FILED
CHEROKEE COUNTY NC
DAPHNE DOCKERY
REGISTER OF DEEDS

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START PAGE	1038
END PAGE	1045
INSTRUMENT #	01857
EXCISE TAX	(None)

Prepared by and return to:
State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321
SPO File No. 20-ZA EEP Parcel #122
EEP No. 92633 Martin Creek II
CHEROKEE COUNTY

TEMPORARY CONSTRUCTION EASEMENT

This Agreement, made this ___ day of _____2011, between **Barbara H. Lutz and Ann Rohrbacher, Co-Trustees of the 1991 Francis C. Bourne, Sr. Trust for Barbara H. Lutz and others; Susan H. Mahoney (individually), and Kathleen Hounsom, formerly known as Kathleen H. Rowland (individually), (Grantor")** whose mailing address is 100 Pinebrook Road, East Hampton, CT 06424 hereinafter designated as **Grantor**, and the **State of North Carolina**, acting by and through the **Ecosystem Enhancement Program (formerly known as the Wetlands Restoration Program)**, hereinafter designated **Grantee**, does hereby grant unto the **Grantee**, its successors, assigns, agents, contractors, subcontractors and employees the exclusive right of reasonable ingress and egress across Grantor's property located at Wildcat and Martin Creek Roads in order to perform certain construction activities for a stream restoration, enhancement and/or wetlands restoration, enhancement or creation project (the Project) along Martin Creek and its tributaries in Cherokee County.

As well as the right to restore and remeander channels lying on Grantor's property (PIN# 45910014662400, Cherokee County) as shown on **"Exhibit A"** attached hereto as part of the Project on Martin's Creek II . This Temporary Construction Easement allows Grantee 1) access across an existing soil road from Crisp Road/NCSR 1576 and other existing roads and open area of Grantor's property to the conservation areas (Deed Book 1394 Page 563, Plat Cabinet 0000G Slide 0151, Cherokee County Registry) located on the property (PIN# 45910014662400) for hauling materials and equipment related to construction of the Project, 2) restore, enhance, streams/wetlands within conservation easement areas 3) to fill existing channels with spoil materials on portions of said conservation easement areas as shown on "**Exhibit A**."

Grantor, for the true and actual consideration of **$600.00** does convey to **Grantee**, its successors and assigns, a **Temporary Construction Easement**, hereinafter **Easement**, for a specified work area on the property identified as PIN# 45910014662400 Cherokee County Tax Office.

Said **Easement** shall include fill/spoil/stockpiling areas, access/haul roads, construction entrances, and temporary crossings as shown on **"Exhibit A"** except where existing buildings or protected trees lie.

Access/Haul Road: ("Exhibit A")
Access/Haul Road shall extend from Crisp Road/NCSR 1576 along existing road(s) in a north westerly direction to the rear of the property where Conservation Easement Areas D, E, G, and H are located. Said access/haul road(s) shall also be used for restoration related activities.

Construction Entrances ("Exhibit A")
Construction Entrances shall extend from Crisp Road/NCSR 1576, Martins Creek Road/SR 1556 and/or other roads/properties (see Temporary Construction Easement executed by Wildcat Investments and recorded in Deed Book 1407 page 517 Cherokee County Register of Deeds).

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, and assigns agree to the following conditions of this **Easement:**

1. The **Grantee** shall exercise care to avoid damaging the property in any manner not consistent with the purpose for which this agreement is issued.

2. The **Grantee** shall at all times cooperate with **Grantor** and comply with reasonable requests not inconsistent with the purpose for which this agreement is issued.

3. The **Grantee** 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. The **Grantee**, at a minimum, shall spread material uniformly over the construction site for uniform topography and seed with grass. Such material may include the planting of trees, shrubs and herbaceous vegetation. **Grantee** shall fertilize all areas. Upon completion of the **Project**, **Grantee** shall clean all the ground occupied of all rubbish, excess material, temporary structures, and equipment.

5. **Grantee** shall leave all parts of the **Project** site in acceptable condition.

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

GRANTOR

By: Barbara H. Lutz (SEAL)
Barbara H. Lutz, Co-Trustee of the 1991
Francis C. Bourne, Sr. Trust for Barbara H. Lutz and others

STATE OF CT
COUNTY OF Middlesex

I, Robert L. Flood, a Notary Public in and for the County and State aforesaid, do hereby certify that Barbara H. Lutz, Co-Trustee of the 1991 Francis C. Bourne, Sr. Trust for Barbara H. Lutz and others, 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 28 day of March 2011.

Notary Public

My commission expires: ROBERT L. FLOOD
State of Connecticut
My Commission Expires 04/30/2013

(Notary Seal)

GRANTOR

By: _____ (SEAL)
Ann Rohrbacher, Co-Trustee of the 1991
Francis C. Bourne, Sr. Trust for Barbara H. Lutz and others

STATE OF Washington
COUNTY OF Klickitat

I, Carol Desmarais, a Notary Public in and for the County and State aforesaid, do hereby certify that Ann Rohrbacher, Co-Trustee of the 1991 Francis C. Bourne, Sr. Trust for Barbara H. Lutz and others, 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 31 day of March 2011.

