

Work Flow No: 9999-00223519

Craven NC - Document Stamp
Becky Thompson, Register of Deeds
Date 10/18/2004 Time 16:43:25 1 of 5 Pgs
No: 2004-00112792

Book **2240** Page **1030**

Fee Amt : 26.00
Excise Tax: .00

RIGHT OF WAY AGREEMENT

Drawn by or under the direction of (without having performed title examination):
Smith, Anderson, Blount, Dorsett, Mitchell, & Jernigan, L.L.P. (KEP)
Return to: Smith Anderson Law Firm, P. O. Box 2611, Raleigh, NC 27602
Tax ID Number: 8-223-0011
Project Parcel Number: C-214

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

THIS RIGHT OF WAY AGREEMENT, made and entered into as of this 28 day of SEPTEMBER, 2004, by and between Hog Island, LLC, and all heirs, successors and assigns, hereinafter referred to as GRANTOR (whether one or more), and EASTERN NORTH CAROLINA NATURAL GAS COMPANY, a North Carolina corporation whose address is 5625 Dillard Drive, Suite 101, Cary, North Carolina 27511, hereinafter referred to as ENCNG;

WITNESSETH:

1. **Grant of Easement.** GRANTOR, for good and valuable consideration, the receipt and legal sufficiency of which are hereby duly acknowledged, does hereby grant, sell, and convey unto ENCNG, its successors and assigns, a non-exclusive right of way and easement as described herein (the "Easement") for the purposes of laying, constructing, installing, maintaining, inspecting, operating, protecting, repairing, altering, replacing, changing the size of, and/or removing an underground pipeline or pipelines (together with aboveground line markers, valves, meters and regulators, fittings, appurtenances, tie-overs, and appurtenant facilities) (collectively, the "Pipeline Facilities") for the transportation of natural gas or any other similar gases or substances that can be transported through a pipeline, under, through and across the following described easement area situated in Number 8 Township, Craven County, North Carolina:

A right of way and easement thirty-five (35) feet in width, said easement being depicted on that certain survey entitled "Survey for Eastern North Carolina Natural Gas Company on Lands of Hog Island, LLC," dated August 30, 2004 and prepared by McKim & Creed, Land Surveyors, which survey is attached hereto as **Exhibit A** and incorporated herein by reference for a more particular description (the "Survey"). The easement area contains 0.55 acres, more or less, and is depicted on the Survey and labeled as the "35' Access & Utility Easement"

Return to:
CLA, 308 N. Arendell Ave
Lenoir, NC
24597

on the Survey. The 35' Access & Utility Easement is a portion of the GRANTOR's property described in a deed recorded in Deed Book 1456, Page 884, Craven County Registry ("GRANTOR's Land").

TO HAVE AND TO HOLD said Easement with all rights, privileges and appurtenances thereto belonging unto ENCNG, its successors and assigns, forever, but subject to each and every condition and reservation set forth herein.

2. **Additional Pipelines.** For each additional pipeline installed within the Easement Area after the first pipeline, ENCNG shall pay the then fee owner(s) of the Easement Area additional consideration equal to the sum of \$5.00 per linear rod (i.e. 16.5 feet) of each additional pipeline installed, or a portion thereof reflecting the owner's pro rata portion of the undivided fee interest in the Easement Area if there is more than one fee owner.

3. **ENCNG's Rights.** The Pipeline Facilities installed by ENCNG shall be and remain the property of ENCNG and may be removed by ENCNG at any time and from time to time. ENCNG shall have all such other rights and benefits to do all things necessary or convenient for the full enjoyment, use and exercise of the rights herein granted. Such rights and benefits include, without limitation, the following: (a) the right to access the Easement Area in accordance with the terms of Section 5 below; and (b) except as hereinafter provided, the right to clear and keep cleared from the Easement Area all trees, shrubs, undergrowth, buildings, structures, wells, tanks, septic systems, and other natural or man-made obstructions of any nature or kind whatsoever.

