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B.W. Wells Association
Capital Group Sierra Club
Eno River Association
Friends of State Parks
Headwaters Group Sierra Club
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

April 8, 2020

MEMORANDUM

To:

Stephanie Goss, NC Division of Water Resources (DWR), Raleigh Regional Office, Department of Environmental Quality (DEQ), 919-791-4256, 919) 791- 4200 (main office), stephanie.goss@ncdenr.gov

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David Bailey, 404 Certification, US Army Corp of Engineers, david.e.bailey2@usace.army.mil, 919-554-4884, ext 30

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Andy Williams, 404 Certification, US Army Corp of Engineers, andrew.e.williams2@usace.army.mil, 919-554-4884, ex 26

From: Dr. Jean Spooner, Chair, The Umstead Coalition, 919-602-0049, info@umsteadcoalition.org

Reference: Request to DENY Buffer Authorization (Neuse Buffers) DEQ ID number: 20171487, Version 2 (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

Please accept this memo as a request to DENY the requested Neuse Buffer Authorization. The Raleigh-Durham Airport Authority (RDUAA) has **not** taken the required measures for avoidance and minimization. In addition, the application is a submission of only a portion of a larger project in attempt to segment the environmental damages.

This Neuse Buffer Application stated purpose is *to "install approximately 8 miles of security fencing along the southeastern portion of airport property. This includes clearing a 30- ft wide permanent maintenance corridor and the installation of an 8- ft. high chain link fence topped with 3 strands of barbed wire."*

This fence is spec'd is similar to security fencing used at high voltage power sub-stations and correctional facilities. The majority of the fence is proposed to run along the border of William B. Umstead State Park and/or encircle isolated land tracts of surplus property distant from runways, controlled by the airport.

We request that DEQ **deny** RDU's request for Neuse Buffer authorization for the proposed fence. The fence

would cause avoidable damage to the Neuse River Buffers and designated wetlands, it unnecessarily involves property far removed from airport operational facilities, and would have a major detrimental impact to William B. Umstead State Park, including its streams and lakes.

The reasons to **deny** of the Neuse Buffer Authorization for the proposed 8.3 miles of fence and deforestation include:

- Failure to meet the requirements of "Avoidance" including avoiding unnecessary fence locations and honoring existing offers by NC State Parks and Wake County for avoidance options;
- Failure to meet the requirements of "Minimization," including several viable options to minimize impacts to buffers/wetlands;
- Attempt to "segment" the environmental damages from the larger proposed projects, including the EIS being required by the FAA, and **attempt to hide the true extent of feet of stream and acres of wetlands impacts and associated regulation requirements (e.g., the project proposed in the application is NOT a self-contained project);** and
- **Attempt to segment the project and attempt to avoid Individual 401/404 Certifications that should require public input** and avoid the environmental impacts in the FAA required Environmental Impact Study (EIS) for upcoming airport development
- Failure to adequately document the extent of damage to the Neuse River Buffers and designated wetlands;
- Severe negative environmental impacts to William B. Umstead State Park as well as NCDOT and regional greenway connections;
- Failure to take into account the significant secondary and cumulative impacts; and
- Violation of 1971 Mining Act and violation of 250 feet undisturbed buffers promised to William B. Umstead State Park.

Additional details regarding the reasons for denial are given below:

Failure to meet requirement to "Avoidance of Impacts"

This project is NOT needed. **The "avoidance" approach most appropriate for this project is the "NO Build" alternative.**

The stated purpose on the Buffer Application for the project is:

> *"To provide enhanced security of airport property, and prevent trespassers from entering airport property who are causing environmental damage to many riparian buffers."*

A Security Fence Already Exists and Perimeter Fence is not Required

RDU airport already HAS a security fence system to protect the runway and terminals. The proposed fence is not needed for their security. In addition, the airport has installed a series of surveillance cameras (location unknown per security concerns, but continuously approved airport expenditures). Attached is a Google Earth graphic highlighting the existing security fence for the runways and terminals (yellow) and the 8.3 miles of proposed controversial fence (red). This graphic is included to illustrate the location and extent of the proposed fence, which is not needed to provide for runway/terminal security. This proposed fencing represents a dubious enhancement to the security of the airport.

The proposed fence is removed from the airport operations by a long distance. For example, one of the tracts proposed to be enclosed is the Odd Fellows Tract. The fence would completely encircle the Odd Fellows Tract with over 2 miles (approximately 10,000 feet) of fencing, creating an isolated land island (see attached Google Earth graphic). This isolation is unnecessary because this tract is already separated from other airport property by Old Reedy Creek Road and not adjacent to airport operations (see graphic below).

Foxcroft Lake within the Odd Fellows Tract (Wetland 4 on Neuse Buffer Application), a wetland that would be detrimentally impacted is 2 miles from the runway! Furthermore, there is absolutely NO reason that any fencing should cross Foxcroft Lake. Avoidance would avoid Foxcroft Lake all together.

Further evidence that the proposed perimeter fence is not needed for airport security can be highlighted by looking at other airports. In stark contrast, the Baltimore/Washington International Thurgood Marshall Airport touts its BWI Marshall Airport Hiker-Biker trail (a 12.5-mile trail around the entire airport) as a great airport and community asset. They see no need for a perimeter fence removed from the runways and terminals, nor apparently does the FAA. (https://www.bwiairport.com/sites/default/files/2017-05/BWI-Trail-Map_2014.jpg)

Agencies and Municipal Airport Owner have offered "Avoidance" Alternatives that Have Not Been Fully Evaluated

The NC Department of Natural and Cultural Resources (which includes **NC State Parks**) offered multiple avoidance options to completely AVOID any need for the proposed perimeter fence (see attached letter dated January 15, 2020).

Wake County Commissioners (one of the municipal **owners** of the RDU Airport) have asked their staff to evaluate options for legal trails, which in turn would alleviate any concerns about environmental damage from trails on the 151 acres portion of "286." At the last Wake County Commissioners Growth and Sustainability Committee meeting (attendance included an RDUAA representative) on February 17, 2020, a presentation was given by the Committee Chairman Wake County Commissioner Sig Hutchinson. The presentation was followed by discussions of interest for the County to continue to actively pursue alternatives leading to legal trails on "286," including working with RDUAA, NC State Parks and others. It should also be noted that the RDUAA had previously responded positively (in an RDUAA Board meeting report) about working with Wake County's

request for legal trails on tract "286" and in fact put out a Press Statement on October 19, 2017 touting such (attached). The proposed perimeter fence would be in direct conflict with this previous commitment by the RDUAA to Wake County because the proposed fence would isolate the "286" tract, creating a land island (see figure above) and sever from public access for Wake County's planned legal trails (see Google graphic for "286" location). At their February 17, 2020 Committee meeting, the Wake County Commissioners directed staff to pursue options and report back with a preliminary report on their next Committee meeting scheduled for March 16. The March 16 meeting and all Wake County Commissioners committee meetings have been cancelled due to COVID-19 until at least April 30, 2020. Wake County will continue with their evaluation of options for legal trails on Tract "286" when Committee meetings can resume.

It should be noted that Wake County, as well as the County of Durham and the Cities of Raleigh and Durham are the owners of the RDU Airport and its lands. They are deeded owners and referred to as the "municipal owners" in the airport's controlling legislation (Charter). It is an insult to the airport municipal owners to not pursue their avoidance offers.

