

Appendix I.2. Management Agreement between Tacoma Hunt and Fishing Club and W&M for the Sweet Hall Marsh Component of CBNERRVA.

Management Agreement

**Sweet Hall Marsh National Estuarine Research Reserve
in Virginia**

THIS MANAGEMENT AGREEMENT, made this 1st day of May, 2008 by and between Tacoma Hunting and Fishing Club, hereinafter called the Grantor, and The College of William and Mary in Virginia, hereinafter called the Grantee. This Management Agreement supercedes the original Management Agreement for the Sweet Hall Marsh component of the Chesapeake Bay National Estuarine Research Reserve in Virginia (CBNERRVA) dated September 24, 1990.

WITNESSETH

WHEREAS, the Grantor is owner in fee simple of certain real property (hereinafter described and referred to as "Sweet Hall Marsh"), situated in the County of King William, Commonwealth of Virginia, being more particularly delineated as "freshwater tidal wetlands extending from mean low tide on the Pamunkey River to the wetland/upland border landward of the Pamunkey River" as shown in Exhibit A, attached hereto and incorporated by reference herein; and

WHEREAS, Sweet Hall Marsh has substantial wetland resources and significant natural, ecological, research, educational, and aesthetic values, which this management agreement will help to preserve, maintain, and protect water quality and important aquatic resources and habitats of the Pamunkey River; and

WHEREAS, this Management Agreement is being made with the intention and understanding of both the Grantor and Grantee that the subject property will remain designated as a component of the CBNERRVA; and

WHEREAS, the Grantor desires and intends that the natural, ecological, research, educational, and aesthetic values of Sweet Hall Marsh shall be preserved and maintained by restricting and limiting the use of the land and contiguous water areas of the property, on the terms and conditions and for the purpose hereinafter set forth, and the Grantee is willing to accept responsibility for managing the property for the purpose of conducting basic scientific and applied research and providing timely and accurate information to the Grantor and the citizens of the Commonwealth regarding the quality and conservation of the resources, both living and non-living, of Sweet Hall Marsh, on the terms and conditions and for the purposed hereinafter set forth; and

NOW THEREFORE, as an absolute gift of no monetary consideration (\$0.00) but in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor hereby conveys to the Grantee, its successors, and assigns for a period of five (5) years a Management Agreement for the purpose of research, observation, and education and to the extent hereinafter set forth with respect to Sweet Hall Marsh.

To achieve these objectives, the following conditions and restrictions are set forth:

ARTICLE I. GENERAL PURPOSE AND DURATION

1. General Purpose – The purpose of this Management Agreement is to preserve and protect the environment of Sweet Hall Marsh and to maintain its natural and cultural values and its dominant scenic, rural, woodland, and wetland character so that the property remains suitable for long-term research on natural and human processes occurring within the Pamunkey River Tributary of the Chesapeake Bay.

2. Duration – This Management Agreement shall be valid for a 5 year period, and the terms, conditions, restrictions and purposes imposed with this Management Agreement shall not only be binding on the Grantor but also the Grantor’s agents, personal representatives, heirs, assigns and all other successors to the Grantor’s interests for the duration of the Management Agreement, subject to the agreed upon termination provisions. This Management Agreement may be renegotiated at the end of the 5 year period at the discretion of both parties.

ARTICLE II. MANAGEMENT OBJECTIVES

3. Management Plan Preparation and Implementation – There shall be an updated Management Plan prepared to provide the framework to direct and track progress of the CBNERRVA. In addition to the CBNERRVA Management Plan, there shall be a Natural Resource Management Plan developed specifically for Sweet Hall Marsh to guide the management process that balances the research and education mission of the Grantee with the objectives of the Grantor while adequately protecting natural resources.

Both the CBNERRVA Management Plan and the Sweet Hall Marsh Natural Resources Management Plan shall be prepared by the Virginia Institute of Marine Science (VIMS), in consultation with other resource management agencies of the Commonwealth, and shall be submitted to the Grantor for their review and approval. The Grantor and Grantee shall meet at least annually, and more frequently at the request of the either party, to review the Management Plans and research, education and stewardship results and, where appropriate, to develop more specific recommendations for carrying out certain aspects of the Plans. The CBNERRVA Management Plan and Sweet Hall Marsh Natural Resources Management Plan shall be updated at least every five years.

