

## **Beaufort County Stormwater Management Utility Board (SWMU Board) Meeting Minutes**

March 15, 2017 at 2:00 p.m. in Executive Conference Room, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort, South Carolina

### **Board Members**

#### **Present**

Don Smith  
Patrick Mitchell  
William Bruggeman  
Marc Feinberg  
Larry Meisner  
James Fargher

#### **Absent**

Allyn Schneider

### **Ex-Officio Members**

#### **Present**

Scott Liggett  
Van Willis  
Andy Kinghorn

#### **Absent**

Kim Jones

### **Beaufort County Staff**

Eric Larson  
David Wilhelm  
Rebecca Baker  
Melissa Allen  
Carolyn Wallace  
John Miller  
Robert Gecy

### **Visitors**

Bill Baugher, Town of Bluffton  
Alice Howard, County Council  
Ellen Comeau, Clemson Extension  
Denise Parsick, Beaufort S&W Conservation Dist.  
Rikki Parker, Coastal Conservation League  
Ernie Wiggers, Nemours Wildlife Foundation

#### **1. Meeting called to order – Don Smith**

- A. Agenda – Approved.
- B. February 15, 2017 - Approved.

#### **2. Introductions – Completed.**

#### **3. Public Comment(s) – None.**

#### **4. Reports – Mr. Eric Larson and Mr. David Wilhelm provided a written report which is included in the posted agenda and can be accessed at:**

<http://www.bcgov.net/departments/Administrative/beaufort-county-council/boards-and-commissions/council-appointed/board-list/stormwater-management-utility-board/agendas/2017/031517.pdf>

#### **A. Utility Update – Eric Larson**

In reference to item #1, Mr. Eric Larson announced that we received the signed agreement from the USDA for the Emergency Watershed Protection grant today. The grant is approximately \$700,000 and the County now has 220 days to clean up debris on the stormwater easements.

In response to a question, Ms. Denise Parsick explained that since there is a conservation district in Beaufort, USDA NRCS funding is available to the County for Emergency Watershed Protection.

**B. Monitoring Update – Eric Larson**

Mr. James Fargher asked why mercury was added to the testing, as it hasn't been done in the past. Mr. Larson responded that those parameters were added at the request of the Town of Bluffton, since we are in the process of drafting an agreement for shared testing and results in shared watersheds. Mr. Bill Baugher mentioned that as part of the MS4 303d sampling requirements, it has been added since mercury is an impairment in the New River.

**C. Stormwater Implementation Committee (SWIC) Report – Eric Larson**

Mr. Larson indicated that the SWIC will be meeting next week and that the committee will receive an update on the Stormwater Management Plan from the consultant (ATM).

**D. Stormwater Related Projects – Eric Larson**

In reference to item #2, Mr. Larson noted that the public meetings went very well with the two districts that the County meet with to explain processes and what is needed to begin stormwater projects.

**E. Professional Contracts Report – Eric Larson**

In reference to the Master Plan, the County is meeting next week to review a milestone submittal from ATM. The project is scheduled to finish by the end of the year.

**F. Regional Coordination – Eric Larson**

Please reference the report which is included in the posted agenda. No additional updates.

**G. Municipal Reports – Eric Larson**

Mr. Scott Liggett mentioned that the Town of Hilton Head is still working to respond to all of the debris within the drainage systems.

**H. Municipal Separate Storm Sewer System (MS4 Update) – Eric Larson**

Mr. Larson indicated that the number of active permits is increasing as a result of the new permitting program.

An explanation and live demonstration of Beaufort County Connect App and Data Manager was presented to the Board. In response to a question, Mr. Robert Gecy explained that the citizens will receive feedback when status changes are made and public comments are entered from County staff. He explained that this has been designed to work county-wide and that the Connect App is connected to the County GIS system, so it sends the complaint to the appropriate municipality within Beaufort County when it is received.

**I. Maintenance Projects Report – David Wilhelm**

Mr. David Wilhelm's noted that his maintenance report for March contained five major projects and nine minor projects.

*HWY 278 Retrofit Pond #8* – 1-acre pond to collect stormwater runoff from HWY 278, before going into the marsh is complete.

*Fox Island* – This project impacted 10 parcel and 3 county roads. 160 feet of pipe was installed, as well as a flapgate on the outfall.

*Hamar Street* – Joint project where the City of Beaufort paid for the cost of the design that was done by Ward Edwards, SCDOT covered the cost of materials (pipes and structures), and Beaufort County contributed the cost of labor and equipment.

Mr. Wilhelm shared the Stormwater Project List which was created to organize and schedule stormwater projects based on priority (threat to health and safety, how long it has been an issue, etc.) and includes an estimate of how long a project will take to help provide a timeline of when work may begin on a particular project.

## **5. Unfinished Business –**

Mr. Don Smith asked Mr. Scott Liggett about the affects that the rain and flooding from Hurricane Matthew had on the constructed BMP's in the Town of Hilton Head. Mr. Liggett explained that all the pump stations sustained damage, water intruded into the pumps, so they are working to repair the pumps. Estimate to repair the system is around three million dollars. Mr. Liggett noted that the first 11 projects have been completed. In response to a question, he explained that the pumps are custom built out of Florida and the insurance adjustors and claim process has had a large impact on the amount of time it is taking to get the pumps back up, as they don't want to compromise a valid claim.

## **6. New Business**

**A. Special Presentation: Carolina Clear and the Lowcountry Stormwater Partners** - Ms. Ellen Comeau presented information on Carolina Clear and their mission to educate communities about water quality, water quantity, and the cumulative effects of stormwater. She explained the different programs they offer, such as Certified Stormwater Plan Reviewer and the Carolina Rain Garden Initiative, and services, such as mass media campaigns and consortium management.

Ms. Comeau talked about the creation of Lowcountry Stormwater Partners and the growth it has had with additional organizations joining. The Lowcountry Stormwater Partners held a strategic education plan meeting on September 29, 2016 and with input and ideas from the meeting they were able to develop the 2016-2018 Lowcountry Stormwater Partners Strategic Regional Outreach Plan that is part of MCM1 and MCM2 compliance of the MS4 program permit.

