

For Amendment, see Deed Book 80, at Page 190.

DEED BOOK 539 PAGE 193

BUIST, MOORE, SMYTHIE & MCGEE
P. O. BOX 999
CHARLESTON, SOUTH CAROLINA
29402-0999

006507 24.00

ONE SECTION OF THIS CONSERVATION EASEMENT IS SUBJECT TO ARBITRATION PURSUANT TO SECTION 15-48-10 ET SEQ., THE SOUTH CAROLINA UNIFORM ARBITRATION ACT.

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON CONSERVATION EASEMENT

THIS INDENTURE, made this 25 day of October, 1991, by and between Michael A. Godfrey ("Grantor"), and Ducks Unlimited Foundation ("Grantee" or "DUF"), a nonprofit corporation organized under the laws of the District of Columbia and an eligible donee as described under Treasury Reg. 1.170A-14(c)(1).

WHEREAS, the Grantor is the owner in fee simple of certain real property in Colleton County, South Carolina (hereinafter referred to as the "Protected Property") which has aesthetic, scientific, educational, and ecological value in its present state as a natural area which has not been subject to development or exploitation, which property is more particularly described in Exhibit A attached hereto and by this reference incorporated herein; and

WHEREAS, the Protected Property is a natural area which contains forested wetlands, tidal wetlands, mixed pine hardwood ecosystems and habitat for bald eagles, woodstorks, and other wading birds, and has substantial value as a natural, ecological and scientific resource; and

WHEREAS, the Grantee is a nonprofit corporation whose purpose is to preserve and conserve natural areas for aesthetic, scientific, charitable and educational purposes; and

WHEREAS, the S.C. Conservation Easement Act of 1991, Sections 27-8-10 et seq Code of Laws of South Carolina permits the creation of conservation easements for the purposes of, inter alia retaining land or water areas predominantly in their natural, scenic, open or wooded condition or as suitable habitat for fish, plants, or wildlife; and

WHEREAS, Grantor and Grantee recognize the natural, scenic, aesthetic, and special character of the Protected Property, and have the common purpose of the conservation and protection in perpetuity of the Protected Property as "a relatively natural habitat of fish, wildlife or plants or similar ecosystem" as that phrase is used in Public Law 96-541 26 USC 170(h)(4)(a)(ii), as amended and in regulations promulgated thereunder by placing voluntary restrictions upon the use of the Protected Property and by providing for the transfer from the Grantor to Grantee of affirmative rights for the protection of the Protected Property; and

WHEREAS, "natural, scientific, educational, aesthetic, scenic and recreational resource," as used herein shall, without limiting the generality of the terms, mean the condition of the Protected Property at the time of this grant, evidenced by the Conservation Easement Documentation Report dated _____, 1991, a copy of which is on file with both Grantor and Grantee, which documentation establishes the condition of the property at the time of the gift as provided by Treasury Reg. 1.170A-14(g)(5), also evidenced by:

- A) The appropriate survey maps from the United States Geological Survey, showing the property line and other contiguous or nearby protected areas;
- B) A map of the area drawn to scale showing all existing man-made improvements or incursions (such as roads, buildings, fences, or gravel pits), vegetation and identification of flora and fauna (including, for example, rare species locations, animal breeding and roosting areas, and migration routes); land use history (including present uses and recent past disturbances), and distinct natural features (such as large trees and aquatic areas);
- C) An aerial photograph of the property at an appropriate scale taken as close as possible to the date the donation is made; and
- D) On-site photographs taken at appropriate locations on the property; and other documentation possessed (at present or in the future) by the Grantor which the Grantor shall make available to the Grantee, its successors and assigns, which documentation establishes the conditions of the property at the time of the gift as provided by Treasury Reg. 1.170A-14(g)(5).

