BK: 00377 PG: 1529

FILED
ASHE COUNTY
SHIRLEY B. WALLACE
REGISTER OF DEEDS

FILED	Jan 28, 2008
AT	02:24:22 pm
BOOK	00377
START PAGE	1529
END PAGE	1532
INSTRUMENT #	00523

STATE OF NORTH CAROLINA
ASHE COUNTY

SPO File Number: 005-ZC
Prepared by: Office of the Attorney General
Property Control Section
Return to: Blane Rice, State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

TEMPORARY CONSTRUCTION EASEMENT

This Agreement, made this 17th day of October 2007, between **Larry Dale Miller and wife Karen Miller** hereinafter designated as **Grantor**, and the **State of North Carolina**, acting by and through the **Ecosystem Enhancement Program**, hereinafter designated **Grantee**, does hereby grant unto the **Grantee**, its successors, assigns, agents, contractors, subcontractors and employees the exclusive right to perform those certain construction activities necessary to perform a stream restoration, enhancement and/or wetlands restoration, enhancement or creation project, hereinafter designated **Project,** along with the to right of reasonable ingress and egress to the Project along Ripshin Branch in Ashe County for the benefit of the **Grantor.**

Grantor, for the true and actual consideration of **$650.00** does convey to **Grantee**, by and through its **Department of Environment and Natural Resources, Ecosystem Enhancement Program**, its successors and assigns, a Temporary Construction Easement, hereinafter **Easement,** for a specified work area on the property as identified on attached exhibit "A". Property subject to this Easement is recorded in Deed Book **280** at Page **729** recorded in the Ashe County Registry. Said project will extend approximately **150** linear feet along the stream and contain approximately **2.6** acres for the purpose of said **Project**.

Grantor agrees the consideration recited herein is just compensation for the **Easement**, including any and all damages to Grantor's remaining property, if any, which may result from the acquisition or use of said property and said **Project**.

The **Grantor** also grants to the **Grantee**, its successors, assigns, agents, contractors, and employees the right to erect and use construction equipment at the site of the **Easement** herein described.

IT IS UNDERSTOOD that the **Easement** rights herein granted shall automatically terminate 2 years from the date rendered hereof or upon completion of the above referenced **Project**, whichever is sooner.

The **Grantee**, its successors, assigns, agents, contractors, and employees agree to the following conditions of this **Easement:**

1. **DAMAGE TO PROPERTY:** Shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued.

2. **COOPERATION WITH GRANTOR**: Shall at all times cooperate with **Grantor** and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued.

3. **CLEARING:** If necessary, shall perform felling, bucking, and decking of merchantable timber according to acceptable logging practices with a minimum of breakage, damage, and waste. Utilization of heavy equipment to grade, fill, and prepare the soil, including modification of the hydrology of the site.

4. **CLEANUP:** At a minimum, Grantee shall spread material uniformly over the construction site for uniform topography and seed with grass. Includes possible planting of trees, shrubs and herbaceous vegetation, and fertilize all areas. Upon completion of the **Project**, shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.

5. **ACCEPTANCE:** All parts of the **Project** site shall be left in acceptable condition.

IN TESTIMONY WHEREOF, the Grantor has hereunto set his hand and seal, the day and year first above written,

Larry D. Miller **(SEAL)**

Karen K. Miller **(SEAL)**

NORTH CAROLINA

COUNTY OF Ashe

I, Jeffrey M. Horton, a Notary Public in Ashe County and for ~~the~~ Bertie County and State aforesaid, do hereby certify that **Larry Dale Miller**, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the 17th day of October, 2007.

JEFFREY M. HORTON NOTARY PUBLIC BERTIE COUNTY, NC

Notary Public

My commission expires:

02/05/2011

NORTH CAROLINA

COUNTY OF Ashe

I, Phyllis M. Powers, a Notary Public in and for the County and State aforesaid, do hereby certify that **Karen Miller**, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the 22nd day of October, ~~2006~~ 2007.