4. **ENCNG's Liability For Damages.** To the extent actual physical and material damages are proximately caused by ENCNG's exercise of its rights under this Agreement, ENCNG shall be responsible for said damages to (a) improvements (other than improvements constructed within the Easement Area after the date of this Agreement and in violation of the terms hereof) and annual crops on GRANTOR's Land, both inside and outside the Easement Area, (b) roads on GRANTOR's Land used by ENCNG, and (c) GRANTOR's Land itself (such as trenches or holes left in the ground as a result of ENCNG's activities). In order to recover compensation for damages from ENCNG under this Section, GRANTOR must make a written claim for damages to ENCNG within sixty (60) days after such damages are sustained.

5. **Access to the Easement Area.** ENCNG and its employees, contractors, agents shall use then-existing roadways or driveways located on or appurtenant to GRANTOR's Land to access the Easement Area to the extent said roadways or driveways afford ingress and egress to and from the Easement Area; provided, however, that ENCNG shall have the free and full right of ingress and egress over, across, and upon GRANTOR's Land in emergencies or if said roadways or driveways are blocked, impeded, removed, or otherwise fail to afford reasonable ingress and egress to and from the Easement Area. To the extent that ENCNG causes any damage to GRANTOR's Land or roadways in exercising its rights under this subsection, ENCNG shall be liable for such damages pursuant to Section 4 above.

6. **Pipeline Depth.** ENCNG shall install all pipelines below surface grade with a minimum of three (3) feet of groundcover and shall level and grade any excavation it performs. Such depth is in compliance with applicable federal regulations, laws, and accepted engineering practices and is sufficient to allow GRANTOR to conduct normal farming activities and to allow GRANTOR reasonable use of its ditches and drains. If GRANTOR believes that extra depth is required beneath certain ditches, drains or other areas of its property, GRANTOR must inform

ENCNG of those areas where it desires extra depth prior to ENCNG's construction of the pipeline in order for such a request to be considered.

7. **Rights Retained By Grantor.** GRANTOR retains the right, subject to the limitations contained herein (including those limitations imposed by Section 8) to: (a) construct and maintain drainage ditches, roads and aboveground utility lines within and/or crossing the Easement Area; (b) construct and maintain belowground utility lines within and/or crossing the Easement Area, provided that, in addition to the limitations in Section 8, GRANTOR must obtain ENCNG's written consent as to the type, specifications, construction plans, and exact location of the proposed underground utility lines before beginning any installation or construction of said belowground utility lines within the Easement Area; (c) improve, maintain, and widen existing drainage ditches within the Easement Area; (d) relocate or remove any existing roadways or driveways located on GRANTOR's Land, so long as some reasonable means of roadway access to the Easement Area remains; (e) install, construct, or continue to operate gates blocking roadways or driveways on GRANTOR's Land that provide access to the Easement Area, so long as GRANTOR provides ENCNG with a key to such gates or other reasonable means of traveling through such fences and gates; and (f) use the surface of the Easement Area for all purposes not inconsistent with ENCNG's rights granted hereunder.

8. **Limitations On Grantor's Retained Rights.** Prior to the construction of any improvements or the conducting of any land-disturbing activities within the Easement Area (other than normal farming activities), GRANTOR shall deliver to ENCNG prior written notice of the date, time, and nature of the activities it intends to undertake, so that ENCNG may arrange to inspect the work in the event the proposed work presents a safety concern to GRANTOR, ENCNG, the general public, or the Pipeline Facilities. Except as permitted in Section 7 above, GRANTOR shall not: (a) place, build, construct or create (nor permit others to place, build, construct or create) any buildings, structures, or other improvements of any nature or kind whatsoever within the Easement Area; (b) engage in any activity within or outside the Easement Area that will interfere with or impair the integrity, safety, operation, and/or maintenance of the Pipeline Facilities or ENCNG's ability to access them; or (c) obstruct, hamper, impair, or materially interfere with ENCNG's exercise of its rights hereunder. Further, GRANTOR shall take necessary steps to ensure that any activities conducted on GRANTOR's Land do not damage the Pipeline Facilities. All parties hereto expressly acknowledge that ENCNG is required to install the Pipeline Facilities in accordance with applicable laws, rules, regulations, and accepted engineering practices, and GRANTOR shall not exercise any of its rights retained under this Agreement or otherwise engage in any activities, whether within or outside the Easement Area, that would cause the conforming Pipeline Facilities to no longer conform to applicable laws, rules, regulations, or accepted engineering practices. Specifically, without limitation, GRANTOR shall not conduct any activity (including construction, grading, or other land-disturbing activities) that diminishes the depth of the soil over the Pipeline Facilities so as to reduce it below the level required by applicable laws, rules, regulations, or accepted engineering practices.