Carol Desmarais
Notary Public

My commission expires: 05/27/2013

(Notary Seal)

GRANTOR:

By: Susan H. Mahoney (SEAL)
Susan H. Mahoney

STATE OF Georgia

COUNTY OF DeKalb

I, Zara W. Burmaster, a Notary Public in and for the County and State aforesaid, do hereby certify that Susan H. Mahoney, 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 31 day of March, 2011.

Zara W. Burmaster
Notary Public

ZARA W. BURMASTER
NOTARY PUBLIC
MY COMM. EXP.
AUG. 8, 2014
DEKALB COUNTY, GA

My commission expires:

Aug 8, 2014

(Notary Seal)

GRANTOR:

By: Kathleen Hounsom (SEAL)
Kathleen Hounsom, formerly known as Kathleen H. Rowland

STATE OF NC

COUNTY OF Buncombe

I, Charlene B. Snipes, a Notary Public in and for the County and State aforesaid, do hereby certify that Kathleen Hounsom, formerly known as Kathleen H. Rowland, 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 1 day of April, 2011.

Charlene B. Snipes
Notary Public

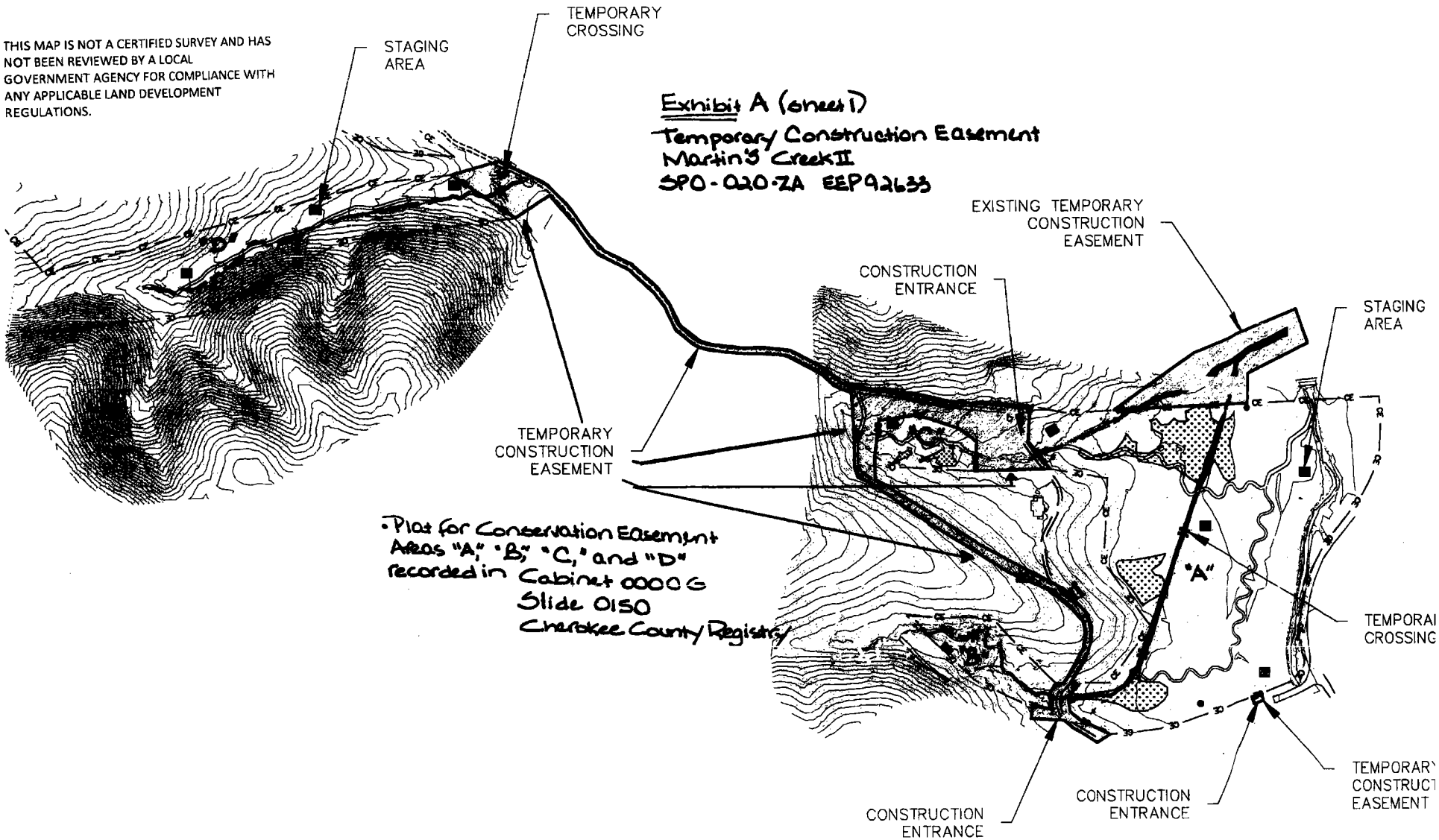
My commission expires:

5-7-2011

(Notary Seal)

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.

