

## **AGENDA**

Catawba County Board of Commissioners Meeting  
Monday, November 7, 2016, 7:30 a.m.  
2<sup>nd</sup> Floor Meeting Room  
Catawba County Government Center  
100A Southwest Blvd, Newton, NC

### **PLEASE NOTE THE CHANGE OF TIME AND LOCATION OF THE BOARD'S REGULAR MEETING**

### **A STRATEGIC PLANNING WORK SESSION WILL PRECEDE THE BOARD'S REGULAR AGENDA.**

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Invocation.
4. [Approval of the Minutes from the Board's Regular Meeting and Closed Session of October 17, 2016.](#)
5. Recognition of Special Guests.  
North Carolina Association of County Commissioners Outreach Associate David Nicholson – Presentation of Award to Vice-Chair Barbara G. Beatty for 20 Years of Service as a County Commissioner.
6. Public Comments.
7. Presentations
  - a. ncData Campus AT&T Fiber Ready Award. *Presented by Kathleen Evans, Regional Director, External Affairs, Piedmont Triad, AT&T-North Carolina.*
  - b. [Hospice and Palliative Care Month Proclamation. Presented to Julie Packer, Director of Professional Relations, Catawba Regional Hospice.](#)
  - c. [Excellence in Financial Reporting and Popular Annual Financial Reporting Awards. Presented to Chief Financial Officer Bob Miracle, Assistant Chief Financial Officer Jeanne Jarrett, Internal Auditor Kenneth Maynor and the Finance Staff.](#)
  - d. [Recognition of Mini-Course Graduates. Presented by Human Resources Director Cynthia Eades.](#)
8. Appointments.
9. Consent Agenda:
  - a. [State Criminal Alien Assistance Program Grant.](#)
  - b. [Replacement of the 2000 Model John Deere 850C Crawler Dozer.](#)
  - c. [Catawba Valley Medical Center's Required Notice of Residual Petroleum.](#)
10. Other Items of Business.
11. Manager's Report.

12. Attorneys' Report.

13. Adjournment.

**PERSONS WITH DISABILITIES:** Individuals needing assistance should contact the County Clerk at 828-465-8990 within a reasonable time prior to the meeting. Access to the 1924 Courthouse for individuals with disabilities is at the south side ("A" Street). The elevator is located at the north end of the building. Participation in public meetings is without regard to race, creed, religion, national origin, sex, age, color, or disability.

**INFOTALK/INTERNET:** The Catawba County Telephone Information System will allow you to use your touch tone telephone to obtain current information on Catawba County 24 hours a day. Information is updated on a regular basis. Dial 465-8468 and INFOTALK will direct your questions with easy to understand instructions. Reach Catawba County on the Internet at <http://www.catawbacountync.gov>.

**CALENDAR:** The next Board of Commissioners Meeting will take place on Monday, November 21, 2016, at 7:00 p.m. in the Robert E. Hibbits Meeting Room, 1924 Courthouse, 30 North College Avenue, Newton.

# ***Government of Catawba County, North Carolina***

*“Keeping the Spirit Alive Since 1842!”*

## **PROCLAMATION**

### **CATAWBA COUNTY HOSPICE AND PALLIATIVE CARE MONTH NOVEMBER 2016**

WHEREAS, Catawba Regional Hospice and Life Transitions Palliative Care programs provide patients and families the highest quality care during life-limiting illness and at the end of life, through pain management and symptom control, caregiver training and assistance, and emotional and spiritual support, allowing patients to live fully up until the final moment of life, surrounded and supported by loved ones, friends, and committed caregivers; and

WHEREAS, last year, 1474 hospice patients and 930 palliative care patients and their families, residing in the Catawba Valley, received care from Catawba Regional Hospice and the Life Transitions programs; and

WHEREAS, professional and compassionate hospice and palliative care staff, including physicians, nurse practitioners, nurses, social workers, therapists, counselors, certified nurse assistants, and clergy, provide comprehensive end of life care and bereavement care focused on the wishes of each individual patient and family member; and

WHEREAS, more than 446 trained volunteers contributed 16,831 hours of service to Catawba Regional Hospice last year; and

WHEREAS, providing high quality hospice and palliative care reaffirms our belief in the essential dignity of every person, regardless of age, race, or social status, and that every stage of human life deserves to be treated with the utmost respect and care; and

WHEREAS, Catawba Regional Hospice and Life Transitions Palliative Care programs encourage all people to learn about their options for future medical care and to share their wishes with family, loved ones, and their healthcare professionals.

