commence, any overburden will be used to construct and maintain berms along the NC HWY 211 entrance to a minimum height of six feet.
   e. Applicant will conduct sediment and erosion control measures throughout the life of the mine and post closure, to maintain a clean driveway and entrance area onto NC HWY 211.
   f. Per the NC Department of Environmental Quality, high fencing is not required since there are no adjacent residential dwellings. However, Williams Sand and Clay will maintain silt fencing, as well as ditches, berms, and gates as necessary to control access to the site.
   g. No fuel, fuel oil, or other hazardous materials will be used or stored on-site.
   h. The total initial phase will impact (excavate) approximately 22 acres. Subsequent planned phases are shown on the Site Map.
   i. No permanent structures will be erected on-site.
   j. At minimum a vegetated seventy five foot buffer will be maintained along NC HWY 211.
   k. Staff recommends the additional condition, as agreed upon by the applicant, that should the Zoning Administrator, Building Inspector, Environmental Health, the Fire Marshal, or NCDOT identify minor changes staff shall be authorized to accept such minor modifications to site plan as necessary.

CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact the Moore County Board of Commissioners makes the following Conclusions with respect to the requested conditional use:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan;
2. The use meets all required conditions and specifications;
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity;
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the approved Moore County Land Use Plan.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

The Conditional Use Permit request of Williams Sand and Clay, LLC is hereby GRANTED for the reasons stated above. The Conditional Use Permit shall expire five (5) years from the date of issuance unless the proposed development is pursued as set forth in the Moore County Unified

Development Ordinance. Continued compliance with the original site plan and this permit issued by the Board shall entitle applicants to the continued use of the property.

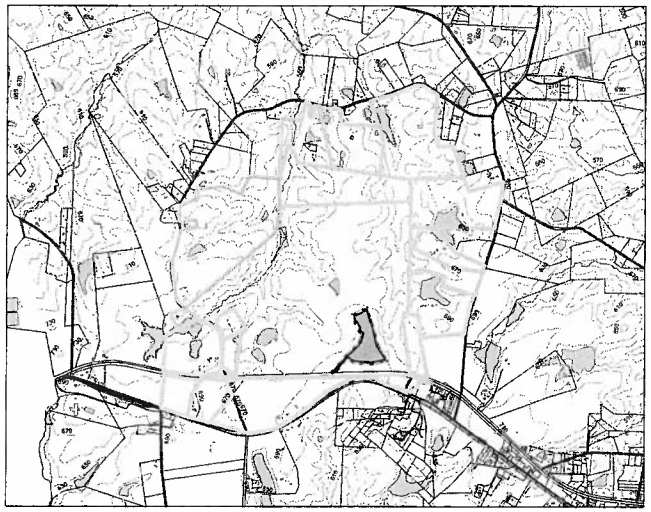
A copy of these FINDINGS AND CONCLUSIONS shall be filed with the Clerk of the County of Moore, and a copy of such order shall be served by certified mail, return receipt to the applicant Williams Sand and Clay, LLC and shall be served by means of certified mail, return receipt requested upon any person specifically requesting service of the same.

So ORDERED this the 20th day of September, 2016.

Nick Picerno, Chair
Moore County Board of Commissioners

Attest:
Laura Williams, Clerk to the Board

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA



Area Overview

Sand Mine Application
Moore County North Carolina
Township: 01
Deed Book/ Page: 241 / 462
Parcel ID: 00013401

Pending State Mining Permit

Legend

- Permanent Buffer - 75' Setback
- Phase II Overall Limits
- Berm at a minimum of 6' ht
- Phase I Rough Buffer Outline w/Silt Fencing
- Proposed Sand Mine with Haul Road
- Proposed Screening/Washing Plant
- Proposed Washing/Settling Pond
- Railroads
- Streams
- Streets
- Tax Parcels
- Lakes & Rivers



Layout Map

Name of Mine: Williams Sand and Clay, LLC
Address: 1515 NC Hwy 211, Eagle Springs, NC, 27242

Phase I: Total Disturbed Acreage	25.0 ac
Phase II: Total Disturbed Acreage	25.0 ac

Sheet No.
HEA-001

Date: 29 June 2016
Drawn By: Henry Haas, E.P.
Hunt Environmental Associates
Checked by: Michael C. Hunt, P.G.
Hunt Environmental Associates
Note: We will meet the specific use standards outline in 9.4.5

1366

County of Moore
Planning and Inspections

Inspections/Permitting: (910) 947-2221
Planning: (910) 947-5010
Fax: (910) 947-1303

Conditional Rezoning Application

Application Date: 10-24-24			
Address of Property: 35.307299 LAT, 79.677467 LONG / 985 NC 211, Eagle Springs, NC 27242 / 20170089, 20180537, 00013401			
Applicant: Williams Sand and Clay, LLC		Phone: 910-695-6475	
Applicant Address: 1515 NC HWY 211	City: Eagle Springs	St: NC	Zip: 27242
Owner: William Arthur Williams		Phone: 910-695-6475	
Owner Address: 1515 NC HWY 211	City: Eagle Springs	St: NC	Zip: 27242
Current Zoning District: RA	Proposed Zoning District: RA-CZ		
Current Use(s): Sand Mine / Agricultural	Proposed Use(s): Sand Mine / Agricultural		

Proposed rules, regulations, condition(s) for the proposed district that address the impacts expected to be generated by the development or use of the site:

Project adheres to Moore County UDO Section 8.75 standards and requirements, as well as the N.C. Mining Act of 1971 - G.S. 74, Article 7 and NCAC Title 15A, Chapter 5: Mining: Mineral Resources

Statement of reasonableness of the proposed conditional zoning. The statement shall include, but not be limited to the following:

1. The conditional rezoning compatibility with the County Land Use Plan and other adopted plans of the County.
2. The conditional rezoning compatibility with the existing land uses on abutting and neighboring tracts.
3. The benefits and detriments of the conditional rezoning for the subject property, neighboring properties and the surrounding community.

Per Moore County Chapter 6 Section 1: Principal Use Table, mining is permitted in the conditional zoning district. This project has already acquired a previous conditional usage permit and has continuously operated under it since 2016.

The benefits include job creation, material production for local infrastructure projects, and an increased tax revenue stream for the county. This proposed usage modification will continue the permitted usage since 2016 and therefore will have few if any detrimental consequences.

I (We), the undersigned, certify that all statements furnished in this application are true to the best of my (our) knowledge, and do hereby agree to follow all reasonable requests or information as designated by the County of Moore Zoning Administrator. If Applicant is not owner of property or has joint ownership must provide notarized statement of acknowledgement of submittal.

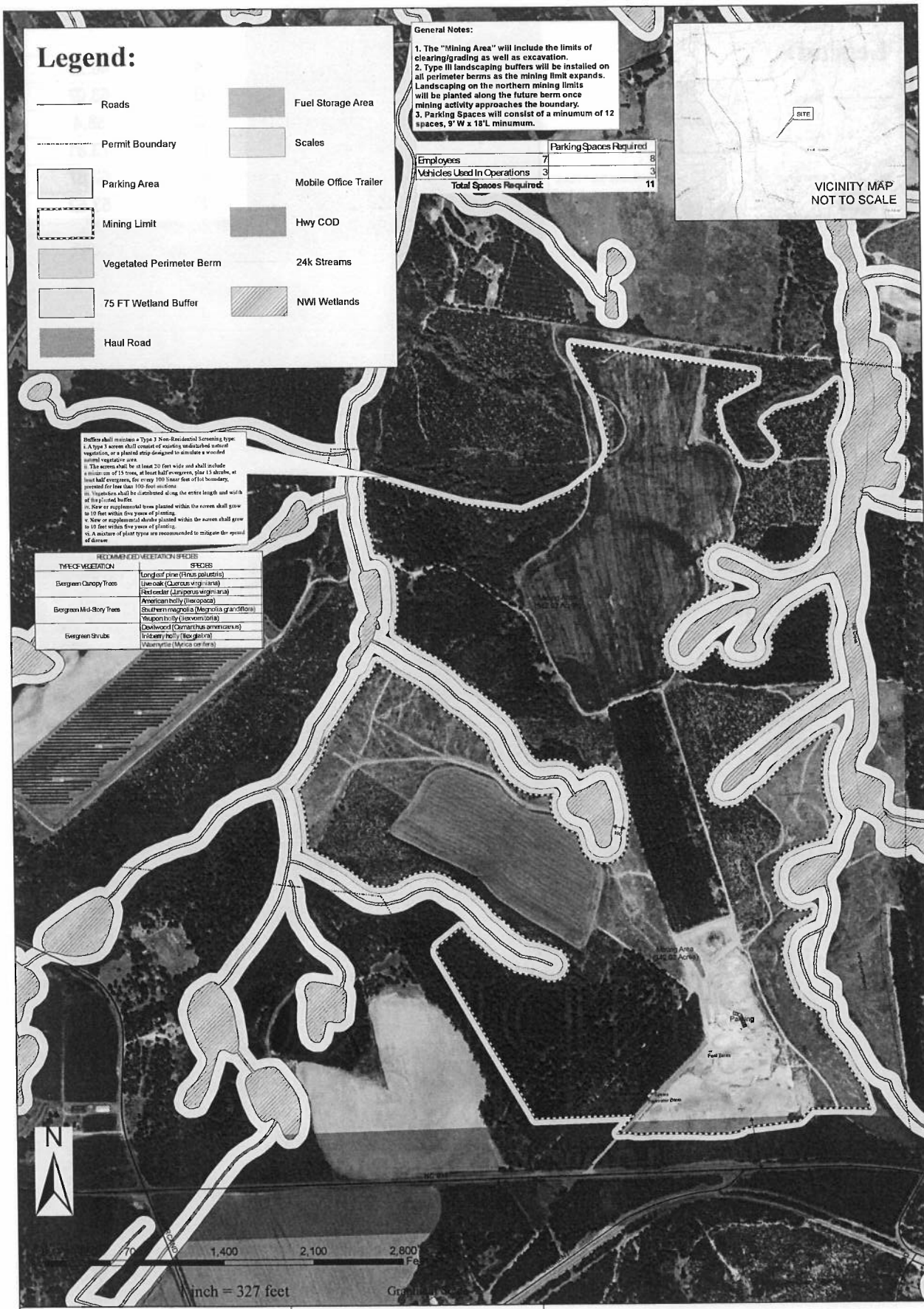
William Arthur Williams 11/18/2024
Applicant/Owner Signature Date

Applicant/Owner Signature Date

Office Use Only:

PAR ID: 20170089, 0001340 1, 20180537

Received By Danielle Ortiz 11/18/2024
Date

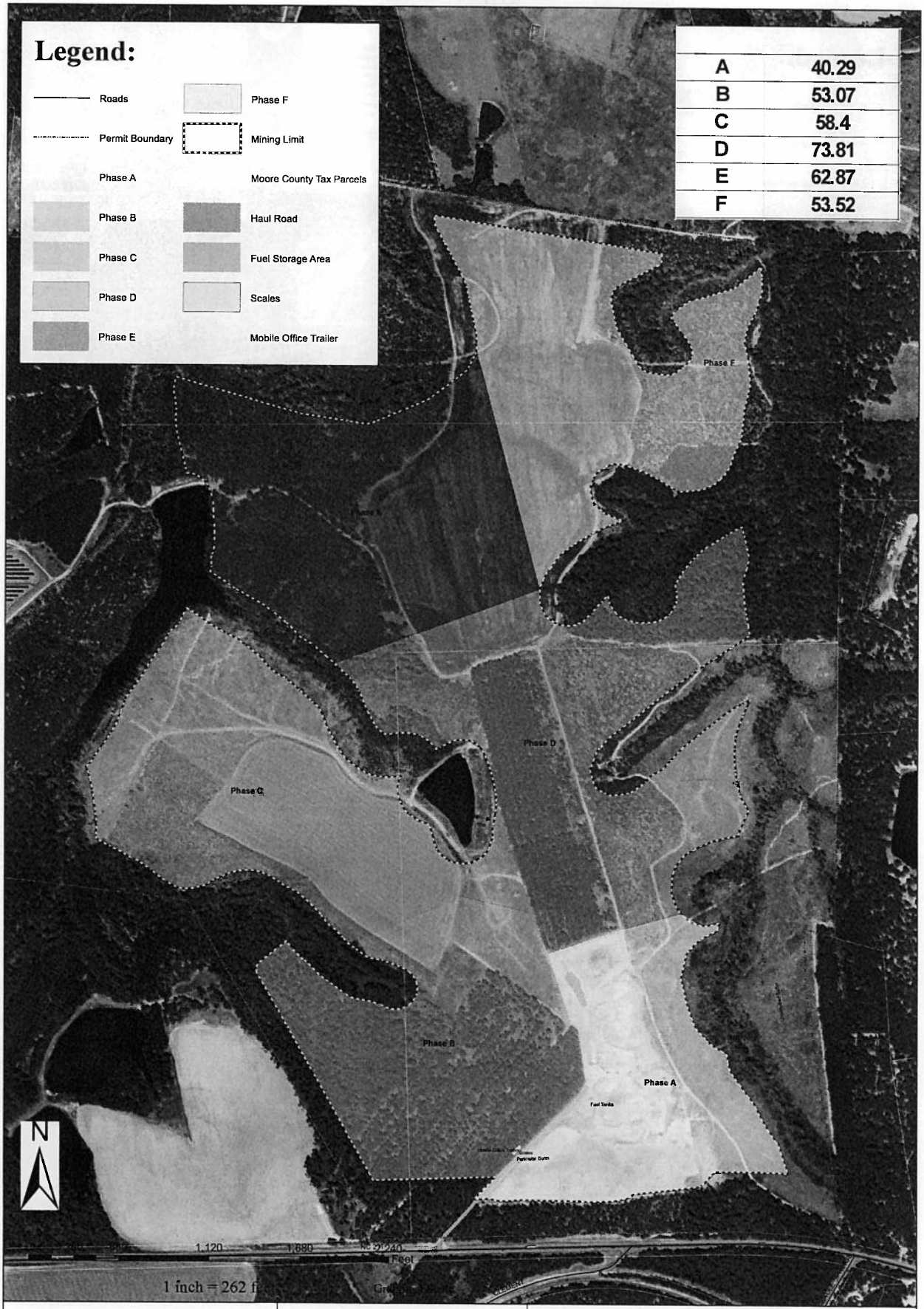


HUNT
ENVIRONMENTAL ASSOCIATES
3330 Saddletree Road
Lumberton, NC 28360
P. (910) 735-5311 F. (866) 768-8016

Arthur Williams
Williams Sand and Clay
Moore County, NC

Figure 1:
2024 Conditional Rezoning Map

Reviewed by:	Drawn by:	Project Number:	Rev. #	Date:
CIS	MCH	21-1201437	8	11/15/2024



HUNT
ENVIRONMENTAL ASSOCIATES
3330 Saddletree Road
Lumberton, NC 28360
P. (910) 735-5311 F. (866) 768-8016

Arthur Williams
Williams Sand and Clay
Moore County, NC

Figure 2:
Williams Sand Mine Phasing Plan

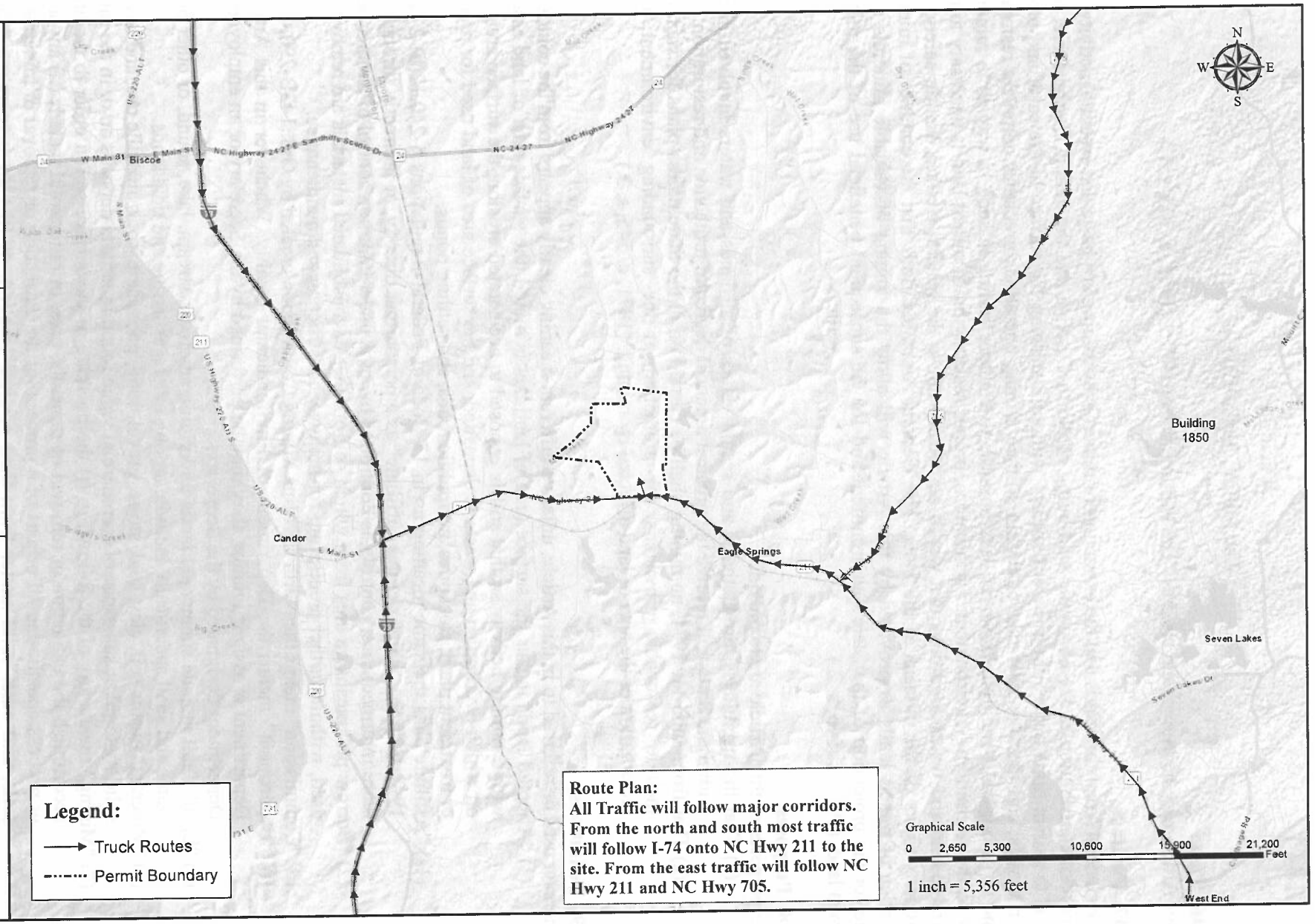
Reviewed by:	Drawn by:	Project Number:	Rev. #	Date:
CIS	MCH	21-1201437	8	12/2/2024

HUNT
ENVIRONMENTAL ASSOCIATES
3330 Saddletree Road
Lumberton, NC 28360
P. (910) 735-5311 F. (866) 768-8016

Arthur Williams
Williams Sand and Clay
Moore County, NC

Figure 3: Truck Route Plan

Reviewed by:	Drawn by:	Project Number:	Rev. #	Date:
CIS	MCH	21-1201437	1	12/3/24



Article 7.

The Mining Act of 1971.

§ 74-46. Title.

This Article may be known and cited as "The Mining Act of 1971." (1971, c. 545, s. 1.)

§ 74-47. Findings.

The General Assembly finds that the extraction of minerals by mining is a basic and essential activity making an important contribution to the economic well-being of North Carolina and the nation. Furthermore, it is not practical to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and the very character of certain surface mining operations precludes complete restoration of the land to its original condition. However, it is possible to conduct mining in such a way as to minimize its effects on the surrounding environment. Furthermore, proper reclamation of mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, beauty, and property rights of the citizens of the State. The General Assembly finds that the conduct of mining and reclamation of mined lands as provided by this Article will allow the mining of valuable minerals and will provide for the protection of the State's environment and for the subsequent beneficial use of the mined and reclaimed land. (1971, c. 545, s. 2.)

§ 74-48. Purposes.

The purposes of this Article are to provide:

(1) That the usefulness, productivity, and scenic values of all lands and waters involved in mining within the State will receive the greatest practical degree of protection and restoration.

(2) That from June 11, 1971, no mining shall be carried on in the State unless plans for such mining include reasonable provisions for protection of the surrounding environment and for reclamation of the area of land affected by mining. (1971, c. 545, s. 3.)

§ 74-49. Definitions.

Wherever used or referred to in this Article, unless a different meaning clearly appears from the context:

(1) "Affected land" means the surface area of land that is mined, the surface area of land associated with a mining activity so that soil is exposed to accelerated erosion, the surface area of land on which overburden and waste is deposited, and the surface area of land used for processing or treatment plant, stockpiles, nonpublic roads, and settling ponds.

(1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "affiliate" as a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

(2) "Borrow pit" means an area from which soil or other unconsolidated materials are removed to be used, without further processing, for highway construction and maintenance.

(3) "Commission" means the North Carolina Mining Commission created by G.S. 143B-290.

(4) "Department" means the Department of Environmental Quality. Whenever in this Article the Department is assigned duties, they may be performed by the Secretary or an employee of the Department designated by the Secretary.

(5) "Land" shall include submerged lands underlying any river, stream, lake, sound, or other body of water and shall specifically include, among others, estuarine and tidal lands.

(6) "Minerals" means soil, clay, coal, stone, gravel, sand, phosphate, rock, metallic ore, and any other solid material or substance of commercial value found in natural deposits on or in the earth.

(7) "Mining" means any of the following: (i) the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; (ii) any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, soils, and other solid matter from their original location; or (iii) the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use.

Mining" does not include:

a. Those aspects of deep mining not having significant effect on the surface, where the affected land does not exceed one acre in area.

b. Mining operations where the affected land does not exceed one acre in area.

c. Plants engaged in processing minerals produced elsewhere and whose refuse does not affect more than one acre of land.

d. Excavation or grading when conducted solely for on-site construction for purposes other than mining.

e. Removal of overburden and mining of limited amounts of any ores or mineral solids when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of any natural deposit, provided that no ores or mineral solids removed during exploratory excavation or mining are sold, processed for sale, or consumed in the regular operation of a business, and provided further that the affected land resulting from any exploratory excavation does not exceed one acre in area.

f. Excavation or grading where all of the following apply:

1. The excavation or grading is conducted to provide soil or other unconsolidated material to be used without further processing for a single off-site construction project for which an erosion and sedimentation control plan has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.
2. The affected land, including nonpublic access roads, does not exceed five acres.
3. The excavation or grading is completed within one year.
4. The excavation or grading does not involve blasting, the removal of material from rivers or streams, the disposal of off-site waste on the affected land, or the surface disposal of groundwater beyond the affected land.
5. The excavation or grading is not in violation of any local ordinance.
6. An erosion and sedimentation control plan for the excavation or grading has been approved in accordance with Article 4 of Chapter 113A of the General Statutes.

g. Excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt, pursuant to G.S. 113A-52.01(1), from the requirements of Article 4 of Chapter 113A of the General Statutes.

(8) "Neighboring" means in close proximity, in the immediate vicinity, or in actual contact.

(9) "Operator" means any person or persons, any partnership, limited partnership, or corporation, or any association of persons, engaged in mining operations, whether individually, jointly, or through subsidiaries, agents, employees, or contractors.

(10) "Overburden" means the earth, rock, and other materials that lie above the natural deposit of minerals.

(10a) "Parent" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "parent" as an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

(11) "Peak" means overburden removed from its natural position and deposited elsewhere in the shape of conical piles or projecting points.

(12) "Reclamation" means the reasonable rehabilitation of the affected land for useful purposes, and the protection of the natural resources of the surrounding area. Although both the need for and the practicability of reclamation will control the type and degree of reclamation in any specific instance, the basic objective will be to establish on a continuing basis the vegetative cover, soil stability, water conditions and safety conditions appropriate to the area.

(13) "Reclamation plan" means the operator's written proposal as required and approved by the Department for reclamation of the affected land, which shall include but not be limited to:

a. Proposed practices to protect adjacent surface resources;

b. Specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and proposed method of accomplishment;

c. Manner and type of revegetation or other surface treatment of the affected areas;

d. Method of prevention or elimination of conditions that will be hazardous to animal or fish life in or adjacent to the area;

e. Method of compliance with State air and water pollution laws;

f. Method of rehabilitation of settling ponds;

g. Method of control of contaminants and disposal of mining refuse;

h. Method of restoration or establishment of stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution;

i. Maps and other supporting documents as may be reasonably required by the Department; and

j. A time schedule that meets the requirements of G.S. 74-53.

(14) "Refuse" means all waste soil, rock, mineral, scrap, tailings, slimes, and other material directly connected with the mining, cleaning, and preparation of substances mined and shall include all waste materials deposited on or in the permit area from other sources.

(15) "Ridge" means overburden removed from its natural position and deposited elsewhere in the shape of a long, narrow elevation.

(16) "Spoil bank" means a deposit of excavated overburden or refuse.

(16a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 April 1992 Edition), which defines "subsidiary" as an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

(17) "Termination of mining" means cessation of mining operations with intent not to resume, or cessation of mining operations as a result of expiration or revocation of the permit of the operator. Whenever the Department shall have reason to believe that a mining operation has terminated, the Department shall give the operator written notice of its intention to declare the operation terminated, and the operator shall have an opportunity to appear within 30 days and present evidence that the operation is continuing; where the Department finds that the evidence is satisfactory, the Department shall not declare the mining operation terminated. (1971, c. 545, s. 4; 1973, c. 1262, ss. 33, 86; 1977, c. 771, s. 4; c. 845, s. 1; 1989, c. 727, s. 218(13); 1993 (Reg. Sess., 1994), c. 568, s. 1; 1997-443, s. 11A.119(a); 1999-82, s. 1; 2002-165, s. 2.1; 2012-143, s. 1(d); 2014-4, s. 5(c); 2015-241, s. 14.30(u); 2015-263, s. 23.)

§ 74-50. Permits - General.

(a) No operator shall engage in mining without having first obtained from the Department an operating permit that covers the affected land and that has not been terminated, revoked, suspended for the period in question, or otherwise become invalid. An operating permit may be modified from time to time to include land neighboring the affected land, in accordance with procedures set forth in G.S. 74-52. A separate permit shall be required for each mining operation that is not on land neighboring a mining operation for which the operator has a valid permit.

(b) As used in subsection (b1) of this section:

(1) "Land adjoining" means any parcel or tract of land that is not owned in whole or in part by, or that is not under the control of, the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that is contiguous to either:

a. Any parcel or tract that includes the permitted area.

b. Any parcels or tracts of land that are owned in whole or in part by or under the control of the applicant or operator or any lessor, affiliate, parent, or subsidiary of the applicant or operator and that, when combined, are contiguous to the permitted area.

(2) "Permit boundaries" means the boundaries of a permitted area.

(3) "Permitted area" means affected land and all other land used for or designated as buffers or reserves, or used for other purposes, as delineated in a mining permit or an application for a mining permit.

(b1) At the time of an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the applicant or operator shall make a reasonable effort, satisfactory to the Department, to notify:

(1) The chief administrative officer of each county and municipality in which any part of the permitted area is located.

(2) The owners of record of land adjoining that lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining

1374 permit to add land to a permitted area, with notice required for only that land to be added.

(3) The owners of record of land that meets both of the following criteria:

a. Lies directly across and is contiguous to any highway; creek, stream, river, or other watercourse; railroad track; or utility or other public right-of-way. For purposes of this sub-subdivision, "highway" means a highway, as defined in G.S. 20-4.01(13), that has four lanes of travel or less and that has not been designated a part of the Interstate Highway System.

b. Lies within 1,000 feet of the proposed permit boundaries, as applicable, under (i) a permit for a new mine or (ii) a modification of a mining permit to add land to a permitted area, with notice required for only that land to be added.

(b2) The notice shall inform the owners of record and chief administrative officers of the opportunity to submit written comments to the Department regarding the proposed new or modified mining operation that adds land to the permitted area and the opportunity to request a public hearing regarding the proposed new or modified mining operation. Requests for public hearing shall be made within 30 days of issuance of the notice.

(b3) When the Department receives an application for a new mining permit or for a modification of a mining permit to add land to the permitted area, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application within 30 days of the date on which the request is made:

(1) Division of Air Quality, Department of Environmental Quality.

(2) Division of Parks and Recreation, Department of Natural and Cultural Resources.

(3) Repealed by Session Laws 2013-413, s. 57(b), effective August 23, 2013.

(4) Division of Water Resources, Department of Environmental Quality.

(5) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality.

(6) Wildlife Resources Commission, Department of Environmental Quality.

(7) Office of Archives and History, Department of Natural and Cultural Resources.

(8) United States Fish and Wildlife Service, United States Department of the Interior.

(9) Any other federal or State agency that the Department determines to be appropriate, including the Division of Coastal Management, the Division of Marine Fisheries, and the Division of Waste Management of the Department of Environmental Quality, and the Department of Transportation.

(c) No permit shall become effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to G.S. 74-54. If at any time the bond or other security, or any part thereof, shall lapse for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which the lapsed bond or security pertains shall be automatically revoked.

(d) Except as provided in subsection (d1) of this section, permits for mining operations shall be issued for the life-of-site of the operation unless revoked as otherwise provided under this Article. For purposes of this section, "life-of-site" means the period from the initial receipt of a permit from the operation until the mining operation terminates and the reclamation required under the approved reclamation plan is completed. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan.

(d1) Permits for mining operations conducted on real property that is leased from a public entity shall be issued for the life-of-lease. For purposes of this subsection, the following terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of the mining operation and a public entity and (ii) "public entity" means the State, any State agency, State college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan. (1971, c. 545, s. 5; 1973, c. 1262, s. 33; 1981, c. 787, s. 1; 1993 (Reg. Sess., 1994), c. 568, s. 2; 2000-116, s. 1; 2002-159, s. 35(d); 2012-143, s. 1(f); 2013-413, s. 57(b); 2014-115, s. 17; 2015-241, s. 14.30(kk); 2017-209, s. 13(a); 2022-43, s. 8(a).)

§ 74-51. Permits - Application, granting, conditions.

(a) Any operator desiring to engage in mining shall make written application to the Department for a permit. The application shall be upon a form furnished by the Department and shall fully state the information called for; in addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce this Article. The application shall be accompanied by a reclamation plan that meets the requirements of G.S. 74-53. No permit shall be issued until a reclamation plan has been approved by the Department. The application shall be accompanied by a signed agreement, in a form specified by the Department, that in the event a bond forfeiture is ordered pursuant to G.S. 74-59, the Department and its representatives and contractors shall have the right to make whatever entries on the land and to take whatever actions may be necessary in order to carry out reclamation that the operator has failed to complete.

(b) Before deciding whether to grant a new permit, the Department shall circulate copies of a notice of application for review and comment as it deems advisable. The Department shall grant or deny the permit requested as expeditiously as possible, but in no event later than 60 days after the application form and any relevant and material supplemental information reasonably required shall have been filed with the Department, or if a public hearing is held, within 30 days following the hearing and the filing of any relevant and material supplemental information reasonably required by the Department. Priority consideration shall be given to applicants who submit evidence that the mining proposed will be for the purpose of supplying materials to the Board of Transportation.

(c) If the Department determines, based on public comment relevant to the provisions of this Article, that significant public interest exists, the Department shall conduct a public hearing on any application for a new mining permit or for a modification of a mining permit to add land to the permitted area, as defined in G.S. 74-50(b). The hearing shall be held before the Department reaches a final decision on the application, and in making its determination, the Department shall give full consideration to all comments submitted at the public hearing. The public hearing shall be held within 60 days of the end of the 30-day period within which any requests for the public hearing shall be made. A public hearing shall not be required for a modification of a mining permit to extend the duration of the permit to a life-of-site, or life-of-lease, pursuant to G.S. 74-50(d) or (d1), respectively.

(d) The Department may deny the permit upon finding:

(1) That any requirement of this Article or any rule promulgated hereunder will be violated by the proposed operation;

(2) That the operation will have unduly adverse effects on potable groundwater supplies, wildlife, or fresh water, estuarine, or marine fisheries;

(3) That the operation will violate standards of air quality, surface water quality, or groundwater quality that have been promulgated by the Department;

(4) That the operation will constitute a direct and substantial physical hazard to public health and safety or to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road or other public property, excluding matters relating to use of a public road;

(5) That the operation will have a significantly adverse effect on the purposes of a publicly owned park, forest or recreation area;

(6) That previous experience with similar operations indicates a substantial possibility that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or acid water pollution; or

(7) That the applicant or any parent, subsidiary, or other affiliate of the applicant or parent has not been in substantial compliance with this Article, rules adopted under this Article, or other laws or rules of this State for the protection of the environment or has not corrected all violations that the applicant or any parent, subsidiary, or other affiliate of the applicant or parent may have committed under this Article or rules adopted under this Article and that resulted in:

a. Revocation of a permit,

b. Forfeiture of part or all of a bond or other security,

c. Conviction of a misdemeanor under G.S. 74-64,

d. Any other court order issued under G.S. 74-64, or

e. Final assessment of a civil penalty under G.S. 74-64, [or]

f. Failure to pay the application processing fee required under G.S. 74-54.1.

(e) In the absence of any finding set out in subsection (d) of this section, or if adverse effects are mitigated by the applicant as determined necessary by the Department, a permit shall be granted.

(f) Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved reclamation plan for the operation and with any other reasonable and appropriate requirements and safeguards that the Department determines are necessary to assure that the operation will comply fully with the requirements and objectives of this Article. These conditions may, among others, include a requirement of visual screening, vegetative or otherwise, so as to screen the view of the operation from public highways, public parks, or residential areas, where the Department finds screening to be feasible and desirable. Violation of any conditions of the permit shall be treated as a violation of this Article and shall constitute a basis for suspension or revocation of the permit.

(g) If the Department denies an application for a permit, the Department shall notify the operator in writing, stating the reasons for the denial and any modifications in the application that would make the application acceptable. The operator may thereupon modify and resubmit the application, or file an appeal as provided in G.S. 74-61.

(h) Upon approval of an application, the Department shall set the amount of the performance bond or other security that is to be required pursuant to G.S. 74-54. The operator shall have 60 days after the Department mails a notice of the required bond to the operator in which to deposit the required bond or security with the Department. The operating permit shall not be issued until receipt of this deposit.

(i) When one operator succeeds to the interest of another in any uncompleted mining operation by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from the duties imposed upon the operator by this Article with reference to the mining operation and transfer the permit to the successor operator; provided, that both operators have complied with the requirements of this Article and that the successor operator assumes the duties of the first operator with reference to reclamation of the land and posts a suitable bond or other security. (1971, c. 545, s. 6; 1973, c. 507, s. 5; 1977, c. 771, s. 4; c. 845, s. 2; 1981, c. 787, ss. 2, 3; 1987, c. 827, c. 82; 1989, c. 727, s. 11; 1993 (Reg. Sess., 1994), c. 568, s. 3; 2000-116, s. 2; 2017-209, s. 13(b).)

§ 74-52. Permit modifications.

(a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article.

(b) Repealed by Session Laws 2017-209, s. 13(c), effective October 4, 2017.

(c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51.

(d) No modification of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan. (1971, c. 545, s. 7; 1993 (Reg. Sess., 1994), c. 568, s. 4; 2017-209, s. 13(c).)

§ 74-53. Reclamation plan.

The operator shall submit with his application for an operating permit a proposed reclamation plan. Said plan shall include as a minimum, each of the elements specified in the definition of "reclamation plan" in G.S. 74-49, plus such other information as may be reasonably required by the Department. The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, shall to the extent feasible be conducted simultaneously with mining operations and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment of the permit area. The plan shall provide that reclamation activities shall be completed within two years after completion or termination of mining on each

segment of the area for which a permit is requested unless a longer period is specifically permitted by the Department.

The Department may approve, approve subject to stated modifications, or reject the plan which is proposed. The Department shall approve a reclamation plan (as submitted or as modified) only where it finds that it adequately provides for those actions necessary to achieve the purposes and requirements of this Article, and that in addition, the plan meets the following minimum standards:

(1) The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.

(2) Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.

(3) At open pit mining operations, all overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land.

(4) In no event shall any provision of this section be construed to allow small pools of water that are, or are likely to become, noxious, odious, or foul to collect or remain on the mined area. Suitable drainage ditches or conduits shall be constructed or installed to avoid such conditions. Lakes, ponds, and marsh lands shall be considered adequately reclaimed lands when approved by the Department.

(5) The type of vegetative cover and methods of its establishment shall be specified, and in every case shall conform to accepted and recommended agronomic and reforestation restoration practices as established by the North Carolina Agricultural Experiment Station and Department of Environmental Quality. Advice and technical assistance may be obtained through the State soil and water conservation districts.

The Department shall be authorized to approve a reclamation plan despite the fact that such plan does not provide for reclamation treatment of every portion of the affected land, where the Department finds that because of special conditions such treatment would not be feasible for particular areas and that the plan takes all practical steps to minimize the extent of such areas. (1971, c. 545, s. 8; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(14); 1991, c. 342, s. 1; 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 74-54. Bonds.

(a) Each applicant for an operating permit, or for the modification of an existing permit shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the Commission, but shall not exceed one million dollars ($1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

(c) The bond shall be conditioned upon the faithful performance of the requirements set forth in this Article and of the rules adopted under this Article. Upon filing the bond with the Department, the operator shall lose all right, title, and interest in the bond while the bond is held by the Department. Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved reclamation plan unless released only upon written notification from the Department. Notification shall be given upon completion of compliance or acceptance by the Department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this section.

(d) In lieu of the surety bond required by this section, the operator may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment from an acceptable bank, an assignment of a savings account in an acceptable bank on an assignment form prescribed by the Department, or other security acceptable to the Department. Security shall be subject to the release provisions of G.S. 74-56.

(e) If the license to do business in North Carolina of any surety upon a bond filed pursuant to this Article should be suspended or revoked, the operator shall, within 60 days after receiving notice thereof, substitute for the surety a good and sufficient corporate surety authorized to do business in this State. Upon failure of the operator to substitute sufficient surety within the time specified, the operator's permit shall be automatically revoked. (1971, c. 545, s. 9; 1981, c. 787, s. 4; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 5; 2012-143, s. 1(d); 2013-410, s. 7(a); 2017-209, s. 13(d).)

§ 74-54.1. Permit fees.

(a) The fee schedule for the processing of permit applications, transfers, and modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	$3,750.00	$5,000.00
Permit Modifications	$750.00	$1,000.00
Permit Transfers	$100.00	$100.00

(a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay an annual operating fee of four hundred dollars ($400.00) per permit per year as set forth in G.S. 74-55. The Department may charge a late fee of fifty dollars ($50.00) per month per permit for every month or partial month that payment of the annual operating fee is delinquent.

(b) Fees collected under this section shall be credited to the General Fund and shall be applied to the costs of administering this Article.

(c) Repealed by Session Laws 2017-10, s. 4.1, effective May 4, 2017. (1989 (Reg. Sess., 1990), c. 944, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 16; 1993, c. 513, s. 3; 1993 (Reg. Sess., 1994), c. 568, s. 6; 2007-323, s. 30.2(a); 2012-143, s. 1(d); 2013-410, s. 7(b); 2015-241, s. 14.16(b); 2017-10, s. 4.1; 2017-209, s. 13(e).)

§ 74-55. Reclamation report.

(a) By September 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which includes all of the following:

(1) Identify the mine, the operator and the permit number.
(2) State acreage disturbed by mining in the last 12-month period.
(3) State and describe amount and type of reclamation carried out in the last 12-month period.
(4) Estimate acreage to be newly disturbed by mining in the next 12-month period.
(5) Provide such maps as may be specifically requested by the Department.
(6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).

(b) When filing the annual report, the permittee shall pay the annual operating fee for the permit to the Department by September 1 of each year until the permit has been terminated by the Department. The Department may assess and collect a monthly penalty for each annual report or annual operating fee not filed by September 30 of each year until the annual report and annual operating fee are filed with the Department. If the required annual report and operating fee, including any late payment penalties, are not filed by December 31 of each year, the Department shall give written notice to the operator and shall then initiate permit revocation proceedings in accordance with G.S. 74-58. (1971, c. 545, s. 10; 1987, c. 827, s. 85; 2017-209, s. 13(f); 2020-74, s. 10.)

§ 74-56. Inspection and approval of reclamation; bond release or forfeiture.

(a) The Department may direct investigations as it may reasonably deem necessary to carry out its duties as prescribed by this Article, and for this purpose may enter at reasonable times upon any mining operation for the purpose of determining compliance with this Article and any rules adopted under this Article and for determining compliance with the terms and conditions of a mining permit, but for no other purpose. No person shall refuse entry or access to any authorized representative of the Department who enters the mining operation for purposes of inspection or other official duties and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with the representative while the representative is carrying out official duties. Upon arriving at the site, the representative of the Department shall make every reasonable effort to notify the operator or the operator's agent that the representative of the Department intends to inspect the site. Upon receipt of the operator's annual report or report of completion of reclamation and at any other reasonable time the Department may elect, the Department shall cause the permit area to be inspected to determine whether the operator has

complied with the reclamation plan, the requirements of this Article, any rules adopted under this Article, and the terms and conditions of the permit.

(b) The operator shall proceed with reclamation as scheduled in the approved reclamation plan. The Department shall conduct an inspection and give written notice to the operator of any deficiencies noted. The operator shall thereupon commence action within 30 days to rectify these deficiencies and shall diligently proceed until they have been corrected. The Department may extend performance periods referred to in this section and in G.S. 74-53 for delays clearly beyond the operator's control, but only in cases where the Department finds that the operator is making every reasonable effort to comply.

(c) Upon completion of reclamation of an area of affected land, the operator shall notify the Department. The Department shall make an inspection of the area, and if it finds that reclamation has been properly completed, it shall notify the operator in writing and release the operator from further obligations regarding the affected land. At the same time the Department shall release all or the appropriate portion of any performance bond or other security that the operator has posted under G.S. 74-54.

(d) If at any time the Department finds that reclamation of the permit area is not proceeding in accordance with the reclamation plan and that the operator has failed within 30 days after notice to commence corrective action, or if the Department finds that reclamation has not been properly completed in conformance with the reclamation plan within two years, or longer if authorized by the Department, after termination of mining on any segment of the permit area, the Department shall initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-59. In addition, failure to implement the reclamation plan shall constitute grounds for suspension or revocation of the operator's permit, as provided in G.S. 74-58. (1971, c. 545, s. 11; 1987, c. 827, s. 85; 1993 (Reg. Sess., 1994), c. 568, s. 7; 1995, c. 504, s. 3.)

§ 74-57. Departmental modification of permit or reclamation plan.

If at any time it appears to the Department from its inspection of the affected land that the activities under the reclamation plan and other terms and conditions of the permit are failing to achieve the purposes and requirements of this Article, it shall give the operator written notice of that fact, of its intention to modify the reclamation plan and other terms and conditions of the permit in a stated manner, and of the operator's right to a hearing on the proposed modification at a stated time and place. The date for such hearing shall be not less than 30 nor more than 60 days after the date of the notice unless the Department and the operator shall mutually agree on another date. Following the hearing the Department shall have the right to modify the reclamation plan and other terms and conditions of the permit in the manner stated in the notice or in such other manner as it deems appropriate in view of the evidence submitted at the hearing. (1971, c. 545, s. 12.)

§ 74-58. Suspension or revocation of permit.

(a) Whenever the Department shall have reason to believe that a violation of (i) this Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit, including the approved reclamation plan, has taken place, it shall serve written notice of the apparent violation upon the operator, specifying the facts constituting the apparent violation and informing the operator of the operator's right to an informal conference with the Department. The date for an informal conference shall be not less than 15 nor more than 30 days after the date of the notice, unless the Department and the operator mutually agree on another date. If the operator or the operator's representative does not appear at the informal conference, or if the Department following the informal conference finds that there has been a violation, the Department may suspend the permit until the violation is corrected or may revoke the permit where the violation appears to be willful, or where the permittee has failed to pay the fee or late payment penalties required by G.S. 74-55(b).

(b) The effective date of any suspension or revocation shall be 30 days following the date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the effective date until issuance of a final decision. If the Department finds at the time of its initial decision that any delay in correcting a violation would result in imminent peril to life or danger to property or to the environment, it shall promptly initiate a proceeding for injunctive relief under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any appeal from a suspension or revocation of a permit shall have no effect upon an action for injunctive relief.

(c) Any operator whose permit has been suspended or revoked shall be denied a new permit or reinstatement of the suspended permit to engage in mining until the operator gives evidence satisfactory to the Department of the operator's ability and intent to fully comply with the provisions of this Article and rules adopted under this Article, and the terms and conditions of the permit, including the approved reclamation plan, and that the

operator has satisfactorily corrected all previous violations. (1971, c. 545, s. 13; 1973, c. 1262, s. 33; 1979, c. 252, s. 1; 1987, c. 827, s. 82A; 1993 (Reg. Sess., 1994), c. 568, s. 8; 2011-398, s. 29; 2017-209, s. 13(g).)

§ 74-59. Bond forfeiture proceedings.

Whenever the Department determines the necessity of a bond forfeiture under the provisions of G.S. 74-56, or whenever it revokes an operating permit under the provisions of G.S. 74-58, it shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the operator under G.S. 74-54; provided, however, that no such request shall be made for forfeiture of a bond until the surety has been given written notice of the violation and a reasonable opportunity to take corrective action. Such proceedings shall be brought in the name of the State of North Carolina. In such proceedings, the face amount of the bond or other security, less any amount released by the Department pursuant to G.S. 74-56, shall be treated as liquidated damages and subject to forfeiture. All funds collected as a result of such proceedings shall be placed in a special fund and used by the Department to carry out, to the extent possible, the reclamation measures which the operator has failed to complete. If the amount of the bond or other security filed pursuant to this section proves to be insufficient to complete the required reclamation pursuant to the approved reclamation plan, the operator shall be liable to the Department for any excess above the amount of the bond or other security which may be required to defray the cost of completing the required reclamation. (1971, c. 545, s. 14.)

§ 74-60. Notice.

Whenever in this Article written notice is required to be given by the Department, such notice shall be mailed by registered or certified mail to the permanent address of the operator set forth in his most recent application for an operating permit or for a modification of such permit. No other notice shall be required. (1971, c. 545, s. 15; 2017-209, s. 13(h).)

§ 74-61. Administrative and judicial review of decisions.

An applicant, permittee, or affected person may contest a decision of the Department to grant, deny, suspend, modify, or revoke a permit or a reclamation plan, to refuse to release part or all of a bond or other security, or to assess a civil penalty by filing a petition for a contested case under G.S. 150B-23 within 30 days after the Department makes the decision. For purposes of this section, the date of the decision to grant, deny, suspend, modify, or revoke a permit application shall be when the Department posts the decision on a publicly available website. Article 4 of Chapter 150B of the General Statutes governs judicial review of a decision of the Commission. (1971, c. 545, s. 16; 1973, c. 1262, s. 33; 1977, c. 771, s. 4; 1979, c. 252, s. 3; 1987, c. 827, s. 86; 1993 (Reg. Sess., 1994), c. 568, s. 9; 2011-398, s. 30; 2022-43, s. 8(b).)

§ 74-62. Repealed by Session Laws 1987, c. 827, s. 83.

§ 74-63. Rules.

The Commission may adopt rules necessary to administer this Article. (1971, c. 545, s. 18; 1973, c. 1262, s. 33; c. 1331, s. 3; 1987, c. 827, s. 84.)

§ 74-64. Penalties for violations.

(a) Civil Penalties.

(1) a. A civil penalty of not more than five thousand dollars ($5,000) may be assessed by the Department against any person who fails to secure a valid operating permit prior to engaging in mining, as required by G.S. 74-50. No civil penalty shall be assessed until the operator has been given notice of the violation pursuant to G.S. 74-60. Each day of a continuing violation shall constitute a separate violation and a civil penalty of not more than five thousand dollars ($5,000) per day may be assessed for each day the violation continues.

b. Any permitted operator who violates any of the provisions of this Article, any rules adopted under this Article, or any of the terms and conditions of the mining permit shall be subject to a civil penalty of not more than five hundred dollars ($500.00). Each day of a continuing violation shall constitute a separate violation. Prior to the assessment of any civil penalty, written notice of the violation shall be given. The notice shall

describe the violation with reasonable particularity, shall specify a time period reasonably calculated to permit the violator to complete actions to correct the violation, and shall state that failure to correct the violation within that period may result in the assessment of a civil penalty.

c. In determining the amount of the penalty, the Department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by the noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with this Article.

(2) The Department shall determine the amount of the civil penalty to be assessed pursuant to G.S. 74-64(a)(1) and shall give notice to the operator of the assessment of the civil penalty pursuant to G.S. 74-60, or by any means authorized by G.S. 1A-1, Rule 4. The notice shall set forth in detail the violation or violations for which the civil penalty has been assessed. The operator may appeal the assessment of any civil penalty assessed pursuant to this section in accordance with the procedures set forth in G.S. 74-61.

(3) The notice of assessment shall direct the violator to pay the assessment or contest the assessment as provided in G.S. 74-61. If the violator does not pay the assessment within 30 days after receipt of the notice of assessment or within 30 days after receipt of the final agency decision, where the assessment has been contested, the Department shall request the Attorney General to institute a civil action in superior court to recover the amount of the penalty. A civil action under this section shall be filed within three years of the date the final agency decision was served on the violator.