NOW, THEREFORE, the Grantor, for good and valuable consideration, the receipt of which is hereby acknowledged by the Grantor, and of the covenants, mutual agreements, conditions and promises herein contained, the Grantor does hereby freely give, grant, bargain, sell and convey unto the Grantee, its successors and assigns, forever, a conservation easement over the Protected Property consisting of the following:

AFFIRMATIVE RIGHTS

1. The right of DUF to have visual access to and view of the Protected Property in its natural, scenic, historic, open and undisturbed condition.
2. The right of DUF, in a reasonable manner and at reasonable times, to enter the Protected Property for the purposes of

inspecting same to determine compliance herewith, to enforce by proceedings at law or in equity the covenants hereinafter set forth including, but not limited to, the right to require the restoration of the Protected Property to its condition at the time of this grant. DUF, or its successors or assigns, does not waive or forfeit the right to take action as may be necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Nothing herein shall be construed to entitle DUF to institute any proceedings against Grantor for any changes to the Protected Property due to causes beyond the Grantor's control, such as changes by fire, floods, storms or unauthorized wrongful acts of third persons.

3. The right of DUF to develop a management plan for rare or endangered plant or animal species in the event that they are found to exist on the property and to implement said plan with the permission of the Grantor, which permission of the Grantor shall not be unreasonably withheld or delayed.

AND IN FURTHERANCE of the foregoing rights, the Grantor, on behalf of himself, his heirs, successors and assigns, and with the intent that the same shall run with and bind the Protected Property in perpetuity, does hereby make and subject the Protected Property, to the following covenants, reservations, restrictions, rights and provisions:

GENERAL COVENANTS

1. Uses. There shall be no commercial, industrial, agricultural or aquacultural activity on the Protected Property, nor shall any right of passage across or upon the Protected Property be allowed or granted if that right of passage is used in connection with such commercial or industrial activity. Notwithstanding the above, this shall not preclude any commercial timbering or agricultural or aquacultural activities and uses associated therewith allowed under "Reserved Rights."
2. Biocides. There shall be no use of biocides on the Protected Property which are inconsistent with any appropriate state or federal regulation, or which are determined to be detrimental to fish, wildlife and water quality.
3. Structures. There shall be no construction or placing of mobile homes, advertising signs, billboards or any advertising materials on any of the Protected Property.
4. Buildings. There shall be no construction or placing of temporary or permanent buildings except as allowed under "Reserved Rights."
5. Subdivision. There shall be no subdivision of the property except as allowed under "Reserved Rights."
6. Topography and Minerals. There shall be no filling, excavating, dredging, mining or drilling; no removal of top soil, sand, gravel, rock, peat, minerals or other materials, nor any dumping of ashes, trash, garbage, or any other

materials except for the disposal of household and farm waste and garbage in agreed areas, except as allowed under "Reserved Rights."

7. Roads. There shall be no building of new permanent roads nor widening of old roads except as allowed under "Reserved Rights." Maintenance of roads shall be limited to removal of hazardous trees and plants, application of permeable materials necessary (e.g. sand, gravel, crushed stone) to correct erosion, placement of culverts, water control structures, and bridges and maintenance of roadside ditches.
8. Timber Harvesting. There shall be no timber harvesting except as allowed under "Reserved Rights."
9. Exotics. There shall be no introduction of exotic plant or animal species except those traditionally used in the low country, in ornamental gardens, wildlife food plots, or agricultural plantings.
10. Prohibited Use. Any uses of the Protected Property and any activities thereon, other than such activities which are specifically reserved herein, which are or may become inconsistent with the conservation interests associated with the Protected Property, are prohibited (hereinafter "Inconsistent Uses"). In the event of there is a disagreement as to whether a use or activity constitutes an Inconsistent Use, then the issue shall be resolved by a committee made up of three individuals who have reasonable experience with conservation easements and land uses of similar properties.

One individual shall be selected by DUF, one individual shall be selected by the Grantor, and the other individual shall be selected by the two individuals selected by DUF and the Grantor. The committee shall determine by majority vote whether or not the disputed use or activity is inconsistent with the conservation interests associated with the Protected Property and whether or not such use or activity is permitted under the "Reserved Rights" provisions of this Conservation Easement. The determination of the committee shall be binding upon DUF and the Grantor. Only this Paragraph 10 of the Conservation Easement shall be subject to the South Carolina Uniform Arbitration Act.