4. On-Site Management. VIMS is the agency designated by the Grantee and the Governor of the Commonwealth of Virginia to manage the CBNERRVA. In this capacity, VIMS shall serve as on-site manager for research on Sweet Hall Marsh and shall be responsible for seeing that research, education and stewardship activities conducted on the property is conducted in a manner consistent with the goals of the CBNERRVA, the objectives of the CBNERRVA Management Plan and Sweet Hall Marsh Natural Resources Management Plan, and the wishes of the Grantor and Grantee.

The on-site manager will be the Grantee's primary representative for the purpose of monitoring uses of the property for consistency with this Management Agreement.

5. Natural Area Preservation – Sweet Hall Marsh shall be maintained as open space, wildlife and waterfowl habitat, and a natural field laboratory for research and education, consistent with the resource protection policies of the Grantor. Any industrial commercial activities shall be prohibited on Sweet Hall Marsh. The protection and conservation of the marsh and bottomlands subject to this Management Agreement is consistent with the goals and policies of the CBNERRVA.

6. Research, Education and Stewardship – Sweet Hall Marsh shall be used for research, education and stewardship activities associated with the CBNERRVA. Research and education uses of Sweet Hall Marsh shall be in accordance with the principles, objectives, and performance standards set forth in the CBNERRVA Management Plan developed by VIMS and approved by the Grantor and Grantee, it being understood that the proposed research, education and stewardship activities will not involve large groups of people or continuous or frequent visits to the site by other than the few regularly designated personnel of VIMS. The CBNERRVA will provide review and approval of proposals for research, education and stewardship activities at Sweet Hall Marsh. Proposals and activities shall be approved by the Grantor and Grantee. Such approval shall not be unreasonably withheld.

7. Information Exchange – Research, education and stewardship activities conducted at Sweet Hall Marsh shall be used to enhance awareness, understanding, and wise use of estuarine environments. VIMS shall provide the Grantor and Grantee with an annual report on research, education and stewardship activities conducted at Sweet Hall Marsh and shall disseminate timely and accurate information to the Governor, General Assembly, State and local agencies, industry, and the citizens of the Commonwealth regarding the living and non-living resources of Sweet Hall Marsh and their relationship to the Chesapeake Bay system and the coastal waters of the Commonwealth of Virginia.

ARTICLE III: CONTROLLED ACTIVITIES

8. Wetland and Forest Maintenance – Wetlands shall be protected and maintained in accordance with the CBNERRVA Management Plan, Sweet Hall Marsh Natural Resources Management Plan and the Wetlands Guidelines developed pursuant to Chapter 2.1 of Title 62.1 of the Code of Virginia. Forest management activities shall be conducted in accordance with Best Management Practices promulgated by the Commonwealth of Virginia, Division of Forestry and recommended by the U.S. Department of Agriculture, Forest Service and Soil Conservation Service. There shall be no other destruction or alteration of wetlands on Sweet Hall Marsh, except as needed to eradicate noxious plant species, enhance native wetland communities, and as approved by the Grantor and Grantee. Management activities shall not materially impair the scenic quality of Sweet Hall Marsh.

9. Waterfowl and Wildlife Maintenance. Waterfowl and wildlife maintenance activities shall be conducted in accordance with the CBNERRVA Management Plan. In general, such activities shall be limited to maintenance of existing habitat and minor improvements, where necessary (such as tree thinning to improve understory vegetation, opening of small areas to provide a great diversity of habitats, raising and releasing of geese and ducks), and as approved by the Grantor and Grantee. Any waterfowl and wildlife management activities shall be carried out under the guidance of the Commonwealth of Virginia, Department of Game and Inland Fisheries and the U.S. Department of the Interior, Fish and Wildlife Service. Any plant and insect management activities that may affect species of plants or insects protected under the Virginia Endangered Plant and Insect Species Act shall be carried out under the guidance of the Virginia Department of Agriculture and Consumer Service.

10. Hunting and Fishing – The Grantor may pursue such hunting and fishing activities as it may elect as long as such activities are in compliance with applicable state or federal law.

