



ClearWater Environmental Consultants, Inc.
www.cwenv.com

May 28, 2020

Ms. Kaylie Yankura
NC Division of Water Resources
2090 US Highway 70
Swannanoa, North Carolina 28778

**RE: Notice of Violation and Recommendation for Enforcement
High Hampton Country Club (DWR#20180765 v4)
NOV-2020-SS-0012
Jackson County, North Carolina**

Dear Ms. Yankura,

Please reference the "Notice of Violation" (NOV) letter dated May 27, 2020 (Attachment A) sent by the NC Division of Water Resources (DWR) in response to a site visit conducted on May 21, 2020. The subject property located in Jackson County, North Carolina (Figure 1). The NOV cites sediment impacts to unnamed tributaries to Fowler Creek (Class C; Trout:+) and Fowler Creek (Class C; Trout:+). The NOV requires responses to several listed concerns. The DWR concerns are addressed below.

Required Response 1: *"The site must be stabilized immediately, and/or proper erosion control measures installed to prevent ongoing and continuing sedimentation impacts. Please coordinate these efforts with Steve Beasley with Jackson County Erosion Control. Contact our office immediately if additional sediment from your site is discharged to streams and/or wetlands."*

During heavy rains occurring from May 18 – 20 the area received approximately 5.3" of rain. WGLA Engineering visited the site on May 21, 2020 to evaluate the site and make recommendations to prevent ongoing and continuing sedimentation impacts. An open line of communication will be maintained with Jackson County Erosion Control and DWR as work on the project continues.

Required Response 2: *"Please submit the following documents for review and approval:"*

- a. *"Sediment Removal Plan - Sediment impacts to the streams onsite and downstream of the site must be removed. As a part of this plan, you should provide the amount (depth) of material that has been deposited in the stream. This information should be depicted on a*

map you provide. It is recommended that you use hand labor (buckets, shovels, and wheelbarrows) to remove deposited sediment from the channel. The sediment should be removed from the channel, taken to high ground away from the stream channel a minimum of thirty feet, and stabilized. The plan must address the measures that will be used for temporary stabilization/sediment control while this work is under way. It is recommended that you secure a consultant experienced in stream restoration to assist you with your plan development and authorization necessary to achieve compliance."

ClearWater Environmental Consultants, Inc. (CEC) conducted a site visit on May 26, 2020. During this visit unnamed tributaries to Fowler Creek and Fowler Creek were evaluated for sediment impacts. CEC identified and flagged areas of sediment deposition. Representative photographs of the site are included in this report (Attachment B). A Sediment Removal Location Map depicting these locations is included (Figure 2).

Sediment will be removed from unnamed tributaries to Fowler Creek and Fowler Creek by hand via the use of shovels and buckets. This work is expected to take place over the course of one to two weeks. Sediment removal will begin at the start of the unnamed tributaries and will progress downstream as shown in Figure 2 (approximately 1,225 linear feet). Sediment removed will be relocated to upland locations approximately 30 feet from jurisdictional water. Sediment will be contained by a silt fence perimeter and a layer of straw seeded with annual rye grass will be applied to all sediment spoil piles.

- b. *"Please include in your response a detailed schedule with dates explaining when the restoration will be accomplished."*

Sediment removal efforts, utilizing the aforementioned techniques, will be initiated immediately upon approval by the NCDWR. It is anticipated that sediment removal from unnamed tributaries to Fowler Creek and Fowler Creek will be complete within 30 days of NCDWR approval. A final report will be submitted within 30 days of completion of the remediation efforts.

Please do not hesitate to contact us at 828-698-9800 if you have any questions or comments.

