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ANSON COUNTY, N.C.
REGISTER OF DEEDS

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STATE OF NORTH CAROLINA

P.I.N. # 657100308584.00

COUNTY OF ANSON

ANSON COUNTY NC
Real Estate Excise Tax Paid
$ 525.00

PREPARED BY: Lisa Glover
Assistant Attorney General
North Carolina Department of Justice

RETURN TO: NCDOT, Right of Way Office
Mr. William Wilhelm, Division Agent
206 Charter St.
Albemarle, NC 28001.

STREAM CONSERVATION EASEMENT

This Stream Conservation Easement ("Stream Conservation Easement") is granted on this 4th day of January, 2005, by ROCKY PEE DEE, LLC, having an address of P.O. Box 210, Kannapolis, North Carolina, 28082 ("Grantor"), to THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, having an address of 1548 Mail Service Center, Raleigh, NC 27699-1548 (hereinafter "NCDOT" or "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:

Grantor is the sole owner in fee simple of certain property more particularly described in Deed Book 678, Page 284 of the Anson County Registry, and described in Exhibit A, attached hereto and incorporated herein (hereafter the "Property"), which consists of approximately 209.24 acres, more or less, located in Ansonville Township, Anson County, North Carolina.

The Property provides exceptional 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 Grantor and the people of North Carolina. Also, the Property contains outstanding scenic qualities that can be enjoyed by the general public; namely the views along Pinkston River Road and Carpenter Road. It is therefore a purpose of the Stream Conservation Easement to protect these natural, wildlife habitat, and scenic resources through, among other things, maintaining and preserving, in perpetuity, the condition of the restored and/or enhanced streams on the Property. The natural resources; wildlife habitat for land, air and aquatic species; aquatic resources, including streams, rivers, ponds, and wetlands; and scenic resources of the Property to be preserved by this Stream Conservation Easement are collectively referred to as the "stream conservation values" of the Property for purposes of the Stream Conservation Easement.

The Grantor desires to grant to the NCDOT a perpetual Stream Conservation Easement over 63.11 acres of the Property encompassing the streams and surrounding land and wetlands (the "Stream Conservation Easement Area"), thereby restricting and limiting the use of land within the Stream Conservation Easement Area to the terms and conditions and for the purposes hereinafter set forth. The boundaries of the Stream Conservation Easement Area are described in Exhibit B, entitled "Legal Description of Stream Conservation Easement," and depicted in Exhibit C, entitled "Reduced-Size Survey of Stream Conservation Easement Area," and a survey entitled "Conservation Easement Survey for The State of North Carolina," dated November 18, 2004 by Mulkey Engineers and Consultants and recorded in Plat Hanger A-205, Pages 6 and 7, of the Anson County Registry. Two separate easement areas identified on the survey are subject to the Stream Conservation Easement: Easement Area 2, consisting of 27.23 acres, and Easement Area 3, consisting of 35.88 acres. Easement Area 1 as depicted on the survey is not located on the Property and is not subject to this Stream Conservation Easement.

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 7619 linear feet of stream and associated streamside wetlands in Anson County on the Stream 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 63.11 acres and referred to as the Stream Conservation Easement Area;

The NCDOT has provided funds for the acquisition of the Stream Conservation Easement;

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, also referred to as the Bishop Property Restoration Plan;

The Stream Mitigation Plan, developed by NCDOT in coordination with the Grantor, provides for the restoration, enhancement and preservation of the streams and wetlands on the Stream Conservation Easement Area, and will be kept on file with NCDOT;

The purposes of the Stream Conservation Easement are to protect the mitigation activities performed by the NCDOT, to preserve and protect the conservation values of the Stream Conservation Easement Area, to prevent any use of the Stream Conservation Easement Area that will significantly impair or interfere with these purposes, and to maintain permanently the dominant woodland, scenic and natural character of the Stream Conservation Easement Area.

