



The Umstead Coalition

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*B.W. Wells Association
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*New Hope Audubon Society
Neuse Riverkeeper Foundation
NC Herpetological Society
NC League Conservation Voters Foundation
NC Wildlife Federation*

*NC Native Plant Society
Orange-Chatham Group Sierra Club
Raleigh Ski and Outing Club, Inc.
Rockingham Naturalist's Club
Friends of Jockey's Ridge
Wake Audubon Society*

December 4, 2020

MEMORANDUM

To: Paul Wojoski NC Division of Water Resources (DWR), NC Department of Environmental Quality

Re: **Reference:** Request to DENY Buffer Authorization (Neuse Buffers) DEQ ID number: 20171487, Version 4 (Neuse River Basin, 15A NCAC 02B. 0233). Enhanced Security Perimeter Fencing for RDU Airport Authority, RDUAA Project No. 211130 –request DENIAL of environmental authorizations, permits and certifications

From: Dr. Jean Spooner, Chair, The Umstead Coalition (cell 919-602-0049)

The re-submitted application dated October 14, 2020 for the “Raleigh - Durham Airport Authority - Enhanced Security Perimeter Fencing” should be denied. It is not substantially changed from the previous application for this project that was denied. The correct action for DWR is to DENY similar to the previous application for this project...

The concerns we raised for the previous fence application are the same (attached).

We believe there are errors in the Application's Submitted answers, including:

“A. Owner/Applicant Information. 1. Property Owner Information”

1a. The Applicant said the “Name on Recorded Deed” is “Raleigh-Durham Airport Authority.

This is **incorrect**. The Name on most of the Recorded Deed(s) are NOT the Raleigh Durham Airport Authority. The majority of the Deeds as recorded at Wake County Real Estate show the Deeded Owners as: City of Raleigh, City of Durham, County of Wake, and County of Durham.

In addition, the NC enabling legislation and its amendments (the RDUAA “Charter”) referred to these four local governments as the “Municipal Owners.”

RDUAA manages the airport, but they are NOT the name on all the recorded deeds for the tracts affected by this Neuse Buffer Application.

RECOMMENDATION: DWR should ask RDUAA for copies of all the Recorded Deeds for all the tracts affected. The “Table of Deeds” listing provided with the Application is insufficient. The actual deeds will reveal the “Deeded Owners” which are NOT RDUAA.

"B. Project Information and Prior Project History. 4. Proposed Activity"

The details provided are minimal and insufficient justification for project purpose to merit the violation of buffers.

The proposed fence is NOT needed for security of runways/terminals/parking lots because there is already a security fence providing this purpose.

The width of the proposed project remains as a 30 ft wide clearing and only artificially reduced to 10 feet (5 feet on either side of fencing) at stream crossings. Furthermore and disturbingly, the destruction width remains at 30 feet through wetlands.

The impact of the RDUAA trucks and/or 4-wheelers to "Patrol" the fence will be intensive. How will the streams and wetlands be protected?

MISSING INFORMATION:

What is the permanent design at the stream/ wetland crossings? This is MISSING and a vital design component. Are they just going to put trucks through the stream and wetland crossings, causing a muddy mess? Or? What will be used at the stream and wetland crossings to protect against the damage due to the patrol road vehicular traffic (4-wheelers, trucks utilized by the RDUAA staff to "patrol" the fence)? How will the streams and wetlands be protected?

How will the "gates" across the streams be managed? Will they be opened manually? Will they be opened remotely? What criteria will be used? Has there been any similar gate operation on RDUAA or elsewhere to show that this will in fact happen or is feasible? These gates will likely result in a backup of vegetative debris causing further stream damage – a well-documented problem with such gates.

"D. Impact Justification and Mitigation. 1 Avoidance and Minimization"

'1a. and 1b. No real attempt to Avoid and Minimize has been employed. The fence is not needed. In addition, there is plenty of room for the fence to be pushed back from the streams and wetlands. The minor changes in this resubmitted application do not indicate any substantial reduction. The only attempt in this application to "minimize" is to try to further "segment" this project into future applications.

QUESTIONS: Why is the destruction width still 30 feet through the wetland areas?

Why build the fence at all? Why not locate the fence farther from Haley's branch?

The proposal reduces the clearing in zone 1 and 2 of the Neuse River Buffer to 10', but keeps 30' everywhere else. Not sure why any clearing is necessary, since fences can meander some to avoid trees in the NRB. Fence installation could be accomplished with almost no disturbance in the NRB. This further demonstrates RDUAA intent is to build ROADS and fencing.

