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 Fee Amt: \$26.00 Page 1 of 6
 WAYNE COUNTY, NC
 JUDY HARRISON REGISTER OF DEEDS
 BK 3493 PG 890-895

lpgs 26⁰⁰

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

Wildlands Engineering, Inc.
1430 South Mint Street, Suite 104
Charlotte, NC 28203
Attention: Lee Knight Caffery

RETURN TO: JOHN W. DEES, ATTY

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT AGREEMENT

This EASEMENT AGREEMENT is between William A. McClenny and F. Elizabeth Tuten, individuals ("Grantor"), and Wildlands Engineering, Inc., a North Carolina corporation ("Grantee").

Grantor is the fee owner of real property comprised of 65.65 acres located at 1059 Old Smithfield Road in Goldsboro, Wayne County, North Carolina, which they received an interest in through the estate filed in the Estates division of the Wayne County Clerk of Court at 11 E 584 ("Tract 1"). Tract 1 is more particularly described by the Final Plat of the Property of William A. McClenny drawn by Herring-Sutton & Associates, P.A. recorded in Wayne County at Plat Cabinet O, Slide 58-G. (the "Plat")

Grantee is the fee owner of real property comprised of 264.97 acres located off Old Smithfield Road in Goldsboro, Wayne County, North Carolina, which it was conveyed by a deed recorded in the Wayne County Register of Deeds at Deed Book 3493, Page 886 ("Tract 2"). Tract 2 is more particularly described by the Final Plat of the Property of William A. McClenny drawn by Herring-Sutton & Associates, P.A. recorded in the Wayne County Registry at Plat Cabinet O, Slide 58-G.

Grantor desires to grant to Grantee a 30' Access Easement (the "Easement") in the location shown on the Plat recorded at Plat Cabinet O, Slide 58-G of the Wayne County Registry for ingress and egress over a portion of Tract 1 for the benefit of Tract 2 from Old Smithfield Road to the existing crossing over the Southern Railway Company & Atlantic Coast Line Company railroad tract.

The parties agree as follows:

1. **Effective Date.** This easement agreement will become effective on the date the last party signs it (the "Effective Date").
2. **Grant.** Grantor hereby grants to Grantee, its heirs, legal representatives, successors and assigns, and to any future owner of Tract 2 and any future owner of a conservation easement upon Tract 2, a perpetual, non-exclusive appurtenant easement 30 feet in width located as hereinabove described, in, under, upon, about, over and through Tract 1, for the benefit of Tract 2.
3. **Use.** Grantee may use the Easement for the purpose of ingress, egress and access to Tract 2, including transporting heavy machinery and hauling materials to and from Tract 2 for the purposes of constructing, maintaining and monitoring a stream and wetland preservation, enhancement and restoration project on Tract 2, (the "Project.") Additionally, Grantee has the right to construct a gravel entrance where the Easement intersects with Old Smithfield Road and Grantor agrees that the gravel entrance may remain after the conclusion of the initial construction of the Project.
4. **Access.** Grantee shall be permitted access to a reasonable area of Tract 1 nearby the Easement (the "Access Area") to perform improvements, maintenance and repairs of the Easement. Grantee agrees not to interrupt Grantor's use of Tract 1, and if such interruption is necessary, such interruption shall be temporary in nature and designed to limit any interruption of access to and from the remaining lands of Grantor.
5. **Improvements.** Grantee may construct improvements to the road over, under, in, along, across and upon the Easement that are reasonably related to both the purpose of the Easement and Grantee's use and enjoyment of the Easement (the "Improvements"). The Improvements will not interfere with the Grantor's, or any other occupant's, use and enjoyment of Tract 1.
6. **Costs/Lien-Free Construction.** Grantee shall promptly pay, without the imposition of any lien or charge on or against all or any portion of Tract 1, all expenses incurred by Grantee in connection with the Improvements. Grantee acknowledges and agrees that if any lien is filed against Tract 1 as a result of the Easement or Grantee's activities in the Easement and Grantee has not had the lien removed of record within 30 days of the date of the initial filing of the lien, Grantee will be in default of this agreement, and Grantor will have the right to exercise all of its remedies pursuant to this agreement, at law and in equity.
7. **Compliance with Laws.** Grantee shall construct the Improvements in a workmanlike manner and in compliance with the applicable statutes, ordinances, rules and regulations of all governing public authorities as those statutes, ordinances, rules and regulations are amended from time to time.
8. **Maintenance and Repair.** In the event the surface of any portion of the Easement is disturbed by Grantee's exercise of any of its easement rights under this agreement, Grantee will restore the area to the condition in which it existed before Grantee's disturbance. Grantee is obligated to maintain and repair the Easement at Grantee's expense. Grantee shall perform necessary maintenance to keep the Easement at all times in the same or better condition as existed on the Effective Date.

9. **Reservation of Rights.** All right, title and interest in and to the Easement under this agreement, which may be used and enjoyed without interfering with the rights conveyed by this agreement are reserved to Grantor.

10. **Relocation.** Grantor may relocate the Easement if prior written consent is obtained from Grantee, which consent may not be unreasonably withheld. If Grantor desires to relocate the Easement, Grantor shall send a written request to Grantee to relocate the Easement. The request shall include a map showing the proposed location of the easement. Grantee shall respond to the request to relocate, in writing, within 30 calendar days of receiving the relocation request. If the parties agree to relocate the Easement, then this agreement shall be amended to reflect the relocation. Any Easement relocation must terminate at the railroad crossing at the same place as shown on exhibit D. Grantor shall be responsible for the all costs and expenses incurred in connection with relocating the Easement and providing Grantee Improvements in the same or better condition as existed at the previous Easement location.

