

## SETTLEMENT AND RELEASE AGREEMENT

**THIS SETTLEMENT AND RELEASE AGREEMENT** (the “Settlement Agreement”) is entered into as of this \_\_\_\_ day of November, 2024 (the “Effective Date”), by and between **COLONIAL PIPELINE COMPANY**, a Delaware and Virginia corporation (“Colonial”), and **MECKLENBURG COUNTY**, a Political Subdivision of the State of North Carolina (the “County”), each sometimes referred to herein as a “Party” and collectively the “Parties.”

**WHEREAS**, the County owns certain real property located at 14511 Huntersville-Concord Road in Huntersville, North Carolina 28078, comprised of Tax Parcel ID Nos. 019-401-02 and 019-242-31, also known as the Oehler Nature Preserve (the “Property”), as identified in that certain Right of Entry and Access Agreement between Colonial and the County being executed simultaneously herewith (the “Access Agreement”) (attached as Exhibit 1); and,

**WHEREAS**, on August 14, 2020, a release of gasoline into the soil, groundwater, and/or surface water (the “Environmental Condition”) was discovered within an area of the Property; and,

**WHEREAS**, upon the occurrence of the Environmental Condition, Colonial immediately commenced investigation and remediation (including remediation of soil and groundwater) with the involvement of the North Carolina Department of Environmental Quality (“NCDEQ”), which assigned Incident No. 95827 to the release; and,

**WHEREAS**, Colonial has continued to conduct assessment, recovery, and remediation efforts at and adjacent to the Property pursuant to various temporary access agreements, the most recent being entered into between the Parties on June 17, 2024, which extended temporary access through December 17, 2024; and,

**WHEREAS**, on November 21, 2023, NCDEQ approved a Revised Comprehensive Site Assessment (“RCSA”) that delineates the horizontal and vertical extent of the dissolved phase petroleum impacts stemming from the Environmental Condition; and,

**WHEREAS**, the Parties are entering into the Access Agreement to, in part, provide Colonial with the amount of property and access to allow Colonial to remediate the specific portion of the “Colonial Use Area” (as defined in the Access Agreement) that has been included within the delineated area of impacts under the RCSA and any additional area within the Colonial Use Area into which petroleum constituents resulting from the Environmental Condition may be shown to have migrated<sup>1</sup> (collectively, the “Site”<sup>2</sup>); and,

**WHEREAS**, on July 7, 2022, NCDEQ and Colonial entered a Consent Order that requires, among other things, that Colonial take certain actions, as described in the Consent Order; and,

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<sup>1</sup> The Parties acknowledge that, as circumstances change stemming from remediation of the Environmental Condition, the area of the Site may change based on updated assessments by Colonial and approved by NCDEQ.

<sup>2</sup> For the avoidance of doubt, the term “Site” means “the specific portion of the Colonial Use Area that has been included within the delineated area of impacts under the RCSA and any additional area within the Property into which petroleum constituents resulting from the Environmental Condition may be shown to have migrated.”

**WHEREAS**, as part of the remediation efforts, Colonial obtained a National Pollutant Discharge Elimination System permit (“NPDES Permit”) from NCDEQ – Division of Water Resources and intends to construct a water treatment system on property outside of, and adjacent to, the Property in accordance with the NPDES Permit; and,

**WHEREAS**, as part of the remediation efforts that have been, are currently being, and that will be undertaken to remediate the Environmental Condition, Colonial has entered into various construction, services, and design agreements with contractors, consultants, design professionals, and the like to undertake construction activities, remediation activities, and other services at and on the Property; and,

**WHEREAS**, the Parties acknowledge that the Environmental Condition has resulted in damage to the soil, groundwater, and/or surface water in, under, and/or on the Site, the Environmental Condition has resulted in loss of use of portions of the Property, specifically the Colonial Use Area and remediation and emergency response activities related to the Environmental Condition have resulted in impacts to certain areas and landscapes within the Colonial Use Area (collectively, the “Property Damage”); and,

**WHEREAS**, the County demands that Colonial repair, restore, and remediate the Property Damage such that the Property in its entirety, including the Colonial Use Area, may be returned to use as a nature preserve for the benefit and enjoyment of residents of the County, which the County acknowledges may take many years; and,

