313.00

BOOK 544 PAGE 195

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JOANNE S. HUNTLEY
ANSON COUNTY, N.C.
REGISTER OF DEEDS

Return to: Division Right of Way Agent
206 Charter Street
Albemarle, NC 28001

NORTH CAROLINA
ANSON COUNTY

00930

CONSERVATION EASEMENT
and
EASEMENT OF INGRESS AND EGRESS

THIS CONSERVATION EASEMENT and EASEMENT OF INGRESS AND EGRESS, made this 13th day of February, 2001, by and between **John T. Mills and wife Dorothy T. Mills, through her Attorney in Fact, John T. Mills**, hereinafter called the "Grantor(s)", and the **North Carolina Department of Transportation**, hereinafter called the "Grantee", provides the following:

WITNESSETH

WHEREAS, the Grantor owns in fee simple approximately 262.212 acre(s) of land situated in Lanesboro Township of Anson County as more particularly described in Book 119, page 051 and Book 173, page 304 of the Anson County Registry, North Carolina, hereinafter this land is referred to as the "Property";

WHEREAS, the Grantee is an agency of the State of North Carolina whose purpose includes the construction of transportation projects for public use and has the authority to acquire land for the purpose of mitigating environmental impacts of these transportation projects; is authorized by the laws of the State of North Carolina to accept, hold and administer conservation easements; possesses the authority to accept and is willing to accept this Conservation Easement from the Grantor under the terms and conditions hereinafter described;

WHEREAS, the Grantee proposes to restore approximately 119.278 acres of wetlands in Anson County on the said Property;

WHEREAS, the Grantor is willing to grant a perpetual Conservation Easement over approximately 119.278 acres of the Property, thereby restricting and limiting the use of land within the Conservation Easement area to the terms and conditions and for the purposes hereinafter set forth, and to further grant the right of ingress and egress to the Conservation Easement area over, upon and along the Property as more particularly set forth hereinafter;

WHEREAS, the Grantor consents to the Grantee assigning this Conservation Easement over the designated portion of the Property to another state agency whose purpose is consistent with this Conservation Easement or to a non-profit corporation whose purposes are consistent with this Conservation Easement.

WHEREAS, the Grantee, under Section 404 permits granted by the U.S. Army Corps of Engineers (USACE), must conduct certain off-site wetland mitigation for impacts to wetlands resulting from the construction of transportation projects;

NOW THEREFORE, in consideration of the sum of $156,250.00 and other valuable considerations to the Grantor in hand paid, the receipt of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor hereby grants and conveys unto the Grantee and its successors or assigns forever and in perpetuity a Conservation Easement, pursuant to the USACE Section 404 permit requirements, of the nature and character and to the extent hereinafter set forth, in respect to the land of the grantor situated in Anson County, North Carolina, as described in Exhibit A (map) and Exhibit B (metes and bounds description). Together with a perpetual right of ingress and egress over and upon the Grantors roads and paths, or other access ways acceptable to the Grantors, on the Property having been described above in the Anson County Registry as an Easement of Ingress and Egress to and from the Conservation Easement hereinabove described.

The purposes of this Conservation Easement are to provide environmental protection for surface waters, to provide restoration and enhancement of wetland, stream, and riparian habitat for the benefit of fish and wildlife, to protect the conservation values of the easement area designated on the Property and to maintain permanently the dominant woodland, scenic and natural character of the easement area. To achieve these purposes, the parties hereto agree to the conditions and restrictions set forth herein and it shall be so held, maintained, and used therefore.

ANSON COUNTY NC
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STATE OF NORTH CAROLINA
$313.00
Real Estate Excise Tax

Return to: Division Right of Way Agent
206 Charter Street
Albemarle, NC 28001

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land and is enforceable by the Grantee or its successors and/or assigns against Grantor(s), Grantor's personal representatives, heirs, devisees, successors and assigns, lessees, agents and licensees.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the designated easement area inconsistent with the purposes of this Conservation Easement is prohibited. The Easement Area shall be maintained in its natural, scenic and open condition and restricted from any development that would significantly impair or interfere with the conservation values of this easement area.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited, restricted or reserved as indicated hereunder.

