

NO TAX PAYMENT REQUIRED

Treasurer of

Frederick County, Maryland

BK 7205 PG 0020

PER: [Signature]

Date: 3/3/09

**DEED OF CONSERVATION EASEMENT**

This DEED OF CONSERVATION EASEMENT ("Conservation Easement") is made this 3<sup>rd</sup> day of February, 2009 by and between WAYNE Z. GUYTON AND PATRICIA H. GUYTON, 103 E. Main Street, P.O. Box 251, Burkittsville, Maryland 21718 ("Grantors") and COUNTY COMMISSIONERS OF FREDERICK COUNTY (also known as the BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND), a local government, 12 East Church Street, Frederick, Maryland 21701, (hereinafter sometimes referred to as "Local Government") ("Grantee").

IMP ED SURE \$ 0.00  
RECORDING FEE 0.00  
TOTAL 0.00  
Res#FR03 Rcr#1999999  
SKD CH BK#220  
Mar 03, 2009 11:37 am

WITNESSETH

WHEREAS, in 1997 the Maryland General Assembly enacted Title 5, Subtitle 9A, Natural Resources Article, Annotated Code of Maryland, establishing a Rural Legacy Board and a Rural Legacy Program to counteract the effects of sprawl development and other modifications to the landscape in Maryland; and to enhance natural resource, agricultural, forestry, environmental, scenic, cultural, and rural resource conservation, preservation and protection, while maintaining the viability of resource-based land usage and the proper management of tillable, pasture and wooded areas through accepted agricultural and silvicultural practices for farm production and timber harvests. Protection is provided through the acquisition of easements and fee estates from willing landowners, and the supporting activities of Rural Legacy Sponsors and local governments;

WHEREAS, Frederick County, Maryland is a local government, meaning one of Maryland's 23 counties and whereas, the Board of County Commissioners of Frederick County, Maryland has duly approved a Rural Legacy Plan under the Rural Legacy Program;

WHEREAS, Grantors own in fee simple 210.665 acres of certain real property ("Property") situate, lying and being in Frederick County, Maryland, and more particularly described in Exhibit A attached hereto, which was conveyed to Grantors by Wayne Z. Guyton and Gail T. Guyton, Personal Representatives of the Estate of Arthur R. Guyton, late of Frederick County, Maryland, deceased by deed dated December 21, 1976 recorded among the Land Records of Frederick County, Maryland in liber 1006, folio 871, and conveyed to Grantors by John M. Kaufman by deed dated May 13, 1981 recorded among the Land Records of Frederick County, Maryland in liber 1146; folio 403;

WHEREAS, Grantors are willing to grant a perpetual Conservation Easement over the Property, thereby restricting and limiting the use of the Property, as hereinafter provided in this Conservation Easement for the purposes hereinafter set forth, and Grantee is willing to accept such Conservation Easement;

WHEREAS, Grantors and Grantee have identified significant conservation values in Exhibit B attached hereto and have common purposes in conserving, preserving and protecting these values and the natural resource, agricultural, forestry, environmental, scenic, cultural, rural, woodland and wetland characteristics of the Property, viable resource-based land use and proper

NO AG. TAX DUE

RE: [Signature]

DATE: 3-2-09

INITIALS: [Signature]

McEVoy & DEAN, P.C.  
8 WEST THIRD STREET  
FREDERICK, MARYLAND 21701

management of tillable, pasture and wooded areas of the Property; and, to the extent hereinafter provided, preventing the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its agricultural and open-space condition;

WHEREAS, the Rural Legacy Board established in the Department of Natural Resources has been authorized under Title 5, Subtitle 9A, Natural Resources Article of the Annotated Code of Maryland, to provide grants to Sponsors of Rural Legacy Areas to acquire conservation easements in designated Rural Legacy Areas, and has agreed, with the approval of the Maryland Board of Public Works, to pay the sum of Eight Hundred Two Thousand, Eight Hundred-Twenty-One Dollars and 00/100 (\$802,821) to Grantors as monetary consideration for granting this Conservation Easement;

WHEREAS, the Board of County Commissioners of Frederick County, Maryland, has approved and budgeted Frederick County funds to acquire conservation easements in the designated Frederick County Rural Legacy Area, and has agreed to pay the sum of Seven Hundred Sixty-Three Thousand, Six Hundred Eighty-Nine Dollars (\$763,689.00) to the Grantors as partial monetary consideration for granting this Conservation Easement;

NOW, THEREFORE, in consideration of \$1,566,510.00, the facts stated in the above paragraphs and the covenants, terms, conditions and restrictions (the "Terms") hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged by the parties, Grantors unconditionally and irrevocably hereby grant and convey 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, with respect to the Property;

The Purpose of this Conservation Easement is: (1) to conserve, preserve and protect the significant conservation values in Exhibit B; (2) to conserve, preserve and protect the natural resource, agricultural, forestry, environmental, scenic, cultural, rural, woodland, and wetland characteristics of the Property; (3) to maintain viable resource-based land use and the proper management of tillable, pasture and wooded areas of the Property; and (4) to the extent hereinafter provided, prevent the use or development of the Property for any purpose or in any manner that would conflict with the maintenance of the Property in its agricultural and open-space condition.

To achieve these objectives, the following Terms are set forth:

#### ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross and as such is inheritable and assignable in accordance with Article V of this Conservation Easement and runs with the land as an incorporeal interest in the Property, enforceable with respect to the Property by Grantees against Grantors and by the State of Maryland, acting by and through the Rural Legacy Board or the Office of the Attorney General against Local Government, and Grantors, their respective personal representatives, heirs, successors and assigns.

#### ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES

##### A. Industrial or Commercial Activities on the Property

Activities other than Agriculture (as that term is defined below) and residential uses are prohibited on the Property, except: (1) for small-scale commercial activities within structures used as residences; (2) for small scale commercial activities related to Agriculture within existing structures used for Agriculture, without alteration of the size and external appearance thereof; and (3) the sale to the public of Agricultural products, of which at least seventy-five percent (75%) must be produced on the Property.

“Agriculture” (or “Agricultural” as the context requires) means all methods of production and management of livestock, crops, trees and vegetation, as well as aquaculture. This includes the related activities of tillage, fertilization, pest control and harvesting, as well as the feeding, housing, training and maintaining of animals such as cows, sheep, goats, hogs, horses and poultry.

##### B. Construction and Improvements

Buildings, means of access and other structures are prohibited on the Property, except the following which include the existing structures listed in Exhibit C:

1. One (1) primary residence, which may be replaced with a structure of similar size and purpose; and three (3) reserved residential dwellings
2. Non-residential structures designed, constructed and utilized for the purpose of serving the principal residences (for example; garage, well house, swimming pool);
3. Non-residential structures designed, constructed and utilized in connection with the Agricultural and naturalistic uses of the Property; and
4. Reasonable means of access to all permitted uses and structures on the Property.

Each residential structure shall only be used for the purpose of a single-family dwelling unit. The total number of residential structures (including for example, but not limited to, primary

residences, farm manager houses, tenant houses, guest houses, mobile homes, or seasonal cabins) shall never exceed four (4).

Grantors shall notify Grantee at least ninety (90) days prior to submitting any required permit applications for construction to local, State or federal agencies; or if no governmental permits are required, at least ninety (90) days in advance of any work, whether for construction or preparatory to construction, regarding (1) the conversion of any previously non-residential structure to a residential structure; and (2) of the location of a new means of access, and any such change shall be subject to the prior written approval of Grantee. In deciding whether to grant said approval, Grantee shall consider the natural resource, Agricultural, environmental, scenic, cultural, and rural character of the Property.

C. Divisions or Subdivisions of the Property

The Property may not be divided or subdivided into more than the two (2) existing parcels of land, which, for the purposes of this paragraph shall be considered as one (1) parcel. In addition, said parcel shall remain in common ownership as if the property is only one parcel. The Property may not be consolidated into a larger parcel, and the boundary lines of the Property may not be adjusted. Notwithstanding the two previous sentences, with at least ninety (90) days written notice to Grantee, Grantors may:

1. Divide or subdivide from the Property three (3) reserved residential lots so long as the size of such lots do not exceed two (2) acres, or the minimum lot size allowed by zoning and other applicable development regulations at the time of the subdivision. Any such subdivision shall be subject to prior written approval of Grantee.

2. Divide or subdivide the Property into Agricultural lots for the sole purpose of adding to adjoining Agricultural farm operations for Agricultural use. Any such subdivision shall be subject to prior written approval of Grantee.

No Agricultural division or subdivision shall be used to create additional development rights or facilitate construction of a new residence. No means of access to any residential parcel created under this Article shall be allowed over the remainder of the Property, including any parcel divided or subdivided for Agricultural purposes.

D. Transferable, Cluster and Other Development Rights

Except as specifically reserved in this Conservation Easement, Grantors hereby grant to Grantee all transferable, cluster or other development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property; and the parties agree that such rights are terminated and extinguished, and may not be used or transferred to any portion of the Property, or to any other property, nor used for the purpose of calculating permissible lot yield of the Property or any other property. Grantors further agree that the Property shall not be used to provide required open space for the development or subdivision of another property, nor shall it



be used in determining any other permissible residential or commercial uses of another property.

E. Dumping, Placement or Storage of Materials

No materials may be dumped, placed or stored on the Property; including, but not limited to, ashes, sawdust, bark, trash, garbage, rubbish, dredge spoil, chemicals, pesticides, fertilizers, abandoned vehicles, appliances, or machinery. Notwithstanding the previous sentence, Grantors may: (1) place or store soil, rock, other earth materials, vegetative matter, compost, and all types of legally permitted pesticides, fertilizers and sludge for Agricultural use, if customarily and regularly done for that type of Agricultural use; (2) place soil, rock, other earth materials, vegetative matter, and compost reasonably necessary for the purpose of combating erosion or flooding; (3) place materials reasonably necessary for construction or maintenance of permitted structures, home-sites and means of access as provided in Article II. B.; (4) place materials for wildlife habitat with the approval of Grantee; and (5) place or store materials in the interior of permitted structures; provided, that these materials shall not be placed or stored on wetlands (as described in Article II. G.), vegetative buffers (as described in Article II. I.), or within one hundred (100) feet of each side of the streambank edge of the perennial stream(s) and intermittent stream(s) which run(s) through the Property, or within one hundred (100) feet of the perimeter of the pond on the Property; and shall be in accordance with all county, State and federal permits and regulations.