[The Carolina Clear and the Lowcountry Stormwater Partners presentation is attached to the minutes.](#)

### **B. Hearing on Stormwater Fee Appeal – Nemours Wildlife Foundation**

Mr. Eric Larson presented facts regarding the Nemours Wildlife Foundation appeal and history of the rate structure study and change in calculations.

Ms. Carolyn Wallace mentioned that the land type and acreage is determined by the assessor's office and provided clarification on how stormwater fees for parcels that have the agriculture use exemption are calculated.

Mr. Ernie Wiggers presented information regarding the appeal submitted for Nemours Wildlife Foundation.

Ms. Rikki Parker, with Coastal Conservation League, spoke in support of Mr. Wiggers and the Nemours Wildlife Foundation appeal.

Mr. Don Smith presented some pictures of Nemours Plantation, providing a visual of some areas of the plantation that have had timbering operations.

The appeal made by Nemours Plantation is in regard to the fact that a disturbed runoff coefficient was used versus the undisturbed when calculating stormwater fees, as the land use of the plantation involves sivilculture which is calculated different than cropland (undisturbed) per the 2005 rate study. County staff evaluated the stormwater utility fees and it has been determined that according to County ordinance and adopted policy, the fees are calculated correctly.

A motion was made to table the stormwater fee appeal and direct staff to get advice from legal counsel and consultants regarding the distinction between agriculture versus sivilculture, as well as the financial impact on the stormwater utility if the board was to propose a change to the existing policy. The Board unanimously (6:0) approved to table the stormwater fee appeal by Nemours Wildlife Foundation.

[The Nemours Plantation appeal reports and supporting documents are attached to the minutes.](#)

**7. Public Comment(s) – None.**

**8. Executive Session**

A motion was made to go into Execution Session. The Board unanimously (6:0) approved to go into Executive Session.

**9. Matters Arising Out of Executive Session**

A motion was made to table Project PP of the Executive Session. The Board unanimously (6:0) approved to table Project PP.

**10. Next Meeting Agenda – Approved.**

Addition for April 19th to Unfinished Business: Hearing on Stormwater Fee Appeal  
Addition for April 19th – Executive Session – Project PP Continuation

**11. Meeting Adjourned**

WATER RESOURCES OUTREACH

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# CAROLINA CLEAR AND THE LOWCOUNTRY STORMWATER PARTNERS

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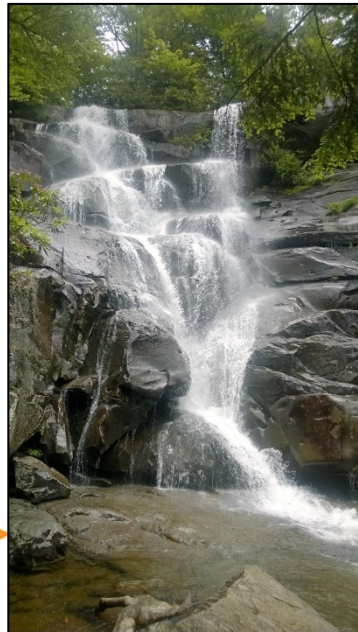
WE ALL LIVE DOWNSTREAM





# INTRODUCING ELLEN COMEAU

ST. LAWRENCE  
UNIVERSITY



# WHAT IS CAROLINA CLEAR?



# CLEMSON<sup>®</sup>

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## COOPERATIVE EXTENSION

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“We improve the economy, environment, and well-being of South Carolinians through the delivery of unbiased, research-based information and education.”



# WHAT DOES CAROLINA CLEAR DO?

- “Carolina Clear... educates communities about water quality, water quantity, and the cumulative effects of stormwater.”



- Providing **compliance-based** education and involvement opportunities
- Result in **behavior changes and increased awareness** of stormwater issues.



# WHAT DOES CAROLINA CLEAR DO?



## Programs Offered:

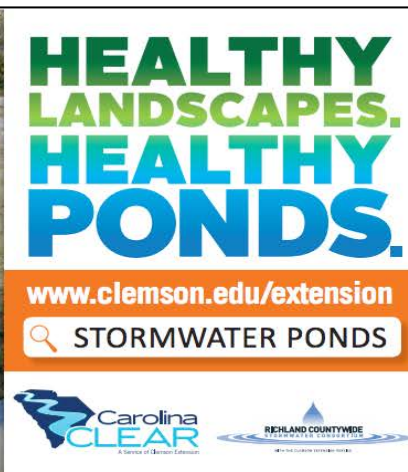
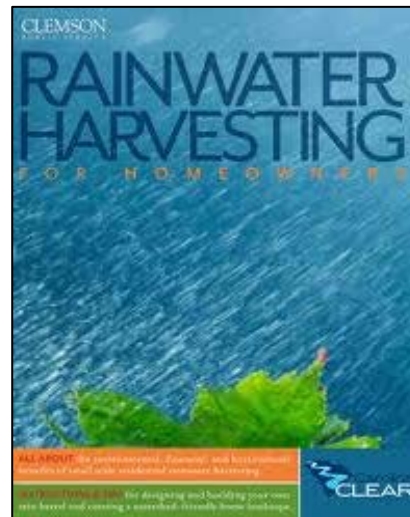
- Certified Erosion Prevention and Sediment Control Inspector
- Certified Stormwater Plan Reviewer
- 4-H2O
- Carolina Yards
- Post Construction BMP Inspector
- Master Pond Manager
- Stormwater BMP Training for Contractors
- Silt Fence and Beyond Workshop
- Carolina Rain Garden Initiative



