Doc ID: 000777710012 Type: CRP
Recorded: 12/11/2008 at 01:03:14 PM
Fee Amt: $51.00 Page 1 of 12
Excise Tax: $4.00
Lenoir County, NC
Margaret Seymour Register of Deeds
BK 1562 PG 335-346

OFFICE OF LENOIR COUNTY
TAX ADMINISTRATOR
by C. Jackson
date 12-12-08
#452512762265

STATE OF NORTH CAROLINA

CONSERVATION EASEMENT

LENOIR COUNTY
SPO File Number 54-ZZG
Prepared by: Office of the Attorney General
Property Control Section
Return to: NC Department of Administration
State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

INDEXED

THIS CONSERVATION EASEMENT DEED, pursuant to the provisions of N.C. General Statutes Chapter 121, Article 4 and made this 22nd day of October, 2008, by Orlander V. Moore and wife, Jearlene Moore, ("**Grantor**"), whose mailing address is 14627 Rio Rancho, San Diego, CA 92127, to the State of North Carolina, ("**Grantee**"), whose mailing address is State of North Carolina, Department of Administration, State Property Office, 1321 Mail Service Center, Raleigh, NC 27699-1321. 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 Ecosystem Enhancement Program (formerly known as the Wetlands Restoration Program) within the Department of Environment and Natural Resources for the purposes of acquiring, maintaining, restoring, enhancing, creating and preserving 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 State of North Carolina is qualified to be the Grantee of a Conservation Easement pursuant to N.C. Gen. Stat. § 121-35; and

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

12pgs
47.00
4.00
Stamps

WHEREAS, the Department of Environment and Natural Resources, the North Carolina Department of Transportation and the United States Army Corps of Engineers, Wilmington District entered into a Memorandum of Agreement, (MOA) duly executed by all parties in Greensboro, NC on July 22, 2003. This MOA recognizes that the Ecosystem Enhancement Program is to provide for compensatory mitigation by effective protection of the land, water and natural resources of the State by restoring, enhancing and preserving ecosystem functions; and

WHEREAS, the acceptance of this instrument for and on behalf of the State of North Carolina was 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, Grantor owns in fee simple certain real property situated, lying, and being in Kinston Township, Lenoir County, North Carolina (the "**Property**"), and being more particularly described as that certain parcel of land containing approximately 4.61 +/- acres located on Liberty Hill Road and being conveyed to the Grantor by deed as recorded in **Deed Book 1465 at Page 538** of the Lenoir County Registry, North Carolina; and further identified as PIN# 452512766265, and

WHEREAS, Grantor is willing to grant a Conservation Easement 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, and Grantee is willing to accept such Conservation Easement. This Conservation Easement shall be for the protection and benefit of the waters of Adkin Branch and the Neuse River.

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 described area of the 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 containing **0.638+/- acres** as shown on a plat of survey entitled "Conservation Easement for NC Ecosystem Enhancement Program on the Property of Orlander Moore" dated 10/31/07, certified by Wade Davenport, PLS L3552, and attached and incorporated hereinto as **"Exhibit A."**

The purposes of this Conservation Easement are to maintain, restore, enhance, create and preserve wetland and/or riparian resources in the 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 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

Pursuant to law, including the above referenced statutes, this Conservation Easement shall be perpetual and it shall run with, and be a continuing restriction upon the use of, the Property, and it shall be enforceable by the Grantee against the Grantor and against Grantor's heirs, successors and assigns, personal representatives, agents, lessees, and licensees.

II. GRANTOR 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. Without limiting the generality of the foregoing, the following specific uses are prohibited, restricted, or reserved as indicated:

A. Recreational Uses. Grantor expressly reserves the right to undeveloped recreational uses, including hiking, bird watching, hunting and fishing, and access to the Easement Area for the purposes thereof. Usage of motorized vehicles in the Easement Area is prohibited, except as they are used exclusively for management, maintenance, or stewardship purposes, and on existing trails, paths or roads.

B. Educational Uses. The Grantor reserves the right to engage in and permit others to engage in educational uses in the Easement Area not inconsistent with this Conservation Easement, and the right of access to the Easement Area for such purposes including organized educational activities such as site visits and observations. Educational uses of the property shall not alter vegetation, hydrology or topography of the site.

