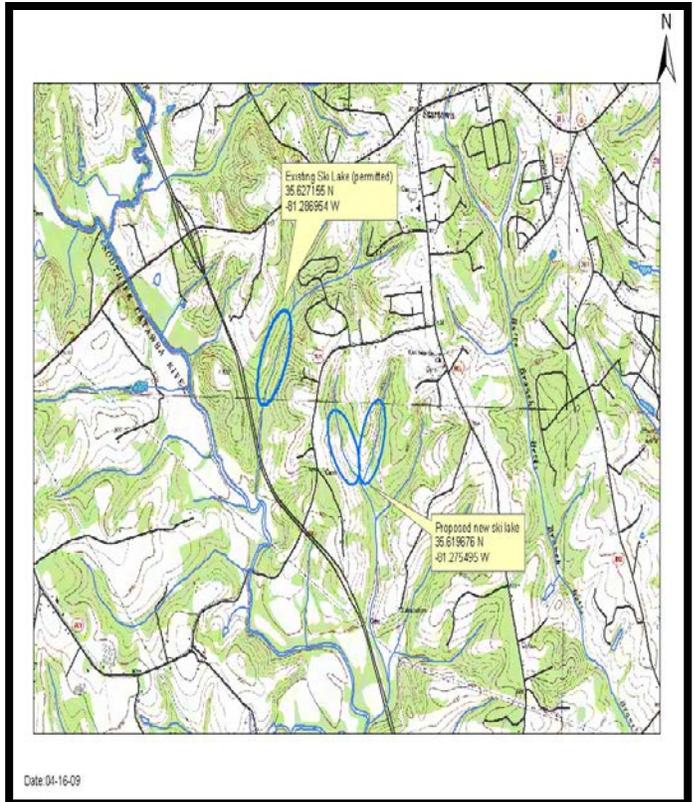




**US Army Corps  
of Engineers**  
Wilmington District

## RFE Farms, LLC / Neill Ski Lake II Catawba County (Regulatory)

- The proposed project was to construct a second ski lake on property adjacent to a previously permitted ski lake near the Startown community in Catawba County, North Carolina.
- The permit for this project was denied because the project's purpose and need does not justify the construction of an on-line impoundment. The Corps has determined that there are several off-site practicable alternatives that exist to meet this need.
- An administrative appeal was filed by the applicant on February 19, 2013 and subsequently accepted by the Corps on February 22, 2013. SAD's appeal decision remains pending.



CONGRESSIONAL DISTRICT: NC-10

DATE: 4 February 2014

### 1. PURPOSE:

To provide information regarding a permit denial issued to Neill Grading & Construction Company for the proposed construction of Neill Ski Lake II, a proposed recreational/ski competition impoundment located near the Startown community in Catawba County, North Carolina (Action ID SAW-2009-01304).

### 2. BACKGROUND:

a. On October 6, 2005, Neill Grading & Construction Company was issued an individual permit to discharge fill material into 300 linear feet of stream to construct two dams and impound approximately 3,600 linear feet of perennial and intermittent stream for an 18-acre water ski lake near Newton in Catawba County, North Carolina (Action ID SAW-2003-30268).

PROJECT INFORMATION – RFE Farms, LLC / Neill Ski Lake II, Catawba County (Regulatory) -  
Continued

b. On July 9, 2009, Mr. Clay Neill submitted a Department of the Army permit application for a second ski lake on property adjacent to the previously permitted lake. The application was ultimately considered complete and a public notice was issued on October 3, 2011. Prior to the application being considered complete, the District notified Mr. Neill multiple times that his initial application and/or subsequent submittals lacked necessary information to process his application. Specifically, the application lacked information regarding the project purpose and need, alternatives analysis, avoidance and minimization efforts, and proposed compensatory mitigation for unavoidable impacts.

c. On October 28, 2011, a site visit was conducted to review the project with other resource / commenting agencies. Many of the same issues outlined above were raised/discussed at this meeting.

d. The comment period closed on November 18, 2011. All comments received via the Public Notice as well as comments from the Corps were provided to the applicant on November 29, 2011. A response deadline of January 31, 2012, was granted due to substantive comments received. The applicant has requested and was granted an extension to provide comments by March 16, 2012.

e. The applicant responded by letter dated March 16, 2012, which was received by the Corps on March 22, 2012. This response did not provide any new information and re-iterated information that had already been submitted.

f. The Corps evaluated the applicant's March 16, 2012, response and carefully reviewed all the information submitted to date. By letter dated December 10, 2012, the applicant was notified that their permit request was denied due to lack of compliance with the 404(b)1 Guidelines. Specifically, the Corps concluded that the project's purpose/need did not justify the construction of an on-line impoundment and determined that there are several off-site practicable alternatives that exist to meet this need. An administrative appeal was filed by the applicant on February 19, 2013 and subsequently accepted by the Corps on February 22, 2013.

3. **CURRENT STATUS:**

An appeals decision from the Corps is pending. In response to a status inquiry on January 30, 2014, the Review Officer provided no timeline for a final decision. Administrative appeals timelines discussed in 33CFR Part 331 have been exceeded.