Sincerely,

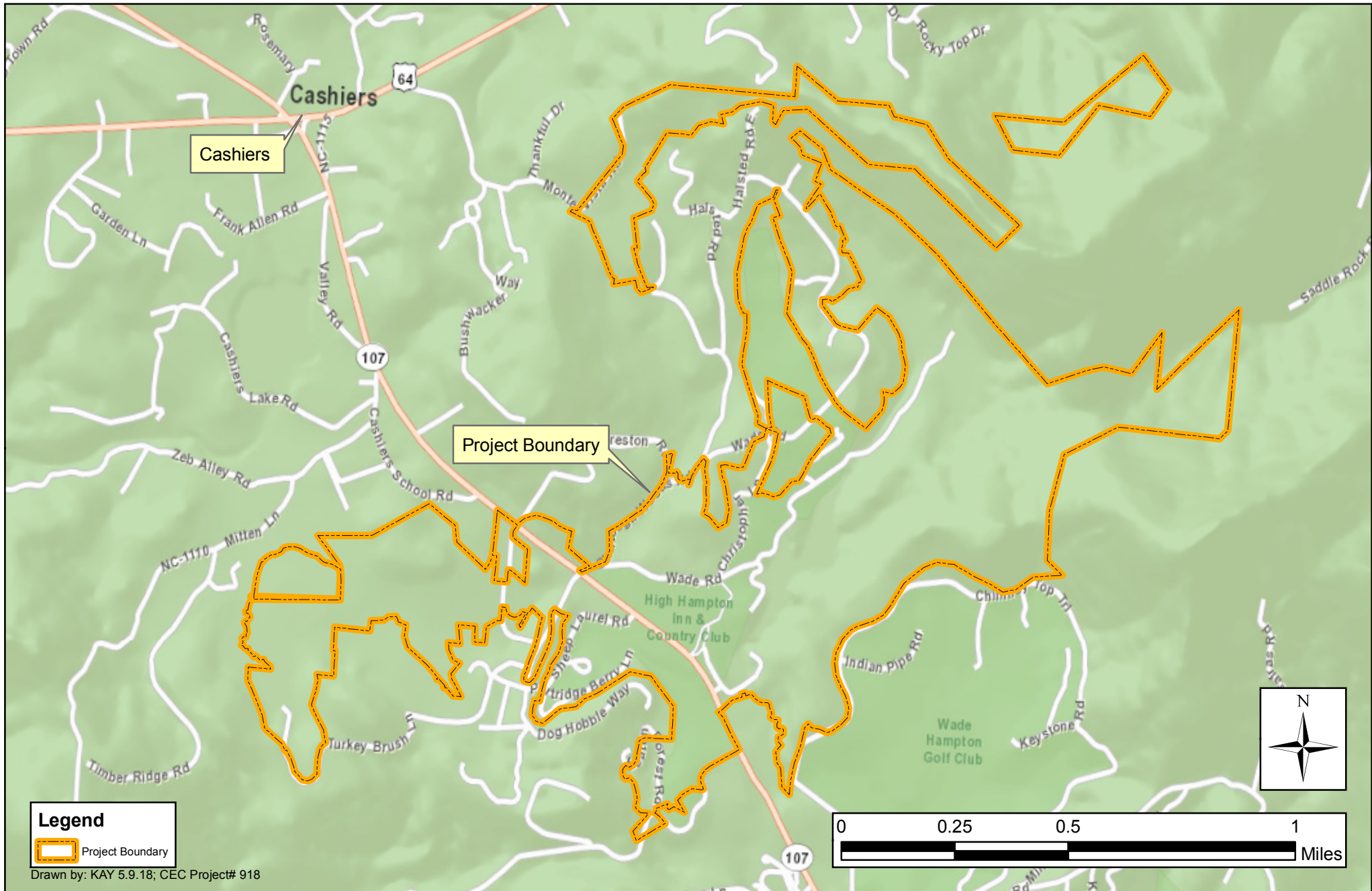
Britten Yant

Britten William Yant
Biologist

pp

R. Clement Riddle, P.W.S.
Principal

High Hampton (+/- 684 AC)