F. Excavation of Materials

No excavation of materials is permitted, including, but not limited to, dredging, mining and removal of loam, gravel, soil, rock, sand, coal and petroleum. Notwithstanding the previous sentence, Grantors may excavate materials: (1) for Agricultural use, if customarily and regularly done for that type of Agricultural use; (2) reasonably necessary for the purpose of combating erosion or flooding; (3) reasonably necessary for construction or maintenance of permitted structures, home sites and means of access as provided in Article II. B.; and (4) for wildlife habitat with the approval of Grantee; provided, that these materials are not excavated from or placed or stored on wetlands (as described in Article II. G.), vegetative buffers (as described in Article II. I.), or within one hundred (100) feet of each side of the streambank edge of the perennial stream(s) and intermittent stream(s) which run(s) through the Property, or within one hundred (100) feet of the perimeter of the pond on the Property; and shall be in accordance with all county, State and federal permits and regulations.

G. Wetlands

No diking, draining, filling, dredging or removal of any wetland or wetlands is permitted, except for the maintenance of drainage ditches for Agricultural use, if customarily and regularly done for that type of Agricultural use; and shall be in accordance with all county, State and federal permits and regulations. "Wetland" or "wetlands" means portions of the Property defined by any county, State or federal laws as a wetland or wetlands at the time of the proposed activity.

#### H. Forest Management

Management and harvesting of all forests on the Property shall be in accordance with the *Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland Guidelines* ("Guidelines") prepared by the Maryland Department of Environment or any comparable provisions of any guidelines or regulations which may replace the *Guidelines* in the future, or as they may be amended from time to time.

#### I. Vegetative Buffer Strip

Grantors shall allow a vegetative buffer strip along each side of any stream, which run(s) through the Property, and the pond on the Property, to naturally revegetate or be planted with native species, and once established, shall retain the fully vegetated buffer. Grantors shall not cut or remove any trees except for non-native, invasive, diseased, infected, or dead trees, in compliance with Article II. H., with respect to the *Guidelines*. The minimum width of the buffer strip shall be fifty (50) feet (or larger as required by applicable law) at all times along each side of the pond and any stream which run(s) through the Property, and shall be fifty (50) feet (or larger as required by applicable law) at all times around the perimeter of the pond on the Property, except as may be reasonably necessary for: (1) erosion control; (2) recreational water uses and associated structures; (3) access for hunting, fishing, trapping; or (4) (subject to Article II. B.) access to the water or the Property on the other side of the stream(s).

#### J. Total Resource Management Plan

Within one (1) year of the date of this Conservation Easement, Grantors shall have a Total Resource Management Plan ("TRMP") prepared and approved by the local Soil Conservation District. The objective of the TRMP shall be to attain sustainable use and sound management of soil, water, air, plant and animal resources on the Property. The TRMP shall emphasize the development of a Resource Management System ("RMS"). The RMS shall be a combination of conservation practices and resource management for the treatment of all identified resource concerns for soil, water, air, plants and animals that meets or exceeds the quality criteria in the *Natural Resource Conservation Service Field Office Technical Guide* ("Technical Guide") for resource sustainability, or any comparable provisions of any guide or regulations which may replace the *Technical Guide* in the future, or as it may be amended from time to time.

Revisions to the TRMP, including the schedule of implementation, may be made by Grantors and the local Soil Conservation District as land use practices or management changes; however, Grantors shall be in full compliance with the TRMP within six (6) years of the date of this Conservation Easement. Exceptions may be considered by Grantee on a case-by-case basis. Grantors shall provide a copy of the TRMP and any revisions to the TRMP to Grantee.

K. Signs and Billboards

No signs, billboards, or outdoor advertising displays may be erected, displayed, placed or maintained on the Property except signs not exceeding four (4) feet x four (4) feet for each of the following purposes: (1) to state the name of the Property, and the name and address of the occupant; (2) subject to approval of Grantee, to advertise any home or ancillary occupations consistent with the purposes of this Conservation Easement; (3) to advertise the Property's sale or rental; (4) to advertise the Agricultural and naturalistic uses of the Property; (5) to prevent trespassing and hunting; and (6) to recognize its protection by Grantee under this Conservation Easement, the Rural Legacy Program and State and local environmental or game laws.

L. Rights of Third Parties to Use the Property

Grantors may not authorize or allow a third party to use the Property in a manner inconsistent with the Terms of this Conservation Easement. Therefore, no right to use the Property, whether in the form of a right-of-way, easement, oil, gas or mineral lease, or other right or interest in, on or through the Property, may be conveyed or permitted to be established in, on or through the Property, unless the right or interest is consistent with the Terms of this Conservation Easement. (These prohibitions do not apply to a right to use the Property that was in existence prior to this Conservation Easement unless said right was subordinated to this Conservation Easement.) Notwithstanding the foregoing, third party rights to use the Property may be granted in connection with uses or structures permitted by the Terms herein (such as the granting of a utility easement to benefit a permitted residence).

M. Public Access

This Conservation Easement does not grant the public any right to access, or any right of use of the Property.

N. Reserved Rights

Except to the extent that prior written approval of Grantee is required by any paragraph of this Article, all rights reserved by Grantors, or not prohibited by this Conservation Easement, are considered to be consistent with the Terms of this Conservation Easement and require no prior notification or approval. If Grantors have any doubt with respect to whether or not any particular use of the Property is prohibited by the Terms of this Conservation Easement, Grantors may submit a written request to Grantee for consideration and approval of such use.

## ARTICLE III. ENFORCEMENT AND REMEDIES

A. Remedies

Upon any breach of the Terms of this Conservation Easement by Grantors, Grantee may, after reasonable notice to Grantors, exercise any or all of the following remedies:

1. institute suits to enjoin any breach or enforce any covenant by ex parte, temporary, and/or permanent injunction, either prohibitive or mandatory; and
2. require that the Property be restored promptly to the condition required by this Conservation Easement.

Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to Grantee at law or equity. If Grantors are found to have breached any of the Terms under this Conservation Easement, Grantors shall reimburse Grantee for any costs or expenses incurred by Grantee, including court costs and reasonable attorney's fees.

B. Effect of Failure to Enforce

No failure on the part of Grantee to enforce any Term hereof shall discharge or invalidate such Term, or any other Term hereof, or affect the right of Grantee to enforce the same in the event of a subsequent breach or default.

C. Right of Inspection

Grantee and its respective employees and agents have the right, with reasonable notice to Grantors, to enter the Property at reasonable times for the purpose of inspecting the Property to determine whether Grantors are complying with the Terms of this Conservation Easement. This right of inspection does not include access to the interior of buildings and structures. Grantees will notify each other before entering the Property for inspection and coordinate their inspections of the Property.

D. Effect of Multiple Grantees

Each Grantee has independent authority to enforce the Terms of this Conservation Easement. In the event that a Grantee does not agree as to whether Grantors are complying with the Terms, each Grantee may proceed with enforcement actions without the consent of the other Grantee.

## ARTICLE IV. EXHIBITS

The following exhibits are hereby made a part of this Conservation Easement:

- A. Exhibit A: Boundary Description and Property Reference is attached hereto and made a part hereof. Exhibit A consists of two (2) pages.

B. Exhibit B: Summary of Conservation Values is attached hereto and made a part hereof. Exhibit B consists of one (1) page.

C. Exhibit C: Inventory of Existing Structures is attached hereto and made a part hereof. Exhibit C consists of one (1) page.

D. Exhibit D: Color Slides of the Property With Description of Slides and Slide Index Numbers are kept on file at the principal office of Grantee and are fully and completely incorporated into this Conservation Easement as though attached hereto and made a part hereof, except for the Slide Index, which is attached hereto and made a part hereof. Exhibit D consists of eleven (11) color slides and one (1) page.

E. Exhibit E: Annotated Aerial Photograph of the Property is kept on file at the principal office of Grantee and is fully and completely incorporated into this Conservation Easement as though attached hereto and made a part hereof. Exhibit E consists of one (1) page.

These exhibits reflect the existing uses, conservation values and structures on the Property as of the date of this Conservation Easement.

#### ARTICLE V. MISCELLANEOUS

##### A. Notification by Grantors of a Grant, Conveyance or Other Transfer

Grantors shall notify Grantee in writing of the names and addresses of any party to whom the Property, or any part thereof, is to be granted, conveyed, or otherwise transferred at or prior to the time said transfer is consummated. Grantors further agree to make specific reference to this Conservation Easement in a separate paragraph of any subsequent deed or other legal instrument by which any interest in the Property is granted, conveyed, or otherwise transferred. Grantors shall provide a copy of this Conservation Easement to all subsequent grantees of the fee simple interest of any part or all of this Property.

##### B. Effect of Laws Imposing Affirmative Obligations on Grantors

In the event that any applicable county, State or federal law imposes affirmative obligations on owners of land which, if complied with by Grantors, would be a violation of a Term of this Conservation Easement, Grantors shall: (1) if said law requires a specific act without any discretion on the part of Grantors, comply with said law and give Grantee written notice of Grantors' compliance as soon as reasonably possible, but in no event more than thirty (30) days from the time Grantors begin to comply; or (2) if said law leaves to Grantors' discretion over how to comply with said law, use the method most protective of the conservation values of the Property listed in Exhibit B.



C. Notices to Grantee

Any notices required to be given by a party hereto pursuant to any Term hereof shall be sent by registered or certified mail, return receipt requested to the addresses set forth below, or to such other address as a party may establish in writing on notification to all other parties hereto.

If to Grantors: Wayne Z. Guyton  
Patricia H. Guyton  
P.O. Box 251  
Burkittsville, Maryland 21718

And If to Administrator, Land Preservation Program  
Grantee: Frederick County Department of Planning and Zoning  
Winchester Hall  
12 East Church Street  
Frederick, Maryland 21701

D. Approval of Grantee

In any case where the terms of this Conservation Easement require the approval of the Grantee, such approval shall be requested by written notice to the Grantee. Such approval shall be deemed to have been given; unless within ninety (90) days after receipt of notice the Grantee mail notices to Grantors of disapproval and the reason(s) therefore. Unless Grantee's approval is deemed given in accordance with the prior sentence, any approval shall be written. Grantee will take into account the Terms and purposes of this Conservation Easement in determining whether to give such approval, but its decision shall be final and in its sole discretion. Grantees will coordinate their review; however, the approval of one Grantee shall in no way be deemed to be the approval of all Grantees, it being the intention that each Grantee has independent authority to disapprove and enforce this Conservation Easement. In the event of a conflict between this paragraph and a Term requiring Approval, the Term requiring Approval shall prevail.

E. Assignment By Grantee and Effect of Dissolution of Grantee

So long as a government agency continues to hold title to this Conservation Easement, Grantee may assign, upon prior written notice to Grantors, their rights under this Conservation Easement to any "qualified organization" within the meaning of Section 170(h) of the Internal Revenue Code, or the comparable provision in any subsequent revision of the Code and only with assurances that the purposes of this Conservation Easement will be maintained; and, if any such assignee shall be dissolved, or shall abandon this Conservation Easement, or the rights and duties of enforcement herein set forth, this Conservation Easement and rights of enforcement shall revert to Grantee; and if Grantee shall be dissolved, and if the terms of the dissolution fail to provide a successor, then the Maryland Board of Public Works, or its successors or assigns, shall appoint an appropriate successor as Grantee; any such successor shall be a "qualified

organization” within the meaning of Section 170(h) of the Internal Revenue Code, or the comparable provision in any subsequent revision of the Code. No assignment may be made by Grantee of its rights under this Conservation Easement unless Grantee, as a condition of such assignment, requires the assignee to carry out the conservation purposes of this Conservation Easement.