11. In the event a breach of this Conservation Easement and its restrictions and covenants by the Grantor or by a third party comes to the attention of DUF, DUF must notify the Grantor in writing of such a breach. The Grantor shall have thirty (30) days after receipt of such notice to undertake actions including restoration of the Protected Property that are reasonably calculated to correct swiftly the conditions constituting such a breach. If the Grantor fails to take such corrective action, DUF shall, at its discretion, undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections and the cost of such corrections, including DUF's expenses, court costs and legal fees, shall be paid by the Grantor.

RESERVED RIGHTS

1. Subdivision; Construction.

a) The portion of the Protected Property known as the River tract and bounded by the right of way of Wiggins Road (S.C. 161) to the west; marshland of the Cheeha River to the north; the Cheeha River, the Cheeha public boat landing and landing access road to the east and the right of way of Wiggins Road (S.C. 161) to the South may not be subdivided. Construction on this portion of the Protected Property shall be limited to one residential housing unit not to exceed 40 feet in height and with a maximum heated living area of not more than ten thousand (10,000) square feet plus one auxiliary garage/workshop. The auxiliary garage/workshop may not exceed 800 sq.ft. Both the residence and auxiliary building must be built at least 100 ft. from the Cheeha River and 150 ft. from the Wiggins Road (S.C. 161).

b) The portion of the Protected Property to the west of the right of way of Wiggins Road (S.C. 161) and north of the right of way of S.C. 162 may be subdivided from the River tract and sold as one separate unit or may be subdivided into two subdivision units provided that each subdivision unit has a minimum of 20 acres of highland and provided that one of the two units remains under the same ownership as the River tract described in 1(a) above. If subdivided in its entirety from the River tract as one single unit, that unit may have one

residential unit restricted in height and size as described above, plus a barn, a garage, a tool shed and kennel. If subdivided, in a manner that one portion of the subdivided property remains in the same ownership as the River tract, the tract remaining with the River tract ownership may have a barn, a garage, a tool shed and kennel. The subdivided unit not in the same ownership as the River tract may have a single residential unit restricted in height and size as described above plus an auxiliary garage/workshop. The auxiliary garage/workshop may not exceed 800 sq.ft. No buildings are to be placed or constructed within 300 ft. of S.C. 162.

2. New Roads. Access roads may be built to each subdivided parcel and to each of the houses and auxiliary buildings, if any, within the subdivided units. All road material shall be of a permeable nature (sand, gravel, crushed stone).
3. Hunting and Fishing. The right to hunt and fish on the property is hereby reserved, provided that all such activity is conducted in accordance with state and federal regulations.
4. Timber Harvesting/Removal.
 - a) The right to harvest the approximate 11 acres of planted pine existing on the Protected Property at the time of the creation of this Conservation Easement provided that the harvest is done in a manner that meets or exceeds the Best Management Practice of the S.C. Forestry Commission. The right to regenerate this 11 acre field in long leaf pine,

loblolly pine or other forest types naturally found on the coastal plain of South Carolina.

b) The right to plant, thin and harvest trees within the open fields existing at the time of the execution of this Conservation Easement and on the two new five acre fields (if these new fields are established pursuant to paragraph 5 which follows) in longleaf, loblolly, or other forest types naturally found on the coastal plain of South Carolina. Both the existing 11 acre area planted in loblolly pine and open areas that may be planted in the future may be reconverted from forested areas to open fields at any time.

c) No commercial timber activity will be allowed within the upland or bottomland hardwood areas except as may be necessary for construction purposes allowable under Reserved Rights No. 2 above or for wildlife food plots, such plots to be one-half acre or less. No live oaks of greater than six (6") inches at breast height may be cut to establish wildlife food plots.

d) The forest management practice of prescribing burning shall be allowed.

e) Restrictions on timber harvest methods shall not apply in areas where forest is damaged by fire, wind, insects, or infectious organisms.

f) Grantor may clear overstory of trees within a fifty (50) foot strip of Protected Property along the common boundary between the Protected Property and the public boat landing. Grantor shall clear only the amount of overstory which is

necessary to promote the growth of understory plants which will act as a natural barrier and buffer within said fifty (50) foot strip.