On January 17, 2020, the RDU Airport Infrastructure Development (AID) Task Force, a special Regional Transportation Alliance task force that had been requested by the RDUAA issued their report. Full report available: https://letsgetmoving.org/priorities/rdu-funding/. The task force made several explicit recommendations regarding the land use (e.g., non-aeronautical components of the RDU Airport facilities), including those directly related to fencing (and proposed, controversial proposed new quarry pit on Odd Fellows Tract). Key recommendations for the land use components of the airport's Master Plan include (from p. 12 Task Force recommendations attached):

- RDU could do a value engineering review of entire 2040 master plan to build regional goodwill
- The situation surrounding RDU's lands and adjacent Umstead Park has been a costly distraction RDU should revisit entire 2040 master plan given the reality of an adjacent, beloved state park
- RDU may not be a natural partner with Umstead, but it needs to become one – and vice versa Ask NC DNCR to authorize mountain biking in Umstead State Park at an appropriate location

The DEQ letter dated February 14, 2020 (attached) also concurs that legal trails on "286" would address such environmental concerns that are stated as the "purpose" for the fence in the Buffer Application.

Given the various State Agencies, Local Government, and even RDUAA's own Task Force recommendations offering AVOIDANCE options, it is apparent that the RDUAA has NOT yet adequately pursued AVOIDANCE options. The current application is INCOMPLETE and PREMATURE.

Environmental Damage due to Unsolicited Bike Usage is Minimal in Comparison to Proposed Fence

Any current environmental damage from "trespassers" is minimal, and RDUAA staff aggravated the current damage when removing the bridges designed to project environmentally sensitive areas. It should also be noted that the non-scout bikers and hikers had been allowed, and even encouraged until recently. Moreover, many of the users included RDUAA employees, National Guard member, and at least one RDUAA Board member.

The minimal damage due to sanctioned (Boy Scouts on the Odd Fellows tract) and unsanctioned trail usage is inconsequential compared to the huge swath of proposed 30 foot width of logging along the 8.3 miles of proposed fencing, fence construction disturbance, subsequent ATV and truck traffic along the fence by RDUAA staff for patrolling (e.g., essentially a road along both sides of the fence), stream and wetland flow impedance by debris caught upstream of fence crossings), etc.

The stated purpose of preventing "environmental damage" from trespassers is extremely weak. The obvious "avoidance" option of legal trails suggested as a solution by DEQ and offered by both NC State Parks and Wake County is the appropriate path for the required AVOIDANCE.

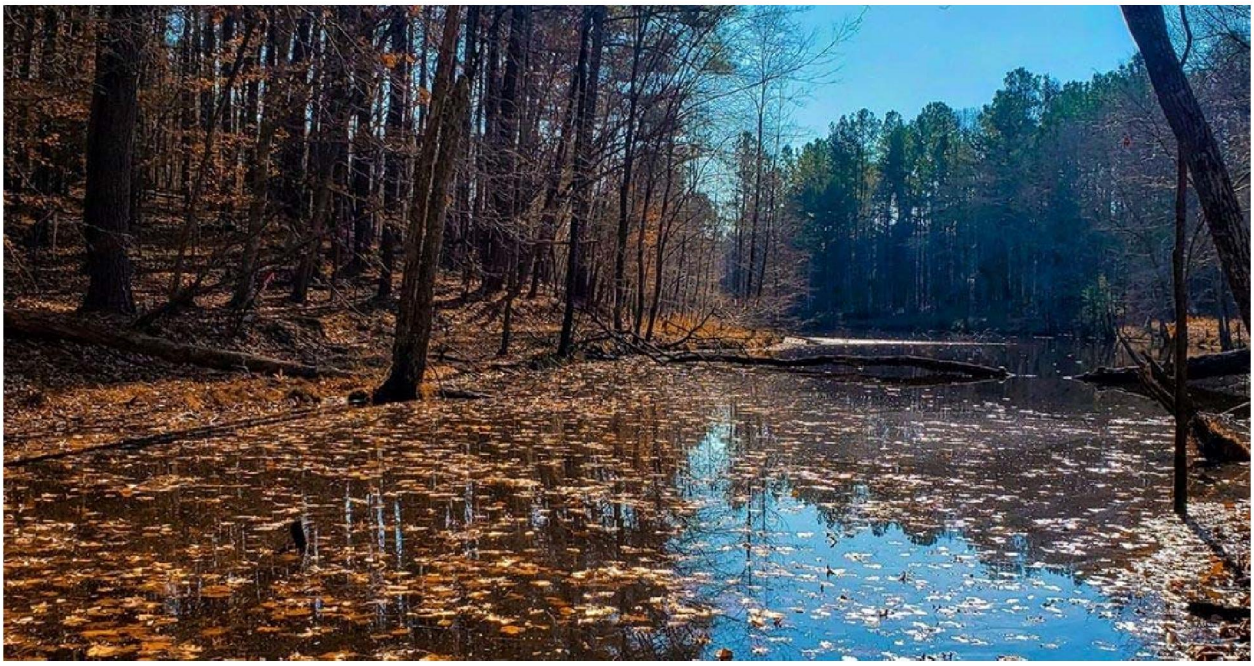
Failure to meet requirement "Minimization of Impacts"

Moving the fence back 10 feet from a property boundary should not be considered "minimization" or "avoidance." Similarly, moving a fence and logging clearing only 10feet from a NC State Park that is protected under the National Register of Historic Places, 4(f) and more should NOT be considered to any degree of "minimization." Such minor and trivial moves will not minimize the water quality impacts of the proposed deforestation and fence impacts on streams, buffers, and wetlands. Moreover, many of the Neuse Buffer impacts can be COMPLETELY avoidable by moving back with greater property boundary buffers.

There are various opportunities in this proposed project to avoid and minimize. The ability to minimize is apparent by examining the submitted map entitled "Overall Plan" (attached and submitted with Neuse Buffer Application). The fence was only move back from the streams and wetlands by a minor distance (few feet). There are many opportunities where the fence can moved further back from the property boundary to minimize the Neuse buffer impacts. (and concurrently minimize the negative impacts to William B. Umstead State Park).

The project could be considerably less extensive, if it were moved closer to the airport's operational facilities. This could avoid sensitive buffers and wetlands, the impact to wildlife, and Umstead State Park, while affording RDU the same or higher level of security.

The effective disturbance of wetland is more than 1 acre. Foxcroft Lake is greater than 1 acre. A fence across this wetland would cause debris backup and associated impacts to the entire wetland - upgradiant and downgradiant of the fence crossing the wetland. There is no apparent reason to cross Foxcroft Lake (wetland 4 in Application) with a fence. Foxcroft Lake's footprint is a **SHARED** wetland both within Umstead State Park and the Odd Fellows tract. The water source to Foxcroft Lake is a stream also within William B. Umstead State Park. The outflow of Foxcroft Lake flows into Crabtree Creek just upstream from William B. Umstead State Park. Such a fence serves no purpose except to have the fence within 10 feet of the boundary with William B. Umstead State Park. Such a reason should NOT be considered "minimization." Below is a photo of Foxcroft Lake wetland crossing location. Foxcroft Lake is located over two miles from the nearest runway (See photo below taken from Umstead State Park of the fence crossing location of Foxcroft Lake. See Google location map attached highlighting Foxcroft Lake and proposed fence crossing).



Foxcroft Lake – photo taken looking downstream from William B. Umstead State Park, proposed fence crossing would needlessly cross near the bottom of this photo.

Attempt to segment water quality impacts by submitting a small portion of the entire project

The Neuse Buffer Application only lists a small portion of the entire related project(s). This application is incomplete and an apparent attempt to SEGMENT the environmental damage into smaller 'pieces' in an attempt to hide the greater extent of true damage to the Neuse Buffers and 401/404 protected streams. **And is an apparent attempt to avoid the required 401/404 Individual Certification requirements of Public Participation.**

The fence project is closer to 18 miles, NOT the "approximate 8 miles" in the Neuse Buffer Application. See **attached FAA letter** dated March 23, 2020 that refers to the "18 miles" of new fencing.

