

FILED Krista M Lowe
Register of Deeds, Randolph Co, NC
Recording Fee: \$47.00
NC Real Estate Ex Tx: \$.00

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10/20/2009 08:15:55 AM 1/12



STATE OF NORTH CAROLINA

P.I.N. # 8716271242

COUNTY OF RANDOLPH

✓ RETURN TO:

Piedmont Land Conservancy
P.O. Box 4025
Greensboro, NC 27404

**AMENDED CONSERVATION EASEMENT
AND EASEMENTS OF INGRESS AND EGRESS**

This Amended Conservation Easement and Easements of Ingress and Egress (“Amended Easement”) is entered into on this 2 day of SEPTEMBER, 2009, by and between Kingsmill DCF, LLC, a North Carolina Limited Liability Company with an address of 7200 Stonehedge Drive, Suite 250, Raleigh, NC 27613 (“Owner”), PIEDMONT LAND CONSERVANCY, a North Carolina non-profit corporation with an address of Post Office Box 4025, Greensboro, NC 27404 (“PLC”), and THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, with an address of 1548 Mail Service Center, Raleigh, NC 27699-1548 (“NCDOT”) (PLC and NCDOT are collectively referred to herein as Grantees).

The designation Owner and Grantees 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:

By instrument dated December 29, 2003, and recorded at Deed Book 1849, Page 866 of the Randolph County Registry, a “Conservation Easement and Easements of Ingress and Egress” (hereinafter, “Conservation Easement”) were granted to PLC and the NCDOT over



approximately 374.4 acres in Liberty Township, Randolph County, State of North Carolina, then owned by Buttke Dairy Enterprises, Inc., and being all of that certain tract as more particularly described in Exhibit A, attached hereto and incorporated herein (hereinafter, the "Property"). For purposes of administering the Conservation Easement, the Property was divided into two geographic areas: a Farmland Conservation Area and a Stream Conservation Area. PLC administers the Conservation Easement in the Farmland Conservation Area, while NCDOT administers the Conservation Easement in the Stream Conservation Area until the U.S. Army Corps of Engineers ("USACE") provides final approval of the Stream Mitigation Project, as defined in the Conservation Easement. After such approval, PLC will administer the Conservation Easement in the Stream Conservation Area.

On September 21, 2006, by instrument recorded at Deed Book 1991, Page 1829 of the Randolph County Registry, Owner acquired title to the Property from Buttke Dairy Enterprises, Inc.

Pursuant to Paragraph 19 of the Conservation Easement, the parties are now amending the Conservation Easement to record the boundaries of the Farm Conservation Area and Stream Conservation Area. The parties have also agreed to other amendments to the Conservation Easement, as described below.

NOW, THEREFORE, for the reasons given, and in consideration of their mutual covenants, terms, conditions and restrictions contained herein, the parties hereby amend the Conservation Easement as follows:

A. Paragraph 3 is amended to read:

3. Description of Stream Conservation Area and Farmland Conservation Area

The Stream Conservation Area is depicted on a plat titled "Conservation Easement on the Lands of Kingsmill DCF, LLC, for North Carolina Department of Transportation," prepared by McKim and Creed, and recorded at Plat Book PL122, Page 96, of the Randolph County Registry (hereinafter, "the Plat" or Exhibit B). The Stream Conservation Area consists of all areas labeled "Conservation Easement Area" on the Plat and encompasses perennial and intermittent streams located on the Property. There are two distinct areas of protection covered under the Stream Conservation Area. They include (1) stream preservation areas and (2) stream enhancement and restoration areas. The stream preservation areas encompass seventy-five (75') foot "no-touch" buffers on both sides of the stream as measured from the top of the stream bank from the outside meander bends. The stream enhancement and restoration areas encompass fifty (50') foot "no-touch" buffers on both sides of the stream as measured from the top of the stream bank from the outside meander bends, and an additional twenty-five (25') foot buffer zone (the "Buffer Zone") that must be maintained in a permanently grassed or naturally vegetated buffer strip. Exhibit B further describes the Stream Conservation Area as depicted on a 1993 aerial photograph. The Stream Conservation Area is comprised of stream enhancement and restoration and buffers, and stream preservation and buffers.



The Farmland Conservation Area consists of all land on the Property excluding the Stream Conservation Area.

B. Paragraph 4(b) is removed and replaced with the following paragraph 4(b):

4(b). Permanent Access Easement to Stream Conservation Area.