5. Clearings. The right to maintain existing clearings and to clear up to two (2) additional 5 acre or less plots for pasture, agricultural cultivation, or wildlife food plots on that portion of the property that lies to the west of Wiggins Road (S.C. 161) and road S.C. 162. On the portion west of Wiggins Road (S.C. 161) the only clearing allowed will be that clearing necessary to construct the residential house and auxiliary garage/workshop and an additional 2 acre or less for yard, vegetable gardens and views to the Cheeha River from the residential house.
6. Oil and Gas Removal. Upon prior notice to DUF, the right to remove sub-surface oil and gas, provided that such removal is conducted in a way which will not unduly modify the surface of the land or create any health or environmental hazard. Any removal of oil or gas must be conducted in accordance with all state, federal and local laws, regulations and ordinances regulating such removal.

GENERAL PROVISIONS

Property Taxes. The Grantor for himself and for his heirs, successors and assigns, agrees to pay any real estate taxes or assessments levied by competent authority on the Protected Property

and to release the DUF from responsibility for maintaining the Protected Property.

Conveyances. The Grantor agrees that the terms, conditions, restrictions, and purposes of this grant will be inserted by him in any subsequent deed, or other legal instrument by which the Grantor divests himself of either fee simple, or his possessory interest in, all or portions of the Protected Property, and that the Grantor will notify DUF, its successors and assigns, of any such conveyances.

Any notices required in this Conservation Easement shall be sent by registered or certified mail, postage prepaid, to the following addresses or such address as may be hereafter specified by notice in writing:

Grantor:

Michael A. Godfrey
108 High Street
Carrboro, NC 27510

DUF:

Ducks Unlimited Foundation, Inc.
One Waterfowl Way
Long Grove, IL 60047

With copy to:

Coy Johnston
RT. 1, Box 25
Green Pond, SC 29446

In the event any provision of this instrument is determined by an appropriate court to be void and unenforceable, all remaining terms shall remain valid and binding.

The terms, conditions, and burdens of this Conservation Easement shall run with the Protected Property and shall be binding and enforceable against the record owner and all subsequent successors-in-title, assigns, parties in possession and tenants in

perpetuity. The benefits and affirmative rights herein shall be in gross, transferable and assignable by Grantor or Grantee, their heirs, successors or assigns. However, no assignment of any benefits or affirmative rights by Grantee or its successors and assigns, shall be effective unless (i) as a condition of any assignment, the Grantee requires that the purpose of this Conservation Easement continues to be carried out, and (ii) the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under the law of the State of South Carolina as an eligible donee to receive this Conservation Easement directly.

If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, the Grantor and Grantee, or their heirs, successors and assigns, may by mutual written agreement jointly amend this Conservation Easement, provided that no amendment shall be allowed which will adversely affect the intention or qualification of this Conservation Easement or the status of Grantee under applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or the laws of the State of South Carolina. Any such amendment shall be consistent with the purpose of this Conservation Easement, shall not affect its perpetual duration, shall not permit additional development or improvements to be constructed on the Protected Property other than development or improvements permitted by this Conservation Easement on its

effective date, and shall not permit any impairment of the significant conservation values of the Protected Property. Any such amendment shall be recorded in the real estate records office of Colleton County, South Carolina. Nothing in this paragraph shall require Grantor or Grantee to agree to any amendment.

