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FORSYTH CO, NC FEE \$26.00

PRESENTED & RECORDED:

12-31-2020 02:31:25 PM

LYNNE JOHNSON

REGISTER OF DEEDS

BY: ANGELA M THOMPSON, DPTY

BK: RE 3577

PG: 2156-2162

(ABOVE THIS LINE FOR REGISTER OF DEEDS USE ONLY)

Prepared by and Return to: J. Aldean Webster III, Assistant Attorney General,  
N.C. DOT, Attorney General's Office, 1505 Mail Service Center, Raleigh, N.C. 27699

ENVELOPE

NORTH CAROLINA  
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CIVIL ACTION 18 CVS 1926

DEPARTMENT OF TRANSPORTATION, )  
Plaintiff, )

v. )

CONSENT JUDGMENT  
(CNDM)

2020 DEC 31 A 9:16

JEFFREY PHILLIP SWISHER )  
(a/k/a JEFFERY PHILLIP SWISHER), )  
and PAULA S. RICHARDS )  
(f/k/a PAULA SWISHER COOKE); )  
and husband, MICHAEL K. RICHARDS )  
Defendants. )

*Handwritten initials*

THIS CAUSE coming on to be heard and being heard before the undersigned Judge of the Superior Court and it appearing to the Court and the Court finding as fact:

That this action was duly instituted on the 10th day of April, 2018, by the issuance of Summonses, by the filing of a Complaint and Declaration of Taking and Notice of Deposit, and by the deposit of SEVENTEEN THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$17,450.00), as estimated just compensation; that Summonses were duly served on defendants together with a copy of the Complaint and Declaration of Taking and Notice of Deposit;

That, from time to time in this action, certain papers have misspelled "Jeffrey Phillip Swisher" as "Jeffery Phillip Swisher," but the caption of this judgment bears the correct spelling, and also inserts "(a/k/a Jeffery Phillip Swisher);"

That, in this case, all previous references to "Jeffery Phillip Swisher" are hereby deemed to be references to "Jeffrey Phillip Swisher;"

That, notwithstanding any of the previous misspellings, Jeffrey Phillip Swisher, by his signing of this judgment, does hereby confirm that, in this case, process and service of process as to Jeffrey Phillip Swisher has been sufficient and timely, and that, for all relevant times, Jeffrey Phillip Swisher has been subjected to the in personam jurisdiction of this court;

That the defendants are the only parties or persons or entities who have or claim to have an interest in the property described in the Complaint and Declaration of Taking; and the title to the property is not in dispute; and

That the property described in the Complaint and Declaration of Taking was, at the time of the filing of this action, subject only to such liens and encumbrances as are set forth in Exhibit "A" of the Complaint and Declaration of Taking;

That, now, defendants and the plaintiff have reached an agreement whereby the plaintiff has agreed to pay and defendants have agreed to accept, in addition to the deposit, the additional sum of ELEVEN THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$11,550.00), for a total of TWENTY-NINE THOUSAND DOLLARS (\$29,000.00), to be disbursed as described below, as complete and final settlement of all claims in this action and as just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the appropriation of the interests and areas as hereinafter more particularly described; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project WBS#36600.2.1, I.D.#U-4734, Forsyth County; and for the past and future use of such interests and areas by the Department of Transportation and its successors and assigns, for all purposes for which the said Department is authorized by law to subject the same;

That, in signing off on this judgment, each defendant waives and relinquishes any and all rights to challenge the validity of this judgment;

That, in signing off on this judgment, each defendant represents the following: (1) such defendant has had ample and sufficient ability and opportunity to investigate the desirability of this judgment, and, as a result, have determined that such defendant desires the terms of this judgment, and (2) such defendant has, for this case, had the opportunity to be represented by counsel, and has been represented by counsel, and (3) such defendant is relying on no representation made by or on behalf of plaintiff -- other than representations as set forth by the terms of this judgment itself, and (4) plaintiff has never had any relevant duty of disclosure to such defendant, and (5) plaintiff has not breached any duty of disclosure, and (6) such defendant

is freely, voluntarily, and knowingly signing off on and assenting to this judgment, and (7) such defendant is not mistaken in entering into the terms of this judgment;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. That the Department of Transportation, plaintiff herein, was entitled to acquire and did acquire, free and clear of all encumbrances, on the 10th day of April, 2018, by the filing of a Complaint and Declaration of Taking and Notice of Deposit, together with the deposit of SEVENTEEN THOUSAND FOUR HUNDRED FIFTY DOLLARS (\$17,450.00), those certain interests or estates and areas, hereinafter more particularly described, in, over, upon and across the property of Defendants; and that said property of Defendant (the "subject property") is described as follows:

Being all of that tract of land more particularly described in that certain MEMORANDUM OF ACTION captioned "DEPARTMENT OF TRANSPORTATION v. JEFFERY [ "JEFFREY" ] PHILLIP SWISHER, and PAULA S. RICHARDS ( f/k/a PAULA SWISHER COOKE); and husband, MICHAEL K. RICHARDS, Defendants" recorded in the Office of the Register of Deeds for Forsyth County in Book: RE 3398, Pages: 2225-2226, reference to which MEMORANDUM OF ACTION is made for a more particular description of said property of the Defendants;

that the subject property has been referred to as "Parcel 047," with respect to Department of Transportation Project #U-4734, WBS#36600.2.1, Forsyth County.

