FILED Ann Shaw
Register of Deeds, Randolph Co,NC
Recording Fee: $56.00
NC Real Estate Ex Tx: $246.00

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STATE OF NORTH CAROLINA **PIN # 7743995421**

RANDOLPH COUNTY

Prepared by: Lisa Glover
Assistant Attorney General
NC Department of Justice

R/S $246.00

Return to: North Carolina Department of Transportation
Office of Natural Environment
1548 Mail Service Center
Raleigh, NC 27699-1548

CONSERVATION EASEMENT AND EASEMENT OF INGRESS AND EGRESS

This Conservation Easement and Easement of Ingress and Egress is granted on this 22nd day of July, 2005, by Joan Hahn Shackelford Revocable Trust; Joan Hahn Shackelford and husband, Ernest D. Shackelford, Jr.; Cynthia S. Everhart and husband, John Everhart; Ernest Dabney Shackelford, III and wife, Michele C. Shackelford; Pamela S. Nance and husband, Terry W. Nance; Sue S. Padjen and husband, Michael Padjen; and David M. Shackelford and wife, Joy B. Shackelford, having an address of 203 Shannon Road, Asheboro, North Carolina, 27203 ("Grantor" or "Grantors"), to The North Carolina Department of Transportation ("NCDOT"), having an address of 1548 Mail Service Center, Raleigh, NC 27699-1548 ("Grantee").

The designation 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.

WHEREAS:

Grantors are the sole owner in fee simple of certain real property more particularly described in Deed Book 1483, Page 432 of the Randolph County Registry, and described in Exhibit A, attached hereto and incorporated herein (hereafter the "Property"), which consists of approximately 44.53 acres, more or less, located in Back Creek Township, Randolph County, North Carolina.

The Property provides natural wildlife habitat for a wide variety of land, air and aquatic species, because of the streams that run through the Property; many of these species, which rely on the streams, are of great importance to the Grantors and the people of North Carolina

The Grantors are willing to grant a perpetual Conservation Easement over 12.735 acres of the Property ("Tract 1"), and over 3.746 acres of the Property ("Tract 2"), collectively known as the Conservation Easement Area, 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 a Permanent Access Easement of Ingress and Egress ("Permanent Access Easement") to the Conservation Easement Area upon and along the Property as more particularly set forth hereinafter.

The NCDOT is an agency of the State of North Carolina whose purpose includes the construction of transportation projects for public use and who has the authority to acquire land for the purpose of mitigating environmental impacts of these transportation projects.

The NCDOT desires to restore, enhance or preserve approximately 3500 linear feet of stream and associated streamside wetlands in Randolph County on the Conservation Easement Area (hereinafter, the "Stream Mitigation Project"), and to hold a conservation easement over said length of stream and surrounding land and wetlands encompassing approximately 16.481 acres and referred to as the Conservation Easement Area;

The NCDOT, under a Section 404 permit granted by the United States Army Corps of Engineers ("USACE"), must conduct certain off-site stream and wetland mitigation work to compensate for impacts to streams and wetlands resulting from road construction;

The Stream Mitigation Project will be undertaken pursuant to a Stream Mitigation Plan developed by NCDOT, in coordination with the Grantors, for the restoration, enhancement and preservation of the streams and wetlands on the Conservation Easement Area, and kept on file with NCDOT;

The purposes of the Conservation Easement over the Conservation Easement Area are (1) to protect the mitigation activities performed by the NCDOT; (2) to preserve and protect the conservation values of the Conservation Easement Area, which include natural resources; wildlife habitat for land, air and aquatic species; aquatic resources, including streams, rivers, ponds, and wetlands; and scenic resources of the Property; (3) to prevent any use of the Conservation Easement Area that will significantly impair or interfere with these purposes; and, (4) to maintain permanently the dominant woodland, scenic and natural character of the Conservation Easement Area.

The specific conservation values of the Conservation Easement Area and its current use and state of improvement are described in the "Heath Dairy Road Mitigation Feasibility Report" dated August 8, 2003 (hereinafter, "Feasibility Report"), and acknowledged by all parties to be accurate as of the date of this Conservation Easement. The Feasibility Report may be used by the Grantee to document any future changes in the use or character of the Conservation Easement Area in order to ensure the terms and conditions of this Conservation Easement are fulfilled. This Feasibility Report, however, is not intended to preclude the use of other evidence to establish the present condition of the Conservation Easement Area if there is a controversy over its use. The Grantors and Grantee have copies of this Feasibility Report, and said report will remain on file with the Office of Natural Environment of NCDOT.

The Grantors intend that the conservation values of the Conservation Easement Area be preserved and maintained, and further, Grantors intend to convey to the Grantee the right to preserve and protect the conservation values of the Conservation Easement Area in perpetuity.

The conservation purposes of this Conservation Easement are recognized by the Uniform North Carolina Conservation and Historic Preservation Agreements Act, N.C.G.S. § 121-34 *et seq.*, which provides for the enforceability of restrictions, easements, covenants or conditions

"appropriate to retaining land or water areas predominantly in their natural, scenic, or open condition or in agricultural, horticultural, farming or forest use," N.C.G.S. § 121-35(1); and which provides for tax assessment of lands subject to such agreements "on the basis of the true value of the land and improvement less any reduction in value caused by the agreement," N.C.G.S. § 121-40;

NOW, THEREFORE, in consideration of the sum of ONE HUNDRED TWENTY TWO THOUSAND SIX HUNDRED FORTY SEVEN & 50/100 Dollars ($122,647.50--) and for other valuable considerations to Grantors, and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, the Grantors hereby grant and convey unto the Grantee and its successors or assigns forever and in perpetuity a Conservation Easement of the nature and character and to the extent hereinafter set forth, in respect to the Conservation Easement Area of the Property of the Grantors situated in Randolph County, North Carolina, as depicted in Exhibit B, a reduced-size copy of the plat entitled "Shackelford Property," dated May 5, 2005 by Level Cross Surveying, PLLC and recorded in Plat Book 97, Page 51 of the Randolph County Registry, and as described in Exhibit C, both attached hereto and incorporated by reference; together with a Permanent Access Easement as depicted in Exhibit B and described in Exhibit C. All subsequent references to the Conservation Easement shall include, where appropriate, reference to the Permanent Access Easement.