F. Grantees Hold for Conservation Purposes

Grantee agrees to hold this Conservation Easement exclusively for conservation purposes, as defined in Section 170(h)(4)(A) of the Internal Revenue Code.

G. Amendment

This Conservation Easement may only be amended by a written document that is executed by Grantors and Grantee, approved by the Rural Legacy Board and recorded among the Land Records of Frederick County, Maryland; provided that any amendment shall not be inconsistent with the purpose of this Conservation Easement, shall not affect its perpetual duration and shall only be allowed if, in the opinion of Grantee, the amendment as a whole strengthens the conservation Terms of this Conservation Easement. Proof of the Rural Legacy Board’s approval shall accompany or be attached to said document.

H. Effect of the Dissolution of the Department of Natural Resources

In the event that the Department of Natural Resources is dissolved and no successor unit of State government is selected or established by the Maryland General Assembly, then the Maryland Board of Public Works, and its successors and assigns, shall have the right to transfer all rights of the Department of Natural Resources under this Conservation Easement to a unit of the Executive Branch of the State government.

I. Mortgages and Deeds of Trust

Grantors and Grantee agree that all mortgages and deeds of trust affecting the Property are subordinate to the rights of Grantee under this Conservation Easement. Grantors have provided a copy of this Conservation Easement to all mortgagees, and trustees and beneficiaries of deeds of trust affecting the Property as of the date of this Conservation Easement; and each mortgagee, trustee and beneficiary has subordinated the mortgage or deed of trust to this Conservation Easement, by signing a subordination agreement which shall be recorded among the Land Records of Frederick County, Maryland at the time of recording of this Conservation Easement.

J. Condemnation

By acceptance of this Conservation Easement by Grantee and the Maryland Board of Public Works, the purposes of the Property as restricted for Agricultural, natural resource and cultural resource preservation are hereby considered to be the highest public use of the Property.

Whenever all or part of the Property is taken in the exercise of eminent domain, so as to abrogate, in whole or in part, the restrictions imposed by this Conservation Easement; or this Conservation Easement is extinguished, in whole or in part, by other judicial proceeding, Grantors and Grantee shall be entitled to proceeds payable in connection with the condemnation or other judicial proceedings, in an amount equal to the current fair market value of their relative real estate interests. Grantee shall then divide the proceeds as follows: The Rural Legacy Board shall receive Sixty-Two and 12/100 percent (51.25%) of the proceeds and the Board of County Commissioners of Frederick County, Maryland shall receive Thirty-Seven percent and 88/100 percent (48.75%) of the proceeds. Any costs of a judicial proceeding allocated by a court to Grantors and Grantee shall be allocated in the same manner as the proceeds are allocated.

K. Construction

This Conservation Easement shall be construed pursuant to the purposes of this Conservation Easement and the law of the State of Maryland, including the purposes of the statutes creating and governing the Rural Legacy Board, the Department of Natural Resources, the purposes of Section 2-118 of the Real Property Article of the Annotated Code of Maryland, and the conservation purposes of this Conservation Easement.

L. Effect of Laws and Other Restrictions on the Property

The Terms of this Conservation Easement shall be in addition to any local, State or federal laws imposing restrictions to the Property and any real estate interests imposing restrictions to the Property.

M. Entire Agreement and Severability of the Terms

This instrument sets forth the entire agreement of the parties with respect to this Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to this Conservation Easement. If any Term is found to be invalid, the remainder of the Terms of this Conservation Easement, and the application of such Terms to persons or circumstances, other than those as to which it is found to be invalid, shall not be affected thereby.

N. Successors

The terms "Grantors" and "Grantee" wherever used herein, and any pronouns used in place thereof, shall include, respectively, the above-named Grantors and their personal representatives, heirs, and assigns; and the above-named Grantee and its successors and assigns.

O. Recordation

Grantee will record this instrument for Grantee, Grantors, and the State of Maryland in a timely fashion among the Land Records of Frederick County, Maryland, and Grantee may re-record it at any time as may be required to preserve its rights under this Conservation Easement.

P. Real Property Taxes

Except to the extent provided for by State or local law, nothing herein contained shall relieve Grantors of the obligation to pay taxes in connection with the ownership or transfer of the Property.

Q. Captions

The captions in this Conservation Easement have been inserted solely for convenience of reference and are not a part of this instrument. Accordingly, the captions shall have no effect upon the construction or interpretation of the Terms of this Conservation Easement.

R. Authorization

Grantors authorize the Soil Conservation District, Farm Service Agency and any other entities or government agencies to release to Grantee information contained in Grantors' Soil Conservation and Water Quality Plan, Forest Stewardship Plan, Forest Management Plan, or any other information applicable to the Terms of this Conservation Easement.

TO HAVE AND TO HOLD unto the Board of County Commissioners of Frederick County, Maryland, its respective successors and assigns, forever. The covenants agreed to and the terms, conditions and restrictions imposed as aforesaid shall be binding upon Grantors, their survivors, agents, personal representatives, heirs, assigns and all other successors to them in interest, and shall continue as a servitude running in perpetuity with the Property.