(4) The clear proceeds of civil penalties collected pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(5) In addition to other remedies, the Department may request the Attorney General to institute any appropriate action or proceedings to prevent, restrain, correct or abate any violation of this Article or any rules adopted under this Article, or the obstruction, hampering, or interference with an authorized representative of the Department while the representative is carrying out official duties pursuant to this Article.

(b) Criminal Penalties. - In addition to other penalties provided by this Article, any operator who engages in mining in willful violation of the provisions of this Article or of any rules promulgated hereunder or who willfully misrepresents any fact in any action taken pursuant to this Article or willfully gives false information in any application or report required by this Article shall be guilty of a Class 3 misdemeanor and, upon conviction thereof, shall only be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000) for each offense. Each day of continued violation after written notification shall be considered a separate offense. (1971, c. 545, s. 19; 1979, c. 252, s. 2; 1981, c. 787, ss. 7, 8; 1987, c. 246, s. 1; c. 827, s. 85; 1989 (Reg. Sess., 1990), c. 1024, s. 16; 1993, c. 539, s. 555; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 568, s. 10; 1998-215, s. 42.)

§ 74-65. Effect on local zoning regulations.

No provision of this Article shall be construed to supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina, except insofar as a provision of said regulation or ordinance is in direct conflict with this Article. (1971, c. 545, s. 20.)

§ 74-66. Private relief against nuisance or hazard.

No provision of this Article shall be construed to restrict or impair the right of any private or public person, association, corporation, partnership, officer, or agency to bring any legal or equitable action for redress against nuisances or hazards. (1971, c. 545, s. 21.)

§ 74-67. Exemptions.

The provisions of this Article shall not apply to those activities of the Department of Transportation, nor of any person, firm, or corporation acting under contract with the Department of Transportation, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the

public road systems of North Carolina; provided, that this exemption shall not become effective until the Department of Transportation shall have adopted reclamation standards applying to such activities and such standards have been approved by the Commission. The provisions of this Article shall not apply to mining on federal lands under a valid permit from the U.S. Forest Service or the U.S. Bureau of Land Management. (1971, c. 545, s. 22; 1973, c. 507, s. 5; c. 1262, s. 33; 1977, c. 464, s. 34; 2012-143, s. 1(d); 2013-410, s. 7(c).)

§ 74-68. Cooperation with other agencies; contracts and grants.

The Department, with the approval of the Governor, and in order to accomplish any of the purposes of the Department, may apply for, accept, and expend grants from the federal government and its agencies and from any foundation, corporation, association, or individual; may enter into contracts relating to such grants; and may comply with the terms, conditions, and limitations of any such grant or contract. The Department may engage in such research as may be appropriate to further its ability to accomplish its purposes under this Article, and may contract for such research to be done by others. The Department may cooperate with any federal, state, or local government or agency, of this or any other state, in mutual programs to improve the enforcement of this Article or to accomplish its purposes more successfully. (1971, c. 545, s. 23.)

§§ 74-69 through 74-74. Reserved for future codification purposes.

CHAPTER 05 - MINING: MINERAL RESOURCES

This Chapter, 15A NCAC 05, MINING: MINERAL RESOURCES; was transferred and recodified from 15 NCAC 05 effective November 1, 1989. The recodification was pursuant to G.S. 143B-279.1.

SUBCHAPTER 05A - ORGANIZATION AND ADMINISTRATION

SECTION .0100 - MINING AND ENERGY COMMISSION

15A NCAC 05A .0101 NAME AND ADDRESS

The name of this agency shall be the North Carolina Mining and Energy Commission. Its address is Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611.

History Note: *Authority G.S. 143B-290;*
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)); April 1, 1990.

15A NCAC 05A .0102 GENERAL PURPOSES

History Note: *Authority G.S. 74-38; 74-61; 74-84; 74-86; 143B-290;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. November 1, 1984; December 1, 1983;
Repealed Eff. August 1, 1988.

15A NCAC 05A .0103 STRUCTURE

History Note: *Authority G.S. 143B-291;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Repealed Eff. November 1, 1984.

SECTION .0200 - ADMINISTRATION

15A NCAC 05A .0201 DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT

History Note: *Authority G.S. 74-50 through 74-60; 74-64; 74-68; 74-77 through 74-85; 74-87;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. December 1, 1983;
Repealed Eff. November 1, 1984.

15A NCAC 05A .0202 DELEGATION

(a) The Director, Division of Energy, Mineral, and Land Resources, Department of Environment, Health, and Natural Resources, shall have the following powers and duties with regard to the administration of the Mining Act of 1971:

(1) the issuance, denial, modification, renewal, suspension and revocation of permits;
(2) the approval of reclamation plans;
(3) the initiation of forfeiture proceedings;
(4) the giving of notices, setting of hearings and taking of action upon findings of violations; and
(5) the institution of all criminal and civil actions.

(b) The Director, Division of Energy, Mineral, and Land Resources, Department of Environment, Health, and Natural Resources, shall have the following powers and duties with regard to the administration of the Control of Exploration for Uranium in North Carolina Act of 1983:

(1) the issuance, denial, modification, renewal, suspension and revocation of permits;
(2) the initiation and approval of the abandonment of affected land;
(3) the inspection and approval of the abandonment of affected land;
(4) the giving of notices, setting of hearings, and taking of action upon findings of violations; and
(5) the institution of all criminal and civil actions.

History Note: *Authority G.S. 74-50 through 74-53; 74-56 to 74-59; 74-77 through 74-85; 74-87; 143B-290;*
Eff. February 1, 1976;
Amended Eff. January 31, 1979; September 3, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); April 1, 1990; December 1, 1983.

SUBCHAPTER 5B - PERMITTING AND REPORTING

15A NCAC 05B .0101 PURPOSE
15A NCAC 05B .0102 ACTIVITIES REQUIRING PERMITS

History Note: *Authority G.S. 74-50; 74-63; 74-67; 143B-290(1)(d);*
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Repealed Eff. November 1, 1984.

15A NCAC 05B .0103 BONDING REQUIREMENTS

(a) After an application for a new mining permit or permit renewal, modification, or transfer is considered approvable by the Department, an applicant or permittee must file a bond with the Department in an amount to be determined by the Director.
(b) If the applicant or permittee disagrees with the bond amount determined by the Director, the applicant or permittee may submit to the Director for his consideration, an estimate of reclamation costs from a third party contractor to be used as the bond amount. The estimate shall be provided to the Director within 30 days following the receipt of the Director's initial bond determination. After considering the estimate and recommendations provided by his staff, the Director shall notify the applicant or permittee of his bond determination and the process and conditions used to set the bond amount.
(c) The Director may invite the applicant or permittee to submit to the Department an estimate of reclamation costs from a third party contractor for the Director's use in determining the required bond amount. After considering the estimate and the recommendations provided by his staff, the Director shall notify the applicant or permittee of his bond determination and the process and conditions used to set the bond amount.
(d) The amount of the bond shall be based on the costs to reclaim the affected land as determined by the reclamation plan approved pursuant to G.S. 74-53 and 15A NCAC 5B .0004(b). The bond amount shall be based on a range of five hundred dollars ($500.00) to five thousand dollars ($5,000) per acre of land approved by the Department to be affected. If the mining permit is modified to increase the total affected land, the bond shall be increased accordingly. The Director shall consider the method and extent of the required reclamation for a particular site in determining the bond amount. As areas at a site are reclaimed and formally released by the Department, the permittee may substitute a bond in an amount covering the remaining affected land at the site for the bond previously filed with the Department; otherwise, without such bond substitution, the Department shall retain the previously filed bond until all reclamation has been completed and approved by the Department.
(e) If an applicant or permittee has multiple sites, the applicant or permittee may file a separate bond with the Department for each site or the applicant or permittee may submit one blanket bond covering all sites in the aggregate amount of all bond totals. Once the total amount of all bonds for separate sites or the total of blanket bond(s) for all sites reaches five hundred thousand dollars ($500,000):

(1) the applicant or permittee with separate bonds may substitute a five hundred thousand dollar ($500,000) blanket bond to be used for all future sites, or
(2) the applicant or permittee with the five hundred thousand dollar ($500,000) blanket bond covering all sites may use that blanket bond for all future sites,

if the Director finds that the applicant or permittee, in either case, has a good operating record, that the five hundred thousand dollars ($500,000) is sufficient to reclaim all sites and that no additional reclamation bond money is needed. If the Director finds that the applicant or permittee does not have a good operating record, that the five hundred thousand dollars ($500,000)

is not sufficient to reclaim all sites, or that additional reclamation money is needed, the Director shall require per acreage bonding for future sites as provided in Paragraph (d) of this Rule.
(f) For the purposes of this Rule, a good operating record is defined as two consecutive years of operation within the State of North Carolina without final assessment of a civil penalty or other enforcement action pursuant to G.S. 74-64, or having a permit suspended or revoked under G.S. 74-58, or having a bond or other surety forfeited under G.S. 74-59. For the purposes of this Rule, a bond shall include any and all types of security allowed under G.S. 74-54.

History Note: *Authority G.S. 74-51; 74-54; 143B-290;*
Eff. February 1, 1976;
Amended Eff. January 1, 1994; April 1, 1990; November 1, 1985; November 1, 1984.

15A NCAC 05B .0104 INFORMATION REQUIRED IN PERMIT APPLICATION

(a) The completed application for the mining permit shall include information concerning the mining operation and a reclamation plan for the restoration of all affected land. Information required concerning the mining operation shall include:

(1) materials to be mined;
(2) method of mining;
(3) expected depth of mine;
(4) size of the mine, including:
  (A) acreage for tailings ponds,
  (B) acreage for stockpiles,
  (C) acreage for waste piles,
  (D) acreage for processing plants,
  (E) acreage for mine excavation,
  (F) acreage for annual disturbance;
(5) anticipated effect on wildlife, freshwater, estuarine or marine fisheries;
(6) whether or not the operation will have a waste water discharge or air contaminant emission which will require a permit from the division of environmental management;
(7) method to prevent physical hazard to any neighboring dwelling house, school, church, hospital, commercial or industrial building, or public road if the mining excavation will come within 300 feet thereof;
(8) measures to be taken to insure against landslides and acid water pollution;
(9) measures to be taken to minimize siltation of streams, lakes, or adjacent properties during the mining operation;
(10) measures to be taken to screen the operation from public view.

(b) Information required in the reclamation plan shall include:

(1) intended plan for overall mine reclamation, subsequent land use and the general methods to be used in reclaiming;
(2) intended practices to be taken to protect adjacent surface resources;
(3) intended methods to prevent or eliminate conditions hazardous to animal or fish life in or adjacent to the affected areas;
(4) intended methods of rehabilitation of settling ponds;
(5) intended methods of restoration or establishment of stream channels and stream beds to a condition minimizing erosion, siltation and other pollution;
(6) intended measures to stabilize slopes;
(7) intended measures to provide for safety to persons and adjoining property in excavation in rock;
(8) intended measures of disposal of mining refuse and control of contaminants;
(9) provisions to prevent collection of noxious, odious or foul water in mined areas;
(10) plan for revegetation and reforestation or other surface treatment of the affected areas which plan must be approved in writing by one of the following prior to submission of the application:
  (A) Authorized representatives of the local soil and water conservation district having jurisdiction over lands in question;
  (B) Authorized representatives of the division of forest resources, Department of Environment, Health, and Natural Resources;
  (C) County agricultural extension chairmen or research and extension personnel headquartered at North Carolina State University in the school of agriculture and life sciences;
  (D) North Carolina licensed landscape architects;

(E) Private consulting foresters referred by the division of forest resources, Department of Environment, Health, and Natural Resources;

(F) Others as may be approved by the department; Provided that areas expected to be in use beyond the maximum permissible permit period, such as processing plants or stockpiles, do not require a specific revegetation plan;

(11) time schedule of reclamation that provides that reclamation activities be conducted simultaneously with mining operations whenever feasible and in any event be initiated at the earliest practicable time after completion or termination of mining on any segment and completed within two years.

(c) In addition to the application form, the operator shall also submit two copies of a county map showing the mine location and two copies of a mine map. Mine maps should be accurate drawings, aerial photographs or enlarged topographic maps of the mine area and must clearly show the following:

(1) property lines or affected area of mining operation;
(2) outline of pits;
(3) outline of stockpile areas;
(4) outline of overburden disposal areas;
(5) location of processing plants (Processing plants may be described as to location and distance from mine if sufficiently far removed.);
(6) location and name of streams and lakes;
(7) outline of settling ponds;
(8) location of access roads;
(9) map legend:
(A) name of company,
(B) name of mine,
(C) north arrow,
(D) county,
(E) scale,
(F) date prepared,
(G) name and title of person preparing map; and
(10) names of owners of record, both public and private, of all adjoining land.

The mine maps should be correlated with the reclamation plan. The approximate areas to be mined during the life of the permit should be clearly marked.

If reclamation is to be accomplished concurrently with mining, then show segments that are to be mined and reclaimed during each year of the permit.

Add drawings showing typical sections or cross sections and layout of proposed reclamation where such drawings will assist in describing reclamation.

(d) An application for a mining permit shall include:

(1) The name and address of all known owners, both private and public of all land adjoining the proposed mining site as determined by a diligent search of the tax records or other sources of information about property ownership in a manner reasonable calculated to identify the owners of all adjoining land and approved by the department. The proposed mining site means all land to be included within the proposed permitted area;

(2) The name of the chief administrative officer of the county or municipality in which the proposed mining site is located together with the officer's mailing address; and

(3) Proof satisfactory to the department that the applicant has made a reasonable effort to notify all owners of record of all adjoining land and the chief administrative officer of the county or municipality of the pending application. Proof satisfactory to the department shall include an affidavit by the applicant that he has caused a notice of the pending application to be sent by certified or registered mail to all known adjoining owners and to the chief administrative officer of the county or municipality. Other means of notice shall be satisfactory if approved in advance by the department.

History Note: *Authority G.S. 74-63; 74-51; 74-53;*
Eff. February 1, 1976;
Amended Eff. April 1, 1990; May 1, 1982; September 1, 1979; January 31, 1979.

15A NCAC 05B .0105 CONDITIONS WHICH MAY BE INCLUDED IN PERMIT

To assure that the operation will comply fully with the requirements and objectives of the Mining Act of 1971, the director may approve an application or reclamation plan subject to certain conditions. Such conditions of application approval may include:

(1) additional erosion control measures to be installed during the mining operation;
(2) a natural buffer to be left between any stream and the affected land;
(3) visual screening such as existing natural vegetation, vegetated earthen berms, tree plantings at staggered spacing, etc. to be installed and maintained as feasible between any affected land and any adjoining property containing occupied buildings or public access within view of the affected land;
(4) erosion control measures to be taken during the construction and operation of all haul roads or access roads to minimize off-site damage from sediment;
(5) other conditions necessary to safeguard the adjacent surface resources or wildlife.

History Note: *Authority G.S. 74-63; 74-51;*
Eff. February 1, 1976;
Amended Eff. May 1, 1992; November 1, 1984.

15A NCAC 05B .0106 STANDARDS FOR DENYING AN APPLICATION

An application for a mining permit including new permits, modified permits and renewal permits, may be denied when the operation will have an unduly adverse effect on wildlife or fisheries by:

(1) substantial siltation of streams or lake beds, increasing the average water temperature of adjacent waterways to a temperature detrimental to the pre-existing aquatic wildlife; or
(2) other conditions designated by the North Carolina Wildlife Resources Commission as being unduly detrimental to wildlife.

History Note: *Authority G.S. 74-51; 74-58; 74-63;*
Eff. February 1, 1976;
Amended Eff. November 1, 1984.

15A NCAC 05B .0107 MODIFICATION OF MINING PERMIT
15A NCAC 05B .0108 RENEWAL OF MINING PERMIT
15A NCAC 05B .0109 STANDARDS FOR SUSPENDING OR REVOKING A MINING PERMIT

History Note: *Authority G.S. 74-52; 74-57; 74-58;*
Eff. February 1, 1976;
Repealed Eff. November 1, 1984.

15A NCAC 05B .0110 MINING RECLAMATION REPORTS

The mine operator shall, by February 1 of each year during the life of the permitted operation, and within 30 days of completion or termination of mining on an area under permit, file with the department a mining reclamation report on a form prescribed by the department.

History Note: *Authority G.S. 74-55; 143B-290;*
Eff. March 30, 1978;
Amended Eff. November 1, 1984.

15A NCAC 05B .0111 PUBLIC HEARINGS

(a) If the department determines that there exists a significant public interest in an application for a new mining permit, the director shall appoint a hearing officer to conduct a public hearing on the application which shall be held no sooner than 20 or later than 60 days of the filing of the application and before the department makes its final decision regarding the application.
(b) At least ten days prior to the public hearing, the department shall publish notice thereof in a newspaper of general circulation in the county in which the proposed mine is located. The department may also give notice to the public by other means. In addition, the department shall cause written notice of the hearing to be sent by certified or registered mail to the applicant and to the known owners of all adjoining land.
(c) Any person may appear at the public hearing and give oral or written comments on the proposed application. The hearing officer may impose reasonable limitations on the length of time that any person may speak and may summarize comments

rather than recording them in full. The hearing officer may allow additional written comments to be submitted after the hearing within a period of time he deems appropriate which shall not exceed ten days.
(d) Within ten days after the hearing or time for additional comment, the hearing officer shall prepare a written report summarizing the comments that were submitted regarding the application. The report shall include copies of all written comments that were submitted. Copies of the report shall be made available to the applicant or members of the public upon request. The department shall give full consideration to all comments contained in the hearing record in making its final determination on the application.

History Note: *Authority G.S. 74-51; 74-63;*
Eff. May 1, 1982.

15A NCAC 05B .0112 PERMIT APPLICATION PROCESSING FEES

(a) A non-refundable permit application processing fee, in the amounts stated in Paragraphs (b), (c) and (d) of this Rule, shall be paid when an application for a new mining permit, a permit modification or a renewal permit, is filed in accordance with G.S. 74-51 or G.S. 74-52 and 15A NCAC 5B .0003, .0004, and .0005.
(b) A non-refundable fifty dollar ($50.00) permit application processing fee is required for minor permit modifications. Minor permit modifications include administrative changes such as ownership transfers, name changes, and bond substitutions. A minor permit modification also includes lands added to a permitted area, outside of the minimum permit buffer zone requirements, where no plans for mining related disturbance of the added lands have been approved. All other changes to the permit are major modifications. No fee is required for administrative changes initiated by the Director to correct processing errors, to change permit conditions or to implement new standards.
(c) A non-refundable fifty dollar ($50.00) permit application processing fee is required for permit renewal of an inactive site, provided that any previously disturbed areas have been reclaimed in a manner acceptable to the Department. Once renewed, prior to initiating any mining related disturbance, an application for a major modification and a processing fee shall be submitted to and approved by the Department. For purposes of this Paragraph, and notwithstanding Paragraph (d) of this Rule, the acreage for a major modification shall be the total acreage at the site. All other modifications to the renewed permit shall be governed by Paragraphs (b) and (d) of this Rule.
(d) For the purposes of this Rule, acres for new permits and renewal permits means the total acreage at the site; and acres for major modification of permits means that area of land affected by the modification within the permitted mine area, or any additional land that is to be disturbed and added to an existing permitted area, or both. Each permit application shall be deemed incomplete until the permit application processing fee is paid. Schedule of Fees:

TYPE	ACRES	NEW PERMIT	MAJOR MODIFICATION	RENEWAL
CLAY	1 but less than 25	$ 500	$ 250	$ 250
	25 but less than 50	1000	500	500
	50 or more	1500	500	500
SAND & GRAVEL, GEMSTONE AND BORROW PITS	1 but less than 5	150	100	100
	5 but less than 25	250	100	100
	25 but less than 50	500	250	500
	50 or more	1000	500	500
QUARRY, INDUSTRIAL MINERALS, DIMENSION STONE	1 but less than 10	250	100	100
	10 but less than 25	1000	250	500
	25 but less than 50	1500	500	500
	50 or more	2500	500	500
PEAT &	1 or more	2500	500	500

PHOSPHATE GOLD (HEAP LEACH), TITANIUM & OTHERS	1 or more	2500	500	500

(e) Payment of the permit application processing fee shall be by check or money order made payable to the "N.C. Department of Environment, Health, and Natural Resources". The payment shall refer to the new permit, permit modification or permit renewal.
(f) In order to comply with the limit on fees set forth in G.S. 143B-290(4)b, the Director shall, in the first half of each state fiscal year, project revenues for the fiscal year from fees collected pursuant to this Rule. If this projection shows that the statutory limit will be exceeded, the Director shall order a pro rata reduction in the fee schedule for the remainder of the fiscal year to avoid revenue collection in excess of the statutory limits.

History Note: *Filed as a Temporary Rule Eff. November 1, 1990, for a Period of 180 Days to Expire on April 29, 1991;*
Authority G.S. 143B-290;
ARRC Objection Lodged November 14, 1990;
ARRC Objection Removed December 20, 1990;
Eff. January 1, 1991;
Amended Eff. December 1, 1991.

15A NCAC 05B .0113 RESPONSE DEADLINE TO DEPARTMENT'S REQUEST(S)
An applicant or permittee shall submit to the Department supplemental information regarding an application for a new permit, modified permit, or permit renewal within 180 days after the date of receipt of the Department's written request(s) for such information. Upon written request of the applicant or permittee to the Director, an additional reasonable specified period of time not to exceed one year shall be granted upon determination of good cause by the Director. Additional time may be granted by the Mining and Energy Commission, provided written request is made by the applicant or permittee before the expiration of the one-year period.

History Note: *Authority G.S. 74-51; 74-52; 74-63; 143B-290;*
RRC Objection Eff. September 15, 1994 due to lack of statutory authority;
Eff. November 1, 1994;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)).

SUBCHAPTER 5C - GEOPHYSICAL EXPLORATION

15A NCAC 05C .0101 DEFINITIONS
(a) Explorations. Whenever the word "explorations" is referred to in these rules, it shall mean geological, geophysical and other surveys and investigations, including seismic methods for the discovery and location of oil, gas or other mineral prospects, and which may or may not involve the use of explosives.
(b) Seismic Explorations. The word "seismic explorations" shall mean any geophysical exploration method which involves the use of explosives.
(c) Shot. The word "shot" as used in these rules shall mean the use and detonation of powder, dynamite, nitroglycerin or other explosives.
(d) Department. Whenever the word "department" is referred to in these rules, it shall mean the North Carolina Department of Environment, Health, and Natural Resources in Raleigh, North Carolina.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.

15A NCAC 05C .0102 SUPERVISION

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 1988;
Expired Eff. June 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05C .0103 CORRESPONDENCE

Reports and correspondence by all parties in connection with these rules shall be addressed to "North Carolina Department of Environment, Health, and Natural Resources, Raleigh, N.C." unless from time to time parties subject to these rules shall be notified in writing by the department to direct communications to a specified division or a specified representative of the department.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.

15A NCAC 05C .0104 SITE REGULATION

The Secretary of the Department of Environment, Health, and Natural Resources (and in areas in which wildlife resources will be appreciably affected, with the advice and approval of the Director of the N.C. Wildlife Resources Commission and representatives of the U.S. Fish and Wildlife Service) will designate when, where, and how much exploration work shall be conducted under these Rules.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Amended Eff. January 31, 1979;
Readopted Eff. August 1, 1982;
Amended Eff. April 1, 1990.

15A NCAC 05C .0105 PERMIT REQUIRED

A permit from the department is required for all seismic exploration work in the area to which these rules are applicable. No such seismic work shall be started without a permit and all such work must be carried out in such manner as may be approved by the said secretary.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0106 PERMIT APPLICATION

Application for permits for such exploration work must be filed in quadruplicate with the department at least 10 days before issuance of permits and must be accompanied by a detailed map showing the exact area in which the geophysical operations are to be conducted, such area to be shown, where possible, by reference to established coast objects or landmarks. (The department may hereafter require applications to be filed on special forms to be provided by the department.) Permittees will also obtain appropriate assent from the lessee if and where the area under investigation is leased, with exclusive exploration privilege, to other than the permittee.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0107 PERMIT DURATION

Permits are limited to a period of six months from date of issue, but may be renewed for not more than two additional 90-day periods at the discretion of the secretary. Applications for renewal may be made in letter form. After the expiration of a permit and any renewals thereof, work may continue or be resumed under any new permit issued or application made as provided in Rule .0006 of this Subchapter.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0108 GEOGRAPHIC LIMITS ON WORK
No seismic crew shall work outside the area or areas as described in its permit or permits.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0109 SEISMIC AGENTS
Each seismic exploration crew working under permit issued pursuant to these rules will always be accompanied by a seismic agent, unless written exception has been granted by the secretary. When a crew employs more than one shooting component or unit and the units are at such a distance apart that it is impossible for the seismic agent to travel from one to the other in time to observe the shots of each crew, it will be required that an agent be assigned to each shooting component of the crew. The seismic agent will be constantly present during the shooting operations of the party to which he is assigned.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0110 DAILY REPORT REQUIRED
Daily reports on such exploration work shall be filed with the department by the seismic agent at the end of each working period. A separate report must be made for each day whether or not shooting is in progress. These reports must furnish complete information as indicated on the report form and must be signed by the party chief and by the seismic agent. The party chief will furnish only such information to the seismic agent as is required to fill out the daily reports. Should the department wish to secure any other information, it will furnish the party chief with a written request.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0111 NOTIFICATION
Operators shall notify the department at least one week in advance of the beginning, and shall give notice of interruption, and of cessation of work in any area, and shall keep the department informed of name and address of party chief, and location and movements of the crew or quarter boat.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0112 SIZE OF EXPLOSIVE CHARGES
Charges in excess of 50 pounds shall not be used except pursuant to written authorization from the department. Requests for the use of such charges must be made in writing, giving the reasons why such charges are needed, the size of charges to be used, and the depth at which they are to be suspended or buried. Such requests should be addressed to the department. Should multiple charges be used, the total amount of explosive should not exceed 50 pounds without special permission from the department.

History Note: *Authority G.S. 113-391;*

Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0113 PLACING OF CHARGES

The placing of explosive charges on the bottoms of the water at any area covered by a permit issued pursuant to these rules is prohibited. No undetonated charges shall be left. No such charges should be detonated nearer to the bottom or water bed than five feet.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0114 CURRITUCK SPECIAL

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Expired Eff. June 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05C .0115 REMOVAL

All pipe used in geophysical operations must be removed by the party using such pipe to at least six feet below the bottom or water bed (and in charted navigable channels, at least eight feet below charted dredge depth) before finally leaving the shot-point.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0116 IDENTIFICATION

All parties using pipe must have clearly stamped at each end of each joint the name or abbreviation of the name of the company using the pipe.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0117 PIPES AND BUOYS

All pipes, buoys, and other markers used in connection with seismic work shall be properly flagged in the daytime and lighted at night according to the navigation rules of the U.S. Engineers and the U.S. Coast Guard.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0118 EXPLOSIVES

No explosives shall be discharged within 1,000 feet of a fishing boat operating in the waters, without notice being given to such boat so that it may move from the area. Before any shot is discharged the exploration party shall employ methods approved by the industry to frighten or drive away the fish and/or marine life which may be in the area where the shot is to be discharged. If there is a school or schools of fish in the area to be shot, operations must be suspended in that particular area until said school or schools of fish have been driven away.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0119 SHOOTING

(a) No shooting will be allowed except in daylight hours so that the seismic agent may observe the results of each shot, except that, in the discretion of the department and on written request stating the reasons therefor special written permission may be granted for night shooting.

(b) No shooting will be allowed in heavy fog due to danger to boats in close proximity.

(c) Persistent gas and water spouts caused by drilling or shooting operations of seismic crews will be stopped by permittee as soon as possible after they occur.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0120 MINIMUM DEPTHS

(a) Minimum required depths of charges detonated in holes below the bottom or bed of the inland or offshore waters within the jurisdiction of this state shall be as follows:

(1) five pounds or less 20 feet below the bottom,
(2) up to 20 pounds 40 feet below the bottom,
(3) up to 30 pounds 50 feet below the bottom,
(4) up to 40 pounds 60 feet below the bottom,
(5) up to 50 pounds 70 feet below the bottom.

(b) No part of the charge shall be above the minimum required depth. Irrespective of the minimum depths specified in (a) of this Rule, all charges shall be detonated at sufficient depths to prevent cratering.

(c) These minimum required depths shall not apply to trial charges and charges for determining condition of the weathering layer; provided that such charges are not over five pounds and not fired without permission of the seismic agent and then no more often than absolutely necessary.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0121 DETAILED PROVISIONS

(a) When more than one shot is fired in the same hole and there is any reasonable doubt in the mind of either the seismic agent or the field manager of the party as to the legal depth of the hole after the shot is fired, the hole will be measured for depth before reloading to ascertain that it is the required depth in accordance with the table of charges and depth.

(b) All 2 x 2's used for survey lines must be clearly stamped with the name of the company using the stakes at approximately three-foot intervals.

(c) All holes drilled in geophysical operations in land areas must be filled, by the persons or agency drilling these holes, before leaving the location.

(d) No explosives shall be discharged within 300 feet of any oyster reef or bed, including any state-owned natural reefs, or within 300 feet of any dock, pier, causeway or other fixed structure, without written permission signed by the owner and/or lessee of the reef or bed, approved by the department.

(e) All shot charges suspended in the water by floats shall be of such type and packaged in such manner that same will disintegrate and neutralize in the water within a short time, and any suspended charge which fails to discharge shall be immediately removed from the water if same can, in the opinion of the party chief or manager, be done without endangering the life of any member of the party, but, in no event, shall any such undischarged suspended charge be abandoned without destroying the floats attached thereto. Where inflated floats are used, all charges will be suspended from dual floats either of which will be capable of retaining the charge at the proper depth.

(f) Boats, marsh buggies or other types of marsh vehicles must be so used as to cause the minimum disturbance of an injury to lands, waterbottoms, and wildlife and fisheries thereon. All such vehicles shall be clearly painted or otherwise distinctively marked so as to be easily seen and identified.

(g) Agents assigned to seismic crews are to be employees of and under the supervision of the department.

(h) The department on request, will have access to all records, such as shot point location maps, shooters' logs and tracings, but only to the extent necessary to determine that all protective requirements have been complied with.

(i) The interpretation of these rules by the department will be accepted by the seismic operator and the seismic agent.

(j) The party chief will instruct the members of his party as to these rules, and to the duty and authority of the department and the seismic agent.
(k) The party chief will assist the seismic agent to fill out the required form by furnishing all necessary data.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0122 FEES

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Repealed Eff. August 1, 1988.

15A NCAC 05C .0123 POWERS OF SEISMIC AGENTS
The seismic agent has the right to stop any particular shooting, if, in his opinion, it will violate the rules in this Subchapter, but does not have the authority to shut down the entire exploration work. If, in the opinion of the seismic agent, such violations continue, he will immediately contact the department, and the members of the exploration party will assist him to do this with all the facilities at their disposal.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0124 DUTIES OF PARTY CHIEF
(a) The party chief will furnish the department supervisor or his agent with transportation facilities to enable him to visit the working area, if required.
(b) The party chief is required to notify the department immediately if the seismic agent is not on the job, and will notify the department supervisor if it should become necessary to relieve an agent at any time. The department supervisor will arrange relief for the agent.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0125 RELEASE FROM THESE REGULATIONS
No seismic agent shall have the right to release any operator from the obligations imposed by these rules. Exceptions may be granted by the department only, after written application setting forth reasons for exception. The release will designate the particular area and rule affected and the procedure to be followed in lieu of the established rule.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0126 DUTIES OF OPERATORS
All operators conducting seismic operations shall use reasonable precaution in accordance with approved and accepted methods to prevent destruction of, or injury to fish, oysters, shrimp, and other aquatic life, wildlife, or other natural resources.

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982.

15A NCAC 05C .0127 SURETY BONDS AND INSURANCE
15A NCAC 05C .0128 VIOLATIONS

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Readopted Eff. August 1, 1982;
Repealed Eff. August 1, 1988.

SUBCHAPTER 05D - OIL AND GAS CONSERVATION

15A NCAC 05D .0101 GENERAL PROVISIONS

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Amended Eff. October 1, 1984; January 31, 1979;
Repealed Eff. March 17, 2015.

15A NCAC 05D .0102 PENALTIES

History Note: *Authority G.S. 113-391;*
Eff. February 1, 1976;
Repealed Eff. August 1, 1988.

15A NCAC 05D .0103 DEFINITIONS
15A NCAC 05D .0104 REGISTRATION
15A NCAC 05D .0105 DRILLING PERMITS
15A NCAC 05D .0106 WELL SPACING
15A NCAC 05D .0107 DRILLING AND COMPLETION
15A NCAC 05D .0108 COMPLETION REPORT
15A NCAC 05D .0109 PLUGGING OF WELLS
15A NCAC 05D .0110 FILING OF THE LOG OF DRILLING
15A NCAC 05D .0111 LIMITATION OF PRODUCTION AND ALLOCATION

History Note: *Authority G.S. 113-391; 113-395;*
Eff. February 1, 1976;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); August 1, 1988; October 1, 1984; January 31, 1979;
Repealed Eff. March 17, 2015.

SUBCHAPTER 5E - DISPOSITION OF MINERAL DEPOSITS ON STATE LANDSUNDER WATER

15A NCAC 05E .0101 APPLICATION
15A NCAC 05E .0102 INFORMATION REQUIRED
15A NCAC 05E .0103 RECOMMENDATION OF EARTH RESOURCES COUNCIL
15A NCAC 05E .0104 FINAL ACTION
15A NCAC 05E .0105 APPEAL

History Note: *Authority G.S. 143B-10; 146-8;*
Eff. February 1, 1976;
Repealed Eff. October 1, 1984.

SUBCHAPTER 05F - CIVIL PENALTIES

15A NCAC 05F .0101 PURPOSE AND SCOPE
These Rules set forth the procedures and standards to be followed by the director in assessing civil penalties and by the Mining and Energy Commission in hearing appeals from the assessment of such penalties.

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d)); November 1, 1984.

15A NCAC 05F .0102 DEFINITIONS

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(d));
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0103 WHO MAY ASSESS
Civil penalties may be assessed by the director.

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982.

15A NCAC 05F .0104 WHEN ASSESSABLE

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Repealed Eff. November 1, 1984.

15A NCAC 05F .0105 CIVIL PENALTY FOR MINING WITHOUT A PERMIT
(a) Prior to the assessment of any civil penalty for mining without a permit, the alleged violator shall be given notice by registered or certified mail, return receipt requested, signed by the regional engineer in the region in which the violation occurred. The notice shall describe the violation with reasonable particularity, order the violator immediately to cease mining until a valid operating permit has been obtained, and specify a time period reasonably calculated to permit the restoration of any disturbed area as deemed necessary by the regional engineer. The notice shall also state that a civil penalty may be assessed for any violation.
(b) In determining whether to assess a civil penalty for any violation committed prior or subsequent to receipt of the notice of violation, the director shall consider whether the violator ceased mining, restored the affected area, or otherwise complied with the requirements of the notice of violation and shall also consider the various criteria in Rule 5F .0007. The civil penalty assessment shall specify with reasonable particularity the violation(s) for which the penalty has been assessed and shall be transmitted to the violator by certified or registered mail, return receipt requested.

History Note: *Authority G.S. 74-60; 74-61; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. December 1, 1988; November 1, 1984.

15A NCAC 05F .0106 CIVIL PENALTY FOR VIOLATING OPERATING PERMIT
(a) Prior to the assessment of a civil penalty against a permitted operator for violating any provisions of the Mining Act of 1971, or any rules promulgated thereunder, or any conditions of his mining permit, the alleged violator or his agent shall be given notice by registered or certified mail, return receipt requested, signed by the director. The notice shall describe the violation with reasonable particularity and specify a time period reasonably calculated to permit the violator to correct the violation. The notice shall also state that civil penalties may be assessed against the alleged violator if he fails to correct the violation within the specified time.
(b) If the violator does not comply with the requirements of the notice of violation within the time period specified in the notice, the director may assess a civil penalty for any violation(s) committed after the date of receipt of the notice of violation.

The civil penalty assessment shall specify with reasonable particularity the violation(s) for which the penalty has been assessed and shall be transmitted to the violator by certified or registered mail, return receipt requested.

History Note: *Authority G.S. 74-60; 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. November 1, 1984.

15A NCAC 05F .0107 CRITERIA FOR DETERMINING AMOUNT OF PENALTY

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0108 ADMINISTRATIVE REMEDIES

Within 60 days after receipt of notification of any civil penalty assessment, the person against whom the civil penalty is assessed may contest the decision of the department by filing a petition as described in G.S. 74-61 and G.S. 150B-23.

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. August 1, 1988.

15A NCAC 05F .0109 HEARING PROCEDURES

History Note: *Authority G.S. 74-61; 74-62; 74-63; 143B-10; 150B-23;*
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L 2012-143, s.1. (d)); August 1, 1988;
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0110 TENDERS OF PAYMENT

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Expired Eff. March 1, 2024 pursuant to G.S. 150B-21.3A.

15A NCAC 05F .0111 REFERRAL TO ATTORNEY GENERAL

(a) If the person against whom a civil penalty is assessed, fails to respond within 60 days as provided in Rule .0008, the director shall refer the matter to the Attorney General to recover the amount of the civil penalty.
(b) If payment of any civil penalty assessed pursuant to the rules of this Subchapter is not received by the director within 30 days following denial of any appeal pursuant to G. S. 74-61 and G. S. 74-62, the director shall refer the matter to the Attorney General to recover the amount of the civil penalty.

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982.

15A NCAC 05F .0112 FURTHER REMEDIES

No provision of this Subchapter shall be construed to restrict or impair the right of the director or the Mining and Energy Commission to pursue any other remedy provided by law for violations of the Mining Act of 1971 or the rules of this Chapter.

History Note: *Authority G.S. 74-61; 74-62; 74-63; 74-64; 143B-10;*
Eff. May 1, 1982;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1. (d)).

SUBCHAPTER 5G - URANIUM EXPLORATION REGULATIONS

15A NCAC 05G .0101 PURPOSE

History Note: *Authority G.S. 143B-290(1)(e); 74-75 through 74-89;*
Eff. December 1, 1983;
Repealed Eff. August 1, 1988.

15A NCAC 05G .0102 ACTIVITIES REQUIRING PERMITS

History Note: *Authority G.S. 74-76; 74-77;*
Eff. December 1, 1983;
Repealed Eff. November 1, 1984.

15A NCAC 05G .0103 PROCEDURES FOR OBTAINING PERMITS

The application for and issuance of exploration permits is governed by the procedures in this Subchapter.

History Note: *Authority G.S. 74-77 through 74-89;*
Eff. December 1, 1983.

15A NCAC 05G .0104 ABANDONMENT PLAN: BONDING REQUIREMENTS

(a) After reviewing an application, the department shall determine whether it should be approved and notify the applicant of its determination. No application shall be approved unless it contains an abandonment plan acceptable to the department. If the application is approved, the department will determine the amount of the performance bond that will be required and issue to the applicant a bond form to be used in securing the bond. A person shall not engage in exploration activity for the discovery of uranium until a bond in the required amount has been filed with the department and an exploration permit has been issued.

(b) The amount of the bond that will be required is to be determined as follows:

(1) The applicant shall provide the department with an estimate of the total length of the vehicular access roads which will involve the cutting of vegetation and/or grading and of the number of exploratory drill holes and test pits;

(2) The minimum amount of any bond shall be five thousand dollars ($5,000.00). In addition to the minimum bond amount of five thousand dollars ($5,000.00), an additional bond amount shall be required at the rate of two dollars ($2.00) per each linear foot of vehicular access road and of two hundred dollars ($200.00) per each exploratory drill hole or test pit; and

(3) If the department determines that the amount of the bond required under Subparagraph (b)(2) of this Rule is either excessive or inadequate due to specific site conditions, the department may negotiate a different bond amount that will assure adequate abandonment in the event of bond forfeiture.

(c) A permittee shall be in violation of its permit if the length of the vehicular access roads or the number of exploratory drill holes or test pits exceeds the length or number authorized by the amount of its bond.

History Note: *Authority G.S. 74-78; 74-79; 74-86;*
Eff. December 1, 1983.

15A NCAC 05G .0105 DRILLING: CASING: TESTING AND ABANDONMENT

The methods and procedures utilized in drilling, casing, testing and abandonment shall be in accordance with the requirements of Title 15A NCAC Subchapter 2C, Section .0100, Criteria and Standards Applicable to Water Supply and Certain Other Type Wells.

History Note: *Authority G.S. 74-78; 74-86; 143B-290;*
Eff. December 1, 1983.

SUBCHAPTER 05H – OIL AND GAS CONSERVATION

SECTION .0100 – TERMS OF REFERENCE

15A NCAC 05H .0101 PURPOSE AND SCOPE

The rules of this Subchapter regulate the management of oil or gas exploration and development to protect public health, welfare, and the environment.

History Note: *Authority G.S. 113-391(a);*
Eff. March 17, 2015.

15A NCAC 05H .0102 TERMS OF REFERENCE AND DEFINITIONS

The terms as used in this Subchapter shall have the definitions as specified in G.S. 113-389. In addition, the following terms shall have the following meaning:

(1) "7Q10," when used in reference to surface water, refers to the minimum average flow for a period of seven consecutive days that has an average occurrence of once in 10 years.
(2) "Abandon" means to temporarily or permanently cease production from an oil or gas well or to cease further drilling operations.
(3) "Additive(s)" means any chemical substance or mixture of substances.
(4) "Affected reach" means the portion of a stream channel where the hydrology may be significantly affected by the cumulative effects of the proposed water withdrawal in combination with existing water withdrawals and point source discharges.
(5) "Annular flow" means the flow of formation fluids from the formation into a space or pathway in an "annulus" within an oil or gas well.
(6) "Annulus" means the space around a pipe in a wellbore, sometimes termed the annular space.
(7) "API number" means the unique and permanent, American Petroleum Institute numeric identifier assigned by the North Carolina Geological Survey to each well drilled for oil or gas production.
(8) "Applicant" means the person who submits an Oil or Gas Well Permit Application.
(9) "Barrel" means 42 U.S. gallons at 60° F at atmospheric pressure.
(10) "Blowout" means an uncontrolled flow of gas, oil, or other wellbore fluids from the oil or gas well.
(11) "Blowout preventer (BOP)" means one or more valves installed at the wellhead to prevent the escape of pressure from the annular space or the escape of pressure from the wellbore:
    (a) "Annular blowout preventer" means a large valve that forms a seal in the annular space between the pipe and wellbore.
    (b) "Shear ram blowout preventer" means a closing element fitted with hardened tool steel blades designed to cut the drill pipe when closed.
(12) "Brine" means a liquid solution with a concentration of dissolved salts greater than 35 grams of dissolved constituents per kilogram of water.
(13) "Bull plug" means a threaded or flanged pipe designed to seal an open-ended pipe.
(14) "Casing" means pipe placed in a wellbore to provide hole stability, isolate and protect groundwater, enhance wellbore integrity, isolate oil and gas formations, and provide pressure integrity.
(15) "Casing string" means the entire length of all the connected joints of casing inserted into the wellbore.
(16) "Cellar" means an excavated area below the drill rig floor that allows placement of wellhead components at or below ground level.
(17) "Cement basket" means a slip-on style device made of high strength, flexible steel staves, mounted on a steel slip-on ring with heavy-duty canvas liners riveted to staves.
(18) "Cement bond log (CBL)" means an acoustic or sonic-logging method run inside casing that measures the transmissibility of sound between cemented casing and the formation.
(19) "Centralizer" means a mechanical device used to position the casing concentrically in the wellbore.
(20) "Chemical(s)" means any element, chemical compound, or mixture of elements or compounds that has its own specific name or identity, such as a Chemical Abstracts Service Registry Number.
(21) "Chemical Abstracts Service" is a division of the American Chemical Society.
(22) "Chemical Abstracts Service Registry Number" or "CAS Registry Number" means the unique identification number assigned to a chemical by the Chemical Abstracts Service.
(23) "Chemical classification" means a grouping that relates a chemical to others with similar features, functions, or reactive properties.

(24) "Chemical disclosure registry" means the chemical registry website known as http://fracfocus.org developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission.

(25) "Christmas tree" means a set of valves, spools, gauges, and fittings connected to the top of the well to direct and control the flow of formation fluids from the well.

(26) "Conductor casing" means a casing string used to support unconsolidated surface deposits.

(27) "Completion" means the activities that render an oil or gas well capable of producing oil or gas through the wellhead equipment from a producing zone after the production casing string has been set.

(28) "Containment system" means a synthetic liner, coating, storage structure, other material, or structure used in conjunction with a primary container that prevents any spills onto the ground or spills from leaving the drilling site.

(29) "Contaminant" means any substance occurring in groundwater, surface water, or soil in concentrations that exceed the standards specified in 15A NCAC 02B, 15A NCAC 02L .0202, or 15A NCAC 02L .0411, which are incorporated by reference, including subsequent amendments and editions.

(30) "Conventional reservoir" means an accumulation of hydrocarbons that are localized in structural or stratigraphic traps.

(31) "Deepen" means an operation where an oil or gas well is drilled beyond the originally permitted depth of the oil or gas well.

(32) "Deviated well" means an oil or gas well that is purposely deviated from the vertical using directional drilling methods to reach the objective location other than directly below the surface location.

(33) "Director" means the Director of the Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality.

(34) "DLIS" means Digital Log Information Standard.

(35) "Drill pipe" means the pipe used to rotate the drill bit and circulate the drilling fluid.

(36) "Drill stem test" means a method of formation testing consisting of a packer or packers, valves, or ports that may be opened or closed from the surface, and two or more pressure recording devices.

(37) "Drilling unit" means an area established by the Commission that can be efficiently and economically drained by one or more oil or gas wells.

(38) "Dry hole" means any oil or gas well that does not produce oil or gas in commercial quantities.

(39) "Emergency responder" means an emergency medical technician, fire fighter, law enforcement officer, public works employee, emergency manager, fire marshal, HAZMAT coordinator, technical specialist, incident commander, fire chief, or a member of State Emergency Management who provides, plans, or directs emergency health or safety services.

(40) "Exploration and Production (E & P) waste" means wastes associated with the exploration, development, and production of oil or gas, which are not regulated by the Subtitle C of the Federal Resource Conservation and Recovery Act as set forth in 40 CFR Parts 260-299, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?SID=13be85c0df8971509a2531a778d1c87f&tpl=/ecfrbrowse/Title40/40tab_02.tpl for no charge, and may include the following:

(A) produced brine, sand, and water;

(B) drill cuttings;

(C) water-based drilling fluids;

(D) flowback fluids;

(E) stormwater in secondary containment and pits at the well site; and

(F) any other deposits or residuals from exploration and production activities.

(41) "Float collar" means a component that is installed near the bottom of the casing string on which wiper plugs land during the primary cementing operation.

(42) "Float shoe" means a rounded profile component attached to the down hole end of the production casing string to prevent reverse flow of cement slurry into the casing string.

(43) "Flowback fluid" means liquids, and mixtures thereof, consisting of drilling fluid, silt, sand and other proppants, debris, water, brine, oil, paraffin, produced water, or other materials that are removed from the wellbore during the completion or recompletion of an oil or gas well, other additives that flow from an oil or gas well following well stimulation, or during production of an oil or gas well.

(44) "Floodplain" is defined in 44 CFR 59.1, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr59_main_02.tpl for free.

(45) "Floodway" is defined in 44 CFR 59.1, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr59_main_02.tpl for free.
(46) "Flow rate" means the volume per unit of time of a fluid moving past a fixed point.
(47) "Formation Integrity Test (FIT)" means a pressure test applied to the formation directly below the base of the casing string to determine the maximum pressure that may be applied without risk of formation breakdown.
(48) "Fresh groundwaters" means those groundwaters having a chloride concentration less than or equal to 250 milligrams per liter.
(49) "FRO" means Financial Responsibility Ownership, as set forth in Rule .1302 of this Subchapter.
(50) "Green completion" means an oil or gas well completion following stimulation or restimulation where gas flowback that is otherwise vented is captured, cleaned, and routed to the flow line or collection system, re-injected into the oil or gas well or another oil or gas well, used as an on-site fuel source, or used for other purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.
(51) "Groundwaters" means those waters occurring in the subsurface under saturated conditions.
(52) "Hazardous chemicals" is defined in 29 CFR 1910.1200(c), which is incorporated by reference, including subsequent amendments and editions and can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36 for no charge.
(53) "Health professional" means a licensed physician, physician's assistant, industrial hygienist, toxicologist, epidemiologist, nurse, nurse anesthetist, nurse practitioner, or a local health director.
(54) "High occupancy building" means any operating public school, nursing facility, hospital, life care institution, or correctional facility, provided that the facility or institution that has the capacity to serve 50 or more persons, or an operating child care center as defined in G.S. 110-86.
(55) "Hydraulic fracturing" means oil or gas well stimulation by the application of hydraulic pressure using fluids, proppants, and additives under pressure to create artificial fractures or to open existing fracture networks in the formation for the purpose of improving the capacity to produce hydrocarbons.
(56) "Hydraulic fracturing stage" means the portion of a wellbore that is isolated by setting packers or plugs during well stimulation operations.
(57) "Intermediate casing" means a casing string that is set in place after the surface casing and before the production casing.
(58) "Intermittent stream" is determined by North Carolina Division of Water Quality Methodology for Identification of Intermittent and Perennial Streams and Their Origins, Version 4.11, Effective Date: September 1, 2010, including subsequent amendments and editions, which can be accessed for free at http://portal.ncdenr.org/web/wq/swp/ws/401/waterresources/streamdeterminations.
(59) "Joint" means a length of drill pipe or casing.
(60) "Kelly bushing" means a device that is fitted to the rotary table through which the kelly passes and the means by which the torque of the rotary table is transmitted to the kelly and the drill string.
(61) "Kickoff point" means the depth in a vertical wellbore in which a deviation is initiated.
(62) "LAS" means Log ASCII Standard.
(63) "Licensed geologist" means a person who has been duly licensed as a geologist in accordance with the requirements of G.S. 89E.
(64) "LiDAR" means Light Detection And Ranging.
(65) "LIS" means Log Information Standard.
(66) "Lost hole" means an oil or gas well that could not be drilled to the originally permitted total depth.
(67) "Master valve" means a large valve located on the wellhead and used to control the flow of oil or gas from a well.
(68) "Mechanical bridge plug" means a down hole tool, composed primarily of slips, a plug mandrel, and a sealing element, that is run and set in casing to isolate that portion of the well below the plug.
(69) "Mousehole" means a shallow boring under the drilling rig floor, lined with casing, in which joints of drill pipe are temporarily suspended for future connection to the drill string.
(70) "NC UCC" means the North Carolina Uniform Commercial Code found in G.S. 25, Article 5.
(71) "Occupied dwelling" means a private residence, existing inhabited structure, or a public building that may be used as a place of assembly, education, entertainment, lodging, trade, manufacture, repair, storage, or occupancy by the public, including any outdoor recreational facility, State Park as defined in G.S. 113-44.9, or historic property acquired by the State pursuant to G.S. 121-9 or listed in the North Carolina

Register of Historic Places pursuant to G.S. 121-4.1. This definition does not apply to a building or other structure that is incidental to agricultural use of the land on which the building or other structure is located, unless the building or other structure is used as an occupied private dwelling or for retail trade.

