13
50.00

Doc ID: 002163970013 Type: CRP
Recorded: 11/17/2006 at 03:57:18 PM
Fee Amt: $88.00 Page 1 of 13
Excise Tax: $38.00
Onslow County, NC
Mildred M Thomas Register of Deeds
BK 2772 PG 150-162

This certifies that there are no delinquent ad valorem taxes, or other taxes which the Onslow County Tax Collector is charged with collecting, that are a lien on:

Parcel Identification Number: 18 116

This is not a certification that the Onslow County Parcel Identification Number matches this deed description.

Tax Collections Staff Signature

11/17/2006
Date

This deed presented to
The Onslow Co Tax Office
Date 11/17/06 Clerk

Prepared by and return to:
Robert H. Merritt, Jr.
Bailey & Dixon, LLP
P. O. Box 1351
Raleigh, NC 27602 38.00

STATE OF NORTH CAROLINA

ONSLOW COUNTY

PERMANENT CONSERVATION EASEMENT (TRACT A)

THIS PERMANENT CONSERVATION EASEMENT DEED, made this 5 day of September, 2006, by DANNY E. BAYSDEN and wife, WANDA K. BAYSDEN, ("Grantor"), to the State of North Carolina, ("Grantee"), whose mailing address is State of North Carolina, Department of Administration, State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321. The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. §143-214.8 et seq., the State of North Carolina has established the Ecosystem Enhancement Program (formerly known as the Wetlands Restoration Program) within the Department of Environment and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, creating and preserving wetland and riparian resources that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; and

WHEREAS, the State of North Carolina is qualified to be the Grantee of a Conservation Easement pursuant to N.C. Gen. Stat. § 121-35; and

WHEREAS, the Ecosystem Enhancement Program in the Department of Environment and Natural Resources has approved acceptance of this instrument; and

WHEREAS, the Department of Environment and Natural Resources, the North Carolina Department of Transportation and the United States Army Corps of Engineers, Wilmington District entered into a Memorandum of Agreement, (the "MOA") duly executed by all parties in Greensboro, NC on July 22, 2003. The MOA recognizes that the Ecosystem Enhancement Program is to provide for compensatory mitigation by effective protection of the land, water and natural resources of the State by restoring, enhancing and preserving ecosystem functions; and

WHEREAS, the acceptance of this instrument for and on behalf of the State of North Carolina was granted to the Department of Administration by resolution as approved by the Governor and Council of State adopted at a meeting held in the City of Raleigh, North Carolina, on the 8th day of February 2000; and

WHEREAS, Grantor owns in fee simple a certain parcel of real property situated, lying and being in Richlands Township, Onslow County, North Carolina, which parcel now contains approximately 6.79 acres is identified by PIN: 441300018873 and was conveyed to Grantor by deed recorded in Deed Book 2504, Page 603, Onslow County Registry, North Carolina (the Property"); and

WHEREAS, Grantor is willing to grant a Conservation Easement (as hereinafter defined) over portions of the Property referred to above, thereby restricting and limiting the use of the included portions of the Property to the terms and conditions and purposes hereinafter set

forth, and Grantee is willing to accept such Conservation Easement for the protection and benefit of the waters and the other portions of the Crows Nest Branch, Onslow County, North Carolina;

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth and other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a permanent conservation easement of the nature and character and to the extent hereinafter set forth, for the benefit of the people of North Carolina, said conservation easement covering and being identified as all of Tract A, (containing approximately 1.47 acres) as shown on a plat entitled "Conservation Easement Survey for State of North Carolina-Ecosystem Enhancement Program on the property of Erwin T. Baysden, Gary W. Baysden, Terry Jones, Wendy Jones, Danny E. Baysden and Wanda K. Baysden," dated June 7, 2006, prepared by Buck Engineering, P.C., and recorded in Plat Book 52, Page 51 & 51A Onslow County Registry (the "Conservation Easement"). Tract A constituting the Conservation Easement herein granted is more particularly described by metes and bounds in Exhibit 1, attached hereto and incorporated herein by reference.