There is a controversial proposed new 400ft (or deeper) rock mine on the Odd Fellows Tract. This "project" is yet not approved, nor is there a required Mining Permit approved. **The fence is an attempt to SEGMENT the water quality impacts of the proposed mining pit and associated operations.**

The "perimeter fence" around the Odd Fellows Tract is also an attempt to SEGMENT the detrimental water quality impacts from a **new BRIDGE crossing of Crabtree Creek** that would be required IF the mining permit was approved and the mining operation proceeded. The "perimeter fence" should NOT be approved, nor built unless and until considered as part of the devastating environmental impacts of the proposed new rock pit.

There is pending EIS for new airport parking lots and runway lengthening on the southeast side of the airport. Separating out the environmental impacts of a portion of the fence is an attempt to segment the environmental impacts that are more appropriately evaluated as part of the FAA mandated EIA.

Failure to adequately document the extent of damage to the Neuse River Buffers and designated wetlands

<u>The Extent of the Environmental Damage is underestimated in the Buffer Application.</u>

The listing of affected waterbodies in the application is incomplete. The affected water bodies include:
Haley's Branch (27-3-7)
Crabtree Creek (27-33-(3.5))
Big Lake (William B. Umstead State Park)
Sycamore Lake (William B. Umstead State Park)
Foxcroft Lake (wetland 4 on application)
Sycamore Creek (William B. Umstead State Park)

Sections of the proposed fence and 30feet of logging travel parallel, on steep slopes and close to sensitive streams (e.g., Haley's Branch and Crabtree Creek). In addition, NOT perpendicular stream crossing. These are **<u>unnecessary fence locations</u>**, which could easily be MOVED away from the streams and steep slopes. See the attached fence and logging/clearing schematics that were prepared by RDUAA (Attached, Sheet C9). As seen from the drawings prepared by RDUAA, it is obvious that the true impacts to the Neuse Buffers, 401, and 404 streams are not fully revealed in the Neuse Buffer Application, and there are clear and easy minimization options that are not being implemented.

<u>Devastating Negative Impacts to William B. Umstead State Park</u>

The majority of the proposed fence has a direct and detrimental impact on William B. Umstead State Park. All the airport lands managed by the RDUAA drain TO William B. Umstead State Park. The drainage from the

airport flows either directly to Crabtree Creek which flows through the heart of our State Park, directly into other water courses within Umstead State Park, or indirectly to Crabtree Creek and then into Umstead State Park. The proposed 8.3 miles of 30 feet logging width crosses numerous streams and wetlands. These are environmentally sensitive lands draining to William B. Umstead State Park.

In addition, the proposed fence and 30' width deforested swath would be logged along a swath over 1 mile (yes, over 1 mile) through the STEEP forested slopes of Crabtree Creek, with insufficient riparian buffers for such terrain. (see attached Spec Sheets C41, C42, C43, C44, C45, C46, and C47). This stretch of Crabtree Creek is immediately upstream of William B. Umstead State Park and within the Odd Fellows Tract. Therefore, the extent of the negative impacts are not fully reflected. Minimization would put it on the top of slope, well away from such a sensitive Crabtree Creek.

William B. Umstead State Park, including its forests, is listed under the National Register of Historic Places. The Site ID is: WA0721. Year of Registration: 1995. Listed under: 'Crabtree Creek Recreational Demonstration Area" and "Umstead State Park, Raleigh, NC." William B. Umstead State Park was established in 1934, well before the current RDU Airport.

Is an 8-foot tall chain link fence with 3 rows of barbed wire along the top in the middle of a 30ft-wide deforested swath the image appropriate to form the border of a large portion of our prized NC State Park? To border our NC State Park with a security fence spec'd for power stations or prisons is an insult to our Park visitors.

The NC Department of Natural and Cultural Resources (DNCR) strongly opposes the fence. Please see attached their January 15, 2020 letter from DNCR that highlights their objections to the proposed fence due to severe negative impacts to William B. Umstead State Park.

Detrimental Impacts to Public Greenways

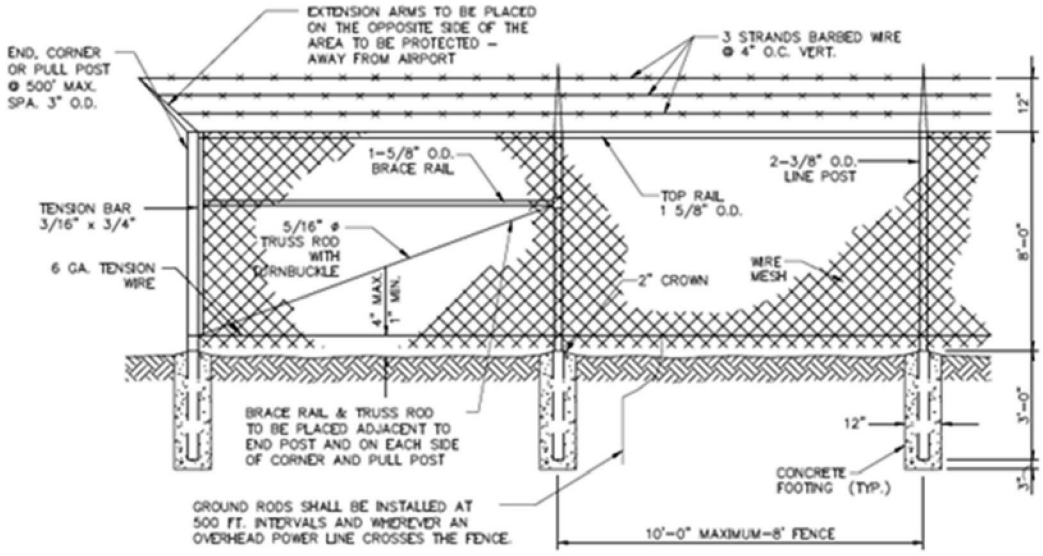
The proposed fence project would have profound detrimental impacts on NCDOT's and Town of Cary's popular greenways along the Old Reedy Creek Road corridor, as well as on one of our most visited Parks in NC, William B. Umstead State Park.

The Old Reedy Creek Road corridor also serves as a major greenway and bike route for the **NC 2 (Mountains to Sea) bike route, US 1 (Carolina Connection) route, East Coast Greenway in the popular section between William B. Umstead State Park and Lake Crabtree County Park.** It also appears the proposed project design encroaches upon NCDOT right-of-way and impedes NCDOT management of this vital bicycle and pedestrian corridor along Old Reedy Creek Road.

Under the RDUAA's fence proposal, visitors to William B. Umstead State Park would be greeted with an 8' tall chain link fence topped by 3-rows of barbed wire on both sides of the East Coast Greenway as they approach William B. Umstead State Park from Lake Crabtree County Park. We believe this is NOT an appropriate entrance feel to a listed and protected property. (See attached Google Earth Graphic showing the proposed locations of this unnecessary boundary fence. Note, the extensive length of the proposed fence that would border within 10 feet of William B. Umstead State Park.)

Moreover, if the fence alone was not bad enough, RDU plans to log a clear-cut a 30' wide path through the forest (15' to either side of the fence) for 8.3 miles, much of this along the border of William B. Umstead State Park. This will destroy the natural beauty of the Western approach to Umstead State Park.

Is this the character that NCDOT wants to portray along its greenways and bikeways? We think not! The fence specs are the same as for power stations and prisons (See Figure below from RDUAA Sheet C51).



