# North Carolina
# Department of Administration

Beverly Eaves Perdue, Governor

Moses Carey, Jr., Secretary

December 3, 2010

Dr. William R. Woodson, Chancellor
Office of the Chancellor
North Carolina State University
A Holladay Hall
Campus Box 7001
Raleigh, North Carolina 27695-7001

Secretary Dee A. Freeman
Department of Environment and Natural Resources
1601Mail Service Center
Raleigh, North Carolina 27699-1601

Re: Letter of Reallocation
Conservation Easement containing 25.43 acres
Anita-Alta 4-H Camp along Brown Branch
Caldwell County
North Carolina State University to the NC Department of Environment and Natural Resources, Ecosystem Enhancement Program

Dear Chancellor Woodson and Secretary Freeman:

Pursuant to an agreement between North Carolina State University, 4-H Youth Development and the North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program (the "Agreement") and pursuant to the authority vested in me by the North Carolina General Statutes § 143-341(4)(g), the following described property located in Caldwell County, North Carolina, is reallocated by conservation easement for the permanent protection of the stream restoration, enhancement, and stabilization project of Brown Branch located at the Anita-Alta 4-H Camp.

***Mailing Address:***
1301 Mail Service Center
Raleigh, NC 27699-1301

***Telephone: (919) 807-2425***
Fax (919) 733-9571
State Courier #51-01-00
*e-mail: moses.carey@doa.nc.gov*
*An Equal Opportunity Affirmative Action Employer*

***Location Address:***
116 West Jones Street
Raleigh, North Carolina 27603

This allocation is made at no cost or consideration to North Carolina State University or the North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program other than North Carolina Department of Environment and Natural Resources, Ecosystem Enhancement Program's performance of the restoration activities described in the Agreement.

Sincerely,

Moses Carey, Jr.

MC
Attachments

**CONSENTED AND AGREED TO:**

Dr. William R. Woodson, Chancellor
North Carolina State University

Secretary Dee A. Freeman
Department of Environment and Natural Resources

DENR - DIVISION OF
PURCHASE & SERVICES
2011 JAN 5 PM 4 13

North Carolina State University has management interest, as allocated by the North Carolina Department of Administration, in real property that is located in Mulberry Township, Caldwell County, North Carolina (the "**Property**"), and being more particularly described as that certain parcel of land acquired by the State of North Carolina on November 29, 1999 by Special Warranty Deed as recorded in **Deed Book 1290 at Pages 1230-1232** of the Caldwell County Registry.

North Carolina State University hereby agrees to an administrative reallocation of a Conservation Easement Area over the herein described areas of the Property, thereby restricting and limiting the use of the included areas of the Property to the terms and conditions and purposes hereinafter set forth. This administrative reallocation by conservation easement shall be for the protection and benefit of the stream restoration project at Brown Branch.

## REALLOCATION OF CONSERVATION EASEMENT DECLARATIONS AND RESTRICTIONS

The NC Ecosystem Enhancement Program has performed a stream restoration and enhancement project on Brown Branch as located on the Property as described. In consideration of this restoration project, the NC Ecosystem Enhancement Program has required that these Declarations and Restrictions be observed, and the State sets aside, declares, reserves and recognizes, for all related State Agencies, and, administratively reallocates a perpetual riparian buffer by conservation easement.

Being a reallocation of a conservation easement of the nature and character and to the extent hereinafter set forth, over the described areas of the Property, referred to hereafter as the "**Conservation Easement Area**", and being all of that **25.43** acres of land as recorded on a plat by **Kee Mapping and Survey, Sealed by Phillip B. Kee, NC PLS Number 4647 on July 28th, 2009** and recorded in **Book 26, page 134** of the Caldwell County Register of Deeds. The Conservation Easement Area is further identified on the Attached **Exhibit "A"**.

The Conservation Easement Area extends from both sides of the restored top of bank of Brown Branch. The Conservation Easement Area as defined is subject to the restrictions as recited below and will be forever conserved and managed in a manner that will improve and protect the quality of the waters of Brown Branch, and otherwise promote the public purposes authorized under the provisions of N.C. General Statute § 143-214.8.