(72) "Packer" means a piece of down hole equipment that consists of a sealing device, a holding or setting device, and may contain an inner passage for fluids.

(73) "Perennial stream" means a channel that contains water year-round during a year of normal rainfall with the aquatic bed located below the water table for most of the year as indicated on the most recent versions of U.S.G.S 1:24,000 (7.5 minute) scale topographic maps.

(74) "Permittee" means a person to whom the Department has issued an Oil or Gas Well Permit.

(75) "Pit" means any natural or man-made depression in the ground used for storage of liquids.

(76) "Plug and abandon" means to place a series of cement plugs into a wellbore, cut casing strings and remove the wellhead and Christmas tree to permanently decommission the well.

(77) "Plug back" means to place cement in or near the bottom of an oil or gas well to sidetrack or to produce from a formation higher in the oil or gas well.

(78) "Produced water" means the water that exists in subsurface formations and is brought to the surface during oil or gas production.

(79) "Production casing" means a casing string that is set to allow completion and installation of down hole production equipment for production of an oil or gas well.

(80) "Production facility" means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with production at oil or gas wells.

(81) "Production zone" means the rock stratum that will yield hydrocarbons.

(82) "Professional engineer" means a person who is presently registered and licensed pursuant to G.S. 89C.

(83) "PSI" means pounds per square inch.

(84) "Rathole" means a hole in the drilling rig floor that is lined with casing into which the kelly is temporarily placed.

(85) "Reclamation" means the process of returning or restoring disturbed land to its condition prior to the commencement of oil or gas operations.

(86) "Reenter" means accessing a previously completed or plugged wellbore.

(87) "Residuals" means any solid, semisolid, or liquid waste, other than effluent or residues from agricultural products and processing, generated from a wastewater treatment facility, water supply treatment facility, or air pollution control facility permitted under the authority of the Environmental Management Commission.

(88) "Rotating diverter system" means equipment normally associated with air drilling operations that provides an annular seal around the drill pipe during drilling operations that routes recovered fluids and solids away from the drilling rig.

(89) "Safety data sheet" means written or printed materials containing all the information specified in 29 CFR 1910.1200(g), which is incorporated by reference including subsequent amendments, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36 for no charge, for regulated hazardous substances.

(90) "Service company" means a person contracted by the permittee who conducts work onsite related to the drilling, completion, or production of an oil or gas well.

(91) "Setback" means the horizontal separation distance, in feet, between the surface location of well site structures and adjacent structures and land features.

(92) "Shut-in" means to stop flow from a well.

(93) "Sidetrack" means to use a down hole motor to drill around the original planned path of the oil or gas well.

(94) "SPCA" means the Sediment Pollution Control Act of 1973 found in G.S. 113A, Article 4.

(95) "Spud" means to start the oil or gas well drilling process by removing rock, dirt, and other sedimentary material with the drill bit.

(96) "Sub-base" means the layer of material laid on the subgrade.

(97) "Subgrade" means the native material at the bottom of a sub-base.

(98) "Surface casing" means a large diameter casing string set in shallow, yet competent, formations used to protect groundwaters, provide sufficient structural integrity to bear the weight of subsequent casing strings, and pressure integrity to contain the pressures anticipated to the next casing point.

(99) "Surface use agreement" means any agreement in the nature of a contract or other form of document binding on the permittee, including any lease, damage agreement, waiver, or local government approval or

permit, which governs the permittee's activities on the surface in relation to locating a well, production facility, pipeline, or any other oil or gas facility that supports oil and gas development located on the surface owner's property.

(100) "Tank" means a stationary vessel constructed of non-earthen materials used to contain fluids.

(101) "Tank battery" means a group of tanks that are connected to receive production fluids from an oil or gas well or a producing lease.

(102) "Tracer technology" means technology used to trace well stimulation fluid back to the oil or gas well where fluid was injected.

(103) "Trade name" means the common name given by industry or a manufacturer to a chemical or product.

(104) "Trade secret" is defined in G.S. 66-152(3).

(105) "Treating healthcare provider" means a licensed physician, physician's assistant, industrial hygienist, toxicologist, epidemiologist, emergency medical technician, nurse, nurse anesthetist, nurse practitioner, or local health director.

(106) "Unconventional reservoir" means a resource whose porosity, permeability, fluid trapping mechanism, or other characteristics differ from conventional reservoirs.

(107) "Vendor" means a company that sells or provides a substance or product for use in oil or gas exploration or production.

(108) "Water source" means any of the following:

(a) waters of the State;

(b) a source of water supply used by a water purveyor;

(c) mine pools and discharges; and

(d) any other waters that are used for drilling, completing, and stimulating an oil or gas well.

(109) "Water supply well" is defined in G.S. 87-85(13).

(110) "Waters" or "Waters of the State" is defined in G.S. 143-212.

(111) "Well" is defined in G.S. 87-85(14).

(112) "Wellbore" means a borehole drilled by a bit.

(113) "Wellhead" means the upper terminal of the oil or gas well, including adapters, ports, valves, seals, and other attachments.

(114) "Well pad" means the area that is cleared or prepared for the drilling of one or more oil or gas wells.

(115) "Well site" means the areas that are directly disturbed during the drilling and subsequent operation of any oil or gas well and its associated well pad.

(116) "Well spacing" means the minimum distance from any wellbore in the drilling unit to the boundary of the drilling unit.

(117) "Well stimulation" means any of several operations or processes to initiate or increase the production of oil or gas from a well, including acidizing, hydraulic fracturing, or other methods.

(118) "Wetland" is defined in 40 CFR 230.3, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?SID=7977290449ab243f2865159951305a77&node=40:25.0.1.3.24&rgn=div5 for free.

(119) "Wiper plug" means a rubber plug used to separate the cement slurry from other fluids.

(120) "Wireline log" means the recording of information about subsurface geologic formations using tools lowered into the wellbore on a wire line.

(121) "Withdrawal" means the removal of water from a water body, well, or other fluid storage structure.

(122) "Workover" means the performance of one or more of a variety of operations on a producing oil or gas well to attempt to increase production.

History Note: *Authority G.S. 113-391;*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

SECTION .0200 – ADMINISTRATIVE RULES

15A NCAC 05H .0201 FORMS

(a) An applicant or permittee shall use the following forms, as provided by the Department:

(1) Form 1 – Financial Responsibility Ownership;

(2) Form 2 – Oil or Gas Well Permit Application;

(3) Form 3 – Well Construction Design;
(4) Form 4 – Water Management Plan;
(5) Form 5 – Waste Management Plan;
(6) Form 6 – Well Site Reclamation Plan;
(7) Form 7 – Irrevocable Letter of Standby Credit;
(8) Form 8 – Surety Bond;
(9) Form 9 – Assignment of Savings;
(10) Form 10 – Cash Deposit;
(11) Form 11 – Required Notifications to the Department;
(12) Form 12 – Well Drilling Report;
(13) Form 14 – Plugging and Abandonment;
(14) Form 15 – Oil or Gas Well Status;
(15) Form 16 – Mechanical Integrity Test Results;
(16) Form 17 – Notification of Return of Oil or Gas Well to Active Status;
(17) Form 18 – Well Stimulation Report;
(18) Form 19 – Chemical Disclosure Report;
(19) Form 20 – Confidential Information Claim;
(20) Form 21 – Water Supply Investigation Request;
(21) Form 22 – Water Supply Testing Report;
(22) Form 23 – Annual Water Use Report;
(23) Form 24 – Annual E & P Waste Management Report;
(24) Form 25 – Pit Closure Report;
(25) Form 26 – Spill and Release Report;
(26) Form 27 – Site Investigation and Remediation Work Plan;
(27) Form 28 – Monthly Production Report; and
(28) Form 29 – Well Site Inspection Report.

(b) The use of any forms other than those provided by the Department is prohibited. These forms are available on the Division's Oil and Gas Program webpage at the following address: http://portal.ncdenr.org/web/lr/oilgas.

(c) All notice and forms required by the rules in this Subchapter to be submitted to the Department shall be made to: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and a copy in .pdf form submitted to Oil&Gas@ncdenr.gov. The phone number for the Division is 919-707-9220 and the fax number is 919-715-8801.

History Note: *Authority G.S. 113-391;*
Eff. March 17, 2015.

15A NCAC 05H .0202 RECORD KEEPING & REPORTING

(a) The Department shall collect data, retain records, and produce reports pursuant to G.S. 113-391(b).

(b) If information collected during predrilling exploration activities or geophysical surveys related to oil or gas exploration and development is of a confidential nature, then upon request of the permittee, the State Geologist shall hold such information in confidence until the information is no longer confidential in accordance with Rule .0707 of this Subchapter.

(c) The permittee shall retain all data, records, reports, logs, and samples associated with oil or gas well drilling, completion, production, and plugging and abandonment until released to the Department. The permittee shall transfer all records or copies within five years of the release of an Oil or Gas Permit in accordance with Rule .1314 of this Subchapter to the State Geologist for permanent public record retention.

History Note: *Authority G.S. 113-391(a)(5)(k); 113-391(b); 113-391(b1);*
Eff. March 17, 2015.

15A NCAC 05H .0203 INSPECTIONS

(a) Each permittee shall make available to the Department for inspection the well site, any other area encompassed by the permit, and any records maintained pursuant to the provisions of this Subchapter.

(b) Authorized representatives of the Department may copy any record required to be kept pursuant to provisions of this Subchapter.

(c) Any notice of violation resulting from an inspection shall be issued pursuant to Rule .0901 of this Subchapter.

History Note: *Authority G.S. 113-391(b);*
Eff. March 17, 2015.

SECTION .0300 - VARIANCES

15A NCAC 05H .0301 VARIANCE PROCEDURES

(a) The Commission may grant a variance, grant a variance with conditions, or deny a variance in writing to any Commission rule for which a variance is requested pursuant to this Subchapter. In order for the Commission to grant a variance or grant a variance with conditions, the Commission shall find:

(1) the applicant or permittee has made a good faith effort to comply, or is unable to comply, with the specific requirements contained in the rule or rules from which it seeks a variance;
(2) the variance, if granted provides equal or greater protection of public health, safety, and the environment; and
(3) the requested variance does not violate the basic intent of the Oil and Gas Conservation Act in G.S. 113, Article 27.

(b) The applicant or permittee shall request the variance by submitting a written request to the Commission, as set forth in Rule .0703 of this Subchapter. A request for a variance shall include the following information:

(1) the name and address of the requesting party;
(2) the rule authorizing the request for a variance;
(3) all information required by the statute or rule authorizing the request for a variance;
(4) a statement of whether an oral argument before the Commission is desired, and if so, the reason(s) for requesting such an oral argument;
(5) a concise statement of the matter to be presented, including the nature and duration of the variance requested;
(6) arguments or data that support the requesting party's position;
(7) documents or data that illustrate alternative, mitigating technologies, techniques, or procedures that afford the same or greater protection to public health, safety, and the environment;
(8) a statement of the consequences of failure to grant relief in favor of the requesting party; and
(9) any other information believed by the applicant or permittee to be pertinent to the request.

(c) The variance request may be submitted with the Form 2 – Oil or Gas Well Permit Application, which is governed by Rule .1304 of this Subchapter. If the variance request is submitted separate from the application, it shall be submitted no less than 30 days before the next regularly scheduled Commission meeting.

(d) Any hearing on the variance request shall be denied or conducted in accordance with Section .0700 of this Subchapter.

History Note: *Authority G.S. 113-391(a);*
Eff. March 17, 2015.

SECTION .0400 – DECLARATORY RULING

15A NCAC 05H .0401 PROCEDURE FOR SUBMISSION OF PETITION

(a) All requests for declaratory rulings shall be filed in writing and electronically as follows:

(1) with the Director by filing one paper copy for each Commissioner plus five additional copies to the following address: Oil and Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612; and
(2) the electronic submission shall be in .pdf format and sent to the Division at Oil&Gas@ncdenr.gov.

(b) All requests for declaratory rulings shall include the following:

(1) the name and address of petitioner(s);
(2) the statute, rule, or order upon which a ruling is desired;
(3) a concise statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a statute, rule, or order to a given factual situation;
(4) arguments or data demonstrating that the petitioner is aggrieved by the statute, rule, or order, or by its potential application to the petitioner;
(5) a statement of the consequences of failure to issue a declaratory ruling in favor of the petitioner;
(6) a statement of the desired outcome; and

(7) a statement of whether an oral argument is desired, and if so, the reason(s) for requesting such an oral argument.

(c) A petitioner may request a declaratory ruling on the applicability of a statute, rule, or order to the petitioner, or on the validity of a Commission rule. The petitioner may request both types of declaratory ruling in a single request. A request on the applicability of a statute, rule, or order shall include a detailed statement of the facts and documentation supporting such facts, in addition to the requirements of Paragraph (b) of this Rule. A request to determine the validity of a Commission rule shall state the petitioner's reason(s) for the request and a written argument, in addition to the requirements of Paragraph (b) of this Rule.

(d) Any other person may petition to become a party by filing a motion to intervene in the manner provided in G.S. 1A-1, Rule 24. The Chair of the Commission shall determine whether to grant the motion to intervene in accordance with Rule 24 of the North Carolina Rules of Civil Procedure.

History Note: *Authority G.S. 113-391(a)(14); 150B-4;*
Eff. March 17, 2015.

15A NCAC 05H .0402 DISPOSITION OF PETITION

(a) The Chair of the Commission shall make a determination on the completeness of the request for declaratory ruling based on Rule .0401 of this Section.

(b) The Chair of the Commission shall make a recommendation to the Commission on whether to issue or decline to issue a declaratory ruling.

(c) Before deciding the merits of the request, and upon consideration of the complete request for a declaratory ruling, the Commission shall determine if additional information or presentation(s) are needed and if so:

(1) request additional written submissions from the petitioner(s);
(2) request a written response from Division staff or any other person; and
(3) hear oral arguments from the petitioner(s), intervenors, and Division staff or their legal counsel.

(d) The Commission shall decline to issue a declaratory ruling if it finds any of the following:

(1) that there has been a similar determination in a previous contested case or declaratory ruling;
(2) that the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
(3) that no genuine controversy exists as to the application of a statute, order, or rule to the specific factual situation presented; or
(4) that the factual situation presented as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record.

(e) The Commission shall keep a record of each request for declaratory ruling, which shall include the following items:

(1) the request for a ruling;
(2) any written submission by a party;
(3) the facts on which the ruling was based;
(4) any transcripts of oral proceedings, if available, and recordings of oral arguments;
(5) any other information such as documents, photographs, recordings, maps, plats, articles, and studies considered by the Commission in making its decision; and
(6) the declaratory ruling, or the decision to decline to issue a declaratory ruling, together with the reasons therefore.

(f) The Commission shall notify the petitioner in writing of the Commission's decision on the request for declaratory ruling, including the basis for the Commission's decision.

(g) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:

(1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
(2) any court of the Appellate Division of the General Court of Justice construes the statute or rule that is the subject of the declaratory ruling to be irreconcilable with the declaratory ruling; or
(3) any court sets aside the declaratory ruling in litigation between the Commission or the Department and the party requesting the ruling.

(h) Any Division of the Department may be a party to any request for declaratory ruling upon written request. The request shall be made to the Chair of the Commission within five days of receipt of notice of the request for a declaratory ruling.

(i) Upon written request, the petitioner(s), intervenors, and the Division each shall be allowed to present oral arguments to the Commission. No party shall offer testimony or conduct cross-examination before the Commission.

(j) The petitioner may agree to allow the Commission to issue a written ruling to grant or deny consideration of the request beyond 30 days of receipt of the request and may agree to allow the Commission to issue a written ruling on the merits of the request beyond the 45 days allowed by G.S. 150B-4.
(k) A declaratory ruling, or failure to issue a declaratory ruling, is subject to judicial review as provided in G.S. 150B-4(a1).

History Note: *Authority G.S. 113-391(a)(14); 113-391(a4); 150B-4;*
Eff. March 17, 2015.

SECTION .0500 – PETITION FOR RULEMAKING

15A NCAC 05H .0501 FORM AND CONTENTS OF PETITION

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Commission shall petition the Director by submitting the information required in Paragraph (b) of this Rule. The petitioner shall submit one paper copy of the petition for each Commissioner plus five additional copies and a copy in .pdf form to:

Oil and Gas Program Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, North Carolina 27699-1612
Oil&Gas@ncdenr.gov.

(b) The petition shall contain the following information:
(1) the text of the proposed rule(s) for adoption or amendment;
(2) a statement of the reasons for adoption or amendment of the proposed rules, or the repeal of an existing rule(s);
(3) a statement of the effect on existing rules or orders;
(4) any documents and data supporting the proposed rule(s);
(5) the name(s) and address(es) of the petitioner(s); and
(6) a request to present the petition to the committee in accordance with Rule .0502 of this Section, if desired.

(c) The petitioner may include the following information within the request:
(1) the statutory authority for the agency to promulgate the rule(s);
(2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
(3) a statement explaining the computation of the cost factors; and
(4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s).

(d) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned by the Commission to the petitioner.

History Note: *Authority G.S. 113-391; 143B-293.1; 150B-20;*
Eff. March 17, 2015.

15A NCAC 05H .0502 REVIEW BY A COMMITTEE OF THE COMMISSION

(a) The Chair of the Commission shall refer complete petitions to the appropriate subject area committee of the Commission for review and recommended action. The Chair of the Commission shall distribute copies of petitions for rulemaking to all members of the committee of the Commission.
(b) Within 10 days of the assignment of the petition, the Chair of the committee assigned to review the submitted petition shall announce the date of a meeting to consider the petition.
(c) At least 15 days before the committee meeting, notice of the committee meeting shall be sent to the petitioner, members of the Commission, and persons who have requested notice of rulemaking.
(d) The petitioner shall be afforded the opportunity to present the petition to the committee in accordance with Rule .0501(b)(6) of this Section. The Director, through staff, may make a presentation to the committee.
(e) The Chair of the committee shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Chair of the committee shall determine whether additional interested persons are permitted to make oral presentations before the committee. Interested persons shall request the opportunity to make a presentation to the committee through the Director. The request shall:
(1) state the interest of the person in the petition for rulemaking;
(2) state the person's position on the petition; and

(3) be accompanied by any supporting materials.

(f) During the committee review, members of the Commission who are not on the committee may participate as a member of the committee in discussions of the petition but shall not vote on the recommended action on the petition.

History Note: *Authority G.S. 143B-293.1; 150B-20;*
Eff. March 17, 2015.

15A NCAC 05H .0503 PRESENTATION TO THE COMMISSION

(a) Petitions for rulemaking, following committee review pursuant to Rule .0502 of this Section, shall be presented to the Commission for its consideration and determination at a regularly scheduled meeting of the Commission within 120 days following the date of submission. The Petition for Rulemaking and the committee's recommended action shall be presented by the Chair of the committee or other designated member of the committee during the business session of the Commission. Unless the Chair of the Commission rules otherwise, discussion on the petition shall be limited to the members of the Commission, counsel to the Commission, and the Director.

(b) Within 120 days following the date of submission of the petition, the Commission shall:

(1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the person(s) who submitted the petition of the decision in writing; or

(2) deny the petition in writing, stating the reason(s) for the denial, and send the written denial by certified mail with return receipt to the person(s) who submitted the petition.

History Note: *Authority G.S. 143B-293.1; 150B-20;*
Eff. March 17, 2015.

15A NCAC 05H .0504 RECOURSE FOR DENIAL OF PETITION

If the Commission denies the Petition for Rulemaking, or fails to grant or deny the Petition for Rulemaking within 120 days of receiving the petition, the petitioner(s) may seek judicial review of the denial under G.S. 150B, Article 4.

History Note: *Authority G.S. 143B-293.1; 150B-20;*
Eff. March 17, 2015.

SECTION .0600 – RULEMAKING HEARINGS

15A NCAC 05H .0601 PURPOSE AND SCOPE

These Rules:

(1) authorize the designation of certain employees of the Department to act as hearing officers;

(2) set out the types of hearings that the designated employees are authorized to conduct; and

(3) reference the rules of procedure for conducting public rulemaking hearings.

History Note: *Authority G.S. 113-391(a); 143B-293.1;*
Eff. March 17, 2015.

15A NCAC 05H .0602 PROCEDURES FOR PUBLIC COMMENT FOR RULEMAKING HEARINGS

(a) Any person desiring to comment on the proposed rulemaking action may do so either in writing during the comment period or by oral presentation at the hearing held to take public comments. Any person may file a written statement or argument concerning the proposed rulemaking action prior to the close of the record on the date indicated in the notice published in the North Carolina Register.

(b) The hearing officer or panel designated by the Chair of the Commission in accordance with Rule .0603 of this Section shall collect all written and oral submissions and submit recommendations concerning the proposed rulemaking action to the Commission following the close of the record as provided in Paragraph (a) of this Rule.

(c) Requests for a statement of the Commission's reasons for adoption of the proposed rule or against adoption of the proposed rule shall be responded to in accordance with G.S. 150B-21.2(h).

History Note: *Authority G.S. 113-391(a); 113-391(b); 150B-21.2;*
Eff. March 17, 2015.

15A NCAC 05H .0603 REQUIREMENTS OF RULEMAKING HEARING OFFICER OR PANEL
The Chair of the Commission shall designate one or more Commission members to serve as hearing officers for rulemaking hearings. The Chair of the Mining Committee shall appoint the hearing officer(s) related to receiving public comments on regulations necessary to administer the provisions of the Mining Act of 1971, G.S. 74, Article 7.

History Note: *Authority G.S. 74-63; 113-391(a); 143B-293.2(g);*
Eff. March 17, 2015.

SECTION .0700 – HEARINGS FOR DRILLING UNITS, VARIANCES, AND CONFIDENTIAL INFORMATION

15A NCAC 05H .0701 OPPORTUNITY FOR HEARING
(a) The Commission shall conduct hearings when establishing or modifying drilling units and considering an application for a variance. Such hearings shall be conducted pursuant to the rules of this Subchapter.
(b) Upon written request, the requesting party and the Division shall be allowed to present oral arguments to the Commission. No party shall offer testimony or conduct cross-examination at the hearing.

History Note: *Authority G.S. 113-391(a); 113-391(b); 113-392; 113-393;*
Eff. March 17, 2015.

15A NCAC 05H .0702 PARTIES
(a) Any person authorized by statute or rule to request a hearing before the Commission shall be a party to any hearing granted. The Department also shall be a party to any hearing granted. The Chair of the Commission shall rule on motions by any other persons seeking leave to intervene in the pending proceeding or seeking leave to file amicus curiae briefs. Persons seeking to intervene shall establish through their motion that they qualify for intervention under G.S. 1A-1, Rule 24.
(b) Upon receipt, the Division shall notify all Division Directors of the Department of a request. Any Division of the Department shall be a party to the hearing upon written request. Such request shall be made to the Chair of the Commission within five days of receipt of notice of the request for hearing.

History Note: *Authority G.S. 113-391(a); 113-391.1; 113-393(a);*
Eff. March 17, 2015.

15A NCAC 05H .0703 PROCEDURE FOR SUBMISSION
(a) An application to establish a drilling unit shall be submitted in accordance with Rule .1202 of this Subchapter. All other requests for a hearing shall be submitted in accordance with this Rule.
(b) All requests for a hearing shall be filed no fewer than 30 calendar days before the next regularly scheduled Commission meeting.
(c) The requesting party shall submit one paper copy for each Commissioner plus five additional copies to the following address: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and a copy in .pdf form submitted to Oil&Gas@ncdenr.gov.
(d) All requests shall include the following:
(1) the name and address of the requesting party;
(2) the rule or statute authorizing the request for a hearing;
(3) a statement of whether an oral argument is desired, and, if so, the reason(s) for requesting an oral argument;
(4) if requesting a variance, the rule or statute under which a variance is desired;
(5) a concise statement of the matter to be presented;
(6) arguments or data that support the requesting party's position;
(7) a statement of the consequences of failure to grant relief in favor of the requesting party; and
(8) all documentation required by Rule .0301 of this Subchapter, if a variance is being requested.

History Note: *Authority G.S. 113-391(a)(14); 113-391(a4);*
Eff. March 17, 2015.

15A NCAC 05H .0704 COMPLETENESS AND REQUEST FOR ADDITIONAL INFORMATION

(a) The Chair of the Commission shall make a determination on the completeness of the request for hearing based on the requirements of this Section. The Chair shall return incomplete requests to the requesting party.
(b) Before deciding the merits of the request, the Commission shall determine if additional information or presentation(s) are needed and if so:

(1) request additional written submissions from the requesting party;
(2) request a written response from the Division staff or any other person; and
(3) hear oral arguments from the requesting party, intervenors, and Division staff or their legal counsel.

History Note: *Authority G.S. 113-391(b);*
Eff. March 17, 2015.

15A NCAC 05H .0705 ORDER AND RECORD OF PROCEEDING

The Commission shall keep a record of each hearing, which shall include the following items:

(1) the request for a hearing;
(2) any written submission(s) by a party;
(3) the facts on which the Commission's decision was based;
(4) any transcripts of oral proceedings, if available, and recordings of oral arguments;
(5) any other information, such as documents, photographs, recordings, maps, plats, articles, and studies considered by the Commission in making the decision; and
(6) the Commission's written decision, which shall include the reasons therefore.

History Note: *Authority G.S. 113-391(b);*
Eff. March 17, 2015.

15A NCAC 05H .0706 ADMINISTRATIVE AND JUDICIAL REVIEW OF COMMISSION DECISION

The Commission shall notify the requesting party in writing of the Commission's decision, including information about the requesting party's right to a contested case under G.S. 150B.

History Note: *Authority G.S. 150B-23;*
Eff. March 17, 2015.

15A NCAC 05H .0707 FORM AND CONTENTS OF REQUEST TO MAINTAIN CONFIDENTIAL INFORMATION

(a) Any person wishing to protect information submitted to the Commission or the Department as confidential information shall make a showing to the Commission in accordance with the requirements of G.S. 113-391.1 and Rules .0707 through .0709 of this Section.
(b) The requesting party shall submit one paper copy for each Commissioner plus five additional copies to the following address: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and a copy in .pdf form submitted to Oil&Gas@ncdenr.gov.
(c) Requests shall be submitted no fewer than 30 calendar days prior to the next regularly scheduled Commission meeting.
(d) The request shall be made on a Form 20 – Confidential Information Claim which shall contain the following information:

(1) the name and address of the requesting party;
(2) a description of the information to be afforded confidential treatment;
(3) a statement of whether an oral presentation is desired, and, if so, the reason(s) for requesting such an oral presentation;
(4) an affidavit with each of the following elements:
  (A) a statement of whether the confidential information is in the public domain and information illustrating the extent to which the confidential information is known outside the business;
  (B) evidence that the information has been treated in the same manner as other confidential information in the company, the manner being detailed in the affidavit;
  (C) an agreement to notify the Commission if the information loses confidential status;
  (D) if applicable to the category of information, certification that the chemical for which confidential protection is sought is not regulated under the Federal Safe Drinking Water Act's National Primary Drinking Water Standards or National Secondary Drinking Water Standards found in 40 CFR 141 and 143, which are incorporated by reference, including subsequent amendments and

can be accessed for no charge at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr141_main_02.tpl and http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr143_main_02.tpl, or if regulated, is not present in concentrations greater than the EPA-listed maximum contaminant level for that chemical in any fluid inserted into the oil or gas well;

(E) if applicable to the category of information, certification and evidence that the chemical for which trade secret protection is sought meets the definition of a trade secret under the N.C. Trade Secrets Protection Act in G.S. 66-152(3), including that the chemical is not "generally known or readily ascertainable through independent development or reverse engineering by persons who can obtain economic value from its disclosure or use;"

(F) if applicable which states have issued confidential information status to this specific information;

(G) if applicable which states have refused to issue confidential information status to this specific information and why was confidential information status denied;

(H) if applicable to the category of information, a list of all chemicals for which the affiant is seeking confidential protection and whether any such chemicals are prohibited in North Carolina; and

(I) if applicable to the category of information, certification that the information is protected by Federal statute, including statutory authority.

(5) if required by G.S. 113-391.1, a statement that the State Geologist has reviewed the confidential information and transmitted the certification to the requestor; and

(6) the business contact information, including the company name, name of authorized representative, mailing address, and phone number for the business organization claiming entitlement to trade secret protection on Form 20 – Confidential Information Claim.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1(b); 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0708 DISPOSITION OF CONFIDENTIAL INFORMATION REQUEST

(a) The Chair of the Commission shall make a determination on the completeness of the request for confidential information status based on Rule .0707 of this Section. If the request is not complete, the Chair shall return the request to the requesting party.

(b) Before deciding the merits of the request, and upon consideration of the complete request for confidential information status, the Commission shall determine if additional information or presentation(s) are needed to dispose of the confidential information request and if so:

(1) request additional written submissions from the requesting party;

(2) request additional information from the State Geologist or other Department staff; and

(3) hear oral presentations from the requesting party or the Department.

(c) The Commission shall consider the request in a closed session in accordance with G.S. 143-318.11.

(d) The Commission shall consider the merits of the request and either approve or deny the request.

(e) If the Commission determines that the information is not entitled to confidential protection, the Commission shall provide notice in accordance with G.S. 113-391.1(e).

(f) Confidential information so designated by the Commission shall be held by the State Geologist in accordance with G.S. 113-391.1.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1; 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0709 NOTICE TO THE COMMISSION OF CHANGES TO CONFIDENTIAL STATUS

Any person receiving confidential information status shall provide updated information to the Commission no more than 30 calendar days of the date any of the information described in this Section becomes inaccurate or incomplete.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1;*
Eff. March 17, 2015.

SECTION .0800 – PREEMPTION HEARING PROCEDURE

15A NCAC 05H .0801 PURPOSE AND SCOPE

The rules of this Section establish procedures the Commission shall use in reviewing petitions for limited preemption of a local ordinance pursuant to the authority set forth in G.S. 113-415.1.

History Note: *Authority G.S. 113-415.1; 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0802 COMMENCEMENT OF PROCEEDINGS

(a) An operator shall commence a proceeding by filing a petition with the Commission by submitting one paper copy for each Commissioner, plus five additional copies to the following address: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and an electronic copy in .pdf form submitted to Oil&Gas@ncdenr.gov.

(b) The petition shall contain:

(1) the name, address, and telephone number of the petitioner;

(2) the city and county in which the oil or gas operation is or is proposed to be located; and

(3) a statement of facts and issues, which shall include:

(A) the action giving rise to the petition;

(B) a copy of the ordinance;

(C) the effect of the ordinance on the proposed activities;

(D) identification of the provisions of the ordinance alleged to prevent the proposed activities;

(E) any actions taken to comply with the ordinance or any of its provisions;

(F) status of and compliance with all applicable state and federal permits or approvals;

(G) any attempts made by the petitioner to resolve the issue with each city and county in which the activities are proposed;

(H) opportunities local citizens and elected officials have had to participate in the permitting process;

(I) documentation that the proposed activities will not pose a health or environmental risk to the applicable jurisdiction. For the purposes of filing this petition, this documentation shall be deemed complete if it includes the information submitted for all applicable state and federal permits or approvals;

(J) measures the applicant or permittee has taken or consented to take to avoid or manage foreseeable risks and to comply to the maximum extent feasible with any applicable ordinance;

(K) a metes and bounds description, site plan, maps, or other information describing the facility and its location; and

(L) all other information the petitioner believes relevant and which constitutes grounds for relief under G.S. 113-415.1.

(c) Within 10 calendar days of receipt of the petition, the Chair of the Commission shall review the petition and determine whether it is complete in accordance with Paragraph (b) of this Rule. If the petition is complete, the Chair of the Commission shall send a notice of proceeding in accordance with Rule .0803 of this Section.

History Note: *Authority G.S. 113-415.1; 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0803 NOTICE OF PROCEEDING

(a) Within five days after a petition is found complete by the Chair of the Commission, the Chair of the Commission shall serve a notice of proceeding on the petitioner and the governing board of each city and county in which the activities are proposed. The petitioner shall be a party to the proceeding and each governing board of each city may send written notice within 14 calendar days to request to be a party to the proceeding.

(b) The notice of proceeding shall contain:

(1) a statement that a complete petition has been received;

(2) a statement that a public hearing on the petition will be held on a specific date and at a specific place in accordance with G.S. 113-415.1;

(3) a request that within 30 days of receipt, the city or county that adopted the ordinance respond to the petition. The response shall include all information within its possession regarding the factors in G.S. 113-415.1 and any other information as to why this ordinance should not be preempted;

(4) the name of the proceeding and the date of filing;

(5) the address and telephone number of the Division;
(6) a citation to the relevant statutes or rules involved;
(7) a statement of the factual allegations or issues to be determined;
(8) a brief description of the procedure to be followed at the hearing in accordance with Rule .0805 of this Section;
(9) a statement of how interested persons may participate in the hearing and where additional information can be obtained; and
(10) the date and time for the presentation of evidence to the Commission.

History Note: *Authority G.S. 113-415.1; 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0804 NOTICE OF PUBLIC HEARING

(a) The Commission shall publish notice of public hearing in accordance with G.S. 113-415.1(d).
(b) The Commission shall serve the parties to the proceeding with a notice of public hearing no less than 30 calendar days before the hearing.
(c) The notice of public hearing shall contain the following:
(1) the name of proceeding and the date of filing;
(2) the date, time, and place of the hearing;
(3) the name, address, and telephone number of the Clerk of the Commission;
(4) a citation to the relevant statutes or rules involved;
(5) a statement of the factual allegations or issues to be determined;
(6) a brief description of the procedure to be followed at the hearing; and
(7) a statement of how persons may participate in the hearing and where the information can be obtained.

History Note: *Authority G.S. 113-415.1;*
Eff. March 17, 2015.

15A NCAC 05H .0805 CONDUCT OF THE HEARING

(a) In accordance with information provided in the notice of hearing, any non-party may appear before the Commission at the hearing to offer testimony or submit written evidence for its consideration.
(b) The Commission shall set the order of presentation and place limits on the testimony of each person who appears before the Commission at the hearing.
(c) Commission members may ask questions of any person who appears before the Commission at the hearing.
(d) The Commission shall hold the record open for 20 days after the termination of the hearing for the receipt of written comments.
(e) All parties shall have the right to present evidence, rebuttal testimony, and argument relevant to the issues.
(f) A party shall have all oral or written evidence to be presented available on the date of the hearing. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the Commission.
(g) The Commission shall serve copies of all orders or decisions on all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the Commission shall simultaneously serve a copy on all other parties.
(h) A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.
(i) Any non-party offering testimony or other evidence may be questioned by parties to the case and by the Commission.

History Note: *Authority G.S. 113-415.1;*
Eff. March 17, 2015.

15A NCAC 05H .0806 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. Fourteen days in advance of the public hearing, parties shall serve on the Commission a witness list, a synopsis of testimony, and an estimate of the time required to hear each witness in accordance with Rule .0802(a) of this Section. A party may make reasonable amendments to its witness list up to 48 hours prior to the hearing. No more than 10 witnesses may be added with this change. All oral testimony by witnesses at the hearing shall be under oath or affirmation and shall be recorded.

History Note: *Authority G.S. 113-415.1; 150B, Article 3;*
Eff. March 17, 2015.

15A NCAC 05H .0807 COMMISSION'S DECISION

(a) The Commission shall determine whether or to what extent to preempt the ordinance to allow for the construction or operation of oil or gas exploration, development, or production activities in accordance with G.S. 113-415.1. In the event the Commission makes all four findings required by G.S. 113-415.1(d) and determines that the provisions of the ordinance are severable, the Commission may determine that a specific provision, rather than the entire ordinance, is preempted.

(b) A decision shall be based on:

(1) admissible evidence and arguments presented during the hearing and made part of the official record;
(2) stipulations of fact;
(3) matters officially noticed; and
(4) other items in the official record.

(c) A decision shall dispose of all issues required to resolve the case and shall contain:

(1) a caption;
(2) the appearance of the parties;
(3) a statement of the issues;
(4) references to the specific provisions of the ordinance at issue;
(5) findings of fact, with specific reasons given for findings on disputed facts;
(6) conclusions of law based on the findings of fact and applicable constitutional principles, statutes, rules, or regulations;
(7) a final determination that the challenged ordinance, or specific parts thereof, is or is not preempted with respect to the proposed activity; and
(8) a statement that each party has the right to appeal the final decision.

History Note: *Authority G.S. 113-415.1; 150B, Article 3;*
Eff. March 17, 2015.

SECTION .0900 - ENFORCEMENT

15A NCAC 05H .0901 ENFORCEMENT

(a) A violation of any provision of the Oil and Gas Conservation Act, G.S. 113 Subchapter V, Article 27 or any rule in this Subchapter may result in a notice of violation, an assessment of a civil penalty pursuant to G.S. 113-410, suspension or revocation of a permit, injunctive action, or any other remedy afforded by law.

(b) The Department shall issue a written notice of violation to the permittee for violations of any provision of the Oil and Gas Conservation Act, any rule of this Subchapter, terms and conditions of the permit, or order of the Commission.

(1) The written notice shall specify the facts constituting the violation, corrective actions that are required to address the violation, a timeframe to implement such corrective actions, and a statement that failure to comply with the specified corrective action may result in additional enforcement actions.
(2) The Department may extend the timeframe for corrective actions upon written request of the permittee demonstrating that the corrective action cannot be completed in the time specified in the notice of violation.

(c) Civil penalties shall be assessed in accordance with G.S. 113-410 and Section .1000 of this Subchapter.

(d) Permits shall be suspended or revoked in accordance with G.S. 150B-3 and Rule .1313 of this Subchapter.

(e) The Department shall request the Attorney General to institute an action in the North Carolina General Courts of Justice seeking injunctive relief pursuant to G.S. 113-408.

(f) The Department shall require the permittee to restore waters and land affected by a violation of any provision of the Oil and Gas Conservation Act, any rule of this Subchapter, terms and conditions of the permit, or order of the Commission so as to protect the quality of the water, air, soil, or any other environmental resource against injury, damage, or impairment.

History Note: *Authority G.S. 113-391(a)(4); 113-391(a)(14); 113-391(a4); 113-391(b); 113-408; 113-410;*
Eff. March 17, 2015.

SECTION .1000 – CIVIL PENALTIES

15A NCAC 05H .1001 PURPOSE AND SCOPE
The rules of this Section govern the Commission, the Division, and their delegates in assessment of civil penalties. They also govern permittee remission and appeal of those penalties.

History Note: *Authority G.S. 113-410(b); 143B-293.6;*
Eff. March 17, 2015.

15A NCAC 05H .1002 NOTICE OF ASSESSMENT
For all violations for which a penalty is assessed, a notice of such action shall be sent to the violator by the Department by U.S. mail, certified mail, or other means calculated to provide actual notice. The notice shall describe the violation, advise that the penalty is due, and provide the violator of the right of appeal as specified in G.S. 150B, Article 3 and the right to request remission in G.S. 143B-293.6 and Rule .1004 of this Section.

History Note: *Authority G.S. 113-410(a); 113-410(c); 143B-293.6;*
Eff. March 17, 2015.

15A NCAC 05H .1003 PAYMENT OF ASSESSMENT
An assessed penalty shall be paid within 60 days of service of notice, unless the violator files a contested case pursuant to G.S. 150B, Article 3 or requests remission pursuant to G.S. 113-410(d) and Rule .1004 of this Section.

History Note: *Authority G.S. 113-410(d);*
Eff. March 17, 2015.

15A NCAC 05H .1004 ADMINISTRATIVE REMEDIES
A person who has received a civil penalty assessment may request remission of the civil penalty.

(1) A request for a civil penalty remission shall be submitted in writing to the Director at the following address: 1612 Mail Service Center, Raleigh, NC 27699-1612.
(2) The request shall be considered only if the person requesting remission of a civil penalty stipulates that no facts are in dispute and waives his or her right to an administrative hearing.
(3) In determining whether to approve the remission request, the Commission shall consider the factors in G.S. 143B-293.6.

History Note: *Authority G.S. 113-410(d); 143B-293.6;*
Eff. March 17, 2015.

15A NCAC 05H .1005 REPORT TO THE COMMISSION
The Department shall report any action taken under this Section to the Commission at the Commission's next regularly scheduled meeting. The reports shall include the following information:

(1) the person(s) issued letter(s) of proposed assessment;
(2) the person(s) assessed a civil penalty;
(3) the person(s) who paid a penalty as assessed, requested remission, or requested an administrative hearing;
(4) the person(s) who failed to pay; and
(5) cases referred to the Attorney General for collection.

History Note: *Authority G.S. 113-391(a); 113-391(a4); 113-410(d);*
Eff. March 17, 2015.

SECTION .1100 – EXPLORATION AND GEOPHYSICAL SURVEYS

15A NCAC 05H .1101 EXPLORATION AND GEOPHYSICAL SURVEYS
(a) Any person conducting predrilling exploration activities or geophysical surveys related to oil or gas exploration and development shall act in accordance with 15A NCAC 05C.
(b) Notification of exploration activities shall be made in accordance with G.S. 113-420(b2).

History Note: *Authority G.S. 113-391(a)(1);*

Eff. March 17, 2015.

SECTION .1200 – DRILLING UNITS AND WELL SPACING

15A NCAC 05H .1201 PURPOSE AND SCOPE

The rules of this Section establish the requirements for petitioning the Commission for permission to create or modify a drilling unit. These Rules also set forth oil or gas well spacing requirements for conventional and unconventional reservoirs.

History Note: *Authority G.S. 113-391(a)(12); 143B-293.1(b);*
Eff. March 17, 2015.

15A NCAC 05H .1202 DRILLING UNIT APPLICATION AND REVIEW

(a) An application shall be submitted to the Commission for permission to:

(1) create a drilling unit; or

(2) modify an existing drilling unit.

(b) Applications submitted to the Commission no fewer than 60 calendar days before the next regularly scheduled Commission meeting shall be considered for hearing provided the docket has not been filled. The Commission shall notify the applicant once the hearing date has been set. Upon receipt the applicant shall begin the notice process set out in Rule .1203 of this Section.

(c) The applicant shall submit the original application and one paper copy for each Commissioner plus five additional copies to the following address: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center Raleigh, NC 27699-1612. In addition, the applicant shall submit an electronic copy in .pdf format to the Commission at Oil&Gas@ncdenr.gov.

(d) Applicants or permittees petitioning the Commission for the creation of drilling units or modifications of existing drilling units shall be persons who own or have leased an interest in the mineral estate underlying the tract or tracts and have the right to use the surface land for development activities within the drilling unit.

(e) The application for the creation of a drilling unit or modification of an existing drilling unit shall include the following information:

(1) a statement describing the intent of the application;

(2) a list of mineral rights owners within the land area of the proposed drilling unit. The list of mineral rights owners shall include the name, physical address, and mailing address for each owner;

(3) a map of the proposed or current drilling unit boundary, along with all property boundaries that occur within the land area of the proposed or current drilling unit, as well as locations of existing oil or gas wells within the proposed drilling unit boundary;

(4) copies of lease agreements, affidavits, or other documents showing that the applicant has obtained legal rights to recover oil or gas resources within the proposed drilling unit;

(5) documentation showing that all mineral rights owners were notified by the applicant of the applicant's intent to establish the proposed drilling unit pursuant to Rule .1203(a)(2) of this Section;

(6) at least one subsurface geological map showing the structural configuration of the top of the objective formation within the proposed drilling unit and at least one geological cross-section derived from the geological map showing the stratum or strata from which the applicant expects to extract hydrocarbon resources;

(7) a written statement signed by the applicant, supported by geological and engineering data, that the proposed drilling unit would result in optimal and efficient recovery of hydrocarbons;

(8) documentation from the applicant(s) or their representative(s) demonstrating prior work experience in the exploration, drilling, and production of oil or gas relevant to the application; and

(9) copies of surface use agreement(s) or equivalent documentation granting the applicant or permittee the right to use the surface.

(f) The applicant shall provide to the Commission within seven days after the hearing any additional information requested by the Commission at the hearing.

(g) The Commission shall assign a new docket number to each application submitted.

(h) The Commission shall approve, deny, or modify drilling units pursuant to G.S. 113-392(b) within 30 calendar days after conducting the hearing pursuant to Rule .0701 of this Subchapter on the application for creating or modifying a drilling unit.

(i) If the Commission approves an application, a drilling unit number shall be issued to the applicant. The drilling unit number shall be used to meet the requirement of Rule .1304(a)(5) of this Subchapter.

(j) The Commission approved drilling units shall expire 36 months after the approval date, if the applicant has not spud the first oil or gas well on the well pad.

History Note: *Authority G.S. 113-391(a)(12); 113-392(b);*
Eff. March 17, 2015.

15A NCAC 05H .1203 DRILLING UNIT PUBLIC NOTIFICATION REQUIREMENTS

(a) The applicant or permittee shall circulate public notice of each drilling unit at least 30 calendar days prior to the meeting date set by the Commission in accordance with Rule .1202(b) of this Section. The notice shall be circulated by:

(1) publishing the notice one time in newspaper(s) having general circulation in the county or counties where the drilling unit, either proposed or existing, is located;
(2) providing actual notice to all surface owners and mineral rights owners within the land area of the proposed or existing drilling unit;
(3) providing actual notice to all local governments in the county or counties where the drilling unit, either proposed or existing, is located; and
(4) providing actual notice to any state, federal, or tribal agencies owning land within the area of the proposed or existing drilling unit.

(b) The notice shall include the following:

(1) the name, address, and telephone number, fax number, and email address of applicant or permittee;
(2) a description of the intent of the application;
(3) the date the Commission is scheduled to review the application; and
(4) the location and time of the Commission meeting.

(c) The applicant or permittee shall submit a newspaper certified copy of the public notice published in each newspaper, as certified by the newspaper, to the Department at least 15 calendar days prior to the next regularly scheduled Commission meeting for which the applicant proposes the application to be docketed.

History Note: *Authority G.S. 113-392;*
Eff. March 17, 2015.

15A NCAC 05H .1204 DENIAL OR MODIFICATION OF DRILLING UNIT APPLICATION

(a) The Commission shall deny a request for the creation of a drilling unit or a request to modify an existing drilling unit on finding that the proposed or existing drilling unit is in violation of any of the rules contained in this Subchapter or that establishment or modification would result in a violation of this Subchapter or other applicable law or rule.

(b) The Commission shall also deny a request according to these criteria:

(1) the application is incomplete pursuant to Rule .1202(e) of this Section;
(2) the application contains erroneous information; or
(3) the surface use agreement or equivalent documentation fails to meet requirements of the rules of this Subchapter.

(c) The Commission may modify a drilling unit application based on geologic, geographic, and environmental factors or to satisfy conflicting interests between adjacent drilling unit applicants or permittees.

History Note: *Authority G.S. 113-391(a)(12); 113-392(b); 143B-293.1(b);*
Eff. March 17, 2015.

15A NCAC 05H .1205 WELL SPACING REQUIREMENTS FOR RESOURCES IN UNCONVENTIONAL RESERVOIRS

(a) The drilling of a new oil or gas well in an unconventional reservoir, the reopening of an oil or gas well temporarily abandoned pursuant to Rule .1621 of this Subchapter, the deepening, plugging back, or sidetracking of an existing oil or gas well shall conform to the requirements of this Section.

(b) In unconventional reservoirs, no portion of the wellbore recovering hydrocarbons shall be less than 500 horizontal feet from the boundary of the drilling unit.

(c) A variance may be granted by the Commission to reduce the distance from the boundary of the drilling unit based on reservoir characteristics including permeability, porosity, and surrounding production history to optimize production and minimize waste. The variance, if granted, shall provide equal or greater protection of public health, safety, and the environment.

History Note: *Authority G.S. 113-391(a)(12); 143B-293.1(b);*
Eff. March 17, 2015.