If a future unexpected change in the condition of the Protected Property or the surrounding property, makes impossible or impractical the continued use of the Protected Property for conservation purposes, then this Conservation Easement may be extinguished, but only by judicial proceeding, and the net proceeds, including without limitation, the proceeds from any lawful sale of the property (excluding the value attributed to any improvements constructed by Grantor after the date of the grant, which value shall belong solely to Grantor) unencumbered by this Conservation Easement shall be distributed between DUF and the Grantor, their heirs, successors and assigns, in proportion to the fair market value of their interests in the premises on the date of execution of this Conservation Easement. DUF's proceeds from a subsequent sale or exchange of the Protected Property or consideration received in return for the termination or modification of this Conservation Easement shall be used in a manner consistent with the conservation purposes of this Conservation Easement.

Whenever all or part of the Protected Property is taken in exercise of eminent domain by public, corporate, or other authority so as to abrogate the restrictions imposed by this Conservation

Easement, Grantor and Grantee shall join in appropriate actions at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking. The net proceeds (including, for purposes of this subparagraph, proceeds from any lawful sale of the property unencumbered by the restrictions hereunder, but excluding the value attributed to any improvements constructed by Grantor after the date of the grant, which value shall belong solely to Grantor) shall be distributed between Grantee and Grantor in proportion to the fair market value of their interests in the premises on the date of execution of this Conservation Easement. DUF shall use its share of the proceeds in a manner consistent with the conservation purposes set forth in this Conservation Easement.

The rights hereby conveyed shall be in addition to, and not in limitation of, any other rights and remedies available to DUF for enforcement of this Conservation Easement.

WITNESSES:

Lynn H. Muddaugh
Jeff A. Wells

GRANTOR:

Michael A. Godfrey
MICHAEL A. GODFREY

GRANTEE:

Ducks Unlimited Foundation,
A Nonprofit Corporation

Signatures of Witnesses
Cherette Rouse

By:

Matthew B. Connolly, Jr.
Matthew B. Connolly, Jr.,
Chief Operating Officer

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named Michael A. Godfrey, sign, seal and as his act and deed, deliver the within written instrument, and that (s)he with the other witness named above witnessed the execution thereof.

Lynn H. Munday

SWORN to before me this 23rd
day of October, 1991

[Signature]
Notary Public for South Carolina

My Commission Expires: Jan 10, 2010

STATE OF NORTH CAROLINA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 1991 by Michael A. Godfrey.

N/A

SWORN to before me this _____ day of _____, 1991

(SEAL)
Notary Public for North Carolina

My Commission Expires: _____

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing instrument was acknowledged before me this 10th day of October, 1991 by Matthew B. Connolly, Jr., Chief Operating Officer of Ducks Unlimited Foundation, Inc., a non-profit corporation, on behalf of the corporation.

SWORN to before me this 10th day of October, 1991

Diane S. Vetrovec (SEAL)
Notary Public for Illinois



My Commission Expires: 4-18-92

6: \JAW\33056005.EAD
10/9/91 8:33pm

Exhibit "A"

ALL of that certain lot, piece or parcel of land, with the improvements thereon, situate, lying and being in Colleton County, State of South Carolina, and consisting of 125.63 acres, more or less, of highland and 35.07 acres, more or less, of marshland and old rice field, as shown more fully on a Plat by Milton Winslow, R.L.S., dated September 27, 1991, revised October 7, 1991, and recorded in the Clerk of Court's Office for Colleton County in Slide 580, Page 8, entitled "Plat of 160.70 Acres Surveyed for Michael A. Godfrey, Near Wiggins, S.C.", and having such buttings, boundings, shape, size, location and dimensions as are shown on said Plat.

SAVING AND EXCEPTING the property lying within the bounds of any of the roads shown on plat by Milton Winslow, R.L.S., dated September 27, 1991, revised October 7, 1991, and recorded in the Clerk of Court's Office for Colleton County in Slide 580, Page 8, entitled "Plat of 160.70 Acres Surveyed for Michael A. Godfrey, Near Wiggins, S.C."

Being the same property conveyed to the Grantor herein by deed from Cheeha Combahee Plantation, Inc., recorded contemporaneously herewith.

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CLERK OF SUPERIOR COURT
CLERK'S OFFICE
NO. 200
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OCT 24 PM 12:51