# WHAT DOES CAROLINA CLEAR DO?

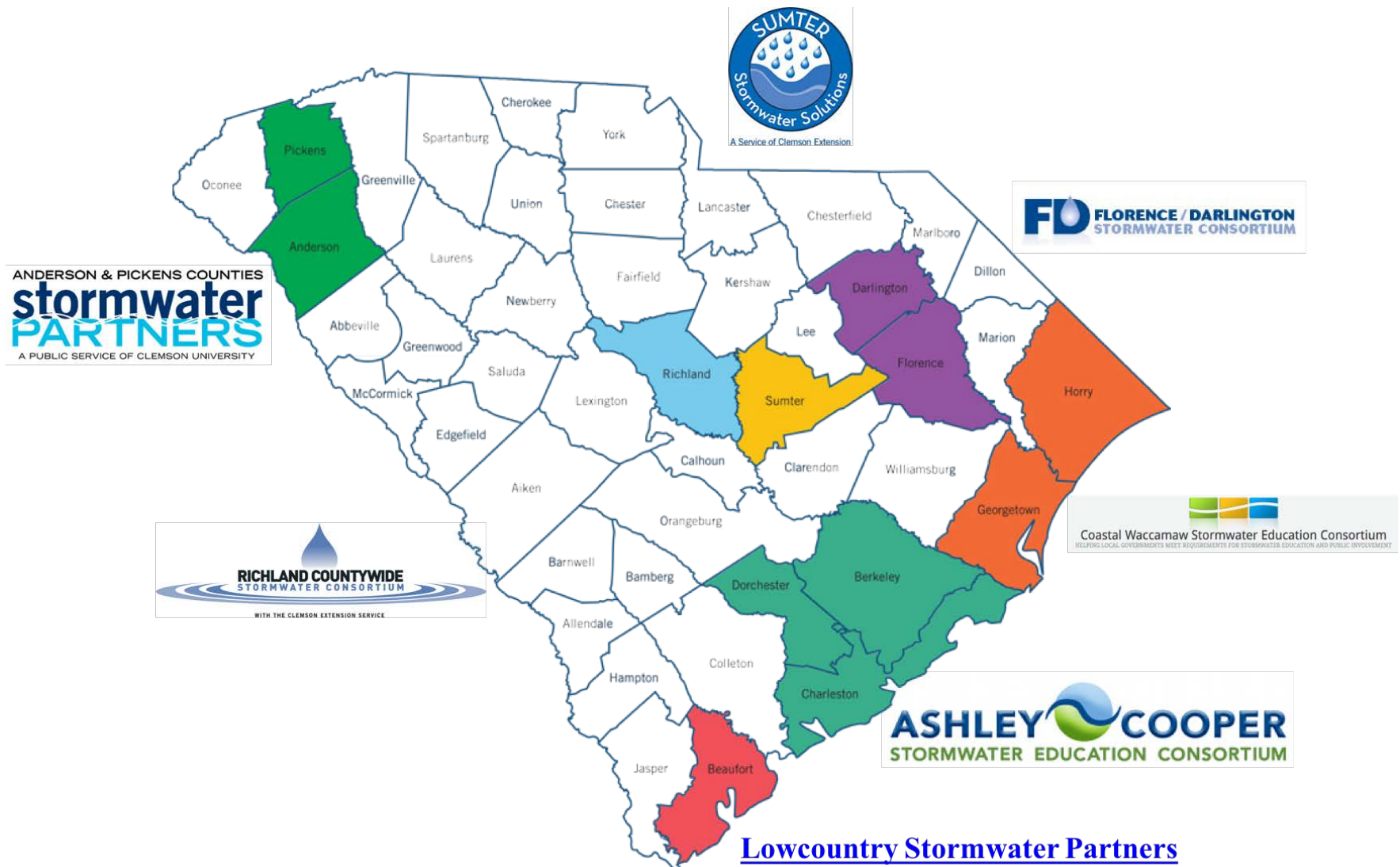
## Other Services:

- Mass Media Campaigns
- Statewide Surveys
- Community Specific Workshops
- BMP Installation and Signage
- Libraries of Online Resources
- Consortium Management





# CONSORTIUMS?

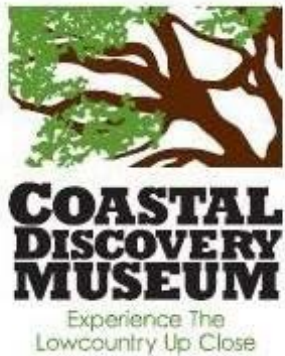


# LOWCOUNTRY STORMWATER PARTNERS





# LOWCOUNTRY STORMWATER PARTNERS



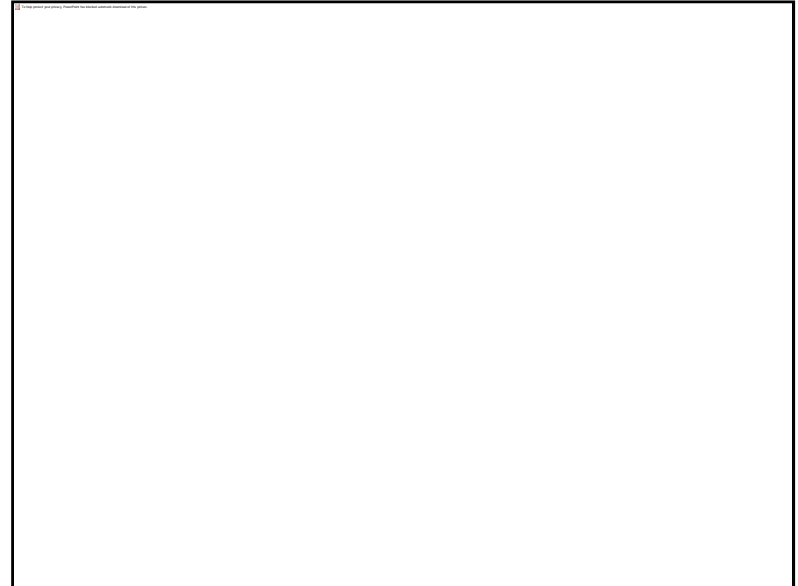
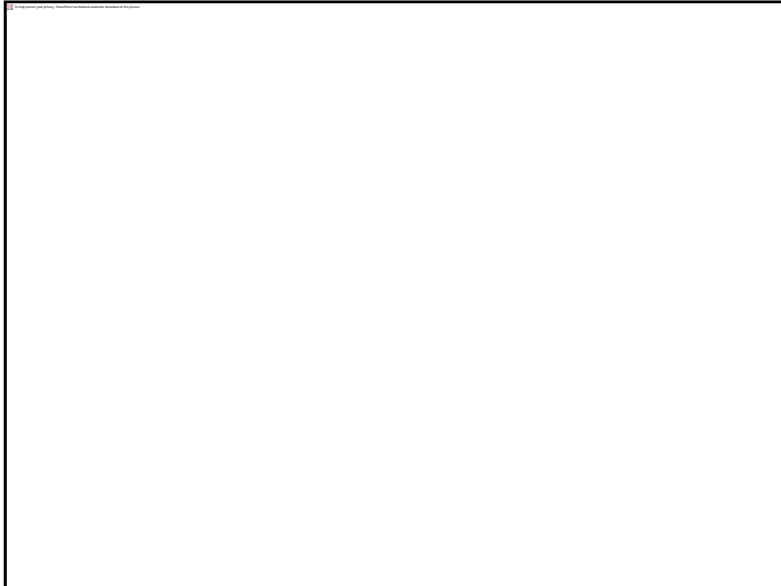
## Strategic Education Plan Meeting