9. **Representation of Grantor.** GRANTOR, for itself, its heirs, executors, administrators, successors and assigns, covenants to and with ENCNG, its successors and assigns, that GRANTOR is lawfully seized of the Easement Area in fee and has the right to convey said rights and Easement; that the Easement Area is free and clear from any and all liens and encumbrances; and that GRANTOR will forever warrant and forever defend the title to said rights and Easement against the lawful claims of all persons whomsoever. It is provided, however, that this Easement is granted subject to restrictive covenants and to utility easements currently on the

ground or of record, including, but not limited to, a right of way in favor of Carolina Power & Light Company and the terms of such right of way.

10. **Miscellaneous.** (a) **Authority.** The individuals signing this Agreement personally warrant that they have the right and power to enter into this Agreement, to grant the rights granted under this Agreement, and to undertake the obligations undertaken in this Agreement. (b) **Time of the Essence.** Time is of the essence with respect to time deadlines under this Agreement. (c) **Notice.** All notices and communications required to be sent pursuant to the terms of this Agreement shall be in writing and shall be mailed or delivered as follows: To ENCNG and its successors and assigns, at the latest address on file with the North Carolina Utilities Commission at the time of such notice; to GRANTOR and its successors and assigns, at the latest address on file with the County Tax Assessor's Office for the owner of the property on which the Easement Area lies at the time of such notice. (d) **Headings.** The headings in this Agreement are inserted only as a matter of convenience and for reference and they in no way define, limit, or describe the scope of this Agreement or the intent of any provision hereof.

IN WITNESS WHEREOF, GRANTOR has hereunto set their hands as of the day and year first above written.

GRANTOR: Hog Island, LLC

By: Hovey E. Aiken, III
Title: Member

STATE OF NC
COUNTY OF JONES

I, Mary E. Jones, a Notary Public of the aforementioned County and State do hereby certify that **Hovey E. Aiken, III**, of Hog Island, LLC a limited liability corporation, personally appeared before me this day and acknowledged the due execution of the foregoing AGREEMENT on behalf of the corporation.

Witness my hand and notarial seal, this 28th day of September, 2004.

