DAVIDSON COUNTY NC 12/23/2003
$2600.00

STATE OF NORTH CAROLINA Real Estate Excise Tax

DAVIDSON COUNTY NC
Book 1488
Pages 0985-0993
FILED 9 PAGE(S)
12/23/2003 9:27 AM
RONALD W. CALLICUTT
Register Of Deeds

38.00
9
2.6 W.W.St.

Mail to: C W Patterson 90 NC DOT. 1605 Westbrook Ave Drive Suite 701
Winston Salem, NC 27103

NORTH CAROLINA
DAVIDSON COUNTY

CONSERVATION EASEMENT
and
EASEMENT OF INGRESS AND EGRESS

THIS CONSERVATION EASEMENT and EASEMENT OF INGRESS AND EGRESS, made this 18th day of December, 2003, by and between VALLEYFIELDS FARM, Inc. hereinafter called the "Grantor(s)", and the **North Carolina Department of Transportation**, hereinafter called the "Grantee", provides the following:

WITNESSETH

WHEREAS, the Grantor owns in fee simple approximately 350 acre(s) of land situated in Abbotts Creek Township of DAVIDSON County as more particularly described in Deed Book 577, page 879, Deed Book 692, page 498, Deed Book 794, page 318, Deed Book 838, page 1145 of the DAVIDSON County Registry, North Carolina, hereinafter this land and Easement is referred to as the "Property";

WHEREAS, the Grantee is an agency of the State of North Carolina whose purpose includes the construction of transportation projects for public use and has the authority to acquire land for the purpose of mitigating environmental impacts of these transportation projects; is authorized by the laws of the State of North Carolina to accept, hold and administer conservation easements; possesses the authority to accept and is willing to accept this Conservation Easement from the Grantor under the terms and conditions hereinafter described;

WHEREAS, the Grantor is willing to grant a perpetual Conservation Easement over approximately 97.00 acres of the Property, 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 the right of ingress and egress to the Conservation Easement area over, upon and along the Property as more particularly set forth hereinafter;

Access is provided by means of a local traffic road(s) designated as SR 1741, High Point-Walburg Road, and SR 1739, Shadow Valley Road.

WHEREAS, the Grantor consents to the Grantee assigning this Conservation Easement over the designated portion of the Property to another state agency whose purpose is consistent with this Conservation Easement or to a non-profit corporation whose purposes are consistent with this Conservation Easement.

WHEREAS, the Grantee, under Section 404 permits granted by the U.S. Army Corps of Engineers (USACE), must conduct certain off-site wetland mitigation for impacts to wetlands resulting from the construction of transportation projects;

NOW THEREFORE, in consideration of the sum of $ **1,300,000.00** dollars and other valuable considerations to The Title Company of North Carolina, Qualified Intermediary for Grantor in hand paid, the receipt of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor hereby grants and conveys unto the Grantee and its successors or assigns forever and in perpetuity a Conservation Easement, pursuant to the USACE Section 404 permit requirements, of the nature and character and to the extent hereinafter set forth, in respect to the land of the grantor situated in DAVIDSON County, North Carolina, as described in Exhibit A (map) and Exhibit B (metes and bounds description). Together with a perpetual right of ingress and egress over and upon the Grantors roads and paths, or other access ways acceptable to the Grantors, on the Property having been described above in the DAVIDSON County Registry as an Easement of Ingress and Egress to and from the Conservation Easement hereinabove described.

The purposes of this Conservation Easement are to provide environmental protection for surface waters, to provide restoration and enhancement of wetland, stream, and riparian habitat for the benefit of fish and wildlife, to protect the conservation values of the easement area designated on the Property and to maintain permanently the dominant woodland, scenic and natural character of the easement area. To achieve these purposes, the parties hereto agree to the conditions and restrictions set forth herein and it shall be so held, maintained, and used therefore.

ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land and is enforceable by the Grantee or its successors and/or assigns against Grantor(s), Grantor's personal representatives, heirs, devisees, successors and assigns, lessees, agents and licensees.

ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

Any activity on, or use of, the designated easement area inconsistent with the purposes of this Conservation Easement is prohibited. The 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 easement area.
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 change, disturbance, alteration or impairment of the natural, scenic and aesthetic features of the easement area or any introduction of non-native plants and/or animal species is prohibited unless the Grantee shall give its prior written consent or unless otherwise expressly permitted herein.

B. Agricultural, Grazing and Horticultural Use. Agricultural, grazing and horticultural use (landscaping) of the easement area is prohibited.