**WHEREAS**, in order for Colonial to repair, restore, and remediate the Property Damage in a manner such that the Colonial Use Area and the Environmental Condition do not pose a danger or significant risk to public health, the environment, or users of the real property, and such that the Colonial Use Area may be returned to the owner for use as a nature preserve, and in order for Colonial to fulfill obligations as set forth in this Settlement Agreement, Colonial intends as part of its remediation strategy to impose certain, and specific, use restrictions on the Site to address Constituents of Concern (hereinafter defined), or on other specific portions of the Colonial Use Area if necessary to address Perfluoroalkyl and Polyfluoroalkyl Substances (“PFAS”), in connection with obligations set forth in this Settlement Agreement (“Land Use Restrictions” or “LURs”) consistent with the provisions of N.C.G.S. § 143B-279.9 to reduce or eliminate the danger to public health or the environment posed by the Environmental Condition; and,

**WHEREAS**, in order to repair, restore, and remediate the Property Damage, Colonial has requested from the County access to, and the right to use, the Colonial Use Area for different purposes and operations in order to conduct investigative, remedial, and maintenance work activities as more specifically described in the Access Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises, releases, compromises, and terms set forth herein, the receipt and sufficiency of which are acknowledged by the Parties, the Parties agree as follows:

1. Recitals. The recitals set out above are true and correct and are incorporated herein by reference.

2. Colonial's Obligations. In order to compensate the County for: (i) the County's loss of use of the Property from the commencement of the Environmental Condition through the completion of all the following: (x) all remediation activities by Colonial at the Colonial Use Area; (y) the receipt of a "No Further Action" ("NFA") letter or status from NCDEQ and fulfilling the various applicable requirements, permits, rules, regulations, ordinances, laws, statues, codes, and the like promulgated by the U.S. Environmental Protection Agency, the Pipeline and Hazardous Materials Safety Administration, the N.C. Department of Labor - Occupational Safety and Health, the N.C. Department of Health and Human Services, NCDEQ, Mecklenburg County Air Quality, Mecklenburg County Health and Human Services Agency, and the Town of Huntersville (collectively, the "Government") with respect to the Environmental Condition; and, (z) when soil, groundwater, and surface water at the Property is non-detect for constituents related to the Environmental Condition; and (ii) the Property Damage resulting from the Environmental Condition in the Colonial Use Area; and in exchange for the County's Obligations described in Paragraphs 3 and 4 below, Colonial will:
- a. Continue to repair and restore the Property Damage consistent with the provisions of the Access Agreement to return the Property to a condition such that it can be used and enjoyed by the residents of the County as a nature preserve;
  - b. Continue remediating any chemical compounds and constituents related to the Environmental Condition (collectively, "Constituents of Concern") identified or known to be present in soils, groundwater, or surface waters within the Site and any additional area within the Colonial Use Area into which those Constituents of Concern may be shown to have migrated to the cleanup standards imposed by NCDEQ with respect to the Environmental Condition until NCDEQ issues a NFA letter or similar document for the Site (as the same may change based on updated assessments by Colonial and approved by NCDEQ);
    - i. Colonial will undertake any and all measures and steps that NCDEQ may require in order to obtain a written NFA determination from NCDEQ such that no further remediation or monitoring of the Site is required; and,
    - ii. The Parties acknowledge and agree that the NFA may, in part, be based upon a NCDEQ determination the Site "does not pose a danger or significant risk to public health, the environment, or users of the" Colonial Use Area, consistent with the provisions of N.C.G.S. § 143B-279.9;
  - c. Restore the Colonial Use Area consistent with the provisions of the Access Agreement; and,
  - d. Acquire a property or properties of similar type, size, and quality as the Colonial Use Area, or as otherwise approved by the County (the "Like Property"), to account for the County's loss of use of the Property. The Parties have identified a Like Property that is satisfactory to both Parties, which is commonly known as that certain ±30.547 ac. tract of land identified as Mecklenburg County Tax Parcel # 00745101, which is located on the north side of Davidson-Concord Road in the Township of Davidson, Mecklenburg

County, as Lot 2 (the “Replacement Property”). Colonial shall undertake commercially reasonable efforts to enter into a purchase agreement for the Replacement Property contingent on all provisions listed in Paragraph 3 below being fulfilled. If Colonial enters into an agreement to purchase the Replacement Property and if all such contingencies are satisfied, then Colonial shall acquire the Replacement Property in fee simple at its own cost and then quitclaim and transfer any right, title, and interest Colonial possesses in the Replacement Property to the County. If Colonial is not able to acquire the Replacement Property on commercially reasonable terms, either due to the unwillingness of the property owners to sell or otherwise, then the County may suggest other property or properties for Colonial to acquire. If a Like Property satisfactory to the County is not acquired within 18 months after the Effective Date, then this Settlement Agreement and the Access Agreement will both terminate; and,