Owner hereby grants and conveys to the NCDOT, in perpetuity, a Permanent Access Easement of Ingress and Egress (the "Permanent Access Easement") as depicted on the Plat, which consists of the area labeled "20' Ingress/Egress Easement." PLC and NCDOT, and their authorized representatives, specifically including the Ecosystem Enhancement Program, shall have the right in perpetuity to enter the Stream Conservation Area through the Property over this Permanent Access Easement, at all reasonable times, for the purpose of inspecting the Stream Conservation Area to determine if the Owner is complying with the terms, conditions, restrictions, and purposes of this Conservation Easement, and to perform maintenance or restorative work to the streams as may be necessary to further the purposes of this Conservation Easement. Grantees will notify the Owner by phone, email, or other correspondence before entering the Property for this purpose. However, if either Grantee, in its sole discretion, determines that circumstances require immediate entry, such party is not required to notify Owner or the other Grantee prior to entry, but will notify Owner and the other Grantee within two business days of such entry.

C. The first paragraph of Paragraph 13 is amended to read:

13. Permitted and Restricted Activities in the Farmland Conservation Area

Within that area identified as the Farmland Conservation Area, the following activities and uses are expressly prohibited, restricted or reserved as indicated hereunder.

The remainder of Paragraph 13 is unchanged.

D. The first paragraph of Paragraph 14 is amended to read:

14. Permitted and Restricted Activities in the Stream Conservation Area

Within that area identified as the Stream Conservation Area, the following activities and uses are expressly prohibited, restricted or reserved as indicated hereunder:

The remainder of Paragraph 14 is unchanged.

E. The second paragraph of Paragraph 14.I. is removed and replaced with the following:

The Owner hereby reserves the right to maintain the stream crossings depicted on the Plat and labeled "15' Ingress/Egress Easement." NCDOT and PLC may cross the stream crossings as indicated to access adjacent portions of the Stream Conservation Area. The NCDOT and PLC



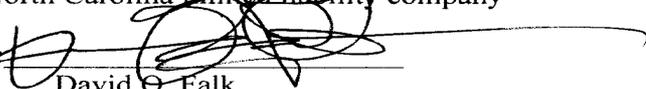
may agree to allow Owner to move existing crossings, install new crossings, or widen existing crossings, if needed in the future, provided that each such request is consistent with the purposes of this Conservation Easement, the Owner obtains prior written approval from both NCDOT and PLC, and the work is done with all necessary state and federal permits. These crossings shall not exceed a width of fifty (50) feet and will be constructed in a way that minimizes negative impacts to the stream and riparian vegetation.

TO HAVE AND TO HOLD this Amended Conservation Easement and Easements of Ingress and Egress, unto Grantees, their respective successors and assigns, forever.

IN WITNESS WHEREOF, the Owner and Grantees, intending to legally bind themselves, have set their hands on the date first written above.

OWNER:

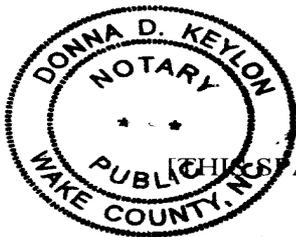
KINGSMILL DCF, LLC
a North Carolina limited liability company

By 
David O. Falk
Owner

NORTH CAROLINA
Wake COUNTY

I, Donna D. Keylon, a Notary Public of Wake County, North Carolina do hereby certify that David O. Falk personally came before me this day and acknowledged that he is the Manager of Kingsmill DCF, LLC, a North Carolina limited liability company, and that by authority duly given and as the act of such entity, he executed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and official stamp or seal this the 2nd day of October, 2009.



Donna D. Keylon
Notary Public (SEAL)
My commission expires: June 30, 2012

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GRANTEE:

PIEDMONT LAND CONSERVANCY,
a North Carolina non-profit corporation

By: Jacqueline H. Ponzoni
Jacqueline H. Ponzoni, President

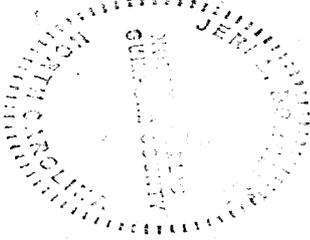
ATTEST:

By: Kalen A. Kingsbury
Kalen A. Kingsbury, Assistant Secretary
(SEAL)

NORTH CAROLINA
GUILFORD COUNTY

I, Jeri L. DONNELLY, a Notary Public of Guilford County, North Carolina do hereby certify that Kalen A. Kingsbury personally came before me this day and acknowledged that she is the Assistant Secretary of Piedmont Land Conservancy, a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by herself as Assistant Secretary.

Witness my hand and official stamp or seal this the 9th day of September, 2009.