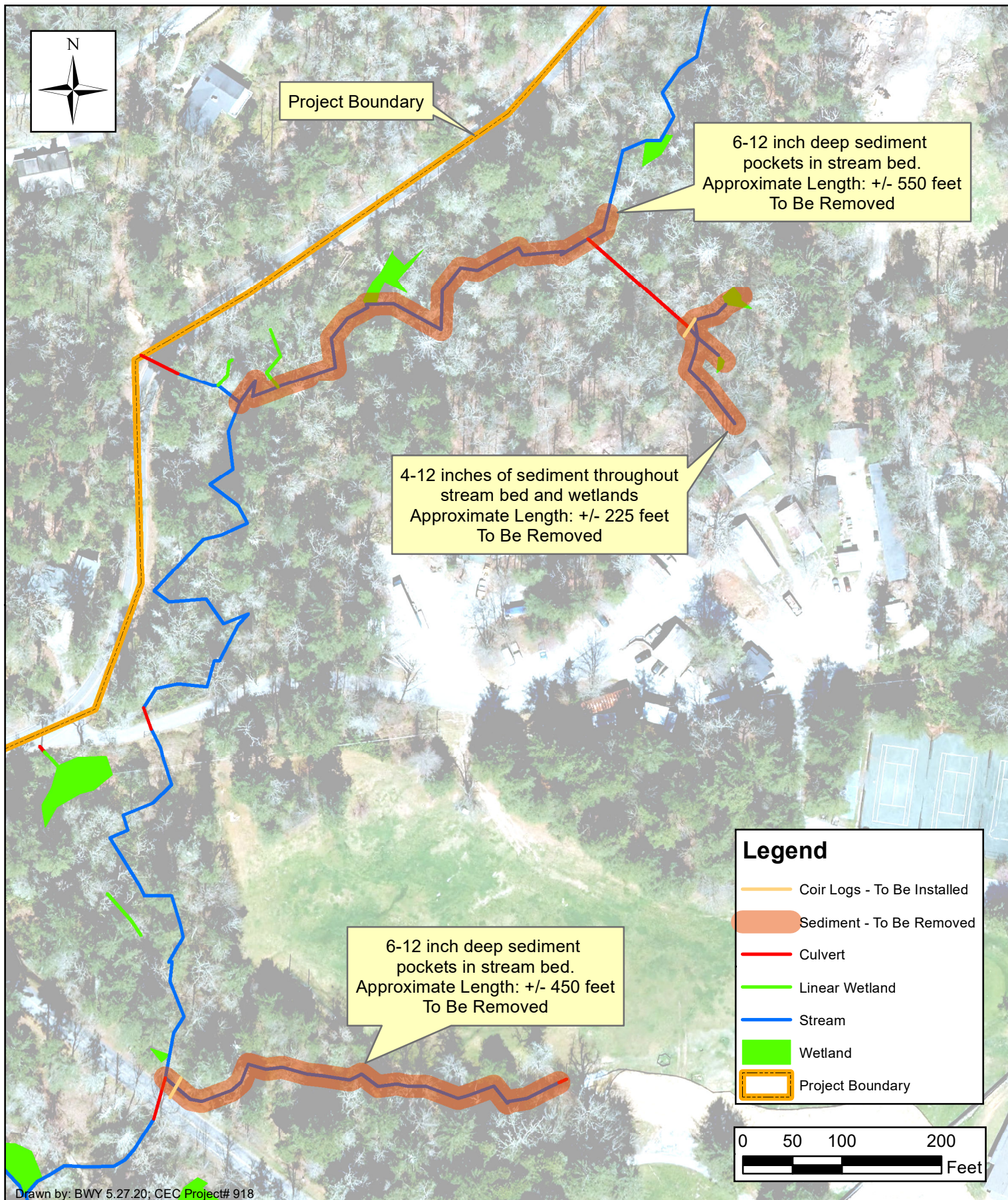
Jackson County,
North Carolina



32 Clayton Street
Asheville, North Carolina 28801

Site Vicinity
Figure 1

High Hampton (+/- 684 AC)