The purposes of these restrictions are to maintain, restore, enhance, create and preserve wetland and/or riparian resources within the Conservation Easement Area that contribute to the protection and improvement of water quality, flood prevention, fisheries, aquatic habitat, wildlife habitat, and recreational opportunities; to maintain permanently the Conservation Easement Area in its restored and natural condition, consistent with these purposes; and to prevent any use of the Conservation Easement Area that will impair or interfere with these purposes. To achieve these purposes, the following conditions, reserved uses and restrictions are set forth:

# I. RESERVED RIGHTS TO NORTH CAROLINA STATE UNIVERSITY

**A. Reserved Rights for Two Temporary Stream Crossings.** North Carolina State University (NCSU) reserves and retains from this reallocation the right to construct two separate temporary stream crossings for timber harvest and related timber management within the Conservation Easement Area. Each temporary crossing shall be up to thirty feet in width. Each crossing shall be located within the two temporary crossing zones. Each crossing shall be marked on the ground with steel posts in the locations as depicted on attached **Exhibit B**.

**B. Conditions of Reserved Temporary Crossings.** Each reserved crossing shall be constructed perpendicular to the configuration of the stream at the crossing location, shall be constructed across a riffle area, and shall conform to temporary bridge matting standards and forestry best management practices for stream crossings approved by the NCDENR Division of Water Quality or its equivalent and in effect at the time of the construction. Any trees within the Conservation Easement Area that are damaged during construction of crossings or subsequent activities shall be replanted with 2-3-year old containerized tree species that are native to the riparian buffer zone at this site. Temporary bridge mat crossing construction and any stream bank repairs shall be supervised by NCSU Forest Resources personnel or their registered forestry consultant contractors. Any damage to the stream banks or stream bed shall be repaired immediately following the completion of timber management activities. The location of the crossings shall be delineated on site by NCSU and Ecosystem Enhancement personnel, their successors or assigns, prior to the first use of each crossing.

**C. Reserved Roads and Trails.** One existing former logging trail along the top of the ridge to the northeast of the upper temporary crossing is included within the Conservation Easement Area. It is approximately 100 feet in length, and may be used temporarily for log extraction. The roadbed and logging activities shall not exceed a width of 30 feet, and trees shall be replanted as described in Section I. B. following logging activities.

**D. Conditions of Timber Harvest.** Logging activities shall be performed by a logger possessing a current ProLogger designation as administered by the North Carolina Forestry Association. Replanting or reseeding of trees shall take place by hand.

**E. Duration of Use.** Each use of a temporary crossing shall not exceed three (3) months in duration nor be more frequent than once every fifteen (15) years. In the event of an unplanned disturbance, such as insect infestation or a storm, a fire that damages timber, the use of a temporary crossing may be less than the specified 15-year period. Said three (3) month duration shall apply to each of the temporary crossings individually and to timber harvesting and logging activities. Replanting operations subsequent to timber harvesting or logging activities will require utilization of the temporary crossings at other times as deemed appropriate by the College Forest Manager. Use of a small four-wheeled vehicle may be necessary to transport seedlings.

**F. Reserved Right for One Permanent Stream Crossing.** NCSU reserves the right to construct one permanent foot-bridge type pedestrian crossing at the location of the first downstream camp site. The permanent crossing shall be marked on the ground with steel posts and situated in the location as depicted on attached **Exhibit B**. The permanent crossing shall be constructed and used in a manner that will not damage the stream and riparian vegetation. A permanent crossing of no more than fifty feet in width is reserved for this location.

## II. RESERVED USES AND RESTRICTED ACTIVITES

**A. Motorized Vehicles.** Usage of motorized vehicles in the Conservation Easement Area is prohibited, except as they are used exclusively for management, maintenance, or stewardship purposes.

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

**C. Industrial, Agricultural, Residential and Commercial Uses.** All are prohibited in the Conservation Easement Area.

**D. New Construction.** There shall be no building, facility, mobile home, antenna, utility pole, tower, or other structure constructed or placed in the Conservation Easement Area except for that described in Section I(B), above.

**E. Roads and Trails.** There shall be no new construction of roads, trails, walkways, or paving in the Conservation Easement Area, except as described in Section I(B) above. Existing roads or trails located in the Conservation Easement Area may be maintained in order to minimize runoff, sedimentation and for access to the interior of the Property for management, maintenance, stewardship purposes, or undeveloped recreational and educational uses of the Conservation Easement Area. Existing roads, trails or paths may be maintained with loose gravel, soil, or permanent vegetation to stabilize or cover the surfaces.

