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Fee Amt: \$26.00 Page 1 of 6  
Alexander, NC  
Benjamin W. Hines Register of Deeds  
File#

BK **560** PG **1792-1797**

**NOTICE AND DECLARATION OF PERPETUAL LAND USE RESTRICTIONS**

NOTICE IS HEREBY GIVEN THAT PERPETUAL LAND USE RESTRICTIONS ARE IMPOSED ON PROPERTY OF:

ALEXANDER COUNTY  
PAYNES DAIRY ROAD  
MILLERS TOWNSHIP  
TAYLORSVILLE, ALEXANDER COUNTY, NORTH CAROLINA

AT THE LOCATION DESCRIBED IN THE DEED RECORDED IN DEED BOOK 546, AT PAGE 2247 OF THE ALEXANDER COUNTY REGISTRY. A SURVEY PLAT OF THE PARCEL AND ADJACENT ALEXANDER COUNTY LANDFILL ARE RECORDED AT PLAT BOOK 13, PAGE 142, ALEXANDER COUNTY REGISTRY.

Development and land use restrictions apply to the real property (Property) described and are by the undersigned Property owner. Questions concerning this matter may be directed to the North Carolina Department of Environment and Natural Resources, Division of Waste Management, Solid Waste Section, 217 West Jones Street, Raleigh, North Carolina.

This "Notice of Declaration of Perpetual Land Use Restrictions" is not a permit for solid waste disposal, and it is not to be construed as a permit for a disposal facility. The Property has never been a permitted solid waste disposal site.

Alexander County has received permits to construct and operate waste disposal areas (units) at the Alexander County Landfill located at 2500 Payne Dairy Road in Taylorsville, Solid Waste Permit Number 02-01. The Alexander County Landfill operated as a Municipal Solid Waste (MSW) unlined sanitary landfill that consisted of two waste disposal units. The western MSW waste disposal unit was closed in 1991, and the eastern MSW waste disposal unit was closed in 1999. The Alexander County Construction and Demolition (C&D) Landfill was constructed and is currently operating on top of the western MSW waste disposal unit. Various organic and inorganic constituents have been detected in samples of groundwater at the landfill. Methane gas exceedances have also been documented at the landfill.

On July 9, 1998 the Solid Waste Section sent correspondence to Alexander County regarding the initiation of an Assessment of Corrective Measures as required by 15A NCAC 13B .1634 and .1635. Alexander County submitted an *Assessment of Corrective Measures Report* to the Solid Waste Section on April 11, 2008, pursuant to 15A NCAC 13B .1635. Alexander County conducted a public meeting on June 26, 2008. After the public meeting was conducted, Alexander County selected a remedy, and the Solid Waste Section approved the selected remedy on February 2, 2009. The selected remedy included Monitored Natural Attenuation (MNA), Phytoremediation, Enhanced Bioremediation, Active Methane Extraction System, and Acquisition of Property to mitigate landfill gas and groundwater impacts at the property boundary. Alexander County submitted a Corrective Action Plan, and the Solid Waste Section approved Alexander County's *February 6, 2009 Corrective Action Plan* on February 19, 2009.

Alexander County purchased the 15.70 acre parcel described above on March 3, 2011. The Property was purchased as part of Alexander County's corrective action at the landfill for the purpose of assessment and corrective action of landfill gas and groundwater contamination and to increase the buffer zones from the source of these releases from the Alexander County Landfill.

The purpose of recording this Notice and Declaration of Perpetual Land Use Restrictions is to provide actual and constructive notice to subsequent purchasers of the property described herein and to reduce any risk to public health, safety or the environment from development in proximity to waste. Some risks, without limitation, include the generation and migration of landfill gas which is explosive at certain levels and the migration of contaminated groundwater.