The Grantor and NCDOT agree that the planned stream and wetland restoration, enhancement and preservation activities within the Stream Conservation Easement Area are consistent with the conservation purposes of the Stream Conservation Easement.

The specific stream conservation values of the Property and its current use and state of improvement are described in the Stream Mitigation Plan, which is also referred to as the Bishop Property Restoration Plan. The Stream Mitigation Plan is dated December 2004, and was prepared by EcoScience Corporation with the cooperation of the NCDOT and the Grantor, and is acknowledged by all parties to be accurate as of the date of this Easement. The Stream Mitigation Plan may be used by the Grantee to document any future changes in the use or character of the Property in order to ensure the terms and conditions of the Stream Conservation Easement is fulfilled. This Stream Mitigation Plan, however, is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use. The Grantor and Grantee have copies of this Stream Mitigation Plan, and said report will remain on file at NCDOT.

The conservation purposes of this Stream Conservation Easement are recognized by, and the grant of this Stream Conservation Easement is intended to serve, the following clearly delineated governmental conservation policies:

(1) 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; and,

(2) The North Carolina Conservation Tax Credit Program, N.C.G.S. §§ 105-130.34 and 105-151.12 *et seq.*, which provides for state income tax credits for donations of land that are useful for fish and wildlife conservation and other similar land conservation purposes.

NOW, THEREFORE, in consideration of the sum of TWO HUNDRED SIXTY-TWO THOUSAND THREE HUNDRED Dollars and ZERO Cents ($262,300.00) and for other valuable considerations to Grantor, and in consideration of the mutual covenants, terms, conditions and restrictions contained herein, the Grantor hereby grants and conveys unto the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION and its successors or assigns forever and in perpetuity a Stream Conservation Easement of the nature and character and to the extent hereinafter set forth, in respect to the Stream Conservation Easement Area of the Property of the Grantor situated in Anson County, North Carolina, as described in Exhibits B and C, attached hereto and incorporated by reference. It is understood by all parties that a portion of the payment price for this Stream Conservation Easement includes payment for Grantor to remove existing irrigation lines, as discussed in Paragraph 5(L) below. For a plat of the above described Stream Conservation Easement Area, please see plat entitled "Conservation Easement Survey for The State of North Carolina," dated November 18, 2004 by Mulkey Engineers and Consultants and recorded in Plat Hanger A-205, Pages 6 and 7, of the Anson County Registry. Two separate easement areas identified on the survey are subject to the Stream Conservation Easement: Easement Area 2, consisting of 27.23 acres, and Easement Area 3, consisting of 35.88 acres. Easement Area 1 as depicted on the survey is not located on the Property and is not subject to this Stream Conservation Easement.

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

1. <u>Grant of the Stream Conservation Easement</u>

Grantor hereby voluntarily grants and conveys to the NCDOT, and the NCDOT hereby voluntarily accepts, a perpetual Stream Conservation Easement, which is an immediately vested interest in real property of the nature and character described herein. Grantor agrees that it will not perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants herein. Grantor authorizes the Grantee to enforce these covenants in the manner described below.

Grantor hereby voluntarily grants and conveys to the NCDOT all development rights for the Stream Conservation Easement Area, except as otherwise reserved and provided by the terms of the Stream Conservation Easement, that are now or hereafter inherent in the Property. 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 Stream Conservation Easement is to protect the NCDOT's mitigation activities within the Stream 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 Stream Conservation Easement Area shall be permitted.

This Stream Conservation Easement shall be perpetual. This is an easement in gross, running with the land and is enforceable by Grantee as provided in Paragraph 10, against the Grantor, its representatives, heirs, successors and assigns, lessees, agents, and licensees.