8' CHAIN LINK FENCE DETAIL
NOT TO SCALE

Violation of 1971 Mining Act and violation of 250 feet undisturbed buffers promised to William B. Umstead State Park

This proposed fence project on the perimeter of the Odd Fellows Tract is a violation of the Mining Act of 1971 and existing Mining Permit restrictions under Mining Permit 92-10 (a rock mine on the other side of Crabtree Creek on private property).

The proposal is to have <u>ONLY ten (10) feet setback</u> from the William B. Umstead State Park property boundary!!

No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.

The proposed fence outlining the Odd Fellows tract is a violation of Wake Stone's current Mining Permit (Mining Permit 92-10) and the commitment Wake Stone Corporation made to NC State Parks, DEQ and the Mining Commission when the existing quarry was permitted in May 1981 (after denial by DEQ in 1980). The committed buffers in the current mining permit are 250 feet wide and do NOT allow a fence within the buffer zones. The current Mining Permit 92-10 language includes:

> *"3.C Buffer Zones. All buffer zones shown on the Site Map revised February 26, 2018 shall be maintained to protect adjoining property. These buffer zones, with the exception of the installation of required sediment control measures and approved earthen berms, shall remain undisturbed."*

The proposed fence is an apparent attempt to circumvent this committed quarry buffer requirement. The proposal by RDUAA is to clear-cut the forest with only 10 feet buffer from the State Park boundary and 30 to 50 feet buffer along over 1 mile through the steep slopes of Crabtree Creek. No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.

See attached letter dated January 15, 2020 from The Umstead Coalition to NC Department Energy, Mining, and Land Resources (DEMLR), NC DEQ for additional details.

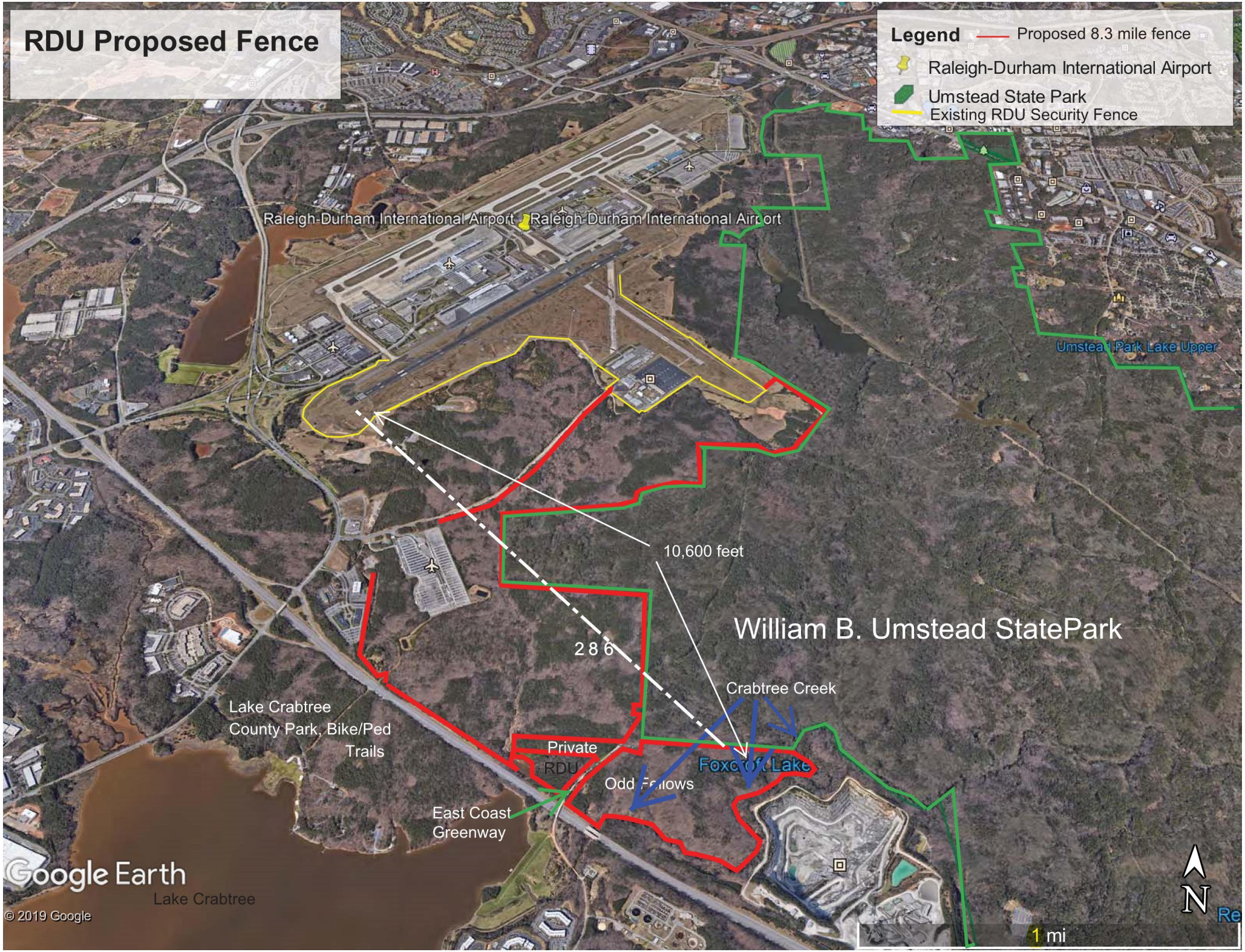
Secondary and Cumulative Negative Impacts

Debris backup behind fences will be substantial. The proposed gates will not alleviate or eliminate this problem. Anyone who has seen logs and other debris following big storms knows that such cleanup requires backhoes and large equipment, and access. Such access is virtually impossible on the proposed crossing of Wetland 4 (Foxcroft Lake). Moreover, it is impractical to "open the gates" prior to every (predicted) storm. Storms are not always "predictable." The debris backup at Foxcroft Lake would affect the upgradiant stream within William B. Umstead State Park. In addition, the backed-up debris will negatively affect the flow patterns of waters entering Umstead State Park.

In addition, the proposed fence would isolate Umstead State Park and severely limit (or perhaps prevent) the future of ability by Umstead State Park to provide new trails within Umstead State Park.

The proposed "perimeter fence" would also create a de facto ROAD along the entire fence. The RDUAA staff have publicly stated (at their December 19, 2019 RDUAA Board meeting which is also available via a YouTube posted by the RDUAA) that they plan to "patrol" the fence. This patrolling along the fence by ATV and truck traffic/backhoe would effectively replace the current forest with a ROAD along both sides of the proposed "perimeter fence." Replacement of forest with extensive roads (likely on dirt) would result in decreased infiltration and pollutant and stormwater treatment by soils, and increased runoff into Umstead State Park's streams.