Jeri L. Donnelly
Notary Public (SEAL)
My commission expires: 2/22/2014

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GRANTEE:

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

BY: *EC Powell*
Ellis C. Powell Jr., P.E.
Director of Field Support

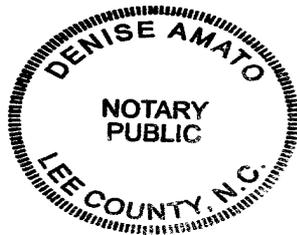
NORTH CAROLINA
WAKE COUNTY

I, Denise Amato, a Notary Public in and for the County and State of North Carolina do hereby certify that Ellis C. Powell, Jr. personally came before me this day and acknowledged that he is Director of Field Support 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 seal this 1st day of October 2009.

My commission expires: October 28, 2009

Denise Amato
Denise Amato, Notary Public





UNITED STATES:

**ACCEPTANCE OF PROPERTY INTEREST
BY THE UNITED STATES OF AMERICA**

The United States Department of Agriculture, Natural Resources Conservation Service, a Department and Agency of the United States Government, hereby accepts and approves the foregoing Deed of Conservation Easement, and the rights conveyed therein, on behalf of the United States of America.

NATURAL RESOURCES
CONSERVATION SERVICE

By: Mary K. Combs
Mary K. Combs,
State Conservationist

NORTH CAROLINA
COUNTY OF WAKE

I, Dianna M. Wilson, a Notary Public of the aforesaid county do hereby certify that Mary K. Combs, State Conservationist, Natural Resources Conservation Service, United States Department of Agriculture personally appeared before me and acknowledged the due execution of the foregoing instrument on behalf of the United States of America.

Witness my hand and official stamp or seal this 2nd day of Sep, 2009.

Dianna M. Wilson
Notary Public

My commission expires: 9-11-2011



This instrument should be returned to:

Piedmont Land Conservancy
P.O. Box 4025
Greensboro, NC 27404



EXHIBIT "A"

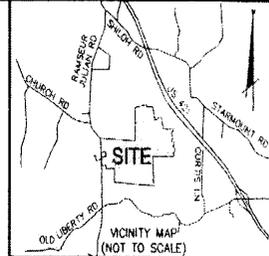
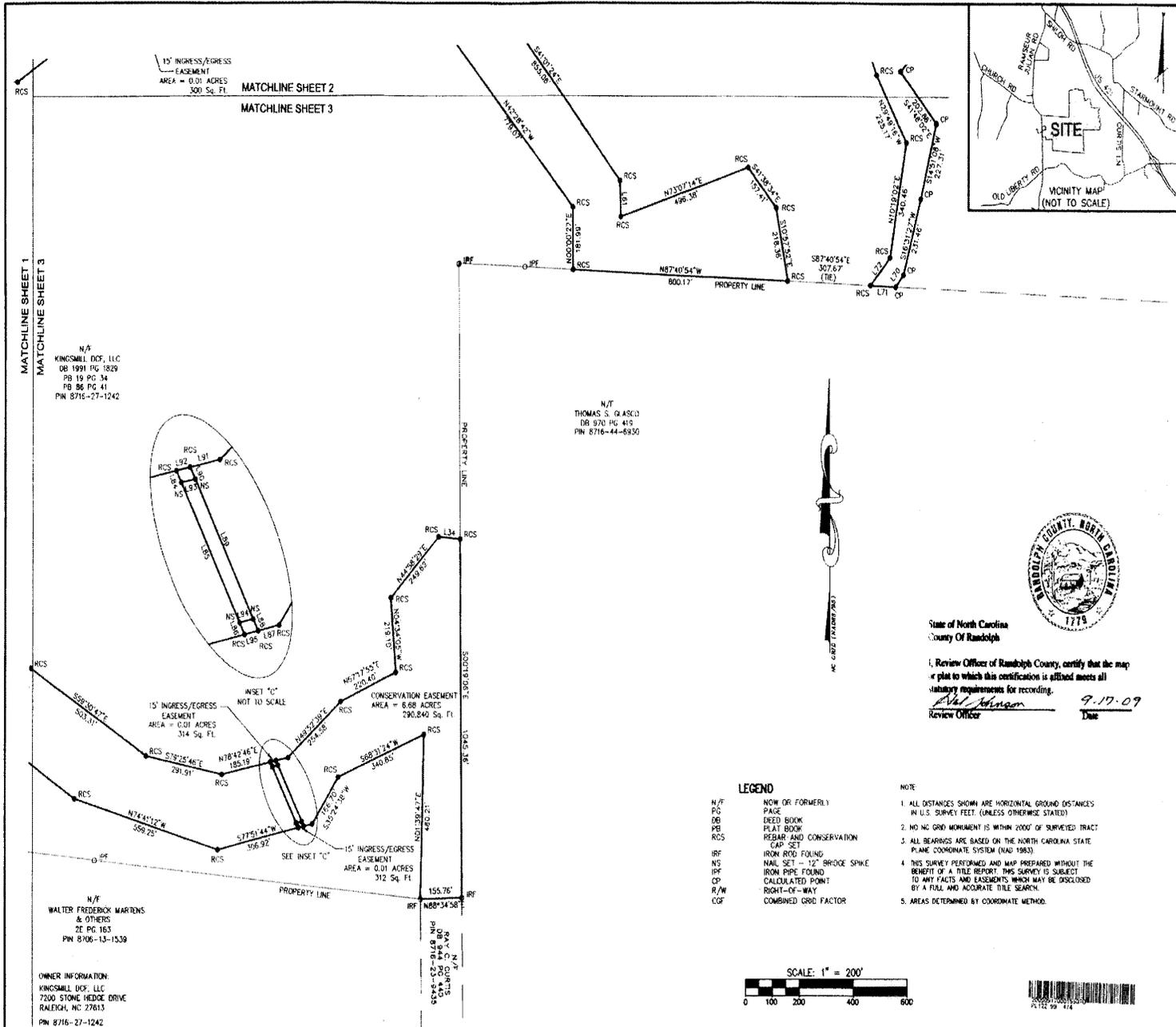
PROPERTY DESCRIPTION