The terms, conditions and restrictions of the Conservation Easement and Permanent Access Easement are as hereinafter set forth:

1. Grant of Conservation Easement

Grantors hereby voluntarily grant and convey to the Grantee, and the Grantee hereby voluntarily accepts, a perpetual Conservation Easement, which is an immediately vested interest in real property of the nature and character described herein. Grantors agree that they will not perform, nor knowingly allow others to perform, any act on or affecting the Conservation Easement Area that is inconsistent with the covenants herein. Grantors authorize the Grantee to enforce these covenants in the manner described below.

Grantors hereby voluntarily grant and convey to the Grantee all development rights for the Conservation Easement Area, except as otherwise reserved and provided by the terms of this Conservation Easement, that are now or hereafter inherent in the Conservation Easement Area. The parties agree that such rights are terminated and extinguished, and may not be used on or transmitted to any portion of the Property, as it now or hereafter may be bounded or described, or to any other property.

2. Statement of Purpose, Duration

The primary purpose of the Conservation Easement is to protect the NCDOT's mitigation activities within the Conservation Easement Area, including the restored, enhanced, and preserved stream areas. Except as specifically permitted herein, no activity that shall significantly impair the condition of the restored, enhanced or preserved stream areas on the Conservation Easement Area shall be permitted.

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

3. Description of Conservation Easement Area

The Conservation Easement Area is comprised of 16.481 total acres, and encompasses perennial streams, wetlands and surrounding land located on the Property, as more particularly depicted as Conservation Tract 1 and Conservation Tract 2 in Exhibit B and the survey entitled "Shackelford Property," dated May 5, 2005, by Level Cross Surveying, PLLC and recorded in Plat Book 97, Page 51 of the Randolph County Registry. The Conservation Easement Area is further described in Exhibit C.

4. Grant of Permanent Access Easement

Grantors hereby grant and convey to the Grantee a Permanent Access Easement of Ingress and Egress (the "Permanent Access Easement") over the Property to the Conservation Easement Area, continuing in perpetuity. The location of the Permanent Access Easement is depicted as area "I/E R/W" on Exhibit B and the survey entitled "Shackelford Property," dated May 5, 2005, by Level Cross Surveying, PLLC and recorded in Plat Book 97, Page 51 of the Randolph County Registry, and is described in Exhibit C. Access to the Conservation Easement Area will be by way of State Road 1511 (also known as Heath Dairy Road) and the Permanent Access Easement.

The NCDOT and its authorized representatives, including the USACE, at all reasonable times and continuing in perpetuity, shall have the right to access the Conservation Easement Area through the Property over this Permanent Access Easement (1) in order to conduct and monitor the Stream Mitigation Project; and (2) for the purpose of inspecting the Conservation Easement Area to determine if the Grantors are complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The NCDOT will notify the Grantors by phone, email, or other correspondence before entering the Property for the purpose of determining compliance. However, if the NCDOT in its sole discretion determines that circumstances require immediate entry, such party is not required to notify Grantors prior to entry but will notify Grantors within two business days of such entry.

5. Rights and Responsibilities Retained by Grantors

Subject to the terms and restrictions contained herein, the Grantors reserve to and for themselves and their successors all customary rights and privileges of ownership, including without limitation the right to quiet enjoyment of the Conservation Easement Area; the rights to sell, lease, encumber, impose restrictions on and devise the Conservation Easement Area, provided such transaction is subject to the terms of this Conservation Easement and written notice is provided to the Grantee; together with any rights not specifically prohibited by or limited by this Conservation Easement, and not inconsistent with the purposes of this Conservation Easement. Unless otherwise specified below, nothing in this Conservation Easement shall require the Grantors to take any action to restore the condition of the Conservation Easement Area after any Act of God or other event over which it had no control. Grantors understand that nothing in this Conservation Easement relieves it of any obligation or restriction on the use of the Conservation Easement Area imposed by law.

6. Right to Privacy

Grantors retain the right to privacy and the right to exclude any member of the public from trespassing on the Conservation Easement Area. This Conservation Easement does not create any rights of the public in, on or to the Conservation Easement Area, although the public has the right to view the Conservation Easement Area from any adjacent publicly accessible areas.

7. Subdivision

The Conservation Easement Area may not be subdivided, partitioned nor conveyed from the Property, except in its current configuration as an entity or block of the Property.

8. Passive Recreational Use

Grantors retain the right to engage in passive recreational uses of the Conservation Easement Area (requiring no surface alteration of the land and posing no threat to the conservation values set forth herein), including, without limitation, walking, fishing, hunting or animal and plant observation as long as such activity is consistent with the purposes of this Conservation Easement and is not prohibited by Paragraph 9 below.

9. Permitted and Restricted Activities

Any activity on, or use of, the designated Conservation Easement Area inconsistent with the purposes of this Conservation Easement is prohibited. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Conservation Easement Area by the Grantors is prohibited as inconsistent with the purposes of the Conservation Easement. The Conservation

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 Conservation Easement Area, and any use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or sub-surface waters is prohibited.. Any rights not expressly reserved hereunder by the Grantors have been acquired by the Grantee.

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 changes, disturbance, alteration or impairment of the natural, scenic and aesthetic features of the Conservation Easement Area or any introduction of non-native plants and/or animal species is prohibited unless the NCDOT gives its prior written consent or unless otherwise expressly permitted herein.

B. *Agricultural, Grazing, and Horticultural Use and Fencing*

Agricultural, grazing and horticultural use, including landscaping, of the Conservation Easement Area is prohibited. No herbicides, insecticides, fungicides, fertilizers or other potentially harmful substances may be used in the Conservation Easement Area without advance written permission from the NCDOT. No agricultural products or by-products may be disposed of in the Conservation Easement Area or within 100 feet of the streambank, whichever is greater, or result in or cause discharge or runoff directly into the Conservation Easement Area. Existing fences may be repaired and replaced.

C. *Silvicultural Use and Land Clearing*

There may be no destruction or cutting of trees or plants in the Conservation Easement Area, except upon written approval of NCDOT. The gathering of firewood in the Conservation Easement Area shall be limited to dead trees, such that the gathering is consistent with the purposes of this Conservation Easement. Removal of large live trees, or thinning of the forest or removal of brush for fire management, may be allowed in some cases provided that any such request is consistent with the purposes of this Conservation Easement and the Grantors obtain prior written approval from the NCDOT.

D. *Dumping and Storage*

Dumping or storage of soil, trash, refuse, debris, ashes, garbage, waste, abandoned vehicles or parts, appliances, machinery, or hazardous substances, or toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials on the Conservation Easement Area is prohibited. No agricultural products or by-products, or agricultural equipment, may be dumped or stored in the Conservation Easement Area.