11. Water Quality – There shall be no human activities on or uses of Sweet Hall Marsh that are detrimental or adverse to the maintenance and conservation of surface and subsurface water quality. There shall be no manipulation or alteration of natural water courses, shorelines, marshes or other water bodies, nor shall there be activities conducted on or around Sweet Hall Marsh or the Pamunkey River that could alter natural water level flow, salinity, or turbidity of Sweet Hall Marsh or the Pamunkey River, or both.

12. Structures, Roads, Trails and Plantings – There shall be no restrictions on the Grantor’s right to construct hunting blinds, nesting boxes or other structures, and plantings throughout the marsh. All Roads and significant trails will be restricted to the buffer region of Sweet Hall Marsh. All structures, roads, trails and plantings should be constructed in a manner to minimize damage to the natural resources of Sweet Hall Marsh. Structures constructed and utilized by the Grantee must be for research, education, stewardship and naturalistic purposes and approved by the Grantor. Similarly, the Grantor must approve removal of existing research, education, stewardship and naturalistic structures.

13. Signs and Billboards – Display of billboards, signs, or other advertisements is not permitted on or over Sweet Hall Marsh except to state the name and/or address of the owner, to provide notice of the designation as a component of CBNERRVA, to post the property as a No Wake Zone, and/or to post the property against the trespass.

14. Subdivision – Sweet Hall Marsh shall not be partitioned or subdivided during the life of this management agreement.

15. Excavation, Dredging, and Mining – Excavation, dredging, mining and removal of loam, gravel, soil, rock, sand, coal, petroleum, and other materials or alteration of the topography of the land is prohibited on the Sweet Hall Marsh except as

related to the collection of geological data. Such activities shall be planned for in the CBNERRVA Management Plan and approved by the Grantor and Grantee.

16. Industrial and Commercial Activities – No industrial or commercial activities shall be conducted at Sweet Hall Marsh

17. Trash, Rubbish, and Waste – Neither the Grantor or the Grantee shall authorize dumping of soil, trash, ashes, garbage, waste, or offensive materials on Sweet Hall Marsh or filling in of any wetland, pond, or waterway and such dumping shall be absolutely prohibited. Neither the Grantor or the Grantee shall not be responsible for unauthorized dumping.

18. Off Road Vehicles – Neither the Grantor or the Grantee shall authorize operation of motor vehicles, trail bikes or all-terrain vehicles within the core area of Sweet Hall Marsh (see Exhibit A for delineation of core and buffer regions).

ARTICLE IV. ENFORCEMENT AND REMEDIES

19. Injunctive Relief and Restoration – Upon any breach of the terms of this management agreement by the Grantor, its successors and assigns or the Grantee, its successors and assigns, the breaching party may be subject to suit to (1) enjoin any breach or enforce any covenant by temporary restraining order, preliminary and/or permanent injunction; (2) require that the property be restored promptly to the condition required by the management agreement; or (3) seek any other remedy available, in law or equity, to assure compliance with the terms of this management agreement.

20. Perpetual Right of Enforcement – Failure on the part of the Grantee to enforce any covenant or provision hereof shall not discharge or invalidate such covenant, or any other covenant, condition, or provision of a subsequent breach or default.

ARTICLE V. GRANTOR'S RIGHTS

21. Grantor's Rights – The Grantor expressly reserves to itself, its personal representatives, heirs, successors and assigns the right to:

- a) Continue the naturalistic uses of Sweet Hall Marsh under the terms and conditions set forth herein;
- b) Continue to hunt, fish, or trap on Sweet Hall Marsh and raise and release ducks and geese subject to applicable laws;
- c) Improve, repair, restore, alter, remove, remodel, or replace permitted structures and planting; and
- d) Continue the use of Sweet Hall Marsh for all purposes consistent with this Management Agreement.