The purposes of this Conservation Easement are to maintain, restore, enhance, create and preserve wetland and/or riparian resources in the area covered by the Conservation Easement contributing to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the area covered by the Conservation Easement in its natural condition, consistent with these purposes; and to prevent any use of the area covered by the Conservation Easement that will significantly impair or interfere with these purposes. To achieve these purposes, the following conditions and

restrictions are set forth:

I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, their personal representatives, heirs, successors, and assigns, lessees, agents and licensees.

II. GRANTOR RESERVED USES AND RESTRICTED ACTIVITIES

Grantor hereby expressly reserves for Grantor and Grantor's personal representatives, heirs, successors and/or assigns, a permanent full access easement for ingress, egress and regress over the 15 foot road currently running through the Conservation Easement. In connection therewith, Grantee agrees to construct improvements to such 15 foot road as the parties shall agree, including construction of a culvert consistent with use of the road and the purposes of the Conservation Easement, and Grantor's continued use of such 15 foot road shall be deemed to be compatible with and shall not violate the restrictions set forth below.

Except as otherwise set forth herein, the Conservation Easement shall be restricted from any development or usage that would impair or interfere with the purposes of this Conservation Easement. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Conservation Easement or the area covered thereby area by the Grantor is prohibited as inconsistent with the purposes of this Conservation Easement. Any rights not expressly reserved hereunder by the Grantor are hereby and have been acquired by the Grantee. The following specific uses are prohibited, restricted, or reserved as indicated:

A. Recreational Uses. Grantor expressly reserves the right to undeveloped recreational uses, including hiking, bird watching, hunting and fishing, and access to the Conservation Easement for the purposes thereof. Usage of motorized vehicles in the

Conservation Easement is prohibited, except as they are used exclusively for management, maintenance, or stewardship purposes, and on existing trails, paths or roads within the Conservation Easement.

B. Educational Uses. The Grantor reserves the right to engage in and permit others to engage in educational uses in the Conservation Easement not inconsistent with the provisions of this Conservation Easement, and the right of access to the Conservation Easement for such purposes including organized educational activities such as site visits and observations. Educational uses of the Conservation Easement shall not alter vegetation, hydrology or topography of the site.

C. Vegetation Cutting. Except as related to the removal of non-native plants, diseased or damaged trees, and vegetation that obstructs, destabilizes or renders unsafe the area covered by the Conservation Easement to persons or natural habitat, all cutting, removal, mowing, harming, or destruction of any trees and vegetation in the Conservation Easement is prohibited.

D. Industrial, Residential and Commercial Uses. All are prohibited in the Conservation Easement.

E. Agricultural Use. All agricultural uses within the Conservation Easement, including any use for cropland, waste lagoons, or pastureland are prohibited.

F. New Construction. There shall be no building, facility, mobile home, antenna, utility pole, tower, or other structure constructed or placed in the Conservation Easement.

G. Roads and Trails. There shall be no construction of roads, trails, walkways, or paving in the Conservation Easement. Existing roads or trails located in the Conservation Easement may be maintained by Grantor in order to minimize runoff, sedimentation and for

access to the interior of the Conservation Easement for management, maintenance, stewardship purposes, or undeveloped recreational and educational uses of the Conservation Easement. Existing roads, trails or paths may be maintained with loose gravel or permanent vegetation to stabilize or cover the surfaces.

H. Signs. No signs shall be permitted in the Conservation Easement except interpretive signs describing restoration activities and the conservation values of the Conservation Easement, signs identifying the owner of the Property and the holder of the Conservation Easement, signs giving directions, or signs prescribing rules and regulations for the use of the Conservation Easement may be allowed.

I. Dumping or Storing. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances or machinery, or other material in the Conservation Easement is prohibited.

J. Grading, Mineral Use, Excavation, Dredging. There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.

K. Water Quality and Drainage Patterns. There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or diverting, causing, allowing or permitting the diversion of surface or underground water. No altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. All removal of wetlands, polluting or discharging of waters, springs, seeps, or wetlands, or use of pesticides or biocides is prohibited. In the event of an emergency interruption or shortage of all other water sources, water from within the Conservation Easement

may temporarily be used for good cause shown as needed for the survival of livestock and agricultural production.

