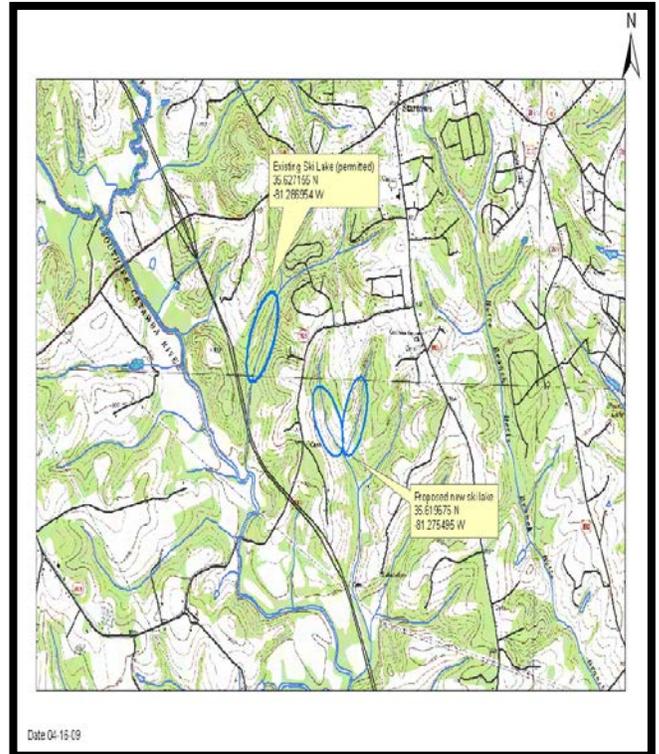




**US Army Corps
of Engineers**
Wilmington District

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.



CONGRESSIONAL DISTRICT: NC-10

DATE: 8 April 2013

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, another Department of the Army permit application was submitted 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, Mr. Neill was notified multiple times regarding what information needed to be submitted before a Public Notice could be issued. 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.

3. **CURRENT STATUS:**

The Corps has evaluated the applicant's March 16, 2012, response and has 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 does not justify the construction of an on-line impoundment and have 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.