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

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

**H. Grading, Mineral Use, Excavation, Dredging.** Unless related to approved restoration activities, there shall be no grading, filling, excavation, dredging, mining, or drilling within the Conservation Easement Area.

**I. Water Quality and Drainage Patterns.** Unless related to approved restoration activities, 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 in the Conservation Easement Area. No altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. Any use of pesticide or biocides is prohibited, except for their use in the control and removal of exotic invasive species. When pesticides or biocides are used on exotic invasive species, they will be applied using best management practices under the supervision of a North Carolina Licensed Pesticide Applicator. In the event of an emergency interruption or shortage of all other water sources, water from within the Conservation Easement Area may temporarily be used for good cause shown as needed for the survival of livestock and agricultural production.

**J. Subdivision and Conveyance.** No further subdivision, partitioning, or dividing of the Conservation Easement Area is allowed.

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

**L. Restoration Activities Are Permitted.** Includes but not limited to planting of trees, shrubs and herbaceous vegetation, removal of invasive exotic species, 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 according to a restoration plan as provided, contracted, or managed by the NC Ecosystem Enhancement Program.

**M. Permission.** Permission to vary from the above restrictions may be granted by the NC Ecosystem Enhancement Program for good cause shown, provided that any such request is consistent with the purposes of these restrictions. Permission and approval to vary must be obtained in writing from the NC Ecosystem Enhancement Program, whose mailing address is 1652 Mail Services Center, Raleigh, NC 27699-1652, and the U.S. Army Corps of Engineers, in care of General Counsel, Justin McCorkle, General Counsel, US Army Corps of Engineers, 69 Darlington Avenue, Wilmington, NC 28403.

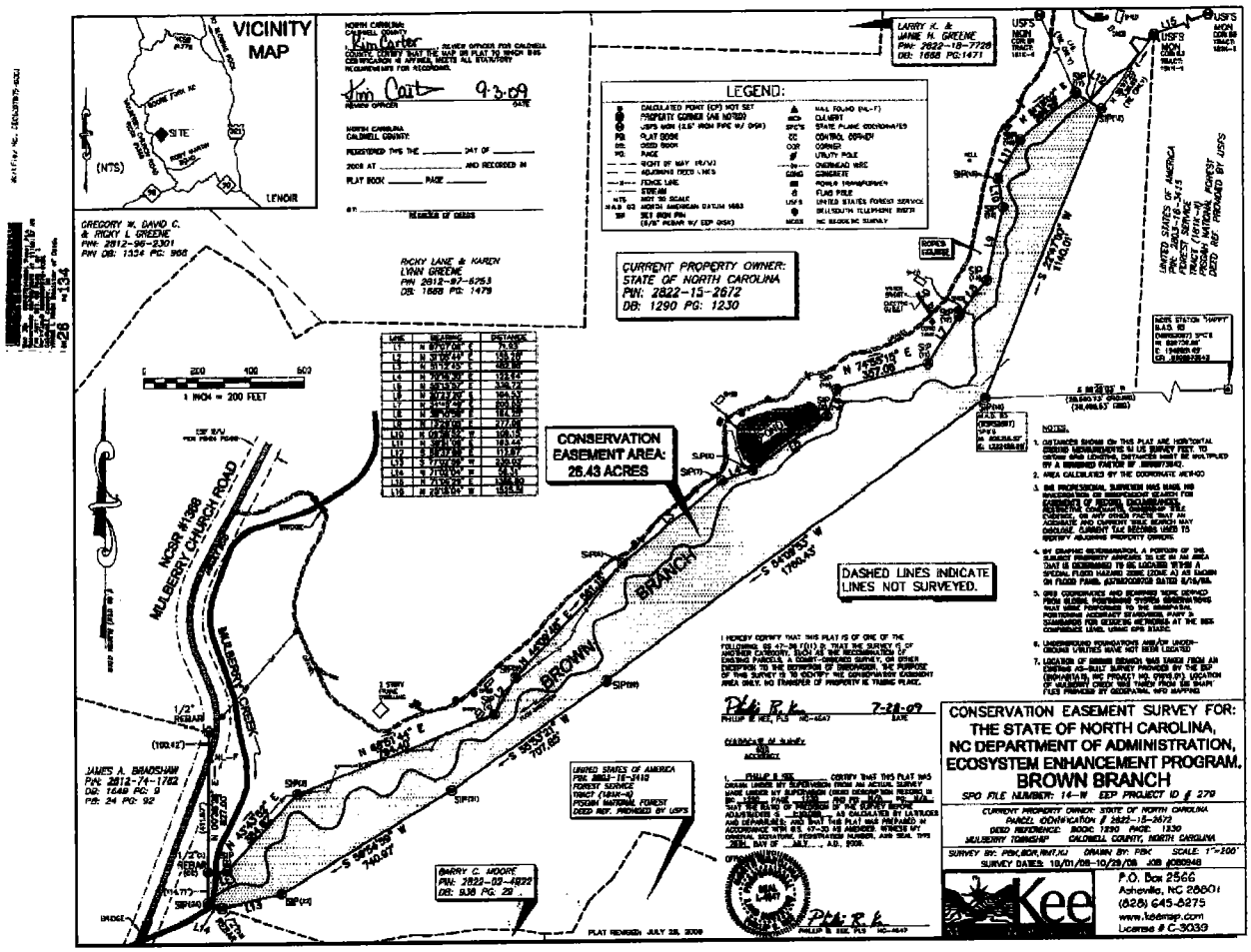
**N. Enforcement.** The right of enforcement of these restrictions is hereby granted to and vested entirely with the NC Ecosystem Enhancement Program, its successors and assigns. All remaining rights not restricted by the terms of this reallocation of conservation easement shall be retained by North Carolina State University.