**Whenever the land, or any part of the land described above, is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used to mitigate landfill gas and groundwater releases from Alexander County and that development and land use restrictions apply to the site, together with the book and page number where the survey plat is recorded and the book and page number where this "Notice and Declaration of Perpetual Land Use Restrictions" is recorded.**

#### **DECLARATION OF PERPETUAL LAND USE RESTRICTIONS**

Therefore, for the purpose of protecting public health, safety and the environment, Alexander County hereby declares that all real property described in the recorded documents listed above, shall be held, sold, conveyed or otherwise transferred, or leased subject to the following perpetual land use restrictions, which shall run with the land; shall be binding on all parties having any right, title or interest in the dumpsite and surrounding buffer zone or any part thereof, their heirs, successors and assigns; and shall, as provided in N.C.G.S. 143B-279.9, be enforceable without regard to lack of privity of estate or contract, lack of benefit to particular land, or lack of any property interest in particular land. Alexander County may submit a written request that a restriction no longer be imposed for a proposed specified activity and the Department of Environment and Natural Resources (or its successor in function), or his/her delegate may give written approval of such an activity. These restrictions shall continue in perpetuity and cannot be amended or canceled unless and until the Alexander County Register of Deeds receives and records the written notice of the Secretary of the Department of Environment and Natural Resources (or its successor in function), or his/her delegate. If any provision of this Declaration is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

THE FOLLOWING LAND USE RESTRICTIONS ARE HEREBY IMPOSED:

1. The Property shall not be developed or utilized for residential, commercial, industrial, institutional, agricultural or recreational purposes.
2. There shall be no above- or below-ground construction or improvements on the Property, including, but not limited to, buildings, shelters, utilities, communication tower installations, roads, parking lots, and sidewalks. Activities which are approved in writing in advance by DENR as part of an approved Corrective Action Plan are allowed on the Property.
3. No surface or subsurface native or fill earthen materials may be removed from the Property without the written permission of DENR or its successor in function. There shall be no alteration, disturbance or removal of the existing soil, landscape and contours, other than DENR-approved erosion control measures, unless specifically approved by DENR or its successor in function as part of an approved Corrective Action Plan.
4. The Property shall not be used for growing crops, animal grazing, kennels, animal shelters or pens, riding clubs or trail rides.
5. The Property shall not be used for timber production or logging.
6. The Property shall not be used for mining, extraction of coal, oil, gas or any other minerals or non-mineral substances.
7. Hunting, fishing, hiking and camping on the Property are prohibited. Firing ranges are prohibited.
8. Any surface or underground water shall not be used for any purpose. The installation of groundwater wells or other devices for access to groundwater for any purpose other than monitoring groundwater quality or corrective action of groundwater contamination in accordance with a DENR-approved Corrective Action Plan is prohibited.
9. Vehicles, mobile offices, and any other machinery or equipment shall not be parked or stored on the Property unless they are necessary to implement a DENR-approved remediation plan.
10. Solid waste, junked vehicles, mobile homes, appliances and other materials, including waste materials, recyclables, land clearing waste or virgin materials, shall not be located, disposed or stored on the Property.
11. The Property may be used for any corrective action investigation and corrective action activities previously approved by DENR or its successors in function in writing.
12. Activities necessary to remediate contamination at the Property, maintain the security of the Property, prevent human exposure to contaminated materials, and to prevent erosion of contaminated soil at the Property are permitted, if approved in writing in advance by DENR or its successor in function.
13. All other uses and activities at the Property are prohibited, except as approved in writing by DENR or its successor in function.

14. Public access to the Property shall be prevented by means of gates, fences, and “No Trespassing Signs” along the Property boundary with the Alexander County Landfill.
15. All landfill gas and groundwater wells located on the Property for the duration of the implementation of the Corrective Action Plan, including long term monitoring, shall be protected.
16. No person conducting environmental assessment or remediation at the Property at the direction of, or pursuant to a plan approved by DENR or its successor in function may be denied access to the Property for the purpose of conducting such activities. No person involved in determining compliance with applicable land use restrictions at the direction of, or pursuant to a plan approved by DENR or its successor in function may be denied access to the Property for the purpose of conducting such activities.
17. Annually on or before the anniversary date of the recordation of this Declaration, the owner(s) of the Property shall submit to DENR, or its successor in function, a letter report containing the notarized signature of the owner(s), confirming that this Declaration is still recorded in the Office of the Alexander County Register of Deeds and that activities and conditions at the Property remain in compliance with the land use restrictions herein.
18. These declarations of land use restrictions shall apply to all successors and assigns to the Property or any part of the Property. The owner of the Property which is the subject of this Declaration shall cause any lease, grant, or other transfer of any interest in the property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this Declaration. The failure to include such provision shall not affect the validity or applicability of any land use restriction in this Declaration to the Property.