3. Description of Stream Conservation Easement Area

The Stream Conservation Easement Area encompasses perennial streams, wetlands and surrounding land located on the Property, as more particularly described in Exhibit B, and depicted in Exhibit C and a survey entitled "Conservation Easement Survey for The State of North Carolina," dated November 18, 2004 by Mulkey Engineers and Consultants and recorded in Plat HangerA-205, Pages 6 and 7, of the Anson County Registry, and is comprised of 63.11 total acres. Two separate easement areas identified on the survey are subject to the Stream Conservation Easement: Easement Area 2, consisting of 27.23 acres, and Easement Area 3, consisting of 35.88 acres. Easement Area 1 as depicted on the survey is not located on the Property and is not subject to this Stream Conservation Easement.

4. Access

Access to Easement Area 2 of the Stream Conservation Easement, as depicted on Exhibit C, is primarily by way of State Road 1629 (Carpenter Road). Easement Area 2 adjoins an existing conservation easement owned by NCDOT, as conveyed by instrument recorded in Deed Book 678, Page 128 of the Anson County Registry. NCDOT may also access Easement Area 2 through the area subject to the existing conservation easement. Easement Area 3 of the Stream Conservation Easement, as depicted on Exhibit C, adjoins an existing conservation easement area owned by NCDOT, as conveyed by instrument recorded in Deed Book 678, Page 128 of the Anson County Registry. NCDOT may access Easement Area 3 through the area subject to the existing conservation easement. The NCDOT and its authorized representatives, including the USACE, shall have the right to access the Stream Conservation Easement Area in perpetuity in order to conduct and monitor the Stream Mitigation Project. The NCDOT and its authorized representatives shall also have the right, at all reasonable times and continuing in perpetuity, to

use the Stream Conservation Easement Area to access adjoining conservation easement areas owned by NCDOT or its successors and assigns.

At all reasonable times and continuing in perpetuity, the NCDOT and its authorized representatives, including the USACE, shall have the right to access the Stream Conservation Easement Area for the purpose of inspecting the said area to determine if the Grantor is complying with the terms, conditions, restrictions, and purposes of the Stream Conservation Easement. The NCDOT will notify the Grantor 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 Grantor prior to entry but will notify Grantor within two business days of such entry.

In addition, Grantor agrees to maintain access to the Stream Conservation Easement Area in perpetuity through use of farm roads on the Property that are accessible by public roads and that traverse the Property, and allow Grantee access to all portions of the Stream Conservation Easement Area, including portions that may be isolated from other areas.

5. Permitted and Restricted Activities in the Stream Conservation Easement Area

Any activity on, or use of, the designated Stream Conservation Easement Area inconsistent with the purposes of the Stream Conservation Easement is prohibited. Unless expressly reserved as a compatible use herein, any activity in, or use of, the Stream Conservation Easement Area by the Grantor is prohibited as inconsistent with the purposes of the Stream Conservation Easement. The Stream 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 the Stream Conservation Easement, 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 Grantor have been acquired by the NCDOT.

Within that area identified as Easement Area 2 and Easement Area 3 in Exhibits B and C (the Stream Conservation Easement Area), 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 Stream 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 Stream Conservation Easement Area is prohibited. However, upon prior written approval by NCDOT,

Grantor will be allowed to implement "wildlife plantings" of vegetation during the 2005 Anson County growing season (March 15 to November 15, 2005). No herbicides, insecticides, fungicides, fertilizers or other potentially harmful substances may be used in the Stream Conservation Easement Area without advance written permission from the NCDOT. No agricultural products or by-products may be disposed of in the Stream Conservation Easement Area or within 100 feet of the streambank, whichever is greater, or result in or cause discharge or runoff directly into the Stream Conservation Easement Area. Livestock shall only cross or access water at areas designated and agreed upon in the Stream Mitigation Plan. Grantor may have limited access to the Stream Conservation Easement Area for the purpose of operating irrigation pumps in emergency situations. In an emergency situation, in which no other water source is available, livestock may access the stream for water at areas designated in the Stream Mitigation Plan. Such emergency access is limited to one side of the stream for a length not to exceed 30 linear feet and the Grantor shall notify the NCDOT in writing at the address shown below within 3 business days of such access. Existing fences may be repaired and replaced, and new fences may be built as described in the Stream Mitigation Plan.