**O. Ingress, Egress, and Inspection.** The NC Department of Environment and Natural Resources, Ecosystem Enhancement Program, its employees and agents, successors and assigns, receive the perpetual right of general ingress, egress, and inspection to the Conservation Easement Area 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 Area, in accordance with restoration activities or a long-term management plan. Unless otherwise specifically set forth in this reallocation of Conservation Allocated Easement, the rights granted herein do not include or establish for the public any access rights.

**P. Notification.** North Carolina State University shall notify the Ecosystem Enhancement Program, successors or assigns, and the U.S. Army Corps of Engineers of any transfer of property interest at least 60 days in advance of such transfer. Such notification shall be sent to the addresses listed in Section II. M.

# Exhibit A

(Page 1 of 1)



Job Description> BROWN BRANCH-MULBERRY TOWNSHIP, CALDWELL COUNTY, NC

Surveyor> KEE MAPPING & SURVEYING, PA (828) 645-8275 Job Number> 080948

SPO File Number> 14-W EEP Project ID> 279 Date> July 28, 2009

Beginning at corner 1, which is a 1/2" rebar found on west bank of Mulberry Creek. Thence with the boundary of the conservation easement the following courses and distances:

(1) N 87°07'06" E 71.93 feet to a 5/8" rebar set with EEP cap

(2) N 43°43'52" E 384.62 feet to a 5/8" rebar set with EEP cap

(3) N 68°51'44" E 794.40 feet to a 5/8" rebar set with EEP cap