L. Subdivision and Conveyance. No further subdivision, partitioning or dividing of the area covered by the Conservation Easement is allowed. Unless agreed to by the Grantee in writing, any future conveyance of the Conservation Easement or the area and/or the rights as conveyed herein shall be as a single block of property. Any future conveyance of the remaining fee simple rights shall be subject to this Conservation Easement. Grantor agrees for itself, its successors and assigns, that in the event it transfers the Property, or any portion thereof, such transfer is subject to the Grantee's right of ingress, egress and regress over and across the Property to the Conservation Easement for the purposes set forth herein.

M. Development Rights. All development rights are removed from the Conservation Easement and shall not be transferred.

N. Disturbance of Natural Features. Any change, disturbance, alteration or impairment of the natural features of the Conservation Easement or any intentional introduction of non-native plants, trees and/or animal species by Grantor is prohibited.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from the N. C. Ecosystem Enhancement Program, whose mailing address is currently 1652 Mail Services Center, Raleigh, NC 27699-1652.

III. GRANTEE RESERVED USES

A. Ingress, Egress, Regress and Inspection. The Grantee, its employees and agents, successors and assigns, receive the perpetual right of general ingress, egress, and regress to the

Conservation Easement over the Property at reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Conservation Easement, in accordance with restoration activities or a long-term management plan. Unless otherwise specifically set forth in this Conservation Easement, the rights granted herein do not include or establish for the public any access rights.

B. Restoration Activities. Restoration activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow.

IV. ENFORCEMENT AND REMEDIES

A. Enforcement. To accomplish the purposes of this Conservation Easement, Grantee is allowed to prevent any activity within the Conservation Easement that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Conservation Easement that may have been damaged by such activity or use. Upon any breach of the terms of this Conservation Easement by Grantor, their successors or assigns, that comes to the attention of the Grantee, the Grantee shall, except as provided below, notify the Grantor, their successors or assigns in writing of such breach. The Grantor shall have ninety (90) days after receipt of such notice to correct 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. The Grantee shall also have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Conservation Easement by acts which may be unlawful or in violation of this Conservation Easement; (b) to otherwise preserve or protect its interest in the

Conservation Easement or the Property; or (c) to seek damages from any appropriate person or entity. Notwithstanding the foregoing, the Grantee reserves the immediate right, without notice, to obtain a temporary restraining order, injunctive or other appropriate relief if the breach of this Conservation Easement is or would irreversibly or otherwise materially impair the benefits to be derived from this Conservation Easement. The Grantor and Grantee acknowledge that under such circumstances damage to the Grantee would be irreparable and remedies at law will be inadequate. The rights and remedies of the Grantee provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available to Grantee in connection with this Conservation Easement.

B. Inspection. The Grantee, its employees and agents, successors and assigns, have the right, with reasonable notice, to enter the Conservation Easement over the Property at reasonable times for the purpose of inspection to determine whether the Grantor, their successors or assigns are complying with the terms, conditions and restrictions of this Conservation Easement.

C. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor, their successors or assigns, for any injury to or change in the Conservation Easement or the area covered thereby caused by third parties, resulting from causes beyond the Grantor's control, including , without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the real property resulting from such causes.

D. Costs of Enforcement. Beyond regular and typical monitoring, any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, their successors or assigns, including, without limitation, any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by Grantor.

E. No Waiver. Enforcement of this Conservation Easement shall be at the discretion of the Grantee and any forbearance, delay or omission by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be construed to be a waiver by Grantee.

V. MISCELLANEOUS

A. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and access to, through or over such Conservation Easement. This instrument and its provisions supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement. If any provision of this Conservation Easement is found to be invalid, the remainder of this provisions of the 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.

B. Any notices shall be sent by registered or certified mail, return receipt requested to the parties at their addresses shown above or to such other address(es) as such party establishes in writing upon notification to such other party or parties.

C. Grantor shall notify Grantee in writing of the name and address and any party to whom the Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees to make any subsequent lease, deed, or other legal instrument by

which any interest in the Property is conveyed subject to the Conservation Easement herein created.

D. The Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof.

E. This Conservation Easement may be amended, but only in a writing signed by all parties hereto, or their successors and/or assigns, and provided such amendment does not affect the qualification of this Conservation Easement or the status of the Grantee under any applicable laws, and is consistent with the purposes of the Conservation Easement.