E. *Mineral Use, Excavation, and 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 Conservation Easement Area, or on adjacent property if owned by the Grantors or their successors, which would cause erosion or siltation on the Conservation Easement Area.

F. *Industrial Use*

Industrial activities on the Conservation Easement Area are prohibited.

G. *Residential Use*

Residential use of the Conservation Easement Area is prohibited.

H. *Commercial Use*

Commercial activities in the Conservation Easement Area are prohibited.

I. *Construction, Roads and Road Building, Motorized Vehicles*

There shall be no building, shed, facility, mobile home, or other structure constructed or placed in the Conservation Easement Area. No new roads, either paved or unpaved, may be constructed in the Conservation Easement Area except as allowed and described in the Stream Mitigation Plan. Motorized vehicles, including off-road vehicles, are prohibited in the Conservation Easement Area. However, the NCDOT expressly reserves the right to install, operate, and maintain structures or unpaved roads, and to use motorized vehicles in any manner necessary, for the purpose of reestablishing, protecting, and enhancing stream functional values, including those described in the Stream Mitigation Plan, for the Conservation Easement Area. All structures allowed under this paragraph, but not necessary for maintenance of the stream mitigation activities, will be removed once the USACE has given final approval of the Stream Mitigation Project.

J. *Signs*

No signs shall be permitted in the Conservation Easement Area except interpretive signs describing activities and the conservation values of the Conservation Easement Area, signs identifying the owner of the Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Conservation Easement Area, which shall specifically include "No Trespassing," "No Hunting," and "Posted" signs, if applicable.

K. *Utilities*

The installation of utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities, is prohibited. If there are existing utility easements located in the Conservation Easement Area or affecting the Conservation Easement Area, Grantor shall notify the NCDOT if right-of-way clearing or other work in the Conservation Easement Area is scheduled by the utility. Any such clearing should be in keeping with the intent of the Conservation Easement.

L. *Water Quality and Drainage Patterns*

Grantors shall conduct no activities in the Conservation Easement Area that would be detrimental to water quality or to any of the plants or habitats within the Conservation Easement Area, or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Conservation Easement Area, or cause soil degradation or erosion. Diking, dredging, alteration, draining, filling or removal of wetlands or stream by the Grantors is prohibited. In addition, Grantors are prohibited from diverting or causing or permitting the diversion of surface or underground water into, within or out of the Conservation Easement Area by any means; polluting or discharging into waters, springs, seeps, or wetlands; or using pesticides or biocides in the Conservation Easement Area unless agreed to in writing by the NCDOT.

M. *NCDOT's Rights*

The NCDOT reserves the right to use the Conservation Easement Area in any way necessary, consistent with the terms herein, to undertake any activities to protect, restore, manage, maintain, or enhance stream or wetland functional values, and monitor the mitigation work, as described in the Stream Mitigation Plan, in order to mitigate for impacts to streams or wetlands resulting from road construction. These mitigation activities include, but are not limited to, construction of new stream channels; restoration/stabilization of existing stream channels; installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow; planting of trees, shrubs and herbaceous vegetation; and utilization of heavy equipment to grade, fill, and prepare the soil. The NCDOT further reserves the right to monitor the results of the mitigation activities in perpetuity and to repair or restore

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any damage to the Conservation Easement Area occurring after initial completion of the construction associated with mitigation activities.

10. Ongoing Responsibilities of Grantors

Other than as specified herein, this Conservation Easement is not intended to impose any legal or other responsibility on the Grantee, or in any way to affect any existing obligation of the Grantors as owners of the Property. Among other things, this shall apply to:

A. *Taxes*

The Grantors shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If the Grantee is ever required to pay any taxes or assessments on its interest in the Property, the Grantors will reimburse the Grantee for the same.

B. *Upkeep and Maintenance*

The Grantors retain all responsibilities and shall bear all costs and liabilities of any kinds related to the ownership, operation, upkeep and maintenance of the Conservation Easement Area, including the maintenance of adequate comprehensive general liability insurance coverage. The Grantee shall have no obligation for the upkeep or maintenance of the Conservation Easement Area.

C. *Liability and Indemnification*

Grantors agree to indemnify and hold Grantee harmless from any and all costs, claims or liability, including but not limited to reasonable attorney's fees arising from any personal injury, accidents, negligence or damage relating to the Property, or any claim thereof, unless due to the intentional misconduct or negligence of Grantee or their agents, in which case liability shall be apportioned accordingly.

11. Enforcement

The NCDOT shall have the right to prevent violations and remedy violations of the terms of this Conservation Easement through judicial action, which shall include, without limitation, the right to bring proceedings in law or in equity against any party or parties attempting to violate the terms of this Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the conservation values of the Conservation Easement Area, the NCDOT shall give the Grantors written notice of the violation and thirty (30) days to cure the violation, before commencing any legal proceedings. If a court with jurisdiction determines that a violation may exist or has occurred, the NCDOT may obtain an injunction to stop the violation, temporarily or permanently. The parties agree that a court may issue an injunction or order requiring the Grantors to restore the Conservation Easement Area to its condition prior to the violation as restoration of the Conservation Easement Area may be the only appropriate remedy. In any case where a court finds that a violation has occurred, the Grantors shall reimburse the NCDOT for all its expenses incurred in stopping and correcting the violation, including but not limited to court costs, attorneys' fees, and any other costs incurred with onsite remediation. If legal action is brought by the NCDOT and the court finds that no violation has occurred, each party shall bear its own costs. The failure of the NCDOT to discover a violation or to take immediate legal action shall not bar it from doing so at a later time for that violation or any subsequent violations.

12. Transfer of Easements

The Grantee shall have the right to transfer this Conservation Easement and Permanent Access Easement to any public agency or private nonprofit organization that, at the time of transfer, is a qualified organization under §170(h) of the U.S. Internal Revenue Code, as amended and under NCGS §121-34 *et seq.*, provided the agency or organization expressly agrees to assume the responsibility imposed on the transferring party or parties by this Conservation

Easement. As a condition of such transfer, Grantee shall require that the conservation purposes intended to be advanced hereunder shall be continued to be carried out.

