BK: 00402 PG: 1940

FILED
ASHE COUNTY
SHIRLEY B. WALLACE
REGISTER OF DEEDS

FILED	Oct 13, 2009
AT	02:14:28 pm
BOOK	00402
START PAGE	1940
END PAGE	1945
INSTRUMENT #	05793

STATE OF NORTH CAROLINA
ASHE COUNTY

SPO File Number: 05-AV-TCE
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 14 day of Sept. 2009, between **Michael N. Tate** and wife, **Virginia B. Tate**, 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 the Ripshin Branch in Ashe County for the benefit of the **Grantor.**

Michael N. Tate and wife, Virginia B. Tate, **Grantor**, for the true and actual consideration of $10.00 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 identified as Ashe County Parcel ID # 08098-026, Ashe County Parcel ID # 08098-123, Ashe County Parcel ID # 08098-001, Ashe County Parcel ID # 08098-042, Ashe County Parcel ID # 07068-021. Said project will extend along the stream having a width of 30 feet from the top of bank on both sides of the stream 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.

IT IS ALSO UNDERSTOOD AND AGREED that the **Easement** herein granted further allows, binds by mutual agreement, that the **Grantor** has conveyed and the **Grantee** has received a **Conservation Easement** in the form attached hereto to perpetually protect the intent of said **Project**.

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,

Michael N. Tate _____ **(SEAL)**
Michael N. Tate

Virginia B. Tate _____ **(SEAL)**
Virginia B. Tate

NORTH CAROLINA

COUNTY OF Catawba

I, Laurie Geitner, a Notary Public in and for the County and State aforesaid, do hereby certify that Michael N. Tate, 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 14th day of September, 2009.

Laurie Geitner
Notary Public

My commission expires: Laurie M. Geitner Notary Public Catawba County North Carolina My Commission Expires 3/17/2014

NORTH CAROLINA

COUNTY OF Catawba

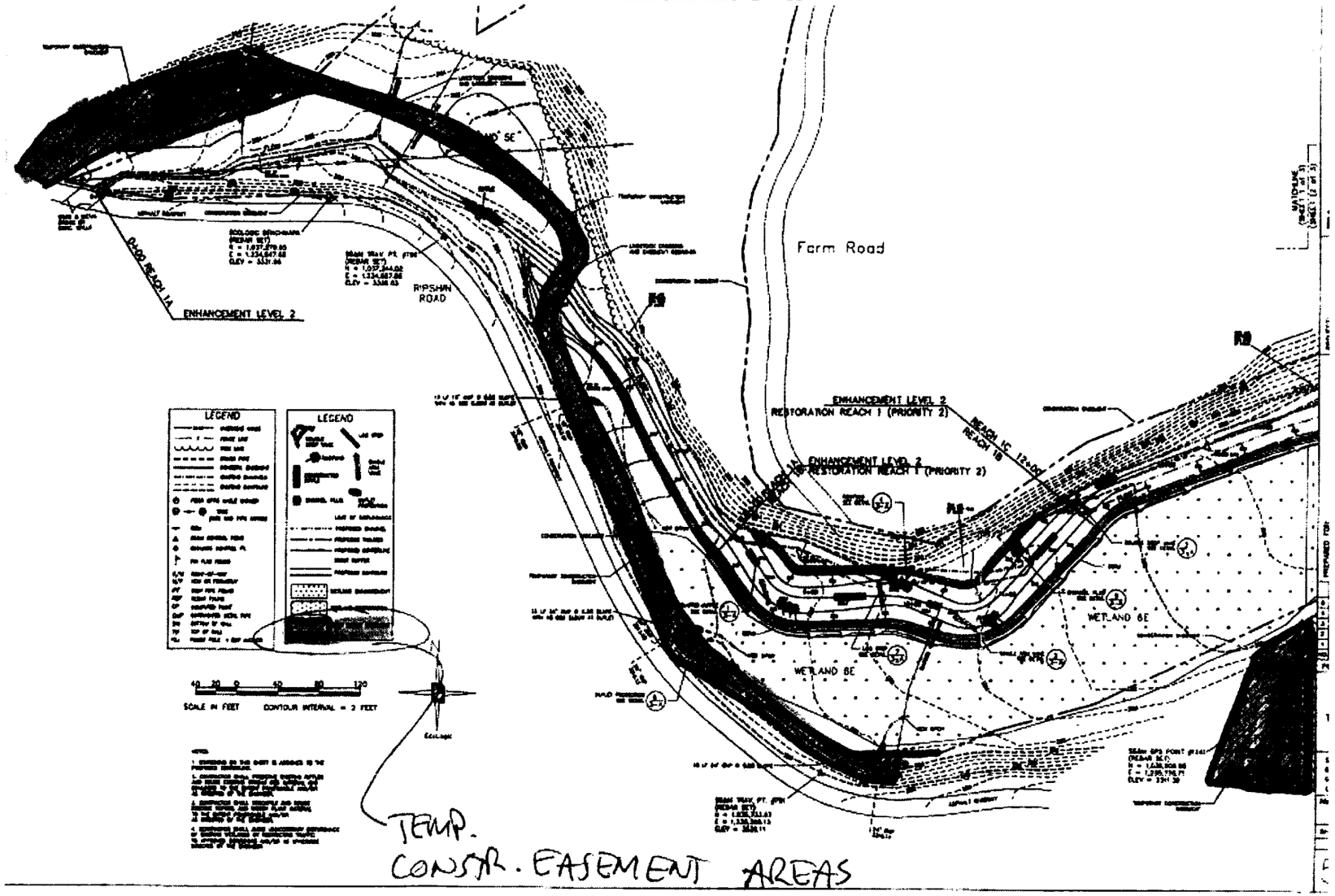
I, Laurie Geitner, a Notary Public in and for the County and State aforesaid, do hereby certify that Virginia B. Tate, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notary Seal this the 14th day of September, 2009