AND said Grantors hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the Property hereby conveyed; that Grantors shall warrant specially the Property granted; and that Grantors shall execute such further assurances of the same as may be requisite.

IN WITNESS WHEREOF, Grantors and Grantee have hereunto set their hands and seals the day and year above written.

GRANTORS:

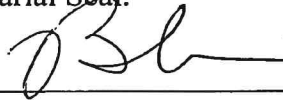
By: Wayne Z. Guyton (SEAL)  
Wayne Z. Guyton

By: Patricia H. Guyton (SEAL)  
Patricia H. Guyton

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

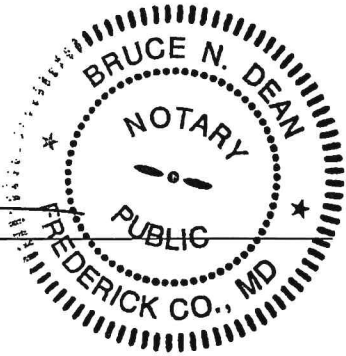
I HEREBY CERTIFY that on this 19th day of February, 2009, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Wayne Z. Guyton, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.



Notary Public

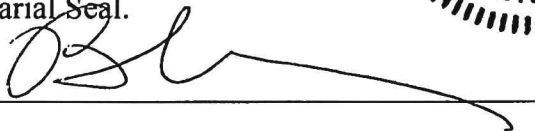
**BRUCE N. DEAN**  
NOTARY PUBLIC STATE OF  
My Commission Expires: MARYLAND  
**MY COMMISSION EXPIRES 5/1/09**



STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY that on this 19th day of February, 2009, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared Patricia H. Guyton, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.



Notary Public

**BRUCE N. DEAN**  
NOTARY PUBLIC STATE OF  
My Commission Expires: MARYLAND  
**MY COMMISSION EXPIRES 5/1/09**





GRANTEE:

COUNTY COMMISSIONERS OF FREDERICK COUNTY (also known as BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND)

By: Jan H. Gardner (SEAL)  
Jan H. Gardner, President

MJC 2/4/09

STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY, that on this 4<sup>th</sup> day of February, 2009, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared JAN H. GARDNER, PRESIDENT OF THE COUNTY COMMISSIONERS OF FREDERICK COUNTY (also known as BOARD OF COUNTY COMMISSIONERS OF FREDERICK COUNTY, MARYLAND), a body corporate and politic of the State of Maryland, and that she, as such President and being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the body corporate and politic by herself as President.

WITNESS my hand and Notarial Seal.

Rebecca A. Mullers  
Notary Public  
My Commission Expires: 2-23-2011

I hereby certify that this Deed of Conservation Easement has been prepared by me or under my supervision, and that I am admitted to practice law in the State of Maryland.

Michael J. Chomel  
Michael J. Chomel  
Assistant County Attorney

## Exhibit A

## CATOCTIN MOUNTAIN SURVEYS, INC

8423 HORNETS NEST ROAD

EMMITSBURG, MD 21727

PHONE: 301-447-3344

FAX: 301-447-2444

**REMAINING LANDS OF  
WAYNE Z. & PATRICIA H. GUYTON  
DEED BOOK 1146 PAGE 403, PARCEL No.1**

Situated Northeast of Main Street in Burkittsville and Southeast of Maryland Route No. 17 (Burkittsville Road), in the Burkittsville Election District No.22, Frederick County, Maryland, and being more particularly described as follows:

Beginning at rebar and cap#8644 found adjacent to an stone, being the northern most corner as shown on a plat entitled, "Addition Plat, Guyton Addition to Brown", recorded at Plat Book 28 Page 55, thence running with and containing the parcel herein being described, being the remainder of Parcel A as shown on the aforesaid plat, the fourteen (14) following courses and distances, corrected as now surveyed, and also running with and binding on the lands of Joseph F. Brown, III (Book 6212, Page 567) the two (2) following courses and distances, the first being

1. S 52° 26' 02" E 1007.88' to a tee-bar and cap#2047 found, thence
2. S 57° 24' 06" E 769.26' to a rebar and cap#8644 found near a fence line intersection, thence running with and binding on a parcel designated, "Parcel 1, Remaining" as shown on the aforesaid addition plat, being the lands of Marc C. Whitmore (Book 2016 Page 387), the following course and distance
3. S 37° 43' 26" W 559.50' to a rebar found, thence running with and binding on a parcel of land designated Parcel B as shown on a plat entitled, "Additional Plat, Guyton Addition to Hopkinson", recorded at Plat Book 31 Page 63, also being the lands of Marc C. Whitmore (Book 2016 Page 387), the following four (4) courses and distances, the first being
4. N 60° 39' 26" W 335.64' to a rebar and cap#8644 found, thence
5. N 41° 16' 49" W 437.39' to a rebar found, thence
6. N 79° 14' 55" W 189.84' to a rebar and cap#8644 found, thence
7. S 25° 13' 34" W 145.02' to a point near a rebar found disturbed, thence running with and binding on a parcel of land designated Parcel C as shown on a plat entitled, "Additional Plat, Guyton Addition to Hopkinson", recorded at Plat Book 31 Page 63, also being the lands of Marc C. Whitmore (Book 2016 Page 387), the following two (2) courses and distances, the first being
8. S 38° 51' 47" W 197.81' to a rebar and cap#8644 found, thence
9. S 20° 28' 55" W 563.97' to a rebar found disturbed, thence continuing with the aforesaid addition plat (P.B. 28 PG. 55) the two (2) following courses and distances, the first being
10. N 68° 40' 48" W 513.66' to a rebar found disturbed, thence
11. S 89° 29' 40" W 585.21' to a point, thence running with and binding on a plat entitled, "Addition Plat, Guyton Addition to Brown, Lot 1-A and Lot 1-B", recorded at Plat Book 65 Page 5, the following course and distance

