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WILKES COUNTY NC
12/09/2002 8:45 AM
RICHARD L. WOODRUFF
Register of Deeds
By: _____ Deputy/Asst.

STATE OF NORTH CAROLINA

CONSERVATION EASEMENT

WILKES COUNTY
Prepared by and return to:
NC Attorney Generals Office
P.O. Box 629
Raleigh, NC 27602-0629

THIS CONSERVATION EASEMENT DEED, made this 12-6 day of December, 2002, by and between **Frank K. Bright and wife, Jannette H. Bright**, Grantor, and the **State of North Carolina**, Grantee, whose mailing address is State of North Carolina State Property Office, 116 West Jones Street, Raleigh, NC 27603-8003. The designations Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context.

WITNESSETH:

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

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

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

WHEREAS, pursuant to the provisions of N.C. Gen. Stat. § 143-214.8, two of the components of the Wetlands Restoration Program are (1) restoration and perpetual maintenance of wetlands, riparian areas, and surface waters and (2) land ownership and management; and

WHEREAS, Grantor owns in fee simple certain real property situated, lying, and being in Edwards Township, Wilkes County, North Carolina the "Protected Property", and being more particularly described as those certain parcels of land being conveyed to the Grantor by deeds recorded in **Deed Book 634 at Page 572** of the Wilkes County Registry, North Carolina; and

WHEREAS, Grantor is willing to grant a Conservation Easement on the Protected Property, thereby restricting and limiting the use of the Protected Property to the terms and conditions and for the purposes hereinafter set forth, and Grantee is willing to accept such easement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, over a portion of the Protected Property, referred to hereafter as the Easement Area, for the benefit of the people of North Carolina, and being all of the tract of land as shown on a plat of survey entitled "Conservation Easement Map for Frank K. & Jannette H. Bright" dated October 28, 2002 certified by Christopher J. Pusey, PLS and attached to this document as exhibits "**A**" and "**B**".

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

I. DURATION OF EASEMENT

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

II. RESERVED USES AND RESTRICTED ACTIVITES

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

A. **Recreational Uses.** Grantor expressly reserves the right to undeveloped recreational uses, including hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited.

B. **Educational Uses.** The Grantor reserves the right to undeveloped educational uses and the right of access to the Easement Area for such purposes including organized educational activities such as site visits, studies, and observations.
C. **Vegetative Cutting.** Cutting, removal, mowing, harming, or destruction of any vegetation in the Easement Area is prohibited.
D. **Industrial Use.** Industrial activities in the Easement Area are prohibited.
E. **Residential Use.** Residential use of the Easement Area is prohibited.
F. **Commercial Use.** Commercial activities in the Easement Area are prohibited.
G. **Agricultural Use.** Agricultural use of the Easement Area including use for cropland, waste lagoons, or pastureland is prohibited.
H. **New Construction.** There shall be no building, facility, mobile home, or other structure constructed or placed in the Easement Area.
I. **Signs.** No signs shall be permitted in the Easement Area except interpretive signs describing restoration activities and the conservation values of the Easement Area, signs identifying the owner of the Protected Property and the holder of the Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Easement Area.
J. **Dumping.** Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliance or machinery, or other material in the Easement Area is prohibited.
K. **Grading, Mineral Use, Excavation, Dredging.** There shall be no grading, filling, excavation, dredging, mining, or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals, or other materials.
L. **Water Quality and Drainage Patterns.** There shall be no diking, draining, dredging, channeling, filling, leveling, pumping, impounding or related activities, or altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. In addition, diverting or causing or permitting the diversion of surface or underground water into, within or out of the easement area by any means, removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited.
M. **Subdivision.** Subdivision, partitioning, or dividing the Easement Area is prohibited.
N. **Development Rights.** No development rights which have been encumbered or extinguished by this Conservation Easement shall be transferred pursuant to a transferable development rights scheme or cluster development arrangement or otherwise.

The Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times to undertake any activities to restore, manage, maintain, enhance, and monitor the wetland and riparian resources of the Easement Area. These activities include planting of trees, shrubs and herbaceous vegetation, installation of monitoring wells, utilization of heavy equipment to grade, fill, and prepare the soil, modification of the hydrology of the site, and installation of natural and manmade materials as needed to direct in-stream, above ground, and subterraneous water flow. In addition, the Grantee, and authorized representatives of the Grantee, shall have the right to enter the Easement Area and shall have the right of reasonable ingress and egress to the Easement Area over the Protected Property, at all reasonable times for the purpose of inspecting said property to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement. The easement rights granted herein do not include public access rights.

The Grantor may request permission to vary from the above restrictions for good cause shown, provided that any such request is consistent with the purposes of this Conservation Easement. The Grantor shall not vary from the above restrictions without first obtaining written approval from the Wetlands Restoration Program, whose mailing address is 1619 Mail Services Center, Raleigh, NC 27699-1619.

III. ENFORCEMENT AND REMEDIES

A. In the event that the Grantee determines that the Grantor has violated or is threatening to violate any of these terms, conditions, or restrictions, the Grantee may institute a suit to enjoin such violation and if necessary, to require the restoration of the Easement Area to its prior condition at the expense of the Grantor.

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

IV. MISCELLANEOUS

A. This Conservation Easement shall be construed to promote the purposes of N.C. Gen Stat. § 143-214.8 et seq., the Wetlands Restoration Program.