11. **Grantor's Use of Property.** Grantor reserves the right to use Tract 1 in any manner and for any purpose that does not interfere with Grantee's Easement rights and its use of the Easement.

12. **Transferability.** The parties acknowledge and agree that the Easement and other rights conferred by this easement agreement constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, successors and assigns.

13. **Grantor Not Liable.** Grantor is not liable for any damage to, or loss of personal property or equipment sustained by Grantee within the Easement Area, whether or not it is insured.

14. **Indemnification.** Grantee shall indemnify, defend and hold Grantor harmless from and against any and all losses, costs, damages, liens, claims, liabilities or expenses (including, but not limited to, reasonable attorneys' fees, court costs and disbursements) incurred by Grantor arising from or by reason of Grantee's access to, or use of the Easement Area.

15. **Attorneys' Fees.** In the event of any dispute between the parties regarding the enforcement or effect of this agreement, including one subject to arbitration, the non-prevailing party in any such dispute shall pay the prevailing party's reasonable attorneys' fees and costs incurred. In the event of arbitration, the fees of the arbitrator and the cost of the arbitration shall be paid by the non-prevailing party. In the event that neither party wholly prevails, the court or adjudicator may apportion the costs or fees as the court or arbitrator deems appropriate.

16. **Notice.** All notices required by this agreement shall be in writing, shall be given only in accordance with the provisions of this Section, shall be addressed to the Parties in the manner stated below (or to any other address that the receiving party may designate from time to time), and shall be conclusively deemed properly delivered: (a) upon receipt when hand delivered during normal business hours; (b) upon the day of delivery if the notice has been deposited in an authorized receptacle of the United States Postal Service as first-class, registered or certified mail, postage prepaid, with a return receipt requested; (c) one business day after the notice has been deposited with either FedEx or United

Tract Service to be delivered by overnight delivery; or (d) if sent by email, upon receipt of an acknowledgement email sent to the sender's email address in which the party receiving the email notice acknowledges having received that email. An automatic "read receipt" is not acknowledgement for purposes of this section 16. The addresses of the parties to receive notices are as follows:

To Grantor: William A. McClenny
4700 Glenn Forest Dr.
Raleigh, NC 27612
e-mail: rbilibjr@aol.com

To Grantee: Wildlands Engineering, Inc.
1430 S. Mint Street, Suite 104
Charlotte, North Carolina 28203
Attention: Robert W. Bugg
e-mail: rbugg@wildlandseng.com

17. **Amendment.** No amendment of this agreement will be effective unless it is in writing and signed by the parties.

18. **Governing Law.** The laws of the State of North Carolina, without giving effect to its principles of conflicts of law, govern all matters arising out of this agreement.

19. **Counterparts.** This agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, together, constitute one and the same instrument. A signed copy of this agreement delivered by electronic mail in portable document format (".pdf" format) shall have the same legal effect as delivery of an original signed copy of this agreement.

Each party is signing this agreement on the date stated below that party's signature.

Grantor

WILLIAM A. MCCLENNY AND SPOUSE F. ELIZABETH TUTEN

By: William A. McClenny
William A. McClenny
Date: 1/17/2020

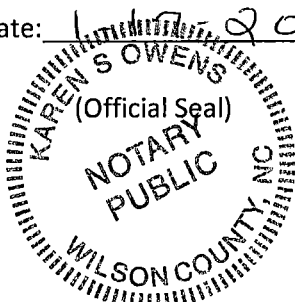
By: F. Elizabeth Tuten
F. Elizabeth Tuten
Date: 1/17/2020

Wilson County, North Carolina

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document:

William A McClenny
Name of principal

Date: 1/17/2020



Karen S Owens
Official Signature of Notary
KAREN S OWENS

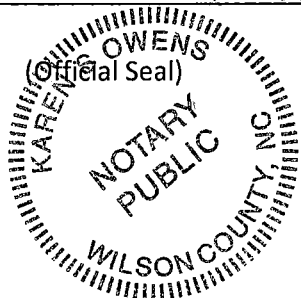
Notary's printed or typed name
My commission expires: March 14, 2020

Wilson County, North Carolina

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document:

F Elizabeth Tuten
Name of principal

Date: 1-17-2020



Karen S Owens
Official Signature of Notary
KAREN S OWENS

Notary's printed or typed name
My commission expires: March 14, 2020

Grantee

WILDLANDS ENGINEERING, INC., a North Carolina corporation

By:

Shawn D. Wilkerson

Shawn D. Wilkerson President

Date:

1/17/2020

Mecklenburg

County, North Carolina

I certify that Shawn D. Wilkerson personally appeared before me this day, acknowledging to me that he is President of Wildlands Engineering, Inc., a North Carolina corporation and that he, as President, being authorized to do so, executed the foregoing on behalf of Wildlands Engineering, Inc.

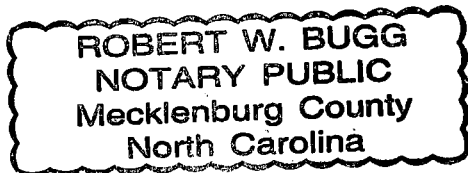
Shawn D. Wilkerson

Name of principal

Date:

1-17-20

(Official Seal)



Robert W. Bugg

Official Signature of Notary

Robert W. Bugg

Notary's printed or typed name

My commission expires:

8-23-21