A. Disturbance of Natural Features. Any change, disturbance, alteration or impairment of the natural, scenic and aesthetic features of the easement area or any introduction of non-native plants and/or animal species is prohibited unless the Grantee shall give its prior written consent or unless otherwise expressly permitted herein.

B. Agricultural, Grazing and Horticultural Use. Agricultural, grazing and horticultural use (landscaping) of the easement area is prohibited.

C. Silvicultural Use and Land Clearing. There may be no destruction or cutting of trees or plants on the Easement Area, except upon approval of the Grantee. The gathering of firewood in the Easement Area shall be limited to dead trees, such that the gathering is consistent with purposes of this Conservation Easement.

D. Hunting and Fishing. Grantor expressly reserves the right to hunt and fish on the Easement Area and to control access of all persons for the purpose of hunting and fishing; provided that these activities do not impact the protection and conservation of any animal/trout habitat or other conservation values of the Easement Area.

E. Dumping or Storage. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, or hazardous substances, or toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials on the Easement Area is prohibited.

F. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner on the Easement Area nor shall there be any activities conducted on the Easement Area or on adjacent property if owned by the Grantor and his successors which would cause erosion or siltation on the Easement Area.

G. Water Quality and Drainage Pattern. There shall be no activities conducted in the Easement Area that would be detrimental to water purity or to any of the plants or habitats within the Easement Area. There shall be no activities that would alter natural water levels, drainage, sedimentation and/or flow in or over the Easement Area, or cause soil degradation or erosion. Diking, dredging, alteration, draining, filling or removal of wetland or stream is prohibited. The Grantee maintains the right to install, operate and maintain structures for the purpose of reestablishing, protecting, and enhancing wetland and stream functional values for the Easement Area.

H. Quiet Enjoyment. The Grantor, for himself, his successors, assigns, invitees and licensees, hereby reserves the right to quiet enjoyment of the Easement Area, the right to ingress and egress to the Easement Area and all adjacent property of the Grantor, the right to continue such uses as exist as of the date of this grant not inconsistent with this Conservation Easement and the right to sell, transfer, gift or otherwise convey the Easement Area, in whole or in part, provided such sale, transfer or gift conveyance is subject to the terms of this Conservation Easement and written notice is provided to the Grantee in accordance with the provisions herein below.

ARTICLE III. ENFORCEMENT & REMEDIES

A. The Grantee has the right to prevent any action or use of the Easement Area that is inconsistent with the purpose of this Conservation Easement. Upon any breach of the terms of this Conservation Easement by Grantor or by a third party, which comes to the attention of the Grantee, the Grantee shall notify the Grantor in writing of such breach. The Grantor shall have thirty (30) days after receipt of such notice to begin undertaking actions that are reasonably calculated to correct promptly the conditions constituting such breach. If the breach remains uncured after ninety (90) days, the Grantee may enforce this Conservation Easement by appropriate legal proceedings including damages, injunctive and other relief including the right to require that the land be restored promptly to the condition required by this Conservation Easement. The Grantee shall have the power and authority, consistent with its statutory authority, to institute and maintain any suits and proceedings as the Grantee may deem advisable in its judgement; (a) to prevent any impairment of the Property by any acts which may be unlawful or in violation of this Conservation Easement; (b) to otherwise preserve or protect its interest in the Property; or (c) to seek damages from any appropriate person or entity. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies without prior notice to Grantor, but shall call the Grantor to leave a voice message and shall exercise within two business days an effort to notify the Grantor and explain the action undertaken.

B. The Grantor reserves the right to take action against the Grantee for use of the Easement Area in a way that is inconsistent with the purpose of this Conservation Easement.

