



NORTH CAROLINA  
Environmental Quality

August 11, 2021

ROY COOPER

Governor

ELIZABETH S. BISER

Secretary

S. DANIEL SMITH

Director

**CERTIFIED MAIL #7018 1130 0000 1608 2088**  
**RETURN RECEIPT REQUESTED**

Robert J Lovill & Elizabeth J Lovill, Trustees  
PO Box 1247  
Mount Airy, NC 27030

**CERTIFIED MAIL #7018 1130 0000 1608 2071**  
**RETURN RECEIPT REQUESTED**

Bottomley Properties NC, LLC  
Attn: Martha R. Bottomley, Registered Agent  
140 South Sparta Parkway  
Sparta, NC 28675

Subject: **NOTICE OF VIOLATION and RECOMMENDATION FOR ENFORCEMENT**  
NOV-2021-SS-0012  
Parcel PINs: 408000650532; 408000762018  
Surry County

Dear Mr. Robert Lovill, Ms. Elizabeth Lovill, and Ms. Martha Bottomley:

On July 23, 2021, Division of Water Resources (DWR) staff Sue Homewood and Rebecca Chandler conducted a site inspection of property along the Little Fisher River (Richards Road and Water Trail) in Surry County as a result of a complaint and referral from other State agencies. It is DWR's understanding that Bottomley Properties NC, LLC is involved in this work and is leasing the properties. The site inspection of the parcels noted above indicated that recent and ongoing land clearing activities have occurred on the property and that sediment deposition has occurred within 5 unnamed tributaries, 4 ponds (in-line with streams) and 1 wetland (see attached map). Sediment deposition within the 5 streams identified during the site visit was determined to range from 2 inches to 1.5 feet. Staff did not determine depths of sediment deposition within the ponds or wetland because of a lack of safe accessibility.

A DWR file review has indicated that unnamed tributaries present on the subject parcels drain to the Little Fisher River and are classified by the NC Surface Water Classification (15A NCAC 02B .0300) as Class C, Trout Waters within the Yadkin River Basin. The following are the observations of sediment accumulation into the identified wetland, open waters (ponds), and unnamed tributaries (UTs) to the Little Fisher River (see attached map for locations).

<b>Waters Map ID</b>	<b>Impact amount (estimated via GPS points and remote sensing maps)</b>
UT1 to Little Fisher River	300 linear feet
UT2 to Little Fisher River	500 linear feet
UT3 to Little Fisher River	630 linear feet



North Carolina Department of Environmental Quality | Division of Water Resources

Winston-Salem Regional Office | 450 West Hanes Mill Road, Suite 300 | Winston-Salem, North Carolina 27105

336.776.9800

UT4 to Little Fisher River	470 linear feet
UT5 to Little Fisher River	600 linear feet
Wetland	0.20 acres
Pond 1	1.4 acres (surface area of pond)
Pond 2	0.8 acres (surface area of pond)
Pond 3	0.8 acres (surface area of pond)
Pond 4	1.7 acres (surface area of pond)

Accordingly, the following observations and violations were noted during the DWR inspection and subsequent file reviews:

1. Title 15A North Carolina Administrative Code 02B .0211 (2) requires that, at minimum, “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 deemed to violate a water quality standard.” Approximately 2,500 linear feet of streams have been impacted by runoff and significant accumulation of sediment as a result of recent land clearing activities.
2. Title 15A North Carolina Administrative Code 02B .0211 (12) requires that “Oils; deleterious substances; colored or other wastes” (including sediment): “only such amounts as shall not render the waters injurious to public health, secondary recreation or to aquatic life and wildlife or adversely affect the palatability of fish, aesthetic quality or impair the waters for any designated uses.” DWR identified approximately 2,500 linear feet of streams have been impacted by sediment deposition as a result of recent land clearing activities.
3. 15A North Carolina Administrative Code 02B .0231 (c) requires that “Liquids, fill or other solids, or dissolved gases... Floating or submerged debris, oil, deleterious substances, or other material shall not be present in amounts that may cause adverse impacts on existing wetland uses.” DWR identified approximately 0.20 acres of wetlands impacted by sediment runoff and accumulation as a result of recent land clearing activities.