F. The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable; provided, however, that the Grantee hereby covenants and agrees, that in the event it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified holder under N.C. Gen. Stat. § 121-34 et seq. and § 170(h) of the Internal Revenue Code, and the Grantee 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 in perpetuity the conservation purposes described in this document.

VI. QUIET ENJOYMENT

Grantor reserves all remaining rights accruing from ownership of the Property, including the right to engage in or permit or invite others to engage in those uses of the Conservation Easement that are expressly reserved herein by Grantor, not prohibited or restricted herein, and are not inconsistent with the purposes of this Conservation Easement. Without limiting the generality of the foregoing, the Grantor expressly reserves to the Grantor, and the Grantor's invitees and licensees, the right to continue to use the Property not covered by the Conservation

EXHIBIT 1

Legal Description
Permanent Conservation Easement
Crows Nest Branch
Onslow County, NC

1.Permanent Conservation Easement (Ref: PIN:441300018873) (Tract A)

A permanent conservation easement over a portion of land in Richlands Township, Onslow County, North Carolina, as shown on map entitled "Conservation Easement Survey for State of North Carolina - Ecosystem Enhancement Program on the property of Erwin T. Baysden, Gary W. Baysden, Terry Jones, Wendy Jones, Danny E. Baysden, and Wanda K. Baysden, recorded in Plat Book 52, Page 51 & 51A of the Onslow County Registry, and furthermore being a portion of the parcel owned by Danny E. Baysden and Wanda K. Baysden. (PIN:441300018873), and being more particularly described as follows:

Commencing at an iron bar and cap with NC Grid coordinates of X=2,411,111.11, Y=432,040.42 and identified as Control Point #16 on the above referenced plat and running S63°13'18"W, 70.37' to an iron bar, which bar is the POINT AND PLACE OF BEGINNING; thence continuing the following courses and distances:

S 11° 02' 46" E , 115.38, thence
S 67° 54' 05" W , 93.44, thence
S 75° 16' 01" W , 148.46, thence
N 83° 47' 23" W , 165.33, thence
N 11° 44' 08" W , 155.60, thence
S 88° 21' 14" E , 95.55, thence
N 80° 02' 19" E , 142.48, thence
S 87° 57' 41" E , 168.32, to the PLACE AND POINT OF BEGINNING, said permanent conservation easement containing 1.47 acres, more or less

2.Access to the Permanent Conservation Easement

Access to the permanent conservation easement described above, the real property conveyed herein, shall be from the 60' Public Right-of-Way of Haw Branch Road(NCSR 1230) to provide ingress, egress,and regress for purposes of accessing the permanent conservation easement set forth in Item 1 above, and as shown on the aforesaid map recorded in Plat Book 52, Page 51 & 51A of the Onslow County Registry.

Easement and the right to quiet enjoyment of such Property, the right of access to the Conservation Easement, and the rights otherwise reserved by Grantor herein.

TO HAVE AND TO HOLD the said rights and easements perpetually unto the State of North Carolina for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent Conservation Easement herein granted; that the same are free from encumbrances except the easements, leases, restrictions and rights-of-way reserved or granted herein or otherwise of record and described below and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever. The easements, leases, restrictions and rights-of-way reserved herein or of record constituting exceptions to title are as follows:

1. Reservation of easement for ingress, egress and regress over 15 foot road through Conservation Easement as set forth in Article II, above.

IN TESTIMONY WHEREOF, the Grantor has hereunder set its hand and seal, the day and year first above written.

Danny E. Baysden (SEAL)
Danny E. Baysden

Wanda K. Baysden (SEAL)
Wanda K. Baysden

NORTH CAROLINA
COUNTY OF WAKE

I, Robert H. Merritt, Jr., do certify that Danny E. Baysden and wife, Wanda K. Baysden personally appeared before me this day, each acknowledging that they voluntarily signed the foregoing document for the purposes therein expressed. I have received satisfactory evidence of the principals' identity in the form of DRIVERS LICENSES.

Witness my hand and official stamp or seal this 5 day of September, 2006.

Robert H. Merritt Jr.
Notary Public

Robert H. Merritt, Jr.
Printed or typed notary name

ROBERT H. MERRITT, JR. NOTARY PUBLIC WAKE COUNTY, NC

My Commission Expires: 1-16-2007

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