15A NCAC 05H .1206 WELL SPACING REQUIREMENTS FOR RESOURCES IN CONVENTIONAL RESERVOIRS

(a) The drilling of a new oil or gas well in a conventional reservoir, the reopening of an oil or gas well temporarily abandoned pursuant to Rule .1621 of this Subchapter, the deepening, plugging back, or sidetracking of an existing oil or gas well shall conform to the requirements in this Section.

(b) In conventional reservoirs, no portion of the wellbore shall be less than 200 horizontal feet from the boundary of the drilling unit.

(c) A variance may be granted by the Commission to reduce the distance from the boundary of the drilling unit based on reservoir performance to optimize production and minimize waste of the reservoir. The variance, if granted, shall provide equal or greater protection of public health, safety, and the environment.

History Note: *Authority G.S. 113-391(a)(12);143B-293.1(b);*
Eff. March 17, 2015.

SECTION .1300 - PERMITTING

15A NCAC 05H .1301 PURPOSE AND SCOPE

The rules of this Section set forth the registration and permitting requirements for new oil or gas wells. These Rules also establish procedures for review, modification, transfer, expiration, suspension or revocation, and release of an Oil or Gas Well Permit.

History Note: *Authority G.S. 113-391; 113-391(a)(6);113-391(a6); 113-395;*
Eff. March 17, 2015.

15A NCAC 05H .1302 OIL OR GAS OPERATIONS FINANCIAL RESPONSIBILITY OWNERSHIP

(a) The applicant or permittee, and all service companies who are conducting oil or gas exploration or development activities, shall either be incorporated under the laws of North Carolina or, if a foreign corporation, obtain a certificate of authority from the North Carolina Secretary of State in accordance with G.S. 55-15-01. If the applicant or permittee is a partnership or other person engaging in a business in this State under an assumed name, the applicant or permittee shall have filed a certificate of assumed name in the county where it is doing business.

(b) The applicant or permittee, and any person providing financial assurance for oil or gas operations, shall submit the completed Form 1 – Financial Responsibility Ownership (FRO) with the Department. The Form 1 – FRO shall include:

(1) the applicant's or permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the lease name and the oil or gas well name and number;
(5) the Commission-issued drilling unit number;
(6) the approximate date that land disturbing activity will commence;
(7) the total acreage of disturbed or uncovered areas;
(8) the name and telephone number of the person to contact onsite if any problems occur with erosion control, stormwater, and any well site operations;
(9) the name, address, telephone number, fax number, and email address for person(s) who are financially responsible for the oil or gas operations;
(10) a copy of the certificate of assumed name if the financially responsible party is a partnership or other person engaging in business under an assumed name in accordance with G.S. 66-68;
(11) the signature of the financially responsible party; and
(12) the seal of a Notary Public of North Carolina.

(c) The applicant or permittee shall list all employees approved to submit documents on behalf of the applicant or permittee on a completed Form 1 – FRO. A person other than the applicant or permittee may be designated as an agent of the financially responsible party, and those representatives shall be listed on the completed Form 1 – FRO.

(d) If the applicant or permittee is not a resident of North Carolina, the applicant or permittee shall designate a North Carolina agent for the purpose of receiving notices from the Commission or the Department.
(e) All changes in the contact information for the parties required to submit a Form 1 -- FRO shall be reported within 14 calendar days of the change by submitting a new Form 1 – FRO. All changes to the agent information shall be reported within 14 calendar days of the change by submitting a Form 1 – FRO.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6);*
Eff. March 17, 2015.

15A NCAC 05H .1303 OIL OR GAS WELL PERMIT APPLICATION
(a) The applicant or permittee shall submit Form 2 – Oil or Gas Well Permit Application to the Department in accordance with Rule .0201(c) of this Subchapter prior to commencement of the following operations:
(1) drilling;
(2) recompleting;
(3) restimulating;
(4) deepening;
(5) reentering;
(6) sidetracking;
(7) plugging and abandoning;
(8) plugging back; or
(9) revising the location of any oil or gas well.
(b) The applicant or permittee shall submit the fee for a new Oil or Gas Well Permit as indicated on Form 2 – Oil or Gas Well Permit Application in accordance with Rule .1306 of this Section.
(c) The applicant or permittee shall submit an environmental compliance history to the Department in accordance with G.S. 113-395.3.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395; 113-395.3;*
Eff. March 17, 2015.

15A NCAC 05H .1304 CONTENTS OF OIL OR GAS WELL PERMIT APPLICATION
(a) All applications to drill, recomplete, restimulate, deepen, reenter, sidetrack, plug and abandon, plug back, or revise a location shall be submitted using a Form 2 – Oil or Gas Well Permit Application. The Form 2 – Oil or Gas Well Permit Application shall include:
(1) the applicant's or permittee's name, address in accordance with G.S. 113-408, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is proposed to be located or is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the proposed or existing well pad;
(4) the lease name and the oil or gas well name and number for the proposed or existing oil or gas well;
(5) the drilling unit number issued by the Commission pursuant to Rule .1202 of this Subchapter;
(6) any variance request(s) approved by the Commission;
(7) the latitude and longitude (in decimal degrees) of the proposed or existing oil or gas well location(s) with a minimum of five decimal places of accuracy and precision using the North American Datum (NAD) of 1983. The location coordinates shall be a field measurement and not a calculated or conversion measurement;
(8) the name of any incorporated city, town, village, or respective extra-territorial jurisdiction, if the oil or gas well is proposed to be located or is located within its limits;
(9) if known, the names of the proposed drilling contractor, cementing service company, and well stimulation company at the time of application submittal;
(10) an indication that the local emergency management coordinator has received an emergency response plan in accordance with Rule .1305 of this Section;
(11) an indication that the applicant or permittee will scan all equipment at the well site to measure for methane emissions;
(12) an indication that the applicant or permittee will address methane emissions detected;

(13) an indication that the applicant or permittee is submitting an estimate of the number and type of engine(s) to be used onsite, the size of engine(s), and the fuel source of engine(s) that will be used during drilling or completion activities;

(14) an indication that the applicant or permittee has a proppant-related dust management and mitigation plan; and

(15) an indication of whether pits are to be constructed and, if so, for what purpose.

(b) The following plat(s) and maps shall be attached to Form 2 – Oil or Gas Well Permit Application:

(1) A plat showing:

(A) the subject drilling unit where the oil or gas well will be drilled and the property lines with surface and mineral owner name(s);

(B) the location of the proposed oil or gas well in the drilling unit, based on a field survey showing the distances in feet from the proposed well site to the boundary lines of the drilling unit;

(C) the location and distances of the nearest buildings, public roads, railroads, private water supply wells, public water supply sources, surface water bodies, utility rights-of-way, and drilling or producing oil or gas wells from the proposed oil or gas well in accordance with Rules .1205 or 1206 and .1601 of this Subchapter; and

(D) any areas with known environmental contamination within the area of influence in accordance with Rule .1901 of this Subchapter.

(2) All plats submitted as a part of the application for a Form 2 – Oil or Gas Well Permit Application shall contain the following identifying information and be signed and sealed by a Professional Land Surveyor (PLS) or Professional Engineer (PE) licensed by the North Carolina Board of Examiners for Engineers and Surveyors pursuant to G.S. 89C:

(A) the name of the applicant or permittee;

(B) the oil or gas well name and number;

(C) a north arrow;

(D) the county;

(E) a map scale of 1 inch equals 50 feet to 1 inch equals 500 feet with two foot topographic contours, depending on the total disturbed area;

(F) a legend with symbols used and corresponding names;

(G) the date the plat or map was prepared and revised; and

(H) the name and title of person preparing the plat.

(3) A topographic and site overlay on a base color aerial map for the well site based on a LiDAR derived map showing the location of the well site, corners of well pad, oil or gas wells, tank battery, pits, access roads, all other proposed production equipment, and any other existing structures and features onsite; and

(4) The total estimated true vertical and measured depths of the wellbore and proposed well path report showing inclination and azimuth every 100 feet with the North American Vertical Datum of 1988 (NAVD88) as the vertical control.

(c) The applicant or permittee shall submit the following attachments with Form 2 – Oil or Gas Well Permit Application:

(1) Form 3 – Well Construction Design that includes the following:

(A) the applicant's or permittee's name, address, telephone number, fax number, and email address;

(B) the county and nearest city or town where the oil or gas well is located;

(C) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;

(D) the lease name and the oil or gas well name and number;

(E) the planned diameter of each wellbore segment;

(F) the main design parameters for each casing string, including the maximum anticipated pressure, compressive and tensile loads, and drilling or completion fluid density;

(G) the casing grade, weight, outside diameter, and setting depth for each proposed casing string;

(H) the method of drilling, including the fluids that will be used during the drilling for each proposed casing string;

(I) the cement type, additives, density, yield, and volume for each proposed casing string;

(J) a list of the blowout prevention equipment and other wellhead equipment and the pressure rating of each that is to be installed before drilling out of each casing string;

(K) a wellbore diagram or other documentation detailing the proposed oil or gas well construction design; and

(L) the method of well stimulation for the oil or gas well, the proposed number of well stimulation stages, the proposed maximum surface treating pressures, and the estimated true vertical depth to the top of fractures.

(2) a Well Site Development Plan that includes the Sedimentation and Erosion Control and Stormwater Management Plans as a part of the site construction sheets and details for review in accordance with Section .1500 of this Subchapter;

(3) Form 4 – Water Management Plan, including documentations and maps in accordance with Section .1900 of this Subchapter;

(4) Form 5 – Waste Management Plan, including documentations and maps in accordance with Section .2000 of this Subchapter;

(5) Form 6 – Well Site Reclamation Plan showing reclamation phases in accordance with Section .2100 of this Subchapter;

(6) Form 1 – FRO filled out in its entirety;

(7) any variance request(s) approved by the Commission;

(8) a road impact plan that mitigates damage to roads by truck traffic and heavy equipment. Plans shall include:

(A) procedures to restore roads to their condition that existed prior to the drilling activity undertaken by the permittee or applicant;

(B) identification of trucking routes that minimize road surface travel; and

(C) route travel hours that avoid otherwise heavy traffic volume, including avoidance of hours during which school buses will be traveling on the roads.

(9) documentation that the local emergency management coordinator has received emergency response plan information in accordance with Rule .1305 of this Section;

(10) a statement of how often the permittee intends to scan all equipment at the well site to measure for methane emissions;

(11) a statement that if methane emissions are detected the time period during which the permittee intends to repair any leaks discovered;

(12) an estimate of the engine(s) to be used onsite during exploration and development including the following information:

(A) the number and type of engine(s), such as compression ignition, two stroke lean burn ignition, four stroke lean burn ignition, rich burn spark ignition;

(B) the size of engine(s) (maximum site-rated horsepower); and

(C) the fuel source of engine(s).

(13) a plan that manages and mitigates proppant-related dust.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a)(5)b ; 113-391(a)(5)c; 113-391(a)(5)i; 113-391(a)(5)j; 113-391(a)(5)l; 113-391(a)(8); 113-391(a6); 113-395; 114-408;*
Eff. March 17, 2015.

15A NCAC 05H .1305 EMERGENCY RESPONSE PLANNING

In order for State and local governments to effectively plan for emergency incidents, the applicant or permittee shall provide the following information to the local emergency management coordinator:

(1) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad. If nearest street address is used, "nearest address" shall be designated and the latitude and longitude (in decimal degrees) with a minimum of five decimal places of accuracy and precision using the North American Datum (NAD) of 1983 of the proposed access road entrance at the ingress or egress point;

(2) the location of nearby occupied dwellings, high occupancy buildings, streams, rivers, watercourses, ponds, lakes, or other natural and artificial bodies of water, and transportation corridors necessary for the development of the plans required by Item (6) of this Rule;

(3) the emergency contacts for the well site that include the telephone numbers of the applicant or permittee, which can be accessed 24-hours per day;

(4) identification of the types and quantities of chemicals, fuels, and wastes that will be used at a production facility in accordance with Section .1700 of this Subchapter;

(5) identification of an emergency well control response contractor, the contractor's contact information, and the estimated time of arrival after dispatch;

(6) plans for the following minor to catastrophic scenarios:
  (a) Level 4: A spill onsite that requires a cleanup company to be contracted;
  (b) Level 3: A spill on other property that requires a cleanup company to be contracted, or an uncontrolled fire adjacent to the site impacting normal operations due to smoke or chemical dispersal;
  (c) Level 2: A spill onsite that requires a full site evacuation or an uncontrolled explosion or fire onsite that does not involve any wellhead onsite, or loss of well control not involving an explosion or fire; and
  (d) Level 1: Loss of well control involving an explosion or fire, or incidents requiring the immediate evacuation of the site.

History Note: *Authority G.S. 113-391(a)(5)j; 113-391(5)i;*
Eff. March 17, 2015.

15A NCAC 05H .1306 FEES

(a) The applicant or permittee shall remit the fees in the amounts prescribed under G.S. 113-395, 113A-54.2, and 143-215.3D(e).

(b) Payment of fees shall be made payable to the "North Carolina Department of Environmental Quality." The payment shall refer to the new permit or the plugging and abandonment of the oil or gas well. The payment shall include a reference to the oil or gas well name listed on the application or the API number.

History Note: *Authority G.S. 113-395;*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .1307 APPLICATION REVIEW PROCESS

(a) The Department shall review applications. The Department shall send written notice to an applicant or permittee if an application is incomplete, stating each deficiency. The applicant or permittee shall have 60 calendar days from the date the letter was sent to submit the required information to the Department or the application shall be denied.

(b) Upon receipt of a complete Form 2 – Oil or Gas Well Permit Application for a new permit or for a modification of an existing permit, the Department shall send a notice of the application to each of the following agencies with a request that each agency review and provide written comment on the application, including whether the reviewing agency has concerns regarding the items in Rule .1405(c) of this Subchapter, within 30 calendar days of the date on which the request is made:
  (1) Division of Air Quality, Department of Environmental Quality;
  (2) Division of Parks and Recreation, Department of Natural and Cultural Resources;
  (3) Division of Water Resources, Department of Environmental Quality;
  (4) North Carolina Geological Survey, Division of Energy, Mineral, and Land Resources, Department of Environmental Quality;
  (5) Natural Heritage Program, Department of Natural and Cultural Resources;
  (6) North Carolina Wildlife Resources Commission;
  (7) Office of Archives and History, Department of Cultural Resources;
  (8) United States Fish and Wildlife Service, United States Department of the Interior;
  (9) Any other Federal or State agency that the Department determines to be appropriate based on the location of the proposed well site, including the Division of Coastal Management, Department of Environmental Quality; the Division of Marine Fisheries, Department of Environmental Quality; the Division of Waste Management, Department of Environmental Quality; Division of Public Health; and the Department of Transportation; and
  (10) The county and municipality in which the permit application is located.

(c) Public notice of the receipt of a complete oil or gas well applications(s) submitted pursuant to this Rule shall be given prior to permit issuance.
  (1) Such notice shall:
    (A) be posted on the Division's website;
    (B) provide 30 calendar days for public comments to be submitted to the Department; and
    (C) include the permit application.
  (2) After the public comment period has ended the Department shall:

(A) consider the comments submitted; and
(B) post notice on the Division website as of the final permitting action.

(d) Pursuant to the SPCA and 15A NCAC 04, the Department shall review the erosion control plan for approval, approval with modifications, or disapproval.

(e) The Department shall have 180 calendar days from receipt of the complete application, to review and approve, approve with conditions, or deny the application. The Department shall consider all input submitted by the reviewing agencies outlined in Paragraph (b) of this Rule and public comment received pursuant to Paragraph (c) of this Rule when approving, approving with conditions, or denying any application.

(f) If the Department receives a written comment from an agency listed in Paragraph (b) of this Rule, indicating that the reviewing agency has concerns regarding an environmentally sensitive area under Rule .1405(c) of this Subchapter, the Department shall notify the Chair of the Commission within 10 days. The Chair shall notify the applicant or premittee and reviewing agencies in Paragraph (b) of this Rule that the Commission will determine the environmental damage bond during a scheduled meeting.

(g) If the Department denies an application for a permit pursuant to Rule .1309 of this Section, the Department shall notify the applicant or permittee in writing and stating the reasons for the denial. The applicant or permittee may thereupon modify and resubmit the application or file an appeal in accordance with 150B, Article 3; the Department shall have 60 calendar days from receipt of the resubmitted application to complete the review process.

(h) The Department shall set the amount of the bond or other security required pursuant to Rules .1403. .1404, and .1405 of this Subchapter, and mail notice of the required bond to the applicant or permittee. The applicant or permittee shall have 60 calendar days after the Department mails the notice to provide the required bond or security instrument to the Department. The Oil or Gas Well Permit shall not be issued until receipt of this instrument.

(i) Following approval of a Form 2 – Oil or Gas Permit Application for a new oil or gas well, the North Carolina Geological Survey shall assign an API number for the oil or gas well.

(j) The permittee shall not commence any operation at the well site prior to receiving an Oil or Gas Permit and meeting the requirements of this Rule.

History Note: *Authority G.S. 113-391(a)(5)l; 113-391(a6); 113-421(a3)(2);*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .1308 PERMIT CONDITIONS

A Form 2 – Oil or Gas Well Permit Application may be approved with conditions based on the individual well site. These conditions may require the permittee to:

(1) create or construct additional erosion control measures to be installed during oil and gas well operations;
(2) create or construct a natural buffer to be left between any stream and the disturbed land;
(3) create or construct visual screening, such as existing natural vegetation, vegetated earthen berms, tree plantings at staggered spacing, to be installed and maintained between any disturbed land and any adjoining property containing occupied buildings or public access within view of the disturbed land;
(4) create or construct erosion control measures to be implemented during the construction and operation of all roads to minimize off-site damage from sediment; or
(5) comply with other conditions as determined by the Department based on the well site geography, geology, and the recommendations of other Divisions in order to safeguard public health, welfare, and the environment.

History Note: *Authority G.S. 113-391(a)(5); 113-391(a6);*
Eff. March 17, 2015.

15A NCAC 05H .1309 DENIAL OF APPLICATION

(a) The Department shall have the authority to deny a permit application to any person on finding that the well site for which a permit is requested is in violation of any of the rules contained in this Subchapter, the issuance of the permit would result in a violation of any rule of this Subchapter or other applicable law or rule, or for any of the following factors:

(1) the permit application is incomplete and the time has lapsed for resubmission in accordance with Rule .1307 of this Subchapter;
(2) the requirements of Section .1400 of this Subchapter have not been met;

(3) the operation will have significant adverse effects on surface water, groundwaters, wildlife, habitats of rare and endangered flora and fauna and other critical communities; or freshwater, estuarine, or marine fisheries;

(4) the operation will constitute a physical hazard to public health and safety or to a neighboring occupied dwelling, school, church, hospital, commercial or industrial building, public road, or other public property;

(5) the operation will have a significant adverse effect on the uses of a publicly-owned park, forest, recreation area, or historical and archeological sites listed on the Federal or State list of historic places;

(6) previous experience with similar operations indicates a substantial possibility that the operation will result in deposits of sediment in stream beds or lakes in violation of the Sediment Pollution Control Act of 1973 and 15A NCAC 02L .0202 and 15A NCAC 02B, landslides, or acid water pollution in violation of 15A NCAC 02L .0202 and 15A NCAC 02B, which are incorporated by reference, including subsequent amendments and editions; or

(7) the Department finds that the applicant, permittee, or any parent, subsidiary, or other affiliate of the applicant or permittee has not been in compliance with the Oil or Gas Conservation Act, rules of this Subchapter, other laws or rules of this State for the protection of the environment administered by the Department, any plan approval, permit, or order issued by the Department, or has not corrected all violations that the applicant, permittee, or any parent, subsidiary, or other affiliate of the applicant, permittee, or parent has committed under this Act or rules adopted under the Act that resulted in:

(A) the revocation of a permit;

(B) the forfeiture of part of all of a bond or other security;

(C) a conviction of a misdemeanor or any other court order; or

(D) the final assessment of a civil penalty.

(b) In the absence of any finding set out above, or if adverse effects are mitigated by the applicant or permittee as approved by the Department, a permit shall be granted.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395;*
Eff. March 17, 2015.

15A NCAC 05H .1310 PERMIT MODIFICATIONS

(a) Any permittee may apply at any time for a modification of the permit. The application shall be in writing on Form 2 – Oil or Gas Well Permit Application in accordance with Rule .1304 of this Section. The Department may review, approve, approve with conditions, or deny the application for modification in accordance with the rules of this Section.

(b) The permittee shall provide any additional information required by the Department to satisfy application requirements in accordance with Rule .1307 of this Section. The permittee shall not be required to resubmit information that remains unchanged since the time of the prior application.

(c) If a proposed modification of the permit affects the land area covered by the permit or the approved Reclamation Plan, then the permittee shall propose a modification to the Reclamation Plan that meets the requirements of Rule .2102 of this Subchapter.

(d) No modification of a permit shall become effective until any required change has been made in the bond or other security posted under the provisions of G.S. 113-378, 113-391, and 113-421, so as to assure the performance of obligations assumed by the permittee under the permit and Reclamation Plan.

(e) If at any time it appears to the Department from its inspection of the disturbed land that the activities under the Reclamation Plan and other terms and conditions of the permit are failing to achieve the purposes and requirements of this Subchapter, the Department shall give the permittee written notice of that fact and request the permittee to modify the permit in accordance with Rule .1307 of this Section.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395; 113-410(a);*
Eff. March 17, 2015.

15A NCAC 05H .1311 PERMIT TRANSFERS

(a) A permit transfer may result from a sale, assignment by a court, a change in operating agreement, or other transaction.

(b) The new owner shall send written notice to the Department of the transfer within 30 calendar days of the transfer. The notice shall include:

(1) the names, address, and telephone numbers of the former owner(s) and new owner(s), and the agent if applicable. The new permittee information shall be attached to the notice on Form 1 – FRO;

(2) the Oil of Gas Well Permit and assigned API number;
(3) the effective date of the transfer of ownership; and
(4) an affidavit from the new owner verifying that the information on the original application is still accurate and complete. If the information on the original application is no longer accurate or complete, a new Form 2 – Oil or Gas Well Application shall be submitted to the Department for review and approval.

(c) The new owner shall secure the required bond prior to the Department approving the permit transfer.
(d) A permit transfer may be denied by the Department based on previous revocation or unaddressed or outstanding violations on a previous permit by the transferee in accordance with Rule .1309(a) of this Section.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395; Eff. March 17, 2015.*

15A NCAC 05H .1312 PERMIT EXPIRATION

(a) A permittee shall have 12 months from the date of issuance of the permit to spud an oil or gas well or the permit shall expire.
(b) A permittee may request a one time, one-year renewal of the permit. The permittee shall provide an affidavit affirming that the information on the original Form 2 – Oil or Gas Well Permit Application is still accurate and complete and that the oil or gas well location restrictions are still in effect. Any change in information from the original application shall be treated as a request for a permit modification pursuant to Rule .1310 of this Section. The permittee shall submit the request so that it is received by the Department at least 30 calendar days prior to the expiration of the original permit.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395; Eff. March 17, 2015.*

15A NCAC 05H .1313 PERMIT SUSPENSION OR REVOCATION

(a) The Department may suspend or revoke a permit if:
(1) the permittee fails to meet the conditions specified in the permit;
(2) the permittee falsified or otherwise withheld information required in the application; or
(3) if the Department issued the permit in error because the submitted information was incorrect and the error was not identified during the Department's review but came to light after the permit was issued and the correct information affected the validity of the issued permit.

(b) After any of the requirements in Paragraph (a) of this Rule are satisfied, the Department shall have the ability to suspend or revoke the permittee's permit in the following circumstances:
(1) if the permittee does not comply with a notice of violation issued by the Department; or
(2) an emergency situation creating a threat to public health, safety or the environment.

(c) The Department shall send written notice of suspension or revocation of the permit, including specific justification for the revocation. The permittee shall temporarily abandon the oil or gas well pursuant to Rule .1621 of this Subchapter until final disposition of the appeal. If the revocation is upheld, the permittee shall permanently plug and abandon the oil or gas well pursuant to Rule .1618 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(5)a; 113-391(a6); 113-395; Eff. March 17, 2015.*

15A NCAC 05H .1314 PERMIT RELEASE

(a) The permittee may request the Department to release the oil or gas well and all affected areas associated within the well site and return any remaining bond in accordance with Rule .1406 of this Subchapter.
(b) The Department shall not approve an oil or gas well permit release unless the requirements for Rule .1406 of this Subchapter have been met and all oil or gas well plugging and abandonment fees and notices have been received.
(c) The Department shall release any remaining bond to the permittee after finding that that the well site has been reclaimed as stated in the Reclamation Plan.

History Note: *Authority G.S. 113-391(a6); Eff. March 17, 2015.*

SECTION .1400 – FINANCIAL ASSURANCE

15A NCAC 05H .1401 PURPOSE AND SCOPE

Each applicant or permittee for a permit, modification, or transfer of an Oil or Gas Well Permit shall file and maintain in force one or more bonds in favor of the State of North Carolina or surface owner, executed by a surety approved by the Commissioner of Insurance, based on the requirements set forth in the rules of this Section.

History Note: *Authority G.S. 113-391(a)(5)l; 113-421(a3);*
Eff. March 17, 2015.

15A NCAC 05H .1402 BONDING REQUIREMENTS

(a) After an application for a permit, modification, or transfer of an Oil or Gas Well Permit is considered complete by the Department, the applicant or permittee shall provide an approved financial assurance instrument listed in Paragraph (b) of this Rule to the Department or each surface owner, as applicable in accordance with Rules .1403, .1404, and .1405 of this Section. The applicant or permittee shall not commence operations to drill, recomplete, restimulate, deepen, reenter, sidetrack, plug and abandon, plug back, or revise the location of any oil or gas well prior to providing one of the approved financial assurance instruments listed in Paragraph (b) of this Rule to the Department or surface owner(s).

(b) The permittee shall submit financial assurance to the Department using one of the following forms:

(1) Form 7 – Irrevocable Letter of Standby Credit, which shall include the following information:
- (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
- (B) the letter of credit number, effective date, and amount;
- (C) the name and address for the issuing institution;
- (D) the date of expiration and date and frequency of renewals; and
- (E) the issuing institution's representative's dated and notarized signature.

(2) Form 8 – Surety Bond, which shall include the following information:
- (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
- (B) the name and the principal and local address of the issuing surety company;
- (C) the bond number as assigned by the surety company;
- (D) the amount of bond to be held by the State of North Carolina;
- (E) the seal of the surety company;
- (F) the signatures by the secretary or assistant secretary; principal; president, vice president, partner, or owner of the surety company;
- (G) the signature of the resident agent of North Carolina and the agent or attorney in fact.

(3) Form 9 – Assignment of Savings Account, which shall include the following information:
- (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
- (B) the name, address, and county of the bank;
- (C) the dollar amount to be held to be payable to the Department on demand of the Department;
- (D) the method and a copy of the instrument of assignment such as a passbook or deposit book;
- (E) the notarized signature and date for the applicant or permittee; and
- (F) an acknowledgement of the bank on the assignment that includes the date of assignment, signature of authorized agent of the bank, date of signature, and notarization.

(4) Form 10 – Cash Deposit, which shall include the following information:
- (A) the applicant's or permittee's name, address, telephone number, fax number, and email address;
- (B) the county and nearest city or town where oil or gas well is located;
- (C) the lease name and the oil or gas well name and number;
- (D) the Commission issued drilling unit number; and
- (E) a cashier's or certified check made payable to the North Carolina Department of Environmental Quality.

(c) The amount of the bond shall be determined by the Department or the Commission consistent with Rules .1403, .1404, and .1405 of this Section.

(1) If the Oil or Gas Well Permit is modified to increase the total depth of the oil or gas well or the total disturbed land acreage increases, the bond shall be increased in accordance with Rules .1403 and .1404 of this Section, respectively; and

(2) As areas at a well site are reclaimed in accordance with the Reclamation Plan required by Section .2100 of this Subchapter and approved and released by the Department, the permittee may substitute a new bond for

the bond previously filed in an amount covering the remaining oil or gas wells and disturbed land acreage at the site.

(d) The bond herein provided shall be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only after 60 days written notice thereof to the Department or surface owner and to the permittee.

(e) The bond shall be conditioned on the faithful performance of the requirements set forth in the rules of this Subchapter. After filing the bond with the Department, the permittee shall lose all right, title, and interest in the bond while the bond is held by the Department. Liability under the bond shall be maintained as long as reclamation is not completed in compliance with the approved Reclamation Plan or acceptance by the Department of a substitute bond. In no event shall the liability of the surety exceed the amount of the surety bond required by this Section.

(f) In lieu of the surety bond required by this Section, the permittee may file with the Department a cash deposit, an irrevocable letter of credit, a guaranty of payment to the Department and held by a financial institution consistent with the Uniform Commercial Code of North Carolina (NC UCC). Alternatively, a permittee may file with the Department an assignment of a savings account in a financial institution consistent with the NC UCC. Cash deposits, irrevocable letters of credit, guaranties of payment, and assignments of savings accounts shall be filed using forms in accordance with Paragraph (b) of this Rule. Security shall be subject to the release provisions of Rule .1406 of this Section.

(g) If the Commissioner of Insurance suspends or revokes the license to do business in North Carolina of any surety on a bond filed pursuant to this Subchapter, the permittee shall, within 60 calendar days after receiving notice thereof, substitute for the surety a corporate surety authorized to do business in this State. On failure of the permittee to substitute sufficient surety within this time, the permit shall be revoked.

History Note: *Authority G.S. 113-391(a)(5)l; 113-421(a2); 113-421(a3);*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .1403 OIL OR GAS WELL PLUGGING AND ABANDONMENT BOND

(a) The applicant or permittee shall submit an oil or gas well plugging and abandonment bond in the amount of five thousand dollars ($5,000) plus one dollar ($1.00) per linear foot of the permitted oil or gas well pursuant to G.S. 113-378.

(b) The oil or gas well plugging and abandonment bond may be submitted as a separate bond or as an aggregate bond amount with the environmental damage bond required by Rule .1405 of this Section.

(c) The permittee may request that this bond be released by the Department when final site reclamation is completed in accordance with Section .2100 of this Subchapter and for which the oil or gas well is permanently plugged and abandoned in accordance with Rule .1618 of this Subchapter.

History Note: *Authority G.S. 113-378; 113-391(a)(5)l; 113-421(a2);*
Eff. March 17, 2015.

15A NCAC 05H .1404 DISTURBED LAND BOND

(a) The applicant or permittee shall provide to each surface owner a disturbed land bond that is sufficient to cover the cost of completing the requirements of the approved Reclamation Plan in accordance with Rule .2102 of this Subchapter and any reclamation conditions of the approved permit.

(b) The Commission shall set the disturbed land bond amount by calculating the costs for corrective actions(s), using the Reclamation Cost Table and calculations specified in Paragraphs (c) and (d) of this Rule, to return the land to the conditions set out in the approved Reclamation Plan in accordance with Rule .2102 of this Subchapter and any reclamation conditions of the approved permit.

(c) The Commission shall use the Reclamation Cost Table to calculate the amount for the disturbed land bond. The Reclamation Cost Table set by the Commission shall include the following:

(1) stone removal for access road and well pad in cubic yards;
(2) spreading stockpiles and berms to prepare for fine grading in cubic yards;
(3) filling of pits in cubic yards;
(4) fine grading per acre;
(5) seed and mulch, repair seeding, and fertilizing per acre;
(6) matting for soil cover per acre;
(7) matting permanent soil reinforcement per acre;
(8) drainage ditch excavation; and

(9) borrow excavation.

(d) The disturbed land bond shall be calculated by multiplying the affected area for each item listed in Paragraph (c) of this Rule and the unit cost for each item as determined by the Commission based on market value of each item. The Reclamation Cost Table is available on the Division's Oil and Gas Program webpage at the following address: http://portal.ncdenr.org/web/lr/oilgas.

(e) If the applicant, permittee, or surface owner disagrees with the disturbed land bond amount determined by the Commission, the applicant, permittee, or surface owner may appeal the bond amount pursuant to G.S. 113-421(a3)(1).

History Note: *Authority G.S. 113-391(a)(5)l; 113-391(a)(13a); 113-421(a3)(1); 150B-43; Eff. March 17, 2015.*

15A NCAC 05H .1405 ENVIRONMENTAL DAMAGE BOND

(a) The applicant or permittee shall submit an environmental damage bond in the amount of one million dollars ($1,000,000), unless the Commission sets a higher amount pursuant to G.S. 113-421(a3)(2).

(b) The environmental damage bond may be submitted as a separate bond or as an aggregate bond amount with the oil or gas well plugging and abandonment bond, as required by Rule .1403 of this Section.

(c) In identifying environmentally sensitive areas, the Commission shall consider the following:

(1) renewable resources, which may include:
  (A) watersheds or aquifers that are present sources of public water supply, as identified by the Department or the Environmental Management Commission at http://swap.ncwater.org/website/swap/viewer.htm; and
  (B) prime forestry land (sites capable of producing 85 cubic feet per acre-year, or more, of marketable timber).

(2) environmental or natural resources, which may include:
  (A) existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas;
  (B) present sections of the natural and scenic rivers system;
  (C) stream segments that have been classified for scientific or research uses by the Environmental Management Commission at http://portal.ncdenr.org/web/wq/ps/csu, or that are proposed to be so classified in a rulemaking proceeding that is pending before the Environmental Management Commission pursuant to G.S.143-214.1 at the time of the designation of the area of environmental concern;
  (D) existing wildlife refuges, preserves or management areas found at http://www.fws.gov/refuges/refugelocatormaps/NorthCarolina.html and game lands identified by the Wildlife Resources Commission found at http://ncpaws.org/wrcmapbook/;
  (E) areas that sustain rare and endangered botanical or animal species; and
  (F) areas containing unique geological formations, as identified by the State Geologist.

(3) natural-hazard areas, which may include:
  (A) the shoreline of estuarine and public trust waters;
  (B) floodways and floodplains; and
  (C) areas where geologic and soil conditions are such that there is a substantial possibility of landslides or seismic activity, as identified by the State Geologist, at http://portal.ncdenr.org/web/lr/geologic-hazards.

(4) Outstanding Resource Waters as designated by the Division of Water Resources at http://nc.maps.arcgis.com/apps/webappviewer/index.html?id=5f5cce7640a1499b83a7b7efaf5524a4 and such contiguous land for the purpose of maintaining the exceptional water quality and outstanding resource values identified in the designation; and

(5) Primary Nursery Areas as designated by the Marine Fisheries Commission at http://portal.ncdenr.org/web/mf/primary-nursery-areas.

(d) After the Commission determines that an operation would be sited in an environmentally sensitive area, the Commission may increase the bond amount pursuant to G.S. 113-421(a3)(2). In making the determination, the Commission shall consider factors such as the following:

(1) the proximity of the oil or gas well or well site to the environmentally sensitive area;
(2) the character of the environmentally sensitive area;
(3) the topography of the environmentally sensitive area; and

(4) special soil or geologic conditions in the environmentally sensitive area.

History Note: *Authority G.S. 113-391(a)(5)l; 113-421(a3)(2);*
Eff. March 17, 2015.

15A NCAC 05H .1406 INSPECTION AND APPROVAL OF RECLAMATION FOR BOND RELEASE OR FORFEITURE

(a) The permittee shall proceed with reclamation as scheduled in the approved Reclamation Plan pursuant to Rule .2102 of this Subchapter.

(b) The permittee shall notify the Department in writing that it has completed reclamation of an area of disturbed land in accordance with Rule .2103 of this Subchapter.

(c) After receipt of the notice as required by Paragraph (b) of this Rule, the Department shall conduct an inspection to determine whether the permittee has complied with the Reclamation Plan in accordance with Rule .2102 of this Subchapter and the reclamation conditions of the Oil or Gas Well Permit.

(1) If the Department determines from its inspection of the area in accordance with this Rule that reclamation has been properly completed, it shall notify the permittee in writing.

(2) If the Department determines from its inspection of the area that reclamation is deficient based on Rule .2102 of this Subchapter, then the Department shall notify the permittee in writing of all such deficiencies. The permittee shall commence action within 30 days to rectify these deficiencies and shall take corrective actions until the deficiencies have been corrected. The Department shall conduct follow-up site inspections in accordance with this Subparagraph and Rule .0203 of this Subchapter to ensure the permittee has taken the corrective actions.

(d) The Department shall initiate enforcement actions if it finds any of the following conditions in accordance with Rule .0901 of this Subchapter:

(1) the reclamation of the disturbed land within the permitted area is not proceeding in accordance with the Rule .2103 of this Subchapter or the Reclamation Plan;

(2) the permittee has failed within 30 days after notice to commence corrective action; or

(3) the final reclamation has not been properly completed in conformance with the Reclamation Plan and G.S. 113-421(a3).

History Note: *Authority G.S. 113-391(a)(5)l; 113-391(b); 113-410;113-421(a3);*
Eff. March 17, 2015.

15A NCAC 05H .1407 BOND FORFEITURE PROCEEDINGS

(a) If the Department determines there is a violation necessitating bond forfeiture or the revocation of a permit, it shall send the permittee and surety a written notice of violation. Upon receipt of the written notice of violation, the permittee shall have 60 calendar days to complete corrective action. If the permittee does not correct the violation within the 60 day period, the Department shall request the Attorney General to initiate forfeiture proceedings against the bond or other security filed by the permittee in accordance with Rule .0901 of this Subchapter.

(b) Such proceedings shall be brought in the name of the State of North Carolina for the face amount of the bond or other security, less any amount already released by the Department, and these sums shall be subject to forfeiture.

(c) If the amount of the bond or other security filed pursuant to this Section proves to be insufficient to complete the required final reclamation pursuant to the approved Reclamation Plan, the permittee shall be liable to the Department for any excess above the amount of the bond or other security that is required to defray the cost of completing the required final reclamation.

(d) If a permit is revoked by the Department, the Department shall proceed with efforts to collect the bond(s) or other financial assurance that was submitted to the Department at the time of permitting for oil or gas well plugging and abandonment and environmental damage in accordance with the rules of this Section.

History Note: *Authority G.S. 113-391(a)(5)l; 113-421(a3);*
Eff. March 17, 2015.

SECTION .1500 – SITE INFRASTRUCTURE AND CONSTRUCTION STANDARDS

15A NCAC 05H .1501 PURPOSE AND SCOPE

The rules in this Section establish requirements for well site construction standards.

History Note: *Authority G.S. 113-391(a)(4); 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1502 WELL SITE CONSTRUCTION STANDARDS

(a) The applicant or permittee shall submit a Well Site Development Plan to the Department pursuant to Rule .1304(c)(2) of this Subchapter. The Well Site Development Plan shall be signed and sealed by a North Carolina Professional Engineer and shall include the following information:

(1) the name, address, telephone number, fax number, and email address of applicant or permittee;
(2) the lease name and the oil or gas well name and number;
(3) the name and address of surface and mineral owners;
(4) the latitude and longitude (in decimal degrees) of the proposed access road entrance, corners of the well pad, wellhead(s), tank battery, pits, and all other production equipment reported to five decimal places of accuracy and precision using the North American Datum of 1983 (NAD83);
(5) a well site location map depicting the well pad and access road using a scale of one inch equals 2,000 feet;
(6) maps, plan sheets, and details depicting the proposed well site, well pad, tank battery, pits, access road, and topsoil stockpiles along with existing roads, surface water bodies, wetlands, and other surface features affected by the construction using a scale ranging between one inch equals 50 feet to one inch equals 500 feet with two foot topographic contours, depending on the total disturbed area;
(7) the details of the leak detection system, either electrical or piped, that will be installed on any proposed pit, including a plan of action to mitigate leakage;
(8) the proposed cut and fill areas with two foot grading contours depicting slope ratios and identifying elevation at the top and bottom of slopes using the North American Vertical Datum of 1988 (NAVD88);
(9) the cross-sections of the length and width of the well site, well pad, and access road that include cut and fill volumes posted in cubic yards;
(10) a description of proposed well site construction sequence and stabilization techniques;
(11) the erosion and sedimentation control measures that are designed and constructed to prevent sedimentation to water bodies and adjacent properties from any land disturbing activities related to the construction of the well site in accordance with the SPCA and 15A NCAC 04, and the "North Carolina Erosion and Sediment Control Planning and Design Manual," which is incorporated by reference, including subsequent amendments and editions. The North Carolina Erosion and Sediment Control Planning and Design Manual may be viewed online for no charge at http://portal.ncdenr.org/web/lr/publications;
(12) the stormwater management control measures shall be designed and constructed in accordance with 15A NCAC 02H and the "North Carolina Division of Water Quality Stormwater Best Management Practices Manual," which is incorporated by reference, including subsequent amendments and editions. The Stormwater Best Management Practices Manual may be viewed online for no charge at http://portal.ncdenr.org/web/lr/bmp-manual;
(13) the maintenance procedures for the access road and well pad; and
(14) the pre-construction conditions at the proposed well site, including aerial photographs, topographic maps, and pre-construction site inspection data.

(b) The permittee shall notify the Department via telephone or email at least 48 hours prior to the commencement of construction of a new well site or prior to the implementation of an approved permit modification. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email, or fax within five calendar days of the telephone or email notice and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and e-mail address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time of day for commencement of construction activities.

(c) Well site disturbed areas shall be minimized. Taking into consideration the geologic target, setbacks, and safety, the well site shall be located in accordance with API Recommended Practice 51R "Environmental Protection for Onshore Oil and Gas Production Operations and Leases," and the United States Department of the Interior, Bureau of Land Management (BLM) "Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development, the Gold Book," which are incorporated by reference, including subsequent amendments and editions. Recommended Practice 51R, published by API,

may be viewed online for no charge at http://publications.api.org/. The Gold Book may be viewed online for no charge at http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html.

(d) Well sites shall be designed and located pursuant to the SPCA and in accordance with the North Carolina Erosion and Sediment Control Planning and Design Manual.

(e) All topsoil shall be stockpiled for reuse during reclamation. Topsoil shall be segregated and stored separately from subsurface materials. Stockpiles shall be located and protected to minimize wind and water erosion in accordance with the North Carolina Erosion and Sediment Control Planning and Design Manual.

(f) Well pads shall be designed and constructed to support the maximum weight of all vehicles, equipment, and material on the site.

(g) Well pads shall be designed and constructed using surface or subsurface containment systems that prevent spills or releases of any substances from escaping the well pad.

(1) containment systems shall be required on the well pad for all equipment used for any phase of drilling, casing, cementing, hydraulic fracturing, or flowback operations and for all substances including drilling mud, drilling mud additives, hydraulic oil, diesel fuel, hydraulic fracturing additives, or flowback fluid.

(2) containment systems shall have a coefficient of permeability no greater than 1×10^{-10} centimeters per second (cm/sec) and shall be at least 30 millimeters (mils) in thickness.

(3) adjoining sections of containment systems shall be sealed together in accordance with the manufacturer's directions to prevent leakage.

(4) all components of the containment system that could potentially come into direct contact with any substances shall be compatible with those substances and be resistant to physical, chemical, and other failure during handling, installation and use pursuant to American Society for Testing and Materials (ASTM) D5747/D5747M-08 (2013) e1 "Standard Practice for Tests to Evaluate the Chemical Resistance of Geomembranes to Liquids," which is incorporated by reference, including subsequent amendments and editions. This document, published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, may be purchased at a cost of forty-three dollars ($43.00) at http://www.astm.org/Standards/D5747.htm.

(5) the permittee shall inspect all containment systems to ensure that integrity is maintained. Containment systems shall be maintained in such manner to prevent an impact to public health, welfare, and the environment. Containment system inspection and maintenance records shall be available at the well site for review by the Department.

(6) the permittee shall notify the Department if a spill or release occurs at the well site and take necessary remedial actions in accordance with Rule .2005 of this Subchapter.

(7) the permittee shall provide primary and secondary containment when storing additives, chemicals, oils, or fuels. The secondary containment shall have the capacity to contain 110 percent of the volume being stored.

(h) Well sites shall be constructed to prevent stormwater runoff from entering the well pad. All stormwater control measures shall be designed and managed in accordance with 15A NCAC 02H and the "North Carolina Division of Water Quality Stormwater Best Management Practices Manual."

(i) All erosion control or stormwater measures shall be maintained according to the approved Well Site Development Plan.

History Note: *Authority G.S. 113-391(a)(4); 113-391(a)(5)l; 150B-2(8a)h;*
Eff. March 17, 2015.

15A NCAC 05H .1503 ACCESS ROAD CONSTRUCTION STANDARDS

(a) Prior to construction of the access road, the permittee shall post an identification sign pursuant to Rule .1615 of this Subchapter.

(b) Access roads shall be located, designed, and constructed to minimize environmental impact and meet the requirements of the SPCA, 15A NCAC 04, "North Carolina Erosion and Sediment Control Planning and Design Manual," 15A NCAC 02H, "North Carolina Division of Water Quality Stormwater Best Management Practices Manual," and the North Carolina Department of Transportation "Standard Specifications for Roads and Structures." The Standard Specifications for Roads and Structures, published by the Department of Transportation, may be viewed online for no charge at http://www.ncdot.org/doh/preconstruct/ps/specifications/specifications_provisions.html.

(1) access roads shall be constructed and maintained to a minimum width of 20 feet and to allow emergency response vehicles to enter the well site at all times;

(2) public roads shall be kept clear of mud and debris from the well site; and

(3) turnarounds or pull-off areas shall be installed for single-lane access roads exceeding 150 feet in length.

History Note: *Authority G.S. 113-391(a)(4); 113-391(a)(5)j;*
Eff. March 17, 2015.

15A NCAC 05H .1504 PIT AND TANK CONSTRUCTION STANDARDS

(a) All pits, series of pits, tanks, and tank batteries shall be constructed and maintained to contain all Exploration and Production (E & P) wastes from the drilling, completing, recompleting, producing, servicing, and plugging of an oil or gas well and shall be constructed, operated and maintained to protect public health, safety, and the environment.

(b) The pit, series of pits, tanks, and tank batteries shall be installed and maintained in accordance with the following requirements:

(1) the location of pit(s) and tanks(s) shall be in accordance with the minimum setbacks as required in Rules .1601 and .1602 of this Subchapter, or in an approved variance pursuant to Rule .1603 of this Subchapter;

(2) pits shall be located in cut material to the fullest extent possible. Pits shall be constructed adjacent to the high wall for sloping well sites. If the pit cannot be constructed in cut material, at least 50 percent of the pit shall be constructed below original ground level to prevent failure of the pit dike. Pit dikes constructed of fill material shall be compacted according to soil texture and moisture content pursuant to 15A NCAC 02K .0208, which is incorporated by reference, including subsequent amendments and editions;

(3) all pits and open tanks shall maintain a minimum of three feet of freeboard at all times and be sized so as to contain the projected volume of E&P waste along with the volume of precipitation that would fall within a 25-year 24-hour storm event;

(4) if Subparagraph (b)(3) of this Rule is violated, the permittee shall notify the Department within two hours of discovery and take the necessary actions to ensure the structural stability of the pit or open tank, prevent spills, and restore the three feet of freeboard; and

(5) tank design, installation, and use shall comply with API Specifications 12B "Specification for Bolted Tanks for Storage of Production Liquids," Specification 12D "Specification for Field Welded Tanks for Storage of Production Liquids," Specification 12F "Specification for Shop Welded Tanks for Storage of Production Liquids," or Specification 12P "Specification for Fiberglass Reinforced Plastic Tanks," which are incorporated by reference, including subsequent amendments and editions. These documents, published by API, may be viewed online for no charge at http://publications.api.org/.

(c) Any pit that contains E & P waste shall comply with the following standards:

(1) pits shall have a primary and secondary synthetic liner;

(2) each synthetic liner shall have a coefficient of permeability no greater than 1×10^{-10} centimeters per second and shall be at least 30 millimeters in thickness for polyvinyl chloride or at least 40 millimeters in thickness for high-density polyethylene;

(3) each synthetic liner shall be designed, constructed and maintained so that the physical and chemical characteristics of the liner are not adversely affected by the E & P waste or by ultraviolet light pursuant to ASTM D5747/D5747M-08 (2013) e1 "Standard Practice for Tests to Evaluate the Chemical Resistance of Geomembranes to Liquids";

(4) the synthetic liner shall be resistant to failures or damage during transportation, handling, installation, and use;

(5) adjoining sections of synthetic liners shall be sealed together to prevent leakage and tested in accordance with the manufacturer's directions. Testing results shall be maintained by the permittee and provided to the Department upon request in accordance with Rule .0202 of this Subchapter;

(6) the synthetic liner shall be trenched and anchored into the top of the berm;

(7) the pit shall be constructed with a leak-detection zone between the upper and lower synthetic liners designed to:

(A) reduce the maximum predicted head acting on the lower membrane liner to less than one inch and to detect a leak within 24 hours;

(B) function without damaging the liners; and

(C) allow permittee to monitor, record, remove, or repair any leakage within the zone;

(8) the liner sub-base shall be smooth, uniform, and free from debris, rock, and other materials that may puncture, tear, cut, or otherwise cause the liner to fail. The liner sub-base and subgrade shall be capable of bearing the weight of the material above the liner without causing settling that may affect the integrity of the liner;

(9) the pit shall have a perimeter berm that is a minimum of two feet in width along the crest of the berm, to prevent stormwater runoff from entering the pit;
(10) the bottom of the pit shall be at least four feet above the seasonal high groundwater table and bedrock;
(11) fencing in accordance with Rule .2006(a) of this Subchapter; and
(12) netting, screening, or otherwise render nonhazardous to wildlife in accordance with Rule .2006(b) of this Subchapter.