ARTICLE VI. RIGHT OF GRANTEE

22. Rights of Grantee – To accomplish the purpose of this Management Agreement the following rights are conveyed to the Grantee by the Management Agreement:

- a) To preserve and protect the conservation values of the Sweet Hall Marsh.
- b) To enter upon the Sweet Hall Marsh at reasonable times in order to conduct approved research, education and stewardship activities and to monitor Grantor's compliance with and otherwise enforce the terms of this Management Agreement' provided that such entry shall be upon prior reasonable notice to Grantor, such entry shall be by water, and shall not unreasonably interfere with Grantor's use and quite enjoyment of the Sweet Hall Marsh; and further provided that any such entry during a period commencing two weeks prior to the migratory waterfowl seasons in the Commonwealth of Virginia shall be made only with prior notice to and consent fro the Grantor, which consent may be withheld in the grantor's sole discretion.
- c) To give permission to appropriate persons to conduct research, education and stewardship activities approved for the Sweet Hall Marsh component of CBNERRVA, provided that permittees carry and display an official permit issued by the Grantee and approved by the Grantor.
- d) To prevent any activities or use of the Sweet Hall Marsh that is inconsistent with the purposes of this Management Agreement and to require the restoration of such areas or features or the Sweet Hall Marsh that may be damaged by any inconsistent activity or use.

ARTICLE VII. GRANTOR'S AND GRANTEE'S LIABILITY

23. Upkeep by Grantor – The Grantor, its successors, and assigns further agrees that it shall be responsible for upkeep of Sweet Hall Marsh and shall hold the Grantee, its successors and assigns harmless from charges or liens arising out of upkeep or taxes.

24. Taxes – The Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the property.

25. Grantor's Liability – The Grantor, its successors, and assigns shall not be held responsible for injury to persons or damages to property arising out of any research or educational activity being conducted on Sweet Hall Marsh pursuant to the CBNERRVA Management Plan and this management agreement except those arising out of the negligence of the Grantor, its successors, and assigns. All persons participating in research, education or stewardship activities at Sweet Hall Marsh must sign a liability

release form indemnifying and holding harmless the Grantor, its officers, directors, agents, and guests, from any and all liability, claims, or expenses for injury, death, or damages to self or property, including without limitation attorney's fees, resulting from or arising out of or in anyway relating to the activities of the Grantee, any of its representatives, agents or guests, or resulting from, or occurring in the course of transit to or from Sweet Hall Marsh. A copy of the release form appears as Exhibit B.

The Grantee has inspected Sweet Hall Marsh and accepts its condition "as is". Any existing conditions or future conditions relating to permitted uses of Sweet Hall Marsh by the Grantor, including without limitation any hunting and fishing activities, shall not constitute conditions giving rise to a claim of negligence on the part of the Grantor or to any potential liability for damage to property or injury to person. The Grantor's liability for all other activities on Sweet Hall Marsh shall remain in effect.

26. Grantors' Liability – The Commonwealth of Virginia and all its agencies and institutions are covered by a self-insurance program as authorized by Section 2.1-526.8 of the Code of Virginia which is based upon a comprehensive general liability manuscript policy form as shown in Exhibit C. All persons who are not employees of the Commonwealth must receive approval from the Grantor and furnish evidence of liability coverage in the amount of \$100,000/\$300,000/\$100,000 before participating in research, education and stewardship activities at Sweet Hall Marsh. All persons, whether employees of the Commonwealth or not, shall sign a liability release form reference in paragraph 25 and appearing in Exhibit B.

ARTICLE VIII. PUBLIC ACCESS

27. Public Access – The granting of this Management Agreement does not grant to the public any right to enter the property. The Grantor reserves the right to place a gate or chain with a lock across any and all roads leading into Sweet Hall Marsh. If a lock is employed, a key will be made available to the Grantee to use for authorized purposes by authorized personnel only in accordance with the Management Plan and the terms of this agreement. The Grantee's right of entry permits use of the Grantor's pier for water quality sampling and other activities approved by the Grantor, but does not include access to the interior of buildings or structures. All other protection against trespass by the public shall remain in effect.

ARTICLE IX. MISCELLANEOUS

28. Transfer and Reversion – The Grantor agrees to send in writing to the Grantee the names and addresses of any party to who Sweet Hall Marsh is to be transferred at the time said transfer is executed. The Grantee agrees to hold this Management Agreement exclusively for conservation purposes, and that it will not transfer the management agreement in exchange for money, other property, or services. This provision shall not preclude the Grantee from using the monetary value of any donations or gifts from the Grantor as match for money, other property, or services that will contribute to fulfilling the objectives of the management Plan or the terms of this agreement.