Liberty Township, Randolph County, NC

All that certain tract of land consisting of 374.43 acres, more or less, as shown on survey for MEREDULL FARM, INC., recorded at Book 19, Page 34, Randolph County Registry.

Together with a non-exclusive right of way 60 feet wide for ingress and egress running from Secondary Road No. 2442 immediately south of Benjamin Williams' south line and running south along and within the western boundary of the 2.00-acre tract as shown on the recorded plat referenced above. The terms of this Conservation Easement do not apply to this 60 feet wide right of way for ingress and egress except as to provide Grantees temporary and permanent access to 374.43 acres as shown on the recorded plat referenced above.

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.

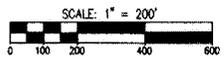


State of North Carolina
County Of Randolph

I, Review Officer of Randolph County, certify that the map or plan to which this certification is affixed meets all statutory requirements for recording.
Val Johnson
 Review Officer Date 9.17.07

- LEGEND**
- N/F NOW OR FORMERLY
 - PG PAGE
 - DB DEED BOOK
 - PE PLAT BOOK
 - RCS REBAR AND CONSERVATION CAP SET
 - IRF IRON ROD FINDING
 - NS NAIL SET - 1/2" BRONZE SPIKE
 - IPF IRON PIPE FOUND
 - CP CALCULATED POINT
 - R/W RIGHT-OF-WAY
 - CGF COMBINED GRID FACTOR

- NOTE**
1. ALL DISTANCES SHOWN ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET (UNLESS OTHERWISE STATED)
 2. NO NO GRID MONUMENT IS WITHIN 2000' OF SURVEYED TRACT
 3. ALL BEARINGS ARE BASED ON THE NORTH CAROLINA STATE PLANE COORDINATE SYSTEM (NAD 1983)
 4. THIS SURVEY PERFORMED AND MAP PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT THIS SURVEY IS SUBJECT TO ANY FACTS AND EASEMENTS WHICH MAY BE DISCOVERED BY A FULL AND ACCURATE TITLE SEARCH.
 5. AREAS DETERMINED BY COORDINATE METHOD.



DATE	REVISION	INITIAL

MCKIM & CREED
 1730 Varsity Drive, Suite 500
 Raleigh, North Carolina 27606
 Phone: (919)233-8091, Fax: (919)233-8031
 Internet Site: <http://www.mckimcreed.com>



CONSERVATION EASEMENT
 ON THE LANDS OF
KINGSMILL DCF, LLC
 FOR
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
 DATE: 04/05/07 - 04/16/07 SCALE: 1" = 200'
 LIBERTY TOWNSHIP RANDOLPH COUNTY NORTH CAROLINA

PROJECT # : 0482-0490
 PROJ. SYVR : AKA
 DRAWN BY : DSC
 FIELD BK. :
 COMP. FILE : VE101-04820490.DWG
 SHEET # : 4 OF 4
 DWG. # : R.1.2.7.71