- September 29<sup>th</sup>, 2016
- Goals:
  - Identify primary POCs for the region
  - Identify target audiences/behaviors
  - Brainstorm potential solutions, programs, and partners



## Strategic Education Plan Meeting

- MS4 presentations
- Local Perspectives survey
- POC brainstorming and prioritization exercise
- Small group discussions



# LOWCOUNTRY STORMWATER PARTNERS



POC	Target Behavior and/or Activity
Post-Construction Maintenance	Stormwater pond focus
Runoff Volume	Dilution of saltwater, impacts on estuary and ecosystem, influence on pollutant loading
Littering	Plastics
Bacteria	Bacteria's impact to waterways and risk to public health awareness for area residents
Fertilizer (Nutrients)	Proper application of fertilizers
Irrigation Practices	Proper timing and amounts of irrigation
Irrigation Source	Pond water
Septic Tanks	Installation, proper maintenance, knowledge of septic safe materials
Construction Runoff	Awareness of sediment control options
Sanitary Sewer Overflows	User disposal practices
Failing Infrastructure	Maintenance, knowing when to call for repairs, public versus private infrastructure



# LOWCOUNTRY STORMWATER PARTNERS



POC	Target Behavior and/or Activity
Linking Land Use Change to Natural Resources	Quality of community, livelihoods of fisherman, shrimpers, and oyster farmers, property values
Illegal Dumping	Proper disposal practices, supplies for spill prevention and control
Lawn Debris	Proper disposal of grass clippings and other landscape debris
Infiltration	Site-specific better management practices, reducing and/or mitigating impervious cover
Pesticides	Proper use and application of pesticides
Copper	Pond applications
Commercial Grease Trap Maintenance	Awareness and regular maintenance
Boat/Dock/Marina Maintenance	Awareness of boat maintenance practices, local ordinances, and proper waste disposal
Gas Stations	Maintenance and runoff
Commercial Car Washes	Polluted runoff, pop-up, and charity car washes
Pharmaceuticals	Opportunity to properly dispose of pharmaceuticals
Pool Discharge	Proper de-chlorination, low or no impact draining
Large Item Dumping	Proper disposal, illegal dumped, link to bacteria and rodents, flooding concerns in ditches

Prioritized POCs for the Following Three Years	
Prioritiy	Pollutant
1	Post-Construction Maintenance
2	Freshwater (Runoff Volume)
3	Litter
4	Bacteria
5	Nutrients
6	Sediment

## 2016-2018 Lowcountry Stormwater Partners Strategic Regional Outreach Plan

- Part of MCM1 and MCM2 compliance
  - Excel Sheet
    - Specific programs and their targeted audiences, behaviors, and goals
  - Written document
    - Describes the background data and discussions that informed the plan



# LOWCOUNTRY STORMWATER PARTNERS



Target Pollutant								Program/Activity
Post-Construction Maintenance	Freshwater (Runoff Volume)	Litter	Bacteria	Nutrients	Sediment	General Stormwater Awareness	Other	
x					x			Participation in the Carolina Clear Mass Media Campaign 2014-2017 Stormwater Ponds
x					x			Stormwater Pond Billboards
x		x	x	x	x			Stormwater Pond Conference
x	x	x	x	x	x			Watershed Friendly Business Program
x	x	x	x	x	x			Neighbors for Clean Water



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- Home
- Stormwater 101
- What You Can Do
- Regional Consortia
  - Regional Consortia
  - Anderson & Picken Counties Stormwater Partners
  - Ashley Cooper Stormwater
  - Florence-Darlington Stormwater Consortium
  - Richland Countywide Stormwater Consortium
  - Lowcountry Stormwater Partners
  - About Us
  - Archives**
  - Partners

### Archives

#### Lowcountry Stormwater Partners Past E-News

- LSP October 2016 Newsletter
- LSP November 2016 Newsletter
- LSP December 2016 Newsletter

#### Education Plans

- 2016-2018 Outreach Plan PDF Excel

#### Reports

- Final 2015 Report
- Final 2014 Report
- Final 2013 Report

**[www.clemson.edu/extension/carolinaclear/regional-consortiums/lsp/index.html](http://www.clemson.edu/extension/carolinaclear/regional-consortiums/lsp/index.html)**