PHYLLIS M. POWERS NOTARY PUBLIC ASHE COUNTY, NC

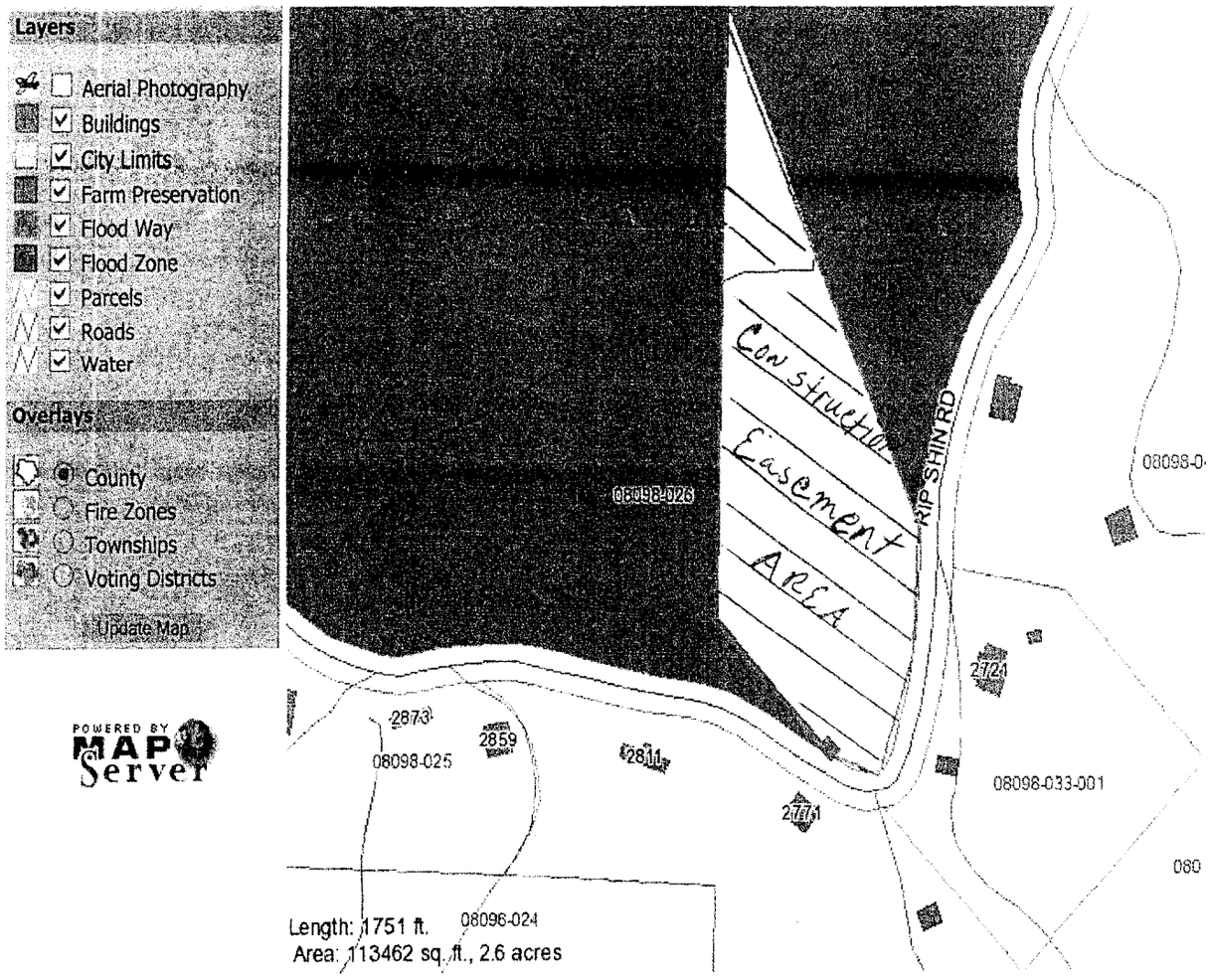
Notary Public

My commission expires:

2012

EXHIBIT "A"

Temporary Construction Easement
SPO 005-ZC



ASHE COUNTY
Parcel ID: 08098-033-001

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.