(d) Monitoring and alarm technology shall be used to continuously verify the integrity of the primary pit liner. If the primary liner failure is discovered at any time, the pit shall be emptied and the liner repaired prior to placing the pit back in service.
(e) The leak detection systems shall be monitored on a monthly basis to determine if the primary liner has failed. The primary liner has failed if the volume of water passing through the primary liner exceeds the action leakage rate, as calculated using accepted procedures, or 1,000 gallons per acre per day, whichever is larger.
(f) If a liner becomes torn or otherwise loses integrity, the pit shall be managed to prevent the pit contents from leaking out of the pit, the pit contents shall be removed, and the liner repaired prior to placing the pit back in service. Pit contents shall be disposed of in accordance with the Waste Management Plan in accordance with Rule .2002 of this Subchapter.
(g) If the liner drops below the three feet of freeboard, the pit shall be managed to prevent the pit contents from leaking from the pit and the three feet of lined freeboard shall be restored.
(h) The permittee shall provide and maintain secondary containment for all tanks and production equipment of sufficient capacity to contain 110 percent of the volume of either the largest tank within the containment system or the total volume of all interconnected tanks, whichever is greater. Secondary containment structures shall be constructed of a material compatible with the fluids being stored and maintained to prevent loss of fluids.
(i) Tanks for the storage of produced hydrocarbons shall not be buried and shall contain the following components:
(1) activated charcoal filters installed on vent stacks. Activated charcoal filters shall be maintained and replaced according to manufacturer's specifications;
(2) low-pressure relief valves installed on vent stacks. Relief valves shall remain functioning at all times;
(3) hatch lids shall have a functioning seal and shall be secured at all times unless the permittee is on-site;
(4) lightning arrestors installed on each tank to comply with API Recommended Practice 2003, "Protection Against Ignitions Arising out of Static, Lightning, and Stray Currents," which is incorporated by reference, including subsequent amendments and editions. This document, published by API, may be viewed online for no charge at http://publications.api.org/;
(5) tanks shall be elevated such that leaks on their sides or bottoms are readily discernible; and
(6) tanks shall be installed above a surface impermeable to materials that the tank will contain.

(j) The Commission may grant or deny a variance from any construction standard of this Rule. The applicant or permittee shall submit a request for a variance in accordance with Rule .0301 of this Subchapter. In granting or denying the request the Commission shall determine that the applicant or permittee has met the following two factors:
(1) the requested variance to deviate from the standards and rule will provide equal or greater protection of public health, welfare, and the environment; and
(2) construction in accordance with the standards of this Rule is not technically or economically feasible.

History Note: *Authority 113-391(a)(5)c; 113-391(a)(5)d;*
Eff. March 17, 2015.

SECTION .1600 – WELL CONSTRUCTION AND COMPLETION

15A NCAC 05H .1601 SETBACK DISTANCES

(a) Each oil or gas well, production facility, tank, tank battery, or pit shall comply with the following setback distances as measured from the center of a wellhead and the edge of the pit, production facility equipment, tank, or tank battery closest to the features below:

(1)	occupied dwellings and high occupancy buildings:	650 feet;
(2)	edge of a public road, highway, utility or railroad track right-of-way, or other right-of-way:	100 feet;
(3)	a perennial stream, river, watercourse, pond, lake, or other natural and artificial bodies of water, including wetlands and trout stream:	200 feet;
(4)	intermittent stream:	100 feet; and
(5)	a public or private water well intended for human consumption or household purpose:	650 feet.

(b) The permittee shall ensure a minimum setback of 100 feet from the center each oil or gas wellhead, and the closest edge of a tank, tank battery, or pit to the edge of the mapped 100-year floodplain and floodway.
(c) The permittee shall ensure a minimum setback of 1,500 feet downgrade from each oil or gas wellhead, tank, tank battery, pit, or production facility to the edge of any surface water impoundment that serves as a municipal drinking water supply or to the edge of any river having a drainage area greater than 140 square miles and upstream of a municipal drinking water supply point. For surface water impoundments, the edge shall be measured from the nearest point of the most landward limit of the normal water level or the rooted herbaceous vegetation. For any river upstream of a municipal drinking water supply point, the edge shall be measured from the nearest, most landward limit of the bank or the rooted herbaceous vegetation.
(d) Nothing in this Rule prohibits a local government exercising its existing authority consistent with G.S. 113-415.1.

History Note: *Authority G.S. 113-391(a)(5)d;*
Eff. March 17, 2015.

15A NCAC 05H .1602 PRODUCTION FACILITY SAFETY SETBACK DISTANCES
(a) The closest edge of a pit, tank, or tank battery shall be a minimum of 75 feet from the center of any wellhead.
(b) A tank edge shall be a minimum of five feet from another edge.
(c) A mechanical separator or compressor shall be located the minimum distance from any of the following:
(1) the center of a wellhead: 50 feet; and
(2) the closest edge of a tank: 75 feet.
(d) All production facilities, excluding gathering lines, whose contents may be heated shall be located a minimum distance of 75 feet from edge of a tank or the center of a wellhead.

History Note: *Authority G.S. 113-391(a)(5)d;*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .1603 VARIANCE FOR SETBACKS
(a) An applicant or permittee may request a variance to reduce the setback distances for an oil or gas wellhead, a tank or tank battery, and a pit from an occupied dwelling required by Rule .1601 of this Section. The variance, if granted, shall provide equal or greater protection of public health, safety, and the environment. Variances from setbacks established for high occupancy buildings are prohibited. The Commission in granting or denying variances shall:
(1) require additional measures that eliminate, minimize, or mitigate potential adverse impacts to public health, welfare, and the environment, such as the use of non-diesel fuels with lower emissions; and
(2) require site-specific mitigation measures to address location specific considerations.
(b) The Commission shall require the following conditions in any approved variance from an occupied dwelling:
(1) the wellhead, tank or tank battery, or production facility shall be a minimum of 400 feet from an occupied dwelling; and
(2) freshwater storage pits, reserve pits to drill surface casing, and emergency pits shall be a minimum of 400 feet from an occupied dwelling.
The Commission shall not grant a variance for any E & P waste pit setback from an occupied dwelling.
(c) An applicant or permittee may request a variance to reduce the setback distances for an oil or gas wellhead, a tank, or tank battery from an intermittent stream, a pond, or other natural or artificial water body, which is not a water of the State, wholly contained within the drilling unit. The Commission shall determine that the measures proposed to eliminate, minimize or mitigate potential adverse impacts to public health, welfare and the environment are adequate to address all the risks at the well site and justify the reduction of setback distances as requested in the variance and that the variance, if granted, shall provide equal or greater protection of public health, safety, and the environment. The variance shall include the following conditions:
(1) additional measures that eliminate, minimize, or mitigate potential adverse impacts to public health, welfare, and the environment, such as the use of secondary or backup containment measures;
(2) the oil or gas wellhead, freshwater storage pit, tank, tank battery, or production facility shall be a minimum of 50 feet from any intermittent stream, pond, or other natural or artificial water body, that is not a water of the State, and that is wholly contained within the drilling unit; and
(3) oil or gas wellheads, a tank, a tank battery, or pits less than 650 feet from, and up-gradient of, a surface water body shall use tertiary containment, such as an earthen berm.
The Commission shall not grant a variance for any E & P waste pit setback from an intermittent stream.

(d) The Commission shall require green completions in any approved variance, which include:
(1) flow lines, separators, and sand traps capable of supporting green completions shall be installed;
(2) prevention of uncontrolled venting; and
(3) temporary flowback flaring and oxidizing equipment shall include the following:
(A) equipment sized to handle one and one half times the largest flowback volume of gas experienced within a 10-mile radius;
(B) valves and porting available to divert gas to temporary equipment or to permanent flaring and oxidizing equipment; and
(C) auxiliary fuel and heat to sustain combustion or oxidation of the gas mixture when the mixture includes noncombustible gases.

(e) An applicant or permittee may submit a surface use agreement from a surface landowner as justification to request a variance to setback distances for the wellheads, tank or tank battery, and pits from occupied dwellings. The surface use agreement may include additional site-specific mitigation measures. The surface use agreement shall include written consent of the landowner, which may be provided by any of the following:
(1) a copy of an original lease agreement text filed with the county Registrar of Deeds that shows the reduction of the distance of the location of an oil or gas wellhead, well pad, tank battery, or pit, as applicable, from an occupied dwelling;
(2) a copy of a deed severing the oil and gas mineral rights, as applicable, from the owner's parcel of land as filed with the county Registrar of Deeds that expressly provides for the reduction of the distance of the location of an oil or gas wellhead, well pad, tank battery, or pit, as applicable, from an occupied dwelling; or
(3) a copy of a written surface use agreement signed by the property owner that consents to the proposed location of an oil or gas wellhead, well pad, tank, tank battery, or pit(s), as applicable. An applicant or permittee may submit a copy of a written statement filed with the county Register of Deeds that expressly provides for the reduction of the distance of the location of an oil or gas wellhead, well pad, tank battery, or pit, as applicable, from an occupied dwelling in lieu of a copy of a written surface use agreement.

(f) Variance requests shall be submitted in accordance with Rule .0301 of this Subchapter. In addition to the information required by Rule .0301 of this Subchapter, any permittee seeking to use surface use agreement as a basis for a variance shall submit a copy of the surface use agreement containing the information in Paragraph (e) of this Rule.

History Note: *Authority G.S. 113-391(a)(5)d;*
Eff. March 17, 2015.

15A NCAC 05H .1604 PROHIBITED SUBSTANCES

(a) The Commission incorporates by reference, including subsequent amendments and editions, the "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels – Draft: Underground Injection Control Program Guidance #84," published by the United States Environmental Protection Agency. Copies of this document may be obtained online for no charge at:
http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/upload/epa816r14001.pdf.

(b) Any substance identified by one or more of the following Chemical Abstract Service Registry Numbers listed in the United States Environmental Protection Agency's "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels" shall not be used in the subsurface:
(1) 68334-30-5, Primary Name: Fuels, diesel;
(2) 68476-34-6, Primary Name: Fuels, diesel, Number 2;
(3) 68476-30-2, Primary Name: Fuel oil Number 2;
(4) 68476-31-3, Primary Name: Fuel oil, Number 4; and
(5) 8008-20-6, Primary Name: Kerosene.

(c) Drilling fluids and hydraulic fracturing fluids shall not be formulated to include benzene, toluene, ethylbenzene, or xylene.

History Note: *Authority G.S. 113-391(a)(5)g;*
Eff. March 17, 2015.

15A NCAC 05H .1605 CASING AND EQUIPMENT REQUIREMENTS

(a) All casing and tubing installed in oil or gas wells shall be steel, steel alloy, or other material that has been manufactured to meet or exceed the American Petroleum Institute (API) standards. All casing and tubing material shall be manufactured

according to API standards; all previously used casing shall comply with design parameters for the oil or gas well, pass a hydrostatic test, a drift test, and a wall thickness test pursuant to API Specification 5CT "Specification for Casing and Tubing," and API Specification 5B "Specification for Threading, Gauging, and Thread Inspection of Casing, Tubing, and Line Pipe Threads," which are incorporated by reference, including subsequent amendments and editions. These documents may be viewed online for no charge at http://publications.api.org/. The casing shall be marked to verify the test results and the permittee shall provide a copy of the test results to the Department before the casing is installed in the wellbore.

(1) Casing shall be designed to have a minimum internal yield pressure rating that is 20 percent greater than the maximum anticipated pressure to which the casing may be subjected during drilling, completion, or production operations.

(2) Where subsurface reservoir pressure is unknown and cannot be reasonably anticipated by the applicant or permittee, the permittee shall assume a pressure gradient of 0.433 pounds per square inch (psi) per foot in a fully evacuated hole, under shut-in conditions.

(3) All casing and tubing connections shall be torqued to the manufacturer's specifications and shall comply with API Recommended Practice 5A3 "Recommended Practice on Thread Compounds for Casing, Tubing, Line Pipe, and Drill Stem Elements," and API Recommended Practice 5C5 "Recommended Practice on Procedures for Testing Casing and Tubing Connections," which are incorporated by reference, including subsequent amendments and editions. These documents may be viewed online for no charge at http://publications.api.org/.

(b) The permittee shall verify casing integrity by pressure testing each cemented casing string greater than 200 feet in length in accordance with the following test method:

(1) test the casing string, prior to drilling the cement plug or stimulating the oil or gas well, at a minimum pump pressure in psi, that is calculated by multiplying the length of the casing string, in feet, by 0.2. The pressure test shall not exceed 1,500 psi;

(2) this pressure test shall be conducted for 30 minutes; and

(3) if the pressure has dropped by more than 10 percent, then the casing string has failed to meet the integrity requirements. The permittee shall not drill the cement plug or stimulate the oil or gas well until the condition has been corrected; or

(4) if the pressure has dropped by no more than 10 percent, then the casing string has met the integrity requirements. The casing string has met the integrity requirements if the pressure has dropped by no more than 10 percent of testing pressure.

(c) The wiper plug and float collar assembly shall be set with a minimum cement displacement pressure of 500 psi.

(d) All casing shall be centralized to allow the cement to fill the annular space to the surface in order to isolate critical zones including: aquifers, flow zones, voids, lost circulation zones, coal layers, and hydrocarbon production zones. Casing strings shall comply with API Recommended Practice 10D-2 "Recommended Practice for Centralizer Placement and Stop Collar Testing," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.

(1) All bow-spring centralizers shall comply with API Specification 10D "Specification for Bow-Spring Casing Centralizers," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.

(2) All rigid centralizers shall comply with API Technical Report 10TR4 "Considerations Regarding Selection of Centralizers for Primary Cementing Operations," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.

(e) All packers and bridge plugs shall comply with API Specification 11D1 "Packers and Bridge Plugs," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1606 CEMENTING STANDARDS

(a) All cement pumped into the wellbore shall consist of cement that is manufactured and tested pursuant to API Specification 10A "Specification for Cements and Materials for Well Cementing" or the American Society for Testing and Materials (ASTM) Standard Specification "C150/C150M Standard Specification for Portland Cement," which are incorporated by reference, including subsequent amendments and editions. Specification 10A, published by API, may be viewed online for no

charge at http://publications.api.org/. Specification C150/C150M, published by ASTM, may be purchased at a cost of forty-one dollars ($41.00) at http://www.astm.org/Standards/C150.htm or by mail at 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
(b) The permittee, or an authorized representative of the permittee, shall be onsite for all cement mixing and placement operations to monitor the cement mixing equipment and to ensure that cement slurry design parameters are followed.
(c) Cement shall be pumped at a rate and in a flow regime that minimizes channeling of the cement in the annulus.
(d) Cement mixtures for which published performance data are not available shall be tested by the permittee or the service company. The cement test results shall be included with the Form 2 – Oil or Gas Well Permit Application confirming that the cement mixture meets API Specification 10A "Specification for Cements and Materials for Well Cementing."
(e) The Department may require by permit condition a specific cement mixture to be used in any oil or gas based on site-specific situations, such as the salinity of subsurface groundwater zones or the presence of geological hazards.
(f) All cement shall reach a compressive strength of at least 500 pounds per square inch (psi) prior to conducting the casing integrity test required by Rule .1605(b) of this Section.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1607 WELL INSTALLATION
(a) The Department may establish by permit conditions additional oil or gas well construction standards that provide greater protection of human health, safety, and the environment based on site-specific conditions such as the geology of the area.
(b) The permittee shall notify the Department at least 48 hours via telephone or email prior to spudding the oil or gas well. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email, or fax within five calendar days of the telephone or email notice and shall include the following information:
(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for spudding the oil or gas well.
(c) The permittee shall notify the Department at least 48 hours prior to setting and cementing any casing string via telephone or email, in order to allow the Department to participate in pre-job safety and procedural meetings, independently test cement mix water, evaluate casing condition, and observe and document the execution of the cementing operation. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email, or fax within five calendar days of the telephone or email notice and shall include the following information:
(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for setting and cementing any casing string.
(d) If a mousehole or rathole is used, it shall be constructed of liquid-tight steel pipe with a welded-basal plate.
(e) A wellbore shall be drilled using air, water, water-based drilling fluid, or a combination thereof until all fresh groundwaters have been isolated.
(1) Drilling fluids that cause a violation of 15A NCAC 02L, which is incorporated by reference including subsequent amendments, shall not be used until all groundwaters have been isolated.
(2) Only freshwaters shall be used for mixing all drilling fluids.
(f) A wellbore shall be drilled to provide a minimum of a one-inch annulus, as measured from the casing.
(g) The wellbore shall be conditioned prior to cementing to ensure an adequate cement bond between the casing and the formation by circulating the total volume of drilling fluid in the wellbore a minimum of two times. The drilling fluid rheology shall be adjusted to optimize conditions for displacement of the drilling fluid and to ensure that the wellbore is stable.
(h) All casing strings shall be rotated and reciprocated during the emplacement of cement to circulate the cement surrounding the casing string to fill the annulus.

(i) Stormwater shall be prevented from infiltrating the wellbore by crowning the location around the wellbore to divert fluids as approved in the Well Site Development Plan in accordance with Rule .1502(a) of this Subchapter.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1608 WELL INSTALLATION FOR CONDUCTOR CASING

(a) Conductor casing design and setting depth shall be based on the geological conditions at the wellbore location, including the presence or absence of hydrocarbons and potential drilling hazards.

(b) Conductor casing shall be cemented from bottom to top, with return to the surface. If cement does not return to the surface, the permittee shall consult with and obtain approval from the Department to determine the appropriate method to emplace cement.

(c) Conductor casing shall:

(1) stabilize unconsolidated sediments;
(2) isolate and seal off shallow groundwater zones;
(3) isolate any shallow drilling hazards, hydrocarbon bearing zones, or coal formations;
(4) provide a stable platform for oil or gas well construction; and
(5) provide solid structural anchorage for a diverter system in air drilling operations.

(d) A mechanical or cement seal shall be installed at the surface to block downward migration of surface pollutants.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1609 WELL INSTALLATION FOR SURFACE CASING

(a) Surface casing shall be set into competent bedrock to a depth of at least 100 feet below the base of the deepest groundwaters but above any hydrocarbon strata containing fluids or gases that could negatively impact the quality of the cement or proper functioning of the oil or gas well.

(b) Surface casing shall be cemented from bottom to top, with return to the surface. If cement does not return to the surface, the permittee shall consult with and obtain approval from the Department to determine the appropriate method to emplace cement.

(c) Surface casing shall:

(1) isolate and seal off shallow groundwaters;
(2) provide a stable platform for oil or gas well construction; and
(3) contain pressures and fluids from subsequent drilling operations to the next planned casing setting point.

(d) The surface casing shall be set into competent bedrock at a depth sufficient for the permittee to ensure the blowout preventer (BOP) can contain any formation pressure that may be encountered when drilling the next section of the wellbore below the base of the surface casing string.

(e) The permittee shall collect correlation logs, core samples, and drill cutting samples to identify groundwaters, zones of formational instability, and competent bedrock to submit to the Department with the Form 12 – Well Drilling Report required in Rule .1623 of this Section.

(f) Surface casing shall be cemented before drilling through any hydrocarbon-bearing stratum.

(g) If geologic hazards such as heaving shale, abnormal pressure, annular flow or other potential flow zones are encountered, drilling shall stop, and casing shall be set and cemented before drilling continues.

(h) A Formation Integrity Test (FIT) shall be completed after drilling out below the base of the surface casing into at least 20 feet, but not more than 50 feet, of new formation. The FIT shall be completed in accordance with API Standard 65-Part 2 "Isolating Potential Flow Zones During Well Construction," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/. If the formation fails the FIT, the permittee shall consult with the Department to determine remedial or corrective actions necessary before operations continue.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1610 WELL INSTALLATION FOR INTERMEDIATE CASING

Intermediate casing shall isolate groundwaters that have not been isolated by the surface casing and isolate flow zones, lost circulation zones, or other geologic hazards in accordance with the following:

(1) if used to isolate groundwaters, the casing shall be set into competent bedrock to a depth of at least 200 feet below the deepest groundwaters. The casing string shall be cemented from the bottom to a minimum of 100 feet above the top of the shallowest groundwaters;

(2) if used to mitigate geologic hazards, such as heaving shale, abnormal pressure, annular flow or other potential flow zones, the casing shall be set to a depth appropriate to mitigate the hazard. The casing string shall be cemented from across such hazards and from the bottom to 200 feet above the base of the previous casing string;

(3) the permittee shall collect correlation logs, core samples, and drill cutting samples to identify groundwaters, zones of formational instability, and competent bedrock to submit to the Department with the submission of Form 12 – Well Drilling Report as required in Rule .1623 of this Section;

(4) if the intermediate wellbore penetrates one or more potential flow zones, the cement used to control annular gas migration from the potential flow zones shall be designed to comply with API Standard 65-Part 2 "Isolating Potential Flow Zones During Well Construction," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/;

(5) a cement bond log (CBL) for the intermediate casing string shall be completed after cement has reached a compressive strength of 500 psi to demonstrate the cementing operation was completed in accordance with this Rule and to locate casing collars and centralizers. Drilling shall not commence until the CBL is complete;

(6) if there is a failure to isolate groundwater zones, the permittee shall submit a plan of remediation to the Department for approval and implement such plan by performing remedial operations prior to continuing drilling operations. If the deficiencies cannot be remedied, the oil or gas well shall be plugged and abandoned in accordance with Rule .1618 of this Section;

(7) a formation integrity test (FIT) shall be completed after drilling out below the base of the intermediate casing, into at least 20 feet, but not more than 50 feet of new formation. The FIT shall be completed in accordance with API Standard 65-Part 2. If the formation fails the FIT, the permittee shall consult with the Department to determine remedial or corrective actions necessary before operations continue; and

(8) the permittee shall identify the top of the cement and submit a plan of remediation to the Department for approval and implementation if operational parameters, such as fluid returns, lift pressure, and displacement indicate to the permittee inadequate coverage of any flow zones, lost circulation zones, or any strata containing groundwater.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1611 WELL INSTALLATION FOR PRODUCTION CASING

(a) Production casing shall be installed and cemented from the bottom to 200 feet above the base of the previous casing string. Notwithstanding the foregoing, a production zone may be completed using a non-cemented production liner in accordance with Paragraph (c) of this Rule.

(b) Installation of production casing or installation of production liners shall comply with the following:

(1) logging of the wellbore shall be performed prior to installation of the production casing to measure and evaluate the rock sections;

(2) a CBL shall be completed after the cement has reached a compressive strength of 500 psi to verify the cementing operation was completed and to locate the casing collars and centralizers. Well completion shall not commence until the CBL has been completed;

(3) the permittee shall submit a plan of remediation to the Department for approval if the cement evaluation indicates a failure to isolate groundwater zones, and if the plan is approved, implement such plan by performing remedial operations prior to continuing drilling operations. If the Department or the permittee determine the deficiencies cannot be remedied, the oil or gas well shall be plugged and abandoned in accordance with Rule .1618 of this Section; and

(4) for cemented well completions, the base of the production casing shall be cemented into or below the production zone. For open-hole well completions, the base of the production casing shall be cemented into or above the production zone.

(c) A production liner may be used as production casing if the following criteria are met:
(1) the surface casing is used as the groundwater isolation casing;
(2) the intermediate casing is set for a reason other than isolation of groundwater; and
(3) the production liner shall be cemented with a minimum of 200 feet of cement above the base of the previous casing string.
(d) The production liner top shall be pressure tested to at least 500 psi, for a period of 30 minutes, above the maximum anticipated pressure, as determined by the permittee, in the wellbore during well completion and production operations. If after 30 minutes the pressure has dropped by more than 10 percent, the permittee shall not resume operations until the condition has been corrected and verified by passing a subsequent pressure test.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1612 WELL INSTALLATION VARIANCE
The applicant or permittee may request a variance from Rules .1608, .1609, .1610, or .1611 of this Section by submitting a request pursuant to Rule .0301 of this Subchapter. In granting or denying a variance, the Commission shall ensure the variance provides equal or greater protection for public health, safety, and the environment and consider factors such as:
(1) increasing the oil or gas well efficiency; and
(2) minimizing waste.

History Note: *Authority G.S. 113-391(a)(5)c;*
Eff. March 17, 2015.

15A NCAC 05H .1613 WELL STIMULATION REQUIREMENTS
(a) The applicant or permittee shall indicate on the Form 2 – Oil or Gas Well Permit Application the intent to perform well stimulation operations. If well stimulation was not approved as part of the initial application, the permittee desiring to perform such operations shall submit for approval the information required by this Rule via email, fax or mail to the Department for review at least 30 calendar days prior to commencement of planned well stimulation operations.
(b) The production casing shall withstand the maximum anticipated treating pressure of the proposed well stimulation operations. The maximum anticipated treating pressure shall not exceed 80 percent of the minimum internal yield pressure for such production casing.
(c) Non-cemented portions of the oil or gas well shall be tested prior to well stimulation operations to ensure that the wellbore can meet one of the following conditions:
(1) 70 percent of the lowest activating pressure for pressure actuated sleeve completions; or
(2) 70 percent of formation integrity for open-hole completions, as determined by a formation integrity test (FIT).
(d) The permittee shall notify the Department via telephone or email a minimum of 48 hours prior to the commencement of all well stimulation operations at the oil or gas well. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email, or fax within five calendar days of the telephone or email notice and shall include the following information:
(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for the well stimulation operations.
(e) The permittee shall monitor and record all casing annuli via pressure gauges and by visual discharge for any pressure or flow increases or discharges that would be indicative of a potential loss of wellbore integrity during the well stimulation operations. The permittee shall take remedial action to avoid the loss of wellbore integrity and shall notify the Department within 24 hours of discovery via telephone or email.
(f) If well stimulation treatment design does not allow the surface casing annulus to be open to atmospheric pressure, then the surface casing pressures shall be monitored with a gauge and pressure relief device. The maximum set pressure on the pressure relief device shall be the lower of:
(1) a pressure equal to: 0.70 times 0.433 times the true vertical depth of the surface casing shoe (expressed in feet);

(2) 80 percent of the API rated minimum internal yield for the surface casing; or
(3) 80 percent of the surface casing shoe test pressure, adjusted for fluid density.

The well stimulation treatment shall be terminated if the pressures exceed the limits set in Subparagraphs (f)(1) through (f)(3) of this Rule and the Department shall be notified within 24 hours of the occurrence of an exceeded pressure. Pressures on any casing string other than the surface casing shall not be allowed to exceed 80 percent of the API rated minimum internal yield pressure for such casing string throughout the stimulation treatment. The permittee shall notify the Department within 24 hours via telephone or email if treatment pressure exceeds 80 percent of the API rated minimum internal yield pressure on any casing string other than surface casing.

(g) The permittee shall monitor and record, at all times, the following parameters during well stimulation operations:
(1) surface injection pressure, in pounds per square inch (psi);
(2) fluid injection rate in barrels per minute (BPM);
(3) proppant concentration in pounds per thousand gallons;
(4) fluid pumping rate in BPM;
(5) identities, rates, and concentrations of additives used in accordance with Rule .1702 of this Subchapter; and
(6) all annuli pressures.

(h) Following the notification in Paragraph (f) of this Rule, the Department may require additional documentation or oil or gas well tests to determine if the well stimulation operations potentially endanger any fresh groundwater zones, if the permittee is unable to assess the wellbore integrity. If either the permittee or the Department determines fresh groundwater zones are endangered, the Department shall require the permittee to perform remedial operations to correct any oil or gas well failure.

(i) The Department shall notify the Commission at its next regularly scheduled meeting of any remedial operations conducted pursuant to Paragraph (h) of this Rule.

History Note: *Authority G.S. 113-391(a)(5)k; 113-391(a)(10); 113-391(a)(11); 113-391(b); 113-391(b1); Eff. March 17, 2015.*

15A NCAC 05H .1614 WELLHEAD REQUIREMENTS

(a) All wellheads intended for production shall be installed and maintained in accordance with API Specification 6A "Specification for Wellhead and Christmas Tree Equipment," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.

(b) All other wellheads shall be pressure rated to withstand operating pressures 100 percent above the maximum anticipated operating pressure during drilling, maintenance, remediation, stimulation, and production.

(c) All oil or gas wells shall be equipped so that oil, gas, or condensate does not leak from the wellhead.

(d) All valves shall be installed and be accessible so that pressure readings can be observed on the casing and tubing at any time by the Department. Valves shall be designed to accommodate a one-half (0.5) inch National Pipe Thread pressure connection. The Christmas tree shall also be similarly equipped to allow pressure monitoring of the production tubing.

(e) All intermediate and production casing annuli shall be equipped with a functioning pressure relief valve that is set at 50 percent of the maximum surface pressure recorded during the Formation Integrity Test (FIT) at the base of the previous casing string.

(f) The permittee shall notify the Department within 24 hours if the annular pressure measured at the surface exceeds 0.303 multiplied by the length of the casing string, or upon discovering the activation of the pressure relief valve. The Department shall determine appropriate action to remedy annular over-pressurization.

(g) A check valve shall be installed in the flowline downstream of the Christmas tree to prevent the return of fluids into the oil or gas well.

History Note: *Authority G.S. 113-391(a)(5)c; 113-391(a)(5)i; Eff. March 17, 2015.*

15A NCAC 05H .1615 WELL SITE MAINTENANCE AND SECURITY

(a) A functioning blowout preventer (BOP) shall be installed and used during maintenance, remediation, and stimulation operations in accordance with Rule .1616 of this Section.

(b) The permittee shall perform well servicing, excluding workovers, and equipment maintenance operations between the hours of 6:00 a.m. and 9:00 p.m.

(c) The permittee may perform emergency repairs at any time.

(d) A temporary work zone sign, "Authorized Personnel Only Beyond This Point" shall be posted at all ingress and egress points leading from a public road to the well pad at least 200 feet from the activity area during drilling, maintenance, remediation, and stimulation operations.
(e) Fencing no less than three feet in height shall be installed around the outer boundary of the well pad to restrict unauthorized access to the well pad during drilling and completion operations.
(f) Equipment that is not used in the production of oil or gas shall not be stored within the well site.
(g) Equipment, vegetation, and refuse shall be maintained in order to ensure protection of the environment, public health, and safety in accordance with API Recommended Practice 51R "Environmental Protection for Onshore Oil and Gas Production Operations and Leases," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.
(h) A permanent fence shall be installed around the wellhead, tank battery, separator, and all associated production equipment prior to placing any oil or gas well into production. Fencing shall be:

(1) placed no closer than 50 feet to the wellhead or any portion of the tank battery;
(2) composed of chain link that is no less than six feet in height and shall be topped with restrictive wire to prevent unauthorized access;
(3) securely anchored in the ground; and
(4) gated with locks and no less than four feet in width. If there is a tank battery, the permittee shall provide two gates on opposite sides of the production facility.

(i) The Commission may grant a variance to the permanent fencing requirements in accordance with Rule .0301 of this Subchapter. In granting or denying the variance request, the Commission shall consider factors such as:

(1) zoning of the area;
(2) land use; and
(3) configuration and size of the well pad.

(j) All gates, electrical boxes, and valves controlling the flow of production fluid for a site under production shall be locked unless in use, under repair, or if the permittee or an authorized representative of the permittee is on-site. The permittee shall provide keys or combinations to the Department and local emergency responders upon request.
(k) All brine and oil pick-up lines shall be secured by bull plugs.
(l) All oil or gas wells shall have an identification sign, in accordance with Paragraph (m) of this Rule, posted in a place easily seen or noticed on or near the oil or gas wellhead or the tank battery until final abandonment, in accordance with the following:

(1) the identification sign shall be posted within 72 hours after drilling activities cease;
(2) if multiple oil or gas wells are produced into a tank battery, each wellhead shall be identified; and
(3) any change of ownership shall be shown on the signs at the wellhead or tank battery no later than 60 calendar days after the date of the assignment or approval of the transfer.

(m) Identification signs shall be constructed of weatherproof and rustproof material and maintained to remain legible at all times. Each sign shall include, at a minimum, the following information in two-inch or larger letters:

(1) the permittee's name, address, business telephone number, and emergency telephone number;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad, if nearest street address is used, "nearest address" shall be designated on the sign;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the local emergency response telephone number.

(n) The identification sign shall be posted at the following locations:

(1) the ingress and egress points leading from a public road to the well pad; and
(2) the outside of the fence that surrounds the well pad.

(o) "Danger, Keep Out" and "No Smoking or Open Flame" signs shall be attached to each side of the fencing surrounding the wellhead and tank battery. If fencing has not been installed, the signs shall be attached to the wellhead and tank battery. A "No Smoking Beyond This Point" sign shall be posted at ingress or egress points leading from a public road to the well pad.

History Note: *Authority G.S. 113-391(a)(5)i;*
Eff. March 17, 2015.

15A NCAC 05H .1616 WELL-CONTROL AND BLOWOUT PREVENTION

(a) During drilling, all oil or gas wells shall be equipped with a well-control system that includes a blowout preventer (BOP). The well-control system shall meet the following requirements:

(1) be functional at all times and tested to working pressures at least 50 percent above the hydrostatic pressures anticipated in the oil or gas well;
(2) BOP equipment shall be in compliance with API Standard 53 "Blowout Prevention Equipment Systems for Drilling Wells," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/;
(3) the BOP shall be installed and tested as required in Subparagraph (a)(1) of this Rule prior to drilling the surface-casing cement plug. The BOP shall be retested as required in Subparagraph (a)(1) of this Rule prior to drilling the cement plug in each subsequent casing string; and
(4) during drilling operations, the shear-ram BOP shall be tested by closing the BOP at least once weekly in open hole conditions. The annular BOP shall be tested by closing on the drill pipe at least once each week.

(b) The permittee shall notify the Department via telephone or email at least 48 hours prior to testing the BOP. The contact information is set forth in Rule .0201 of this Subchapter. Test results shall be posted at the well site for review and available to the Department on request. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email, or fax within five calendar days of the telephone or email notice and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for the BOP test.

(c) The quantity of drilling fluid of sufficient weight to maintain well control shall be located on the well site during drilling operations.

(d) If drilling with mud, the drilling-fluid system shall be designed to maintain control of the oil or gas well to minimize the potential of a hydrostatic pressure surge when the drilling assembly is inserted into or removed from the wellbore.

(e) A diverter system shall be installed while drilling the surface casing wellbore in geographic areas that have not yet been drilled, unless the requirement is waived by the Department based on prior drilling data that confirms shallow gas and other drilling hazards are not present.

(f) If drilling with air or drilling into formations where the expected reservoir pressure, as determined by the permittee, exceeds the weight of the drilling fluid column, a diverter system shall be installed to divert any wellbore fluids away from the rig floor to a pit or tank at least 80 feet from the wellbore.

(g) All diverter systems shall be maintained in working condition and shall be function tested when installed and at regular intervals during drilling operations. There must be two diverter control stations, one on the drilling floor and one located at a safe distance from the drilling operations. No well shall continue drilling operations if a test or other information indicates the diverter system is unable to function or operate as designed.

(h) The permittee shall have an individual certified from an accredited well control training program, such as the International Association of Drilling Contractors (IADC) WellCAP, onsite during the drilling and completion of an oil or gas well.

(i) A wellhead shall be installed after drilling operations are complete and the BOP has been removed.

History Note: *Authority G.S. 113-391(a)(5)i;*
Eff. March 17, 2015.

15A NCAC 05H .1617 VISUAL IMPACT MITIGATION

(a) The permittee shall mitigate visual impacts using visual screening. "Visual Screening" shall include existing natural vegetation, vegetated earthen berms, or tree plantings at staggered spacing to be installed and maintained between any disturbed land and any adjoining property containing occupied dwellings within view of the disturbed land.

(b) The Commission, upon written request by the applicant or permittee submitted pursuant to Rule .0301 of this Subchapter, may grant a variance to the visual impact mitigation requirements. The Commission shall consider factors such as:

(1) zoning of the area;
(2) surface use agreements;
(3) land use;
(4) topography; and
(5) configuration of the well pad.

History Note: *Authority G.S. 113-391(a)(4);*
Eff. March 17, 2015.

15A NCAC 05H .1618 REQUIREMENTS FOR PERMANENT CLOSURE OF OIL OR GAS WELLS

(a) All lost holes, dry holes, and oil or gas wells incapable of production shall be plugged and abandoned. In addition to the requirements detailed within this Rule, all plugging and abandonment activities shall meet the standards in API Recommended Practice 51-R "Environmental Protection for Onshore Oil and Gas Production Operations and Leases," and API Bulletin E3 "Environmental Guidance Document: Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations," which are incorporated by reference, including subsequent amendments and editions. These documents may be viewed online for no charge at http://publications.api.org/.

(b) The permittee shall plug and abandon lost holes and dry holes prior to releasing the drilling rig from the well pad.

(c) Non-drillable material that would prevent re-entry of an oil or gas well shall not be placed in any wellbore.

(d) Trash or refuse shall not be used as plugging and abandonment material.

(e) Conductor casing or surface casing shall not be removed from any wellbore during plugging and abandonment operations.

(f) All pits or tanks utilized during oil or gas well plugging and abandonment operations to contain waste shall conform to Rule .1504 of this Subchapter.

(g) Cement or mechanical bridge plugs shall be placed within the wellbore to isolate hydrocarbon bearing zones, prevent migration of fluids in the wellbore, protect fresh groundwater aquifers, and prevent surface water from entering the wellbore. All plugs used for plugging and abandonment shall meet the following requirements:

(1) all cement used to plug an oil or gas well shall conform to Rule .1606 of this Section;

(2) cement plugs shall be placed by circulation using tubing, casing, or drill pipe;

(3) all intervals between the cement and mechanical bridge plugs shall be filled with a bentonite- based mud that has a minimum weight of nine and one half pounds per gallon;

(4) vertical wellbores shall have cement plugs placed in the following intervals:

(A) from the total depth to a minimum of 100 feet above the top of the deepest hydrocarbon bearing zone or alternatively, from a minimum of 50 feet below the base of the deepest hydrocarbon bearing zone penetrated to a minimum of 100 feet above the top of the deepest hydrocarbon bearing zone;

(B) from a minimum of 50 feet below to a minimum of 100 feet above each succeeding hydrocarbon bearing or fresh groundwater zone, not isolated by intermediate or surface casing;

(C) from a minimum of 100 feet below to a minimum of 100 feet above the base of intermediate and surface casing strings; and

(D) from a minimum of 200 feet below ground surface to three feet below ground surface.

(5) horizontal wellbores shall have cement plugs placed in accordance with Parts (g)(4)(A) through (g)(4)(D) of this Rule with the exception that the bottom plug, as outlined in Part (g)(4)(A) of this Rule, shall be placed at the depth of the well curve kick-off point and extend above that point a minimum of 200 feet; and

(6) if mechanical bridge plugs are used, the plug shall be set directly above each zone identified in Parts (g)(4)(A) through (g)(4)(D) of this Rule and covered with a minimum of 50 feet of cement.

(h) All casing remaining in the wellbore shall be cut off a minimum of three feet below ground surface.

(i) The top of the wellbore shall be sealed with a steel plate that is welded in place and the API number for the oil or gas well shall be identifiable on the steel plate.

(j) All ratholes and mouseholes shall be filled with bentonite or cement to a depth of three feet below ground surface, and then filled to the surface with soil.

(k) All flowlines shall be flushed with freshwater and the ends of the lines shall be capped and buried at least three feet below the ground surface. All freshwater used to flush lines shall be disposed of in accordance with the approved Waste Management Plan in Rule .2002 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(2); 113-395(c);*
Eff. March 17, 2015.

15A NCAC 05H .1619 NOTIFICATION AND REPORTING REQUIREMENTS FOR PERMANENT CLOSURE OF OIL OR GAS WELLS

(a) The permittee shall complete and submit the intent to plug and abandon portion of Form 14 – Plugging and Abandonment, at least 30 calendar days prior to the commencement of plugging and abandonment operations. The permittee shall submit a fee in accordance with G.S. 113-395(c) for plugging and abandonment of any oil or gas well. The Department shall approve or deny Form 14 – Plugging and Abandonment in accordance with this Rule. Approved Plugging and Abandonment forms

shall remain valid for a period of 12 months. The permittee shall include the following in the completed Form 14 – Plugging and Abandonment:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the reason for abandonment;
(6) identification of casing that will be removed from wellbore and depth below ground surface at which it will be cut;
(7) the diameter of each wellbore segment;
(8) the casing grade, weight, outside diameter, and setting depth for each casing string;
(9) elevation of cement top and cement bottom for each casing string;
(10) identification of the cement type, additives, density, yield, and estimated volume to be used for each plug;
(11) the type of plug if other than cement;
(12) identification of non-cemented sections of casing that may be perforated;
(13) the wellbore diagrams depicting the current oil or gas well configuration;
(14) the wellbore diagrams depicting the proposed oil or gas well configuration with cement plugs;
(15) the anticipated beginning and ending date for plugging and abandonment activities; and
(16) identification of wireline and cementing contractors.

(b) The Department shall deny a request to plug and abandon an oil or gas well if the request is in violation of any rule of this Subchapter or any of the following requirements have not been met:

(1) the Form 14 – Plugging and Abandonment was not complete in accordance with Paragraph (a) of this Rule; or
(2) the well abandonment fee has not been paid.

(c) The permittee shall notify the Department 72 hours via telephone or email prior to commencement of plugging and abandonment operations for all existing wells and eight hours for lost and dry holes by submitting Form 11 – Required Notifications to the Department. The contact information is set forth in Rule .0201 of this Subchapter. This notification shall be submitted to the Department by mail, email, or fax within five days of the telephone or email notice and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time of day for which the plugging and abandonment will be performed.

(d) No later than 90 days after plugging and abandoning an oil or gas well, the permittee shall complete and submit Form 14 – Plugging and Abandonment, to the Department. The permittee shall include the following in the completed Form 14 – Plugging and Abandonment, confirming that the plugging and abandonment operations were conducted in accordance with the approved plan:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the reason for abandonment;
(6) the length and type of casing that was removed from the wellbore and the top of each casing string remaining in the wellbore;
(7) the diameter of each wellbore segment;
(8) the casing grade, weight, outside diameter, and setting depth for each casing string;
(9) the elevation of cement top and cement bottom for each casing string;
(10) the cement type, additives, density, yield, and volume used for each plug;
(11) the type of plug if other than cement;
(12) identification of the non-cemented sections of casing that were perforated;

(13) the wellbore diagrams depicting the pre-plugging oil or gas well configuration;
(14) the wellbore diagrams depicting the final plugged oil or gas well configuration with cement plugs;
(15) the date plugging and abandonment activities commenced and were completed;
(16) identification of wireline and cementing contractors that were used; and
(17) a copy of wireline logs, cementing tickets, and job summary reports as supplied by the wireline and cementing contractors.

History Note: *Authority G.S. 113-391(a)(2); 113-395;*
Eff. March 17, 2015.

15A NCAC 05H .1620 REQUIREMENTS FOR SHUTTING-IN OIL OR GAS WELLS

(a) Oil or gas wells completed according to Rule .1607 of this Section, equipped with a wellhead according to Rule .1614 of this Section, and capable of production may be shut-in in accordance with this Rule.
(b) The permittee shall complete and submit Form 15 – Oil or Gas Well Status to the Department via mail, email or fax within 14 calendar days of closing the master valve on the wellhead. The contact information is set forth in Rule .0201 of this Subchapter. The Form 15 – Oil or Gas Well Status shall include the following information:
(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) if the request is for initial shut-in status or an annual extension of shut-in status;
(6) the type of oil or gas well;
(7) the diameter and length for each casing string;
(8) the diameter and length of tubing string(s);
(9) the type and amount of cement used for each casing string;
(10) the current pressure for tubing and casing strings;
(11) the current annulus pressure between tubing and production casing;
(12) the current annulus pressure between production casing and surface casing;
(13) if any annuli are open to atmosphere;
(14) a description of how the current condition of the oil or gas well is capable of the following:
(A) preventing damage to the production zone;
(B) preventing surface leakage of fluids;
(C) protecting groundwaters; and
(D) protecting health and safety of persons, property, or the environment;
(15) a description of the future utilization of the oil or gas well; and
(16) a description of how the oil or gas well is in compliance with the requirements of Rules .1614 and .1615 of this Section.

(c) The master valve shall remain closed and locked until the oil or gas well is either permanently plugged and abandoned or placed into production.
(d) The permittee shall maintain bonding required by Section .1400 of this Subchapter until the oil or gas well is permanently plugged and abandoned.
(e) The permittee shall conduct monthly site inspections of the well site in accordance with Rule .2201 of this Subchapter.
(f) The permittee shall conduct an annual mechanical integrity test of each shut-in oil or gas well in accordance with Rule .2201(j), (k) and (l) of this Subchapter and submit the test results to the Department using Form 16 – Mechanical Integrity Test Results.
(g) Shut-in status shall be valid for a period of one year with an annual renewal required if the permittee desires to maintain shut-in status beyond one year. The annual renewal application shall demonstrate one of the following:
(1) inadequate infrastructure development; or
(2) sub-economic producing conditions.

(h) The Department shall revoke shut-in status of an oil or gas well if the permittee fails to maintain all of the requirements of this Rule. The Department shall require the permittee to either place the oil or gas well into production or plug and abandon the oil or gas well at the permittee's discretion.
(i) The permittee shall complete and submit Form 17 – Notification of Return of Oil or Gas Well to Active Status, to the Department by mail, email, fax within 14 calendar days of producing from an oil or gas well that has been shut-in. The

contact information is set forth in Rule .0201 of this Subchapter. The permittee shall include the following in the completed Form 17 – Notification of Return of Oil or Gas Well to Active Status:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the date of return to active status.

History Note: *Authority 113-391(a)(2);*
Eff. March 17, 2015.

15A NCAC 05H .1621 REQUIREMENTS FOR TEMPORARY ABANDONMENT OF OIL OR GAS WELLS

(a) Oil or gas wells that are constructed according to Rule .1607 of this Section, but are not completed after being drilled may be temporarily abandoned in accordance with this Rule.

(b) The permittee shall complete and submit Form 15 – Oil or Gas Well Status to the Department 30 calendar days prior to the temporary abandonment operations. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall include the following in the completed Form 15 – Oil or Gas Well Status:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) if the request is for initial temporary abandonment or a renewal of temporary abandonment;
(6) the type of oil and gas well;
(7) the diameter and length of each casing string;
(8) the type and amount of cement that will be used for each casing string;
(9) a description of how the current condition of the oil or gas well is capable of the following:
  (A) preventing damage to the production zone;
  (B) preventing surface leakage of fluids;
  (C) protecting groundwaters; and
  (D) protecting health and safety of persons, property or the environment;
(10) a description of the future utilization of the oil or gas well; and
(11) a description of how the oil or gas well is in compliance with the requirements of Rule .1614 of this Section.

(c) The permittee shall maintain bonding requirements in Section .1400 of this Subchapter until the oil or gas well is permanently plugged and abandoned.

(d) Temporary abandonment shall be valid for a period of five years, with a maximum of one five-year renewal period before the permittee shall either place the oil or gas well into production or permanently plug and abandon the well in accordance with Rule .1618 of this Section.

(e) The permittee shall complete and submit Form 17 – Notification of Return of Oil or Gas Well to Active Status to the Department within 14 calendar days of producing from an oil or gas well that was temporarily abandoned. The contact information is set forth in Rule .0201 of this Subchapter. The permittee shall include the following in the completed Form 17 – Notification of Return of Oil or Gas Well to Active Status:

(1) the permittee name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the date of return to active status.

History Note: *Authority G.S. 113-391(a)(5)l;*
Eff. March 17, 2015.

15A NCAC 05H .1622 DEFECTIVE CASING, DEFECTIVE CEMENTING, AND WELL BLOWOUT NOTIFICATIONS

(a) The permittee shall commence corrective actions upon discovery of defective casing or cementing and report the defect to the Department within 24 hours of discovery via telephone or email. The contact information is set forth in in Rule .0201 of this Subchapter.

(b) The permittee shall take actions in the event of an oil or gas well blowout to comply with the emergency scenarios in Rule .1305 of this Subchapter. Any oil or gas well blowout shall be reported to the Department after the emergency officials and the emergency well control response contractor have been contacted.

History Note: *Authority G.S. 113-391(a)(5)i;*
Eff. March 17, 2015.

15A NCAC 05H .1623 WELL DRILLING REPORT

Within 30 calendar days after drilling an oil or gas well, the permittee shall submit Form 12 – Well Drilling Report to the Department that includes the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the type of oil or gas well;
(6) the date the drilling started and was completed;
(7) the method of drilling;
(8) the hole diameter and depth wellbore at each casing setting depth and the total depth, both true vertical and measured of the oil or gas well;
(9) the size and depth of conductor casing, surface casing, intermediate casing, and production casing, if applicable;
(10) the type and amount of cement and results of cementing procedures, including copies of all cement tickets and the results of cement evaluations completed pursuant to Rule .1606 and Rule .1607 of this Section;
(11) the location of casing collars, the top of cement for each casing string, and centralizers, and the method used to make such determinations;
(12) the elevation relative to the kelly bushing and total vertical and measured depth of the wellbore;
(13) a paper and digital copy of all electrical, radioactive, or other standard industry logs:
    (a) standard electric log with curve data shall be submitted in LAS digital data format and as a .pdf, .tiff, or .pds;
    (b) specialty logs with array data shall be submitted in LIS or DLIS digital data format and as a .pdf, .tiff, or .pds; and
    (c) cement bond logs shall be submitted as a.pdf, .tiff, or .pds; with the casing collars, centralizers, and top of cement located;
(14) a drilling log that includes the name, depth, and thickness of formations penetrated from the surface to total depth. The drilling log shall also include the depth of oil or gas producing zone(s), depth of groundwater and brines, and the source of the information. The report shall also contain other data recorded about groundwater zones, anomalous pressure zones, zones with corrosive fluids, lost circulation zones, and other zones with fluids capable of annular flow and how the casing and cementing program was modified in response to the information;
(15) copies of pressure tests and formation integrity tests that were conducted during installation of the surface, intermediate, and production casing strings pursuant to Rule .1605 and .1607 of this Section;
(16) a statement of whether methane or other hydrocarbons were encountered in other than a target formation and the depths of the intervals, and how the casing and cementing program was modified in response to the information;
(17) a summary of events reported to the Department in accordance with Rule .1607 and .1616 of this Section;
(18) a wellbore inclination and directional survey;
(19) the engines used on-site during exploration and development, including:

(a) the number of engines with capacities (maximum site-rated horsepower) less than 750 horsepower by engine type, such as compression ignition, two stroke lean burn ignition, four stroke lean burn ignition, rich burn spark ignition;
(b) the number of engines with capacities (maximum site-rated horsepower) greater than or equal to 750 horsepower by engine type, such as compression ignition, two stroke lean burn ignition, four stroke lean burn ignition, rich burn spark ignition; and
(c) the average number of hours of operation for engines in each of the categories above.