13. Transfer of Property

Grantors agree to incorporate by reference the terms of this Conservation Easement and Permanent Access Easement in any deed or other legal instrument by which they transfer or divest themselves of any interests, including leasehold interests, in all or a portion of the Conservation Easement Area. Failure of Grantors to comply with this section shall not impair the validity of this Conservation Easement and Permanent Access Easement as to successor owners or limit their enforceability in any way, nor shall Grantors' failure to comply with this section constitute a default under this Conservation Easement.

14. Amendment of Easements

This Conservation Easement and Permanent Access Easement may be amended by a written instrument executed by the Grantee and the Grantors. Any such amendment shall be consistent with the purpose of this Conservation Easement and its terms, and shall comply with Section 170(h) of the Internal Revenue Code or any regulations promulgated in accordance with that section. Any such amendment shall be duly recorded.

15. Procedure in the Event of Changed Conditions

The grant or donation of this Conservation Easement gives rise to a property right immediately vested in Grantee, with a fair market value equal to the proportionate value that the Conservation Easement bears to the value of the Property as a whole. That proportionate value of Grantee's property rights shall remain constant. If a change in conditions occurs, which makes impossible or impractical any continued protection of the Conservation Easement Area for conservation purposes, the restrictions contained herein may only be extinguished by judicial proceeding. Any proceeds recovered in such actions shall be divided in accordance with the proportionate value of Grantors' and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by Grantors and Grantee in such action shall be paid out of the recovered proceeds. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Upon such proceedings, such portion shall be equal to the proportionate value that Grantees', its successors' and assigns', interest in the Conservation Easement Area bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement Area, or any damages otherwise awarded as a result of judicial proceeding, minus the Grantors' expenses from such transaction or proceeding.

16. Procedure in the Event of Condemnation or Eminent Domain

Whenever all or part of the Property is taken by exercise of eminent domain by public, corporate or other authority, or by negotiated sale in lieu of condemnation, so as to abrogate the restrictions imposed by this Conservation Easement, the Grantors shall immediately give notice to Grantee and shall take all appropriate actions at the time of such taking or sale to recover the full value of the taking and all incidental or direct damages resulting from the taking. Any proceeds recovered in such actions shall be divided in accordance with the proportionate value of Grantors' and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by Grantors and Grantee in such action shall be paid out of the recovered proceeds to the extent not paid by the condemning authority. The Grantee, its successors and assigns, shall be entitled to a portion of the proceeds of such sale, exchange, involuntary conversion of the Property, or any damage award with respect to any judicial proceeding. Such portion shall be equal to the proportionate value that Grantees', its successors' and assigns' interest in the Conservation Easement Area bears to the value of the Property as a whole as of the date of the recording of this Conservation Easement. "Proceeds of Sale" shall mean the cash value of all money and property paid, transferred or contributed in consideration for, or as otherwise required as a condition to the sale, exchange or involuntary conversion of the Conservation Easement

Area, or any damages otherwise awarded as a result of judicial proceeding, minus the Grantors' expenses from such transaction or proceeding.

17. Interpretation

This Conservation Easement shall be interpreted under the laws of the State of North Carolina, resolving any ambiguities and questions of the validity of specific provisions so as to give maximum effect to its conservation purposes.

18. Perpetual Duration; Severability

This Conservation Easement and Permanent Access Easement shall be servitudes running with the land in perpetuity. Every provision of this Conservation Easement and Permanent Access Easement that applies to the Grantors or the Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear. Invalidity of any of the covenants, terms or conditions of this Conservation Easement or Permanent Access Easement, or any part thereof, by court order or judgment shall in no way affect the validity of any of the other provisions hereof, which shall remain in full force and effect.

19. Notices

Any notices required by this Conservation Easement shall be in writing and shall be personally delivered or sent by first class mail to the parties respectively at the following addresses, unless a party has been notified in writing by the other of a change of address:

To Grantors:
Ms. Joan Shackelford
203 Shannon Rd.
Asheboro, NC 27203

To NCDOT:
Office of Natural Environment
1548 Mail Service Center
Raleigh, NC 27699-1548

In any provision of this Conservation Easement in which the Grantors are required to provide advance notice to the Grantee of any activity on the Property, such notice shall be given not less than thirty days prior to the planned commencement of the activity. If the Grantee's approval is required, such approval shall be deemed withheld unless Grantee provide to the Grantors written notice of approval within 30 days of receipt of said request. If Grantors have received no response after said 30 days, Grantors may send a second written notice to Grantee requesting a statement of the reasons for the disapproval and the Grantee shall respond within 30 days with an explanation for the specific reasons and basis for its decision to disapprove.

20. Grantors' Title Warranty

The Grantors covenant and represent that the Grantors are the sole owner and are seized of the Property in fee simple and have good right to grant and convey the aforesaid Conservation Easement and Permanent Access Easement; that the Conservation Easement Area and Permanent Access Easement are free and clear of any and all encumbrances, except easements and leases of record or in effect by prescriptive rights as of the date hereto; and that there is legal access to the Property; and Grantors covenant that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid easements conveyed.

21. Subsequent Liens

No provisions of this Conservation Easement should be construed as impairing the ability of Grantors to use the Conservation Easement Area as collateral for subsequent borrowing. Any such liens shall be subordinated to this Conservation Easement.

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22. Subsequent Easements/Restrictions

The grant of any easements or use restrictions that might diminish or impair the conservation values of the Conservation Easement Area are prohibited. Any such easements or restrictions shall be subordinated to this Conservation Easement and Permanent Access Easement.

23. Grantors' Environmental Warranty

The Grantors warrant that they have no actual knowledge of a release or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable federal and state law, and hereby promise to defend and indemnify Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with any release of hazardous waste caused by the intentional or negligent act of the Grantors or violation of federal, state or local environmental laws caused by the negligent or intentional act of the Grantors. Without limiting the generality of the foregoing, nothing in this Conservation Easement shall be construed as giving rise to any right or ability in Grantee, nor shall Grantee have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

24. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and Permanent Access Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the said easements.

25. Recording

The Grantee shall record this instrument and any amendment hereto in timely fashion with the Office of the Register of Deeds of Randolph County, North Carolina, and may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

26. Merger

The Parties agree that the terms of this Conservation Easement and Permanent Access Easement shall survive any merger of the fee and easement interest in the Property.

TO HAVE AND TO HOLD this Conservation Easement and Permanent Access Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantors and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTORS:

_____ (SEAL) _____ (SEAL)
Cynthia Shackelford Everhart John Thomas Everhart

(Stamp/Seal)	State of: _____ County of: _____ I, _____ , a Notary Public for said County and State, Do hereby certify that
	Personally came before me this day and acknowledged the due execution of The foregoing instrument. Witness my hand and official seal, this the _____ Day of _____ 2005. My commission expires: _____ _____ Notary Public

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Ernest D. Shackelford, Jr.