NOW, THEREFORE, the Catawba County Board of Commissioners does hereby proclaim November 2016 as **Catawba County Hospice and Palliative Care Month** and encourages citizens of the Catawba Valley to increase their understanding and awareness of care at the end of life, of the local services that are available for those with life-limiting disease, and to request admission to the programs of Catawba Regional Hospice and Life Transitions for their loved ones, family members, and friends to assure their comfort and dignity at life's end.

This the 7th day of November, 2016.

**Randy Isenhower, Chair  
Catawba County Board of Commissioners**



Government Finance Officers Association

**Certificate of  
Achievement  
for Excellence  
in Financial  
Reporting**

Presented to

**Catawba County  
North Carolina**

For its Comprehensive Annual  
Financial Report  
for the Fiscal Year Ended

**June 30, 2015**

Executive Director/CEO



Government Finance Officers Association

**Award for  
Outstanding  
Achievement in  
Popular Annual  
Financial Reporting**

Presented to

**Catawba County  
North Carolina**

For its Annual  
Financial Report  
for the Fiscal Year Ended

**June 30, 2015**

Executive Director/CEO

# Memo

**To:** Catawba County Board of Commissioners  
**From:** Cynthia Eades, Human Resources Director  
**Date:** November 7, 2016  
**Re:** Recognition of Graduates, Catawba County Mini-Course on County Government

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I am pleased to present this list of employees who have successfully met the graduation requirements for Catawba County's 23<sup>rd</sup> Mini-Course Program.

This program has been in existence since 1985. The purpose of Mini-Course is to introduce employees to the wide variety of services each County department provides. County employees volunteer to participate on their lunch hour at various locations throughout the County. This year's course included 17 sessions, ranging from department presentations to tours of county facilities such as the Detention Center and the Catawba County History Museum.

These graduates will be recognized at the November 7, 2016 Board of Commissioners meeting. They will also be honored at a luncheon on Thursday, November 17, 2016 at the Catawba Country Club; I hope you are able to join us as we honor these graduates.

## **2016 Mini-Course Graduates**

Suzanne Baer – Public Health  
Gail Brittain – Tax  
Brandy Burnette – Library  
Connie Campbell – Emergency Services  
Shelby Colman – Tax  
Marcie Edler – Social Services  
Paul Foster – Library  
Norma Lopez Alaniz – Social Services  
Karla Perez Lopez – Register of Deeds  
Soraya Place – Library

Tiffany Price – Social Services  
Jelen Sandoval-Padilla – Social Services  
Jennifer Sharpe – Public Health  
John Shrell – Tax  
June Sisti – Public Health  
Pam Smit – Emergency Services  
Yajaira YiscarenoVelasco – Sheriff  
Jennifer Tuttle – Public Health  
Tammy Varner – Public Health  
Leia Welch Hamlyn– Soil and Water

**MEMORANDUM**

TO: Catawba County Board of Commissioners  
FROM: Finance and Personnel Subcommittee  
DATE: November 7, 2016  
IN RE: State Criminal Alien Assistance Program Grant

**REQUEST**

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve acceptance of a grant from the US Department of Justice, State Criminal Alien Assistance Program (SCAAP) in the amount of \$18,645, along with its required certifications and assurances (attached). There are no matching funds required for this award; it is 100% federally funded.

**BACKGROUND**

The SCAAP is a formula based grant program that provides agencies with reimbursement for some of the costs associated with incarcerating undocumented criminal aliens who have committed serious crimes in the U.S. The goal of this program is to enhance public safety in communities throughout the nation.