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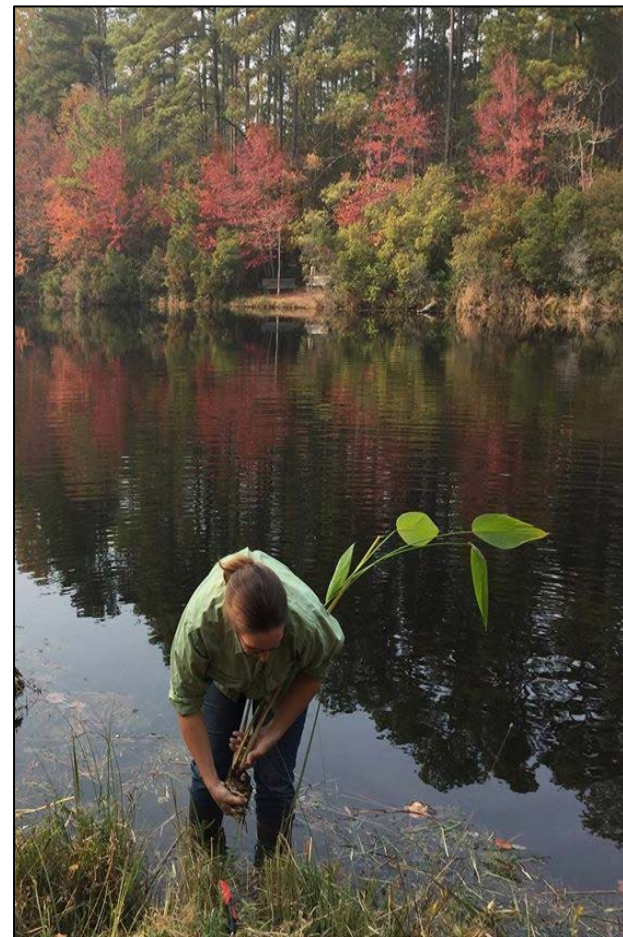
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## Past Events and Looking Ahead

- *Master Gardener Rain Garden Workshop*
- *Sun City Shorescape Project*
- *PRSF Maritime Center Birthday Celebration*
- *Rotary Club Lectures*
- *Website and Social Media Launch*
- *1<sup>st</sup> Consortium Meeting*
- Logo Creation
- Touch-A-Truck
- St. Helena Elementary School Career Day
- Hosting Master Pond Manager
- Planning a Fall Stormwater Pond Conference
- Great American Cleanup and River Sweep







ecomeau@clemson.edu



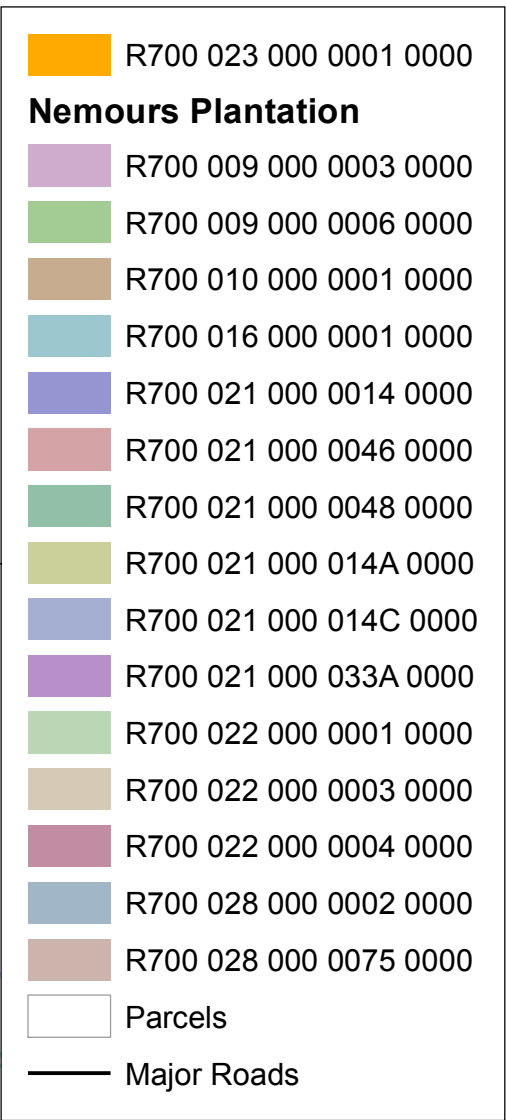
facebook.com/NeighborsforClean  
Water Facebook.com/

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# THANK YOU!



**R700 023 000 0001 0000 &  
Nemours Plantation Wildlife  
Foundation**



RIVER RD

CHARLESTON HWY

TRASK PKY

WIMBEE LANDING RD

KEANS NECK RD

0 0.3250.65 1.3 1.95 2.6 Miles




**BEAUFORT COUNTY STORMWATER UTILITY**  
**120 Shanklin Road**  
**Beaufort, South Carolina 29906**  
**Voice (843) 255-2805 Facsimile (843) 255-9436**



**INTEROFFICE MEMORANDUM**

**TO:** Stormwater Utility Board (aka Stormwater Fees Appeals Board)

**FROM:** Eric W. Larson, Stormwater Manager 

**SUBJECT:** Nemours Plantation SWU Fee appeal

**DATE:** March 15, 2017

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On January 31, 2017, the Stormwater Utility received an appeal from Nemours Plantation. The request is attached and included by reference. The appeal covered the following parcels:

R700 021 000 033A 0000	R700 022 000 0003 0000	R700 028 000 0075 0000
R700 009 000 0006 0000	R700 021 000 0014 0000	R700 021 000 0046 0000
R700 021 000 0048 0000	R700 021 000 014A 0000	R700 021 000 014C 0000
R700 022 000 0001 0000	R700 022 000 0004 0000	R700 009 000 0003 0000
R700 010 000 0001 0000	R700 016 000 0001 0000	R700 028 000 0002 0000

**Background**

As a brief summary of this grouping of parcels, the Nemours Plantation is held as a non-profit entity dedicated to preserve the land. Some of the parcels have conservation easements placed upon them while others are simply held as voluntary preservation. There are sparsely located structures throughout the parcels and many of the forested area have active Silviculture practices. A few of the tracts are partially or completely with salt marsh or freshwater wetland. Lastly, many of the tracts are already receiving the “agricultural exemption” for taxes, which reduces stormwater fees by a factor of 10x as defined in the previous SWU rate structure adopted in 2005.