Joan Hahn Shackelford, Individually and as Trustee
Of the Joan Hahn Shackelford Revocable Trust

Cynthia S. Everhart
By Ernest D. Shackelford, Jr., Attorney-in-Fact

John Everhart
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Ernest Dabney Shackelford, III
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Michele C. Shackelford
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Pamela S. Nance
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Terry W. Nance
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Sue S. Padjen
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Michael Padjen
By Ernest D. Shackelford, Jr., Attorney-in-Fact

David M. Shackelford
By Ernest D. Shackelford, Jr., Attorney-in-Fact

Joy B. Shackelford
By Ernest D. Shackelford, Jr., Attorney-in-Fact

NORTH CAROLINA
RANDOLPH COUNTY

I, Traci J. McDaniel, a Notary Public in and for said County and State, do hereby certify that Ernest D. Shackelford, Jr., personally appeared before me this day and acknowledged the execution of the foregoing Conservation Easement and Easement of Ingress and Egress, individually and as Power of Attorney for Cynthia S. Everhart, John Everhart, Sue S. Padjen, Michael Padjen, Pamela S. Nance, Terry W. Nance, Ernest Dabney Shackelford, III, Michele C. Shackelford, David M. Shackelford, and Joy B. Shackelford. Said Powers of Attorney recorded in Book 1930, Pages 2173, 2175, 2177, 2179, 2181, 2183, 2185, 2187, 2189, and 2191, in the Office of the Register of Deeds for Randolph County, North Carolina.

Witness my hand and seal this 22 day of July, 2005.

Traci J McDaniel
Notary Public

My Commission Expires: 1/18/2010

TRACI J. McDANIEL NOTARY PUBLIC RANDOLPH COUNTY

NORTH CAROLINA
RANDOLPH COUNTY

I, Traci J. McDaniel, a Notary Public in and for said County and State, do hereby certify that Joan Hahn Shackelford, personally appeared before me this day and acknowledged the execution of the foregoing Conservation Easement and Easement of Ingress and Egress, individually and as Trustee for the Joan Hahn Shackelford Revocable Trust.

Witness my hand and seal this 22 day of July, 2005.

Traci J McDaniel
Notary Public

My Commission Expires: 1/18/2010

TRACI J. McDANIEL NOTARY PUBLIC RANDOLPH COUNTY

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RE1930 2546 12/16

EXHIBIT A

PROPERTY DESCRIPTION

TRACT NO. 1

Beginning at on iron post in the eastern right of way line of SR 1511, new northwest corner of William Willard Cox, running thence with a new boundary line of William Willard Cox the following courses and distances: S49°30'00"E, 115 ft to an iron post; S20°00'00"E, 230 ft to an iron post; S26°40'00"E ,230 ft to an iron post; S44°00'00"E ,400 ft to an iron post; S28°30'00"E, 237 ft to an iron post, a new corner of William Willard Cox in Charlie Hilton's line; thence S85°00'00"E, 54 ft to an iron post and stones in said Hilton and Clyde Heath's line; thence with said Heath's line N05°00'00"E, 1270.50 ft to an iron post and stones in said Heath's line; thence N78°00'00"W, 134.50 ft to an iron post, a new corner of William Willard Cox in said Heath's line; the same being in the eastern right of way line of the aforesaid State Road; thence with the eastern right of way line of the aforesaid State Road the following courses and distances: S 0°30'00"W, 323 ft to an iron post; thence N83°30'00"W, 303 ft to an iron post; thence S32°30'00"W, 192 ft to the point or place of beginning, containing 12.55 acres, more or less.

The above description is made from a Plat or Map of said land prepared by L. Clarence Cagle, Surveyor, March 1964. See Deed recorded in Book 1056, page 825 in the Randolph County Registry.

TRACT NO. 2

Beginning at an iron stake, the southwest corner of J.E. Kerns 12.55 acre tract and running as his tract line N28°30'00"W, 237 ft to a stake; thence N44°00'00"W, 400 ft to his corner; thence N26°40'00"W, 2360 ft to a stake; thence N20°00'00"W, 230 ft to his corner stake; thence N49°30'00"W, 115 ft to iron rod in the east 30 ft right of way of SR 1511; thence as a new line of William Willard Cox (about as road) S35°00'00"W, 188 ft to an iron stake in bed of rocks (east roadbank); thence S25°00'00"W, to a point in road center (marker planted 30 ft in following line) a new corner of William Willard Cox; thence as his new line S85°00'00"E, 130 ft to an iron stake and stones, new William Willard Cox corner also; thence as his new line S30°00'00"E, 780 ft to an iron stake in the original Charlie Hilton marked line thence as his line S85°00'00"E, 308 ft to the beginning, containing 5 acres, more or less.

See deed recorded in Book 1056, page 825 in the Randolph County Registry.

TRACT NO. 3

Beginning at an iron rod, the southwest corner of Clyde heath farm up on hill north of bridge and dam running S77°00'00"E, 530 ft to iron pipe in east 30 ft right of way of SR 1511, J.E. Kerns 12.55 acre corner; thence as his line and road S60°30'00"W, 323 ft to iron pipe; thence as road N83°30'00"W, 303 ft to stake north of bridge; thence S32°30'00"W, 192 ft to stake; thence S35°00'00"W, 188 ft to stake; thence S25°00'00"W, 100 ft to iron pipe east side of road, J.E. Kerns corner and Willard Cox corner; thence crossing the road N73°39'00"W, as Willard Cox new line 862 ft to a stake in old line of Alton Cox 63.09 acre tract now a part of Joe Ridge's 40.70 acre tract; thence as the original line (crossing a marsh) N19°30'00"E, 760 ft to a stake on south bank of Back Creek at mouth of a branch; thence up the branch N17°00'00"W, 478 ft to a rock dam at fence stake on east bank by post in the line of Charles Turner; thence as his line S82°00'00"E, 1070 ft to an iron pipe west of branch; thence S07°00'00"W, 626 ft to the beginning, containing 29.32 acres, more or less.

See deed recorded in Book 1056, page 825 in the Randolph County Registry.