These grant funds are based on individuals held in the Newton Detention Center and those held for Catawba County at Burke Catawba District Confinement Facility during fiscal year 2014/2015. Funds under this program can be used for correctional purposes only. Staff has determined the best application would be for medical services in the jail. This expense is unpredictable during the year as it is dependant on the inmates' presented medical conditions. The need fluctuates as the population changes.

**RECOMMENDATION**

The Finance and Personnel Subcommittee recommends the Board of Commissioners approve the use the 2016 SCAAP funds to supplement the medical services expense in the jail.

**SUPPLEMENTAL APPROPRIATION**

**Revenue**

110-220050-620385	\$18,645
State Criminal Alien Assistance Program (SCAAP)	

**Appropriation:**

110-220050-856300	\$18,645
Medical Services	



OMB APPROVAL  
NUMBER 1121-0140

EXPIRES 03/31/2016

### STANDARD ASSURANCES

The Applicant hereby assures and certifies compliance with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, A-133; Ex. Order 12372 (intergovernmental review of federal programs); and 28 C.F.R. pts. 66 or 70 (administrative requirements for grants and cooperative agreements). The applicant also specifically assures and certifies that:

1. It has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. It will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
3. It will give the awarding agency or the Government Accountability Office, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance.
4. It will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63, and the award term in 2 C.F.R. § 175.15(b).
5. It will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).
6. It will comply (and will require any subgrantees or contractors to comply) with any applicable statutorily-imposed nondiscrimination requirements, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. § 3789d); the Victims of Crime Act (42 U.S.C. § 10604(e)); The Juvenile Justice and Delinquency Prevention Act of 2002 (42 U.S.C. § 5672(b)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Rehabilitation Act of 1973 (29 U.S.C. § 7 94); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131-34); the Education Amendments of 1972 (20 U.S.C. §§1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07); see Ex. Order 13279 (equal protection of the laws for faith-based and community organizations).
7. If a governmental entity:
  - a. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. § 4601 et seq.), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
  - b. it will comply with requirements of 5 U.S.C. §§ 1501-08 and §§ 7324-28, which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.

Close Window

**NOTE: You must click on the "Accept" button at the bottom of the page before closing this window**

**U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
OFFICE OF THE CHIEF FINANCIAL OFFICER**

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Acceptance of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying," 2 CFR Part 2867, "DOJ Implementation of OMB Guidance on Nonprocurement Debarment and Suspension," and 28 CFR Part 83, "Government-wide Debarment and Suspension," and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

Pursuant to Executive Order 12549, Debarment and Suspension, implemented at 2 CFR Part 2867, for prospective participants in primary covered transactions, as defined at 2 CFR Section 2867.20(a), and other requirements:

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Have not within a two-year period preceding this application been convicted of a felony criminal violation under any Federal law, unless such felony criminal conviction has been disclosed in writing to the Office of Justice

Programs (OJP) at [Ojpcompliancereporting@usdoj.gov](mailto:Ojpcompliancereporting@usdoj.gov), and, after such disclosure, the applicant has received a specific written determination from OJP that neither suspension nor debarment of the applicant is necessary to protect the interests of the Government in this case.

(d) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(e) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 3. FEDERAL TAXES

A. If the applicant is a corporation, the applicant certifies that either (1) the corporation has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, or (2) the corporation has provided written notice of such an unpaid tax liability (or liabilities) to OJP at [Ojpcompliancereporting@usdoj.gov](mailto:Ojpcompliancereporting@usdoj.gov), and, after such disclosure, the applicant has received a specific written determination from OJP that neither suspension nor debarment of the applicant is necessary to protect the interests of the Government in this case.