Laurie Geitner
Notary Public

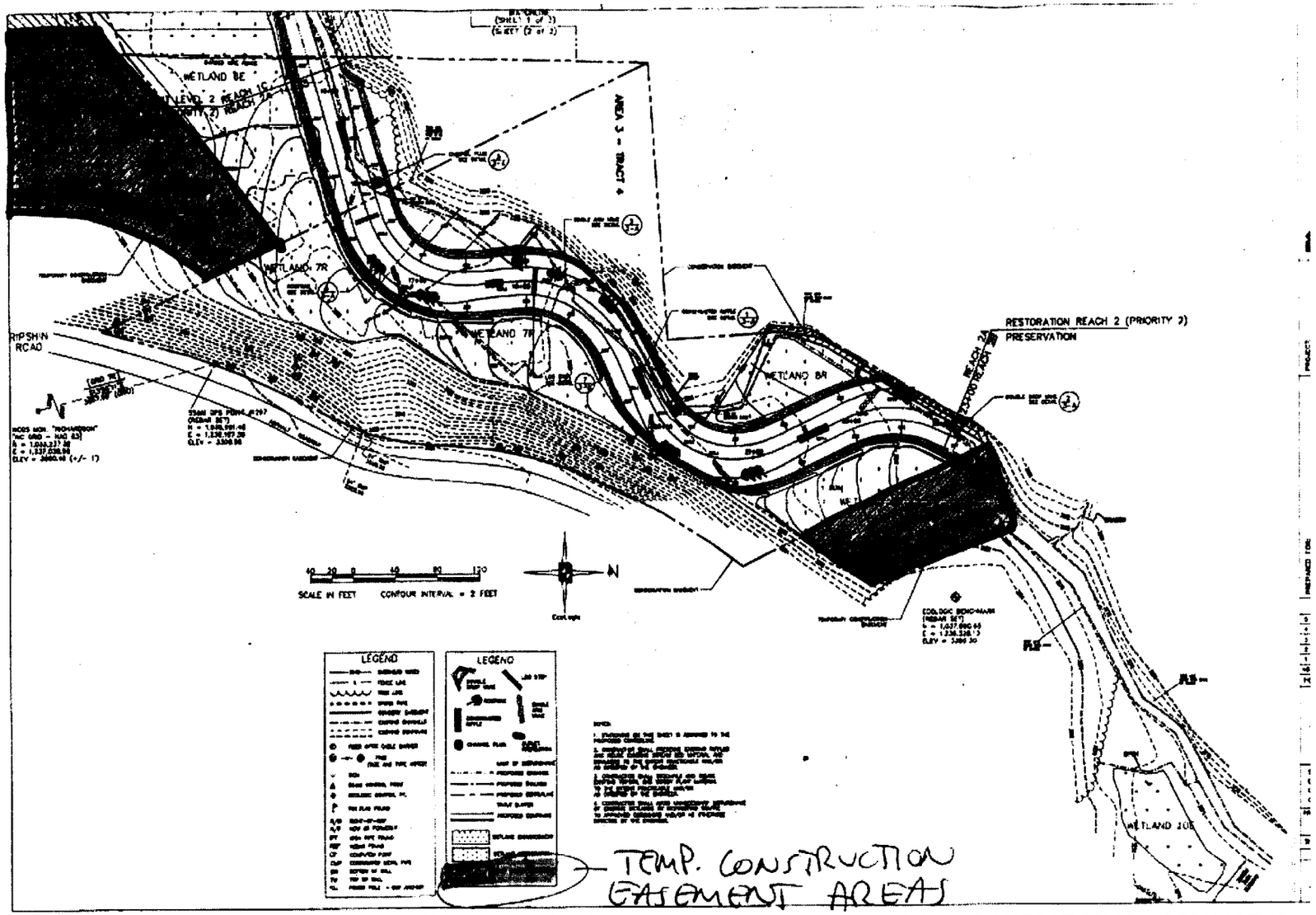
My commission expires: Laurie M. Geitner Notary Public Catawba County North Carolina My Commission Expires 3/17/2014