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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 B 1.1

Drawing File: H:\DRAWINGS\2005\03-05\100503045P - Shackelford Prop.dwg May 04, 2005 -10:10am

North Carolina Surveyors Certificate

I, Sherie M. Williard, certify that this plat is of actual field survey made under my direct supervision (Deed Ref. as shown); That the boundaries not surveyed are clearly indicated as dashed lines drawn from information found (Deed Ref. as shown); That the ratio of precision calculated 1: 12391±; That this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, License number and seal this 5-6 day of May, 2005.
This survey is of another category, such as the recombination of existing parcels, a court-ordered survey, or other exception to definition of subdivision.

Stamp or Seal — Professional Land Surveyor L-3385

State of North Carolina County of Randolph

I hereby certify that this a true and accurate copy which appears on record in the Office of the Register of Deeds of Randolph County, N.C. in Book _____, Page _____.
Witness my hand and seal this the _____ day of _____, 2004.
By _____ Register of Deeds

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

This plat does not require certificate of approval by the Division of Highways as provided in N.C.G.S. 136-102.6, subsection(g).
Signed _____ Planning Director — Date 5-6-05

Review Officer Randolph County, North Carolina

I, HAL DOHNSON, Review Officer of Randolph County certify that the plat or map to which this certification is affixed meets all statutory requirements for recording.
Review Officer _____ — Date 5-6-05

Watershed Randolph County, North Carolina

I certify that the plat shown hereon complies with the Randolph County Watershed Protection Ordinance and is approved by myself, as agent for the Watershed Review Board for recording in the Randolph County Register of Deeds Office.
Watershed Administrator _____ — Date 5-6-05

NOTES

1. No USGS/NCGS monuments found within 2000 feet.
2. Centerline shown follows our Centerline location. Curves shown maybe non tangent.
3. Traverse adjustment method - Least Squares.
4. Tax Map Ref.: 7743995421
5. Deed Ref.: DB 1483,Pg 0432
6. Area by coordinates.
7. Current Zoning: AI
8. Total Number of NEW Lots - 0.
9. New iron rods (5/8" rebar) set as shown.
10. Total Area - 46.77 Acres +\-.

LEVEL CROSS SURVEYING, PLLC
668 Marsh Country Lane
Randleman, N.C. 27317
Ph. (336) 496-1713
Fax (336) 495-1745

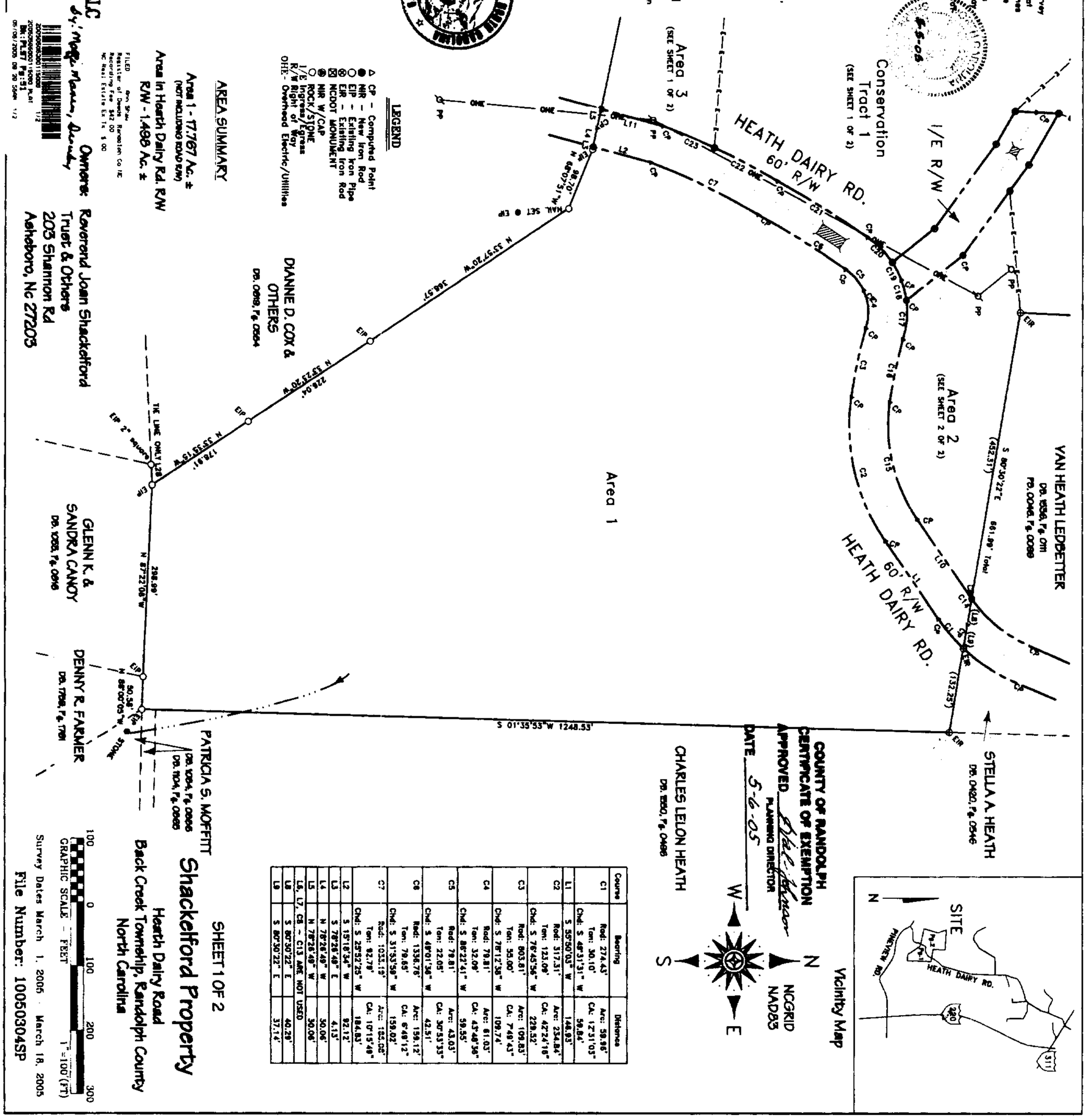
FILED Ann Shaw Register of Deeds Randolph Co NC Recording Fee $42.00 NC Real Estate Ex Tx $.00
200506060001150080 PL01 1/2 BK:PLST Pg:31 06/06/2005 08:20:58am 1/2