- e. Pay to the County’s Natural Areas Restoration Fund \$600,000.00 concurrently with the quitclaim and transfer to the County of any right, title, and interest Colonial possesses in either the Replacement Property, or the alternative property that is suggested by the County, as described in Paragraph 2(d) above; and,
  - f. Comply with all applicable laws and regulations governing the presence of: (a) PFAS at or under the Property that exceed the applicable regulatory standards, if any; and/or (b) Constituents of Concern that exceed the applicable regulatory standards, in each case, in any groundwater that Colonial recovers from the Property and then discharges from the proposed water treatment system to the North Prong of Clark’s Creek that is related to the remediation of the Environmental Condition, and Colonial shall also comply with any and all requirements relating to the presence or discharge of such items set forth in subclause(s) (a) and/or (b) above to the North Prong of Clark’s Creek that are required, or may be required in the future, pursuant to the NPDES Permit; and,
  - g. In the event PFAS is identified in the Colonial Use Area, whereby the presence of such PFAS exceeds any applicable regulatory standard, then, except to the extent Colonial can reasonably demonstrate that such presence is attributable to causes other than the Environmental Condition, Colonial shall undertake necessary and sufficient measures to prevent any liability for the PFAS to be imputed to the County. Such necessary and sufficient measures may include, but are not limited to, the enactment of Land Use Restrictions at the Colonial Use Area<sup>3</sup> such that the PFAS “does not pose a danger or significant risk to public health, the environment, or users of the” Colonial Use Area, consistent with the provisions of N.C.G.S. § 143B-279.9, but in no event shall require any indemnification or defense obligation not set forth in this Settlement Agreement.
3. County’s Obligations. In exchange for Colonial’s Obligations described in Paragraph 2 above, the County, for itself, its successors, and its assigns, shall:
- a. (i) Release, discharge, and hold harmless Colonial, its owners and its affiliates, and each of their respective employees, agents, consultants, contractors, subcontractors, and direct

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<sup>3</sup> For the avoidance of doubt, Colonial is only granted the right, pursuant to this Settlement Agreement, to enact LURs on the Site to address Constituents of Concern, or on other specific portions of the Colonial Use Area if necessary to address PFAS, in connection with obligations set forth in this Settlement Agreement.

and indirect successors and assigns (collectively with Colonial, “Colonial Representatives”), from and against any and all claims, demands, fines, penalties, costs, expenses, damages, and all other liabilities (each individually a “Claim” and collectively, the “Claims”) that the County may have that arise from, are connected with, or relate to (A) the Property Damage, or (B) the Environmental Condition. The Claims referred to in the first sentence of this Paragraph 3(a) are collectively referred to as the “Released Claims;” and,

(ii) Excluding the Released Claims, the County expressly retains all other future Claims it has against Colonial arising from, in connection with, or relating to (A) damage to the soil, groundwater, and/or surface water within the Property that is outside of the Site, if any, (B) the County’s loss of use of the Property in connection with any such damage outside of the Colonial Use Area, (C) the completion of the restoration of the Colonial Use Area with respect to ensuring the obligations and activities described in Paragraph 2 above have been fulfilled, or (D) any future product release or contamination by Colonial. The Claims referred to in subsection (ii) of this Paragraph 3(a) that the County retains are collectively referred to as the “Excluded Claims;” and,

- b. Execute and deliver to Colonial the Access Agreement simultaneously with delivery of this Settlement Agreement; and,
- c. Provide to Colonial the permits, approvals, and/or permissions that are within the County’s authority to grant, as requested by Colonial, solely for the construction of the water treatment system for the remediation of the Property Damage, and consistent with the rights, permissions, and privileges granted in that Access Agreement executed by the Parties concurrent with the execution of this Settlement Agreement, including, without limitation, approval for Colonial to perform jack and bore activities under and adjacent to Huntersville-Concord Road to install conduit pipes to the Property; and,
- d. Provide to Colonial the approvals and/or permissions to implement the Land Use Restrictions and/or similar institutional controls on portions of the Property as contemplated in the most recent Corrective Action Plan – SR 2448 / Pipeline Right of Way, Incident Number 95827 approved by NCDEQ; and,
- e. Cooperate with Colonial to perform or undertake any actions necessary to implement and enforce the LURs, including, without limitation:
  - i. Recording any notice of applicable LURs that satisfy applicable North Carolina laws and regulations; and,
  - ii. Providing any certifications and performing any related processes, including submitting any and all related documents and forms, in order to maintain the LURs on the specific area of Property consistent with applicable North Carolina laws and regulations; and,
- f. Expeditiously obtain approval by the appropriate County governing boards, bodies, leaders, managers, and the like, such that the documents described in Paragraphs 3(a)-(e)

above can be fully approved and executed, and the activities and operations described in this Settlement Agreement can be lawfully performed; and,