#### **REPRESENTATIONS AND WARRANTIES**

Alexander County hereby represents and warrants that:

Alexander County is the sole owner of the Property;

Alexander County holds fee simple title to the Property free, clear and unencumbered;

Alexander County has the power and authority to enter into this Declaration, to grant the rights and interests herein provided and to carry out all obligations hereunder;

This Declaration will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Alexander County is a party or by which Alexander County may be bound or affected; and

The undersigned has the authority to sign this Declaration, and by signing to bind Alexander County to the Land Use Restrictions and the obligations in this Declaration.

#### **ENFORCEMENT**

The above land use restrictions are an integral part of the remedy for the contamination at the Alexander County Landfill and prevention of human exposure to harmful substances. Adherence to the restrictions is necessary to protect public health, safety and the environment. These land use restrictions shall be maintained and enforced by any owner, operator, lessee or other party responsible for any part of the

Property. The above land use restrictions may also be enforced by DENR through the remedies provided in N.C.G.S. Chapter 130A, Article 1, Part 2 or by means of a civil action, and may also be enforced by any unit of local government having jurisdiction over any part of the Property, as provided in N.C.G.S. § 130A-301(f) and N.C.G.S. § 143B-279.10. Any attempt to cancel this Declaration without the written approval of DENR or its successor in function shall constitute noncompliance with the Corrective Action Plan approved by DENR for the Alexander County Landfill, and shall be subject to enforcement by DENR to the full extent of the law. Failure by any party required or authorized to enforce any of the above restrictions shall in no event be deemed a waiver of the right to do so thereafter as to the same violation or as to one occurring prior or subsequent thereto.

Michael Scott  
Michael Scott, Chief  
Solid Waste Section  
Division of Waste Management

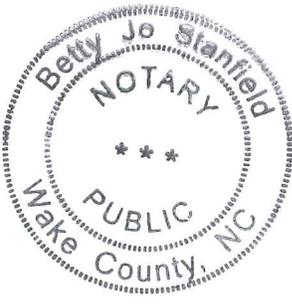
**NORTH CAROLINA**  
**WAKE COUNTY**

I, Betty Jo Stanfield, a Notary Public for said County and State,

do hereby certify that Michael Scott, Chief, Solid Waste Section, Division of Waste Management, NCDENR, personally appeared before me this day and acknowledged the due execution of the foregoing "Notice of and Declaration of Perpetual Land Use Restrictions."

Witness my hand and official seal, this the 1, day of November 2012.

[ OFFICIAL SEAL ]



Betty Jo Stanfield  
Notary Public

My Commission Expires December 29, 2014

Rick French  
Rick French, Alexander County Manager

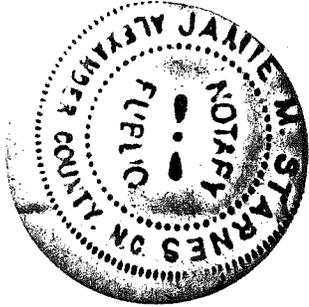
**NORTH CAROLINA**  
**ALEXANDER COUNTY**

I, Jamie M. Starnes a Notary Public for said County and State,

do hereby certify that Rick French, personally appeared before me this day and acknowledged the due execution of the foregoing "Notice and Declaration of Perpetual Land Use Restrictions."

Witness my hand and official seal, this the 7<sup>th</sup>, day of November 2012.

[ OFFICIAL SEAL ]