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

### 4. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 83, Subpart F, for grantees, as defined at 28 CFR Sections 83.620 and 83.650:

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 810 7th Street, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Accept

## MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Finance and Personnel Subcommittee

DATE: November 7, 2016

IN RE: Replacement of the 2000 Model John Deere 850C Crawler Dozer

### REQUEST

The Finance and Personnel Subcommittee recommends the Board of Commissioners:

1. Approve the purchase of a Caterpillar D8 Dozer-Waste Handler off North Carolina State Contract (760 SH) to replace a 2000 850C Dozer with severe mechanical failure; and
2. Approve a Budget Revision in the amount of \$763,008.00.

### BACKGROUND

Daily landfill operations require two dozers; one is dedicated to the Municipal Solid Waste (MSW) landfill and the other is dedicated to the Construction & Demolition (C&D) landfill and other general grading duties around the landfill property.

The 2000 John Deere 850C Crawler Dozer has reached the end of its normal service life and is in need of replacement. Staff anticipated replacement in Fiscal Year 2017/18; however, the transmission has failed, causing the need to replace the equipment a year earlier than anticipated. All costs associated with Solid Waste and the Landfill are funded from the Solid Waste Enterprise Fund which contains no ad valorem tax proceeds.

This Dozer is used daily to move C&D waste to the working face of the C&D landfill and for general grading work. It has over 11,495 operating hours and these dozers typically have a useful service life of 10,000 operating hours (approximately five years). Over the past year, dependability, or up-time, for this dozer has decreased by 13.8% while maintenance costs have increased by 24% due to pushing the equipment beyond its normal service life. Transmission failure is a strong indicator that this critical piece of equipment must be replaced immediately. Another strong indicator is the increased amount of wear metal found in engine oil samples, leading staff to expect engine failure in the near future. In addition to the impending engine failure, the undercarriage (the assembly that makes up the crawler tracks of the dozer) is badly worn and in need of replacement. The cost to rebuild the transmission, rebuild the engine, and replace the undercarriage is estimated to be \$73,000 and these repairs will only receive a six-month limited warranty. Staff is in the process of leasing a replacement unit at a cost of approximately \$15,000 per month until the new dozer-waste handler can be purchased.

Staff requests the County purchase a Caterpillar D8 Dozer-Waste Handler off North Carolina State Contract (760 SH) for the Municipal Solid Waste landfill and move the 2012 D6 dozer to C&D Landfill and general grading. This will provide staff several new operational options (listed below) they currently do not have.

- The D8 dozer will be more effective and efficient in spreading the waste on the working face of the MSW Landfill than the smaller, less efficient D6 dozer. Dozers are better equipped for spreading waste because they are more maneuverable than the compactors.

- Using a dozer to spread the waste allows more working room for customers on the tipping pad promoting a safer working environment by not having the compactor mingling with customer traffic.
- D8 dozers are heavier (80,000 pounds) than D6 dozers. Therefore, the D8 and can achieve more effective waste compaction when the compactors are out of service for maintenance and/or repairs. This better enables us to maximize the valuable airspace of the landfill.
- The D8 dozer is eligible for Caterpillars’ Manufacturer Certified Rebuild Program. A certified rebuild is available for Caterpillar D8 dozers at 60% of the cost of a new machine and returns the equipment to “like new” condition and full warranty. This gives a “new life” to the machine enabling an additional 10,000 hours of operation. The new D8 dozer is eligible for 2 certified rebuilds effectively giving the County 3 new machines for the price of 2.2 machines (not allowing for inflation).

Purchase cost for a Caterpillar D8 Dozer-Waste Handler on State contract is \$763,008, which includes a 5 year/10,000 hour extended power train and hydraulic warranty and all guarding and a Fire Suppression System.

This purchase will be in line with the recent purchase of the Caterpillar 826K Compactor by being available on the State Contract and the certified rebuild program that give the equipment 5 additional years of life at 60% of the cost of purchasing new.

**RECOMMENDATION**

The Finance and Personnel Subcommittee recommends the Board of Commissioners:

1. Approve the purchase of a Caterpillar D8 Dozer-Waste Handler off North Carolina State Contract (760 SH) to replace a 2000 850C Dozer with severe mechanical failure; and
2. Approve a Budget Revision in the amount of \$763,008.00.