- g. Allow Colonial to install, post, and maintain signs on the Property, which are either similar in language and form to such signs existing on the Property as of the Effective Date or that specifically state “No Trespassing” or similar language, to discourage and restrict entry and access by the public into the Colonial Use Area; and,
  - h. Cooperate with Colonial as appropriate, and support enforcement efforts by Colonial, to restrict access by unauthorized trespassers onto or within the Colonial Use Area.
4. Remedy in the Event of Breach of Remediation of the Environmental Condition. If the County alleges that Colonial has breached the requirements of Paragraph 2(a) or 2(b) above, the Parties shall meet in good faith to attempt to reach an agreement on any necessary action. If the Parties are unable to reach agreement on remediation, the County agrees that its remedy will be limited to either (a) a lawsuit seeking injunctive relief to compel Colonial to remediate the Environmental Condition such that the NCDEQ will issue a NFA letter or equivalent status; or (b) if and only if the County agrees to take over from Colonial the remediation of the Environmental Condition, reimbursement of the reasonable and documented costs incurred by the County to remediate the Site (as the same may change based on updated assessments by Colonial and approved by NCDEQ) such that the NCDEQ will issue a NFA letter or equivalent status. Except with respect to the foregoing, the County shall not seek recovery from Colonial for any other Claims that the County may have that are inconsistent with the Excluded Claims described in Paragraph 3(a)(ii) above.
5. Indemnification. Colonial shall indemnify, defend, and hold harmless the County and the County’s agents, employees, successors, and assigns (collectively with the County, “County Representatives”), from any and all third-party claims, costs, damages, demands, fines, judgments, expenses, liabilities, liens, penalties, and suits caused by (a) Colonial’s discharge of water, including all chemical constituents contained therein and including PFAS, to the North Prong of Clark’s Creek; (b) the performance of any investigation, remedial, or maintenance work by Colonial or Colonial’s agents, consultants, contractors, employees, and/or subcontractors in the Colonial Use Area; or (c) the breach of any covenant by Colonial contained in this Settlement Agreement (collectively, the “Third-Party Claims”), except to the extent of County Representatives’ negligence as determined by a court of competent jurisdiction. Colonial shall not have any duty to indemnify, defend, or hold harmless any person under this Paragraph to the extent that such Third-Party Claim results from any unreasonable interference by any County Representative with Colonial’s repair, restoration, or remediation efforts or activities, or any substantial failure by any County Representative to reasonably cooperate with Colonial relating to Colonial’s repair, restoration, or remediation efforts or activities.
6. No Admission. The Parties agree that this Settlement Agreement does not in any manner constitute an admission by either Party of liability or fault.
7. Voluntary Action. Each of the Parties has fully read this Settlement Agreement before signing and acts voluntarily with full advice of counsel.

8. **Notices.** Any communications given under this Settlement Agreement will be deemed to have been received when delivered if delivered by hand, U.S. Mail return receipt requested, or national overnight courier service to the applicable Party representative designated below (“Party Representative”) at the address designated below for such Party Representative, if so delivered on a Business Day (a “Business Day” is any day other than a Saturday, Sunday, or federal holiday) before 5 PM at the place of delivery or, if so delivered on a day that is not a Business Day or after 5 PM at the place of delivery, on the next Business Day. Either Party may, by giving notice to the other Party, change its Party Representative designated below to receive notices hereunder and the address for such representatives.

**If to County Party Representative:**

Dena Diorio  
County Manager or Designee  
Mecklenburg County Government  
600 E. Fourth Street  
Charlotte, NC 28202  
(980) 314-2880

**With a copy(ies) to:**

Tyrone Wade  
Mecklenburg County Attorney  
Mecklenburg County Government  
600 E. Fourth St. CMGC 11th Floor  
Charlotte, NC 28202  
(980) 314-2908

Bradford A. De Vore  
Womble Bond Dickinson (US) LLP  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, NC 28202-6037  
(704) 331-4941  
*Attorney for County*

**If to Colonial Party Representative:**

Colonial Pipeline Company  
Attn: Preston Seagraves  
Advisor - Operations  
1000 Lake Street  
Alpharetta, Georgia 30009  
(404) 391-6685

**With a copy(ies) to:**

Colonial Pipeline Company  
Attn: David Gray  
Senior Vice President, Chief Legal  
Officer, Chief Compliance Officer &  
Corporate Secretary  
1000 Lake Street  
Alpharetta, Georgia 30009  
(678) 762-2203

9. **Integration and Merger.** This Settlement Agreement, including Exhibit 1 (Access Agreement), constitutes the entire agreement of the Parties relating to the subject matter expressed herein. No covenants, agreements, promises, representations, or warranties of any kind whatsoever, whether written or oral, have been made by the Parties except as specifically set forth in this Settlement Agreement. All prior and contemporaneous discussions and negotiations have been and are merged and integrated into, and are superseded by, this Settlement Agreement.
10. **Choice of Law and Forum.** This Settlement Agreement is intended to be construed, interpreted, and enforced under North Carolina law without application of any jurisdiction’s choice of law principles.