2. That the interests or estates acquired in, over, upon and across the hereinabove described property of defendants (the subject property) are described as follows:

Fee simple title to right of way, and a slope easement for providing lateral support to the highway, or land adjacent thereto, which easement will terminate at such time as the owners lower or raise the elevation of the land adjacent to said highway to the extent that such lateral support is no longer needed and, in addition, a temporary construction easement to continue until the completion of the project, at which time said temporary construction easement will terminate.

A permanent utility easement for all purposes for which the plaintiff is authorized by law to subject the same. Said utility easement in perpetuity is for the installation and maintenance of utilities, and for all purposes for which the Department of Transportation is authorized by law to subject same. The Department of Transportation and its agents or assigns shall have the right to construct and maintain in a proper manner in, upon and through said premises a utility line or lines with all necessary pipes, poles and appurtenances, together with the right at all times to enter said premises for the purpose of inspecting said utility lines and making all necessary repairs and alterations thereon; together with the right to cut away and keep clear of said utility lines, all trees and other

obstructions that may in any way endanger or interfere with the proper maintenance and operation of the same with the right at all times of ingress, egress and regress. The Department of Transportation shall have the right to construct and maintain the cut and/or fill slopes in the above-described permanent utility easement area(s). The Permanent Utility Easement shall be used by the Department of Transportation for additional working area during the above described project.

3. That the areas acquired in, over, upon and across the hereinabove described property are accurately shown upon a map, entitled "PROPERTY DESCRIBED IN CIVIL ACTION ENTITLED STATE OF NORTH CAROLINA DEPARTMENT OF TRANSPORTATION VS JEFFERY PHILLIP [the correct spelling of which is "JEFFREY"] SWISHER, et al[.,] FORSYTH COUNTY[,] 2018-CVS-1926" for "PAR[CEL] 047" (which was filed in this action on October 9, 2020), to include survey lines and station numbers delineated on the project plans for the North Carolina Department of Transportation Project WBS#36600.2.1, Project I.D.# U-4734, as Parcel #047, Forsyth County, on file in the North Carolina Department of Transportation in Raleigh, North Carolina, and also on a copy of said project plans which are or will be recorded, as required by law, in the office of the Register of Deeds of Forsyth County, to which plans reference is hereby made for greater certainty of the areas and interests acquired, and said areas and interests are described as follows:

**AREA TAKEN:**

**NEW RIGHT OF WAY:**

Beginning at Point "1" being S 67°16'51" E 60.00 ft. from -Y13- 24+22.95, thence N 65°36'48" W 33.50 ft. to point "2"; thence N 65°36'48" W 0.52 ft. to point "3"; thence N 24°52'53" E 179.65 ft. to point "4"; thence along a curve turning to the right, having a radius of 60.2799 ft. and having a chord with a bearing of N 64°50'02" E and a chord distance of 23.69 ft., an arc distance of 23.85 ft. along said curve to point "5"; thence along a curve turning to the left, having a radius of 1030.0000 ft. and having a chord with a bearing of N 87°23'32" E and a chord distance of 219.55 ft., an arc distance of 219.97 ft. along said curve to point "6"; thence S 01°38'20" W 11.48 ft. to point "7"; thence along a curve turning to the right, having a radius of 1440.0000 ft. and having a chord with a bearing of S 80°48'40" W and a chord distance of 50.21 ft., an arc distance of 50.21 ft. along said curve to point "8"; thence along a curve turning to the right, having a radius of 817.0000 ft. and having a chord with a bearing of S 85°34'35" W and a chord distance of 107.34 ft., an arc distance of 107.42 ft. along said curve to point "9"; thence S 54°04'25" W 99.57 ft. to point "10"; thence along a curve turning to the left, having a radius of 5640.0000 ft. and having a chord with a bearing of S 23°19'57" W and a chord distance of 120.77 ft., an arc distance of 120.77 ft. along said curve to point "1"; returning to the place of beginning.

**PERMANENT UTILITY EASEMENT:**

Beginning at Point "1" being S 67°16'51" E 60.00 ft. from -Y13- 24+22.95, thence along a curve turning to the right, having a radius of 5640.0000 ft. and having a chord with a bearing of N 23°19'57" E and a chord distance of 120.77 ft., an arc distance of 120.77 ft. along said curve to point "10"; thence N 54°04'25" E 75.72 ft. to point "11"; thence S 23°46'26" W 36.29 ft. to point "12"; thence S 32°44'04" W 132.20 ft. to point "13"; thence S 23°13'01" W 19.44 ft. to point "14"; thence N 65°36'48" W 16.87 ft. to point "1"; returning to the place of beginning.