Appropriations:

Revenue:

525-350050-690100 \$763,008.00

Expense:

525-350200-985000 \$763,008.00

## MEMORANDUM

TO: Catawba County Board of Commissioners

FROM: Policy and Public Works Subcommittee

DATE: November 7, 2016

RE: Catawba Valley Medical Center's Required Notice of Residual Petroleum

### REQUEST

The Policy and Public Works Subcommittee recommends the Board of Commissioners authorize Chair Isenhower to sign the statutorily required "Notice of Residual Petroleum".

### BACKGROUND

Recently, the North Carolina Division of Environmental Quality (DEQ) notified the hospital that a "Notice of Residual Petroleum" needs to be filed in the Catawba County Register of Deeds Office.

Back in June 2000, the hospital removed two 20,000 gallon underground storage tanks which had been used to store fuel for emergency power generation and boiler use. The tanks were located behind the hospital near the maintenance facility. Following removal, evidence of a small leak was discovered. The hospital retained Terrain Inc. to conduct an environmental site assessment, testing and remediation. There was no effect on ground water. With the approval of the North Carolina Division of Environment and Natural Resources, the contaminated soil was permitted to stay on site and a concrete slab now covers the area.

In September 2016, DEQ notified the hospital the attached "Notice of Residual Petroleum" needed to be signed and filed. The diagram attached to the Notice shows the location of the former tanks and tank pit in relation to the structures at the rear of the hospital.

### RECOMMENDATION

The Policy and Public Works Subcommittee recommends the Board of Commissioners authorize Chair Isenhower to sign the statutorily required "Notice of Residual Petroleum".

## NOTICE OF RESIDUAL PETROLEUM

Catawba Valley Medical Center, Catawba County, North Carolina  
(site name)

**The property that is the subject of this Notice (hereinafter referred to as the "Site") contains residual petroleum and is an Underground Storage Tank (UST) incident under North Carolina's Statutes and Regulations, which consist of N.C.G.S. 143-215.94 and regulations adopted thereunder. This Notice is part of a remedial action for the Site that has been approved by the Secretary (or his/her delegate) of the North Carolina Department of Environment Quality (or its successor in function), as authorized by N.C.G.S. Section 143B-279.9 and 143B-279.11. The North Carolina Department of Environment Quality shall hereinafter be referred to as "DEQ".**

### NOTICE

Petroleum product was released and/or discharged at the Site. **Petroleum constituents remain on the site, but are not a danger to public health and the environment, provided that the restrictions described herein, and any other measures required by DEQ pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, are strictly complied with.** This "Notice of Residual Petroleum" is composed of a description of the property, the location of the residual petroleum, and the land use restrictions on the Site. The Notice has been approved and notarized by DEQ pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11 and has/shall be recorded at the Catawba Register of Deeds' office Book \_\_\_\_, Page \_\_\_\_.

#### Source Property

Catawba County, a North Carolina body politic, of Newton, North Carolina, is the owner in fee simple of all or a portion of the Site, which is located in the County of Catawba, State of North Carolina, and is known and legally described as:

BEGINNING at an iron stake located in the Fairgrove Church Road, the northeastern corner of C D Herman (Book 266, Page 442), and running thence from said beginning point along the northern line of C D Herman and John F Hoyle (Book 540, Page 326) N 82° 29' W 825.00 feet to an iron stake; thence N 82° 30' W 362.05 feet to an iron stake, the southeastern corner of Lela Bolick (Book 156, Page 380); thence N 6° 18' E 806.31 feet to an iron stake, the northeastern corner of Lela Bolick; thence continuing N 6° 23' 45" E 54.07 feet to an iron stake, the southwest corner of Richard Hawn (Book 627, Page 372); thence continuing N 6° 23' 45" E 621.87 feet to an iron stake in the southern margin of a 30-foot road, the northwestern corner of Richard Hawn; thence continuing N 6° 23' 45" E 20 feet to an iron stake within the right of way of said 30-foot road; thence S 85° 08' 05" E 438.98 feet to an iron stake in said 30-foot road; thence S 84° 48' 05" E

449.03 feet to an iron stake located in the Fairgrove Church Road; thence S 3° 25' 35" E within the right of way of Fairgrove Church Road 377.31 feet to an iron stake within the right of way of Fairgrove Church Road; thence S 4° 55' 35" E 1199.20 feet to the point of beginning.