Jackson County,
North Carolina

ClearWater

32 Clayton Street
Asheville, North Carolina 28801

In-Stream Sediment
Removal Overview Map
Figure 2

Attachment A
Notice of Violation
(Dated May 27, 2020)

ROY COOPER

Governor

MICHAEL S. REGAN

Secretary

S. DANIEL SMITH

Director



NORTH CAROLINA
Environmental Quality

May 27, 2020

CERTIFIED MAIL 7019 1640 0000 1354 4160
RETURN RECEIPT REQUESTED

Daniel Communities, LLC -
Managers
3104 Blue Lake Drive, Suite 200
Vestavia, AL 35243

CERTIFIED MAIL 7019 1640 0000 1354 3835
RETURN RECEIPT REQUESTED

High Hampton Land LLC
National Registered Agents Inc.
160 Mine Lake Court, Suite 200
Vestavia, AL 27615

CERTIFIED MAIL 7019 1640 0000 1354 3828
RETURN RECEIPT REQUESTED

High Hampton Land LLC -
Managers
1525 Highway 107 South
Cashiers, NC 28717

CERTIFIED MAIL 7019 1640 0000 1354 4153
RETURN RECEIPT REQUESTED

Daniel Communities, LLC
National Registered Agents Inc.
160 Mine Lake Court, Suite 200
Raleigh, NC 27615

CERTIFIED MAIL 7019 1640 0000 1354 3842
RETURN RECEIPT REQUESTED

High Hampton Resort, LLC
National Registered Agents Inc.
160 Mine Lake Court, Suite 200
Raleigh, NC 27615

CERTIFIED MAIL 7019 1640 0000 1354 3811
RETURN RECEIPT REQUESTED

High Hampton Resort LLC -
Managers
1525 Highway 107 South
Cashiers, NC 28717

Subject: **NOTICE OF VIOLATION**
and RECOMMENDATION FOR ENFORCEMENT
High Hampton Country Club (DWR#20180765 v4)
NOV-2020-SS-0012
Stream Standard Violation – Other Waste (In-stream sediment)
Stream Standard Violation – Removal of Best Usage
401 Water Quality Certification (WQC) Conditions
Jackson County
Required Response Date: June 29, 2020

Dear Sirs:

On May 21, 2020, Kaylie Yankura and Tim Fox from the Asheville Regional Office of the Division of Water Resources (DWR) conducted a site inspection at your property located off NC Highway 107 in Cashiers (Parcel Identification Number 7571-96-2373). The site inspection was in response to water quality concerns originating from an erosion control failure on your property.



North Carolina Department of Environmental Quality | Division of Water Resources
Asheville Regional Office | 2090 U.S. Highway 70 | Swannanoa, North Carolina 28778
828.296.4500

During the site inspection, unnamed tributaries to Fowler Creek, classified C; Trout:+, and Fowler Creek, classified C; Trout:+ were observed to have been impacted by sediment deposition from an erosion control failure on your property.

As a result of the site inspection and file review, the following violations were identified:

VIOLATIONS

- I. Stream Standard Violation - Other Waste (In-stream sediment) 15A NCAC 02B .0211 (12)** – An undetermined length of unnamed tributaries to Fowler Creek, classified C; Trout:+, and Fowler Creek, classified C; Trout:+ was impacted by sediment deposition measured to be at least 4 inches in depth and in excess of 24 inches in depth throughout the stream reaches, representing Water Quality Stream Standard violation of 15A NCAC 02B .0211 (12).
- II. Conditions of Best Usage - 15A NCAC 02B.0211 (2)** – The stream impacts from unauthorized fill are violations of Title 15A North Carolina Administrative Code 02B .0211 (2) which requires that “The waters shall be suitable for aquatic life propagation and maintenance of biological integrity, wildlife, secondary recreation, and agriculture; sources of water pollution which preclude any of these uses on either a short-term or long-term basis shall be considered to be violating a water quality standard.”
- III. 401 WQC Condition Violation** –DWR issued an Individual 401 Water Quality Certification with Additional Conditions (Certification No. WQC004212) on May 12, 2020. The approval letter specifies that the activities must follow the conditions listed in the corresponding Water Quality Certification, as well as additional conditions listed in the letter.