C. *Silvicultural Use and Land Clearing*

There may be no destruction or cutting of trees or plants in the Stream Conservation Easement Area, except in accordance with the Stream Mitigation Plan, or upon written approval of NCDOT. The gathering of firewood in the Stream Conservation Easement Area shall be limited to dead trees, such that the gathering is consistent with the purposes of this Stream 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 the Stream Conservation Easement and the Grantor obtains 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 Stream Conservation Easement Area is prohibited. No agricultural products or by-products, or agricultural equipment, may be dumped or stored in the Stream 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 Stream Conservation Easement Area or any adjacent property owned by Grantor or its successors, which would cause erosion or siltation on the Stream Conservation Easement Area.

F. *Industrial Use*

Industrial activities on the Stream Conservation Easement Area are prohibited.

G. *Residential Use*

Residential use of the Stream Conservation Easement Area is prohibited.

H. *Commercial Use*

Commercial activities in the Stream Conservation Easement Area are prohibited.

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

There shall be no building, shed, facility, mobile home, or other structure constructed or placed in the Stream Conservation Easement Area. Further, no new roads, either paved or unpaved, may be constructed in the Stream Conservation Easement Area except as allowed and described in the Stream Mitigation Plan. Motorized vehicles, including off-road vehicles, are prohibited in the Stream 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 Stream 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 Stream Conservation Easement Area except interpretive signs describing activities and the conservation values of the Stream Conservation Easement Area, signs identifying the owner of the Stream Conservation Easement Area and the holder of the Stream Conservation Easement, and signs giving directions or proscribing rules and regulations for the use of the Stream Conservation Easement Area, which shall specifically include "No Trespassing," "No Hunting," and "Posted" signs.

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 or affecting the Stream Conservation Easement Area, Grantor shall notify the NCDOT if right-of-way clearing or other work in the Stream Conservation Easement Area is scheduled by the utility. Any such clearing should be in keeping with the intent of the Stream Conservation Easement.

L. *Water Quality and Drainage Patterns*

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

As a condition of the Stream Conservation Easement, Grantor shall remove 9000 linear feet of irrigation line from Easement Areas 2 and 3. Grantor acknowledges the receipt of consideration for the removal of said irrigation line as part of the payment price for the Stream Conservation Easement.

M. *NCDOT's Rights*

The NCDOT reserves the right to use the Stream 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 for the Stream Conservation Easement Area, 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 any damage to the Stream Conservation Easement Area occurring after initial completion of the construction associated with mitigation activities.

6. <u>Enforcement</u>

With reasonable advance written notice to the Grantor, the NCDOT and its authorized representatives, including the USACE, shall have the right to enter the Stream Conservation Easement Area for the purpose of inspecting for compliance with the terms of this Stream Conservation Easement. Such written notice shall be deemed reasonable if given at least five (5) working days prior to the visit. The NCDOT shall have the right to prevent violations and remedy violations of the terms of this Stream 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 Stream Conservation Easement. Except when an ongoing or imminent violation could irreversibly diminish or impair the conservation values of the Stream Conservation Easement Area, the NCDOT shall give the

Grantor 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 Grantor to restore the Stream Conservation Easement Area to its condition prior to the violation as restoration of the Stream Conservation Easement Area may be the only appropriate remedy. In any case where a court finds that a violation has occurred, the Grantor 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.