B. 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 the Conservation Easement, and the application of such provision to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

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

D. Grantor shall notify Grantee in writing of the name and address and any party to whom the Protected Property or any part thereof is to be transferred at or prior to the time said transfer is made. Grantor further agrees to make any subsequent lease, deed, or other legal instrument by which any interest in the Protected Property is conveyed subject to the Conservation Easement herein created.

V. QUIET ENJOYMENT

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

TO HAVE AND TO HOLD the said rights and easements perpetually unto Grantee for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent easement herein granted; that the same are free from encumbrances and that Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

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

Frank K. Bright (SEAL)
Frank K. Bright

Jannette H. Bright (SEAL)
Jannette H. Bright

NORTH CAROLINA COUNTY OF Wilkes

I, Elaine W. Davidson, a Notary Public in and for the County and State aforesaid, do hereby certify that Frank K. Bright, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the 6 day of December, 2002.

Elaine W. Davidson
Notary Public

My commission expires:
July 18, 2004

NOTARIAL SEAL
North Carolina • Wilkes County
ELAINE W. DAVIDSON
NOTARY PUBLIC

NORTH CAROLINA WILKES COUNTY
The foregoing certificate of Elaine W. Davidson is certified to be correct.
Richard L. Woodruff By Vicki L. Triplett
Register of Deeds Deputy/Ass't Register of Deeds

NORTH CAROLINA COUNTY OF Wilkes

I, Elaine W Davidson, a Notary Public in and for the County and State aforesaid, do hereby certify that Jannette H Bright, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the 6 day of December, 2002.

Elaine W Davidson
Notary Public

My commission expires:
July 18, 2004

OFFICIAL SEAL
North Carolina • Wilkes County
ELAINE W. DAVIDSON
NOTARY PUBLIC

EXHIBIT
A

PENGAD-Bayonne N.J.

FRANK K. & JANNETTE H. BRIGHT
LITTLE BUGABOO CREEK
CONSERVATION EASEMENTS
4911-84-0561

The following described permanent easement lies within that certain parcel of land on the south side of Tharpe Road and being fully described by deed duly recorded in Deed Book 634 at Page 572 of the Wilkes County, North Carolina Registry.

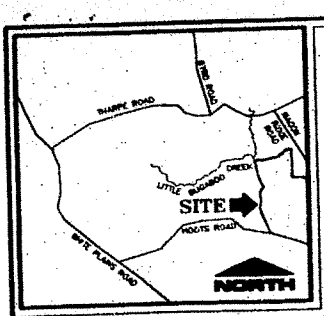
Permanent Easement

There is to be a permanent conservation easement extending 42.85 feet both left and right of the centerline of Little Bugaboo Creek, as it may meander through the lands of Frank K. & Jannette H. Bright. The easement may affect the lands without the centerline actually crossing onto said lands. The intent is an 85.7' easement centered on the thread of Little Bugaboo Creek, being perpendicular and parallel with said thread along and through the property listed above.

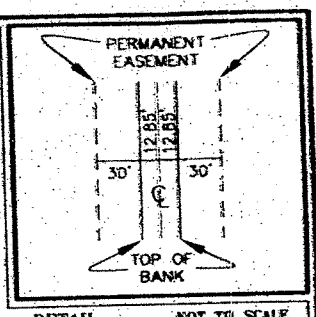
NORTH CAROLINA PROFESSIONAL SEAL L-4291 LAND SURVEYOR CHRISTOPHER

11-04-02

EXHIBIT B



VICINITY MAP NOT TO SCALE



DETAIL NOT TO SCALE

N/F
KENNETH & CHARLES JORDAN
DB 337 PG 140
4911-66-6130

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.

S79°49'19"W
42.85' (TIE TO CENTERLINE)

PROPOSED CENTERLINE OF LITTLE BUGABOO CREEK

N48°06'00"E
19.40'

VARIABLE PERMANENT EASEMENT

S10°10'41"E
39.63'

S05°21'00"E
29.54'

FRANK K. & JANNETTE H. BRIGHT
DB 634 PG 572
4911-84-0561

N/F
CHARLES W. WOODIE
DB 644 PG 882
4911-64-2806

S79°49'19"W
23.86' (TIE TO CENTERLINE)

REFERENCES:
DB 634, PG 572

NOTE: A FIELD SURVEY WAS NOT PERFORMED.
BOUNDARY INFORMATION WAS TAKEN FROM DB 634, PG 572.
THIS MAP DOES NOT MEET GS 47-30
THE PURPOSE OF THIS MAP IS TO SHOW THE PERMANENT EASEMENT FOR LITTLE BUGABOO CREEK

TOTAL EASEMENT AREA:
606 SF (0.01 AC)

LEGEND:
N/F-NOW OR FORMERLY

CONSERVATION EASEMENT MAP FOR

CLIENT: FRANK K. & JANNETTE H. BRIGHT
ADDRESS: 1179 HOOTS ROAD
CITY: ROARING RIVER
SCALE: 1" = 50'
PIN: 4911-84-0561

NORTH CAROLINA
EDWARDS TOWNSHIP
WILKES COUNTY
DATE: OCTOBER 28, 2002

GRAPHIC SCALE

50 0 25 50 100 200

(IN FEET)
1 inch = 50 ft.

DRAWN BY: SEAN
PROJECT: 00024

5698 JOHNSON MILL ROAD
RALEIGH, NORTH CAROLINA 28576
PHONE: (919) 904-6777
FAX: (919) 904-5777

4D SITE SOLUTIONS, INC
CONSTRUCTION & RUNWAY LAYOUT GPS LAND SURVEYING

11-04-02