AREA SUMMARY

Area 1 - 17.767 Ac. ± (NOT INCLUDING ROAD R/W)
Area in Hearth Dairy Rd. R/W - 1.498 Ac. ±

LEGEND

- CP - Computed Point
- NIR - New Iron Rod
- EIP - Existing Iron Pipe
- EIR - Existing Iron Rod
- NCDOT MONUMENT
- NIR W/CAP
- ROCK/STONE
- I/E Ingress/Egress
- R/W Right of Way
- OHE- Overhead Electric/Utilities



Course	Bearing	Distance
C1	Rad: 274.43'	Arc: 59.96'
	Tan: 30.10'	CA: 12°31'03"
	Chd: S 48°31'31" W	59.84'
L1	S 55°50'03" W	148.93'
C2	Rad: 317.31'	Arc: 234.84'
	Tan: 123.09'	CA: 42°24'18"
	Chd: S 76°45'56" W	229.52'
C3	Rad: 803.81'	Arc: 109.83'
	Tan: 55.00'	CA: 7°49'43"
	Chd: S 78°12'38" W	109.74'
C4	Rad: 79.81'	Arc: 61.03'
	Tan: 32.09'	CA: 43°48'36"
	Chd: S 86°22'41" W	59.55'
C5	Rad: 79.81'	Arc: 43.03'
	Tan: 22.05'	CA: 30°53'33"
	Chd: S 48°01'36" W	42.51'
C6	Rad: 1336.76'	Arc: 159.12'
	Tan: 79.65'	CA: 6°49'12"
	Chd: S 31°33'59" W	159.02'
C7	Rad: 1033.19'	Arc: 185.06'
	Tan: 92.78'	CA: 10°15'49"
	Chd: S 25°52'25" W	184.83'
L2	S 15°18'34" W	92.12'
L3	S 78°26'49" E	4.13'
L4	N 78°26'49" W	30.06'
L5	N 78°26'49" W	30.06'
L6, L7, C8 - C13 ARE NOT USED		
L8	S 80°30'22" E	40.29'
L9	S 80°30'22" E	37.14'

SHEET 1 OF 2

Shackelford Property

Hearth Dairy Road
Back Creek Township, Randolph County
North Carolina

GRAPHIC SCALE - FEET 100 0 100 200 300 1" = 100' (FT)

Survey Dates March 1, 2005 - March 18, 2005

File Number: 100503045P

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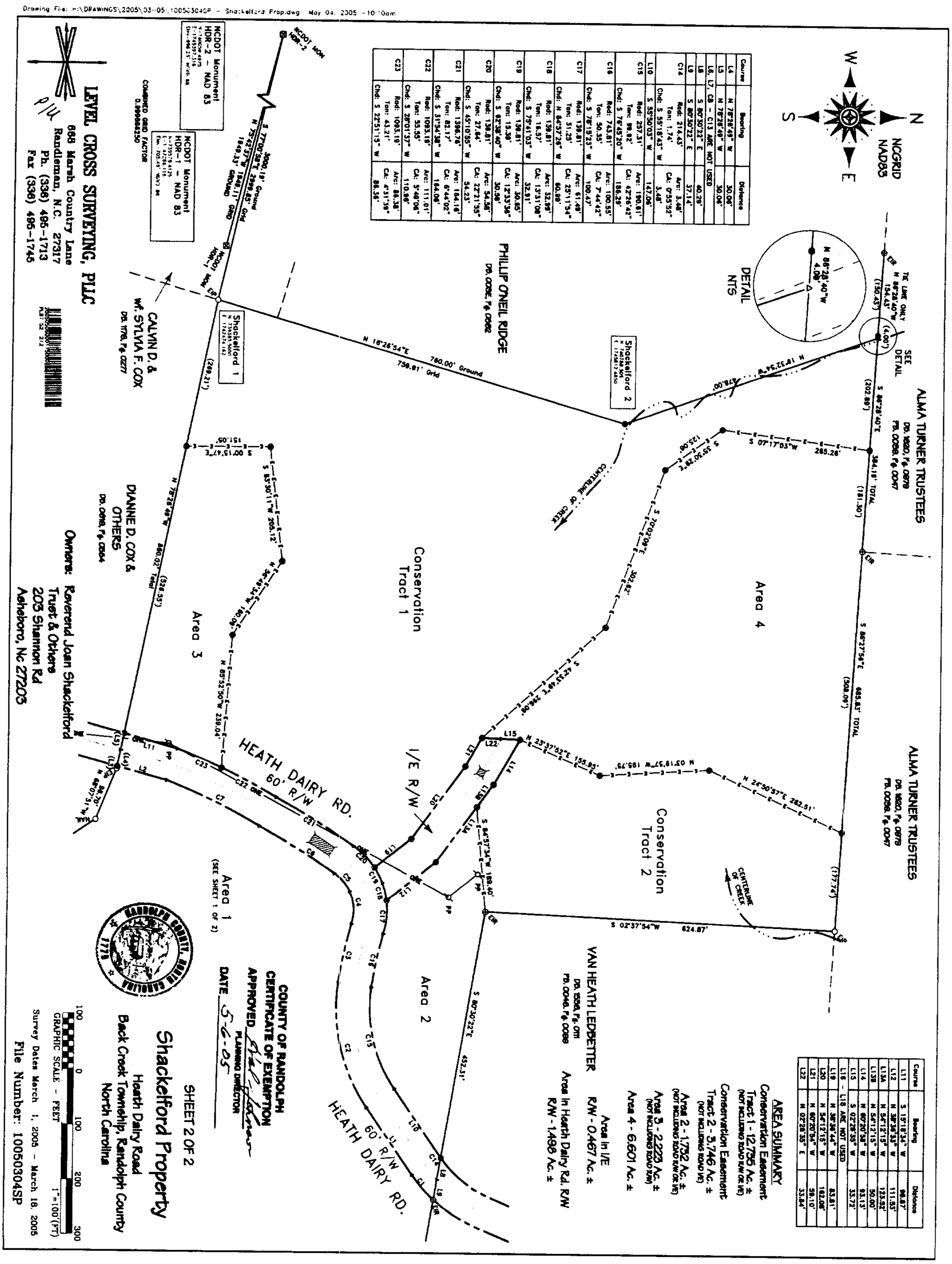
RE1930 2548 14/16