C. 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 Easement Area to persons or natural habitat, all cutting, removal, mowing, harming, or destruction of any trees and vegetation in the Easement Area is prohibited.

D. Industrial, Residential and Commercial Uses. All are prohibited in the Easement Area.

E. Agricultural Use. All agricultural uses within the Easement Area including any use for cropland, waste lagoons, or pastureland are prohibited.

F. New Construction. There shall be no building, facility, mobile home, antenna, utility pole, tower, or other structure constructed or placed in the Easement Area.

G. Roads and Trails. There shall be no construction of roads, trails, walkways, or paving in the Easement Area. Existing roads or trails located in the Easement Area may be maintained by Grantor 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 Easement Area. Existing roads, trails or paths may be maintained with loose gravel or permanent vegetation to stabilize or cover the surfaces.

H. 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 Property and the holder of the Conservation Easement, signs giving directions, or signs prescribing rules and regulations for the use of the Easement Area may be allowed.

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

J. 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.

K. Water Quality and Drainage Patterns. 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. No altering or tampering with water control structures or devices, or disruption or alteration of the restored, enhanced, or created drainage patterns. All removal of wetlands, polluting or discharging into waters, springs, seeps, or wetlands, or use of pesticide or biocides is prohibited. In the event of an emergency interruption or shortage of all other water sources, water from within the Easement Area may temporarily be used for good cause shown as needed for the survival of livestock and agricultural production.

L. Subdivision and Conveyance. Grantor voluntarily agrees that no subdivision, partitioning, or dividing of the underlying fee that is subject to this Easement is allowed. Unless agreed to by the Grantee in writing, any future conveyance of the underlying fee for the Easement Area and the rights as conveyed herein shall be as a single block of property. Any future transfer of the fee simple shall be subject to this Conservation Easement. Any transfer of the fee is subject to the Grantee's right of unlimited and repeated ingress and egress over and across the Property to the Easement Area for the purposes set forth herein.

M. Development Rights. All development rights are removed from the Easement Area and shall not be transferred.

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

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 N.C. Ecosystem Enhancement Program, whose mailing address is 1652 Mail Services Center, Raleigh, NC 27699-1652.

III. GRANTEE RESERVED USES

A. Ingress, Egress, ~~Regress~~ and Inspection. The Grantee, its employees and agents, successors and assigns, receive the perpetual right of unlimited and repeated ingress and egress to the 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 Easement Area, in accordance with restoration activities or a long-term management plan. Unless otherwise specifically set forth in this Conservation Easement, the rights granted herein do not include or establish for the public any access rights.

B. Restoration Activities. 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.

IV. ENFORCEMENT AND REMEDIES

A. Enforcement. To accomplish the purposes of this Conservation Easement, Grantee is allowed to prevent any activity within the Easement Area that is inconsistent with the purposes of this Easement and to require the restoration of such areas or features of the Easement Area that may have been damaged by such activity or use. Upon any breach of the terms of this Conservation Easement by Grantor, their successors or assigns, that comes to the attention of the Grantee, the Grantee shall, except as provided below, notify the Grantor, their successors or assigns in writing of such breach. The Grantor shall have ninety (90) days after receipt of such notice to correct 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. The Grantee shall also have the power and authority, consistent with its statutory authority: (a) to prevent any impairment of the Easement Area by 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. Notwithstanding the foregoing, the Grantee reserves the immediate right, without notice, to obtain a temporary restraining order, injunctive or other appropriate relief if the breach of the term of this Conservation Easement is or would irreversibly or otherwise materially impair the benefits to be derived from this Conservation Easement. The Grantor and Grantee acknowledge that under such circumstances damage to the Grantee would be irreparable and remedies at law will be inadequate. The rights and remedies of the Grantee provided hereunder shall be in addition to, and not in lieu of, all other rights and remedies available to Grantee in connection with this Conservation Easement.

B. Inspection. The Grantee, its employees and agents, successors and assigns, have the right, with reasonable notice, to enter the Easement Area over the Property at reasonable times for the purpose of inspection to determine whether the Grantor, their successors or assigns are complying with the terms, conditions and restrictions of this Conservation Easement.

C. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor, their successors or assigns, for any injury or change in the Easement Area caused by third parties, resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such causes.