The above metes and bounds description was taken from a plat entitled "Property of Catawba Memorial Hospital, Hickory Township, Catawba County, North Carolina", prepared by Rex F Miller and dated July 8, 1963.

LESS AND EXCEPT the tract of land heretofore conveyed by Vida Gheen, widow, to Richard C Hawn and wife recorded in Book 627 of Deeds at page 372, Catawba County Registry; the tract of land heretofore conveyed by Mrs J R Gheen, widow, to James Haney, recorded in Book 670, Page 414, Catawba County Registry, and the tract of land conveyed by C W Hawn and others to W B Parker recorded in Book 242, Page 519, Catawba County Registry, said tract of land conveyed to W B Parker now being owned by James S Morgan and others.

For protection of public health and the environment, the following land use restrictions required by N.C.G.S. Section 143B-279.9(b) shall apply to all of the above-described real property. These restrictions shall continue in effect as long as residual petroleum remains on the site in excess of unrestricted use standards and cannot be amended or cancelled unless and until the Catawba County Register of Deed receives and records the written concurrence of the Secretary (or his/her delegate) of DEQ (or its successor in function).

### **PERPETUAL LAND USE RESTRICTIONS**

Soil containing residual petroleum above applicable regulatory standard(s) remains on the site in the area identified in Figure 1, Attachment A. No soil shall be excavated or disturbed within 3 feet of the area identified in Figure 1, Attachment A except to remediate the soil in accordance with all applicable state and federal statutes, regulations and guidelines.

### **ENFORCEMENT**

The above land use restriction(s) shall be enforced by any owner, operator, or other party responsible for the Site. The above land use restriction(s) may also be enforced by DEQ through any of the remedies provided by law or by means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Site. Any attempt to cancel this Notice without the approval of DEQ (or its successor in function) shall be subject to enforcement by DEQ to the full extent of the law. Failure by any party required or authorized to enforce any of the above restriction(s) shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

IN WITNESS WHEREOF, Catawba County has caused this Notice to be executed pursuant to N.C.G.S. Sections 143B-279.9 and 143B-279.11, this \_\_\_\_ day of \_\_\_\_\_, 2016.

**ATTEST:**

**GRANTOR:**

**Catawba County**, a North Carolina body politic

\_\_\_\_\_  
Barbara E. Morris, Clerk

By: \_\_\_\_\_(SEAL)  
C. Randall Isenhower, Chair  
Catawba County Board of Commissioners

State of North Carolina

County of Catawba

The undersigned Notary Public of the County and State aforesaid, hereby certifies that Barbara E. Morris personally appeared before me this day and acknowledged that she is the Clerk of the Catawba County Board of Commissioners, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by its Chair and attested by herself as its Clerk.

Witness my hand and Notarial stamp or seal this \_\_\_\_ day of \_\_\_\_\_, 2016.

My Commission Expires:\_\_\_\_\_

\_\_\_\_\_  
Notary Public

(Affix Seal)

\_\_\_\_\_  
Notary's Printed or Typed Name

Approved for the purposes of N.C.G.S. 143B-279.11

\_\_\_\_\_  
\_\_\_\_\_, Regional Supervisor

Mooresville Regional Office  
UST Section  
Division of Waste Management  
Department of Environment Quality

NORTH CAROLINA  
\_\_\_\_\_ COUNTY)

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: \_\_\_\_\_ *(full printed name of Regional Supervisor)*

Date: \_\_\_\_\_

(Official Seal)

\_\_\_\_\_  
*(signature of Notary Public)*

\_\_\_\_\_  
*(printed or typed name of Notary Public)*

Notary Public

My commission expires: \_\_\_\_\_

Attachment A  
Figure 1