Mary E. Jones
Notary Public

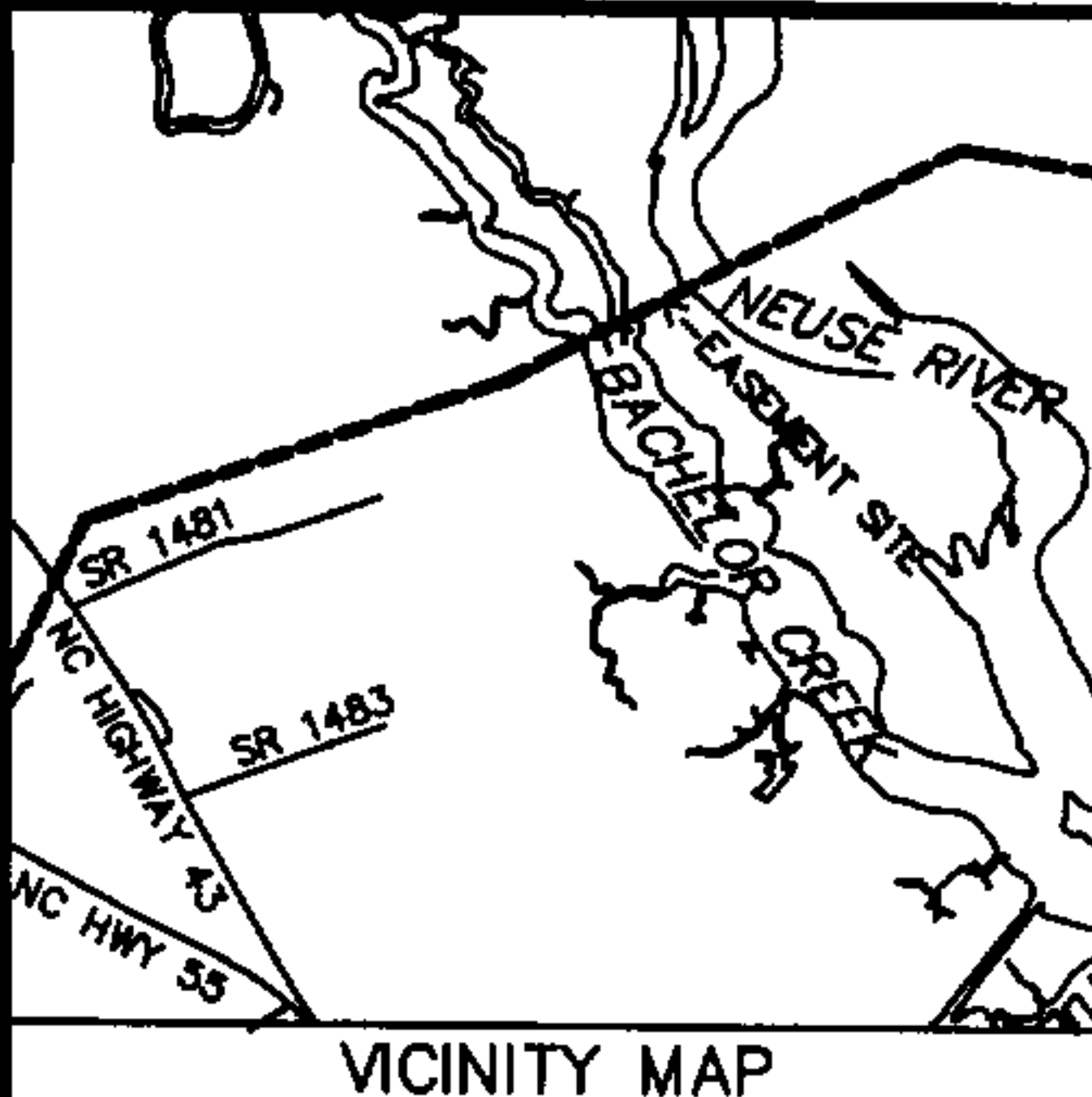
My commission expires:
February 9, 2005.

(Notary Stamp or Seal)

MARY E. JONES
Notary Public State of NC
Commissioned in Jones County
Commission Expires February 9, 2005.

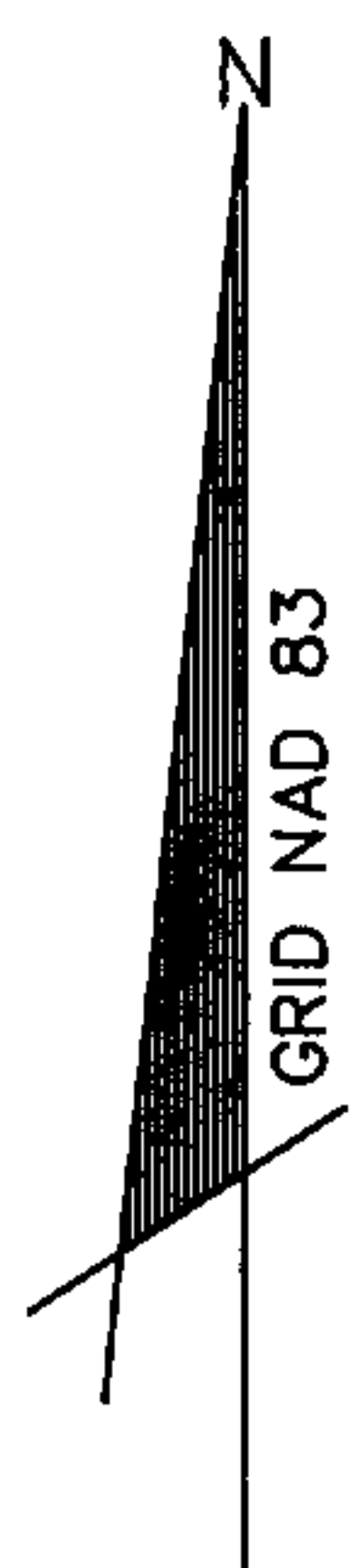
State of North Carolina, Craven County
The foregoing certificate(s) of