Accordingly, the following observations and/or permit condition violations were noted during the DWR inspection and subsequent file review:

1. Condition 9. -- No impacts Beyond those Authorized in the Written Approval of Beyond the Threshold of Use of the Certification.

No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the impacts (including temporary impacts) as authorized under this Certification.

2. Condition 10. -- Standard Erosion and Sediment Control Practices

All construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973).

REQUIRED RESPONSE

Accordingly, you are directed to respond to this letter in writing by **June 29, 2020**. Your response should be sent to this office at the footer address or via email to kaylie.yankura@ncdenr.gov and include the following:

1. The site must be stabilized immediately, and/or proper erosion control measures installed to prevent ongoing and continuing sedimentation impacts. Please coordinate these efforts with Steve Beasley with Jackson County Erosion Control. Contact our office immediately if additional sediment from your site is discharged to streams and/or wetlands.
2. Please submit the following documents for review and approval:
 - a. Sediment Removal Plan - Sediment impacts to the streams onsite and downstream of the site must be removed. As a part of this plan, you should provide the amount (depth) of material that has been deposited in the stream. This information should be depicted on a map you provide. It is recommended that you use hand labor (buckets, shovels, and wheelbarrows) to remove deposited sediment from the channel. The sediment should be removed from the channel, taken to high ground away from the stream channel a minimum of thirty feet, and stabilized. The plan must address the measures that will be used for temporary stabilization/sediment control while this work is under way. It is recommended that you secure a consultant experienced in stream restoration to assist you with your plan development, onsite supervision of sediment removal activities, and authorization necessary to achieve compliance.
 - b. Please include in your response a detailed schedule with dates explaining when the restoration will be accomplished. Once the work is complete, a final report documenting the results of the restoration should be submitted to Kaylie Yankura.

Thank you for your attention to this matter. **This office requires that the violations, as detailed above, be abated immediately and properly resolved.** Environmental damage and/or failure to secure proper authorizations have been documented on the subject tract as stated above. Your efforts to undertake actions to bring the subject site back into compliance is not an admission, rather it is an action that must be taken in order to begin to resolve ongoing environmental issues.

Pursuant to G.S. 143-215.6A, these violations and any future violations are subject to a civil penalty assessment of up to a maximum \$25,000.00 per day for each violation. Your above-mentioned response to this correspondence, the degree and extent of harm to the environment, and the duration and gravity of the violation(s) will be considered in any civil penalty assessment process that may occur.

Should you have any questions regarding these matters, please contact Kaylie Yankura at (828) 296-4685 or kaylie.yankura@ncdenr.gov.

Sincerely,

DocuSigned by:

7E617A38285848C...

G. Landon Davidson, P.G, Regional Supervisor
Water Quality Regional Operations
Asheville Regional Office

cc: Steve Beasley – Jackson County (email copy)
Owen Schultz – High Hampton/Daniel Communities (email copy)
David Brown – USACE (email copy)
Andrea Leslie – WRC (email copy)
Clement Riddle – ClearWater Environmental (email copy)
Will Buie – WGLA Engineering (email copy)
DWR ARO file
DWR 401 & Buffer Permitting Branch file

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Attachment B
Representative Photographs



Photo 1: Flag S1, 6 inches of sediment accumulated in stream bed.
View toward left bank.



Photo 2: Flag S3, 8 inches of sediment accumulated in stream bed.
View downstream.



Photo 3: Flag S4, 6-12 inches of sediment accumulated in stream bed.
View downstream.



Photo 4: Flag S7, 12 inches of sediment accumulated in stream bed.
View upstream.



Photo 5: Flag S9, 12 inches of sediment accumulated in stream bed.
View downstream.



Photo 6: Flag S12, 6 inches of sediment accumulated in stream bed.
View downstream.