7. Rights and Responsibilities Retained by Grantor

Subject to the terms and restrictions contained herein, the Grantor reserves to and for itself and its successors all customary rights and privileges of ownership, including without limitation the right to quiet enjoyment of the Property; the rights to sell, lease, encumber, impose restrictions on and devise the Property, provided such transaction is subject to the terms of this Stream Conservation Easement and written notice is provided to the NCDOT; together with any rights not specifically prohibited by or limited by this Easement, and not inconsistent with the Statement of Purpose in Paragraph 2 herein. Unless otherwise specified herein, nothing in this Easement shall require the Grantor to take any action to restore the condition of the Property after any Act of God or other event over which it had no control. Grantor understands that nothing in this Easement relieves it of any obligation or restriction on the use of the Property imposed by law.

8. Right to Privacy

Grantor retains the right to privacy and the right to exclude any member of the public from trespassing on the Property. This Stream Conservation Easement does not create any rights of the public in, on or to the Property, although the public has the right to view the Stream Conservation Easement Areas from any adjacent publicly accessible areas.

9. Subdivision

Subdivision of the Property is prohibited. This prohibition applies regardless of how many separately described tracts or parcels are contained in the legal description attached as Exhibit A.

10. Passive Recreational Use

Grantor retains the right to engage in passive recreational uses of the Property (requiring no surface alteration of the land and posing no threat to the stream 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 the Stream Conservation Easement and is not prohibited by Paragraph 5 above. Grantor reserves the right to extend existing hunting leases and to grant additional hunting leases on or over the Property.

11. Ongoing Responsibilities of Grantor

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 Grantor as owner of the Property. Among other things, this shall apply to:

A. *Taxes*

The Grantor 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 Grantor will reimburse the Grantee for the same.

B. *Upkeep and Maintenance*

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

C. *Liability and Indemnification*

Grantor agrees to indemnify and hold the 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 the Grantee or its agents, in which case liability shall be apportioned accordingly.

12. Transfer of the Stream Conservation Easement

NCDOT shall have the right to transfer or assign the Stream Conservation Easement at any time to the Ecosystem Enhancement Program or 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 the Stream Conservation Easement.

13. Representatives

For purposes of the Stream Conservation Easement, "authorized representatives" of NCDOT include, but are not limited to, the USACE and the Ecosystem Enhancement Program.

14. Transfer of Property

Grantor agrees to incorporate by reference the terms of this Stream Conservation Easement in any deed or other legal instrument by which it transfers or divests itself of any interests, including leasehold interests, in all or a portion of the Property. Failure of Grantor to comply with this section shall not impair the validity of this Easement as to successor owners or limit its enforceability in any way, nor shall Grantor's failure to comply with this section constitute a default under this Easement.

15. Amendment of Easement

The provisions of this Stream Conservation Easement may be amended by a written instrument executed by the Grantee and the Grantor. Any such amendment shall be consistent with the Statement of Purpose of this 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.

16. 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 Grantor's and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by Grantor 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 Grantor's expenses from such transaction or proceeding.

17. 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 Grantor 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 Grantor's and Grantee's interests as specified herein; all expenses including attorneys' fees incurred by Grantor 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 Grantor's expenses from such transaction or proceeding.

18. Interpretation

This Stream 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.

19. Perpetual Duration; Severability

This Stream Conservation Easement shall be a servitude running with the land in perpetuity. Every provision of this Stream Conservation Easement that applies to the Grantor 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 Stream Conservation 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.

20. Notices

Any notices required by this Steam 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 Grantor:
P.O. Box 210
Kannapolis, NC 28082

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

In any provision of this Stream Conservation Easement in which the Grantor is 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 approval of a Grantee is required, such approval shall be deemed withheld unless the Grantee provides to the Grantor written notice of approval within 30 days of receipt of said request. If Grantor has received no response after said 30 days, Grantor 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.

21. Grantor's Title Warranty

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 Stream Conservation Easement and that the Stream Conservation Easement Area is 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 Grantor covenants that the Grantee shall have the use of and enjoy all of the benefits derived from and arising out of the aforesaid easement conveyed.