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)
Dwayne Patterson, 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
Brian Wrenn, Acting Director, NC Division of Energy, Mineral and Land Resources (DEMLR), NC DEQ
Danny Smith, Director, NC Division of Water Resources (DWR), NC DEQ
Honorable NC Senator Wiley Nickel
Honorable NC Representative Cynthia Ball
Honorable NC Representative Joe John
Joey Hopkins, Division Engineer, Division 5, NCDOT
Cassie Gavin, Attorney, N.C. Sierra Club
Dustin Chicurel-Bayard, N.C. Sierra Club
Hwa Huang, Group Chair, Capital Group - N.C. Sierra Club
Pat Carstensen, Group Chair, Headwaters Group - N.C. Sierra Club
Sarwat Khattak, President, Triangle Off-Road Cyclist (TORC)
Dave Anderson, Board Member, Triangle Off-Road Cyclist (TORC)
Kym Hunter, Attorney, Southern Environmental Law Center (SELC)
Jacqueline Giordano, League Women Voters-Wake Environment Committee Co-Chair
Mike Landguth, President/CEO, RDU Airport Authority
RDUAA Board Members
Greg Ford, Chair, Wake County Commissioners and Wake County Commissioners
Wendy Jacabs, Chair, Durham County Commissioners and Durham County Commissioners
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


RDU Proposed Fence
Legend
Proposed 8.3 mile fence
Raleigh-Durham International Airport
Umstead State Park
Existing RDU Security Fence
Raleigh-Durham International Airport
Raleigh-Durham International Airport
Umstead Park Lake Upper
10,600 feet
William B. Umstead StatePark
2 8 6
Crabtree Creek
Lake Crabtree
County Park, Bike/Ped
Trails
Private
RDU
Odd Fellows
East Coast
Greenway
Google Earth
Lake Crabtree
© 2019 Google
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North Carolina Department of Natural and Cultural Resources
Office of the Secretary

Governor Roy Cooper

Secretary Susi H. Hamilton

January 15, 2020

Mr. Michael Landguth
President and Chief Executive Officer
Raleigh-Durham Airport Authority
1000 Trade Drive
Morrisville, NC 27560

Dear Mr. Landguth:

Thank you for meeting with representatives of the North Carolina Department of Natural and Cultural Resources and North Carolina State Parks last week regarding RDU's proposed fence adjacent to William B. Umstead State Park. The Department appreciates this opportunity to address some of our concerns regarding a potential fence and propose working toward alternative solutions.

The Department understands RDU's need to control trespassing and prevent the unauthorized construction and use of mountain bike trails on airport property for legal and environmental reasons. However, a fence as proposed presents multiple problems for the park and its users:

- The proposed fence would bisect the park's popular Reedy Creek Multi-Use Trail in two places; the trail is used by tens of thousands of hikers, cyclists and equestrians every year, and it would be far too expensive for State Parks to move the trail;

- By creating a permanent eyesore and marring the look and "feel" of the park, the proposed fence would greatly harm a fundamental purpose of the park, namely to provide public access to a natural setting for people to enjoy nature and improve their physical and mental health;

- This degradation of the visitor experience would likely create among trail users an ongoing negative impression of the airport;

- Because the proposed fence would cross four large streams, 19 small streams, and 29 temporary streams or ditches, it would damage stream banks, wetlands, and water quality downstream in Umstead Park;

- The proposed fence would block movements of wildlife, effectively trapping them between airport fences;

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- The proposed fence may constitute an adverse effect to the park's status on the National Register of Historic Places, which could trigger review and requirements under federal or state law.

The Department requests that RDU postpone finalization of plans for the fence until three potential alternatives can be more thoroughly considered for long-term implementation or as a 12-18 month pilot project.

First, State Parks could provide enhanced law enforcement at common biker ingress points to prevent trespassing. State law (N.C. Gen. Stat. §§ 113-28.2 and 143B-135.16) and regulation (07 NCAC 13B .0501) already authorize State Parks rangers to enforce state law on park property and specifically to issue citations for use of bicycles where prohibited. N.C. Gen. Stat. §§ 113-28.2A and 160A-288 also allow rangers to assist in enforcing state law in other jurisdictions if requested by the law enforcement agency for that other jurisdiction. While current staffing levels would need to be increased to provide effective coverage, the Department is willing to enter into a memorandum of agreement to create new ranger positions funded by the Airport Authority. For far less than the cost of the fence, RDU could support the cost of additional rangers needed for such enforcement action. We believe that enhanced law enforcement presence, coupled with strong public communication alerting bikers that citations will be issued to those illegally accessing RDU property, can serve as an effective deterrent.

Second, the Department is interested in working with RDU and our respective state and federal partners to pursue a purchase of the "286 property" affected by mountain biking, and to add it to the park. While current space restraints and demand for multi-use trails prevent the park from replicating the unauthorized bike trails within the park's existing boundaries, the park could provide single-use trails dedicated to biking on the 286 property if it was acquired by the state. We understand that federal restrictions and approvals may complicate such a transaction, but believe thorough exploration is warranted in the interest of a permanent, beneficial solution.

Finally, the Department stands ready to work with RDU and Wake County should RDU lease to the county some or all of the 286 property. State Parks and the county could work together on enforcement and management of trails on the property.

Thank you again for meeting with us, and we look forward to further discussions that we hope will produce a workable solution.

Sincerely,

D. Reid Wilson
Chief Deputy Secretary

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Airport Authority Moves Forward With Wake County Land Lease Proposal

October 19, 2017 1:32 pm

RDU Airport, N.C. – During its monthly meeting today, the Raleigh-Durham Airport Authority Board received an update on staff plans to take the next step toward accepting Wake County's offer to lease two tracts of airport property, totaling approximately 150 acres. The proposal was one of three received during the Airport Authority's recent request for proposals for Airport Authority land.

Following today's action, the Airport Authority will conduct an appraisal of the property and then enter negotiations with Wake County. That process is expected to take between 60-90 days.

"The recommendation today affirms our commitment to work toward a win-win solution regarding the use of airport land," said Airport Authority President and CEO Michael Landguth. "This approach allows the Authority to offer recreational opportunities on some property while complying with our federal obligations and grant assurances."

If a contract is approved for the lease of this land, it would bring the total number of acres the Airport Authority provides for recreation in the community to approximately 331.

The Airport Authority has a long history of making airport land available for community recreational use. In 1985, the airport leased 33 acres to Wake County for the formation of Lake Crabtree County Park. In 1994, the airport leased an additional 148 acres adjacent to the park for single-track mountain biking trails.

The Federal Aviation Administration has strict guidelines, called federal obligations, on how airports may use land. This includes a prohibition on establishing parks; however, in certain instances recreational uses may be allowed. The intent is to protect the inherent civil aviation purpose of an airport from incompatible land uses.

About the Raleigh-Durham Airport Authority

The Raleigh-Durham Airport Authority and its 300 staff operates and manages Raleigh-Durham International Airport, the primary air travel gateway to central North Carolina. The airport served more than 11 million passengers in 2016, about 30,000 customers every day. RDU is home to more than 5,000 employees and contributes more than $8.5 billion and 20,000 jobs to the region's economy each year. The Airport Authority has won the Triangle Business Journal's Heathiest Employer of the Triangle for the past three years straight and in 2017 was named the best connected medium hub airport by the Massachusetts Institute of Technology's International Center for Aviation.

Our sky could fall:

The long-term infrastructure and funding challenge facing RDU Airport – and our region

Preliminary task force findings and recommendations

Regional Transportation Alliance
RDU Airport Infrastructure Development (AID) Task Force
January 17, 2020

RTA is the voice of the regional business community on transportation

Summary of Preliminary Recommendations of RTA RDU AID Task Force

RDU and Local Funding Recommendations

- Continue to pursue full cost recovery of all aviation-related expenditures at RDU
- Increase existing carrier landing fees based on weight; use funds for airfield improvements
- Activate landing fees for general aviation users; use funds for airfield improvements
- Implement $2 fee payable upon exiting the airport; use funds for RDU roadway improvements;
  parking customers would not pay this fee; would be collected via transponders; revenue TBD
- Reallocate local rental car taxes to RDU; use funds for RDU roadways and rental car facility
  All local rental car taxes currently raise $16m per year, or around $160m per decade
- Implement premium curb access fees at terminals; use funds for RDU terminal improvements
  this would be a premium, opt-in offering; would be collected via transponders; revenue TBD
- Have Durham and Wake counties identify external lands that could be monetized to fund RDU
- Consider accelerating or increasing amount of bond financing, if allowed by other bond covenants and supported by additional revenues such as those identified above
- *RDU's local owners must develop or endorse sustainable funding package and own this issue*