(20) any other information as specified as part of the conditions of the permit, such as drill stem test charts, formation water analysis, porosity, permeability or fluid saturation measurements, core analysis, and lithologic log or sample description, or other similar data as compiled. No interpretation of the data is required to be filed unless specifically required elsewhere in this Subchapter; and

(21) the signature of the permittee verifying that the oil or gas well has been constructed in accordance with this Subchapter and any permit conditions imposed by the Department.

History Note: *Authority G.S. 113-379; 113-391(a)(5)c; 113-391(a)(5)k; 113-391(a)(7); 113-391(a)(10); 113-391(a)(11); 113-391(b); 113-391(b1);*
Eff. March 17, 2015.

15A NCAC 05H .1624 WELL STIMULATION REPORT

(a) Within 30 calendar days after the conclusion of stimulation operations on an oil or gas well, the permittee shall submit Form 18 – Well Stimulation Report to the Department that includes the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the type of oil or gas well;
(6) the total volume of the base fluid;
(7) the total volume of reused water, alternative water, freshwater, or other base fluid that was used in each hydraulic fracturing stage;
(8) the maximum pump pressure measured at the surface during each stage of the hydraulic fracturing operations;
(9) the types and volumes of the well stimulation fluid and proppant used for each stage of the well stimulation operations;
(10) the well stimulation treatment data collected in accordance Rule .1613 of this Section;
(11) for hydraulic fracture stimulations, the estimated maximum fracture height and length and estimated true vertical depth to the top of the fracture achieved during well stimulation treatments as determined by a three dimensional model using true treating pressures and other data collected during the hydraulic fracturing treatments;
(12) the well shooting or perforation record detailing the true vertical and measured depths, and total number of shots in the wellbore;
(13) the wellbore diagram that includes casing and cement data, perforations, and a stimulation summary;
(14) the initial oil or gas well test information recording daily gas, oil, and water rate, and tubing and casing pressure in accordance with Rule .2201 of this Subchapter;
(15) the initial gas analysis, performed by a laboratory certified by the State in accordance with 15A NCAC 02H .0800, which is incorporated by reference including subsequent amendments and editions; and
(16) the engines used on-site during exploration and development, including:
(A) the number of engines with capacities (maximum site-rated horsepower) less than 750 horsepower by engine type, such as compression ignition, two stroke lean burn ignition, four stroke lean burn ignition, rich burn spark ignition;
(B) the number of engines with capacities (maximum site-rated horsepower) greater than or equal to 750 horsepower by engine type, such as compression ignition, two stroke lean burn ignition, four stroke lean burn ignition, rich burn spark ignition; and
(C) the average number of hours of operation for engines in each of the categories above.

(b) The permittee may attach to the completed Form 18 – Well Stimulation Report any information received from a service company regarding the well stimulation operations, as used in the normal course of business, to satisfy some or all of the requirements in this Rule.

History Note: *Authority G.S. 113-391(a)(5); 113-391(a)(10); 113-391(a)(11); 113-391(b); 113-391(b1); Eff. March 17, 2015.*

SECTION .1700 – CHEMICAL DISCLOSURE

15A NCAC 05H .1701 CHEMICAL DISCLOSURE REQUIREMENTS

The rules of this Section set forth the requirements of chemical disclosures for permittees, service companies, and vendors involved in oil or gas exploration and production. This Section delineates information to be posted to the Chemical Disclosure Registry at http://fracfocus.org/. These Rules also specify the conditions under which confidential information protections apply and the conditions under which that information may be disclosed to health professionals or emergency responders.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1; Eff. March 17, 2015.*

15A NCAC 05H .1702 REQUIRED DISCLOSURES

(a) The permittee shall notify the local emergency management office of all hazardous chemicals that may be used for any purpose at the well site no later than 30 calendar days prior to the chemicals entering the well site. This notification shall include a Safety Data Sheet for each chemical and the following information:

(1) the anticipated quantity (mass or volume);
(2) the method of containment; and
(3) the chemical classification.

(b) The permittee, service company, or vendor shall submit to the Department, no less than 30 calendar days prior to the commencement of well stimulation activities, a complete list of all planned base fluids and additives to be used in well stimulation activities. Any information the Commissions determines to be confidential information under G.S. 66-152(3), G.S. 113-391.1, and Rule .0707 of this Subchapter shall be protected as confidential information and shall be maintained in accordance with G.S. 132-7. This notification shall include:

(1) the trade or common name of each chemical subject to the Safety Data Sheet;
(2) the CAS registry number;
(3) the range of anticipated concentrations (by mass or volume) in the mixture for each chemical; and
(4) the purpose each chemical or mixture will serve in the well stimulation process.

(c) The permittee shall upload all well stimulation data, unless claimed as a trade secret under G.S. 66-152(3), G.S. 113-391.1, and Rule .0707 of this Subchapter and the claim determined as satisfactory by the Commission pursuant to Rule .0708 of this Subchapter to http://fracfocus.org/ within 15 calendar days following the conclusion of well stimulation. The permittee shall submit a Form 19 – Chemical Disclosure Report and a copy of the FracFocus submission to the Department within 15 calendar days following the conclusion of stimulation. If the permittee amends its FracFocus submission, any subsequent amendments shall be submitted to the Department within 15 calendar days of the amendment. Any information submitted to the Department that the Commission determines is confidential information under G.S. 66-152(3), G.S. 113-391.1, and Rule .0707 of this Subchapter shall be protected as confidential information and shall be maintained as provided in G.S. 132-7. The Form 19 – Chemical Disclosure Report shall include:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the type of oil or gas well;
(6) the date well stimulation operations began;
(7) the date well stimulation operations ceased;
(8) the latitude and longitude of each wellhead reported to five decimal places of accuracy and precision using the North American Datum of 1983 (NAD83);
(9) a certified directional survey of the horizontal oil or gas well;

(10) the measured depth of the oil or gas well and the true vertical depth of the oil or gas well;
(11) the total volume of water used in the well stimulation operations including surface water, groundwater, produced water, reused water, reclaimed or recycled water, or the type and total volume of the base fluid used in the well stimulation operation, if a base substance other than water was used;
(12) the amount(s) and percent by volume of surface water or groundwater used in the well stimulation operations and the point(s) of withdrawal of that surface water or groundwater;
(13) the source amount(s) and location(s) of recycled water, along with percent by volume of recycled water that is used in well stimulation operations;
(14) the trade or common name and CAS registry number of each chemical used in the well stimulation operation;
(15) the trade or common name, supplier, and a brief description of the intended use or function of each additive in the well stimulation operation;
(16) identification and chemical classification of each chemical and additive that is subject to the Safety Data Sheet requirements of 29 CFR 1910.1200;
(17) the actual or maximum concentration of each chemical and additive listed pursuant to Subparagraphs (14) and (15) of this Paragraph expressed in percent by mass;
(18) the overall well stimulation mixture; and
(19) the chemical classification for each chemical and additive.

(d) For disclosures required pursuant to Paragraphs (b) and (c) of this Rule, the permittee is not required to disclose:
(1) chemical mixtures or compounds that occur as a consequence of drilling or well stimulation operations or that may be the incidental result of a chemical reaction or process; or
(2) naturally occurring materials that become unintentionally combined with well stimulation substances.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1;*
Eff. March 17, 2015.

15A NCAC 05H .1703 CONFIDENTIAL INFORMATION PROTECTION

(a) If any person asserts any information is entitled to be protected as confidential pursuant to G.S. 113-391.1, the requesting party shall make a showing to the Commission in accordance with Rule .0707 of this Subchapter.
(b) In addition, any person requesting protection for confidential information that concerns hydraulic fracturing fluid shall request certification by the State Geologist, or the Geologist's designee, in accordance with G.S. 113-391.1.

History Note: *Authority G.S. 113-391(a)(5)h; 113-391.1;*
Eff. March 17, 2015.

SECTION .1800 – ENVIRONMENTAL TESTING

15A NCAC 05H .1801 PURPOSE AND SCOPE

The rules in this Section establish requirements for the pre-drilling testing of water supplies, the testing of water supplies after production has commenced, and the reporting of data collected.

History Note: *Authority G.S. 113-391(a)(5)b;*
Eff. March 17, 2015.

15A NCAC 05H .1802 WATER SUPPLY TESTING NOTIFICATIONS

(a) The permittee shall provide written notice to all surface owners or owners of a water supply, as defined in G.S.113-389, prior to all water supply testing within one-half mile of the proposed wellhead. The permittee shall pay the costs involved in testing all water supplies as required by G.S. 113-423(f). In addition to the requirements of G.S.113-420(a), the written notice shall include the following:
(1) the applicant's or permittee's name, address, telephone number, and email address;
(2) a statement of the permittee's intent to drill an oil or gas well and as a result, water supplies within one-half mile of the proposed oil or gas well shall be tested;
(3) the date, time, and location of water supply testing is expected to occur and the estimated number of entries to the property;

(4) a statement explaining that if the surface owner or owner of the water supply refuses access to conduct testing of the water supply, then such refusal may be used as evidence to rebut the presumption of liability established by G.S. 113-421(a1);
(5) the name, address, and telephone number of the Department, which the surface owner or owner of the water supply may contact with questions or concerns; and
(6) the following link to the Department's Wastewater/Groundwater Laboratory Certification program laboratories: https://slphreporting.ncpublichealth.com/EnvironmentalSciences/Certification/CertifiedLaboratory.asp.

(b) The permittee shall provide written notice to the Department if a surface owner or water supply owner refuses to conduct testing of the water supply. The written notice shall be submitted to the Department as an attachment to Form 22 – Water Supply Testing Report and include the following:
(1) the permittee's name, address, telephone number, fax number, and email address;
(2) a copy of the written notice required in Paragraph (a) of this Rule;
(3) the name of the person or firm who requested and was refused access to conduct the testing, the date of the request, and a copy of all documentation, including documentation showing the request for access was denied; and
(4) the name, address, and telephone number of the surface owner or owner of the water supply.

History Note: *Authority G.S. 113-391(a)(3); 113-391(a)(5)b; 113-421(a); 113-423(f);*
Eff. March 17, 2015.

15A NCAC 05H .1803 WATER SUPPLY TESTING PROCEDURES

(a) All water supplies located within one-half mile of the proposed wellhead shall be tested prior to initial drilling activities and after production has commenced. All water supplies shall be tested according to the following:
(1) the initial water supply testing shall be conducted no earlier than 12 months but no later than 30 calendar days prior to the commencement of drilling to establish a baseline;
(2) when multiple oil or gas wells are permitted and constructed at a well pad, the analytical results for the initial sampling shall serve as the baseline for all future wells drilled on the same well pad; and
(3) subsequent water supply testing shall be conducted at all initial sample locations:
(A) test one: six months after production has commenced;
(B) test two: 12 months after production has commenced;
(C) test three: 18 months after production has commenced;
(D) test four: 24 months after production has commenced; and
(E) test five: testing within 30 calendar days after completion of production activities at the well site.

(b) Water supply testing required by G.S. 113-423(f), and in accordance with this Rule, shall be conducted pursuant to the U.S. Environmental Protection Agency (EPA) Region IV Science and Ecosystem Support Division (SESD) "Operating Procedure for Groundwater Sampling," document number SESDPROC-301-R3, "Operating Procedure for Surface Water Sampling," document number SESDPROC-201-R3, and the U.S. Geological Survey (USGS) "National Field Manual for the Collection of Water-Quality Data," Book 9, Handbooks for Water-Resources Investigations, which are incorporated by reference, including subsequent amendments and editions. These documents may be obtained online at no charge at http://www.epa.gov/region4/sesd/fbqstp/Groundwater-Sampling.pdf, http://www.epa.gov/region4/sesd/fbqstp/Surfacewater-Sampling.pdf, and http://water.usgs.gov/owq/FieldManual/.

(c) If a permittee drills an oil or gas well but does not install production casing and abandons the oil or gas well in accordance with the plugging and abandonment requirements outlined in Rule .1618 of this Subchapter, subsequent testing pursuant to Subparagraph (a)(3) of this Rule is not required.

(d) The Department may require additional testing if the current data collected shows an increase in concentration from the previous data for any water supply within one-half mile, to determine seasonal fluctuations or erroneous testing.

(e) All sample analyses required by this Rule shall be made by a laboratory certified in accordance with 15A NCAC 02H .0800 and pursuant to laboratory analytical procedures that comply with 15A NCAC 02B .0103 and 15A NCAC 02L .0112, which are incorporated by reference, including subsequent amendments and editions.

(f) The initial samples required by Subparagraph (a)(1) of this Rule collected in accordance with this Rule shall be analyzed for:

pH	manganese
specific conductance	selenium

total dissolved solids (TDS)	strontium
turbidity	lithium
alkalinity	lead
calcium	zinc
chloride	uranium
magnesium	isotopic radium (226Ra and 228Ra)
potassium	isotopic strontium (87Sr and 86Sr)
fluoride	trihalomethanes
sodium	benzene
sulfate	toluene
arsenic	ethylbenzene
barium	xylenes
boron	diesel range organics (DRO)
bromide	gasoline range organics (GRO)
chromium	total petroleum hydrocarbons (TPH)
iron	Polycyclic or polynulcear aromatic hydrocarbons (PAH) (including benzo(a)pyrene)
dissolved methane, propane, and ethane	

(g) The test one series of samples collected to satisfy Paragraph (a)(3)(A) shall include all parameters listed in Paragraph (f) of this Rule.
(h) If the results from the test one series did not exceed the permissible concentrations outlined in 15A NCAC 02B .0103 and 15A NCAC 02L .0112, which are incorporated by reference, including subsequent amendments and editions, for the required analytes, then the permittee, at a minimum, shall sample and analyze for pH, specific conductance, TDS, chloride, sodium, divalent cations, and dissolved methane, propane, and ethane to complete the remaining series of sampling and testing in accordance with this Rule.
(i) If there is an increase in the concentration, or the initial occurrence of any analytes set forth in Paragraph (h) of this Rule, the permittee shall test for all analytes set forth in Paragraph (f) of this Rule.
(j) If any analysis conducted pursuant to this Rule reveals a concentration of dissolved methane greater than 1.0 milligram per liter (mg/l), then a gas compositional analysis and stable isotope analysis of the methane (carbon and hydrogen – ^{12}C, ^{13}C, ^{1}H and ^{2}H) shall be conducted to determine the gas type. The permittee shall report the results in accordance with Rule .1805 of this Section.

History Note: *Authority G.S. 113-391(a)(3); 113-391(a)(5)b; 113-423(f);*
Eff. March 17, 2015.

15A NCAC 05H .1804 REQUEST FOR INVESTIGATION OF WATER SUPPLY
(a) Any surface owner or owner of a water supply who suspects contamination as a result of the drilling, alteration, or operation of an oil or gas well may submit Form 21 – Water Supply Investigation Request to the Department, requesting that an investigation be conducted. The Form 21 – Water Supply Investigation Report can be found in Rule .0201(a) in this Subchapter and shall be sent to the Department in accordance with Rule .0201(c) in this Subchapter. The completed form shall include the following information:

(1) the name of surface owner or owner of the water supply, address, telephone number, and email address;
(2) the name of the oil or gas well permittee, if known;
(3) the API number, the lease name, and the oil or gas well name and number, if known;
(4) an indication if the individual contacted the permittee, and if so, the name of the person contacted;
(5) the date of incident, if known; and
(6) a description of the incident or problem.

(b) Upon the receipt of a Form 21 – Water Supply Investigation Report, the Department shall require the permittee to pay for a test to be conducted on the water supply and submit the analytical results to the Department in accordance with Rules .1803(f) and .1805 of this Section.
(c) The permittee shall replace a water supply pursuant to G.S. 113-421(a5) if the investigation and analytical results indicate that the water supply is contaminated due to the activities of the permittee.

History Note: *Authority G.S. 113-391(a)(3); 113-391(a)(4); 113-391(a)(5)b; 113-391(a)(14); 113-423(f);*

Eff. March 17, 2015.

15A NCAC 05H .1805 REPORTING OF TEST RESULTS

(a) The permittee shall submit Form 22 – Water Supply Testing Report to the Department, in accordance with G.S. 113-423(f) and Rule .0201 of this Subchapter. The permittee shall also send the Form 22 – Water Supply Testing Report to the Local Health Director, surface owner(s), and owner(s) of the water supply within 30 calendar days of testing. The form shall be signed and sealed by either a Licensed Geologist or Professional Engineer and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the date the water supply was sampled;
(6) an indication of which water supply testing series is being reported as set forth in Rule .1803 of this Section;
(7) the latitude and longitude of each water supply within one-half mile of the wellhead reported to five decimal places of accuracy and precision using the North American Datum of 1983 (NAD83);
(8) the name, address, and telephone number of the surface owner or owner of the water supply;
(9) identification of the certified laboratory at which analyses required by this Section were conducted, the date(s) on which the analyses were conducted, and identification of the technical personnel who conducted such analyses;
(10) a description of where and how the sample was collected and the name of the person who collected the sample;
(11) field observations including odor, water color, sediment, bubbles, and effervescence;
(12) a description of the type and age, if known, of the water supply, and water supply treatment, if any;
(13) the results of the required analyses listed in Rule .1803 of this Section attached to the report in hard copy, as a .pdf, and as an electronic spreadsheet; and
(14) any exceedance of applicable Maximum Contaminant Levels for public drinking water, as set forth in 15A NCAC 18C, which is incorporated by reference including subsequent amendments and editions, shall be indicated.

(b) Applicants or permittees may share analytical results in accordance with G.S. 113-423(f).

(c) The permittee shall provide verbal notice within 24 hours and written notice within 30 days to the Department, Local Health Director, surface owner(s), and owner of the water supply if test results indicate:

(1) the presence of natural gas constituents;
(2) the dissolved methane concentration increased by more than 5.0 mg/L between sampling periods;
(3) the dissolved methane concentration was detected at or above 10.0 mg/L; or
(4) Benzene, Toluene, Ethylbenzene, or Xylene compounds or TPH exceeded applicable Maximum Containment Levels for public drinking water, as set forth in 15A NCAC 18C.

History Note: *Authority G.S. 113-391(a)(1); 113-391(a)(3); 113-391(a)(4); 113-391-(a)(5)b; 113-391(a)(5)k; 113-423(f);*
Eff. March 17, 2015.

15A NCAC 05H .1806 RECORD KEEPING AND REPORTING

(a) The Department shall maintain baseline and subsequent analytical data results required pursuant to this Section. This shall be available to the public through the Department within 30 calendar days of receipt of results. The public may view this data at the Department or on the Department's webpage as set forth in Rule .0201 of this Subchapter.

(b) The permittee shall maintain all records in accordance with Rule .0202 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(5)b; 113-391(a)(5)k;*
Eff. March 17, 2015.

15A NCAC 05H .1807 TRACER TECHNOLOGY

(a) The Department shall only approve the use of tracer technology for the purposes described in this Rule if the Department determines that the tracer technology can trace well stimulation fluids back to the oil or gas well where the fluid was injected

and can be used without chemical or radiological impacts to groundwaters or other adverse impacts to public health, welfare, and the environment.

(b) A permittee shall only use approved tracer technology for the following purposes:

(1) as evidence that well stimulation fluid from a particular oil or gas well caused or contributed to an exceedance of the standards set out in 15A NCAC 02L .0202 or 15A NCAC 02B .0200 detected as a result of water supply testing required under Rule .1803 of this Section; or

(2) to identify well stimulation fluid from a particular oil or gas well as the source of contamination detected as a result of an investigation of water supply conducted under Rule .1804 of this Section.

History Note: *Authority G.S. 113-391(a)(3); 113-391(a)(5)b; 113-423(f);*
Eff. March 17, 2015.

SECTION .1900 – WATER ACQUISITION AND MANAGEMENT

15A NCAC 05H .1901 WATER MANAGEMENT PLAN REQUIREMENTS

(a) An applicant or permittee shall submit a Water Management Plan for proposed oil or gas well(s) to be located at the well pad. This plan shall be submitted to the Department for review and approval in accordance with Rule .1304 of this Subchapter and with the rules of this Section prior to the commencement of activities covered under the Form 2 – Oil or Gas Well Permit Application.

(b) A Form 4 – Water Management Plan shall include:

(1) the applicant's or permittee's name, address, telephone number, fax number, and email address;

(2) the county and nearest city or town where the oil or gas well is located;

(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;

(4) the lease name and the oil or gas well name and number;

(5) identification of the source(s) of water to be used with the additional information required by Rules .1902 through .1905 of this Section;

(6) the name, address, phone number, parcel identification, and written consent from the owner of the real property where any surface water intake, groundwater well, or water transport system components or structures have been, or will be, located, installed, or constructed;

(7) the proposed start date and expected ending date of water withdrawals;

(8) the proposed average and maximum daily withdrawal in millions of gallons per day and the expected total withdrawal in millions of gallons;

(9) a description of all potential sources of water, including flowback and produced water, that were evaluated for this application and the reasons for rejecting those sources as required by Rule .1905 of this Section;

(10) topographic maps and aerial maps showing the latitude and longitude, in decimal degrees, of the following features and locations:

(A) the proposed water source(s) and any existing hydrologic features within the area of influence of the proposed water source, including other streams, springs, and wetlands;

(B) any existing water supply, as defined in G.S. 113-389, within the area of influence;

(C) any areas with known environmental contamination within the area of influence;

(D) any current or proposed utility rights-of-way associated with the project area; and

(E) any current or proposed structure(s) or appurtenance(s) for the transport or storage of water;

(11) a list of alternative water source(s) or practices to be used during times of drought or low flow conditions;

(12) a monitoring plan to record the amount of water used from each source included in this application on a daily basis, including schedules of maintenance to ensure precise measurement and recording of the water usage; and

(13) all other information required by Rule .1906 of this Section.

(c) The Department may request additional information necessary to protect public health, welfare, and the environment when reviewing the Form 4 – Water Management Plan during the application review process in accordance with Rule .1307 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(5)e;*
Eff. March 17, 2015.

15A NCAC 05H .1902 SURFACE WATER SOURCE DOCUMENTATION

(a) For surface water sources, the applicant or permittee shall consult with the Department to determine and evaluate the limits of the affected reach. The exact delineation of the affected reach shall be determined in consultation with and the approval of the Department and shall depend on factors including:

(1) the cumulative amount of water to be withdrawn when the proposed withdrawal is combined with existing withdrawals;
(2) the hydrologic characteristics of the stream;
(3) the presence or absence of downstream point source discharges; and
(4) the potential effects on other users and instream flow.

(b) Following a determination of the limits of the affected reach, the following information shall be provided by the permittee to the Department:

(1) the river basin designation, as defined by G.S. 143-215.22G, at the point of withdrawal and the river basin designation where the water will be used;
(2) the classification of the water source at the withdrawal point in accordance with 15A NCAC 02B .0301, which is incorporated by reference including subsequent amendments;
(3) for free-flowing water sources:
  (A) a list of other existing and proposed withdrawals within the affected reach, including the maximum withdrawal capacity of each; and
  (B) an estimate of the 7Q10 flow at the proposed intake location and explain the methodology used to derive the estimate. The cumulative maximum instantaneous withdrawal from the affected reach shall be limited to 20 percent of the 7Q10 flow;
(4) the owner, facility name, National Pollution Discharge Elimination System (NPDES) permit number, and permitted volume of any point source discharges within the affected reach or discharge to a water impoundment that is listed as a water source.

(c) When flows in the affected reach are at 7Q10 levels, withdrawals conducted under the permit shall cease until flows reach 120 percent of the 7Q10 flow level.

(d) The results of a survey to determine the presence of any state or federally threatened or endangered species or any invasive species that may be affected by the proposed withdrawal shall include:

(1) the identification of any state or federally threatened or endangered species present;
(2) a description of how any detrimental impacts to those species and their critical habitats will be avoided;
(3) a description of how the spread of any identified invasive species will be prevented; and
(4) the identification of the sources of information used for the determination and contact information for the federal and state agencies consulted.

(e) The permittee shall indicate the presence of any known noxious aquatic weeds listed in 15A NCAC 02G .0602, which is incorporated by reference including any subsequent amendments, or other exotic or invasive species in the source water(s).

(f) If the surface water source is classified as an Outstanding Resource Water under 15A NCAC 02B .0225, the permittee shall document how the outstanding resource value will not be adversely affected, taking into account the value assigned to it, the site-specific location, and the proposed quantity of water to withdrawn under this plan.

History Note: *Authority G.S. 113-391(a)(4); 113-391(a)(5)e; 113-391(a)(5)k;*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .1903 GROUNDWATER SOURCE DOCUMENTATION

(a) For groundwater sources from which water is proposed to be obtained as part of the Water Management Plan, the applicant or permittee shall provide the following information:

(1) for pre-existing groundwater wells, a copy of the well construction record filed with the Department in accordance with 15A NCAC 02C .0114(b), which is incorporated by reference including subsequent amendments, or from the local health department;
(2) for groundwater wells constructed specifically for the purposes covered by the Water Management Plan, a copy of the Well Construction Permit issued by the Department pursuant to 15A NCAC 02C .0105, which is incorporated by reference including subsequent amendments, and the associated groundwater well construction record form submitted to the Department pursuant to 15A NCAC 02C .0114(b);

(3) the results of an aquifer pump test for each well included in the Water Management Plan. The aquifer pump test shall be conducted in accordance with 15A NCAC 02C .0110(b), which is incorporated by reference including subsequent amendments;
(4) a map showing the extent of the measureable area of influence determined by the aquifer pump test at the proposed rate of withdrawal indicating the locations of all surface waters and water supply wells within the area of influence;
(5) a map showing the extrapolated cone of depression based on six months usage; and
(6) information required by 15A NCAC 02C .0107(j)(2)(E) and (j)(3)(D), which is incorporated by reference including subsequent amendments, for the construction of water supply and other wells.

(b) The applicant or permittee shall use a drought indicator well within the measureable area of influence identified by the Division of Water Resources and the United States Geological Survey found at http://www.ncwater.org/?page=345, to be used to monitor the impacts to groundwater and to determine appropriate thresholds on which to base the cessation of groundwater pumping. If there is no such well, the applicant or permittee shall, in consultation with and the approval of the Department, identify a well for this purpose.

(c) When the drought indicator well closest to the groundwater source(s) included in this application is designated as D3, indicating that water levels are at or below the fifth percentile of historic water level measurements as determined by the Drought Management Advisory Council and reported by the Division of Water Resources at http://www.ncwater.org/?page=345, the withdrawals from these sources shall cease until the designation is upgraded to D1 or above, indicating water levels above the 10th percentile of historic water level measurements.

History Note: *Authority G.S. 113-391(a)(5)e; 113-391(a)(5)k; 113-391(b); Eff. March 17, 2015.*

15A NCAC 05H .1904 PURCHASED WATER SOURCE DOCUMENTATION

For purchased water sources from which water is proposed to be obtained as part of the Water Management Plan, the applicant or permittee shall provide the following information:

(1) identification of the water supplier, including name, contact information, and public water supply identification number for public water systems subject to G.S. 143-355(l) and facility identification number assigned by the Division of Water Resources for water withdrawals registered under G.S. 143-215.22H;
(2) a copy of a letter of commitment or contract authorizing the acquisition of water by the applicant or permittee;
(3) the type of water to be provided, such as water treated to drinking water standards, treated wastewater, reclaimed water, or raw water;
(4) the proposed average and maximum amount of water to be provided daily in millions of gallons per day and the expected total maximum amount to be provided; and
(5) the proposed method of transport of the water from the supplier to the point of use.

History Note: *Authority G.S. 113-391(a)(5)e; 113-391(a)(5)k; Eff. March 17, 2015.*

15A NCAC 05H .1905 ALTERNATIVE WATER SOURCES

(a) The applicant or permittee shall provide a review of the potential alternative sources of water, including the option of using flowback or produced water, evaluated for the Water Management Plan and indicate the reasons for rejecting those water sources. The applicant or permittee shall include the following in the review:

(1) current uses of each alternative water source evaluated, including a list of current withdrawers other than the applicant or permittee;
(2) the name and classification of each alternative water source evaluated; and
(3) a description of the current or proposed structure or appurtenances for the transport or storage of water from the alternative water source.

(b) For reuse of flowback or produced water, the applicant or permittee shall provide the following information:

(1) the source of the flowback or produced water;
(2) the proposed maximum daily use in millions of gallons per day and the amount expected to be used; and
(3) the estimated amount of additional water needed to provide sufficient quantity for activities covered by the Form 2 – Oil or Gas Well Permit Application.

History Note: *Authority G.S. 113-391(a)(5)e;*
Eff. March 17, 2015.

15A NCAC 05H .1906 REPORTING

(a) For the Water Management Plan, the permittee shall monitor, record, and retain, for a period of five years after the reclamation of the last oil or gas well for which the plan was submitted as part of the application, all records related to the daily water pumping schedules, received and purchased water, amounts of stored water, and quantities of flowback and produced water for recycling or reuse. The daily monitoring records shall be retained by the permittee in accordance with Rule .0202 of this Subchapter. These records shall be made available to representatives of the Department upon request.

(b) The permittee shall submit the Form 23 – Annual Water Use Report to the Department in accordance with Rule .0201 of this Subchapter by April 1st of each year for the period of January 1st to December 31st of the prior year. Form 23 – Annual Water Use Report shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the daily average water withdrawals from each of the surface water and groundwater source(s) included the Water Management Plan for each month;
(6) the maximum daily water withdrawals from each of the surface and groundwater source(s) included the Water Management Plan for each month; and
(7) the number of days that water was withdrawn in each month from the surface and groundwater source(s) the Water Management Plan.

(c) The permittee shall submit Form 23 – Annual Water Use Report electronically to the Department.

(d) The applicant or permittee shall provide notice in accordance with G.S. 113-420(b) of any land-disturbing activity associated with the Water Management Plan to any owner of real property identified in the plan as required by Rule .1901(b)(6) of this Section. The notice shall be sent at least 30 calendar days before the desired date of entry to the property for activities described in Rules .1902 through .1904 of this Section. Notice shall be given by certified mail with return receipt requested and shall include:

(1) the dates and duration of activities;
(2) the location where entry will take place; and
(3) the identity of person(s) entering the property.

(e) The permittee shall notify the Department at least 48 hours via telephone or email prior to first withdrawal from the approved water source(s) identified in the Water Management Plan. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email or fax in accordance with Rule .0201 of this Subchapter within five calendar days following the telephone or email notification and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time of day for the first withdrawal from the water source.

History Note: *Authority G.S. 113-391(a)(5)e;*
Eff. March 17, 2015.

SECTION .2000 – OIL OR GAS SITE EXPLORATION AND PRODUCTION WASTE MANAGEMENT

15A NCAC 05H .2001 PURPOSE AND SCOPE

The permittee shall manage, control, and dispose of all waste associated with exploration and production (E & P) of oil or gas in accordance with the standards set forth in this Section and all applicable laws and regulations.

History Note: *Authority 113-391(a)(5)f;*
Eff. March 17, 2015.

15A NCAC 05H .2002 EXPLORATION AND PRODUCTION WASTE MANAGEMENT PLAN REQUIREMENTS

(a) An E & P Waste Management Plan, approved by the Department in accordance with this Rule, is required prior to the generation of E & P wastes from the drilling, producing, plugging, or any other activity associated with an oil or gas well.

(b) The E & P Waste Management Plan shall identify the management, control, reuse, and disposal methods for E & P wastes.

(c) The E & P Waste Management Plan shall address the storage and handling of wastewater, residuals, solid wastes, and any other non-hazardous and hazardous wastes related to exploration and production activities from the point of initial generation of E & P wastes onsite to final disposal of the E & P waste.

(d) The E & P Waste Management Plan shall include the following form, documentation, and plan design sheets:

(1) a completed Form 5 – Waste Management Plan that includes the following information:
  (A) a description of the pit and tank use and locations onsite;
  (B) the capacity of pits and tanks onsite;
  (C) the pit liner material type, thickness, and manufacturer;
  (D) the disposal methods for liquid and solid wastes;
  (E) an operation and maintenance plan for all waste management infrastructure;
  (F) a description of pit closure and site reclamation methods; and
  (G) the anticipated date of construction or installation of all waste management infrastructure;

(2) construction, installation, operation, and maintenance specifications and details for all pits, tanks, secondary containment, and other ancillary equipment, such as piping, pumps, and valve systems. This shall include site design and capacity of all pits and tanks installed or constructed onsite;

(3) an emergency response plan that complies with 40 CFR 112, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr112_main_02.tpl for no charge, and Rule .1305 of this Subchapter;

(4) a statement of whether and how E & P wastes produced onsite will be reused at the permitted oil or gas well or reused at other permitted oil or gas wells;

(5) a statement of whether and how the E & P wastes will be pretreated onsite for reuse or disposal;

(6) a statement of whether the E & P wastes will be disposed of off-site and the identification of the disposal facility;

(7) a pit and tank closure plan that includes final disposal methods for all pit and tank contents within the Reclamation Plan in accordance with the Rule .2004 of this Section and Rule .2102 of this Subchapter; and

(8) the contact information for the local county emergency management officials and the State Emergency Operations Center (1-800-858-0368) for where the well site is located shall be included in the plan.

(e) A copy of the approved E & P Waste Management Plan shall be available to the Department at the well site during drilling and completion activities.

(f) The contact information for the local county emergency management officials and the State Emergency Operations Center (1-800-858-0368) shall be prominently displayed at the well site during exploration, drilling, and completion activities.

(g) The permittee shall submit Form 24 – Annual E & P Waste Management Report to the Department in accordance with Rule .2007(d) of this Section.

History Note: *Authority 113-391(a)(5)e; 113-391(a)(5)f; 113-391(a)(5)k; 113-391(b); Eff. March 17, 2015.*

15A NCAC 05H .2003 EXPLORATION AND PRODUCTION WASTE DISPOSAL

(a) The permittee shall test produced water and flowback fluids. The permittee shall test for the following parameters on a frequency and schedule determined by the Department, based on factors such as new sciences, the shale resource, and operator technology for the protection of public health, welfare, and the environment. At a minimum, testing shall be conducted on the produced water and flowback fluids from the first completed well on each well pad and on all fluids prior to management in accordance with Subparagraphs (c)(2), (c)(3), and (c)(4) of this Rule:

carbonaceous biochemical oxygen demand (CBOD)	ammonia-nitrogen (NH3-N)
dissolved oxygen (DO)	specific conductance
pH	total suspended solids (TSS)
barium	bromide
chlorides	sulfates

sodium	divalent cations
total dissolved solids (TDS)	oil and grease
arsenic, total recoverable	cadmium, total recoverable
cobalt, total recoverable	copper, total recoverable
cyanide, total recoverable	lead, total recoverable
mercury, total recoverable	nickel, total recoverable
tin, total recoverable	zinc, total recoverable
benzene	bis(2-ethylhexyl)phthalate
butylbenzyl phthalate	carbazole
n-Decane	fluoranthene
n-Octadecane	radium-226 (Dissolved)
strontium-90 (Dissolved)	beta radiation (gross)
chronic whole effluent toxicity	total organic carbon
	volatile organic compounds
	semi-volatile organic compounds

(1) the water samples shall be collected and analyzed in accordance with Rule .1803 of this Subchapter; and
(2) the analytical results shall be submitted to Division within 30 calendar days of receiving the analytical results, unless a different schedule is prescribed by the Department, based on the results of the initial test.

(b) The Director, in consultation with the Director of the Division of Water Resources and the Director of the Division of Public Health within the Department of Health and Human Services, may require additional analysis and scheduling as necessary for the protection of public health, welfare, and the environment.

(c) E & P waste shall be managed as:
(1) reuse in well stimulation operations;
(2) onsite pretreatment for reuse or disposal;
(3) disposal at a plant installed for the purpose of disposing of waste within the State, permitted in accordance with G.S. 143-215.1; or
(4) disposal facility located within another state that is duly permitted to accept flowback fluid and produced water from oil or gas operations.

(d) If E & P waste is to be disposed of in accordance with Subparagraphs (c)(2), (c)(3), or (c)(4) of this Rule, the permittee shall also comply with the following requirements:
(1) prior to transporting the waste to a publicly owned treatment works pursuant to Subparagraph (c)(3) of this Rule, the permittee shall submit a copy of the approved Industrial User Permit required by 15A NCAC 02H .0916, which is incorporated by reference, including subsequent amendments, to the Division.
(2) the permittee shall notify the Division if any facility identified in the plan refuses to accept E & P waste. Upon such refusal, the permittee shall submit a revised E & P Waste Management Plan in accordance with Rule .2002 of this Section that identifies a new disposal facility to the Division.

(e) Any sludge or residual resulting from the reuse process authorized pursuant to Subparagraph (c)(1) of this Rule or from any onsite pretreatment that may be used in conjunction with Subparagraphs (c)(2) and (c)(3) of this Rule shall be managed and disposed of pursuant to Subparagraphs (c)(3) and (c)(4) of this Rule or with the Resource Conservation and Recovery Act and regulations promulgated pursuant thereto, 42 USC 6901 et seq. and 40 CFR Parts 239-282, which is incorporated by reference, including subsequent amendments, which can be accessed for no charge at http://www.ecfr.gov/cgi-bin/text-idx?SID=13be85c0df8971509a2531a778d1c87f&tpl=/ecfrbrowse/Title40/40tab_02.tpl. In addition, prior to disposal of any sludge or residual resulting from the reuse process authorized pursuant to Subparagraph (c)(1) of this Rule, or from any onsite pretreatment that may be used in conjunction with Subparagraphs (c)(2) and (c)(3) of this Rule, the permittee shall demonstrate that the sludge or residual meets all applicable radioactivity standards for the disposal facility.

(f) Residuals from onsite pretreatment shall be disposed of in accordance with G.S. 143-215.1 and G.S. 130A-294, or transported to another state and disposed of in accordance with the receiving state's rules.

(g) Solid E & P waste, including drill cuttings and solidified muds, shall be characterized in accordance with EPA Method 1311, Toxicity Characteristic Leaching Procedure, which is incorporated by reference, including subsequent amendments and found at http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/1311.pdf. The solid E & P waste shall be characterized on a frequency and schedule determined by the Department, based on the permittee's drilling, completion, and stimulation practices. In addition, the Director, in consultation with the Director of the Division of Waste Management, may require additional analysis as necessary for the protection of public health, welfare, and the environment.

(h) Solid E & P waste shall be disposed of by transfer to the appropriate permitted solid waste management facility in accordance with 15A NCAC 13A or 15A NCAC 13B, which are incorporated by reference including subsequent amendments.
(i) E & P waste fluids may be transported to other drilling sites for reuse provided that such fluids are transported and stored in a manner that does not constitute a hazard to water resources, public health, safety, or the environment in accordance with 15A NCAC 13B .0105.
(j) E & P waste, when transported off-site for treatment or disposal, shall be transported to treatment facilities or to waste disposal facilities permitted to receive E & P waste by the Department in accordance with 15A NCAC 13B. When transported to facilities outside of North Carolina for treatment or disposal, E & P waste shall be transported to facilities permitted by the appropriate regulatory agency in the receiving state.
(k) When E & P waste is transported off-site, the permittee shall maintain for five years copies of each invoice, bill, or ticket and such other records to document the following requirements:

(1) the permittee's name, address, and business telephone number;
(2) the county, city, or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the date and time of the transport;
(6) the company name and contact information of the E & P waste transporter;
(7) the location of the E & P waste pickup site if different then a pit or tank located onsite;
(8) the type and volume of E & P waste;
(9) the name and location of the treatment or disposal site; and
(10) a chronological record showing the date and time of waste collection and the transfer of waste from one person to another during final delivery to a disposal facility. These documents shall be signed and dated by all appropriate parties, and shall include the generator, transporter, and receiving facility representative.

(l) All records shall be maintained in accordance with the Rule .0202 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(3); 113-391(a)(4); 113-391(a)(5)f;*
Eff. March 17, 2015;
Amended Eff. September 1, 2022.

15A NCAC 05H .2004 PIT CLOSURE REQUIREMENTS

(a) The permittee shall notify the Department via telephone or email 48 hours prior to commencing pit closure activities so the Department staff may be onsite to inspect pit closure. The permittee shall submit Form 11 – Required Notifications to the Department in accordance with Rule .0201 of this Subchapter by mail, email, or fax within five calendar days of the telephone or email notification and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for the pit(s) closure.

(b) Prior to removing the liner, all freestanding liquids and solid waste remaining in the pit shall be disposed of in accordance with applicable laws and regulations. Synthetic liners shall be removed and disposed of in accordance with applicable laws and regulations.
(c) The permittee shall collect a five-point composite sample from the pit sub-base if there are no wet or discolored areas or any other indications of a release of fluids from the pit. The permittee shall collect individual grab samples from any pit base or sidewall slope areas that are wet, discolored or show other evidence of a release along the pit sidewall slopes or base.
(d) The samples collected from the pit sub-base shall be analyzed for benzene, toluene, ethylbenzene, xylene (BTEX), total petroleum hydrocarbons (TPH) and metals. The Department may request the permittee to also analyze for chlorides, bromides, and sulfates depending on the drilling, completion, and stimulation fluids used by the permittee. These soil samples shall be analyzed in accordance with approved the EPA or Department methods in accordance with 15 NCAC 02L .0412, which is incorporated by reference, including subsequent amendments.
(e) If concentrations of BTEX, TPH, or metals exceed the soil to groundwater maximum contaminant concentrations established by the Environmental Management Commission in 15A NCAC 02L .0202, or the background concentration, if

established, then the Department shall require additional delineation upon review of the results to ensure compliance with other applicable environmental regulations for soil and water contamination.
(f) All soil that exceeds limits established in Paragraph (e) of this Rule shall be removed from the pit and disposed of at a permitted municipal solid waste landfill, hazardous waste facility, or soil reclamation facility.
(g) The location where the pit(s) were constructed shall be returned to grade, reclaimed, and seeded in accordance with the approved Reclamation Plan. Pit(s) shall be reclaimed no later than 180 calendar days after the drilling rig is removed from the well site, workover operations are complete, or plugging is complete.
(h) The permittee shall submit a signed copy of Form 25 – Pit Closure Report to the Department in accordance with Rule .0201 of this Subchapter within 30 calendar days after the pit closure has been completed, containing the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the latitude and longitude of the pit reported to five decimal places of accuracy and precision using the North American Datum of 1983 (NAD83);
(6) the pit type and use;
(7) the date of pit closure;
(8) the volume of fluid and solid E & P wastes removed from the pit(s);
(9) a confirmation that the liner was removed in accordance with Paragraph (b) of this Rule;
(10) copies of analytical results from the required sampling in Paragraph (c) of this Rule; and
(11) the name, permit number, and contact information for the receiving facilities.

History Note: *Authority 113-391(a)(5)c; 113-391(a)(5)d; 113-391(a)(5)f; 113-391(b); Eff. March 17, 2015.*

15A NCAC 05H .2005 SPILLS AND RELEASES

(a) Chemical spills and releases shall be reported in accordance with applicable state and federal requirements, including the Emergency Planning and Community Right-to-Know Act set forth in 40 CFR 350-372, the Comprehensive Environmental Response, Compensation, and Liability Act set forth in 40 CFR 300 and 302, the Resource Conservation and Recovery Act set forth in 40 CFR 239-282, the Clean Water Act set forth in 40 CFR 100-149, G.S. 143-215.75 through 215.104U, 15A NCAC 02B, and 02L, as applicable, which are incorporated by reference, including subsequent amendments and editions.
(b) Spills and releases of E & P waste shall be controlled and contained upon discovery to protect public health, welfare, and the environment.
(c) The permittee shall be responsible for controlling, containing, and remediating any spill or release.
(d) The Department may require any cleanup activities it determines to be necessary to protect public health, welfare, and the environment based on the type, size, and extent of the spill or release.
(e) Spills and releases shall be reported by the permittee as follows:

(1) spills and releases of any E & P waste that exceed a volume of one barrel per incident, including those contained within lined or unlined berms, including containment systems, shall be reported on Form 26 – Spill and Release Report in accordance with Paragraph (f) of this Rule;
(2) spills and releases that exceed a volume of five barrels per incident of any E & P waste shall be reported by telephone or email to the Director in accordance with Rule .0201 of this Subchapter as soon as practicable, but no more than 24 hours after discovery;
(3) spills and releases of any size that impact, or threaten to impact, any waters of the State, high occupancy buildings or occupied dwellings, livestock or public roads shall be reported by telephone or email to the Director in accordance with Rule .0201 of this Subchapter as soon as practicable, but no more than 24 hours after discovery; and
(4) spills and releases of any size that impact, or threaten to impact, any surface water, water supply area, or water supply intake shall be reported to the Department in accordance with Rule .0201 of this Subchapter and the appropriate local emergency management coordinator in accordance with Rule .1305 of this Subchapter. These spills and releases shall be reported by phone to the local emergency management coordinator, Department, and water supply facility within two hours of the discovery. This initial

notification to the local emergency management coordinator, Department, and water supply facility shall include a description of actions to be taken to mitigate the spill and release.

(f) For all reportable spills, the permittee shall submit Form 26 – Spill and Release Report, to the Department in accordance with Rule .0201 of this Subchapter no more than five days after discovery. The form shall include the following:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) an 8 1/2 by 11 inch topographic map showing the location of the spill;
(6) color photographs of the affected area;
(7) a description of the initial mitigation, site investigation, and any additional remediation proposed by the permittee; and
(8) additional information or remediation based on the type, size, and extent of the spill or release as required by the Department.

(g) The permittee shall determine the cause of all spills and releases, and shall implement measures to prevent spills and releases due to similar causes in the future.

(h) The permittee shall notify the local emergency management coordinator and State Emergency Operations Center of reportable spills and releases pursuant to the requirements in this Rule, as soon as practicable, but not more than 24 hours after discovery.

(i) The Department shall require the permittee to submit a Form 27 – Site Investigation and Remediation Work Plan when there is a threat of or actual significant impacts on public health, welfare, and the environment from a spill or release exist, or when necessary to ensure compliance with 15A NCAC 02B and 02L. The Form 27 – Site Investigation and Remediation Work Plan shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) a description of the impact to soils, vegetation, groundwater, or surface water;
(6) a description of initial actions taken to remediate the spill or release;
(7) a description of how the spill or release and impacts will be removed or remedied;
(8) a description of proposed groundwater monitoring plan if groundwater was impacted;
(9) a description of changes to the well site development plan or reclamation plan if needed;
(10) a map of the area showing sample locations and the extent of spill or release;
(11) a copy of analytical reports for any samples that have been collected and analyzed;
(12) the final disposal site of the E & P wastes recovered from the spill or release;
(13) an implementation schedule detailing the date(s) of the initial spill or release, the beginning and end of site investigation, the date remediation plan was submitted, the date remediation plan will be implemented, the anticipated completion date of remediation, the actual completion date; and
(14) the signature of the permittee and date signed.

History Note: *Authority 113-391(a)(5)i; 113-391(a)(5)k;*
Eff. March 17, 2015.

15A NCAC 05H .2006 SAFETY AND SECURITY AT PITS AND TANKS

(a) Fencing around any pit or tank shall be constructed and maintained to prevent unauthorized access and render the area non-hazardous to wildlife. Fences are not required if there is a surrounding perimeter fence that prevents unauthorized access to the well site or production facility, including the pit(s) or tank(s). Fencing shall comply with Rule .1615 of this Subchapter.

(b) All E &P waste pits or open tanks shall be screened, netted or otherwise render the area non-hazardous to wildlife, including migratory birds. The permittee shall inspect for and, within 48 hours of discovery, report any discovery of dead migratory birds or other wildlife to the Department by telephone or email in accordance with Rule .0201 of this Subchapter in order to facilitate assessment and implementation of measures to prevent incidents from reoccurring. All netting, screening, or other measures installed shall comply with the Migratory Bird Treaty Act as set forth in 16 U.S.C. 703-712.

History Note: *Authority 113-391(a)(4);*
Eff. March 17, 2015.

15A NCAC 05H .2007 MONITORING AND REPORTING

(a) The permittee shall monitor all onsite E & P waste storage and disposal structures and facilities for compliance with the approved E & P Waste Management Plan.

(b) The permittee shall inspect all pits or open tanks after a rain event of one half inch or more in a 24-hour period to ensure structures have not been impaired and have the required freeboard. If impairment of a pit or open tank is noted during the course of inspection, the impairment shall be recorded on a monitoring and maintenance log. The log shall include:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the date of inspection, name of the inspector;
(6) the location of impairment of the pit or tank;
(7) if a spill or release was observed;
(8) any necessary repair work and the date(s) all repairs were completed; and
(9) the signature of person conducting the inspection.