is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Craven County, NC in Book 2240 Page 1033.
This 28th day of September, A.D., 2004 at 11:50 o'clock
Register of Deeds
Asst./Deputy Register of Deeds

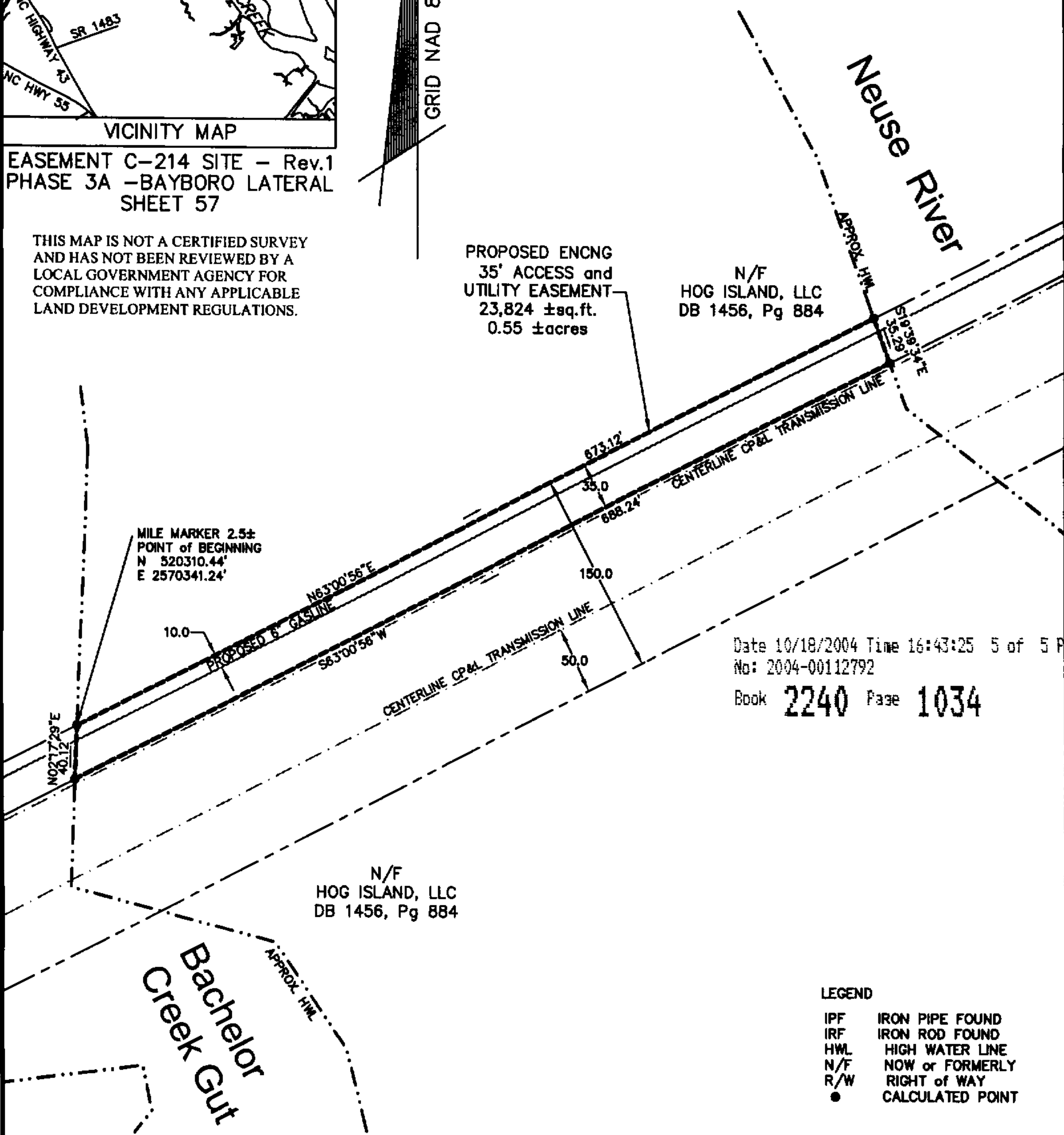


**EASEMENT C-214 SITE - Rev.1
PHASE 3A -BAYBORO LATERAL
SHEET 57**

THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A
LOCAL GOVERNMENT AGENCY FOR
COMPLIANCE WITH ANY APPLICABLE
LAND DEVELOPMENT REGULATIONS.



- NOTES:
1. ALL DISTANCES ARE HORIZONTAL GROUND UNLESS OTHERWISE NOTED;
 2. PROPERTY REFERENCED ON PLAT RECORDED IN DEED BOOK 1456, PAGE 884 OF THE CRAVEN COUNTY REGISTRY OF DEEDS.
 3. THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY OF THE PARENT PARCEL, BUT IS FOR THE SOLE PURPOSE OF IDENTIFYING THE PROPOSED EASEMENT SITE. THIS MAP DOES NOT CONFORM TO G.S.47-30.
 4. THE LINES OF THE PARENT PARCEL WERE PLOTTED FROM THE RECORDED DEEDS AND WERE NOT FIELD CHECKED OR SURVEYED.
 5. DRAWING FILED AS 0159-0164 C214-Rev1.dwg
 6. ADJACENT PROPERTY LINES ARE APPROXIMATE.



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- LEGEND