(4) N 31°06'44" E 155.28 feet to a 5/8" rebar set with EEP cap

(5) N 44°09'48" E 581.15 feet to a 5/8" rebar set with EEP cap

(6) N 51°12'45" E 482.86 feet to a 5/8" rebar set with EEP cap

(7) N 70°16'30" E 122.64 feet to a 5/8" rebar set with EEP cap

(8) N 55°15'57" E 339.72 feet to a 5/8" rebar set with EEP cap

(9) N 20°23'20" E 104.53 feet to a 5/8" rebar set with EEP cap

(10) N 74°55'15" E 357.06 feet to a 5/8" rebar set with EEP cap

(11) N 34°45'49" E 205.55 feet to a 5/8" rebar set with EEP cap

(12) N 39°10'58" E 164.25 feet to a 5/8" rebar set with EEP cap

(13) N 13°29'05" E 277.06 feet to a 5/8" rebar set with EEP cap

(14) N 09°58'52" W 109.15 feet to a 5/8" rebar set with EEP cap

(15) N 30°51'08" E 163.44 feet to a 5/8" rebar set with EEP cap

(16) N 51°18'02" E 268.29 feet to a 5/8" rebar set with EEP cap

(17) S 58°37'50" E 112.67 feet to a 5/8" rebar set with EEP cap

(18) S 22°47'00" W 1140.01 feet to a 5/8" rebar set with EEP cap

(19) S 54°09'53" W 1760.43 feet to a 5/8" rebar set with EEP cap

(20) S 55°53'21" W 707.85 feet to a 5/8" rebar set with EEP cap

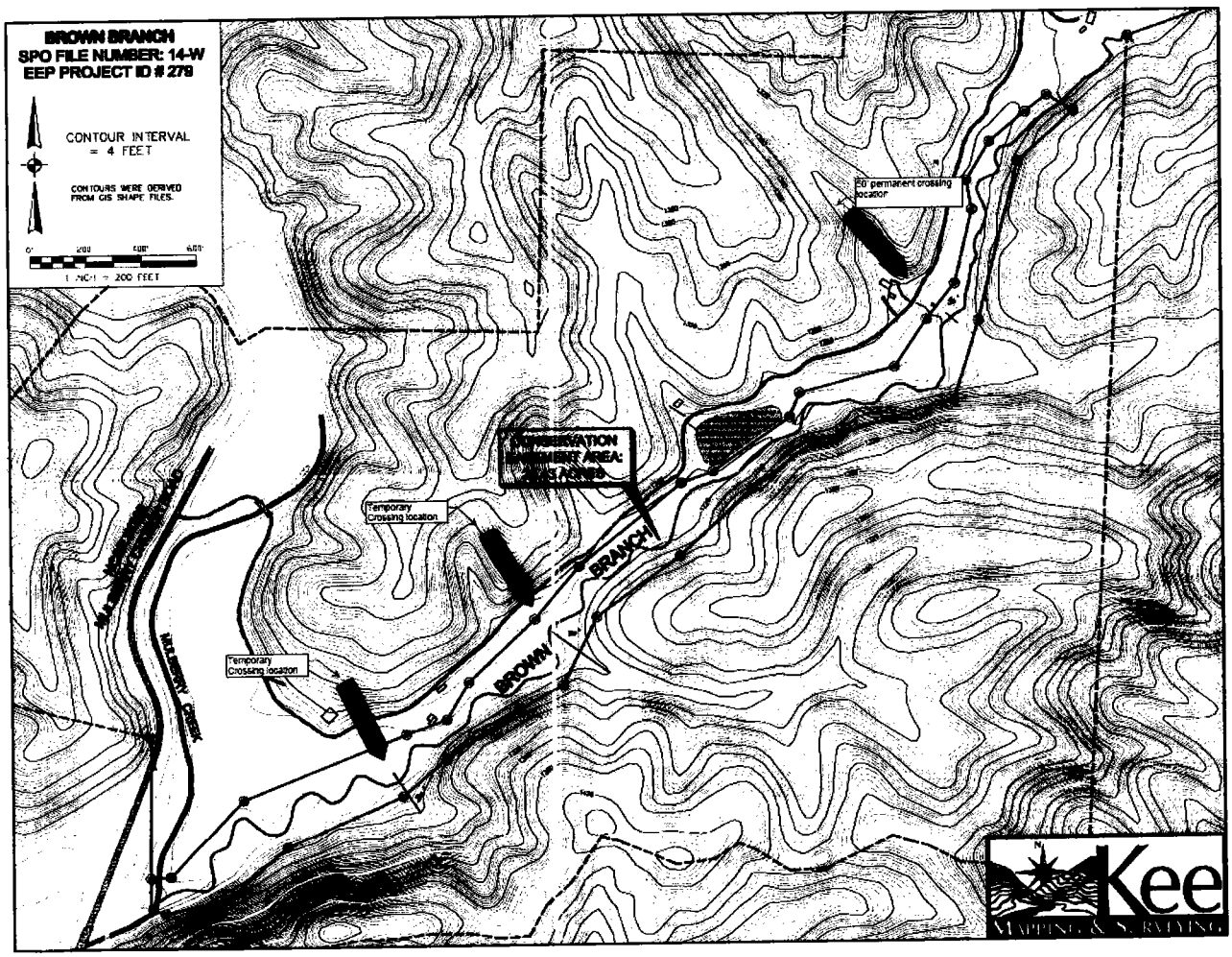
(21) S59°54'59" W 740.97 feet to a 5/8" rebar set with EEP cap

(22) S 77°02'55" W 230.03 feet to a 1/2" rebar found

(23) N 71°02'04" W 56.31 feet to a 5/8" rebar set with EEP cap

(24) N 00°38'28" E 114.71 feet to corner 1, the place of beginning.

**Area: 25.43 Acres**

# Exhibit B

Approximate location
Two temporary crossings
One 50' permanent crossing