Airport Land Use Recommendations

- RDU property is a valuable resource that should be managed to generate revenue for the airport
- RDU has the responsibility to leverage its property for compatible and complementary uses
  Create RDU Real Estate Master Plan with specific timelines, financial requirements;
  Hire master developer to review entire airport for strategic development opportunities
- Consider creation of a new "terminal 3" – north of terminal 2, away from Umstead State Park
  Terminal 3 could be primarily focused on expanded international service offerings;
  Offer airlines opportunity to build, fund, and operate terminal 3 – and share in capacity risk
- RDU could consider relocating crosswind (14-32) runway; evaluate compatible uses of that land
- RDU could do a value engineering review of entire 2040 master plan to build regional goodwill
- The situation surrounding RDU's lands and adjacent Umstead Park has been a costly distraction
  RDU should revisit entire 2040 master plan given the reality of an adjacent, beloved state park
- RDU may not be a natural partner with Umstead, but it needs to become one – and vice versa
  Ask NC DNCR to authorize mountain biking in Umstead State Park at an appropriate location

State Funding Recommendations

- Thank legislature for significant, ongoing investment in North Carolina's commercial airports
  State funding generates around $17m annually for RDU, or around $170m per decade

Federal Funding and Policy Recommendations

- Propose nominal PFC increase of $1 (to $5.50); then index PFCs to inflation going forward
  A $1 PFC increase would provide $6m annually for RDU, or around $60m per decade
- Rather than uncapping PFCs, authorize increases above these levels only with airline approval(s)
- *Do not focus on large PFC increases, as the conflict between airports and airlines appears to be unresolvable and a distraction from needed federal action on areas like FAA approval timelines*
- Lobby for accelerated FAA environmental approvals (max 3 years) via airports/airlines coalition

Overall Recommendation:

Expeditiously identify, approve, and activate a sustainable funding structure to address the $1-$2 billion funding gap at RDU over the next two decades to ensure the long-term success of RDU and the region.

ROY COOPER
Governor

MICHAEL S. REGAN
Secretary

NORTH CAROLINA
Environmental Quality

February 14, 2020

Mr. Michael Landguth, President and CEO
Raleigh-Durham Airport Authority
P.O. Box 80001
RDU Airport, NC 27623

Subject: Neuse River Riparian Buffer Impacts
National Guard Drive & Old Reedy Creek Road, RDU Southeast Property,
Wake County

Dear Mr. Landguth,

At RDU's request, Stephanie Goss from the Raleigh Regional Office (RRO) of the Division of Water Resources (DWR) in the Department of Environmental Quality (DEQ) met with Bob Zarzecki with Soil and Environmental Consultants on September 25, 2019, to conduct a buffer determination at the above referenced site. During the site visit Mr. Zarzecki pointed out various impacts to stream buffers.

As you know, the Neuse River Basin Nutrient Strategy (15A NCAC 02B .0232 et seq.) is intended to address water quality impairments in the Neuse River Basin. Of most relevance here, the Neuse River Riparian Buffer Rule (15A NCAC 02B .0233) protects riparian buffers for perennial streams, intermittent streams, lakes, ponds, estuaries and rivers.

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.

Sincerely,

Sheila C. Holman

Sheila C. Holman
Assistant Secretary for the Environment

cc: DWR RRO file copy

North Carolina Department of Environmental Quality
217 West Jones Street | 1601 Mail Service Center | Raleigh, North Carolina 27699-1601
919.707.8600

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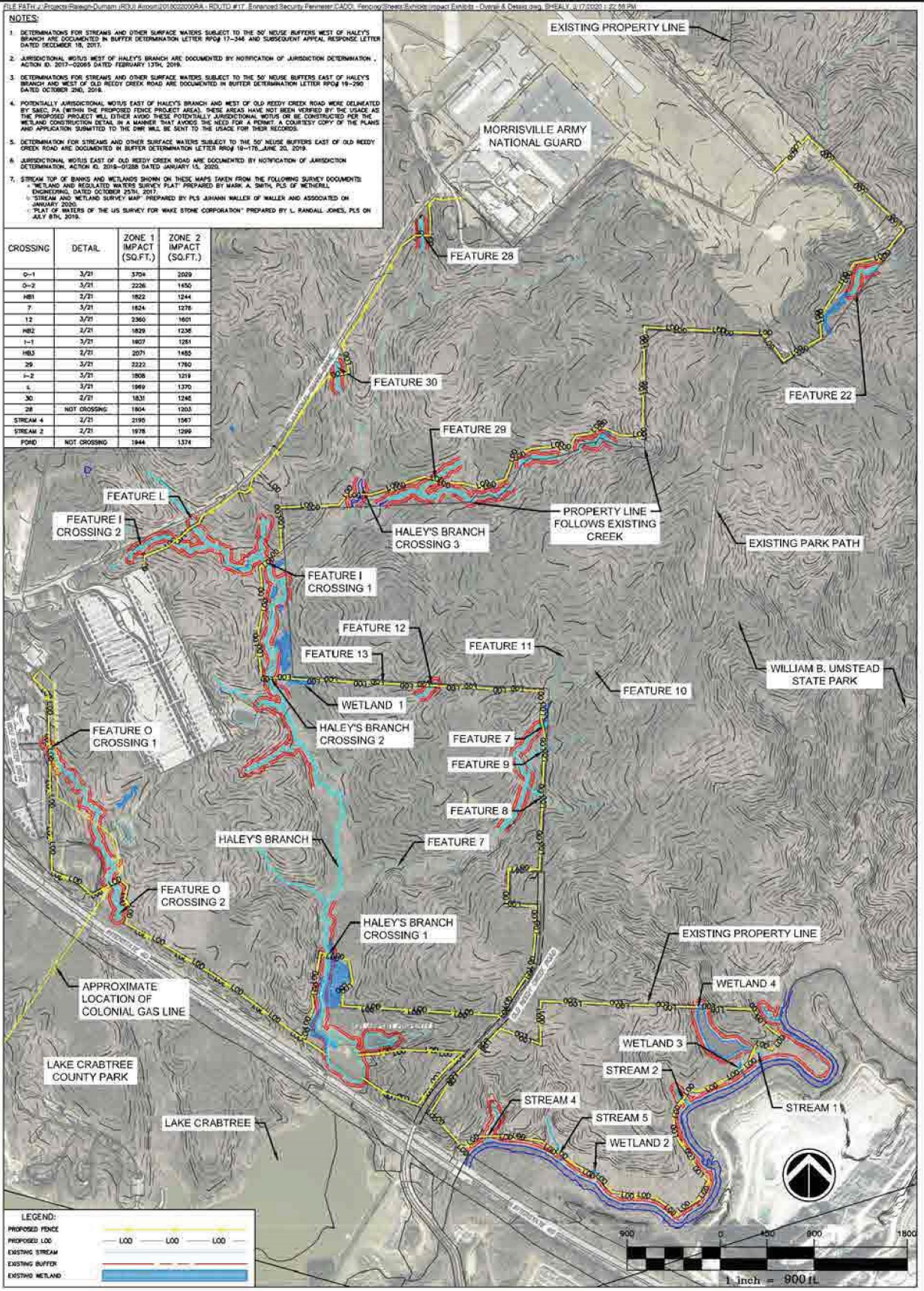
FILE PATH: J:\Projects\Raleigh-Durham (RDU) Airport\20180220000RA - RDUTD #17 Enhanced Security Perimeter\CADD_Fencing\Sheet Exhibits\Impact Exhibits - Overall & Detail.dwg, SHEELY, 9/17/2020 1:22:58 PM

NOTES:

1. DETERMINATIONS FOR STREAMS AND OTHER SURFACE WATERS SUBJECT TO THE 50' NEUSE BUFFERS WEST OF HALEY'S BRANCH ARE DOCUMENTED IN BUFFER DETERMINATION LETTER RPO# 17-346 AND SUBSEQUENT APPEAL RESPONSE LETTER DATED DECEMBER 18, 2017.
2. JURISDICTIONAL WOTUS WEST OF HALEY'S BRANCH ARE DOCUMENTED BY NOTIFICATION OF JURISDICTION DETERMINATION , ACTION ID: 2017-02065 DATED FEBRUARY 13TH, 2018.
3. DETERMINATIONS FOR STREAMS AND OTHER SURFACE WATERS SUBJECT TO THE 50' NEUSE BUFFERS EAST OF HALEY'S BRANCH AND WEST OF OLD REEDY CREEK ROAD ARE DOCUMENTED IN BUFFER DETERMINATION LETTER RPO# 19-290 DATED OCTOBER 2ND, 2019.
4. POTENTIALLY JURISDICTIONAL WOTUS EAST OF HALEY'S BRANCH AND WEST OF OLD REEDY CREEK ROAD WERE DELINEATED BY SAEC, PA (WITHIN THE PROPOSED FENCE PROJECT AREA). THESE AREAS HAVE NOT BEEN VERIFIED BY THE USACE AS THE PROPOSED PROJECT WILL EITHER AVOID THESE POTENTIALLY JURISDICTIONAL WOTUS OR BE CONSTRUCTED PER THE WETLAND CONSTRUCTION DETAIL IN A MANNER THAT AVOIDS THE NEED FOR A PERMIT. A COURTESY COPY OF THE PLANS AND APPLICATION SUBMITTED TO THE DWR WILL BE SENT TO THE USACE FOR THEIR RECORDS.
5. DETERMINATION FOR STREAMS AND OTHER SURFACE WATERS SUBJECT TO THE 50' NEUSE BUFFERS EAST OF OLD REEDY CREEK ROAD ARE DOCUMENTED IN BUFFER DETERMINATION LETTER RPO# 19-176, JUNE 20, 2019.
6. JURISDICTIONAL WOTUS EAST OF OLD REEDY CREEK ROAD ARE DOCUMENTED BY NOTIFICATION OF JURISDICTION DETERMINATION, ACTION ID: 2019-01288 DATED JANUARY 15, 2020.
7. STREAM TOP OF BANKS AND WETLANDS SHOWN ON THESE MAPS TAKEN FROM THE FOLLOWING SURVEY DOCUMENTS:
   - "WETLAND AND REGULATED WATERS SURVEY PLAT" PREPARED BY MARK A. SMITH, PLS OF MCNERELL ENGINEERING, DATED OCTOBER 25TH, 2017.
   - "STREAM AND WETLAND SURVEY MAP" PREPARED BY PLS JUHANN WALLER OF WALLER AND ASSOCIATES ON JANUARY 2020.
   - "PLAT OF WATERS OF THE US SURVEY FOR WAKE STONE CORPORATION" PREPARED BY L. RANDALL JONES, PLS ON JULY 8TH, 2019.

CROSSING	DETAIL	ZONE 1 IMPACT (SQ.FT.)	ZONE 2 IMPACT (SQ.FT.)
O-1	3/21	3704	2029
O-2	3/21	2236	1450
HB1	3/21	1822	1244
7	3/21	1824	1276
12	3/21	2360	1601
HB2	2/21	1829	1236
I-1	3/21	1807	1251
HB3	2/21	2071	1455
29	3/21	2222	1760
I-2	3/21	1808	1219
L	3/21	1969	1370
30	2/21	1831	1246
28	NOT CROSSING	1804	1203
STREAM 4	2/21	2190	1567
STREAM 2	2/21	1978	1299
POND	NOT CROSSING	1944	1374



PROJ. MGR.:	JPK
DESIGN BY:	SLH
DRAWN BY:	SLH
PROJ. DATE:	DEC. 2019

DRAWING NUMBER: 1 OF 23

WKD PROJ. NO.: 20180220.00.RA

PROJECT NAME: ENHANCED SECURITY PERIMETER FENCING FOR THE RALEIGH-DURHAM AIRPORT AUTHORITY

DRAWING TITLE: OVERALL PLAN

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of Transportation
Federal Aviation Administration

Airports Division
Southern Region
Kentucky,North Carolina,Tennessee

FAA MEM ADO
2600 Thousand Oaks Blvd., STE 2250
Memphis, TN 38118

March 23, 2020

Mr. William C. Sandifer, A.A.E.
Senior Vice-President & Chief Operating Officer
Raleigh-Durham Airport Authority
1000 Trade Drive
RDU Airport, NC 27623

RE: FAA Section 163 Review – Proposed 18.1 Mile Airport Perimeter Fencing Project
Raleigh-Durham International Airport (RDU)

Dear Mr. Sandifer:

Thank you for your inquiry regarding whether or not the FAA has a federal action on the proposed construction of a 18.1 mile perimeter fence around portions of the Raleigh-Durham International Airport (RDU).

Recent changes in federal law have required the Federal Aviation Administration (FAA) to revisit whether FAA approval is needed for certain types of airport projects throughout the nation. On October 5, 2018, HR 302, the "FAA Reauthorization Act of 2018" (the Act) was signed into law (P.L. 115-254). In general, Section 163(a) limits the FAA's authority to directly or indirectly regulate an airport operator's transfer or disposal of certain types of airport land. However, Section 163(b) identifies exceptions to this general rule. The FAA retains authority:

1. To ensure the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations;
2. To regulate land or a facility acquired or modified using federal funding;
3. To ensure an airport owner or operator receives not less than fair market value (FMV) in the context of a commercial transaction for the use, lease, encumbrance, transfer, or disposal of land, any facilities on such land, or any portion of such land or facilities;
4. To ensure that that airport owner or operator pays not more than fair market value in the context of a commercial transaction for the acquisition of land or facilities on such land;
5. To enforce any terms contained in a Surplus Property Act instrument of transfer; and
6. To exercise any authority contained in 49 U.S.C. § 40117, dealing with Passenger Facility Charges.

In addition, Section 163(c) preserves the statutory revenue use restrictions regarding the use of revenues generated by the use, lease, encumbrance, transfer, or disposal of the land, as set forth in 49 U.S.C. §§ 47107(b) and 47133.

Section 163(d) of the Act limits the FAA's review and approval authority for Airport Layout Plans (ALPs) to those portions of ALPs or ALP revisions that:

1. Materially impact the safe and efficient operation of aircraft at, to, or from the airport;

2. Adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations; or
3. Adversely affect the value of prior Federal investments to a significant extent.

In light of these statutory changes, the FAA's Memphis Airports District Office has performed a review in order to determine if the FAA has the authority to approve or disapprove:

1. ALP changes for the proposed development; and
2. The proposed land uses for the development.

Proposed Project

The proposed Project involves the installation of approximately 18.1 miles of perimeter fence that is intended to provide security protection against unlawful trespassing on a large area of airport property which is not currently used for any aeronautical purpose, as well as for wildlife control. This perimeter fence will not enclose the Airport Operations Area, Security Identification Display Area, or other security area. Some of the land that the fence will be installed on is Surplus Property (approximately 9,000 feet). No Airport Improvement Program or Passenger Facility Charge funds were used in the purchase of this land, and the project will be funded by the Sponsor.