12. N 12° 36' 38" E 652.67' to a rebar found, thence running with other lands of Wayne Z. and Patricia H. Guyton (Book 1006 Page 871) the two following courses and distances, the first being
13. N 63° 04' 24" E 627.17' to a point, thence
14. N 31° 58' 54" E 770.89' to the point of beginning

Containing 2,023,318 square feet or 46.4490 acres of land more or less

Being all of the remaining lands of Parcel No. 1 conveyed from John M. Kauffmann unto Wayne Z. Guyton and Patricia H. Guyton, his wife by deed dated May 13, 1981 and recorded May 13, 1981 in Deed Book 1146 Page 403 among the land records of Frederick County, Maryland

**LANDS OF  
WAYNE Z. & PATRICIA H. GUYTON  
DEED BOOK 1006 PAGE 871, Parcel No.1**

Situated Northeast of Main Street in Burkittsville and Southeast of Maryland Route No. 17 (Burkittsville Road), in the Burkittsville Election District No.22, Frederick County, Maryland, and being more particularly described as follows:

Beginning at point near the center of Maryland Route#17 ( Burkittsville Road), being the point of beginning for the parcel herein being described, said parcel being outlined in Deed Book 1006 Page 871, Parcel No.1, thence running with and containing the aforesaid parcel the twenty four (24) following courses and distances, corrected as now surveyed, and also running with and binding on the lands of Joseph F. Brown, III (Book 6212, Page 567) the following course and distance

1. S 52° 39' 16" E 1564.03' to a rebar and cap#8644 found near a stone, thence running with others lands of Wayne Z. and Patricia H. Guyton, as shown on a plat entitled, "Addition Plat, Guyton Addition to Brown", recorded at Plat Book 28 Page 55, the two (2) following courses and distances, the first being
2. S 31° 58' 54" W 770.89' to a point, thence
3. S 63° 04' 24" W 627.17' to a rebar found, thence running with and binding on a plat entitled, "Addition Plat, Guyton Addition to Brown, Lot 1-A and Lot 1-B", recorded at Plat Book 65 Page 5, the following course and distance
4. S 63° 04' 02" W 262.22' to a point, thence running with and binding on the lands of Kenneth Brown (Book 4601 Page 159), Douglas L. & Lisa D. Homer (Book 2466 Page 1123), and David & Dona Mizell (Book 3186 Page 1) the following course and distance
5. S 62° 54' 32" W 799.55' to a point, thence running roughly along an alley designated Locust Street, the three following courses and distances, the first being
6. N 50° 30' 20" W 775.50' to point, thence
7. N 74° 51' 18" W 322.31' to a point, thence

8. S 84° 38' 42" W 63.95' to a point near the center of Main Street of Burkittsville, thence running roughly with the center of Main Street
9. N 29° 56' 36" W 326.04' to a point, thence running with and binding on the lands of Ralph & Lisa H. Johnston (Book 5544 Page 775) the two (2) following courses and distances, the first being
10. N 65° 48' 24" E 242.22' to a point, thence continuing with the lands of Ralph & Lisa H. Johnston (Book 5544 Page 775) in part, and running with and binding on the lands of The Mayor & Council of Burkittsville (Book 2332 Page 547) in part the following course and distance
11. N 01° 11' 36" W 230.78' to a concrete monument found, passing over a concrete monument found at the end of 129.38', thence running with and binding on the lands of the Union Cemetery Company, Inc. the two (2) following courses and distances, the first being
12. N 82° 29' 13" E 207.90' to a point southeast of a stone fence line corner, thence
13. N 08° 00' 47" W 456.49' to a point in the near the center of Maryland Route#17 and passing over the remains of a concrete monument at a distance of 436.25', thence running roughly with the center of Maryland Route#17, the following course and distance
14. S 64° 29' 55" W 345.19' to a point, thence running with and binding on the lands of W. Marshall & Evelyn L. Miller (Book 821 Page 333), the lands of Thomas F. & Mary L. Clark (Book 941 Page 442), and the lands of The Town of Burkittsville (Book 5545 Page 760) the following course and distance
15. N 26° 40' 17" W 826.32' to a tee-bar and cap#2046 found, passing over a tee-bar and cap#2046 found at the end of 309.83', thence running with and binding on the lands of the Charles A. & Catherine Bly Cox (Book 2502 Page 680) the two (2) following courses and distances, the first being
16. N 52° 48' 21" E 356.44' to a tee-bar & cap#2046 found, thence
17. N 69° 45' 05" W 273.24' to a point, thence running with and binding on the lands of Pinpoint Management, LLC (Book 4978 Page 269, Parcel No.1) the following course and distance
18. N 15° 35' 34" E 768.68' to a large nail found, thence running with and binding on the lands of The Brandenburg Family Limited Partnership (Book 3175 Page 478) in part, the following course and distance
19. S 72° 03' 44" E 1465.41' to a point near on old fence line, thence continuing with the aforesaid lands
20. N 03° 46' 37" E 113.01' to a point, thence running roughly with an existing fence line
21. N 05° 17' 08" E 788.04' to a point west of a small stream, thence running and binding, in part, with the aforesaid lands of The Brandenburg Family Limited Partnership, the following course and distance
22. N 87° 04' 57" E 583.61' to a rebar and cap#8644 found near a quartz stone and passing over a stone found at the base of a fence post on the east side of the aforesaid small stream at a distance of 24.00', thence running and binding on a parcel of land shown on a plat entitled, "Addition Plat, Krabill to Krabill, The Arnold Farm", recorded in Plat Book 46 Page 90, and the lands of Samuel E. & Janice A. Crone (Liber 482 Folio 69) the following course and distance