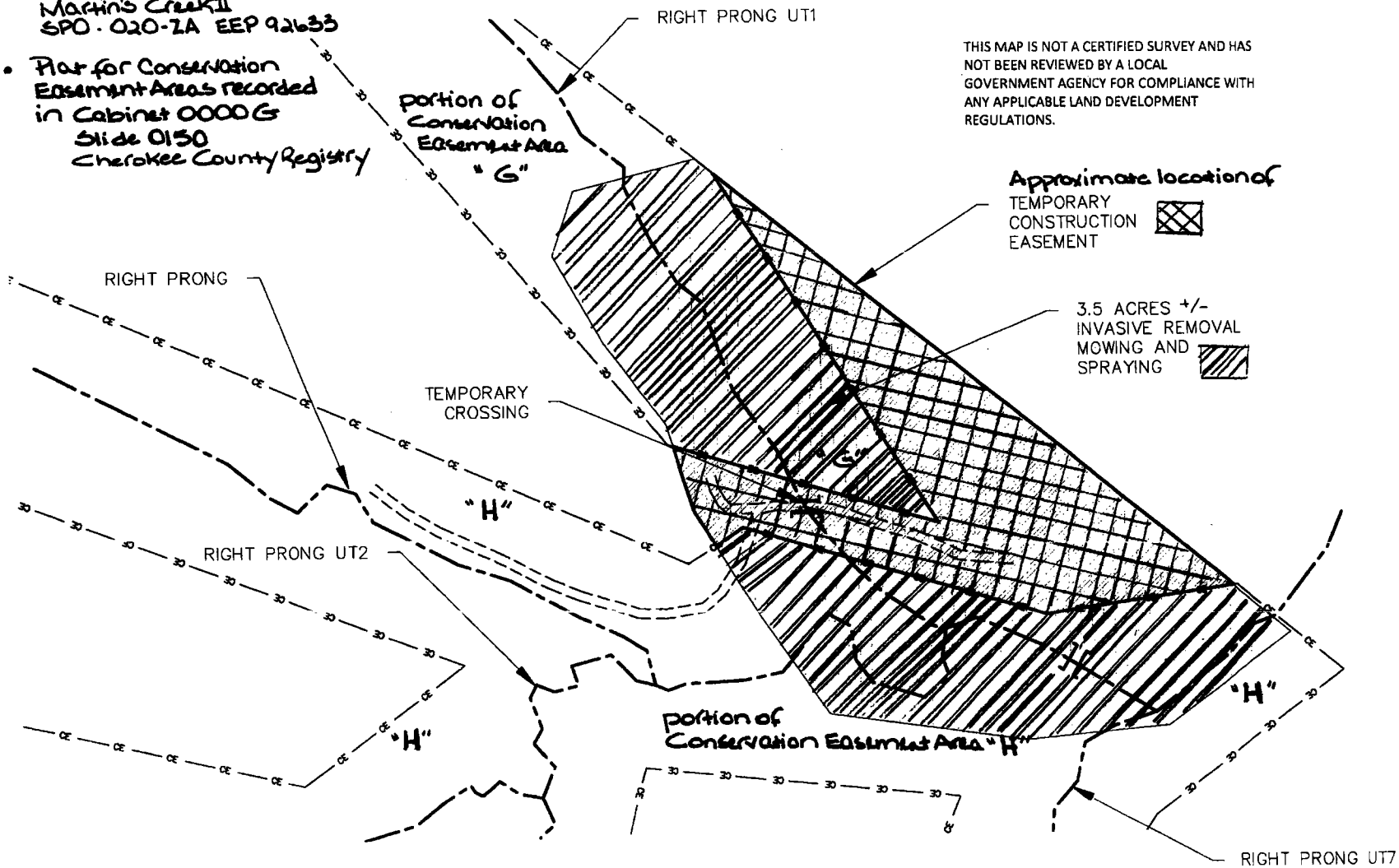
Exhibit A (sheet 1)
Temporary Construction Easement
Martin's Creek II
SPO-020-ZA EEP92633



*Plat for Conservation Easement Areas "A," "B," "C," and "D" recorded in Cabinet 0000G Slide 0150 Cherokee County Registry

Exhibit A (sheet 2)
Temporary Construction Easement
Martin's Creek II
SPO-020-2A EEP 92633

- Plat for Conservation Easement Areas recorded in Cabinet 0000G Slide 0150 Cherokee County Registry



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