C. Silvicultural Use and Land Clearing. There may be no destruction or cutting of trees or plants on the Easement Area, except upon approval of the Grantee. The gathering of firewood in the Easement Area shall be limited to dead trees, such that the gathering is consistent with purposes of this Conservation Easement.

D. Hunting and Fishing. Grantor expressly reserves the right to hunt and fish on the Easement Area and to control access of all persons for the purpose of hunting and fishing; provided that these activities do not impact the protection and conservation of any animal/trout habitat or other conservation values of the Easement Area.

E. Dumping or Storage. Dumping or storage of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, or hazardous substances, or toxic or hazardous waste, or any placement of underground or aboveground storage tanks or other materials on the Easement Area is prohibited.

F. Mineral Use, Excavation, 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 Easement Area nor shall there be any activities conducted on the Easement Area or on adjacent property if owned by the Grantor and his successors which would cause erosion or siltation on the Easement Area.

G. Water Quality and Drainage Pattern. There shall be no activities conducted in the Easement Area that would be detrimental to water purity or to any of the plants or habitats within the Easement Area. There shall be no activities that would alter natural water levels, drainage, sedimentation and/or flow in or over the Easement Area, or cause soil degradation or erosion. Diking, dredging, alteration, draining, filling or removal of wetland or stream is prohibited. The Grantee maintains the right to install, operate and maintain structures for the purpose of reestablishing, protecting, and enhancing wetland and stream functional values for the Easement Area.

H. Quiet Enjoyment. The Grantor, for himself, his successors, assigns, invitees and licensees, hereby reserves the right to quiet enjoyment of the Easement Area, the right to ingress and egress to the Easement Area and all adjacent property of the Grantor, the right to continue such uses as exist as of the date of this grant not inconsistent with this Conservation Easement and the right to sell, transfer, gift or otherwise convey the Easement Area, in whole or in part, provided such sale, transfer or gift conveyance is subject to the terms of this Conservation Easement and written notice is provided to the Grantee in accordance with the provisions herein below.

I. Utilities. The installation of utility systems, including, without limitation, water, sewer, power, fuel, and communication lines and related facilities is prohibited except and limited to the existing utility easements as shown on the plat entitled "Valley Fields Farms Conservation Easement" recorded in Plat Book 41 Page(s) 1, 2, 3 and 4 of the Davidson County Registry. The Grantor reserves the right to petition the NCDOT and or its assigns for future sewer connections within the conservation easement area, not to exceed 3 (three) connections, the criteria of which will include no impact to any and all stream channels, no crossing of stream bed channels, and strict enforcement of all sediment and erosion control measures must be adhered to. Upon completion of any connection the area(s) disturbed must be restored to their original condition. Grantor also reserves the right to petition the NCDOT and or its assigns for 1 (one) stream crossing for street purposes, which must be bridges, the design of which must be approved prior to construction by the NCDOT and or its assigns. If there are existing utility easements (rights of way) located in the Conservation Easement Area or affecting the Conservation Easement, Grantor shall endeavor to notify the NCDOT if right of way clearing or other work in the Conservation Easement Area is scheduled by the utility. Any such installation or clearing should be in keeping with the intent of the Conservation Easement

ARTICLE III. ENFORCEMENT & REMEDIES

A. The Grantee has the right to prevent any action or use of the Easement Area that is inconsistent with the purpose of this Conservation Easement. Upon any breach of the terms of this Conservation Easement by Grantor or by a third party, which comes to the attention of the Grantee, the Grantee shall notify the Grantor in writing of such breach. The Grantor shall have thirty (30) days after receipt of such notice to begin undertaking actions that are reasonably calculated to correct promptly 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 including the right to require that the land be restored promptly to the condition required by this Conservation Easement. The Grantee shall have the power and authority, consistent with its statutory authority, to institute and maintain any suits and proceedings as the Grantee may deem advisable in its judgement; (a) to prevent any impairment of the Property by any acts which may be unlawful or in violation of this Conservation Easement; (b) to otherwise preserve or protect its interest in the Property; or (c) to seek damages from any appropriate person or entity. If the Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Grantee may pursue its remedies without prior notice to Grantor, but shall call the Grantor to leave a voice message and shall exercise within two business days an effort to notify the Grantor and explain the action undertaken.

B. The Grantor reserves the right to take action against the Grantee for use of the Easement Area in a way that is inconsistent with the purpose of this Conservation Easement.

C. Nothing contained herein shall be construed to entitle the Grantor to bring any action against Grantee for any injury or change in the Property resulting from causes beyond the Grantee's control, including fire, flood, storm, war, acts of God or third parties, or from any prudent action taken in good faith by Grantee under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such causes, in accordance hereunder.