- IPF IRON PIPE FOUND
 - IRF IRON ROD FOUND
 - HWL HIGH WATER LINE
 - N/F NOW or FORMERLY
 - R/W RIGHT of WAY
 - CALCULATED POINT

I, JOSEPH T. CHANCE, PLS L-3666, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FROM INFORMATION SHOWN IN DEED BOOK AND (OR) MAPS REFERENCED ON THIS PLAT; THAT LINES NOT ACTUALLY SURVEYED APPEAR AS BROKEN LINES AND WERE PLOTTED FROM INFORMATION AS NOTED ON THE PLAT; THAT THE RATIO OF PRECISION AS CALCULATED BY LATITUDES AND DEPARTURES WAS GREATER THAN 1:10,000; THAT THE AREA IS COMPUTED BY COORDINATE METHOD. WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS THE 30th DAY OF AUGUST, A.D., 2004.

Joseph T. Chance
PROFESSIONAL LAND SURVEYOR, L-3666

Rev. 1 - August 30, 2004 - Modified proposed 6" gasline location.

Eastern NC
Eastern North Carolina Natural Gas



**SURVEY FOR
EASTERN NORTH CAROLINA NATURAL GAS COMPANY
ON LANDS
HOG ISLAND, LLC
NUMBER 8 TOWNSHIP - CRAVEN COUNTY - NORTH CAROLINA
SURVEY DATE: AUGUST 25, 2003 JOB # 00159-0164**



2807 NEUSE BLVD. BLDG. 5
NEW BERN, NORTH CAROLINA 28562
TELE: (252) 633-5899
FAX: (252) 633-8551

SCALE: 1" = 100'



DATE: 8/30/2004