(c) If the impairment of the structure of the pit or open tank results in a spill or release, the permittee shall comply with the requirements for reporting, repair, and remediation in accordance with Rule .2005 of this Section.

(d) The permittee shall submit the Form 24 – Annual E & P Waste Management Report to the Department in accordance with Rule .0201 of this Subchapter no later than April 1st of each year for the previous calendar year, regardless of whether any oil or gas wells are installed at a well pad during the calendar year covered by the report. The Form 24 – Annual E & P Waste Management Report shall include:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the quantity of drill cuttings that have been disposed of at off-site solid waste landfills;
(6) the permit number, name, and location of the solid waste facility;
(7) the monthly quantity, in barrels, of liquid E & P waste produced in the drilling, stimulation, alteration, and production of an oil or gas well; and
(8) the records of when pits were serviced due to inadequate freeboard, and the actions that were taken to restore the three feet of required freeboard.

History Note: *Authority 113-391(a)(5)i; 113-391(a)(5)k;*
Eff. March 17, 2015.

SECTION .2100 – WELL SITE RECLAMATION

15A NCAC 05H .2101 PURPOSE AND SCOPE

(a) The permittee shall reclaim all disturbed land associated with the drilling, completion, and production of an oil or gas well by removing any well site structures or equipment from the well site or well pad and establishing permanent vegetative cover, soil stability, water conditions, and safety conditions appropriate to the area.

(b) The disturbed land shall be reclaimed unless otherwise designated by the surface owner in a surface use agreement submitted with a Form 2 – Oil or Gas Well Permit Application.

History Note: *Authority G.S. 113-391(a)(5)l; 113-423.1(b);*
Eff. March 17, 2015.

15A NCAC 05H .2102 RECLAMATION PLAN REQUIREMENTS

(a) The applicant or permittee for a permit or permit modification shall submit a Reclamation Plan to the Department for approval. The Reclamation Plan shall be submitted in accordance with Section .1300 of this Subchapter.

(b) The Form 6 – Well Site Reclamation Plan and its contents shall conform to the SPCA, 15A NCAC 04, and 15A NCAC 02H and include information and details on the reclamation of all disturbed land at the well site, including:

(1) the reclamation activities to be conducted onsite;
(2) a plan for subsequent land use and the general methods to be used in reclaiming the disturbed land;
(3) the practices to be taken to protect adjacent surface resources;
(4) the methods to prevent or eliminate adverse impacts to flora and fauna in, or adjacent to, the disturbed land;
(5) the methods to be taken to reclaim the disturbed land associated with pits in accordance with Rule .2004 of this Subchapter;
(6) the measures to be taken stabilize slopes; and
(7) the plan for re-vegetation and reforestation, or other surface treatment of the disturbed land, approved in writing by one of the following prior to submission of the application:
    (A) an authorized representative of the local soil and water conservation district having jurisdiction over lands in question;
    (B) an authorized representative of the North Carolina Forest Service within the Department of Agriculture and Consumer Services;
    (C) a county agricultural extension Chair or research and extension personnel headquartered at North Carolina State University in the School of Agricultural and Life Sciences;
    (D) a North Carolina licensed Landscape Architect pursuant to G.S. 89A; or
    (E) a private consulting forester referred by the North Carolina Forest Service within the Department of Agriculture and Consumer Services.

(c) The applicant shall submit financial assurance in accordance with the Section .1400 of this Subchapter prior to commencing activity onsite.
(d) In addition to performing all activities required by the Reclamation Plan, the permittee shall stabilize and reclaim all disturbed lands associated with drilling, completion, and production in accordance with the Well Site Development Plan required by Rule .1304(c)(2) of this Subchapter.
(e) An approved Reclamation Plan may be modified by submitting a permit modification in accordance with Rule .1310 of this Subchapter.

History Note: *Authority G.S. 113-391(a)(5)l;*
Eff. March 17, 2015.

15A NCAC 05H .2103 TIMING AND NOTICE OF RECLAMATION

(a) The permittee shall complete reclamation of all disturbed land within two years pursuant to G.S. 113-421(a3).
(b) The permittee shall notify the Department in writing within 30 calendar days following completing reclamation.
(c) The Department shall monitor the well site for compliance with the following standards:

(1) the vegetative cover shall be maintained for a period of one year after the notice has been given before the disturbed land bond under Rule .1404 shall be released by the surface owner; and
(2) the filled or graded areas shall be maintained so as to avoid the formation of depressions or standing pools of water until reclamation is complete.

History Note: *Authority G.S. 113-391(a)(5)l;*
Eff. March 17, 2015.

SECTION .2200 – OPERATION AND PRODUCTION

15A NCAC 05H .2201 OPERATION AND PRODUCTION REQUIREMENTS FOR OIL OR GAS WELLS

(a) All oil or gas wells shall comply with API Recommended Practice 74, "Recommended Practice for Occupational Safety for Onshore Oil and Gas Production Operation," which is incorporated by reference, including subsequent amendments and editions. This document may be viewed online for no charge at http://publications.api.org/.
(b) All production equipment shall be maintained to comply with API Recommended Practice 51R "Environmental Protection for Onshore Oil and Gas Production Operations and Leases." Recommended Practice 51R may be viewed online for no charge at http://publications.api.org/.
(c) All natural gas compressor stations shall be contained within a baffled building in accordance with G.S. 113-395.1.
(d) The permittee shall report monthly production data from all producing oil or gas wells, wells capable of producing oil or gas, and all fluids produced during any phase of operation of the oil or gas well to the Department in accordance with Rule

.0201 on Form 28 – Monthly Production Report within 60 calendar days from the end of each month. The Form shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the month and year of production;
(6) the number of days the oil or gas well was producing for the reporting period;
(7) the oil or gas well status;
(8) the quantities of oil and production fluids posted in barrels; and
(9) the quantities of gas posted in units of thousand cubic feet.

(e) All meters shall be calibrated at least annually and shall comply with Chapters 14, 21, and 22 of the API "Manual of Petroleum Measurement Standards," which is incorporated by reference, including subsequent amendments and editions. These documents, published by API, may be viewed online for no charge at http://publications.api.org/.

(f) All meters, valves, and gauges shall be maintained pursuant to the manufacture's specifications and remain accessible to the Department.

(g) The permittee shall notify the Department in accordance with Rule .0201 of this Subchapter at least 72 hours via telephone or email prior to meter calibration. The permittee shall submit Form 11 – Required Notifications to the Department, by mail, email or fax within five calendar days of the telephone or email notice and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number; and
(5) the scheduled date and approximate time for the meter testing.

(h) The permittee shall retain calibration records for five years in accordance with Rule .0202 of this Subchapter.

(i) The permittee shall adjust, repair, or replace any meter that fails an annual meter calibration test with a calibrated meter. Test results that exceed two percent of the manufacturer's specifications shall constitute a failure of the meter calibration test. The permittee shall notify the Department within 24 hours of replacing a meter via mail or email and shall retain records related to replacement for a period of five years.

(j) The permittee shall inspect daily each producing oil or gas well for the first 30 calendar days following commencement of production and monthly thereafter. The permittee shall report on the daily inspections results within 30 calendar days of the final daily inspection on Form 29 – Well Site Inspection Report.

(k) The permittee shall submit a monthly inspection report to the Department using Form 29 – Well Site Inspection Report within 30 calendar days of the inspection.

(l) The Form 29 – Well Site Inspection Report shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;
(2) the county and nearest city or town where the oil or gas well is located;
(3) the property street address, or nearest address to the ingress and egress point leading from a public road to the well pad;
(4) the API number, the lease name, and the oil or gas well name and number;
(5) the presence of corrosion or equipment deterioration on any production equipment;
(6) any indication or observation of a hydrocarbon release;
(7) the condition of the wellhead, tanks, separators, and all other production equipment;
(8) the condition of the secondary containment system for all tanks and separators;
(9) certification that activated charcoal filters, low pressure relief valves, hatch lids, and lightning arrestors are present and functional for all tanks; and
(10) any pressure measurements taken at the wellhead.

(m) The Department may require the permittee to perform diagnostic testing on the oil or gas well or production equipment in order to determine whether a potential mechanical deficiency exists and the best method of repair if deficiencies or violations are noted by the permittee on the Form 29 – Well Site Inspection Report.

(n) The permittee shall notify the Department via telephone or email of any annular pressures in excess of 80 percent of the API rated minimum internal yield pressure rating within 24 hours after discovery.

(o) All shut-in oil or gas wells shall pass an annual mechanical integrity test. Oil or gas wells that had surface equipment removed or have become incapable of production shall pass a mechanical integrity test within 30 calendar days of the cessation of production. Oil or gas wells that fail a mechanical integrity test shall be repaired or plugged and abandoned within six months of failing the test. Mechanical integrity testing shall be conducted in accordance with the following procedure:

(1) isolate the wellbore with a mechanical bridge plug, set at 100 feet or less above the production packer or the highest perforations, if the production tubing has been removed;

(2) pressure test the production tubing, or casing if the tubing has been removed, with inert or nonreactive liquid or gas at a minimum of 300 pounds per square inch (psi) surface pressure or 110 percent of the shut in tubing pressure, whichever is greater; and

(3) maintain a minimum of 300 psi surface pressure for at least 15 minutes without a pressure differential of more than 10 percent.

(p) The permittee shall notify the Department using Form 11 – Required Notifications to the Department, not less than 10 calendar days prior to initiating a mechanical integrity test by mail, email, or fax. The notification shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;

(2) the county and nearest city or town where the oil or gas well is located;

(3) the property street address, or nearest address to the ingress and point leading from a public road to the well pad;

(4) the API number, the lease name, and the oil or gas well name and number; and

(5) the scheduled date and approximate time the test will be performed.

(q) Mechanical integrity test results shall be submitted to the Department using Form 16 – Mechanical Integrity Test Results, within 30 calendar days after completing the test and shall include the following information:

(1) the permittee's name, address, telephone number, fax number, and email address;

(2) the county and nearest city or town where the oil or gas well is located;

(3) the property street address, or nearest address to the ingress and point leading from a public road to the well pad;

(4) the API number, the lease name, and the oil or gas well name and number;

(5) the purpose or reason for testing and identify if tubing or casing is being tested;

(6) identify the depth of producing zone and perforated intervals;

(7) the tubing and casing diameter and depth;

(8) a description of the pressure test data including pressure charts showing pressure:

(A) prior to testing;

(B) at the commencement of testing; and

(C) during testing;

(9) be signed by the service company or contractor conducting the pressure test to attest that all tests and results comply with the standards set in this Rule.

(r) The permittee shall submit Form 2 – Oil or Gas Well Permit Application to the Department for the recompletion work required for the oil or gas well to be placed back into production.

History Note: *Authority G.S. 113-391(a)(5)c; 113-391(a)(5)i; 113-391(a)(5)k;*
Eff. March 17, 2015.

1468

For Registration Register of Deeds
William Britton

Moore County, NC
Electronically Recorded
September 20, 2024 12:40:31 PM
Book: 6234 Page: 258 - 259 #Pages: 2
Fee: $26.00 NC Rev Stamp: $0.00
Instrument # 2024012760

Excise Tax – $0
Prepared by: Garner & Williamson, P.A., Attorneys, 111 Courthouse Square, Troy, NC 27371
Brief Description for Index: 233.71 acres total
PIN –
NO TITLE EXAM

STATE OF NORTH CAROLINA

COUNTY OF MOORE

GENERAL WARRANTY DEED

THIS DEED made this the 17th day September 2024, by and between

GRANTOR	GRANTEE
WILLIAM ARTHUR WILLIAMS AND SPOUSE, JAN H. WILLIAMS,	WILLIAMS SAND AND CLAY, LLC 1515 NC HIGHWAY 211 EAGLE SPRINGS, NC 27242

The designation 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, that the GRANTOR, for a valuable consideration paid by the GRANTEE, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey, in fee simple absolute that property being more particularly described as follows:

Being all of that certain Tract containing 233.71 acres (TOTAL) and 7.67 acres (IN OVERLAP) and 1.04 acres (IN RW) for a total of 225.00 acres (NET), more or less, as shown on a survey entitled, "Division Survey for Arthur Williams & Sons, Inc.", prepared by, John G. Matthew, RLS-L-5020, dated January 4, 2017, recorded in Plat Cabinet 17, Slide 197, Moore County Registry, to which reference is made for a more particular description as fully as if set out herein.

For title reference see Book 4783, Page 376, Moore County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the GRANTEE in fee simple.

Submitted electronically by "Garner & Williamson, PA"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Moore County Register of Deeds.

And the GRANTOR covenants with the GRANTEE, that GRANTOR is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that GRANTOR will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated, if any.

IN WITNESS WHEREOF, the GRANTOR have hereunto set their hands and seals this the day and year first above written.

William Arthur Williams SEAL
WILLIAM ARTHUR WILLIAMS

Jan H. Williams SEAL
JAN H. WILLIAMS

STATE OF NORTH CAROLINA
COUNTY OF Montgomery

I, a Notary Public in and for said County and State, do hereby certify that WILLIAM ARTHUR WILLIAMS AND JAN H. WILLIAMS personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the 20 day of September 2024.

Betty B. Rodriguez
NOTARY PUBLIC

My commission expires 03/25/2029

BETTY B RODRIGUEZ
NOTARY
My Comm. Exp.
March 25, 2029
PUBLIC
MONTGOMERY COUNTY, NC

1470

SOSID: 1523734
Date Filed: 6/10/2016 3:37:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C2016 139 00748

State of North Carolina
Department of the Secretary of State

Limited Liability Company
ARTICLES OF ORGANIZATION

Pursuant to §57D-2-20 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Organization for the purpose of forming a limited liability company.

1. The name of the limited liability company is: Williams Sand & Clay, LLC.
(See Item 1 of the Instructions for appropriate entity designation)

2. The name and address of each person executing these articles of organization is as follows: (State whether each person is executing these articles of organization in the capacity of a member, organizer or both. Note: This document must be signed by all persons listed.)

William Arthur Williams Member/Organizer 1515 NC Hwy 211, Eagle Springs, NC 27242
Will Arthur Williams Member/Organizer 5705 Big Oak Church Rd, Eagle Springs, NC 27242
Benjamin Patt Williams Member/Organizer 509 Wilder Ave. Aberdeen, NC 28315

3. The name of the initial registered agent is: William Arthur Williams

4. The street address and county of the initial registered agent office of the limited liability company is:

Number and Street 1515 NC HWY 211

City Eagle Springs State: NC Zip Code: 27242 County: Moore

5. The mailing address, if different from the street address, of the initial registered agent office is:

Number and Street _____

City _____ State: NC Zip Code: _____ County: _____

6. Principal office information: (Select either a or b.)

a. ☐ The limited liability company has a principal office.

The principal office telephone number: 910-695-6475

The street address and county of the principal office of the limited liability company is:

Number and Street 1515 NC HWY 211

City Eagle Springs State: NC Zip Code: 27242 County: Moore

The mailing address, if different from the street address, of the principal office of the company is:

Number and Street _____

City_____ State: _____ Zip Code: _____ County: _____

b. ☐ The limited liability company does not have a principal office.

7. Any other provisions which the limited liability company elects to include (e.g., the purpose of the entity) are attached.

8. (Optional): Please provide a business e-mail address: _____
The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. The e-mail provided will not be viewable on the website. For more information on why this service is offered, please see the instructions for this document.

9. These articles will be effective upon filing, unless a future date is specified:
_____

This is the 13 day of May, 2016.

William Arthur Williams Member/Organizer
Signature

William Arthur Williams, Member/Organizer
Type or Print Name and Title

The below space to be used if more than one organizer or member is listed in Item #2 above.

Will Arthur Williams, Member/Organizer
Signature

Will Arthur Williams, Member/Organizer
Type and Print Name and Title

Benjamin Patt Williams, Member/Organizer
Signature

Benjamin Patt Williams, Member/Organizer
Type and Print Name and Title

_____
Signature

_____
Type and Print Name and Title

_____
Signature

_____
Type and Print Name and Title

NOTES:
1. Filing fee is $125. This document must be filed with the Secretary of State.

1472

FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
December 20, 2018 10:42:41 AM
Book 5070 Page 596-596
FEE: $26.00
INSTRUMENT # 2018017812



INSTRUMENT # 2018017812

CORRECTIVE AFFIDAVIT

mail to: ✓

(Prepared by Garner & Williamson, PA, 111 Courthouse Square, Troy, NC 27371)

Giving notice of typographical or other minor error pursuant to NCGS 47-36.1

Title of Original Instrument: **General Warranty Deed**

Date of recording: **October 22, 2018**

Recording Book: **5064** Page: **355** County: **Moore**

Original Parties to the Instrument:

Grantor(s): **Arthur Williams & Sons, Inc.**

Grantee(s): **William Arthur Williams and wife, Jan Harman Williams**

Now comes the undersigned as **(state basis for knowledge of the Mistake here)** being first duly sworn and does say the following:

1. Through mutual mistake, inadvertence or mistake of the draftsmen the Instrument referenced above, contained the following typographical or other minor error:

Typographical error regarding **Incorrect Plat Cabinet 176, Slide 879**

2. It was the intent of the parties to the Instrument that the erroneous information in the Instrument referenced above, as corrected, should read as follows:

Plat Cabinet 17, Slide 879

Signature or Affiant: Max A Garner

Print Name: Max A. Garner, Preparing Attorney

State of North Carolina, County of Montgomery

Sworn to and subscribed before me this 18 day of December 2018.

NOTARY PUBLIC GENEVIEVE D BENITEZ MONTGOMERY COUNTY

Notary Public: Genevieve D Benitez

My commission expires: 4-26-21

BOOK5064 - PAGE355

FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
December 05, 2018 10:36:46 AM
Book 5064 Page 355-356
FEE: $26.00
INSTRUMENT # 2018017063



INSTRUMENT # 2018017063

Excise Tax: $0

Mail to:
Prepared by: Garner & Williamson, P.A., Attorneys, 111 Courthouse Square, Troy, NC 27371
Mail Deed To: GRANTEE
Brief Description for Index: 301.60 acres, more or less, PIN #7596 00 58 9999

STATE OF NORTH CAROLINA
COUNTY OF MOORE

NO TITLE EXAM

GENERAL WARRANTY DEED

THIS DEED made this the 22 day of **October, 2018** by and between

GRANTOR	GRANTEE
Arthur Williams & Sons, Inc.	**William Arthur Williams and wife,**
625 Farmville Mine Road	**Jan Harman Williams**
Sanford, NC 27330	**1515 Hwy 211**
	Eagle Springs, NC 27242

The designation 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, that the GRANTOR, for a valuable consideration paid by the GRANTEE, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey, in fee simple absolute, AS JOINT TENANTS WITH RIGHT OF SURVIVORSHIP, that property situated in **BENSALEM TOWNSHIP**, **MOORE COUNTY**, North Carolina, being more particularly described as follows:

Being all of a Tract of land, containing 301.60 total acres, more or less, as shown on a survey entitled, "Division Survey for Arthur Williams and Sons, Inc.", prepared by, John G. Matthews, PLS, L-5020, dated September 27, 2018, recorded in Plat Cabinet 176, Slide 879, Moore County Registry, to which reference is made for a more particular description as fully as if set out herein.

The Law Firm of Garner and Williamson, P.A. has neither examined nor certifies as to the title to the described property.

Does the above describe property include the primary residence of the Grantor? ____ Yes __X__ No

This property was acquired by grantor by instrument recorded in Book **241**, Page **306**, and Book **241**, Page **462**, Moore County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the GRANTEE in fee simple.

And the GRANTOR covenants with the GRANTEE, that GRANTOR is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that GRANTOR will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated, if any.

1474

IN WITNESS WHEREOF, the GRANTOR have hereunto set their hands and seals this the day and year first above written.

Clement Monroe Williams SEAL
Arthur Williams & Sons, Inc.
By: Clement Monroe Williams
Title: President

STATE OF NORTH CAROLINA

COUNTY OF Montgomery

I, Genevieve D Benitez, a Notary Public of Montgomery County, do hereby certify that **Clement Monroe Williams for Arthur Williams & Sons, Inc.** personally appeared before me this day and acknowledged that he is **President** of **Arthur Williams & Sons, Inc.**, a corporation under the laws of the State of North Carolina, being authorized to do so by authority duly given and as an act of the corporation, execution of the foregoing instrument on behalf of the corporation.

Witness my hand and notarial seal, this the 29 day of November, 2018.

GENEVIEVE D BENITEZ NOTARY PUBLIC MONTGOMERY COUNTY, NC

Genevieve D Benitez
NOTARY PUBLIC
My commission expires 4-26-21

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the County and State aforesaid, certify that _____, personally appeared before me this day and acknowledged the execution of the foregoing instrument.
Witness my hand and official stamp or seal this _____ day of _____

_____
NOTARY PUBLIC
My Commission Expires: _____

1475

For Registration Register of Deeds
William Britton

Moore County, NC
Electronically Recorded
February 20, 2024 3:43:12 PM
Book: 6131 Page: 176 - 179 #Pages: 4
Fee: $26.00 NC Rev Stamp: $0.00
Instrument # 2024002111

Excise Tax: $0.00
Prepared by: Garner & Williamson, P.A., Attorneys, 111 Courthouse Square, Troy, NC 27371
Mail Deed To: GRANTEES
Brief Description for Index: **93.88 Acres, P/C 20, Slide 161 AND 45.54 Acres, P/C 20, Slide 160**
****TITLE NOT SEARCHED OR CERTIFIED****
STATE OF NORTH CAROLINA
COUNTY OF MOORE

GENERAL WARRANTY DEED

THIS DEED made this the 16th day of FEBRUARY, 2024, by and between

GRANTOR(S)	GRANTEE
ARTHUR WILLIAMS AND SONS, INC. **a North Carolina corporation**	**WILLIAM ARTHUR WILLIAMS,** **and wife, JAN HARMAN WILLIAMS**
CLEMENT MONROE WILLIAMS, **and wife, BARBARA WILLIAMS**	**1515 HWY 211** **EAGLE SPRINGS, NC 27242**

The designation 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, that the GRANTOR, for a valuable consideration paid by the GRANTEE, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey, in fee simple absolute, that property situated in the **Bensalem Township**, **Moore County**, North Carolina, being more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

Does the above describe property include the primary residence of the Grantor? ____ Yes X No

"This instrument prepared by: Garner & Williamson, P.A., a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds."

Submitted electronically by "Garner & Williamson, PA"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Moore County Register of Deeds.

1476

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the GRANTEES in fee simple.

And the GRANTOR covenants with the GRANTEES, that GRANTOR is seized of the premises in fee simple, have the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that GRANTOR will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated, if any. ***All covenants, restrictions, easements, utilities, rights of way, uses, zoning requirements and setbacks of record, Moore County Registry.***

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal this the day and year first above written.

ARTHUR WILLIAMS AND SONS, INC.

Clement Williams SEAL

CLEMENT M. WILLIAMS

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

I, Betty Black Rodriguez, a Notary Public for the above noted County and State, do hereby certify that **CLEMENT M. WILLIAMS,** personally appeared before me this day and acknowledged that he is the **President** of **ARTHUR WILLIAMS AND SONS, INC.**, a North Carolina Corporation, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and notarial seal, this the 16 day of February, 2024.

Betty Black Rodriguez
NOTARY PUBLIC

SEAL

Betty Black Rodriguez
NOTARY PUBLIC
Iredell County, North Carolina
My Commission Expires [illegible]

My commission expires: 03/05/2024

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal this the day and year first above written.

Clement Williams (SEAL)
CLEMENT M. WILLIAMS

Barbara M. Williams (SEAL)
BARBARA WILLIAMS

STATE OF NORTH CAROLINA

COUNTY OF IREDELL

I, Betty Black Rodriguez, a Notary Public for the above noted County and State, do hereby certify that **CLEMENT M. WILLIAMS and wife, BARBARA WILLIAMS,** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal, this the 16 day of February, 2024.

SEAL

Betty Black Rodriguez
NOTARY PUBLIC

My commission expires: 03/25/2024

Betty Black Rodriguez
NOTARY PUBLIC
Iredell County, North Carolina
My Commission Expires 03/25/2024

1478

EXHIBIT "A"

TRACT ONE: OUT OF PARCEL: 00013400; 00013401; 20180537 & 20170089: *That 93.88 acre tract of land, more or less, along with a non-exclusive perpetual easement for ingress and egress designated on that plat entitled "Recombination Survey for Arthur Williams and Sons, Inc.", as recorded in Plat Cabinet 20, Slide 161, Moore County, North Carolina Register of Deeds Office. Reference being made to said plat for a more complete and accurate description as to the metes, bounds, courses and/or distances of the property delineated therein. Reference being made to said plat for a more complete and accurate description as to the metes, bounds, courses and/or distances of the property delineated therein. See Deed Book 241, Page 309, Book 241, Page 462, Deed Book 5070, Page 596 and Deed Book 4783, Page 376, Moore County, North Carolina Register of Deeds Office for back title reference.*

TRACT TWO: OUT OF PARCEL:00013404: *That 45.54 acre tract as described on that plat entitled "Recombination Survey for Clement & Barbara Williams and William & Jan Williams" as recorded in Plat Cabinet 20, Slide 160, Moore County, North Carolina Register of Deeds Office. Reference being made to said plat for a more complete and accurate description as to the metes, bounds, courses and/or distances of the property delineated therein. See Deed Book 5064, Page 357 for back title reference.*

COMMUNITY MEETING REPORT

Wednesday December 18, 2024, 6 p.m. – 730 p.m.

1515 NC Highway 211, Eagle Springs, NC 27242 – Ben's Ice Cream

Proposed Mining/ Quarry Operation (RA-CZ)

Community Members Present: Cheryl Kearns, Orlando Comer, Jill Strickland
Applicant Present: Williams Sand & Clay LLC (and team)
Planning Staff Present: Debra Ensminger, Danielle Orloff

The below list of property owners was notified of the community meeting via certified mailings. Three community members attended the meeting.

Jill Strickland
Erin Monroe
Joy Williams
Clement Williams
Changing Destinies Ministry
Chappell Land Co LLC
Keith Hall

1480

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

WILLIAM E. TOBY VINSON, JR.
Interim Director

NORTH CAROLINA
Environmental Quality

October 26, 2023

William A. Williams
Williams Sand and Clay, LLC
1515 NC Hwy 211
Eagle Springs, NC 27242

RE: Williams Sand and Clay Mine
Mining Permit No. 63-43
Moore County
Cape Fear River Basin

Dear Mr. Williams:

Your recent request to have the above referenced mining permit modified has been approved. The modification is to increase the permitted acreage to 221.47 acres and the affected acreage at this site to 111.71 acres as indicated in the application and on the mine map dated June 20, 2023. The modification includes the expansion north and east of the existing excavation. A copy of the modified permit is enclosed.

We have received the $75,300.00 Irrevocable Standby Letter of Credit (ISLOC) No. 5012362 issued by The Fidelity Bank for the referenced mining operation. As this new ISLOC sufficiently covers the mining operation, the enclosed ISLOC of Credit No. 1126694 for $31,400.00 issued by The Fidelity Bank is hereby released by the Department of Environmental Quality for your disposal.

The conditions in the modified permit were based primarily upon the initial application. Modifications were made as indicated by the modification request and as required to ensure compliance with The Mining Act of 1971. The mine name and permit number shall remain the same as before the modification. I would like to draw your particular attention to the following conditions where minor additions or changes were made: III.3.A, III.4.C, III.5, III.8, III.10, IV, VI, VIII.3.

The issuance of a mining permit and/or any modification to it does not supersede local zoning regulations. The responsibility of compliance with any applicable zoning regulations lies with you.

As a reminder, your permitted acreage at this site is 221.47 acres and the amount of land you are approved to disturb is 113.77 acres.

Please contact me at (919) 707-9220 if you have any questions.

Sincerely,

Adam Parr, PE
State Mining Engineer

Enclosures
cc: Mr. Tim LaBounty, PE

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES

LAND QUALITY SECTION

PERMIT

For the operation of a mining activity

In accordance with the provisions of N.C.G.S. §74-46 through 68, "The Mining Act of 1971," Mining Permit Rule 15A NCAC 05B, and other applicable laws, rules, and regulations

Permission is hereby granted to:

Williams Sand and Clay LLC

Williams Sand & Clay LLC Mine

Moore County - Permit No. 63-43

for the operation of a

Sand Mine

Which shall provide that the usefulness, productivity and scenic values of all lands and waters affected by this mining operation will receive the greatest practical degree of protection and restoration.

In accordance with the application for this mining permit, which is hereby approved by the Department of Environmental Quality, hereinafter referred to as the Department, and in conformity with the approved Reclamation Plan attached to and incorporated as part of this permit, provisions must be made for the protection of the surrounding environment and for reclamation of the land and water affected by the permitted mining operation. This permit is expressly conditioned upon compliance with all the requirements of the approved Reclamation Plan. However, completed performance of the approved Reclamation Plan is a separable obligation, secured by the bond or other security on file with the Department, and may survive the revocation or suspension of this permit.

This permit is not transferable by the permittee with the following exception: If another operator succeeds to the interest of the permittee in the permitted mining operation, by virtue of a sale, lease, assignment or otherwise, the Department may release the permittee from the duties imposed upon him by the conditions of his permit and by the Mining Act with reference to the permitted operation, and transfer the permit to the successor operator, provided that both operators have complied with the requirements of the Mining Act and that the successor operator agrees to assume the duties of the permittee with reference to reclamation of the affected land and posts a suitable bond or other security.

In the event that the Department determines that the permittee or permittee's successor is not complying with the Reclamation Plan or other terms and conditions of this permit or is failing to achieve the purposes and requirements of the Mining Act, the Department may give the operator written notice of its intent to modify, revoke or suspend the permit, or its intent to modify the Reclamation Plan as incorporated in the permit. The operator shall have right to a hearing at a designated time and place on any proposed modification, revocation, or suspension by the Department. Alternatively, and in addition to the above, the Department may institute other enforcement procedures authorized by law.

I. Definitions. N.C.G.S. §74-49.

Wherever used or referred to in this permit, unless the context clearly indicates otherwise, terms shall have the same meaning as supplied by the Mining Act, N.C.G.S. §74-49.

II. Issuance and Modifications. N.C.G.S. §74-52.

May 11, 2017: This permit has been issued to Williams Sand and Clay LLC for the operation of a sand mine.

December 1, 2017: This permit has been issued for the life of site or the duration of the lease term.

October 26, 2023: The modification is to increase the permitted acreage to 221.47 acres and the affected acreage at this site to 111.71 acres as indicated in the application and on the mine map dated June 20, 2023. The modification includes the expansion north and east of the existing excavation.

This permit is valid for the life of the site or life of lease, if applicable, as defined by Session Law 2017-209 and has no expiration date. However, all provisions of N.C.G.S. §74-51 and N.C.G.S. §74-52 still apply for new, transferred, and modified mining permits.

III. Operating Conditions. N.C.G.S. §74-51.

This Permit shall be subject to the provisions of the Mining Act, N.C.G.S. §74-46, et. seq., and to the following conditions and limitations:

1. Wastewater and Quarry Dewatering.

   A. Any wastewater processing or mine dewatering shall be in accordance with the permitting requirements and rules promulgated by the N.C. Environmental Management Commission.

B. Any stormwater runoff from the affected areas at the site shall be in accordance with any applicable permit requirements and regulations promulgated by the Environmental Protection Agency and enforced by the N.C. Environmental Management Commission. It shall be the permittee's responsibility to contact the Stormwater Program to secure any necessary stormwater permits or other approval documents.

2. Air Quality and Dust Control.

A. Any mining process producing air contamination emissions shall be subject to the permitting requirements and rules promulgated by the N.C. Environmental Management Commission and enforced by the Division of Air Quality.

B. During mining operations, water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the permitted area.

3. Buffer Zones.

A. Sufficient buffer, as indicated on the mine maps dated June 20, 2023, shall be maintained between any affected land and any adjoining waterway or wetland to prevent sedimentation of that waterway or wetland from erosion of the affected land and to preserve the integrity of the natural watercourse or wetland.

B. Any mining activity affecting waters of the State, waters of the U. S., or wetlands shall be in accordance with the requirements and regulations promulgated and enforced by the N. C. Environmental Management Commission.

4. Erosion and Sediment Control.

A. Adequate mechanical barriers including but not limited to diversions, earthen dikes, sediment check dams, sediment retarding structures, rip rap pits, or ditches shall be provided in the initial stages of any land disturbance and maintained to prevent sediment from discharging onto adjacent surface areas or into any lake, wetland, or natural watercourse in proximity to the affected land.

B. All drainage from the affected areas around the mine excavations shall be diverted internal to said excavations.

C. Mining activities, including dewatering activities and including the installation and maintenance of the approved sediment basins and associated diversion channels, shall occur as indicated in the application and on the Mine Maps dated June 20, 2023.

5. Permanently Marked Boundaries.

All mining affected area boundaries (113.77 acres) shall be permanently marked at the site on 100-foot intervals unless the line of sight allows for larger spacing intervals.

6. Graded Slopes and Fills.

The angle for graded slopes and fills shall be no greater than the angle, which can be retained by vegetative cover or other adequate erosion control measure, structure, or device. In any event, exposed slopes or any excavated channels, the erosion of which may cause off-site damage because of sedimentation, shall be planted, or otherwise provided with ground cover, devices, or structures sufficient to restrain such erosion.

7. Surface Drainage.

The affected land shall be graded so as to prevent collection of pools of water that are, or likely to become, noxious or foul. Necessary structures such as drainage ditches or conduits shall be constructed or installed when required to prevent such conditions.

8. Blasting

No blasting activities shall occur at this site.

9. Visual Screening.

Existing vegetation or vegetated earthen berms shall be maintained between the mine and public thoroughfares whenever practical to screen the operation from the public.

10. Buffer Between Mining Permit Boundaries and/or Right-of-ways.

Sufficient buffer, as indicated on the mine maps dated June 20, 2023, shall be maintained between any excavation and any mining permit boundary to protect adjacent property.

11. Refuse Disposal.

A. No on-site disposal of refuse or other solid waste that is generated outside of the mining permit area shall be allowed within the boundaries of the mining permit area unless authorization to conduct said disposal has first been obtained from both the Division of Waste Management and the Division of Energy, Mineral and Land Resources, Department of Environmental Quality. The method of disposal shall be consistent with the approved reclamation plan.

B. Mining refuse as defined by N.C.G.S. §74-49 (14) of The Mining Act of 1971 generated on-site and directly associated with the mining activity may be disposed of in a designated refuse area. All other waste products must be disposed of in a disposal facility approved by the Division of Waste Management. No petroleum products, acids, solvents or their storage containers or any other material that may be considered hazardous shall be disposed of within the permitted area.

C. For the purposes of this permit, the Division of Energy, Mineral and Land Resources considers the following materials to be "mining refuse" (in addition to those specifically listed under N.C.G.S. §74-49 (14) of the N.C. Mining Act of 1971):

i. on-site generated land clearing debris.

ii. conveyor belts.

iii. wire cables.

iv. v-belts.

v. steel reinforced air hoses.

vi. drill steel.

D. If mining refuse is to be permanently disposed within the mining permit boundary, the following information must be provided to and approved by the Division of Energy, Mineral and Land Resources prior to commencement of such disposal:

i. the approximate boundaries and size of the refuse disposal area.

ii. a list of refuse items to be disposed.

iii. verification that a minimum of 4 feet of cover will be provided over the refuse.

iv. verification that the refuse will be disposed at least 4 feet above the seasonally high-water table; and,

v. verification that a permanent vegetative groundcover will be established.

IV. Annual Reclamation Report and Annual Operating Fee. N.C.G.S. §74-55.

An Annual Reclamation Report and Annual Operating Fee of $400.00 shall be submitted to the Department by September 1 of each year until reclamation is completed and approved for release by the Department.

V. Prior Approval Required for Plan Modification. N.C.G.S. §74-52.

The operator shall notify the Department in writing of the desire to delete, modify or otherwise change any part of the mining, reclamation, or erosion/sediment control plan contained in the approved application for a mining permit or any approved revision to it. Approval to implement such changes must be obtained from the Department prior to on-site implementation of the revisions.

VI. Bonding. N.C.G.S. §74-54.

The security, which was posted pursuant to N.C.G.S. §74-54 in the form of a $75,300.00 Irrevocable Standby Letter of Credit, is sufficient to cover the operation as indicated in the approved application. This security must remain in force for this permit to be valid. The total affected land shall not exceed the bonded acreage.

VII. Archaeological Resources. N.C.G.S. §70-3.

1. Minimum Requirements.

A. Authorized representatives of the Division of Archives and History shall be granted access to the site to determine the presence of significant archaeological resources.

B. Pursuant to N.C.G.S. §70-3, "The Unmarked Human Burial and Human Skeletal Remains Protection Act," should the operator or any person in his employ encounter human skeletal remains, immediate notification shall be provided to the county medical examiner and the chief archaeologist, North Carolina Division of Archives and History.

VIII. Approved Reclamation Plan. N.C.G.S. §74-53.

The Mining Permit incorporates this Reclamation Plan, the performance of which is a condition on the continuing validity of that Mining Permit. Additionally, the Reclamation Plan is a separable obligation of the permittee, which continues beyond the terms of the Mining Permit.

To comply with N.C.G.S. §74-53 the approved plan will provide:

1. Minimum Standards.

A. The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at such an angle as to minimize the possibility of slides and be consistent with the future use of the land.

B. Provisions for safety to persons and to adjoining property must be provided in all excavations in rock.

C. All overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices, and which is suitable for the proposed subsequent use of the land.

D. No small pools of water shall be allowed to collect or remain on the mined area that are, or are likely to become noxious, odious, or foul.

E. The revegetation plan shall conform to accepted and recommended agronomic and reforestation practices as established by the North Carolina Agricultural Experiment Station and the North Carolina Forest Service.

F. Permittee shall conduct reclamation activities pursuant to the Reclamation Plan herein incorporated. These activities shall be conducted according to the time schedule included in the plan, which shall to the extent feasible provide reclamation simultaneous with mining operations and in any event, provide reclamation at the earliest practicable time after completion or termination of mining on any segment of the permit area and shall be completed within two years after completion or termination of mining.

2. Reclamation Conditions.

A. Provided further, and subject to the Reclamation schedule, the planned reclamation shall be to restore the mine excavation to a lake area and to grade and revegetate the adjacent disturbed areas.

B. The specifications for surface gradient restoration to a surface suitable for the planned future use are as follows:

i. The lake area shall be excavated to maintain a minimum water depth of four feet measured from the low water table elevation.

ii. The side slopes to the lake excavation shall be graded to a 3 horizontal to 1 vertical or flatter to the water line and 2 horizontal to 1 vertical or flatter below the water line.

iii. Any areas used for waste piles, screening, stockpiling, or other processing shall be leveled and smoothed.

iv. No contaminants shall be permanently disposed of at the mine site. On-site disposal of waste shall be in accordance with Operating Condition Nos. III.11.A through III.11.D.

v. The affected land shall be graded to prevent the collection of noxious or foul water.

3. Revegetation Plan.

After site preparation, all disturbed land areas shall be revegetated as per the Revegetation Plan included in the application and approved by Jerry C. Hall, Moore County Soil &Water Conservation, on June 20, 2023.

Whenever possible, disturbed areas should be vegetated with native warm season grasses such as switch grass, Indian grass, bluestem, and gamma grass.

In addition, the permittee shall consult with a professional wildlife biologist with the N.C. Wildlife Resources Commission to enhance post-project wildlife habitat at the site.

4. Reclamation Plan.

Reclamation shall be conducted simultaneously with mining to the extent feasible. In any event, reclamation shall be initiated as soon as feasible after completion or termination of mining of any mine segment under permit. Final reclamation, including revegetation, shall be completed within two years of completion or termination of mining.

IX. Issuance and Modification Summary. N.C.G.S. §74-51 and §74-52.

This permit issued May 11, 2017, and modified December 1, 2017, is hereby modified this 26th day of October, 2023 pursuant to N.C.G.S. §74-52.

By: _____

Adam Parr, PE, State Mining Engineer
Division of Energy, Mineral, and Land Resources
By Authority of the Secretary
Of the Department of Environmental Quality

1488

ROY COOPER
Governor

ELIZABETH S. BISER
Secretary

WILLIAM E. TOBY VINSON, JR.
Interim Director

NORTH CAROLINA
Environmental Quality

NOTICE REGARDING THE RIGHT TO CONTEST A MINING PERMIT DECISION

Right of Persons Aggrieved to File a Contested Case for the Issuance of, or Modification to, a Mining Permit: Pursuant to NCGS 74-61 and NCGS 150B, Article 3, a party or person aggrieved may file a contested case by filing a petition under NCGS 150B-23 in the Office of Administrative Hearings within 30 days after the Division makes the decision and posts the decision on a publicly available website.

General Filing Instructions: A petition for contested case hearing must be in the form of a written petition, conforming to NCGS 150B-23, and filed with the Office of Administrative Hearings, 1711 New Hope Church Road, Raleigh NC, 27609, along with a fee in an amount provided in NCGS 150B-23.2. A petition for contested case hearing form may be obtained upon request from the Office of Administrative Hearings or on its website at https://www.oah.nc.gov/hearings-division/filing/hearing-forms. Additional specific instructions for filing a petition are set forth at 26 NCAC Chapter 03.

Service Instructions: A party filing a contested case is required to serve a copy of the petition, by any means authorized under 26 NCAC 03 .0102, on the process agent for the Department of Environmental Quality:

William F. Lane, General Counsel
North Carolina Department of Environmental Quality
1601 Mail Service Center
Raleigh, North Carolina 27699-1601

If the party filing the petition is a person aggrieved other than the permittee or permit applicant, the party **must also** serve the permittee in accordance with NCGS 150B-23(a).

* * *

Be aware that other rules or laws may apply to the filing of a petition for a contested case. Additional information is available at https://www.oah.nc.gov/hearings-division/hearing-process/filing-contested-case. Please contact the Office of Administrative Hearings at (984) 236-1850 or oah.postmaster@oah.nc.gov with all questions regarding the filing fee and/or the details of the filing process.

Moore County Planning Board
Land Use Plan Reasonableness & Consistency Statement
Conditional Rezoning Request

Conditional Rezoning of approximately 618 acres, on ParID 20170089, per Deed Book 6234, Page 258, owned by Williams Sand and Clay, LLC, ParID 20180537, per Deed Book 5070, Page 596, which corrected Deed Book 5064, Page 355, owned by William Arthur Williams, and wife, Jan Harman Williams, ParID 00013401, per Deed Book 6131, Page 176, owned by William Arthur Williams, and wife, Jan Harman Williams, located at 985 NC 211 Highway, from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a mining / quarry operation.

The Moore County Planning Board finds that:

1. The Conditional Rezoning request is consistent with the following recommendation as listed in the 2013 Moore County Land Use Plan:

- Recommendation 1.7: Support and promote local businesses.

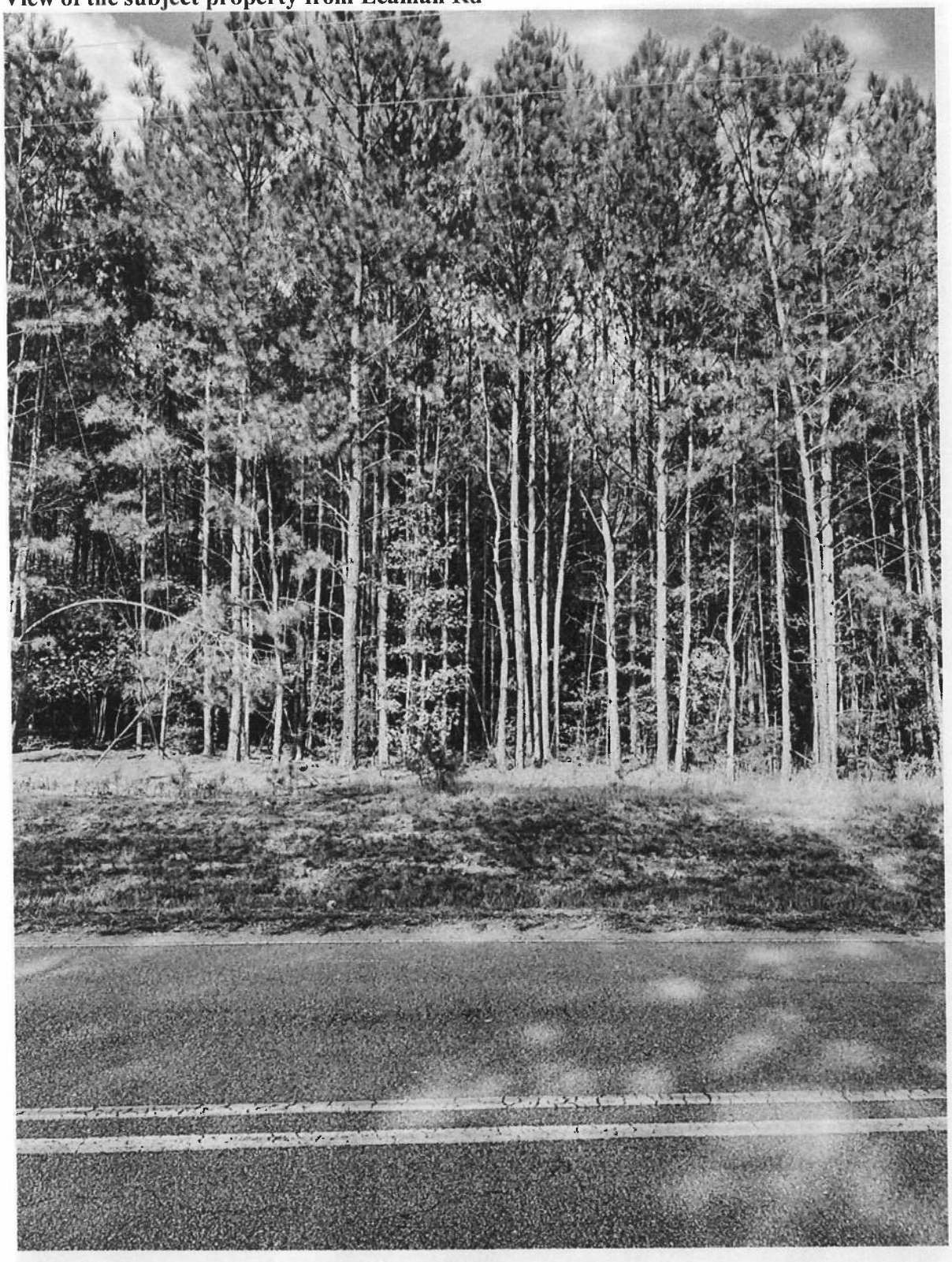
2. The Conditional Rezoning Request is reasonable and in the public interest due to the existing mining operation on site and recommendation listed above.

Therefore, the Moore County Planning Board finds the request for a Conditional Rezoning from Rural Agricultural (RA) to Rural Agricultural Conditional Zoning (RA-CZ) for a mining/quarry operation on approximately 618 acres, on ParID 20170089, per Deed Book 6234, Page 258, owned by Williams Sand and Clay, LLC, ParID 20180537, per Deed Book 5070, Page 596, which corrected Deed Book 5064, Page 355, owned by William Arthur Williams, and wife, Jan Harman Williams, ParID 00013401, per Deed Book 6131, Page 176, owned by William Arthur Williams, and wife, Jan Harman Williams, located at 985 NC 211 Highway, is **consistent** with the 2013 Moore County Land Use Plan.