D. The Grantee may enter the Grantor's adjoining property only for the purposes set forth in this agreement and only in accordance with the Easement for Ingress and Egress described hereinabove. The Grantee will attempt to notify the Grantor before entering the Property.

E. No failure on the part of the Grantee to enforce any covenant or provision hereof shall be a waiver to discharge or invalidate such covenant or any other covenant, condition, provision hereof or affect the right of Grantee to enforce in the same in the event of a subsequent breach or default.

ARTICLE IV. PUBLIC ACCESS

The granting of this Conservation Easement does not convey to the public the right to enter the Property for any purpose whatsoever. However, the public has the right to view the Property from adjacent publicly accessible areas.

ARTICLE V. EXHIBIT, DOCUMENTATION AND TITLE

A. Legal Description and Exhibits. The attached Exhibit A (map) and Exhibit B (metes and bounds description) are incorporated in and made a part of this instrument by reference.

B. Title. The Grantor covenants and represents that the Grantor is the sole owner and is seized of the Property in fee simple and has good right to grant and convey the aforesaid Conservation Easement; that the Property is free and clear of any and all encumbrances, except easements of record and Grantor covenants that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid Conservation Easement.

ARTICLE VI. MISCELLANEOUS

A. Subsequent Transfers. Grantor agrees for himself, his heirs, successors and assigns, to notify the Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is to be transferred at or prior to the time said transfer is consummated. Grantor, for himself, his heirs, successors and assigns, further agrees to make specific reference to this Conservation Easement in a separate paragraph of any subsequent lease, deed or other legal instrument by which any interest in the Property is conveyed.

B. Conservation Purpose.

(1) The Grantee, for themselves, and their successors and assigns agree that this Conservation Easement shall be held exclusively for conservation purposes.

(2) The parties hereto recognize and agree that the benefits of this Conservation Easement are in gross and assignable, provided, however that the Grantee hereby covenant and agree, that in the event they transfer or assign this Conservation Easement they hold under the organization receiving the interest will be a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986 (or any successor section) and the regulations promulgated thereunder, which is organized or operated primarily for one of the conservation purposes specified in Section 170 (h)(4)(A) and Section 2031 of the Internal Revenue Code, and the Trust and the State 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 to carry out in perpetuity the conservation purposes that the contribution was originally intended to advance, set forth in the Recitals herein.

(3) The Grantor agrees to pay any real estate taxes or other assessments levied on the Property.

C. Construction of Terms. This Conservation Easement shall be construed to promote the purposes of the North Carolina enabling statute set forth in N.C.G.S. 121-34, which authorizes the creation of Conservation Easements for purposes including those set forth in the recitals herein, and the conservation purposes of this Conservation Easement, including such purposes as are defined in Section 170(h)(4)(A) of the Internal Revenue Code.

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

E. Notices. Any notices shall be sent by registered or certified mail, return receipt requested, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other. In any case where the terms of this Conservation Easement require the consent of any party, such consent shall be requested by written notice. Such consent shall be deemed to have been denied unless, within ninety (90) days after receipt of notice, a written notice of approval has been mailed to the party requesting consent.

F. Amendments. Grantor and Grantee are free to jointly amend this Conservation Easement to meet changing conditions, provided that no amendment will be allowed that is inconsistent with the purposes of this Conservation Easement or affects the perpetual duration of this Conservation Easement. Such amendment(s) shall be effective upon recording in the public records of DAVIDSON County North Carolina.

G. Recording. The Grantee shall record this instrument and any amendment hereto in timely fashion in the official records of DAVIDSON County, North Carolina, and may re-record it at any time as may be required to preserve the rights under this Conservation Easement.

TO HAVE AND TO HOLD the aforesaid easements unto the **NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,** its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, Grantor's personal representatives, heirs, successor and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, Grantor hereto has set Grantor's hand and seal and the Grantee by authority duly given, has hereunto caused these presents to be executed by its representatives and their seals affixed, affixed, as of the dates shown below, to be effective upon the date of recordation in the public records of DAVIDSON County, North Carolina.