23. S 11° 42' 56" E 1196.58' to a point near the center of Maryland Route#17 and passing over a small nail found with flagging at a distance of 989.37', thence running roughly with the center of Maryland Route#17

24. S 59° 40' 23" W 471.70' to the point of beginning

Containing 7,173,008 square feet or 164.6696 acres of land more or less

Being all of the lands of Parcel No. 1 conveyed from Wayne Z. Guyton and Gail T. Guyton, personal representatives of the estate of Arthur R. Guyton unto Wayne Z. Guyton and Patricia H. Guyton, his wife by deed dated December 21, 1976 and recorded December 21, 1976 in Deed Book 1006 Page 871 among the land records of Frederick County, Maryland

Both parcels containing an aggregate of 9,196,326 square feet or 211.1186 acres of land more or less, being subject to an encroachment of the lands of The Brandenburg Family Limited Partnership (Book 3175 Page 478) totally 0.4531 acres of land more or less; leaving 210.6655 acres of land free and clear of encumbrances



7/16/08 Karl Gordon Piyor



**EXHIBIT B****Wayne and Patricia Guyton  
Summary of Conservation Values**

1. Environmental Significance – This Conservation Easement provides best management practices, Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland practices, Total Resource Management Practices, and stream valley protection on Manor Run & Burkitts Run, the tributaries of Broad Run which flows into Catoctin Creek and then into the Potomac River.
2. Agricultural Land Protection – This Conservation Easement of 210.665 acres permanently protects 100% USDA Class I, II and III soils.
3. Adjacent to Existing Conservation Land – This Conservation Easement is adjacent to over 5,676 acres of land under land preservation easements through the Maryland Agricultural Land Preservation Foundation (MALPF), the Rural Legacy Program, ISTEА-TEA-21 Programs, and donated easements through the Maryland Environmental Trust (MET).
6. Degree of the Threat of Development of Property and Properties in the Area – This Property has a maximum potential of 18 development rights.
7. Scenic and Open Space Value – Protection of this Property preserves a part of the viewshed from the Appalachian Trail and the South Mountain State Park and provides preservation protection for the historic village of Burkittsville.
8. Frederick County Comprehensive Plan – This Conservation Easement is consistent with the goals and policies of the Frederick County Comprehensive Plan adopted in October, 1998. 100,000 acres of agricultural land to be preserved through permanent conservation easements by the year 2020. This Property is designated as Agricultural/Rural on the adopted Middletown Region Plan (adopted December, 1997), which is consistent with this Rural Legacy Easement; plus, it is also consistent with the MALPF, IPP, TEA-21, MET, and Critical Farms easement programs in Frederick County.

**EXHIBIT C**

**Wayne and Patricia Guyton  
Inventory of Existing Structures**

Existing Structures

Easement Reference

Two-story single family home

Article II.B.1

Bank Barn, 45 x 100

Article II.B.3

Dairy Barn, 36 x 64

Article II.B.3

Loafing shed, 30 x 45

Article II.B.3

Dairy House, 14 x 32

Article II.B.3

Wash House, 14 x 22

Article II.B.3

**EXHIBIT D**

**Wayne & Patricia Guyton**

**Color slides of Property with description**

View south to rear of house

View southeast

View east

View east

View northeast from edge of cemetery

View southwest from edge of cemetery

View north from farm lane

View north from farm lane

View east from farm lane

View southeast from edge of cemetery

# Exhibit E BK 7205 PG 0041-A

Wayne & Patricia Guyton  
Annotated Aerial Photograph - 210.665 Acres  
Page One of One

FREDERICK COUNTY CIRCUIT COURT (Land Records) SKD 7205, p. 0041a, MSA\_CE61\_7050. Date available 03/06/2009. Printed 02/04/2022.



MAURICE E. GROSSNICKLE  
GIS/592

97A.  
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Frederick County was flown in March, 2006 to produce the County's 1:2400 scale digital orthophotography. The orthophotography may not reflect current ground conditions. The tax maps shown are copyrighted by the Maryland Department of Planning and are accepted by Frederick County through the Maryland Property View package. These maps may not be copied or reproduced in any form. The tax maps are generally compiled at scales of 1 inch to 200 feet or 1 inch to 630 feet. While the tax maps are currently the best representation of property information available, the tax maps may not be current and may contain post-fiscal inaccuracies.

700 350 0 700 Feet



FREDERICK COUNTY CIRCUIT COURT (Land Records) SKD 7205, p. 0042, MSA\_CE61\_7050. Date available 03/06/2009. Printed 02/04/2022.

State of Maryland Land Instrument Intake Sheet
Baltimore City County: Frederick
Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

BK 7205 PG 0042

Form with sections: 1. Type(s) of Instruments, 2. Conveyance Type Check Box, 3. Tax Exemptions, 4. Consideration and Tax Calculations, 5. Fees, 6. Description of Property, 7. Transferred From, 8. Transferred To, 9. Other Names to Be Indexed, 10. Contact/Mail Information, 11. Assessment Information, and Terminal Verification.

Space Reserved for Circuit Court Clerk Recording Validation

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