### **Required Response**

Accordingly, you are directed to respond to this letter in writing **within 10 business days** of receipt of this Notice. Your response should be sent to this office at the letterhead address or by email to [rebecca.chandler@ncdenr.gov](mailto:rebecca.chandler@ncdenr.gov) or [sue.homewood@ncdenr.gov](mailto:sue.homewood@ncdenr.gov), and shall include the following:

1. Provide a detailed sediment and erosion control management plan for DWR review and approval for all drainage areas in order to avoid continued sediment impacts from recently cleared areas into streams, ponds and wetlands. The plan may propose agricultural or silviculture best management practices, or traditional sediment and erosion control measures as recommended by the NC Erosion and Sediment Control Planning and Design Manual issued by NC Division of Energy, Mineral and Land Resources, or a combination of practices. The plan shall include detailed information for each proposed measure including design details, appropriate sizing criteria, installation specifications and operation, inspection, and maintenance specifications. The plan must also include a proposed schedule for installation of all measures.



2. Upon DWR approval, you will be required to install all measures in a timely manner and will be required to inspect and maintain all measures until drainage areas are permanently stabilized with at least 80% successful vegetation coverage. Future DWR site inspections will be necessary until the site is determined by DWR to be permanently stable.
3. Provide a stream restoration plan for all five streams and the wetland identified on the attached map for DWR review and approval. No work shall be conducted within the stream channels or wetlands until the plan has been reviewed and approved by DWR. Due to the severe impacts to the streams (see attached) DWR requires that you secure the assistance of a knowledgeable stream restoration consultant. As a part of this plan, provide and address the following for each stream segment:
  - a. Describe the means by which sediment is proposed to be removed for each location. DWR may require hand labor with buckets and shovels but if you propose to use mechanized equipment and hand labor, then the plan should clearly indicate in what specific areas the equipment is to be used. Describe in detail how you propose to remove sediment down to the original grade without disturbing the original stream bed.
  - b. Sediment that is removed from any stream channel shall be placed in uplands, at least 50 ft. from any stream, open water, or wetland, and properly stabilized to prevent erosion back into the stream or wetland feature.
  - c. Detail the measures that will be used for temporary stabilization/sediment control of removed sediment while this work is under way.
  - d. Provide a detailed stream restoration plan to restore all five streams to natural channel conditions, including plan and profile dimensions as expected from reference reach information available for similar locations, slopes and watershed sizes.
4. To ensure the protection from turbidity and sedimentation of downstream waters from deposits within the four ponds, provide an analysis of the potential for continued sediment resuspension and mobility to downstream waters and a plan for the prevention of impacts to downstream waters.
5. Upon DWR approval you will be required to initiate and complete the actions set forth in the sediment removal and stream restoration plans in a timely manner and perform monitoring for a period of time to be determined by DWR. Future DWR site inspections will be necessary during any monitoring period established by DWR.

Thank you for your attention to this matter. Pursuant to G.S. 143-215.6A, the above-mentioned violations and any future violations are subject to a civil penalty assessment of up to a maximum of \$25,000.00 per day for each violation. Pursuant to G.S. 143-215.6C, DWR can request injunctive relief through the courts to obtain compliance on the site. **This Office is considering a recommendation for civil penalty assessment to the Director of the Division of Water Resources and/or a request for injunctive relief to the Attorney General's Office regarding the above-mentioned violations on the subject site. This office requires that the violations, as detailed above, be abated immediately and properly resolved.** Your above-mentioned response to this correspondence will be considered in any further process that may occur.



This Office appreciates your attention to this matter and efforts to resolve the above noted concerns. Should you have any questions regarding these matters, please contact Rebecca Chandler at 336-776-9705, Sue Homewood at 336-776-9693, or me at 336-776-9700.

Sincerely,

DocuSigned by:  
*Lon T. Snider*  
145B49E225C94EA...