22. Subsequent Liens on the Property

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

23. Subsequent Easements/Restrictions on the Property

The grant of any easements or use restrictions that might diminish or impair the stream conservation values of the Property, are prohibited. Any such easements or restrictions shall be subordinated to this Steam Conservation Easement.

24. Grantor's Environmental Warranty

The Grantor warrants that it has 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 promises to defend and indemnify the 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 Grantor or violation of federal, state or local environmental laws caused by the negligent or intentional act of the Grantor. Without limiting the generality of the foregoing,

nothing in this Stream Conservation Easement shall be construed as giving rise to any right or ability in the Grantee, nor shall the 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.

25. Entire Agreement

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

26. Recording

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

27. Merger

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

TO HAVE AND TO HOLD this Stream Conservation Easement unto NCDOT, its successors and assigns forever. IN WITNESS WHEREOF, the Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

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GRANTOR: ROCKY PEE DEE, LLC.

_____ (Seal)
John A. Bishop, Manager

NORTH CAROLINA
Stanly COUNTY

I, William M. Wilhelm, Jr., a Notary Public of Stanly County, North Carolina do hereby certify that John A. Bishop personally appeared before me this day and acknowledged that he is the Manager of Rocky Pee Dee, LLC, and that by authority duly given and as an act of the corporation he executed the foregoing instrument.

Witness my hand and official stamp or seal this the 4th day of January, 2005.

William M. Wilhelm, Jr.
Notary Public (SEAL)
My commission expires: March 19, 2007

WILLIAM M. WILHELM, JR. NOTARY PUBLIC STANLY COUNTY, N.C.

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GRANTEE:

THE NORTH CAROLINA DEPARTMENT
OF TRANSPORTATION

By: A.D. Allison, II
Assistant Manager, Right of Way Branch

NORTH CAROLINA
Cumberland COUNTY

I, Latham P. Hodges, a Notary Public of Cumberland County, North Carolina do hereby certify that A.D. Allison, II personally came before me this day and acknowledged that he is the Assistant Manager of the Right of Way Branch of the North Carolina Department of Transportation, an agency of the State of North Carolina, and that by authority duly given he executed the foregoing instrument.

Witness my hand and official stamp or seal this the 4th day of January, 2005.

LATHAM P. HODGES NOTARY PUBLIC CUMBERLAND CO., N.C.

Latham P. Hodges
Notary Public (SEAL)
My commission expires: 12-13-08

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STATE OF NORTH CAROLINA
Anson COUNTY

The Foregoing (or annexed) Certificate(s) of William M. Wilhelm, Jr. and Latham P. Hodges,
Notary(ies) Public (is)(are) Certified to be correct.
This instrument was filed for Registration on the Day and Hour in the Book and Page shown in the First page hereof.

Joanne A. Huntley
Anson Co., Register of Deeds

This instrument should be returned to:
NCDOT, Right of Way Office
Mr. William Wilhelm, Division Agent
206 Charter St.
Albemarle, NC 28001

EXHIBIT A

PROPERTY DESCRIPTION

Being that 209.24 acre tract adjoining Rocky Pee Dee, LLC, laying between Carpenter Road and Rocky River, as shown on survey entitled "Boundary Survey for John Allan Bishop" prepared by Barry D. Davis, PLS, and recorded in the Anson County Registry in Plat Hanger A-193, page 7.

The aforementioned legal description was obtained from the Register of Deeds Office, Anson County, North Carolina, from Deed Book 678, Page 284.