ATTACHMENT "A"



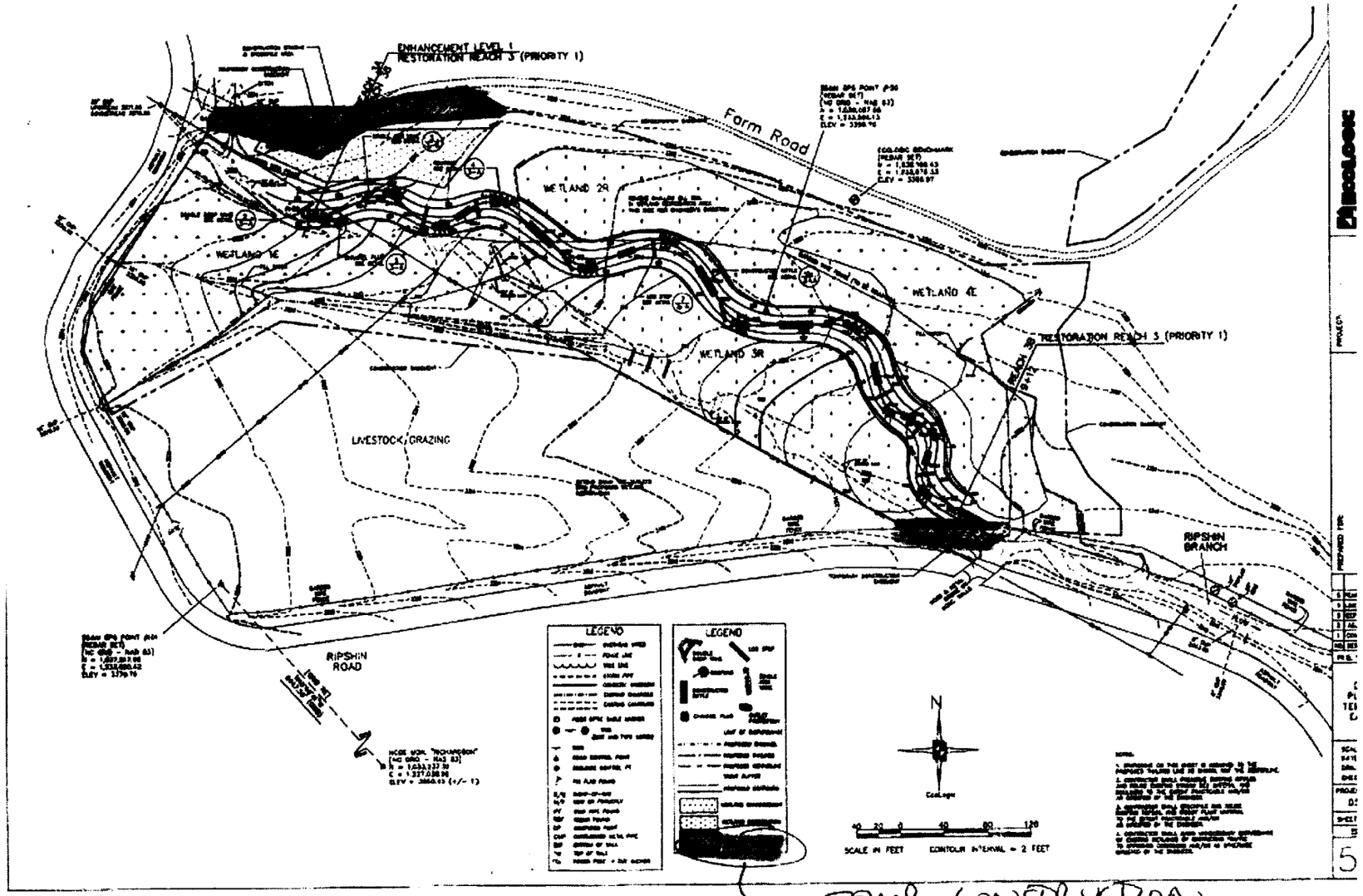
THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

ATTACHMENT "B"



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.

ATTACHMENT "C"



TEMP. CONSTRUCTION EASEMENT AREAS

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.