Lon T. Snider  
Regional Supervisor  
Water Quality Regional Operations Section  
Division of Water Resources, NCDEQ – WSRO

Enclosures: Site Maps – Overall Topo  
Site Maps – Waters Map  
Site Photos

Cc: Heimkehr LLC c/o Erika C. White, 801 Bellview St., Winston Salem NC 27103

Cc via email: Mitchell Bottomley  
Bottomley Evergreens & Farms, Inc.  
WSRO File Copy  
401 & Buffer Permitting Unit  
NC Wildlife Resources Commission  
Surry County Soil and Water Conservation  
Division of Energy, Mineral and Land Resources (WSRO)



## NOV-2021-SS-0012: Example Photos



Photos 1 & 2: Extreme sediment deposits in stream channels causing complete destruction of channel geomorphology

## NOV-2021-SS-0012: Example Photos

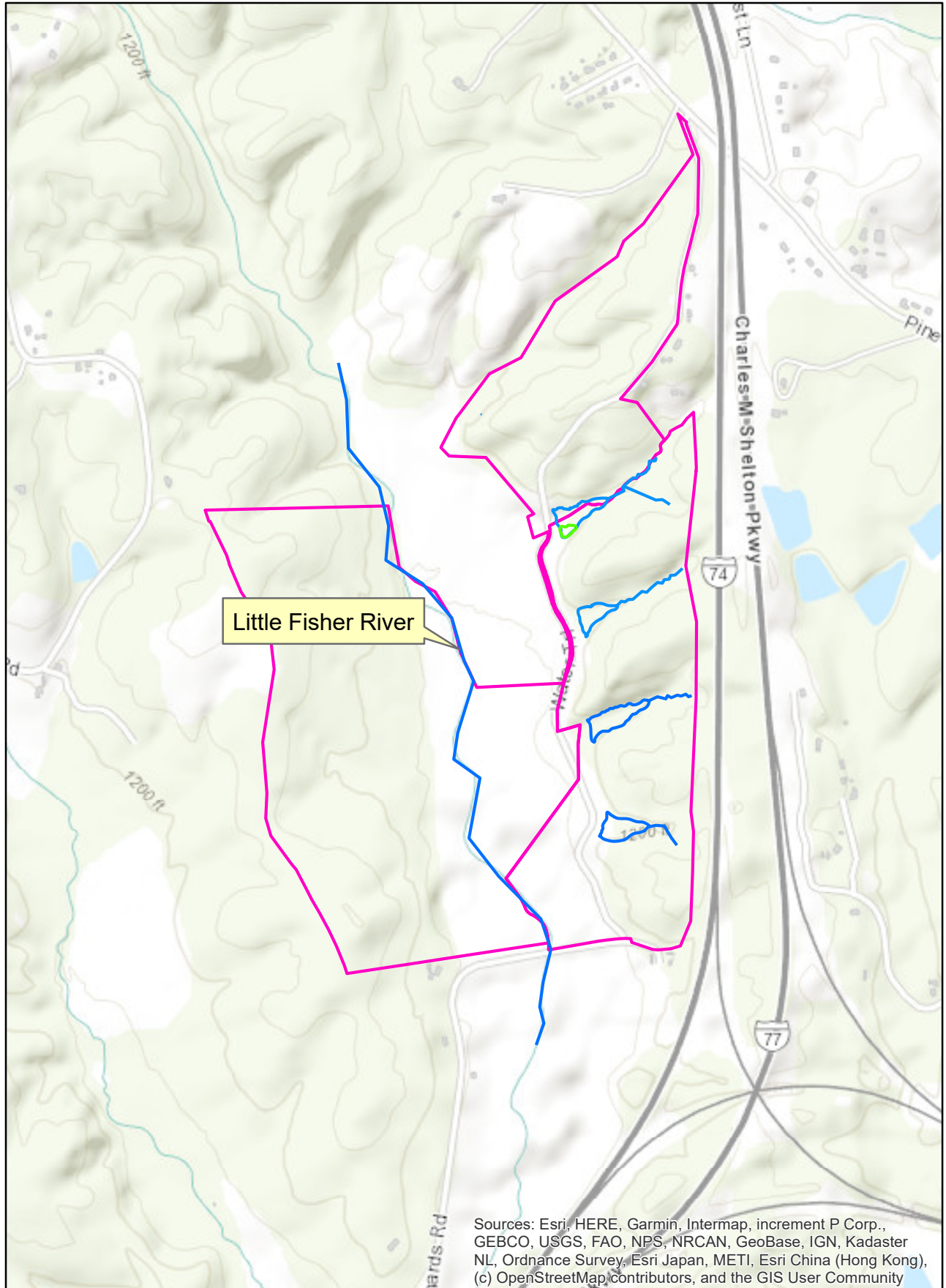


Photo 3: Grubbing/grading of stream banks causing complete destruction of channel geomorphology