In addition, if the reason for the fence is to “protect the Neuse Buffers” then WHY is RDUAA still proposing to SEVER the most popular William B. Umstead State Park Reedy Creek trail? That is a needless location for the fence and only serves to disrupt the Park trail usage that has occurred since 1934 and also the official East Coast Greenway and US1 Bike routes?

F. Supplementary Information

1a. Expenditure of Public Funds. Does the project involve an expenditure of public (federal/ state/ local) funds or the use of public (federal/ state) land?

ERROR in Application: RDUAA answered “No” to this question. By the very nature of the RDUAA as set out by NC Law, the RDUAA is a PUBLIC body. All its revenues are public funds. This would be an expenditure of public funds.

RDUAA should be asked what is the source of funds? If not “public”?

F. Supplementary Information. Violations. 2.a. Is the site in violation of DWR Wetland Rules (15A NCAC 021- 11. 0500), Isolated Wetland Rules (15A NCAC 02H . 1300), DWR Surface Water or Wetland Standards, or Riparian Buffer Rules (15A NCAC 02B .0200)?

ERROR: RDUAA answered “Yes” The answer should be “No.” There has been NO Notice of Violation issued. In addition, the letter from DEQ Deputy Secretary dated February 14, 2020 does not state any violations. Her letter only states:

“DEQ is aware of the activity at the property and the resulting damage to the buffers. DEQ is also aware of ongoing discussions among several parties regarding potential scenarios where land would be leased from RDU for a single track bike facility. DEQ recommends that such an agreement be expedited to the extent possible so that the ongoing environmental impacts can be addressed and resolved long- term. DEQ stands ready to work with all parties to come to an acceptable resolution.”

This reference letter from Ms. Holman does not cite any notice of Violation. In contrast her letter encourage solutions that do not include the fence (e.g., the offer by NC State Parks – attached)

Other comment

There are major upcoming airport project that are likely to affect the wetland delineations. For example, the FAA is mandating a full EIS for the parking lots, runways, terminal projects. The EIS process has commenced with Pre-Scoping meetings. Some of the wetland and stream determinations were performed going back to 2017, related to economy #3 parking lot. These are only good for five years. **Therefore, any consideration for the proposed Buffer Authorization for the fence and associated road/clearing should be delayed until the EIS is complete.**

The reasons given by DWR in their denial letter of July 21, 2020 for the previous application remain as reasons for denial for this repeated attempt:

"After reviewing the application and additional information provided, the Division has determined that the proposed impact to riparian buffers does not fit in the Table of Uses in 15A NCAC 02B . 0233(6) as " protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel." The purpose of and historical application of this item within the Table of Uses is to authorize the stabilization of streambanks that are threatening existing physical structures, which are circumstances not present here. This item within the Table of Uses is not intended to authorize buffer impacts to, as stated in your additional information response, " protect ... property" or to " prevent trespassing" or to " protect [a landowner] from any potential liabilities associated with trespassers." Portions of the proposed security fence will encircle undeveloped property where no existing structures or facilities are present. Other portions of the proposed fence are redundant to existing airport facility fencing and thousands of feet from existing structures. Moreover, the current proposal includes a 10- foot permanent maintenance corridor on each side of the fence for " routine" patrols by law enforcement and maintenance personnel. A maintenance corridor for a new fence and patrol corridor is not within the scope of this item in the Table of Uses [15A NCAC 02B . 0233(6)] and is more appropriately defined as a road. Additionally, DWR is concerned about the potential for increased and ongoing vehicular traffic within the buffer."

Cc:

Mike Regan, Secretary, NC Department of Environmental Quality (NC DEQ)
Susi H Hamilton, Secretary, NC Department Natural and Cultural Resources (NC NCR)
Sheila C. Holman, Assistant Secretary for the Environment, NC DEQ
Reid Wilson, Deputy Secretary, NC Department Natural and Cultural Resources (NC NCR)
John Fullwood, Acting Director, NC Division of Parks and Recreation, NC NCR
Carol Tingley, Deputy Director, NC Division of Parks and Recreation, NC NCR
Scott Letchworth, Park Superintendent, William B. Umstead State Park
Danny Smith, Director, NC Division of Water Resources (DWR), NC DEQ
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Honorable NC Representative Cynthia Ball
Honorable NC Representative Joe John
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Kym Hunter, Attorney, Southern Environmental Law Center (SELC)
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Mary-Ann Baldwin, Mayor, City of Raleigh and Raleigh City Council Members
Steve Schewel, Mayor, City of Durham and Durham City Council Members
Harold Weinbrecht, Mayor, Town of Cary and Cary Town Council Members
TJ Cawley, Mayor, Town of Morrisville, and Town of Morrisville Council Member