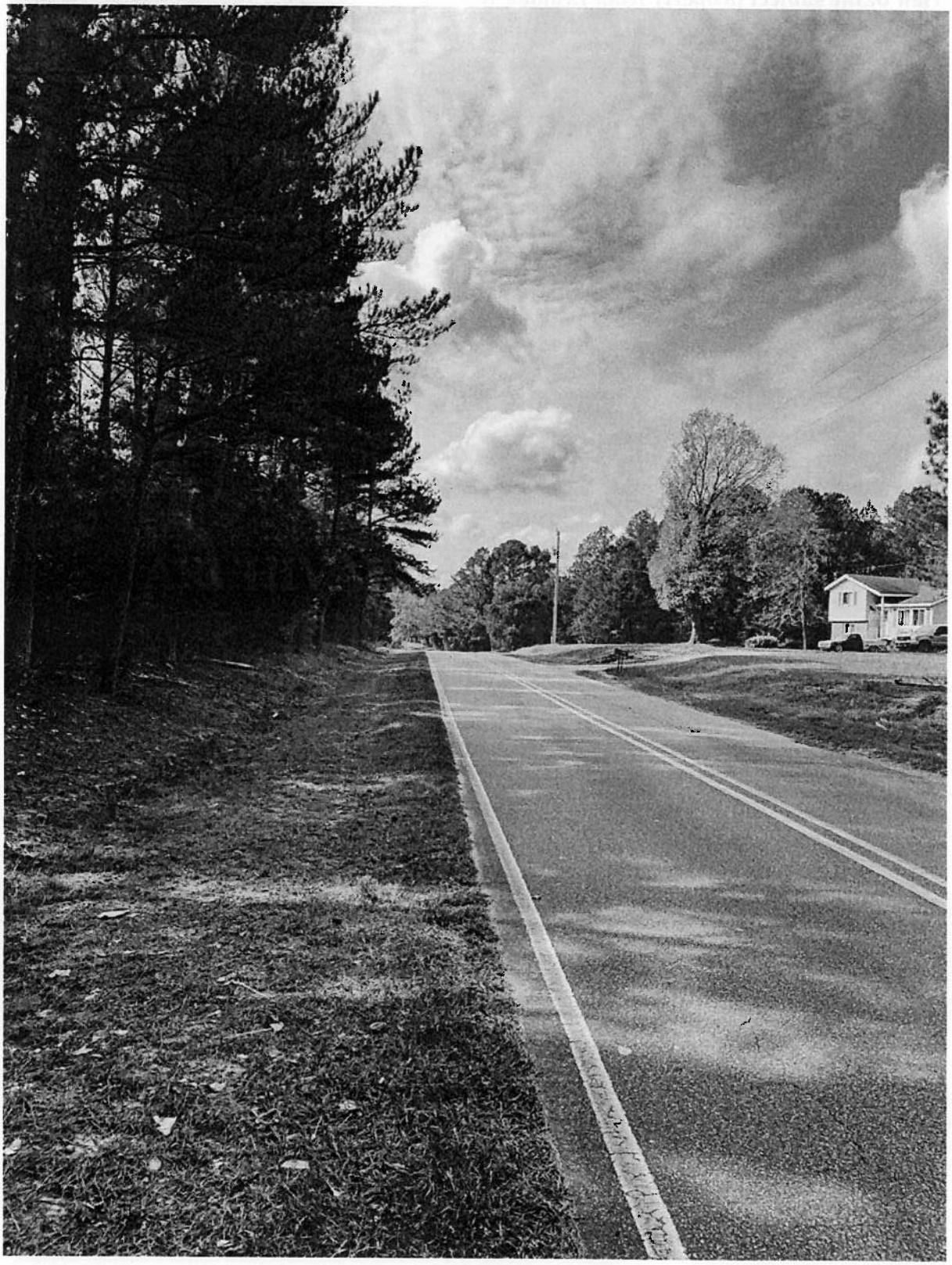
David McLean, Chair
Moore County Planning Board

1/29/2025
Date

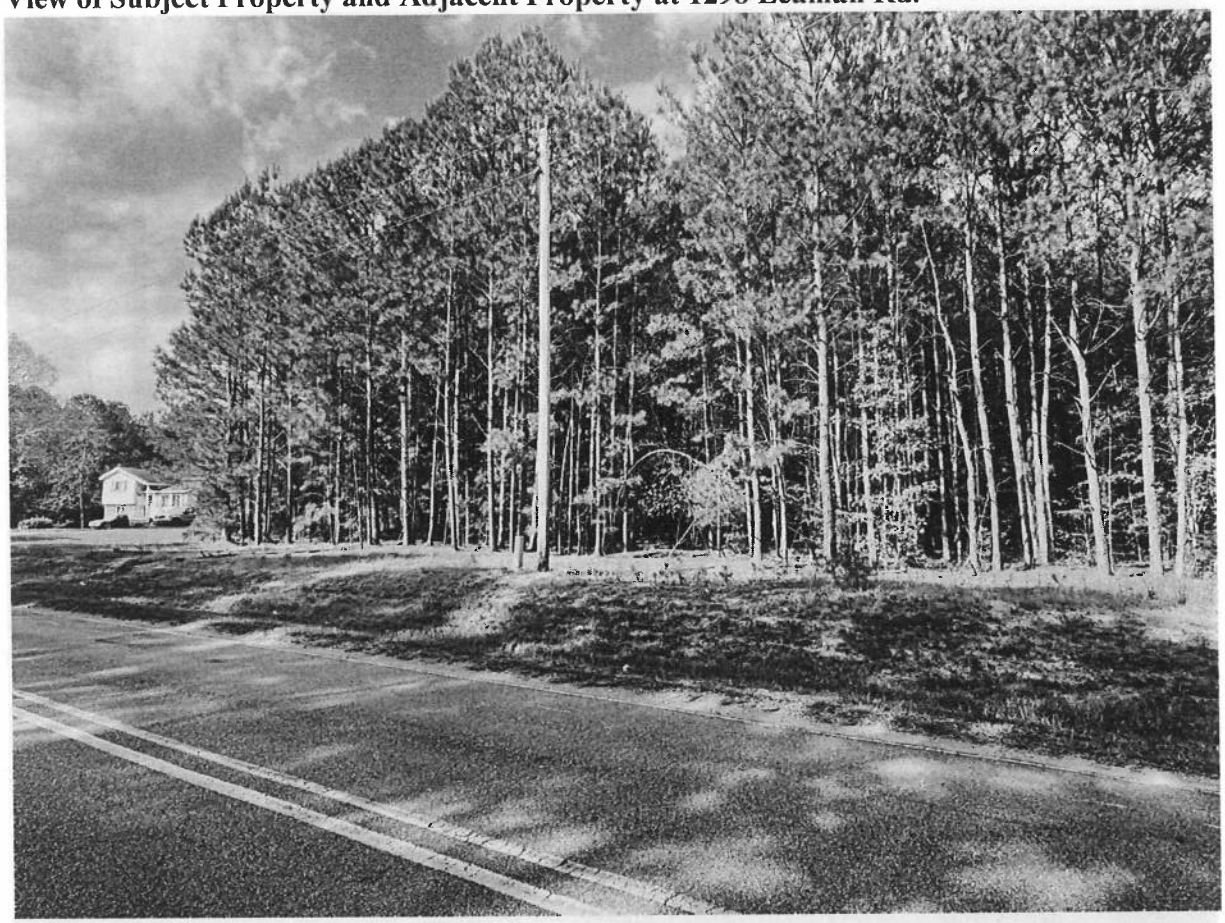
View of the subject property from Leaman Rd



View of Leaman Rd. Westbound



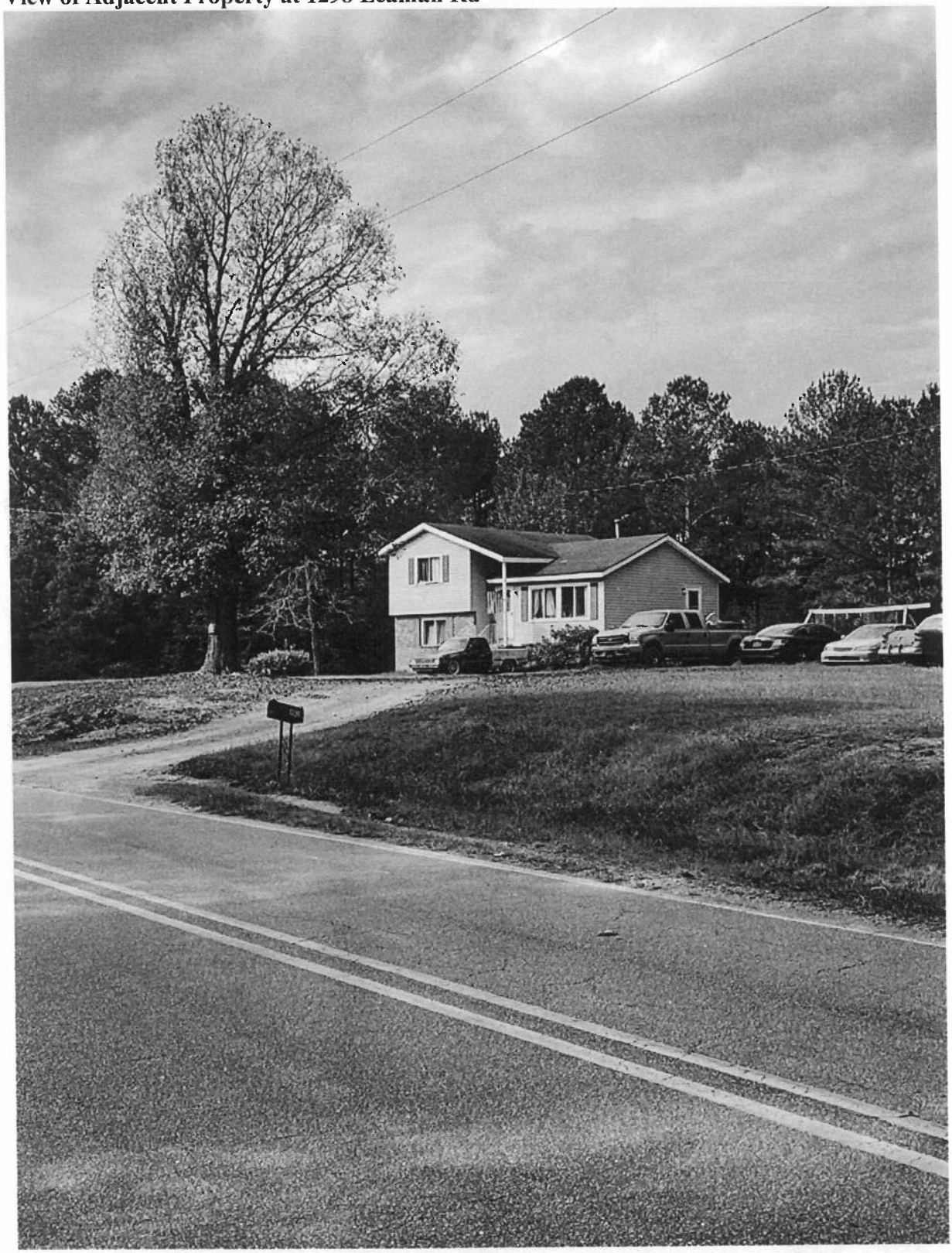
View of Subject Property and Adjacent Property at 1298 Leaman Rd.



View across Leaman Rd from the Subject Property

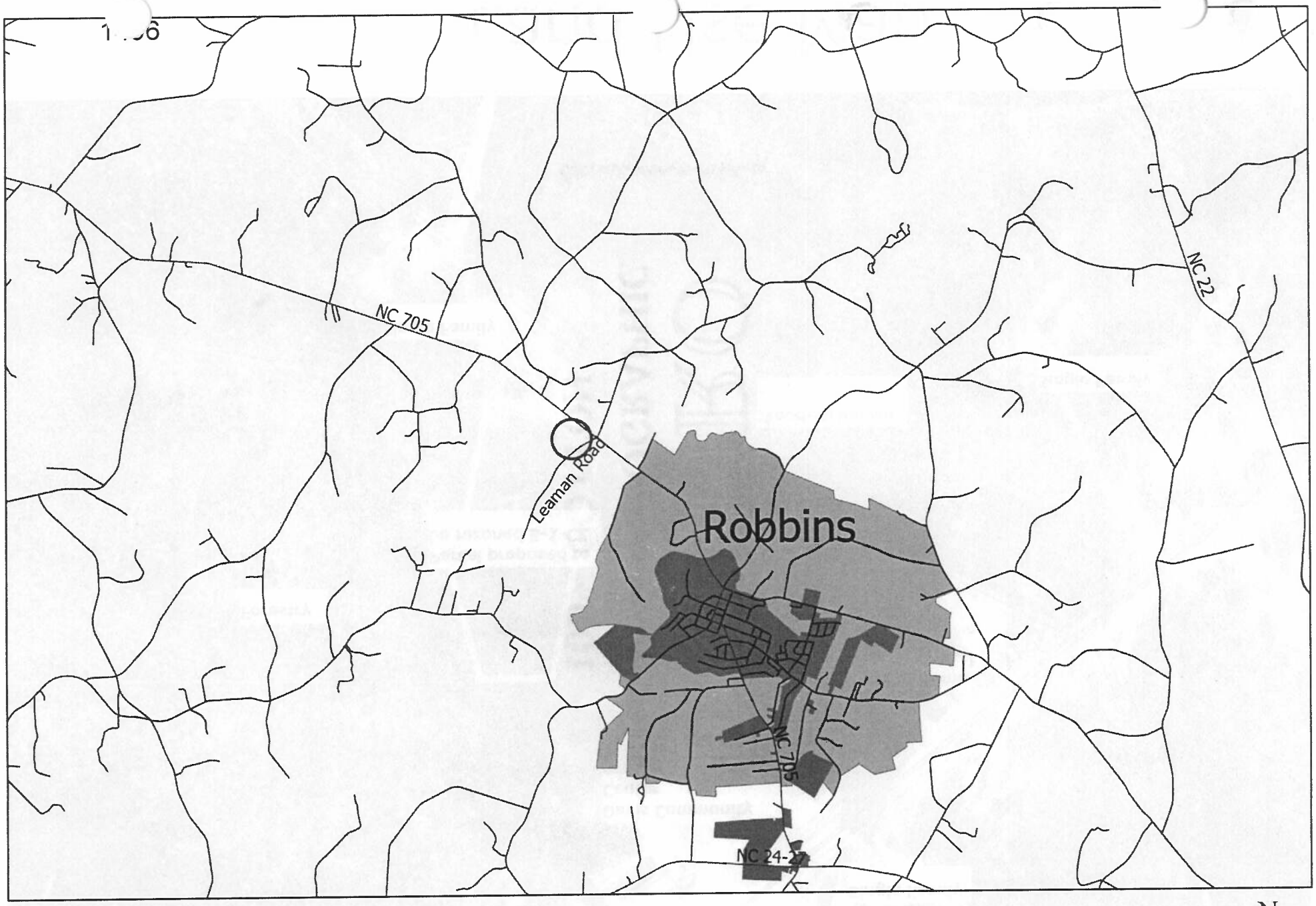


View of Adjacent Property at 1298 Leaman Rd

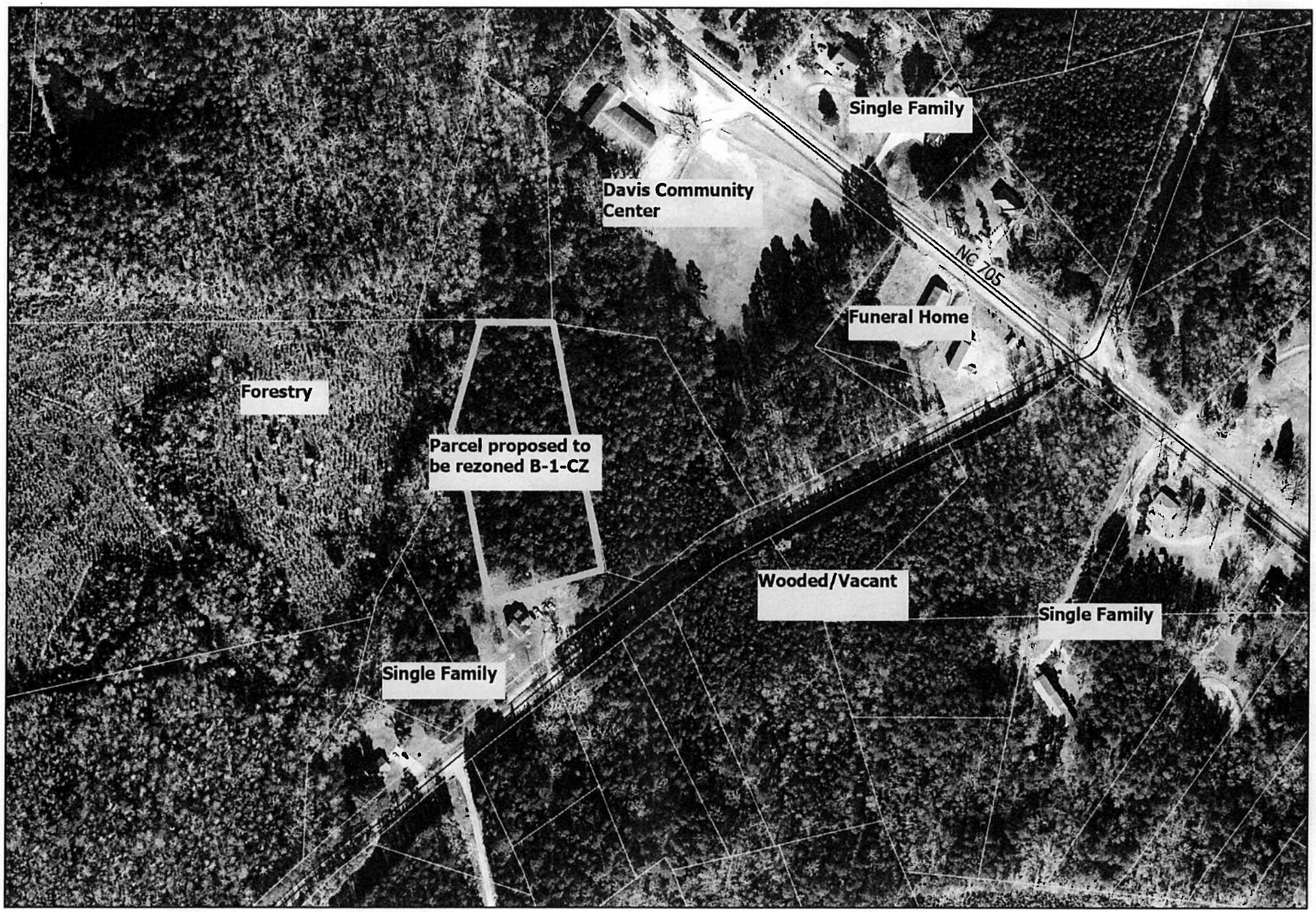


View of Leaman Rd Eastbound



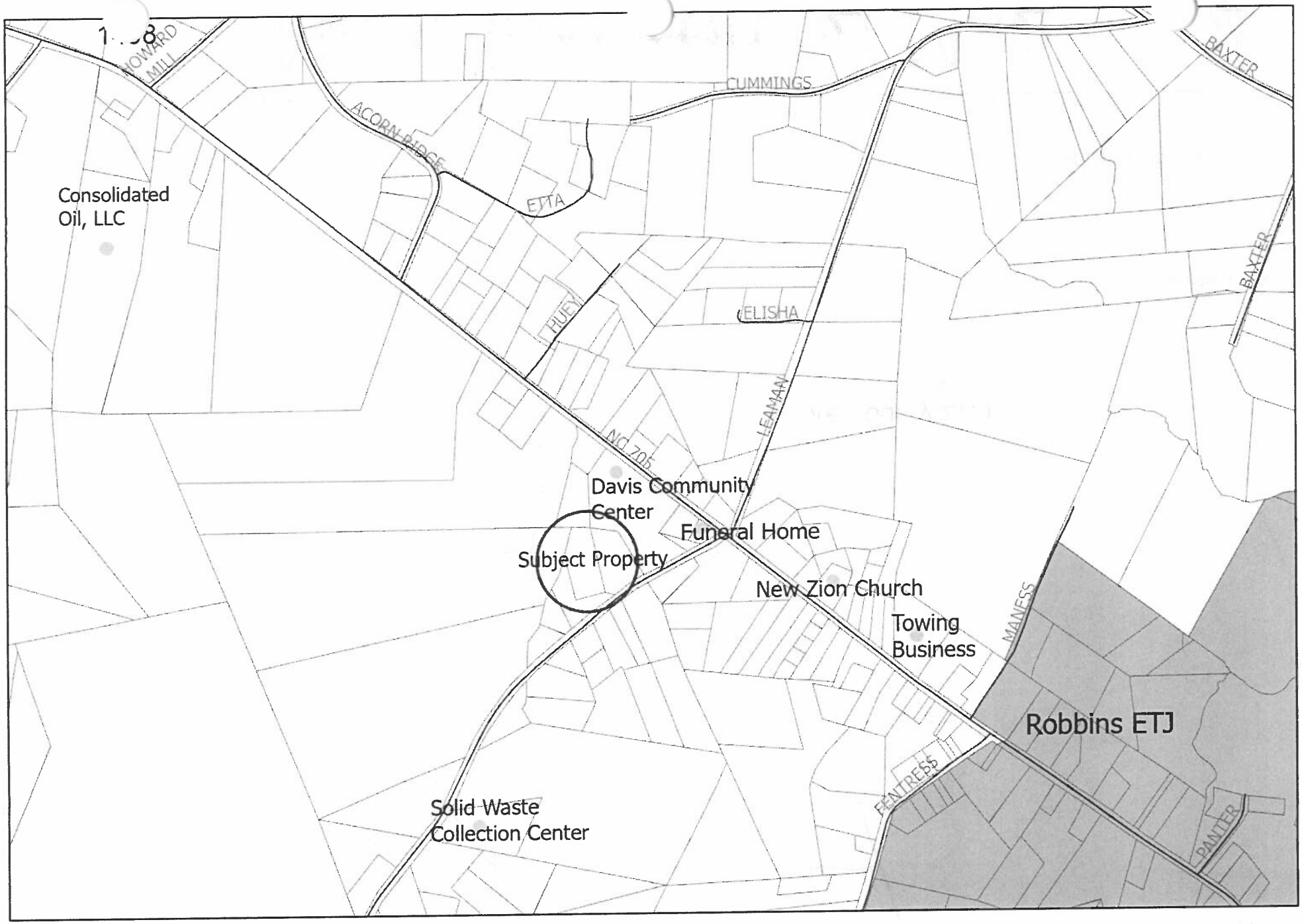


Vicinity Map

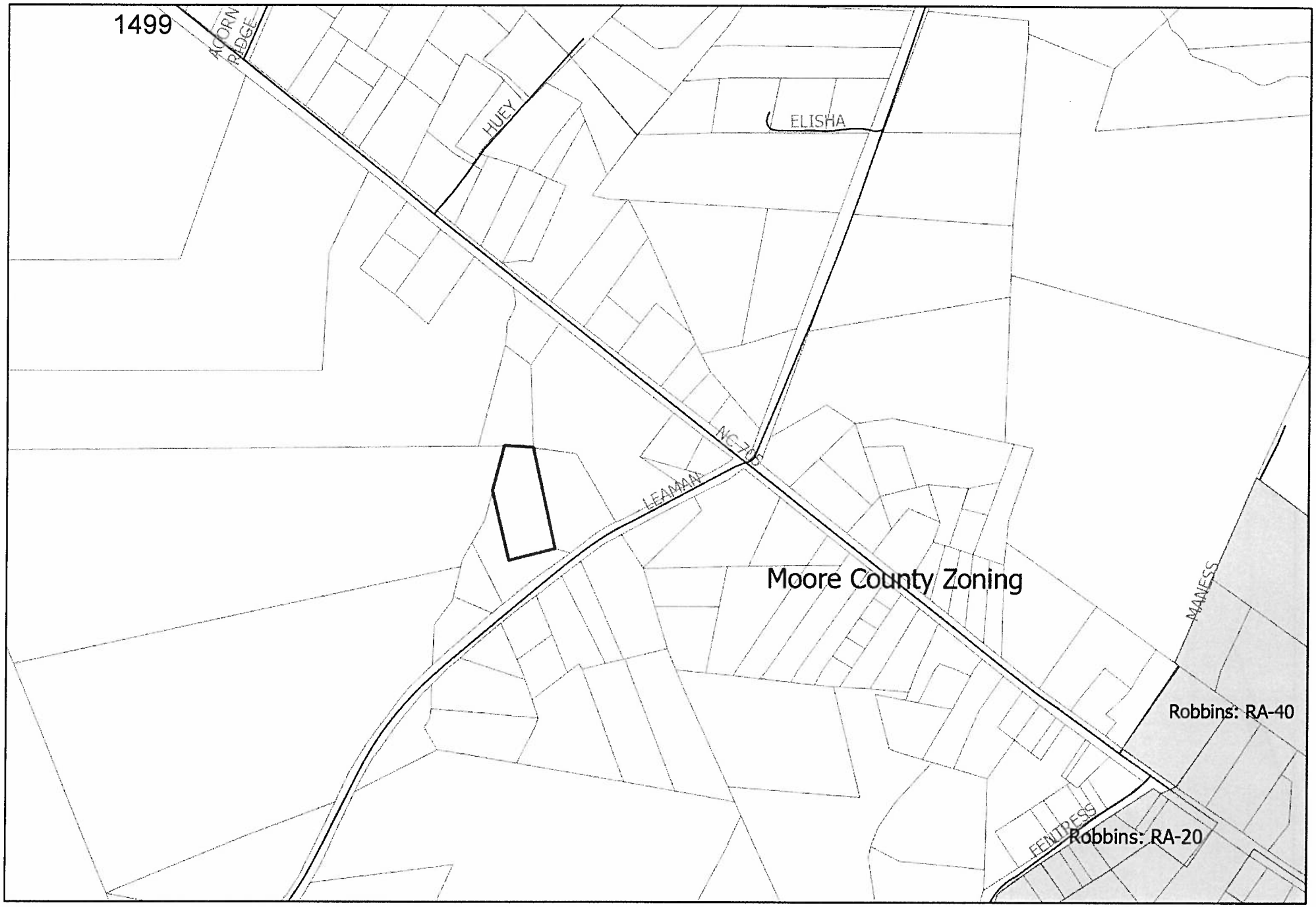


Land Use Map

N



Landmarks Map



Municipal Zoning Map



County Zoning Map

County of Moore
Planning and Inspections

Inspections/Permitting: (910) 947-2221
Planning: (910) 947-5010
Fax: (910) 947-1303

Conditional Rezoning Application

Application Date: 10/4/24			
Address of Property: 1280 LEAMAN RD. ROBBINS, NC 27325			
Applicant: LINDA DUNLAP		Phone: 910 690 2709	
Applicant Address: 259 PUTNAM CH. RD.	City: CARTHAGE	St: NC	Zip: 28327
Owner: LINDA DUNLAP		Phone: 910-690 2709	
Owner Address: 259 PUTNAM CH. RD.	City: CARTHAGE	St: NC	Zip: 28327
Current Zoning District: RA	Proposed Zoning District: B1-CZ		
Current Use(s): RAW LAND	Proposed Use(s): MINI-STORAGE		

Proposed rules, regulations, condition(s) for the proposed district that address the impacts expected to be generated by the development or use of the site:

I EXPECT NOTHING BUT POSITIVE IMPACTS BY DEVELOPMENT OF THIS SITE.

Statement of reasonableness of the proposed conditional zoning. The statement shall include, but not be limited to the following:

1. The conditional rezoning compatibility with the County Land Use Plan and other adopted plans of the County.
2. The conditional rezoning compatibility with the existing land uses on abutting and neighboring tracts.
3. The benefits and detriments of the conditional rezoning for the subject property, neighboring properties and the surrounding community.

1. I WILL BE PROVIDING A SERVICE BADLY NEEDED IN THE AREA OF CARTHAGE TO SEAGROVE. A LOCAL BUILDER WILL BE DOING THE BUILING + I WILL BE ADDING TO THE COMMUNITY AS A SMALL BUSINESS OWNER.

2. THERE ARE TWO OPERATING BUSINESSES WITHIN 1/4 MILE ON THE SAME ROAD. THIS TRACT DOES NOT PERC AND NEITHER WILL ADJOINING TRACTS,

3. THIS WILL FILL A NEED FOR STORAGE IN THE AREAAS THERE ARE WAITING LISTS FOR STORAGE FROM CARHAGE-ASHEBORO.

I (We), the undersigned, certify that all statements furnished in this application are true to the best of my (our) knowledge, and do hereby agree to follow all reasonable requests or information as designated by the County of Moore Zoning Administrator. If Applicant is not owner of property or has joint ownership must provide notarized statement of acknowledgement of submittal.

Applicant/Owner Signature — Date: 10/4/24

Applicant/Owner Signature — Date

Office Use Only:

PAR ID: 00009726

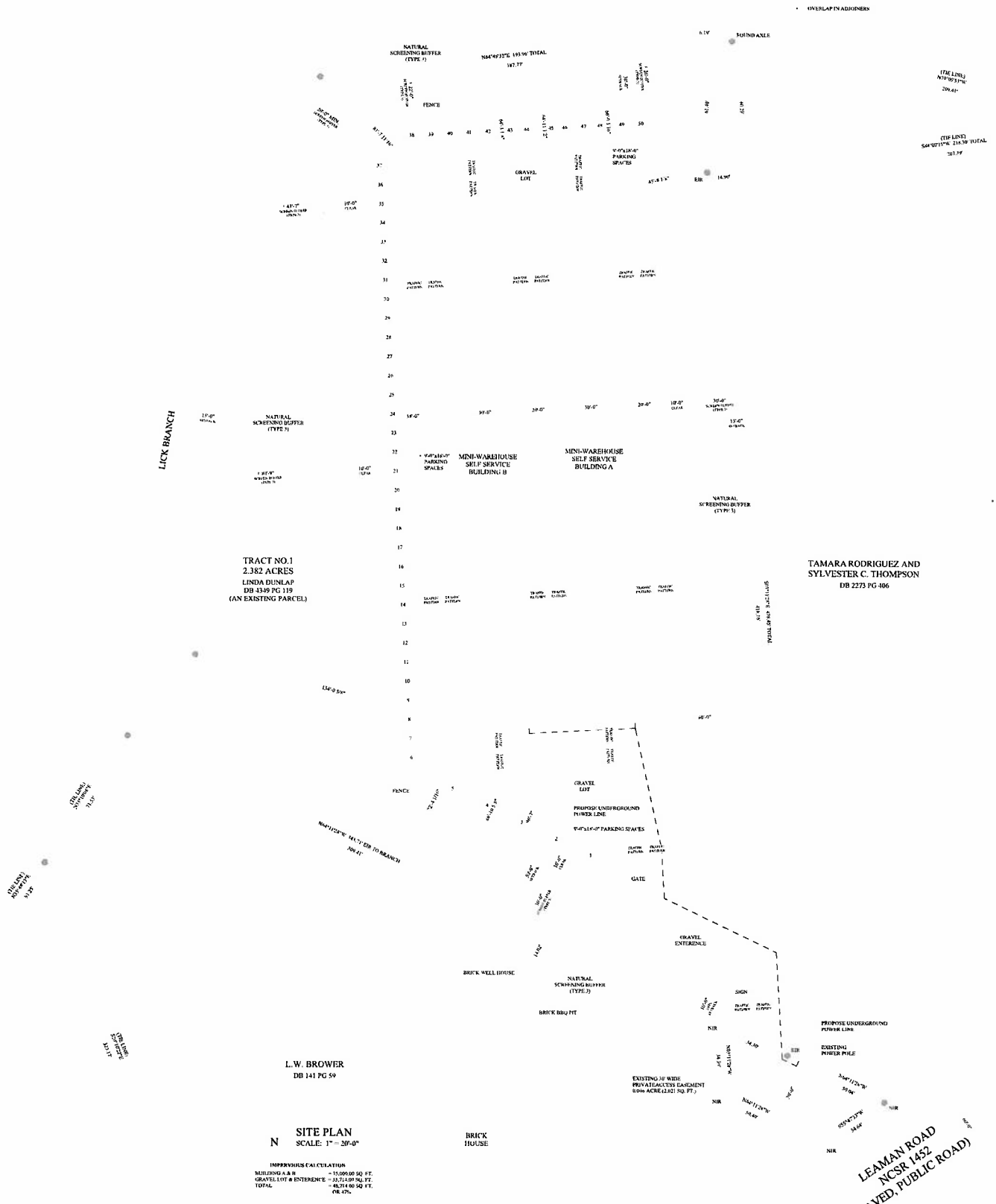
Received By — Date: 10/17/24

JIMMIE ANN LASSITER
DB 160 PG 204
PC 15 SL 103

GEORGE EDWARD BROWER, JR.
DB 933 PG 411

COUNTY OF MOORE
DB 438 PG 589

OVERLAP IN ADJOINERS

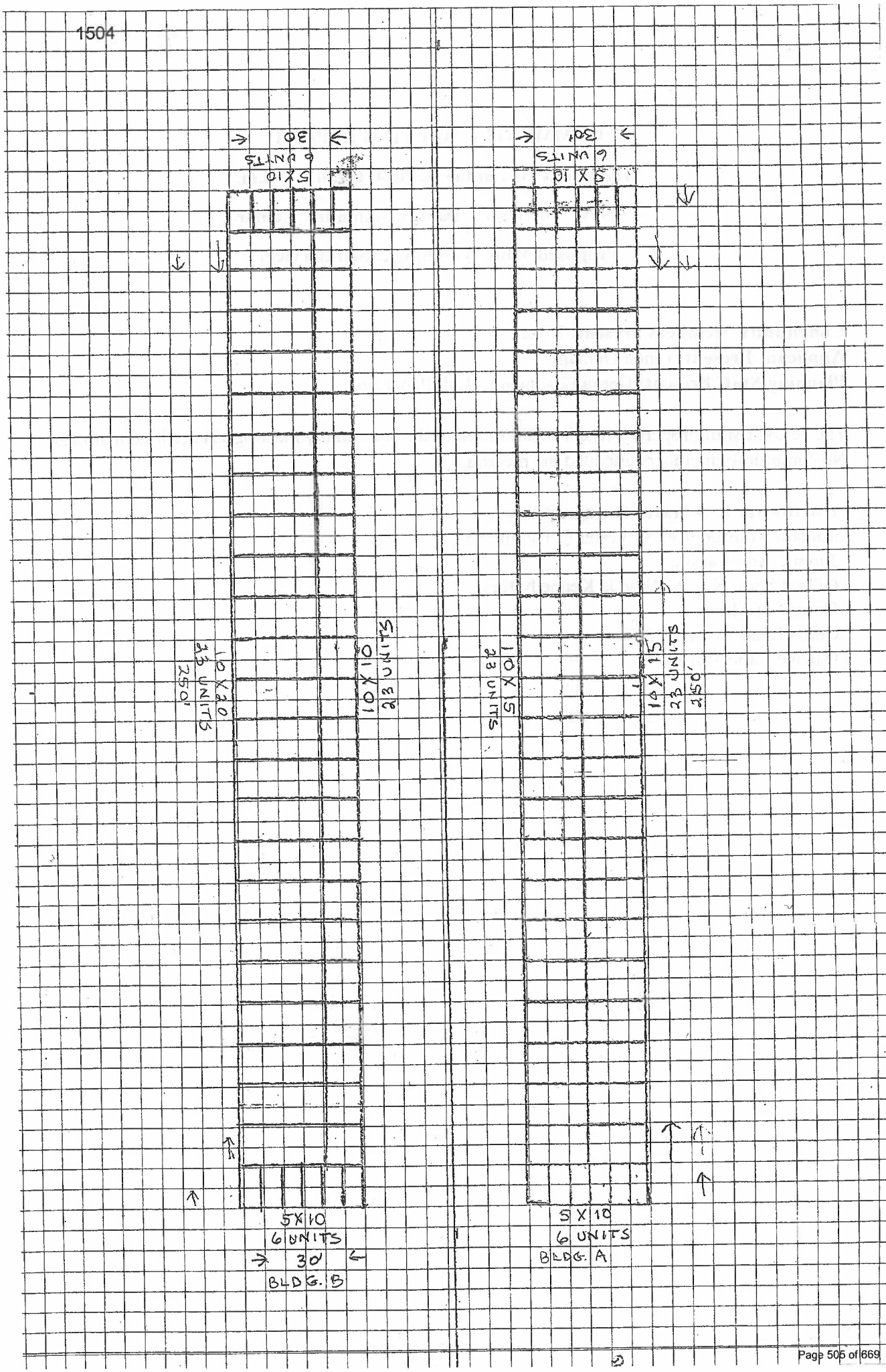


N

SITE PLAN
SCALE: 1" = 20'-0"

IMPERVIOUS CALCULATION
BUILDING A & B = 35,000.00 SQ. FT.
GRAVEL LOT & ENTERENCE = 33,714.00 SQ. FT.
TOTAL = 68,714.00 SQ. FT.
OR 67%

1504


5X10
6 UNITS
30'
10X20
23 UNITS
250'
10X10
23 UNITS
5X10
6 UNITS
30'
BLDG. B
10X15
23 UNITS
14X15
23 UNITS
250'
5X10
6 UNITS
BLDG. A

COMMUNITY MEETING REPORT

Wednesday November 6, 2024, 6 p.m. – 7 p.m.

4799 NC 705 Hwy – Davis Community Center

Proposed Mini-Warehouse (Self-Service)

Community Members Present: None
Applicant Present: Linda Dunlap
Planning Staff Present: Debra Ensminger, Ruth Pedersen

The below list of property owners was notified of the community meeting via certified mailings. No community members attended the meeting.

LW Brower C/O Travis Thompson-White
Tamara Rodriguez & Sylvester C Thompson
Jimmie Ann Lassiter
Gilbert Scott Key & Rhonda Kennedy Key
County of Moore
Curtis Leon Brower
Darrlye Lane Marley

1506

FOR REGISTRATION REGISTER OF DEEDS
Judy D. Martin
Moore County, NC
May 06, 2014 02:02:22 PM
Book 4349 Page 119-120
FEE: $26.00
NC REVENUE STAMP: $4.00
INSTRUMENT # 2014005082



INSTRUMENT # 2014005082

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax | Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____
Verified by _____ County on the _____ day of _____, _____
by _____

Mail after recording to Thigpen & Jenkins, L.L.P., Post Office Box 792, Robbins, North Carolina 27325

This instrument was prepared by Frank C. Thigpen, Thigpen & Jenkins, L.L.P.

Brief description for the Index: Lot #3, 2.4 acres

THIS DEED made this 30th day of April, 2014, by and between

GRANTOR	GRANTEE
Barbara Foushee, unmarried	Linda Dunlap 259 Putnam Church Road Carthage, NC 28327 (mail)

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.q. corporation or partnership.

The designation 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, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that

certain lot or parcel of land situated in the City of _____, Sheffield Township, Moore County, North Carolina and more particularly described as follows:

Being all of Lot #3 of the Lane W. Brower Sub-Division and more particularly described as follows: BEGINNING at an iron stake and running South 56 deg. East 20-1/2 poles to an iron stake; thence South 6 deg. East 29 poles to an iron stake; thence South 82 deg. West 13-1/2 poles to an iron stake; thence South 7 deg. 30' West 19 poles to the BEGINNING, containing 2.4 acres, more or less

For further reference see Deed Book 983 at Page 066, Moore County Registry.

THE LAW FIRM OF THIGPEN AND JENKINS, L.L.P., HAS NEITHER EXAMINED NOR CERTIFIES AS TO THE TITLE OF THE ABOVE DESCRIBED PROPERTY.

1507

The property hereinabove described was acquired by Grantor by instrument recorded in Deed Book 983, Page 066 Moore County Registry.

A map showing the above described property is recorded in Plat Book _____ page _____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

USE BLACK INK ONLY

_____ (Corporate Name)

By _____

_____ President

ATTEST:

_____

_____ Secretary (Corporate Seal)

Barbara Foushee (SEAL)
BARBARA FOUSHEE

_____ (SEAL)

_____ (SEAL)

_____ (SEAL)

SEAL-STAMP

REGINA C. FREEMAN NOTARY PUBLIC Moore County North Carolina

Use Black Ink

NORTH CAROLINA, MOORE County.
I, a Notary Public of the County and State aforesaid, certify that Barbara Foushee Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 6 day of May 2014.

My commission expires: November 29, 2016 Regina C. Freeman Notary Public

SEAL-STAMP

Use Black Ink

NORTH CAROLINA, _____ County.
I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is Secretary of _____ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by _____ President, sealed with its corporate seal and attested by as its _____ Secretary.
Witness my hand and official stamp or seal, this _____ day of _____ _____.

My commission expires: _____ _____ Notary Public

The foregoing Certificate(s) of _____

_____

_____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on first page hereof.

_____ REGISTER OF DEEDS FOR _____

By _____ Deputy/Assistant – Register of Deeds

1508

FOR REGISTRATION REGISTER OF DEEDS
William Britton
Moore County, NC
March 09, 2023 01:07:48 PM
Book 5983 Page 68-69
FEE: $26.00
NC REVENUE STAMP: $1.00
INSTRUMENT # 2023002917

HM



INSTRUMENT # 2023002917

mail to: Linda Dunlap
259 Putnam Church Rd.
Cathage, NC 28327

NORTH CAROLINA

EASEMENT

MOORE COUNTY

This document drafted by: Frank C. Thigpen,
Thigpen and Jenkins, L.L.P., Attorneys at Law, Robbins, North Carolina 27325

THIS DEED OF EASEMENT, made this 14th day of February, 2023, by and between, **TRAVIS THOMPSON-WHITE, widower** of Bloomfield, New Jersey, Party of the First Part; and **LINDA C. DUNLAP,** of Moore County, North Carolina, Party of the Second Part;

WITNESSETH

THAT WHEREAS, the said Party of the First Part is the owner (as per information provided by the Party of the Second Part) of a certain tract of land, as described in Deed Book 141, Page 159, Moore County Registry, which said land adjoins the lands of the Party of the Second Part, said lands being located in Sheffield Township, Moore County, North Carolina; **AND WHEREAS,** the said Party of the Second Part desires a perpetual, non-exclusive easement and right of way to its property, as recorded and as shown as Tract No. 1, containing 2.382 acres more or less, in Plat Cabinet 18, Slide 331, Moore County Registry; **AND WHEREAS,** said Party of the First Part is willing to and has agreed to convey to the Party of the Second Part a perpetual, non-exclusive right of way and easement for ingress, egress, regress and utilities across his tract of land along the hereinafter described easement to the lands of the Party of the Second Part;

NOW, THEREFORE, the said Party of the First Part, for and in consideration of the sum of TEN DOLLARS to him in hand paid, the receipt of which is hereby acknowledged, does hereby give, grant and convey unto the said Party of the Second Part, her heirs and assigns, a perpetual, non-exclusive right of way and easement for ingress, egress, regress and utilities along the hereinafter described easement, extending across and upon the said lands of the Party of the First Part from N. C. State Road 1452 (Leaman Road) to access the Party of the Second Part's 2.382 acres as described in Plat Cabinet 18, Slide 331, Moore County Registry, and said easement being

more particularly described as follows:

Being all that certain area shown as "Proposed 30' wide private access easement" as fully shown on that certain map or plat entitled "Survey of an Parcel for Linda Dunlap, Sheffield Township, Moore County, North Carolina dated November 29, 2019 and drawn by Eugene M. Garner PLS L-3904, Robbins, North Carolina 27325 as fully recorded in Plat Cabinet (Book) 18, Slide (Page) 331, Moore County Registry.

TO HAVE AND TO HOLD the aforesaid perpetual, non-exclusive right of way and easement to her, the said Party of the Second Part, and her heirs and assigns in title forever; it being agreed that the perpetual, non-exclusive right of way and easement hereby granted is appurtenant to and runs with the land now owned by the Party of the Second Part as hereinabove referred to.

IN TESTIMONY WHEREOF, the said Party of the First Part has hereunto set his hand and seal the day and year first above written.

Travis Thompson White (SEAL)
(TRAVIS THOMPSON-WHITE)

PENELOPE C JIMENEZ YEPEZ NOTARY PUBLIC NEW JERSEY

STATE OF New Jersey

COUNTY OF Passaic

I, Penelope C Jimenez Yepez a Notary Public in and for said County and State, do hereby certify that **TRAVIS THOMPSON-WHITE** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and notarial seal this 21 day of February 2023.

NOTARY PUBLIC

PENELOPE C JIMENEZ YEPEZ
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES AUG. 24, 2023

MY COMMISSION EXPIRES:

(SEAL STAMP)

1510

For Registration Register of Deeds
William Britton
Moore County, NC
Electronically Recorded
October 21, 2024 11:55:24 AM
Book: 6248 Page: 408 - 409 #Pages: 2
Fee: $26.00 NC Rev Stamp: $0.00
Instrument # 2024014221

NORTH CAROLINA GENERAL WARRANTY DEED

This instrument prepared by: Frank C. Thigpen, Thigpen & Jenkins, LLP
Mail after recording to: Grantee
NO TITLE EXAMINATION COMPLETED

R.S. $0.00

Brief description for the index: Tract No. 1 containing 2.82 Acres +/-

This Deed made this 17th day of October, 2024 by and between:

GRANTOR:	GRANTEE:
LINDA C. DUNLAP, single	**LINDA C. DUNLAP** **259 Putnam Church Road** **Carthage, NC 28327**

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, tract, or parcel of land situated in the Sheffield Township in Moore County, North Carolina, and more particularly described as follows:

BEING ALL OF TRACT 1, CONTAINING 2.82 ACRES MORE OR LESS, AS FULLY SHOWN ON THAT CERTAIN PLAT ENTITLED "SURVEY FOR A PARCEL FOR LINDA DUNLAP, SHEFFIELD TOWNSHIP, MOORE COUNTY, NORTH CAROLINA, DATED NOVEMBER 23, 2019, DRAWN BY EUGENE M. GARNER L-3904 AND DULY RECORDED IN PLAT CABINET 18, SLIDE 331 IN THE MOORE COUNTY REGISTER OF DEEDS.

ALSO CONVEYED HERETO IS THAT CERTAIN 30' ACCESS EASEMENT FOR INGRESS, EGRESS REGRESS AND UTILITIES EXTENDING FROM LEAMAN ROAD (SR#1452) TO TRACT 1 AS SHOWN IN PLAT CABINET 18, SLIDE 331 IN THE MOORE COUNTY REGISTER OF DEEDS. SEE ALSO DEED BOOK 5983, PAGE 68 AND PLAT CABINET 18, SLIDE 331, MOORE COUNTY REGISTRY.

Submitted electronically by "Thigpen and Jenkins, LLP"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Moore County Register of Deeds.

1511

THIS CONVEYANCE IS MADE SUBJECT TO: (I) AD VALOREM TAXES FOR THE CURRENT YEAR, WHICH TAXES SHALL BE PRORATED AT CLOSING; (II) UTILITY EASEMENTS OF RECORD; (III) RESTRICTIONS ENFORCEABLE AGAINST THE PROPERTY.

THE LAW FIRM OF THIGPEN AND JENKINS, LLP, HAS NEITHER EXAMINED NOR CERTIFIES TITLE TO THE ABOVE DESCRIBED PROPERTY.

TO HAVE AND TO HOLD THE AFORESAID LOT OR PARCEL OF LAND AND ALL PRIVILEGES AND APPURTENANCES THERETO BELONGING TO THE GRANTEE IN FEE SIMPLE.

And the Grantor covenants with the Grantee, that Grantor is seized of said premises in fee simple and has the right to convey in fee simple; that the title is marketable and free and clear of all encumbrances and that the Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

The designation 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.

IN WITNESS WHEREOF, the said Grantors has hereunto set her hand and seal the day and year first above written.

Linda C. Dunlap (SEAL)
LINDA C. DUNLAP

STATE OF NC
COUNTY OF Moore

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Principal(s): **LINDA C. DUNLAP.**

Date: 10-21-24

Regina C. Scofield
Notary Public

My Commission expires: November 29, 2026

REGINA C. SCOFIELD
Notary Public, North Carolina
Moore County
My Commission Expires

Memorandum of Understanding (MOU)
Among the following agencies:

County of Moore, NC and the Veterans Treatment Court Board

Purpose:
This MOU establishes the roles and responsibilities of the County of Moore, NC and the Veterans Treatment Court (VTC) Board created pursuant to N.C.G.S 7A-796, concerning the administrative and programmatic management of the VTC program funded by the Bureau of Justice Assistance (BJA) grant (15PBJA-24-GG-03988-VTCX). This agreement ensures clarity regarding oversight, management, and compliance responsibilities.

1. Roles and Responsibilities

1.1 Moore County Responsibilities (Grantee)

As the prime recipient of the BJA grant, Moore County agrees to:

a. Fulfill all requirements under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards pursuant to 2 C.F.R. Part 200;
b. Maintain written policies and procedures to ensure proper internal controls and oversight of the grant;
c. Monitor the program to ensure compliance with federal regulations, financial requirements, procurement, and performance goals; and
d. Maintain records demonstrating adherence to the following:
   Signed award agreement; and
   Any audit findings and resolutions.
e. To provide a VTC Director position and staff position provided these positions are solely funded by grant funds. No County funds will be used for VTC.

1.2 Veterans Treatment Court Board Responsibilities

The VTC Board agrees to:

a. Assume full programmatic responsibility for the Veterans Treatment Court program, ensuring adherence to best practices, grant deliverables, and performance objectives;
b. Provide guidance and oversight to ensure the VTC Director and staff adhere to policies established by the VTC Board and meet grant performance expectations, exercising full disciplinary oversight including recruitment and selection, performance evaluations, corrective actions, and, if necessary, termination in compliance with the Moore County Personnel Policy, applicable laws, and grant guidelines; the VTC Board's disciplinary oversight, recruitment, and selection of all personnel shall be in compliance with the Moore County policies and commensurate therewith;
c. House the Veterans Treatment Court personnel in the Court's Facility Building at 102 Monroe Street, Carthage, NC, or other county owned or leased building;
d. Submit all required reports, performance data, and documentation to Moore County in a timely manner;

e. Conduct regular reviews of program progress to ensure alignment with grant requirements and corrective actions when necessary;
f. Regularly review program progress, address deficiencies, and implement corrective actions as needed; and
g. Provide assurance that all grant requirements are met, including personnel management and program performance objectives.
h. The VTC Board shall appoint a presiding judge, or presiding judges, to preside over all Veterans Treatment Court sessions of court and may be either Superior Court Judges or District Court Judges pursuant to the cross-jurisdictions of court created by any administrative orders for the exercise of Veterans Treatment Court and proceedings;

3. Conflict Resolution

In the event of a conflict regarding responsibilities or grant compliance:
a. Both parties agree to meet to resolve the issue collaboratively.
b. If unresolved, the matter will be escalated to the granting agency for guidance.

4. Term and Modification

This MOU is **effective beginning February 18, 2025,** and remains in effect for the duration of the grant period unless amended by mutual agreement or terminated by either party without cause upon 180 calendar days' notice to the other party.

County of Moore

Kurt Cook

Kurt Cook, Chair,
Moore County Board of Commissioners

COUNTY OF MOORE CORPORATE SEAL NORTH CAROLINA

Attest:

Jennifer Parks

Jennifer Parks, Clerk
Board of Commissioners

Veterans Treatment Court Board:

Michael A. Stone

Senior Resident Superior Court Judge Michael A. Stone, Chair VTC Board