C. Nothing contained herein shall be construed to entitle the Grantor to bring any action against Grantee for any injury or change in the Property resulting from causes beyond the Grantee's control, including fire, flood, storm, war, acts of God or third parties, or from any prudent action taken in good faith by Grantee under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such causes, in accordance hereunder.

D. The Grantee may enter the Grantor's adjoining property only for the purposes set forth in this agreement and only in accordance with the Easement for Ingress and Egress described hereinabove. The Grantee will attempt to notify the Grantor before entering the Property.

E. No failure on the part of the Grantee to enforce any covenant or provision hereof shall be a waiver to discharge or invalidate such covenant or any other covenant, condition, provision hereof or affect the right of Grantee to enforce in the same in the event of a subsequent breach or default.

ARTICLE IV. PUBLIC ACCESS

The granting of this Conservation Easement does not convey to the public the right to enter the Property for any purpose whatsoever. However, the public has the right to view the Property from adjacent publicly accessible areas.

ARTICLE V. EXHIBIT, DOCUMENTATION AND TITLE

A. Legal Description and Exhibits. The attached Exhibit A (map) and Exhibit B (metes and bounds description) are incorporated in and made a part of this instrument by reference.

B. Title. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Property is free and clear of any and all encumbrances, except easements of record and Grantor covenants that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid Conservation Easement.

ARTICLE VI. MISCELLANEOUS

A. Subsequent Transfers. Grantor agrees for himself, his heirs, successors and assigns, to notify the Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is to be transferred at or prior to the time said transfer is consummated. Grantor, for himself, his heirs, successors and assigns, further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent lease, deed or other legal instrument by which any interest in the Property is conveyed.

B. Conservation Purpose.

(1) The Grantee, for themselves, and their successors and assigns agree that this Conservation Easement shall be held exclusively for conservation purposes.

(2) The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, provided, however that the Grantee hereby covenant and agree, that in the event they transfer or assign this Conservation Easement they hold under the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, which is organized or operated primarily for one of the conservation purposes specified in Section 170 (h)(4)(A) and Section 2031 of the Internal Revenue Code, and the Trust and the State further covenants and agrees that the terms of the transfer or assignment will be such that the transferee or assignee will be required to continue to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance, set forth in the Recitals herein.

(3) The Grantor agrees to pay any real estate taxes or other assessments levied on the Property.

C. Construction of Terms. This Conservation Easement shall be construed to promote the purposes of the North Carolina enabling statute set forth in N.C.G.S. 121-34, which authorizes the creation of Conservation Easements for purposes including those set forth in the recitals herein, and the conservation purposes of this Conservation Easement, including such purposes as are defined in Section 170(h)(4)(A) of the Internal Revenue Code.

D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision is found to be invalid, the remainder of the provisions of this Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

E. Notices. Any notices shall be sent by registered or certified mail, return receipt requested, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other. In any case where the terms of this Conservation Easement require the consent of any party, such consent shall be requested by written notice. Such consent shall be deemed to have been denied unless, within ninety (90) days after receipt of notice, a written notice of approval has been mailed to the party requesting consent.

F. Amendments. Grantor and Grantee are free to jointly amend this Conservation Easement to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purposes of this Conservation Easement or affects the perpetual duration of this Conservation Easement. Such amendment(s) shall be effective upon recording in the public records of Anson County North Carolina.

G. Recording. The Grantee shall record this instrument and any amendment hereto in timely fashion in the official records of Anson County, North Carolina, and may re-record it at any time as may be required to preserve the rights under this Conservation Easement.

TO HAVE AND TO HOLD the aforesaid easements unto the **NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,** its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, Grantor's personal representatives, heirs, successor and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, Grantor hereto has set Grantor's hand and seal and the Grantee by authority duly given, has hereunto caused these presents to be executed by its representatives and their seals affixed, affixed, as of the dates shown below, to be effective upon the date of recordation in the public records of Anson County, North Carolina.