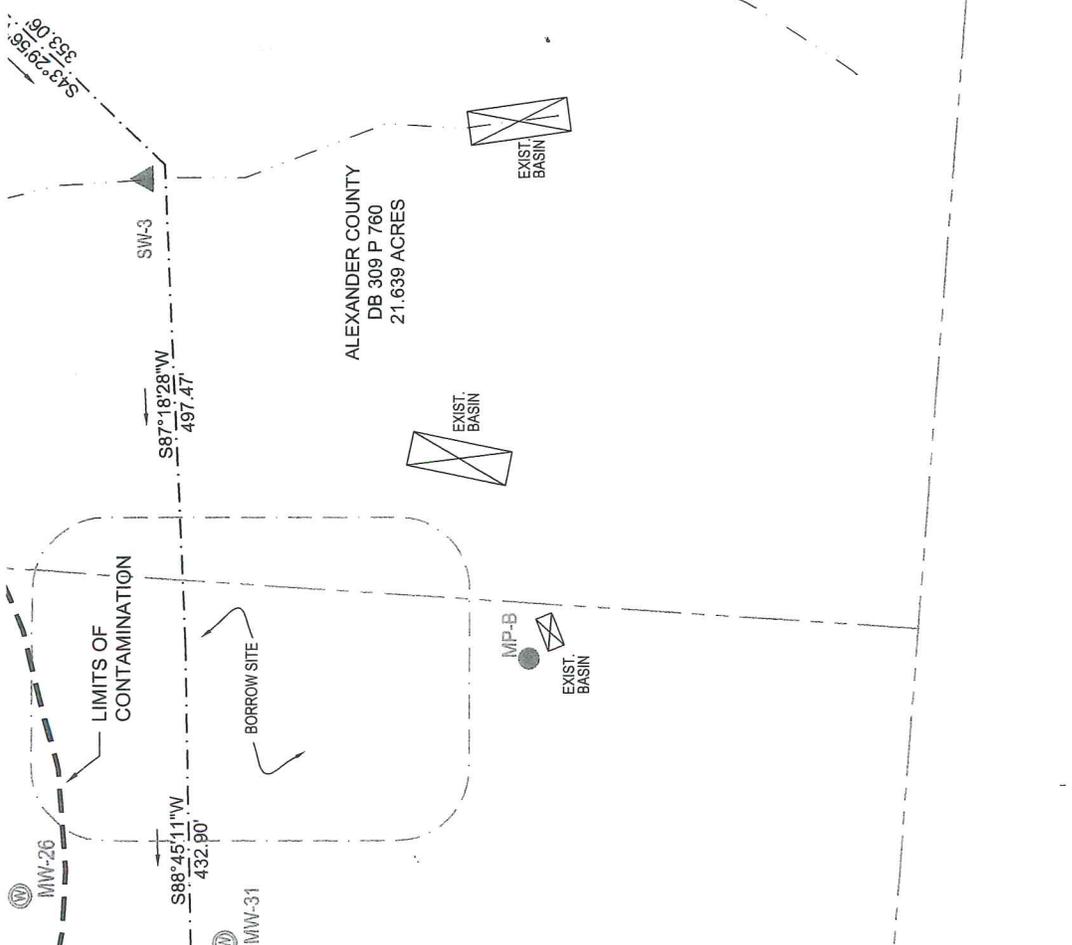


James M. Starnes  
Notary Public

My Commission Expires 8/23/2016

Now or Formerly  
 TONY J. CORRELL  
 NO DEED INFORMATION AVAILABLE

Now or Formerly  
 CRESENT RESOURCES  
 DB 0003 P 0440



Doc ID: 006075990001 Type: PLAT  
 Recorded: 11/13/2012 at 11:10:59 AM  
 Fee Amt: \$21.00 Page 1 of 1  
 Alexander, NC  
 Benjamin W. Hines Register of Deeds

BK 13 PG 142

SURVEY FOR		Municipal Services		Engineering Company, P.A.	
NOTICE OF CONTAMINATED SITE		LICENSE NUMBER: C-0281		P.O. BOX 349 BOONE, N.C. 28607 (828) 262-1767	
ALEXANDER COUNTY LANDFILL		P.O. BOX 97 GARNER, N.C. 27529 (919) 772-5393		P.O. BOX 349 BOONE, N.C. 28607 (828) 262-1767	
TOWNSHIP: MILLER'S	COUNTY: ALEXANDER	DATE: 5/22/2012	SURVEYED BY: T. IAGER	FIELD BOOK	
TOWN: -----	STATE: NORTH CAROLINA	SCALE: 1" = 200'	DRAWN BY: L. CRAWFORD	DRAWING NO.	
PARCEL I.D. #S: 0022121, 0022035, 0010639, 0023200, 0010609 AND 0062694	CHECKED & CLOSURE BY: W. SULLIVAN			G10059-NOC	