D. Costs of Enforcement. Beyond regular and typical monitoring, any costs incurred by Grantee in enforcing the terms of this Conservation Easement against Grantor, their successors or assigns, including, without limitation, any costs of restoration necessitated by Grantor's acts or omissions in violation of the terms of this Conservation Easement, shall be borne by Grantor.

No Waiver. Enforcement of this Easement shall be at the discretion of the Grantee and any forbearance, delay or omission by Grantee to exercise its rights hereunder in the event of any breach of any term set forth herein shall not be construed to be a waiver by Grantee.

V. MISCELLANEOUS

A. 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.

B. 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.

C. Grantor shall notify Grantee in writing of the name and address and any party to whom the 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 Property is conveyed subject to the Conservation Easement herein created.

D. The Grantor and Grantee agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interests in the Property or any portion thereof.

E. This Conservation Easement may be amended, but only in writing signed by all parties hereto, and provided such amendment does not affect the qualification of this Conservation Easement or the status of the Grantee under any applicable laws, and is consistent with the purposes of the Conservation Easement.

F. The parties recognize and agree that the benefits of this Conservation Easement are in gross and assignable provided, however, that the Grantee hereby covenants and agrees, that in the event it transfers or assigns this Conservation Easement, the organization receiving the interest will be a qualified holder under N.C. Gen. Stat. § 121-34 et seq. and § 170(h) of the Internal Revenue Code, and the Grantee 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 in perpetuity the conservation purposes described in this document.

VI. QUIET ENJOYMENT

Grantor reserves all remaining rights accruing from ownership of the 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 the State of North Carolina for the aforesaid purposes.

AND Grantor covenants that Grantor is seized of said premises in fee and has the right to convey the permanent Conservation 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.

_____ (SEAL)
Orlander V. Moore

_____ (SEAL)
Jeanlene Moore

STATE OF California

COUNTY OF San Diego

I, Eileen M. Vanetten, a Notary Public in and for the County and State aforesaid, do hereby certify that Orlander V. Moore, 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 Notary Seal this the 22 day of October, 2008

_____
Notary Public

My commission expires:

June 16, 2009

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego

On October 22, 2008 (Date) before me, Eileen M. Vanettes Notary Public (Here Insert Name and Title of the Officer)

personally appeared Orlander V. Moore (Name(s) of Signer(s))

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Eileen M. Vanettes (Signature of Notary Public)

OFFICIAL SEAL
EILEEN M. VANETTES
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1587804
RIVERSIDE COUNTY
MY COMM. EXP. JUNE. 16, 2009

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Conservation Easement

Document Date: — Number of Pages: 10

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)

Signer's Name: Orlander V. Moore
☑ Individual
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name:
☐ Individual
☐ Corporate Officer — Title(s):
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other:

Signer Is Representing:

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Diego }

On November 24, 2008 (Date) before me, Carina Marie Graham, Notary Public (Here Insert Name and Title of the Officer),

personally appeared Jearlene Moore (Name(s) of Signer(s)),

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal Above

CARINA MARIE GRAHAM
COMM. # 1788302
Notary Public - California
SAN DIEGO
My Commission Expires Dec. 30, 2011
BCT 2

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Conservation Easement

Document Date: _____ Number of Pages: 10

Signer(s) Other Than Named Above: Orlandor V. Moore

Capacity(ies) Claimed by Signer(s)

Signer's Name: Jearlene Moore
- ☑ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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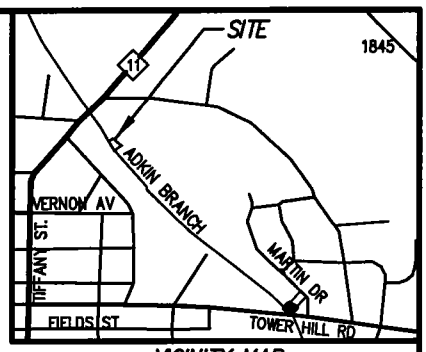
Exhibit A

THIS PROPERTY IS LOCATED IN ZONE AE AND IS IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY SCALING AND GRAPHIC PLOTTING FROM N.F.I.P. RATE MAPS. DATED 7-2-04 COMMUNITY PANEL 370145-4525-J