GRANTEE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

_____ (Seal)

Valleyfields Farm, Inc.
(Corporate Name)

BY: S. Davis Phillips
(President)

ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION
BY:

(Stamp/Seal)	STATE OF North Carolina COUNTY OF Guilford I, Alan N. Post a Notary Public for said County and State, certify that S. Davis Phillips personally came before me this day and acknowledged that he/she is President of Valleyfields Farm, Inc a corporation, and that he/she, as President being authorized to do so, executed the foregoing on behalf of the corporation. Witness my hand and official stamp or seal, this the 18th day of December, 20 03. My commission expires June 16, 2007 Notary Public

ALAN N. POST NOTARY PUBLIC GUILFORD COUNTY, NC

The foregoing Certificate(s) of Alan N Post
Is/ are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Ronald W. Callicutt REGISTER OF DEEDS FOR Davidson COUNTY

By _____ Deputy/Assistant-Register of Deeds

Exhibit "A"

All those certain 4 tract(s) of Conservation Easement(s) containing approximately 97.00 acre(s), more or less, shown on Plat entitled "Valley Fields Farms, Inc. Conservation Easements" on a map prepared by Michael L. Motsinger, PLS, dated December 4th 2003, and recorded in the Davidson County Registry in Plat Book 41, Pages 1, 2, 3 and 4.

Exhibit "B"

STATE PROJECT	: 34468.4.2
FA #	: STP-109(12)
I. D. #	: R-2568 WM
COUNTY	: DAVIDSON

CONSERVATION EASEMENT TRACT I

COMMENCING at a point lying on a southwestern property boundary of the Grantor(s) said point of commencement lying south 44° 14' 27" west 572.03 feet and south 49° 43' 18" west 439.80 feet from the westernmost property corner of the Grantor(s); thence north 79° 55' 58" east 647.87 feet; thence north11 °07" 20' west 708.29 feet; thence north 45° 0' 32" west 343.41 feet; thence north 45° 35' 43" west 169.47 feet; thence north 47° 51' 2" east 66.38 feet; thence south 49° 46' 42" east 187.19 feet; thence south 44° 34' 54" east 362.66 feet; thence south 10° 44' 35" east 740.13 feet; thence south 43° 21' 39" east 446.05 feet; thence south 21° 59' 3" east 120.76 feet; thence south 61° 16' 31" east 132 feet; thence north 52 ° 50 ' 21" east 376.03 feet; thence north 22° 45' 12" east 239.56 feet; thence north 26° 59' 10" east 314.58 feet; thence north 43° 26' 6" west 276.63 feet; thence north 19° 51' 28" west 231.9 feet; thence north 71° 1' 23" east 88.3 feet; thence south 22° 10' 36" east 185.11 feet; thence south 38° 52' 31" east 294.17 feet; thence north 79° 37' 22" east 282.93 feet; thence south 30° 19' 47" east 364.37 feet; thence south 53° 19' 11" west 230.57 feet; thence south 29° 30' 14" east 553.50 feet; thence south 85° 36' 33" east 336.07 feet; thence south 69° 49' 14" east 201.14 feet; thence south 10° 10' 55" west 79.49 feet; thence north 63° 39' 26" west 193.96 feet; thence south 84° 31' 10" west 273.77 feet; thence south 31° 6' 3" east 246.98 feet; thence north 86° 53' 12" west 129.71 feet; thence north 23° 49' 26" west 262.13 feet; thence north 47° 12' 27" west 533.45 feet; thence south 46° 11' 12" west 481.85 feet; thence south 69° 42' 25" west 139.29 feet; thence south 32° 4' 10" west 123.7 feet; thence north 89° 37' 5" west 293.24 feet; thence north 13° 8' 49" west 355.68 feet; thence south 60° 30' 10" west 339.35 feet; thence north 59° 27' 34" west 104.29 feet; thence north 59° 46' 8" east 407.64 feet; thence north 46° 46' 53" west 423.9 feet; thence south 74° 26' 8" west 442.43 feet; thence north 85° 25' 29" west 126.31 feet; thence north 49° 49' west 124.79 feet to the point of **COMMENCEMENT**.

CONSERVATION EASEMENT TRACT II

COMMENCING at the northernmost property corner of the Grantor(s) same being described in the aforementioned deeds; thence south 88° 0' 50" east 166.39 feet; thence south 67° 13' 22" east 884.89 feet; thence north 26° 41' 38" west 358.77 feet; thence south 88° 14' 45" east 662.84 feet; thence south 6° 58' 28" east 534.97 feet; thence north 66° 14' 28" east 847.72 feet; thence south 2° 33' 46" west 48.09 feet; thence north 89° 46' 34" east 65.96 feet; thence south 3° 15' 53" west 139.99 feet; thence south 66° 51' 44" west 859.95 feet; thence south 51° 42' 36" west 95.69 feet; thence south 88° 15' 48" east 842.16 feet; thence south 3° 15' 53" west 50.03 feet; thence south 3° 15' 44" west 61.49 feet; thence north 87° 4' 36" west 905.63 feet; thence south 27° 45' 27" west 378.18 feet; thence south 5° 41' 16" west 783.07 feet; thence south 1° 12' 22" west 166.03 feet; thence south 2° 9' 8" west 305.38 feet; thence south 82° 55' 32" east 745.24 feet; thence south 39° 57' 4" east 214.48 feet; thence south 83° 20' 42" east 402.03 feet; thence north 51° 24' 47" east 172.08 feet; thence south 6° 59' 8" west 122.13 feet; thence north 78° 57' 42"