GRANTOR(S): John T. Mills (Seal) JOHN T. MILLS

Dorothy T. Mills (Seal) DOROTHY T. MILLS

John T. Mills (Seal) By: JOHN T. MILLS, Attorney in Fact

GRANTEE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

MAR 20 2001

(Seal)

~~Executive Director~~ ASS'T MANAGER OF RIGHT OF WAY

SEAL-STAMP
NORTH CAROLINA
ROBESON COUNTY

I, Susan S. Burriola a Notary Public of Robeson County do hereby certify that John T. Mills , Grantor(s), personally appeared before me this day and acknowledged the execution of the foregoing in Witness my hand and official stamp or seal, this 13th day of FEB 2000.

My commission expires 8-13-2001 Susan S Burriola
Signature of Notary Public

SEAL-STAMP
NORTH CAROLINA
ROBESON COUNTY

I, Susan S. Burriola a Notary Public for said County and State, do hereby certify that JOHN T. MILLS, Attorney in Fact for DOROTHY T. MILLS, personally appeared before me this day, and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of the said DOROTHY T. MILLS, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds in the County of Anson, State of North Carolina, on the 10th day of March, 2000 and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney.

I do further certify that the said JOHN T. MILLS acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said DOROTHY T. MILLS.

Witness my hand and official seal, this the 13th day of February, 2001.

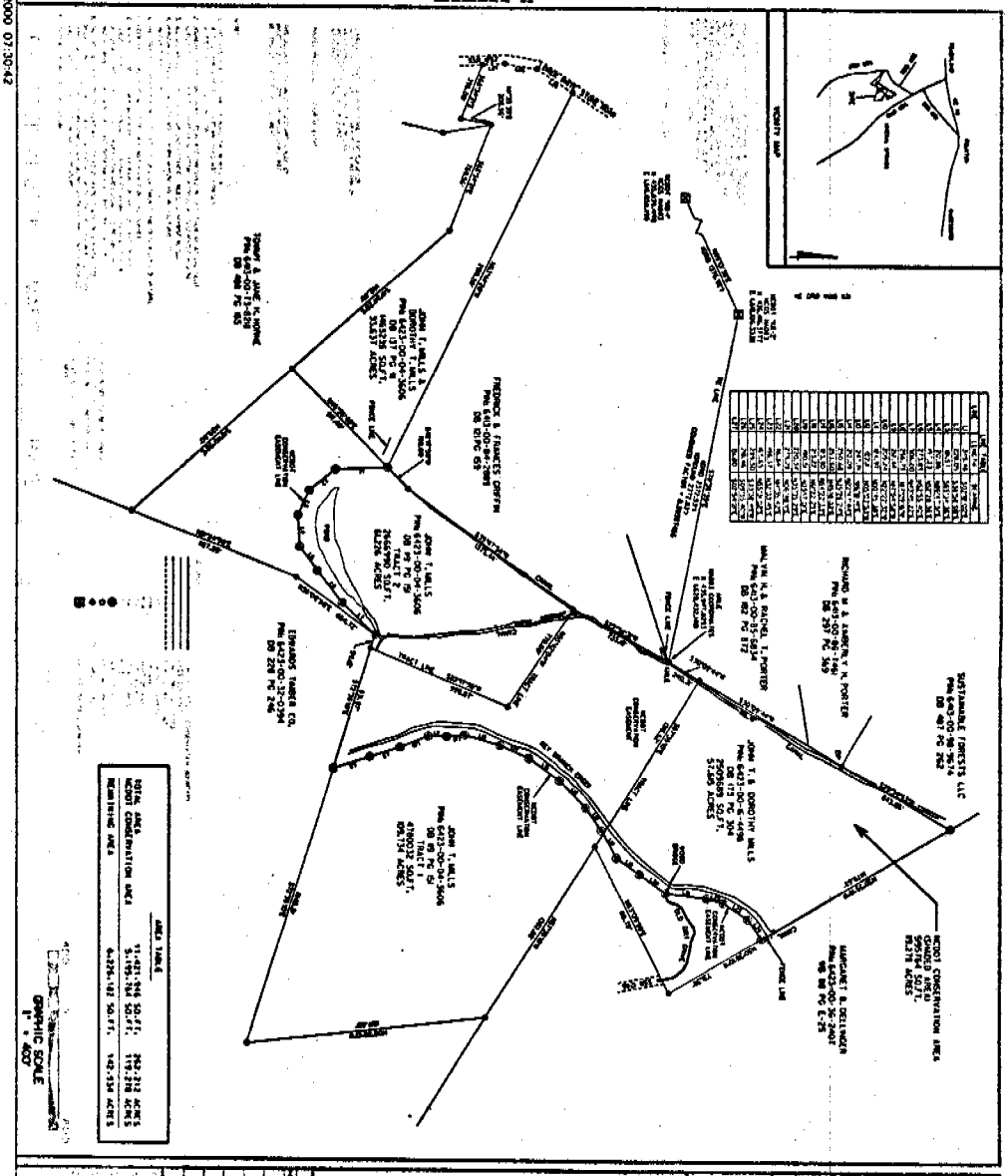
My commission expires: 8-13-2001 Susan S. Burriola
Signature of Notary Public