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 B 1.2



Course	Bearing	Distance
L4	N 78°28'49" W	30.06'
L5	N 78°28'49" W	30.06'
L6, L7, C8 - C13 ARE NOT USED		
L8	S 80°30'22" E	40.29'
L9	S 80°30'22" E	37.14'
C14	Arc: 214.43' Rad: 1.74' Tan: 1.74' Chd: S 55°18'43" W	Arc: 3.48' CA: 0°55'32" 3.48'
L10	S 55°50'03" W	147.06'
C15	Arc: 190.61' Rad: 257.31' Tan: 99.92' Chd: S 76°45'20" W	Arc: 190.61' CA: 42°26'42" 186.29'
C16	Arc: 100.55' Rad: 743.81' Tan: 50.35' Chd: S 78°19'23" W	Arc: 100.55' CA: 7°44'42" 100.47'
C17	Arc: 61.49' Rad: 139.81' Tan: 31.25' Chd: N 84°57'26" W	Arc: 61.49' CA: 25°11'54" 60.99'
C18	Arc: 32.99' Rad: 139.81' Tan: 16.57' Chd: S 75°41'03" W	Arc: 32.99' CA: 13°31'08" 32.91'
C19	Arc: 30.65' Rad: 139.81' Tan: 15.39' Chd: S 62°38'40" W	Arc: 30.65' CA: 12°33'36" 30.59'
C20	Arc: 54.58' Rad: 139.81' Tan: 27.84' Chd: S 45°10'55" W	Arc: 54.58' CA: 22°21'35" 54.23'
C21	Arc: 164.16' Rad: 1396.76' Tan: 82.17' Chd: S 31°54'38" W	Arc: 164.16' CA: 6°44'02" 164.06'
C22	Arc: 111.01' Rad: 1093.19' Tan: 55.55' Chd: S 28°01'37" W	Arc: 111.01' CA: 5°48'06" 110.96'
C23	Arc: 86.38' Rad: 1093.19' Tan: 43.21' Chd: S 22°51'15" W	Arc: 86.38' CA: 4°31'39" 86.36'

Course	Bearing	Distance
L11	S 15°18'34" W	96.87'
L12	N 38°34'33" W	111.53'
L13A	N 54°12'15" W	123.52'
L13B	N 54°12'15" W	50.00'
L14	N 60°20'54" W	93.13'
L15	S 02°28'35" W	33.72'
L16 - L18 ARE NOT USED		
L19	N 38°36'44" W	83.81'
L20	N 54°12'15" W	162.06'
L21	N 60°20'54" W	59.10'
L22	N 02°28'35" E	33.84'

AREA SUMMARY

Conservation Easement
Tract 1 - 12.735 Ac. ±
(NOT INCLUDING ROAD R/W OR I/E)

Conservation Easement
Tract 2 - 3.746 Ac. ±
(NOT INCLUDING ROAD I/E)

Area 2 - 1.732 Ac. ±
(NOT INCLUDING ROAD R/W OR I/E)

Area 3 - 2.223 Ac. ±
(NOT INCLUDING ROAD R/W)

Area 4 - 6.601 Ac. ±

Area In I/E
R/W - 0.467 Ac. ±

Area In Hearth Dairy Rd. R/W
R/W - 1.498 Ac. ±

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EXHIBIT C

Conservation Tract 1

Beginning at a point located at the undersigned's southwestern property corner, a common property corner with Calvin Cox and Dianne Cox; thence 760.00 ft on a bearing of N 16°26'54"E; thence 478.00 ft on a bearing of N 19°32'54"E; thence 202.86 ft on a bearing of S 86°28'40"E; thence 265.26 ft on a bearing of S 07°17'03"W; thence 125.08 ft on a bearing of S 35°30'29"E; thence 302.62 ft on a bearing of S 70°02'09"E; thence 296.09 ft on a bearing of S 42°33'49"E; thence 59.10 ft on a bearing of S 60°20'54"E; thence 162.08 ft on a bearing of S 54°12'15"E; thence 83.81 ft on a bearing of S 38°36'44"E; thence 54.23 ft on a bearing of S 45°10'55"W having an arch of 54.58 min. with a radius of 139.81 min.; thence 164.06 ft on a bearing of S 31°54'38"W having an arch of 164.16 min. with a radius of 1393.76 min.; thence 110.96 ft on a bearing of S 28°01'37"W having an arch of 111.10 min. with a radius of 1093.19 min.; thence 239.04 ft on a bearing of N 85°52'50"W; thence 160.09 ft on a bearing of N 56°49'34"W; thence 205.12 ft on a bearing of S 83°30'11"W; thence 151.05 ft on a bearing of S 00°15'47"E; thence 269.21 ft on a bearing of N 78°26'49"W; to the point of beginning.

Conservation Tract 2

Beginning at a point located at the undersigned's northeastern property corner, a common property corner with Van Heath Ledbetter; thence 624.87 ft on a bearing of S 02°37'54"W; thence 189.40 ft on a bearing of S 84°57'34"W; thence 93.13 ft on a bearing of N 60°20'58"W; thence 155.95 ft on a bearing of N 23°37'52"E; thence 195.75 ft on a bearing of N 03°19'57"W; thence 262.51 ft on a bearing of N 24°50'57"E; thence 177.74 ft on a bearing of S86°27'56"E; to the point of beginning.

Permanent Access Easement

Beginning at a point located on the existing western right of way boundary of SR 1511 Heath Dairy Rd., said point having a bearing of S 75°41'03" W having an arch of 32.99 min. with a radius of 139.81 min.; thence 32.91 ft on a bearing of S 75°41'03"W having an arch of 30.65 min. with a radius of 139.81 min.; thence 30.59 ft on a bearing of S 62°38'40"W; thence 83.81 ft on a bearing of N 38°36'44"W; thence 162.08 ft on a bearing of N 54°12'15"W; thence 59.10 ft on a bearing of N 60°20'54"W; thence 33.84 ft on a bearing of N 02°28'35"E; thence 33.72 ft on a bearing of N 02°28'35"W; thence 93.13 ft on a bearing of S 60°20'58"E; thence 50.00 ft on a bearing of S 54°12'15"E; thence 123.52 ft on a bearing of S 54°12'15"E; thence 111.53 ft on a bearing of S 38°36'33"E; to the point of beginning.

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NORTH CAROLINA - RANDOLPH COUNTY

The foregoing certificate(s) of
TRACI J MCDANIEL, NOTARY PUBLIC,

is (are) certified to be correct.

This the 22 nd day of July 2005.

Ann Shaw
Register of Deeds

BY: Vickie Brim
Deputy