In Tax Year 2015, the first year after the rate structure change, the County did make adjustments to fees on three tracts as a result of being deemed marsh or by demonstrating the existence of a conservation easements. In 2016, as a result of the completion of the rate study and reassessment of properties, the land cover was updated from “undisturbed” to “disturbed”, mainly due to the silviculture practices. This changes runoff assumptions from 0.1% to 0.5% and hence increases fee amount under the older fee structure used with the Agricultural Exemption.

**Analysis of the Appeal**

The rate study completed in May 2005 contemplated a rate structure that assumed runoff factors based on land use and land cover. The use of the study recommendations was supported by the SWU Ordinance. Vacant and agricultural lands were given runoff factors between 0.001 and 0.005. As explained in the study, undisturbed lands would produce the lowest amount of runoff. In practice, the SW staff has uniformly applied either a 0.001 factor for undisturbed, natural lands or 0.005 for any land that appears to be harvested or otherwise disturbed from the natural state. This equated into a SWU fee by “assuming” 0.1% or 0.5% impervious cover for lands without improvements, converting the acreage into one or more SFU units, and multiplying that factor by the SWU fee rate. This subjective procedure was replaced by the IA and GA component billing structure adopted in 2015.

In approximately 2009, the South Carolina Legislature passed a law to prohibit the charging to SWU fees to agricultural lands UNLESS the jurisdiction already had such a SW Utility in place. This effectively allows Beaufort County to continue to charge SWU fees on Ag Exempt properties (based on the same terms, conditions, and amounts, aka rates) but prohibits the increase of said rates. As a result, even though the rate structure was changed in 2015, the SWU staff continues to use the older rate structure and \$50/SFU rate to calculate the fee. However, Staff is allowed to change the fee if the land use condition changes. In the case of many of the parcels in question in this appeal, routine reassessment that occurred with the 2015 Rate Study determined the land was being disturbed, effectively changing the conditions of the parcels and the amount of the SWU fee.

While not mentioned as part of the Appeal, a last issue involves the improvements located on the parcels. There are numerous dwellings and other buildings located on the properties. Even with conservation easements and agricultural exemptions, the County is allowed by the ordinance to charge for the impervious runoff generated. The recent reassessment noted additional structures on multiple parcels, resulting in an increased fee.

The Appeal's citation of the SC Sediment and Erosion Control Act is not applicable in that the Appeal is about the charging of SWU Fees, not permitting land disturbance. Similarly, the citation of the USEPA Clean Water Act as it relates to silviculture is irrelevant as this section is related to NPDES permitting, not SWU fees.

## Conclusion

The attached table summarizes the SWU fees for the past three tax years and compares them to the rate calculated using the new rate structure had Ag Exemptions and Conservation Easements not been applied. In some cases, the reassessment actually lowered the SWU fee. All of the increases are directly related to the reassessment of ground cover conditions or addition of built improvements. This routine assessment is allowed by the SWU ordinance as better data becomes available.

It is noteworthy that two of the parcels included in the Appeal, R700 016 000 0001 0000 and R700 010 000 0001 000, were adjusted in 2015 due to conservation easements that allowed for silviculture activities. The owner has not provided any evidence that these remaining parcels have such conservation easements.

Also of note is the fact that between 2014 and 2015, these parcels continued to receive the Ag Exemption and were not subjected to the increased rates associated with the new rate structure.

## Recommendation

Staff has evaluated the SWU fees for these parcels and determined they are accurately calculated per County ordinance and adopted policy and free of error.

**Nemours Wildlife Foundation**  
**Find Report**  
January 14 - 16, 2016

PIN_	Class	2014	2015	2016	Current Structure	Comments	Add. Comments
R700 021 000 033A 0000	AgVac Classified	9.58	9.58	48.84	106.00	22 acres active silviculture (crop field)	undisturbed to disturbed
R700 022 000 0003 0000	AgImp Forest	493.70	493.70	493.70	692.00	Robert - Improved vs. vacant; SFR gone as of 2013 aerial photo; \$479.46 w/ SFR removed & all acres classed as timberland	already disturbed; SFR demolished
R700 028 000 0075 0000	AgVac Forest	75.53	75.53	384.55	644.00	173.24 acres of active silviculture	undisturbed to disturbed
R700 009 000 0006 0000	AgVac Forest	91.81	91.81	467.39	902.00	210.56 acres of active silviculture	undisturbed to disturbed
R700 021 000 0014 0000	AgVac Forest	2.49	2.49	12.65	47.00	5.7 acres of active silviculture	undisturbed to disturbed
R700 021 000 0046 0000	AgImp Forest	334.40	334.40	289.58	585.50	(2) SFR - ;652.3 acres of cropland (Geraldine - Vacant vs Improved)	changed to improved and lowest runoff because of crops.
R700 021 000 0048 0000	AgVac Forest	185.74	185.74	945.61	3,040.00	(1) SFR (Robert - dwelling; Vickie - 426 acres in tax system vs. 950.51 acres in GIS); \$993.39 w/ SFR added, 1 acre assigned to SFR, and 425 acres timberland	undisturbed to disturbed, found 1 SFR & sheds; 524.51 acreage discrepancy b/t tax system & GIS. Per Assessor's office, acreage in tax system is correct & parcel lines in GIS cannot be adjusted (no plat).
R700 021 000 014A 0000	AgVac Classified	0.88	0.88	2.66	27.00	1 acre timber and 1 acre crop	undisturbed to disturbed
R700 021 000 014C 0000	AgVac Forest	2.18	2.18	11.10	42.00	5 acres of active silviculture	undisturbed to disturbed
R700 022 000 0001 0000	AgVac Classified	191.84	191.84	870.14	1,175.00	60 acres crop, 380 acres timberland and 200 acres marsh;	undisturbed to disturbed;
R700 022 000 0004 0000	AgVac Forest	4.36	4.36	22.20	70.00	10 acres of active silviculture	undisturbed to disturbed
R700 009 000 0003 0000	AgVac Forest	117.78	117.78	599.06	887.00	269.88 acres of active silviculture	undisturbed to disturbed
R700 010 000 0001 0000	AgImp Forest	1,714.38	1,714.38	1,714.38	10,263.50	Conservation easement - calc includes (7) SFRs and 3416 of timber cal as undisturbed	already been corrected with credit program.
R700 016 000 0001 0000	AgImp Forest	539.33	539.33	304.50	304.50	(4) SFR, (2) in Tier 3, (1) in tier 2, and (1) in tier 1; 100% CREDIT ON GA	already been corrected with credit program.
R700 028 000 0002 0000	AgVac Forest	194.54	194.54	871.46	1,448.00	379.2 acres of active silviculture and 67 acres crop	undisturbed to disturbed
		<b>3,958.54</b>	<b>3,958.54</b>	<b>7,037.82</b>	<b>20,233.50</b>		