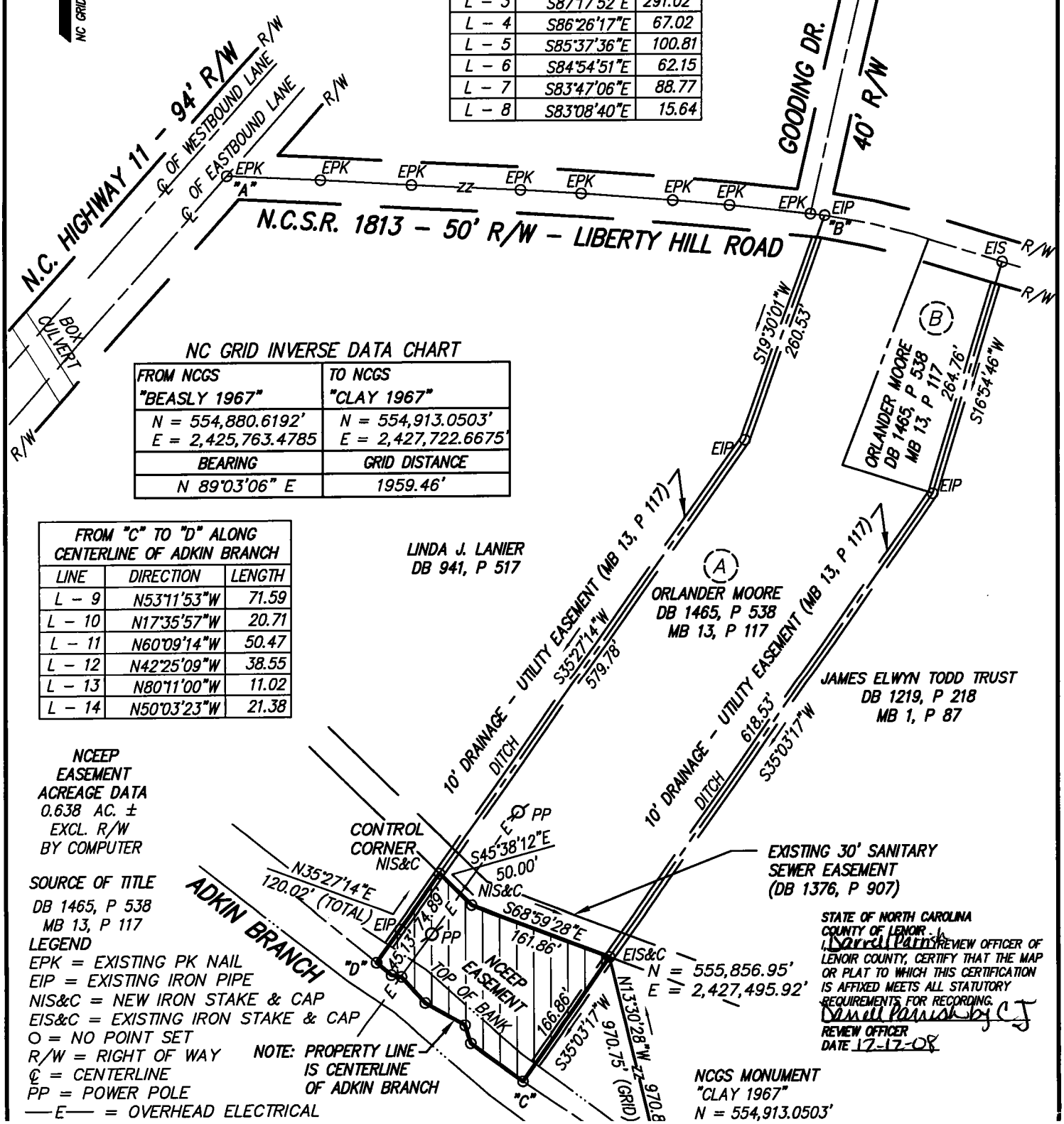
COMBINED SCALE FACTOR = 0.999873
ALL DISTANCES ARE HORIZONTAL GROUND MEASUREMENTS IN FEET AND DECIMALS THEREOF UNLESS OTHERWISE NOTED.