Determination Regarding the Change to the Airport Layout Plan

We have determined the proposed Project would have no impact on aircraft operations at, to, or from RDU and would not adversely affect the safety of people or property on the ground adjacent to the airport as a result of aircraft operations. We have also determined that the proposed Project would not have an adverse effect on the value of prior Federal investments to a significant extent. Therefore, the FAA lacks the legal authority to approve or disapprove the ALP for the portions of the proposed Project.

FAA's Authority to Regulate Land Use

For this project we have determined that the proposed fence will not affect the safe and efficient operation of aircraft or safety of people and property on the ground related to aircraft operations, and therefore, the FAA lacks the authority to regulate the land use associated with the project on Sponsor acquired land.

For the portions of the project on land that was Surplus Property, the proposed perimeter fence would be considered an aviation use, and consistent with the terms of the deeds for the parcels received as Surplus Property. Therefore, no release of obligations would be required for the portions of the project on land that was acquired as Surplus Property.

Applicability of NEPA

Because the FAA lacks the legal authority to approve or disapprove changes to the ALP, and lacks the authority to regulate the use of the land associated with this project, the agency does not have an action subject to the National Environmental Policy Act (NEPA).

Sponsor Obligations Still In Effect

This project is still subject to airspace review under the requirements of 14 CFR part 77, and Grant Assurance 29 still requires the airport sponsor to update and maintain a current ALP. If the project is completed, then please send us an updated ALP that depicts the new fence.

The sponsor also has the responsibility to comply with all federal, state, and local environmental laws and regulations.

If you have further questions or need for clarification, please feel free to contact me at 404-305-6700.

Sincerely,

Tommy L. Dupree
Acting Manager, Memphis Airports District Office

The Umstead Coalition
P.O. Box 10654
Raleigh, NC 27605-0654
(919) 852-2268

http://umsteadcoalition.org *facebook.com/umsteadcoalition* *meetup.com/umsteadcoalition*

B.W. Wells Association
Capital Group Sierra Club
Eno River Association
Friends of State Parks
Headwaters Group Sierra Club
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

January 15, 2020

MEMORANDUM

To: Danny Smith, Director, Division of Energy, Mineral and Land Resources, NC Department of Environmental Quality (NCDEQ)

Cc: Mike Regan, Secretary, NC Department of Environmental Quality (NCDEQ)
Susi H Hamilton, Secretary, NC Department Natural and Cultural Resources (NC NCR)
Reid Wilson, Deputy Secretary, NC Department Natural and Cultural Resources (NC NCR)
Dwayne Patterson, 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
Mike Landguth, President/CEO, RDU Airport Authority
RDUAA Board Members
Greg Ford, Chair, Wake County Commissioners and Wake County Commissioners
Wendy Jacabs, Chair, Durham County Commissioners and Durham County Commissioners
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 Members
Kym Hunter, Southern Environmental Law Center (SELC)
Cassie Gavin, Attorney, N.C. Sierra Club
Dustin Chicurel-Bayard, Interim Director, N.C. Sierra Club
Roy Cooper, Governor, North Carolina
NC Legislative - Wake County Legislative Delegation

From: Dr. Jean Spooner, Chair, The Umstead Coalition, 919-602-0049, info@umsteadcoalition.org

Re: Request to PREVENT mining operations (including fencing and logging) on the Odd Fellows Tract without an approved Mining Permit

Reference: RDUAA Project No 211140, proposed 9' chain-linked, barbed wire fencing, forest clear-cutting within protected buffers of Umstead State Park and Crabtree Creek

RDUAA is proposing a massive fence and logging project on the Odd Fellows tract WITHOUT an approved mining permit. We request that NCDEQ **PREVENT** this proposed fence project on the perimeter of the Odd Fellows Tract due to violations of the Mining Act of 1971 and existing Mining Permit restrictions under Mining Permit 92-10. **No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.**

I. Violation of the Mining Act of 1971

The proposed fence would be in direct violation of the Mining act of 1971 (as amended). Section 74-49 (7) of the NC Mining Act of 1971 includes:

> *"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."*

The proposed fence and logging is an attempt to facilitate or accomplish extraction or removal. And, an attempt to SEGMENT the proposed new rock mine project. The proposed fence and logging would certainly "break the surface soil" with every fence post and every tree removed along it's more than the two (2) mile portion encircling the Odd Fellows tract.

It is proposed to be 9' tall (8' chain-link topped with 3 rows of barbed wire) with 30 feet of clear-cut swath through forested uplands and bottomlands. In addition, RDUAA has stated the intent would be to "patrol" which would also effectively establish a road along the proposed fence.

The intent for Wake Stone Corporation to apply for a Mining Permit on the entire Odd Fellows tract is included in the public document dated March 1, 2019 entitled "Option and Lease Agreement" that was signed by the RDUAA and Wake Stone Corporation (Lessee). This document clearly states the intent for the fence to be part of the mining operation. Section 8(c) on page 8:

> *"Lessee shall be solely responsible to provide fencing, security and all other safeguards to prevent unauthorized entry into the Premises."*

As seen from the attached Google Earth graphic, the more than 2 miles in length of fencing/logging proposed along the perimeter of the Fellows Tract would create an isolated land "island" of the Odd Fellows Tract. The proposed fence around the Odd Fellows tract is not needed for runway/terminal security as it would be 2 miles away from the runways/terminals-demonstrating the intent is an attempt to segment and bias the mining permit evaluation process.

The proposed fence is an attempt to segment the detrimental aspects of the proposed mine **BEFORE** an approved mining permit modification is issued. A clear violation of the Mining Act of 1971. The proposed fence project (**RDU Project No. 211140)** would have profound detrimental impacts on William B. Umstead State Park, profound detrimental impacts on Foxcroft Lake and Crabtree Creek, profound detrimental impacts on wildlife, and profound detrimental impacts on adjacent private residences.

II. Violation of the Current Mining Permit 92-10, violations of the 250-feet permanent buffers

Wake Stone Corporation has publicly stated their intent to submit a Mining Permit Application for a new rock mine pit on the Odd Fellows Tract. They have concurrently stated their intent to submit their application as an "Expansion" of their current Mining Permit 92-10. Mining Permit 92-10 is for a controversial rock mine on the OTHER side of Crabtree Creek. The Mining Permit 92-10 includes conditions, including substantial buffers along Crabtree Creek and William B. Umstead State Park.

The proposed fence outlining the perimeter of the Odd Fellow tract is a violation of Wake Stone Corporation's current mining permit conditions (Mining permit 92-10) that were added after DEQ denied their permit, as well as the commitments Wake Stone Corporation made to NC State Parks, DEQ and the Mining Commission and included in the Mining Permit. Wake Stone Corporation's mining permit is conditioned with a stipulation that it maintains undisturbed buffer zones; with the exception of the installation of required sediment control measures and approved earthen berms. The committed buffers in the current mining permit are 250 feet wide and do NOT allow a fence within the buffer zones. Under its permit Wake Stone Corporation could not include the fence, clear-cut zone and adjacent road as part of the undisturbed buffer.

The current Mining Permit 92-10 language includes:

> *"3.C Buffer Zones. All buffer zones shown on the Site Map revised February 26, 2018 shall be maintained to protect adjoining property. These buffer zones, with the exception of the installation of required sediment control measures and approved earthen berms, shall remain undisturbed."*

The proposed fence is an apparent attempt to circumvent this committed property buffer requirement along William B. Umstead State Park and Crabtree Creek. The proposal by RDUAA is to clear-cut the forest with only 10 feet buffer from the State Park boundary and 30 to 50 feet buffer along over 1 mile through the steep slopes of Crabtree Creek. And, maintain an effective path/road for ATV and other vehicles.

No fence should be allowed on the Odd Fellows tract prior to an approved mining permit, and certainly with no less than committed 250 feet of undisturbed buffer.