January 31, 2017

To: Stormwater Management Utility Board and staff

Re: Appeal of Stormwater Fees for Nemours Plantation

From: Ernie P. Wiggers, President & CEO

The purpose of this letter is to appeal the 2016 stormwater fee assessed for the Nemours Plantation in northern Beaufort County. This property is owned by and operated by the Nemours Plantation Wildlife Foundation, a public non-profit 501(c)(3) cooperation dedicated to natural resources stewardship, scientific investigations related to natural resources conservation, and education. I serve as its President and CEO and oversee its day to day operations. Nemours Plantation properties are classified as AgVac Classified, AgVac Forest, or AgImp Forest. The stormwater fee for this property in 2015 was \$3,958.54 but increased to \$7,037.82 in 2016. When I inquired to the Stormwater Management office why the fees increased I was told their GIS analysis indicated trees had been harvested and the timberland acres were now 'disturbed' and consequently carry a higher fee rate.

For the reasons I outline below, I ask the Board to reconsider the higher stormwater fees assessed for this property and these fees recalculated accordingly. I am willing to present the reasons for my appeal to the full stormwater board membership. Thank you.

The reasons for my appeal are these:

1. I challenge the assertion that normal timber operations which comply with state issued Best Management Practices increase stormwater runoff or reduce quality of this runoff. We follow best management practices developed by the SC Forestry Commission to minimize both surface runoff and water quality issues. I request the opportunity to analyze the empirical data the county used to make this conclusion.
  - a. Due to our long growing seasons in Beaufort County, vegetation quickly becomes established and robust on sites where trees have been harvested because of the increased sunlight reaching the forest floor. There is only a very small period of time when bare ground may exist during these operations.
  - b. Not all timber operations result in complete removal of standing trees. Our pine plantations are thinned 1-2 times before final harvest. These thinnings remove the 3<sup>rd</sup> or 5<sup>th</sup> row of planted pine or remove individual, poor quality trees. The majority of trees remain during these thinning operations. GIS analysis may show trees have been used but stand integrity has not been disturbed or altered.
  - c. Some silvicultural operations have been conducted to reduce tree basal area to  $\leq 60$  ft square/ac to restore savanna habitat for threatened and endangered species such as the red cockaded woodpecker. These savannas quickly develop a robust understory of grasses and other



herbaceous plants.

2. Both the state of South Carolina and the U.S. government have produce rulings which prohibit an increase in stormwater fees when traditional land use practices such as tree harvesting are implemented. I cite the following and especially note the sections that are highlighted (see next page):

**State law on the ag exemption:** [http://www.scstatehouse.gov/sess118\\_2009-2010/bills/453.htm](http://www.scstatehouse.gov/sess118_2009-2010/bills/453.htm)

### ***Fee impositions***

**SECTION 2.** *Section 6-1-330 of the 1976 Code is amended by adding a new subsection to read:*

*"(D) The governing body of a county may not impose a fee on agricultural lands, forestlands, or undeveloped lands for a stormwater, sediment, or erosion control program unless Chapter 14, Title 48 allows for the imposition of this fee on these lands; provided, that any county which imposes such a fee on these lands on the effective date of this subsection may continue to impose that fee under its same terms, conditions, and amounts."*

**Chapter 14, title 48:** <http://www.scstatehouse.gov/code/t48c014.php>

### ***SECTION 48-14-10. Short title.***

*This chapter may be cited as the "Stormwater Management and Sediment Reduction Act".*

**HISTORY:** 1991 Act No. 51, Section 2.

### ***SECTION 48-14-20. Definitions.***

*(8) "Land disturbing activity" means any use of the land by any person that results in a change in the natural cover or topography that may cause erosion and contribute to sediment and alter the quality and quantity of stormwater runoff.*

### ***SECTION 48-14-30. Restriction of land-disturbing activities generally.***

*(A) Unless exempted, no person may engage in a land disturbing activity without first submitting a stormwater management and sediment control plan to the appropriate implementing agency and obtaining a permit to proceed.*

*(B) Each person responsible for the land disturbing activity shall certify, on the stormwater management and sediment control plan submitted, that all land disturbing activities will be done according to the approved plan.*

*(C) All approved land disturbing activities must have associated therein at least one individual who functions as responsible personnel.*

*HISTORY: 1991 Act No. 51, Section 2.*

**SECTION 48-14-40.** *Certain land-disturbing activities exempt from provisions of chapter.*

***The provisions of this chapter do not apply to the following land disturbing activities:***

*(A) Land disturbing activities on agricultural land for production of plants and animals useful to man, including but not limited to: forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of these animals; bees and dairy products; fur animals and aquaculture, except that the construction of an agricultural structure of one or more acres, such as broiler houses, machine sheds, repair shops, and other major buildings and which require the issuance of a building permit shall require the submittal and approval of a stormwater management and sediment control plan prior to the start of the land disturbing activity.*

***(B) Land disturbing activities undertaken on forest land for the production and harvesting of timber and timber products.***