NC GRID – NAD 83/2001



VICINITY MAP

FROM "A" TO "B" ALONG CENTERLINE OF N.C.S.R. 1813		
LINE	DIRECTION	LENGTH
L – 1	S87°20'13"E	102.33
L – 2	S86°40'35"E	100.02
L – 3	S87°17'52"E	291.02'
L – 4	S86°26'17"E	67.02
L – 5	S85°37'36"E	100.81
L – 6	S84°54'51"E	62.15
L – 7	S83°47'06"E	88.77
L – 8	S83°08'40"E	15.64



NC GRID INVERSE DATA CHART

FROM NCGS "BEASLY 1967"	TO NCGS "CLAY 1967"
N = 554,880.6192' E = 2,425,763.4785	N = 554,913.0503' E = 2,427,722.6675'
BEARING	GRID DISTANCE
N 89°03'06" E	1959.46'

FROM "C" TO "D" ALONG CENTERLINE OF ADKIN BRANCH		
LINE	DIRECTION	LENGTH
L – 9	N53°11'53"W	71.59
L – 10	N17°35'57"W	20.71
L – 11	N60°09'14"W	50.47
L – 12	N42°25'09"W	38.55
L – 13	N80°11'00"W	11.02
L – 14	N50°03'23"W	21.38

NCEEP EASEMENT ACREAGE DATA
0.638 AC. ± EXCL. R/W BY COMPUTER

SOURCE OF TITLE
DB 1465, P 538
MB 13, P 117

LEGEND
EPK = EXISTING PK NAIL
EIP = EXISTING IRON PIPE
NIS&C = NEW IRON STAKE & CAP
EIS&C = EXISTING IRON STAKE & CAP
O = NO POINT SET
R/W = RIGHT OF WAY
℄ = CENTERLINE
PP = POWER POLE
—E— = OVERHEAD ELECTRICAL

STATE OF NORTH CAROLINA
COUNTY OF LENOIR
I, Darrell Parrish REVIEW OFFICER OF LENOIR COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.
Darrell Parrish by CJ
REVIEW OFFICER
DATE 12-12-08

Consent of Lienholder

Wells Fargo Bank, N. A. ("Lienholder"), hereby consents to the grant of the foregoing Conservation Easement for Wetlands by Orlander V. Moore and Jearlene Moore to the State of North Carolina, and, joins in the execution hereof solely as Lienholder and hereby does agree that in the event of the foreclosure of said mortgage, or other sale of said property described in said mortgage under judicial or non-judicial proceedings, the same shall be sold subject to said Conservation Easement for Wetlands.

SIGNED AND EXECUTED this 17th day of SEPTEMBER, 2008.

Wells Fargo Bank, N. A.

By: _____
Edward A. DeBus
Vice President

STATE of MARYLAND

COUNTY of FREDERICK

BEFORE ME, the undersigned authority, on this day personally appeared Edward A. DeBus, Vice President of Wells Fargo Bank, N. A., known to me to be the person and Officer whose name is subscribed to the foregoing instrument and who acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, as the act and deed of the said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 17th day of SEPTEMBER, 2008.

NANETTE S. FRANCELLA NOTARY PUBLIC FREDERICK COUNTY, MD
My Comm. Exp. 03.01.2011

_____
Notary Public

My commission expires: 3-01-2011

Doc ID: 000553050005 Type: CRP
Recorded: 07/11/2007 at 11:02:24 AM
Fee Amt: $26.00 Page 1 of 5
Lenoir County, NC
Margaret Seymour Register of Deeds
BK 1512 PG 668-672

STATE OF NORTH CAROLINA
COUNTY OF LENOIR
Prepared by State Property Office
Return after recording to:
Blane Rice, State Property Office
1321 Mail Service Center
Raleigh, NC 27699-1321

INDEXED

CONSERVATION EASEMENT OPTION AGREEMENT
Ecosystem Enhancement Program
SPO File Number

THIS OPTION AGREEMENT, hereinafter referred to as Option, made and entered into this 15 day of JUNE, 2007 by and between Orlander V. Moore and wife, Jearlene, hereinafter referred to as the **Seller**, and the **State of North Carolina**, and its successors and assigns, hereinafter referred to as the **State.**