The Grantee may assign its rights under this Management Agreement to VIMS in such manner as to achieve the purposes and conditions herein. If any such assignee shall cease to exist or abandon this Management Agreement or the rights and duties of enforcement herein set force, or if proceedings are instituted for condemnation of this Management Agreement, the Management Agreement and rights of enforcement shall revert to the Grantee. If the Grantee shall be dissolved and if the terms of the dissolution fail to provide a successor, then the court shall appoint an appropriate successor as Grantee.

29. Termination – In the event that circumstances arise that cause Sweet Hall Marsh to be withdrawn from the CBNERRVA, cause the CBNERRVA to cease to exist, or cause the Grantee to not have sufficient funds to conduct activities under the CBNERRVA, this management agreement shall be terminated by the Grantee by providing 90 days written notice to the Grantor. If either party breaches the terms and conditions of this management agreement, the other party may terminate this management agreement with 90 days written notice.

30. Notification – The Grantor agrees to notify the Grantee, in writing, before exercising any reserved right the exercise of which may have an adverse impact on the conservation interests associated with Sweet Hall Marsh. Any notices by the Grantor to the Grantee pursuant to any provision hereof shall be sent by registered or certified mail, return receipt requested, addressed to Coleman Wortham, III, Davenport & Company, LLC, 901 East Cary Street, Richmond, Virginia 23219, with copies to F. Scott Reed, Dominion Environmental Services, 5000 Dominion Blvd., Glen Allen, VA 23060 and Philip W. Reed, Virginia Outdoor Foundation, James Monroe Building, 101 N. 14th St., 17th Floor, Richmond, VA 23219.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set their hands and seals the day and year above written.

Grantor:

Tacoma Hunting + Fishing (SEAL)

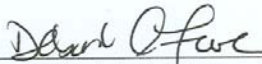
by Colman Wortham, III (SEAL)
President

ACCEPTED BY
AS GRANTEE

John S. Neels 11/1/07 (SEAL)

_____ (SEAL)

APPROVED AS TO FORM:

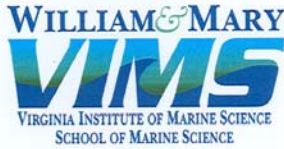


Senior Assistant Attorney General for the
Attorney General of Virginia

Exhibit A. Map of property highlighting boundary of agreement.



Exhibit B. Liability release and waiver of claims form.



LIABILITY RELEASE AND WAIVER OF CLAIMS
(For Agents of the Commonwealth, Paid Consultants and
Volunteers)

The undersigned, in consideration of being allowed to participate in research, education or stewardship activities at the Sweet Hall Marsh component of the Chesapeake Bay National Estuarine Research Reserve System in Virginia, owned by Tacoma Hunting and Fishing Club and managed by the Virginia Institute of Marine Science (VIMS) of the College of William and Mary, which research, education or stewardship activities will begin on the ____ day of _____ 20____ and continue for a period of approximately ____ days does hereby release the said landowner and VIMS from any and all liability, claims or expenses for injury, death or damages to self ad property, including without limitation attorney's fees, resulting from or arising out of or in anyway relating to participation in research, education or stewardship activities, or resulting from, or occurring in the course of transit to and from the Sweet Hall Marsh component of the Chesapeake Bay National Estuarine Research Reserve System in Virginia, except to the extent that such injury, death or damages is caused solely by the negligence of VIMS, its agents, or employees, or is caused solely by the negligence of the landowner, its heirs, successors, or assigns.

The undersigned who is a paid consultant or volunteer must furnish evidence of liability coverage in the amount of \$100,000/\$300,000/\$100,000.

The undersigned who is a volunteer for the Sweet Hall Marsh component of the Chesapeake Bay National Estuarine Research Reserve System in Virginia further understands and declares that participation in said research, education and stewardship activities is voluntary, and that there will be no compensation for them, nor will they create eligibility for, without limitation, such benefits as salary wages, or workers' compensation during or as a result of participation in those activities.

The undersigned further understands and declares that this agreement extends only to the length of participation in the above-mentioned activities, and is binding on the heirs, successors, and assigns of the undersigned.

I acknowledge my right to seek counsel prior to signing this release, and have voluntarily affixed my signature this ____ day of _____ 20____.

Signature

Printed Name