EXHIBIT B

LEGAL DESCRIPTION OF STREAM CONSERVATION EASEMENT AREAS

CONSERVATION EASEMENT:

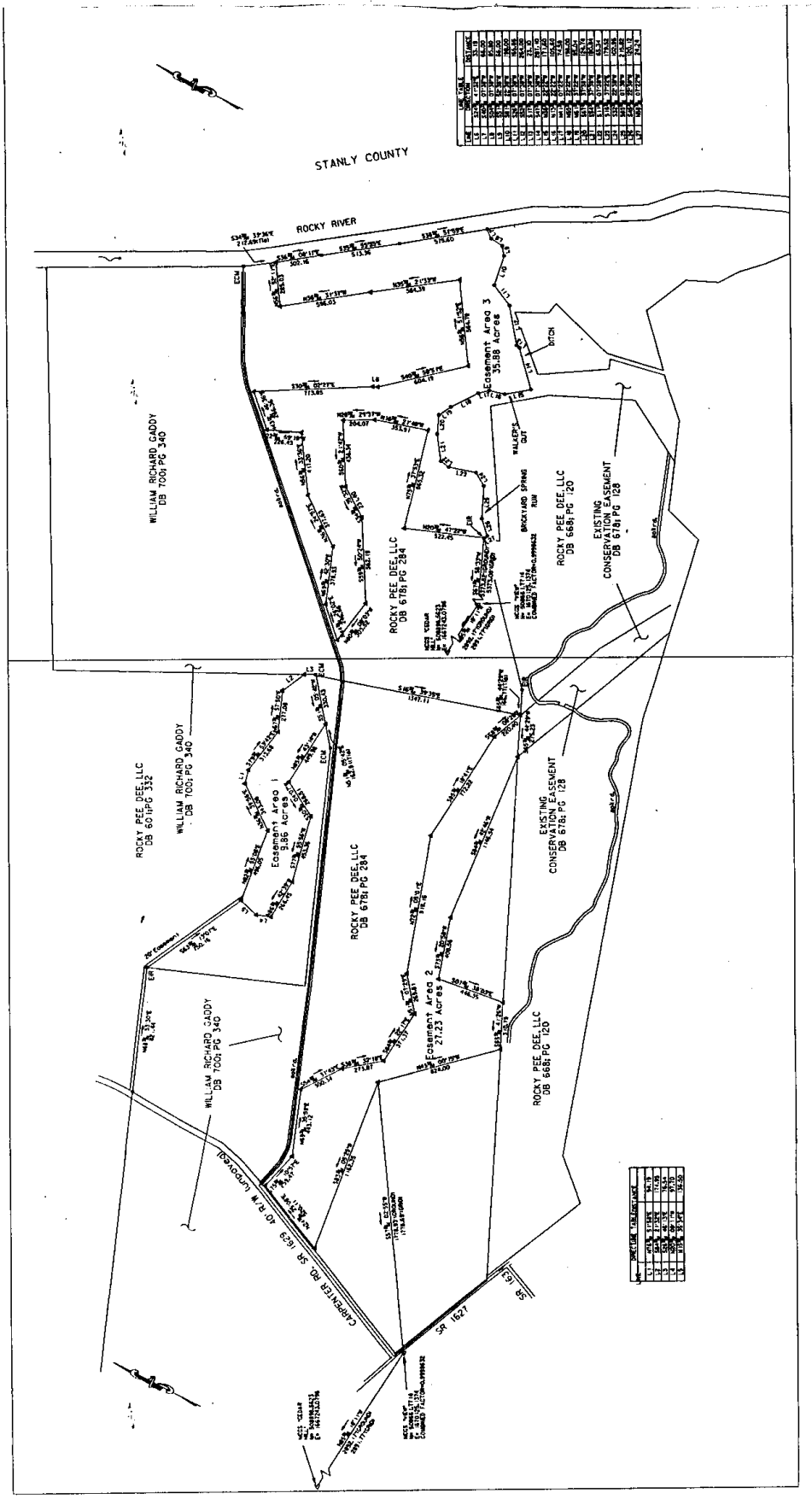
AREA 2: Point of beginning being a point 166.77 ft. from an existing iron rod with a bearing of South 65-44-29 West; thence South 65-44-29 West 275.23 ft. to a point; thence South 84-42-46 West 1146.54 ft. to a point; thence South 73-20-58 West 408.56 ft. to a point; thence South 07-38-03 East 446.35 ft. to a point; thence South 65-41-26 West 310.79 ft. to a point; thence North 43-00-15 West 824 ft. to a point; thence South 83-05-25 West 1162.35 ft. to a point, said point being on the existing eastern right of way of Carpenter Road (SR 1629); thence North 24-25-08 East 520.11 ft. to a point; thence South 75-10-57 East 259.47 ft. to a point; thence North 69-35-58 East 443.12 ft. to a point; thence South 54-31-43 East 300.34 ft. to a point; thence South 38-32-18 East 273.87 ft. to a point; thence South 84-22-17 East 371.37 ft. to a point; thence North 51-07-29 East 269.81 ft. to a point; thence North 72-05-01 East 918.16 ft. to a point; thence South 85-18-41 East 772.22 ft. to a point; thence South 68-08-28 East 220.40 ft. to the point and place of BEGINNING.