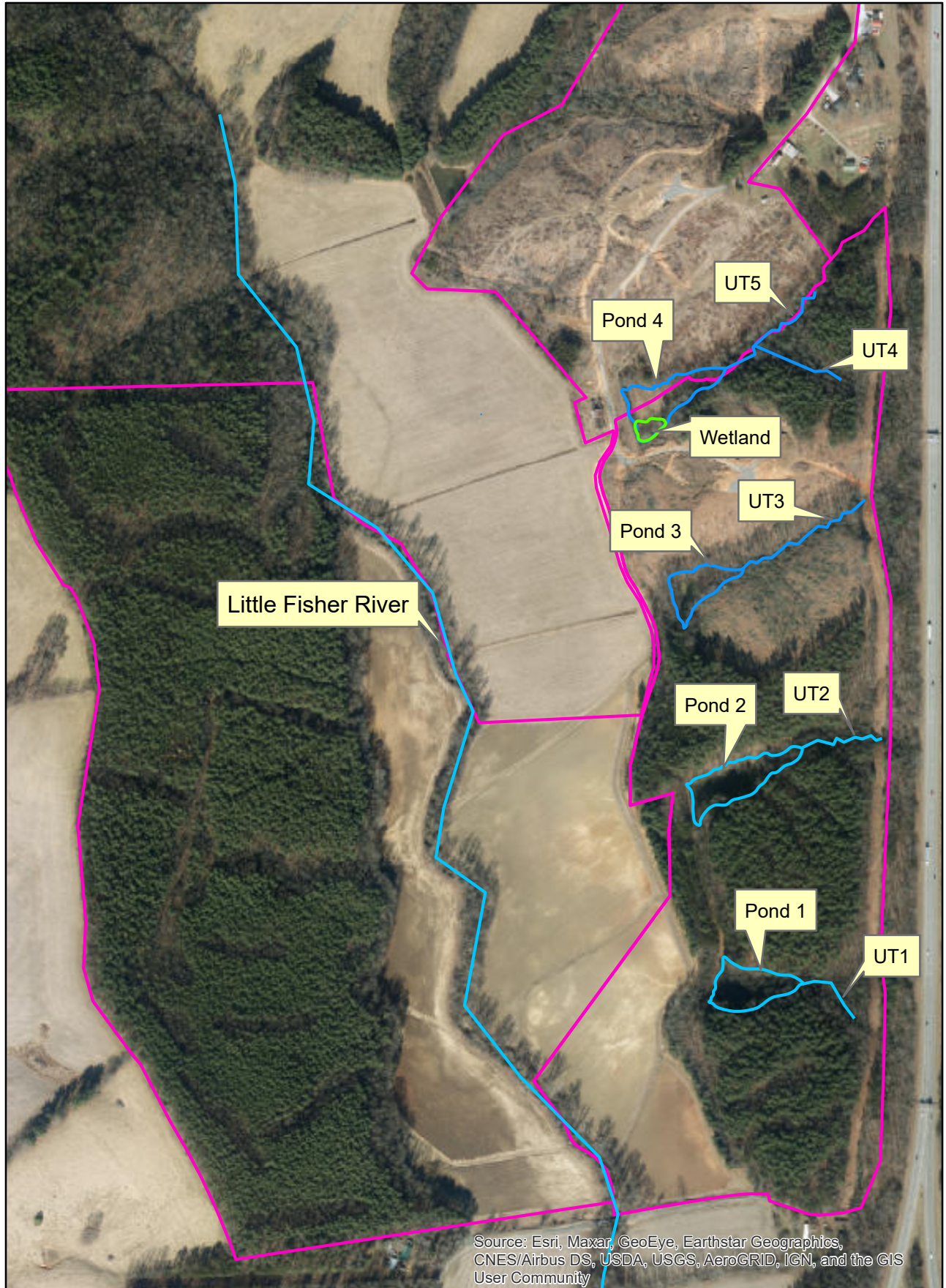


Photo 4: Significant sediment deposit within pond

# NOV-2021-SS-0012: Overall Topo Map



# NOV-2021-SS-0012: Waters Map



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community