thence south 3° 15' 53" west 50.03 feet; thence south 3° 15' 44" west 61.49 feet; thence north 87° 4' 36" west 905.63 feet; thence south 27° 45' 27" west 378.18 feet; thence south 5° 41' 16" west 783.07 feet, thence south 1° 12' 22" west 166.03 feet; thence south 2° 9' 8" west 305.38 feet; thence south 82° 55' 32" east 745.24 feet; thence south 39° 57' 4" east 214.48 feet; thence south 83° 20' 42" east 402.03 feet; thence north 51° 24' 47" east 172.08 feet; thence south 6° 59' 8" west 122.13 feet; thence north 78° 57' 42" east 498.52 feet; thence south 17° 8' 44" east 263.31 feet; thence south 14° 23' 29" east 107.47 feet; thence south 79° 47' 47" west 164.87 feet; thence north 46° 41' 13" west 230.78 feet; thence south 72° 6' 30" west 285.31 feet; thence south 88° 5' 47" west 403.35 feet; thence north 57° 42' 35" west 499.22 feet; thence south 75° 5' 55" west 311.96 feet; thence north 76° 52' 35" west 245.28 feet; thence south 42° 6' 26" west 218.7 feet; thence north 76° 23' 11" west 160.50 feet; thence south 70° 35' 26" west 410.91 feet; thence north 30° 19' 47" west 431.76 feet; thence north 16° 44' 27" east 843.15 feet; thence north 53° 50' 53" west 137.04 feet; thence north 32° 19' 3" east 134.03 feet; thence south 55° 14' 43" east 258.73 feet; thence north 25° 24' 44" east 637.35 feet; thence north 7° 8' 41" east 435.57 feet; thence north 1° 46' 28" west 206.17 feet; thence north 65° 54' 48" west 1,141.28 feet; thence north 4° 42' 4" east 159.80 feet the point of **COMMENCEMENT**.

CONSERVATION EASEMENT TRACT III

COMMENCING at a point lying south 85° 22' 37" east 462 feet from the northwesternmost property corner of the Grantor(s); thence south 86° 25' 32" east 493.09 feet; thence south 70° 10' 22" east 920.17 feet; thence north 82° 56' 30" east 175.23 feet; thence north 18° 45' 16" west 243.45 feet; thence south 86° 25' 33" east 52.12 feet; thence south 24° 20' 37" east 280.10 feet; thence south 60° 19' 52" east 416.34 feet; thence south 64° 55' 52" east 199.72 feet; thence south 55° 14' 42" east 70.06 feet; thence south 32° 19' 3" west 132.56 feet; thence north 53° 50' 53" west 113.08 feet; thence south 53° 39' 52" west 70.75 feet; thence north 73° 38' 26" west 196.76 feet; thence north 0° 33' 35" east 88.91 feet; thence north 66° 7' 22" west 206.63 feet; thence south 86° 45' 8" west 151.22 feet; thence north 59° 48' 11" west 213.06 feet; thence north 78° 23' 27" west 1,321.07 feet; thence north 1° 21' 23" east 174.75 feet to the point of **COMMENCEMENT.**

CONSERVATION EASEMENT TRACT IV

COMMENCING at a point lying on a southern property boundary of the Grantor(s), same lying north 83° 33' 22" west 387.02 feet, north 80° 3' 20" west 139 feet, south 6° 7' 14" west 310 feet and north 89° 8' 34" west 665.53 feet from the easternmost property corner of the Grantor(s) as described in the aforereferenced deeds, same property corner lying at or near the southwestern right of way boundary of SR 1739, Shadow Valley Road; thence north 89° 8' 34" west 63.43 feet; thence south 89° 30' 46" west 70.39 feet; thence north 15° 54' 17" west 125.97 feet; thence north 79° 29' 33" east 105.63 feet; thence south 24° 36' 34" east 154.82 feet to the point of **COMMENCEMENT**.