Said easement Area 2 containing 27.23 acres.

CONSERVATION EASEMENT:

AREA 3: Point of beginning being a point 212.69 ft. from an existing concrete monument, having a bearing of South 34-33-36 East; thence South 36-08-17 East 302.16 ft. to a point; thence South 35-55-55 East 513.36 ft. to a point; thence South 36-57-59 East 575.60 ft. to a point; thence South 40-07-38 West 66 ft. to a point; thence South 04-07-38 West 85.80 ft. to a point; thence South 51-52-38 West 66 ft. to a point; thence South 81-22-38 West 198 ft. to a point; thence South 26-07-38 West 165.66 ft. to a point; thence South 52-07-38 West 264 ft. to a point; thence South 17-07-38 West 23.10 ft. to a point; thence South 47-07-38 West 287.10 ft. to a point; thence North 38-22-22 West 171.60 ft. to a point; thence North 13-22-22 West 105.60 ft. to a point; thence North 41-07-22 West 74.58 ft. to a point; thence North 55-22-22 West 198 ft. to a point; thence North 61-37-22 West 95.04 ft. to a point; thence South 67-37-38 West 124.74 ft. to a point; thence South 54-37-38 West 180.84 ft. to a point; thence South 11-07-38 West 65.34 ft. to a point; thence South 16-37-22 East 179.52 ft. to a point; thence South 32-22-38 West 102.96 ft. to a point; thence South 65-07-38 West 215.82 ft. to a point; thence South 45-22-38 West 120.12 ft. to a point; thence North 58-07-22 West 24.24 ft. to a point; thence North 20-47-22 West 522.45 ft. to a point; thence North 75-37-53 East 665.32 ft. to a point; thence North 16-21-48 West 353.91 ft. to a point; thence North 28-29-37 West 204.07 ft. to a point; thence South 60-21-42 West 438.34 ft. to a point; thence South 34-35-32 West 231.40 ft. to a point; thence South 59-50-24 West 562.19 ft. to a point; thence North 80-08-03 West 303.52 ft. to a point; thence North 44-26-02 East 246.66 ft. to a point; thence North 69-42-30 East 378.93 ft. to a point; thence North 36-24-57 East 377.63 ft. to a point; thence North 56-33-36 East 417.20 ft. to a point; thence North 22-59-19 West 226.43 ft. to a point; thence North 43-46-36 East 266.36 ft. to a point; thence South 30-02-27 East 773.85 ft. to a point; thence South 24-41-32 East 33.19 ft. to a point; thence South 40-58-51 East 604.19 ft. to a point; thence North 56-51-52 East 564.79 ft. to a point; thence North 35-21-33 West 584.39 ft. to a point; thence North 36-31-37 West 596.03 ft. to a point; thence North 56-52-11 East 285.03 ft. to the point and place of BEGINNING.

Said area containing 35.88 acres.

EXHIBIT C

REDUCED-SIZE SURVEY OF STREAM CONSERVATION EASEMENT AREA