**SLOPE EASEMENT:**

Beginning at Point "18" being S 10°10'15" E 42.05 ft. from -Y14- 12+50.56, thence S 79°46'48" W 0.57 ft. to point "19"; thence S 80°39'50" W 51.56 ft. to point "20"; thence S 84°48'19" W 52.69 ft. to point "21"; thence S 86°28'41" W 52.69 ft. to point "22"; thence S 86°21'33" W 3.47 ft. to point "23"; thence N 54°04'25" E 4.24 ft. to point "9"; thence along a curve turning to the left, having a radius of 817.0000 ft. and having a chord with a bearing of N 85°34'35" E and a chord distance of 107.34 ft., an arc distance of 107.42 ft. along said curve to point "8"; thence along a curve turning to the left, having a radius of 1440.0000 ft. and having a chord with a bearing of N 80°48'40" E and a chord distance of 50.21 ft., an arc distance of 50.21 ft. along said curve to point "7"; thence S 01°38'20" W 2.10 ft. to point "18"; returning to the place of beginning.

**TEMPORARY CONSTRUCTION EASEMENT:**

Beginning at Point "18" being S 10°10'15" E 42.05 ft. from -Y14- 12+50.56, thence S 01°38'20" W 11.18 ft. to point "24"; thence S 78°28'40" W 48.01 ft. to point "25"; thence S 86°41'30" W 128.68 ft. to point "11"; thence N 54°04'25" E 19.61 ft. to point "23"; thence N 86°21'33" E 3.47 ft. to point "22"; thence N 86°28'41" E 52.69 ft. to point "21"; thence N 84°48'19" E 52.69 ft. to point "20"; thence N 80°39'50" E 51.56 ft. to point "19"; thence N 79°46'48" E 0.57 ft. to point "18"; returning to the place of beginning.

4. That the Department of Transportation, plaintiff herein, pay into Court the additional sum of ELEVEN THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$11,550.00), and that said sum, together with the original deposit made by the plaintiff in this action, unless heretofore disbursed by order of the Court, be disbursed to John G. Wolfe, III (Wolfe & Associates, P.L.L.C.; Attorneys and Counselors at Law; 101 South Main Street; Kernersville, NC 27284), in trust for and for the benefit of defendants.

5. That the aforementioned total sum of TWENTY-NINE THOUSAND DOLLARS (\$29,000.00), said sum being the total amount of the original deposit plus said additional amount,

is just compensation pursuant to Article 9, Chapter 136 of the North Carolina General Statutes for the taking of the hereinabove described interests and areas by the Department of Transportation; for any and all claims for interest and costs; for any and all damages caused by the acquisition for the construction of Department of Transportation Project WBS #36600.2.1, I.D.#U-4734, Forsyth County; and for the past and future use of such interests and areas by the Department of Transportation and its successors and assigns for all purposes for which the said Department is authorized by law to subject the same.


6. That a copy of this Judgment be certified by the Clerk of Superior Court of Forsyth County to the Register of Deeds, who shall record the same among the land records of said County.

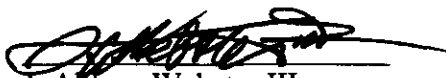
This the 30<sup>th</sup> day of December, 2020.

  
\_\_\_\_\_  
JUDGE OF SUPERIOR COURT

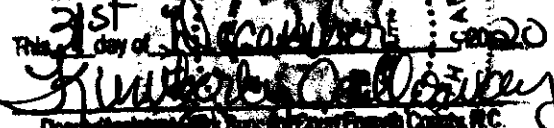
APPROVED AND CONSENTED TO:

JOSHUA H. STEIN  
Attorney General

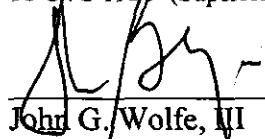
  
\_\_\_\_\_  
Martin T. McCracken  
Special Deputy Attorney General

  
\_\_\_\_\_  
J. Aldean Webster III  
Assistant Attorney General

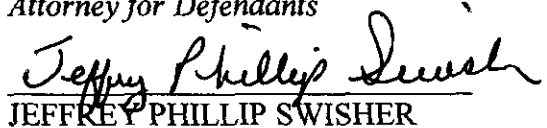
Further consent signatures appear on the following page of this judgment

ATTEST: A TRUE COPY, as per my hand and Official Seal  
This 31<sup>st</sup> day of December, 2020  
  
\_\_\_\_\_  
Clerk of Superior Court Forsyth County, N.C.  
FORSYTH SUPERIOR COURT

This sheet is a consent signature sheet for the judgment in *Department of Transportation v. Jeffrey Phillip Swisher*,  
18 CVS 1926 (Superior Court, Forsyth County)



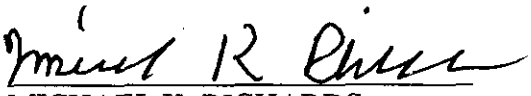
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JEFFREY PHILLIP SWISHER



PAULA S. RICHARDS  
(f/k/a PAULA SWISHER COOKE)



MICHAEL K. RICHARDS