**EPA Office of Water December 2012:**

[https://www3.epa.gov/npdes/pubs/sw\\_forestroad\\_factsheet.pdf](https://www3.epa.gov/npdes/pubs/sw_forestroad_factsheet.pdf)

### ***Summary***

*The U.S. Environmental Protection Agency (EPA) has announced that it has revised its Phase I stormwater regulations to clarify that stormwater discharges from logging roads do not constitute stormwater discharges associated with industrial activity and that a National Pollutant Discharge Elimination System (NPDES) permit is not required for these stormwater discharges. In Northwest Environmental Defense Center v. Brown, (NEDC) 640 F.3d 1063 (9th Cir. 2011), a citizen suit was filed alleging violations of the Clean Water Act for discharging stormwater from ditches alongside two logging roads in state forests without a permit. The court held that because the stormwater runoff from the two roads in question is collected by and then discharged from a system of ditches culverts and channels, there was a point source discharge of industrial stormwater for which an NPDES permit is required. The EPA did not intend for logging roads to be regulated as industrial facilities. However, in light of the NEDC decision, the EPA is revising 40 CFR 122.26(b)(14) to clarify the Agency's intent.*

## **Silvicultural Rule**

*Prior to the 1987 amendments, the EPA promulgated the Silvicultural Rule in which the Agency defined "silvicultural point source" to specify which silvicultural discharges were to be included in the NPDES program. The rule defines silvicultural point source to mean any "discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States" and further explains that "[t]he term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff."*

### 3. Summary of Timber Management Practices on Nemours Plantation

- a. We use a registered forester to carry out our timber management operation. Our forester follows best management practices as governed by the SC Forestry Commission for minimizing water runoff while maintaining water quality.
- b. Our timber management practices require a 40 foot wide buffer between waterways or marshes and stands undergoing silvicultural operations.
- c. Silvicultural practices do not always result in the removal of all trees, i.e. a clearcut. Pine stands are typically thinned by removing the 3<sup>rd</sup> or 5<sup>th</sup> row of planted pines, or remove individual, poor quality trees within a stand. This is done to reduce competition for growing space, sunlight, and nutrients for the remaining trees.
- d. Silvicultural practices are also used to establish specific habitat conditions which support threatened and endangered species. We have reduced tree stocking density to about 60 ft<sup>2</sup> of basal area across several hundred acres to restored pine savanna habitat. This habitat is home to many of our threatened and endangered wildlife including the red-cockaded woodpecker. We have cooperated with both state and federal conservation agencies to release red-cockaded woodpeckers on this property and hope to continue and expand this restoration project. This savanna has become an outdoor classroom for our educational programs and laboratory for our research program.
- e. The understory in these savannas promotes a very robust and biologically diverse plant community. In some instances as many as 50 different species of plants can be identified within a 10 meter square plot. Many of these species are also threatened and endangered and many are native grasses that are incredible filters for rainfall runoff.
- f. Whether for silvicultural or economic purposes when prescriptions require all trees to be harvested, the site quickly recovers. Our soils carry a rich, diverse seed bank and within a few weeks grasses as well as

other herbaceous plants occupy the site. With our flat topography, there is little runoff and no ditches or other erosion develops. Further, we immediately replant these sites with pine seedlings following best management practices.

Table. Comparison of stormwater fees for individual parcels on Nemours Plantation for 2015 and 2016.

	Date	Name	Memo	Account	Clr	Split	Amount		Amount
Jan 14 - 16, 16							2015		2016
	01/15/2016	Beaufort County Treasurer	00530777 22 ac	6029 - Other tax		Accounts Payable	\$ 9.58		\$ 48.84
	01/15/2016	Beaufort County Treasurer	00530982, 216 ac	6029 - Other tax		Accounts Payable	\$ 493.70		\$ 493.70
	01/15/2016	Beaufort County Treasurer	05003006, 173 ac	6029 - Other tax		Accounts Payable	\$ 75.53		\$ 384.55
	01/15/2016	Beaufort County Treasurer	00522768, 211 ac	6029 - Other tax		Accounts Payable	\$ 91.81		\$ 467.39
	01/15/2016	Beaufort County Treasurer	00530009, 6 ac	6029 - Other tax		Accounts Payable	\$ 2.49		\$ 12.65
	01/15/2016	Beaufort County Treasurer	00530358, 657 ac	6029 - Other tax		Accounts Payable	\$ 334.40		\$ 289.58
	01/15/2016	Beaufort County Treasurer	00530376, 426 ac	6029 - Other tax		Accounts Payable	\$ 185.74		\$ 945.61
	01/15/2016	Beaufort County Treasurer	00530562, 2 ac	6029 - Other tax		Accounts Payable	\$ 0.88		\$ 2.66
	01/15/2016	Beaufort County Treasurer	00530580, 5 ac	6029 - Other tax		Accounts Payable	\$ 2.18		\$ 11.10
	01/15/2016	Beaufort County Treasurer	00530964, 640 ac	6029 - Other tax		Accounts Payable	\$ 191.84		\$ 870.14
	01/15/2016	Beaufort County Treasurer	00530991, 10	6029 - Other tax		Accounts Payable	\$ 4.36		\$ 22.20
	01/15/2016	Beaufort County Treasurer	00522731, 270 ac	6029 - Other tax		Accounts Payable	\$ 117.78		\$ 599.06
	01/15/2016	Beaufort County Treasurer	00522777, 5914 ac	6029 - Other tax		Accounts Payable	\$ 1,714.38		\$ 1,714.38
	01/15/2016	Beaufort County Treasurer	00526416, 898 ac	6029 - Other tax		Accounts Payable	\$ 539.33		\$ 304.50
	01/15/2016	Beaufort County Treasurer	00532613, 446 ac	6029 - Other tax		Accounts Payable	\$ 194.54		\$ 871.46
Jan 14 - 16, 16							<b>\$ 3,958.54</b>		<b>\$ 7,037.82</b>