WITNESSETH

In consideration of $10.00 and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and of the agreements contained in this Option, **Seller** hereby grants to the **State**, its successors and assigns, the exclusive right and option to receive a perpetual **Conservation Easement** over mutually agreed upon lands owned by the **Seller**, hereinafter referred to as the **Parent Tract**. The **Conservation Easement** shall perpetually protect those lands hereinafter referred to as the **Easement Area.** The **Parent Tract** is located in Lenoir County, North Carolina and contains 4.61+/- acres, more or less. The **Parent Tract** subject to the **Conservation Easement** is further described in Deed Book 1376, Page 278, and Deed Book 1465 Page 538 Lenoir County Registry and Will 91 E 168. Property is also identified as being Tax Parcel Number 452512766265 and is located at 904 Liberty Hill Road, Kinston.

Being a perpetual **Conservation Easement** that will permanently protect the restoration, enhancement or preservation of Adkin Branch located between Hwy. 11 and Lincoln Street. The **Easement Area** begins at the centerline of Adkin Branch and extends outwardly from the top of bank to an existing sewer easement being an approximate

5

26.00

width of 50 to 60 +/- feet, subject to survey, along the entire length of the property and runs as the stream meanders.

The following terms, provisions, and conditions are further agreed to:

1. **OPTION PERIOD**. This option shall remain in effect from the date that this Option has been executed by the **Grantor** until the 31st **day of December 2008.** This Option shall be exercised upon posting, by certified mail, a written notice to the **Grantor** at the following address: **14627 Rio Rancho, San Diego, CA 92127**. Exercise shall be deemed timely if such written notice is mailed on or before the date first set forth in this paragraph.

2. **PURCHASE PRICE**. The total purchase price for the **Easement Area** shall be the *greater* of **$2,400.00, (Two Thousand Four Hundred Dollars)** per acre subject to final survey ($2,400.00 per acre) or $600.00 (Six Hundred Dollars).

3. **CLOSING**. A closing of the sale of this **Conservation Easement** under this Option shall be held within **90 days** of the exercise of this Option; provided, however, in the event of objections to title or condition of land at closing, and diligent efforts on **Seller's** part to cure said objections, a closing shall be held within a reasonable time following the removal of said objections.

4. **EVIDENCE OF TITLE**. Upon receipt of this signed Option, the **State** will have title to the **Easement Area** examined, and if applicable, obtain a preliminary title insurance commitment. The title examination and/or commitment must evidence the **Seller's** ability to deliver title at closing as set forth below. All costs necessary to procure the title examination and, if applicable, the title commitment and final title insurance policy to be issued at closing, shall be the responsibility of the **State**.

5. **TITLE**. At closing, the **Seller** shall convey good, insurable and marketable title to the **Conservation Easement** together with all rights necessary to protect the **Easement Area** in perpetuity, including legal access, all mineral rights and all development rights, to the **State** free and clear of all liens, encumbrances, restrictions, rights, or exceptions except those of record that are acceptable to the **State**.

6. **TITLE DEFECTS**. If for any reason the **Seller** cannot deliver title at closing as required by Paragraph 5 of this Option, the **State** may elect to a) accept the **Conservation Easement** with title as is; b) refuse to accept the **Conservation Easement**; or c) allow the **Seller** additional time to pursue reasonable efforts to correct the problem, including bringing any necessary quiet title actions or other lawsuits.

7. **SUBJECT TO SURVEY AND DESIGN**. It is understood and intended that the final **Easement Area** and **Conservation Easement** under this option is subject to final design, approval and survey by the **Ecosystem Enhancement Program** with these costs paid by the **State.**

8. **DOCUMENTS FOR CLOSING**. The **Seller** shall execute and deliver at closing a **Conservation Easement**, any owner's affidavits or documents required by a title insurance company to remove the standard title policy exceptions, and any other documents necessary to close in accordance with the terms of this Option. These documents will be prepared at the expense of the **State**.

9. **PROPERTY TAXES.** Any delinquent real estate taxes and all levied assessments are the **Seller**'s responsibility and should be satisfied of record by the **Seller** at or before closing. Any deferred taxes on the **Easement Area**, which become due as a result of this conveyance, shall be the responsibility of the **Seller**. Real estate taxes for the year in which the transaction is closed shall be the responsibility of the **Seller** and not prorated, as the **State** is not receiving fee simple title.