The foregoing Certificate(s) of Susan S. Burriola
Is/ are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Joanne S. Huntley REGISTER OF DEEDS FOR ANSON COUNTY

By _____ Deputy/Assistant-Register of Deeds

EXHIBIT A



"THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS."

c:\temp\r12231.dgn Dec. 21, 2000 07:30:42

EXHIBIT B

BEGINNING at a point located on the northern property corner of the undersigned, a common property corner of Margaret B. Dellinger and Sustainable Forests LLC, now or formerly; thence S. 29-34-53 W. 843.86 ft to a point.; thence S. 30-09-44 W. 1,116.41 ft. to a point; thence S. 30-09-44 W. 240.31 ft. to a point; thence S. 27-34-31 W. 733.18 ft. to a point; thence S. 35-47-56 W. 1,375.44 ft. to a point; thence S. 46-17-56 W. 198.00 ft. to a point; thence S. 02-18-02 E. 349.46 ft. to a point; thence S. 38-58-08 E. 228.05 ft. to a point; thence S. 65-34-36 E. 181.57 ft. to a point; thence N. 86-47-51 E. 212.86 ft. to a point; thence N. 52-28-36 E. 197.23 ft. to a point; thence N. 52-55-40 E. 273.89 ft. to a point; thence N. 43-45-22 E. 306.00 ft. to a point; thence S. 72-35-10 E. 94.12 ft. to a point; thence S. 72-35-10 E. 831.97 ft. to a point; thence N. 17-09-16 W. 256.79 ft. to a point; thence N. 17-04-58 W. 212.44 ft. to a point; thence N. 22-22-32 W. 205.24 ft. to a point; thence N. 00-45-38 E. 124.97 ft. to a point; thence N. 05-03-53 W. 122.11 ft. to a point; thence N. 16-18-14 E. 247.71 ft. to a point; thence N. 22-47-44 E. 212.09 ft. to a point; thence N. 35-26-24 E. 250.68 ft. to a point; thence N. 45-18-32 E. 253.60 ft. to a point; thence N. 54-22-33 E. 183.90 ft. to a point; thence N. 61-22-25 E. 213.22 ft. to a point; thence N. 35-17-01 E. 190.51 ft. to a point; thence N. 35-33-29 E. 220.34 ft. to a point; thence N. 06-48-11 E. 279.28 ft. to a point; thence N. 14-35-42 E. 116.84 ft. to a point; thence N. 32-35-45 E. 198.37 ft. to a point; thence N. 55-31-02 E. 165.65 ft. to a point; thence N. 30-35-10 W. 1,479.63 ft. to the point of BEGINNING, and containing 119.278 acres.