10. **MISCELLANEOUS CLOSING EXPENSES.** The **Seller** will pay any documentary stamp tax, real estate transfer fee or any similar charge due upon conveyance of title to the **State**. The **State** will pay recording fees.

11. **POSSESSION.** The **Seller** will deliver possession of the **Easement Area** to the **State** at closing subject to no leases, mortgages, liens or other reserved rights, and in the condition set forth below in Paragraph 12.

12. **CONDITION OF PROPERTY/ RISK OF LOSS.** The **Seller** shall not transfer or encumber any interests in the **Easement Area** prior to closing. The **Seller** shall keep the **Easement Area** in its current condition until closing and shall prevent and refrain from any use of the **Easement Area**, for any purpose or in any manner, that would diminish its value or adversely affect the **State's** intended uses.

    In the event of any adverse change in the condition of the **Easement Area**, whether said change is caused by **Seller** or by forces beyond **Seller's** control, the **State** may elect to a) refuse to accept the property; b) accept the Property, or a portion thereof, in which case there may be an equitable adjustment of the purchase price based on a change in circumstances; or c) require restoration of the Property to its condition at the time this Option was granted.

13. **RIGHT OF ENTRY AND INSPECTION.** The **State** and its agents shall have the right to enter upon the Property at reasonable times for surveying, engineering, conducting environmental inspections and assessments to detect hazardous or toxic substances, and other reasonable purposes related to this transaction. Based upon the results of the environmental inspections and assessments, or upon other conditions revealed to be unsuitable to the **State**, the **State** may elect to refuse to accept the **Easement Area**.

14. **REMEDIES.** In addition to any other remedy specifically set forth in this Option, the **State** has the right to enforce the provisions of this Option through an action for specific performance, injunctive relief, damages, contribution or any other available proceedings in law or equity. The election of any one remedy available under this Option shall not constitute a waiver of any other available remedies.

15. **BINDING EFFECT.** This Option becomes effective when signed by the **Seller** and shall then apply to and bind the **Seller** and **Seller's** heirs, executors, administrators, successors, and assigns.

16. **COMPLETE AGREEMENT.** This Option constitutes the sole and complete agreement between the parties and cannot be changed except by written agreement. The **Ecosystem Enhancement Program** promotes the preservation, restoration and enhancement of streams and/or wetlands. Any representations, contracts or agreements created by or for the **Ecosystem Enhancement Program** are exclusive of this option unless specifically incorporated herein by exhibit.

17. **NO WAIVER.** No provision of the Option shall be deemed amended or waived unless such amendment or waiver is set forth in a writing signed by the **State**. No act or failure to act by the **State** shall be deemed a waiver of its rights hereunder, and no waiver in any one circumstance or of any one provision shall be deemed a waiver in other circumstances or of other provisions.

18. **ASSIGNMENT.** The **State** has the right to assign this Option. In the event of such assignment, the assignee will have all the rights, powers, privileges and duties held by the **State** pursuant to this Option.

IN TESTIMONY THEREOF, the parties have hereunto set their hands and seals, or if corporate have caused this instrument to be executed in their corporate names by their duly authorized representatives as of the dates indicated below.

Seller

By: _____
Orlander V. Moore

By: _____
Jearlene Moore

See Attachment for Official Notarization

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I, CONNIE T. NGO, a Notary Public in and for SAN DIEGO County and the State aforesaid, do hereby certify that ORLANDER V. MOORE, 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 Notary Seal this the 15th day of JUNE, 2007.

Notary Public

OFFICIAL SEAL
CONNIE T. NGO
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1727557
SAN DIEGO COUNTY
MY COMM. EXP. MAR. 25, 2011

My commission expires:

MARCH 25, 2011

(Notary Seal)

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

I, CONNIE T. NGO, a Notary Public in and for SAN DIEGO County and the State aforesaid, do hereby certify that JEARLENE MOORE, 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 Notary Seal this the 15th day of JUNE, 2007.

Notary Public

OFFICIAL SEAL
CONNIE T. NGO
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1727557
SAN DIEGO COUNTY
MY COMM. EXP. MAR. 25, 2011

My commission expires:

MARCH 25, 2011

(Notary Seal)