11. No Waiver. No failure or delay by either Party in exercising any right under this Settlement Agreement operates as a waiver of that right, nor does a single or partial exercise of that right preclude any other or further exercise of that right or any other right under this Settlement Agreement. To be enforceable, any waiver under this Settlement Agreement must be stated in a writing signed by the waiving Party.
12. No Drafting Presumption. Each Party has participated in negotiating and drafting this Settlement Agreement. If an ambiguity or question of intent or interpretation arises, this Settlement Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions.
13. Partial Invalidity; Severability. If any term or provision of this Settlement Agreement is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Settlement Agreement will not be affected, and each remaining term and provision of this Settlement Agreement will be valid and enforceable to the fullest extent permitted by law.
14. Execution. This Settlement Agreement may be executed in separate counterparts, each of which will be deemed to be an original version. This Settlement Agreement may also be executed by signatures exchanged in PDF format and will be effective upon such execution.
15. Successors and Assigns. This Settlement Agreement will obligate, bind, and inure to the benefit of the Parties and their respective successors and assigns.
16. Third Party Beneficiaries. This Settlement Agreement does not create any obligations of, or any rights, causes of action, or benefits, in favor of any person or entity other than Colonial Representatives and the County.
17. Authorizations. Each Party represents and warrants that this Settlement Agreement is being signed on its behalf by a representative who is duly authorized to sign on its behalf and to bind that Party to the terms and conditions of this Settlement Agreement.

{{{ SIGNATURE PAGE(S) FOLLOWS }}}}

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IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be executed as of the Effective Date.

For "Colonial"

**COLONIAL PIPELINE COMPANY**, a Virginia and Delaware corporation



By: 

Name: LARRY J. CHAPMAN

Title: SVP, TECHNICAL SERVICES

For "County"

**MECKLENBURG COUNTY**, a Political Subdivision of the State of North Carolina

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Exhibit 1:**  
**Access Agreement**

## RIGHT OF ENTRY AND ACCESS AGREEMENT

**THIS RIGHT OF ENTRY AND ACCESS AGREEMENT** (the “Access Agreement”) is entered into as of this \_\_\_\_ day of November, 2024 (the “Effective Date”), by and between **COLONIAL PIPELINE COMPANY**, a Delaware and Virginia corporation (“Colonial”), and **MECKLENBURG COUNTY**, a Political Subdivision of the State of North Carolina (“Owner”), each sometimes referred to herein as a “Party” and collectively as the “Parties.”

Owner owns certain real property located at 14511 Huntersville-Concord Road in Huntersville, North Carolina 28078, comprised of Tax Parcel ID Nos. 019-401-02 and 019-242-31, also known as the Oehler Nature Preserve (the “Property”) (see Attachment A). On August 14, 2020, a release of gasoline into the soil, groundwater, and/or surface water (the “Environmental Condition”) was discovered within an area of the Property. The North Carolina Department of Environmental Quality (“NCDEQ”) issued a Notice of Regulatory Requirement dated August 20, 2020, to Colonial regarding a release of petroleum from a nearby pipeline owned and operated by Colonial, such release being assigned Incident No. 95827. The NCDEQ and Colonial entered into a Consent Order, effective July 7, 2022 (the “Consent Order”), that among other things, requires Colonial to conduct corrective action at the Property.

On November 21, 2023, NCDEQ approved a Revised Comprehensive Site Assessment (“RCSA”) that delineates the horizontal and vertical extent of the dissolved phase petroleum impacts stemming from the Environmental Condition. The Parties have executed multiple Right of Entry and Access Agreements, dated July 1, 2022, January 1, 2023, July 1, 2023, December 20, 2023, and June 17, 2024 (“Short Term Access Agreements”), which have provided Colonial with the amount of property and access to allow Colonial to remediate the specific portion of the Colonial Use Area (hereinafter defined) that has been included within the delineated area of impacts under the RCSA and any additional area within the Colonial Use Area into which petroleum constituents resulting from the Environmental Condition may be shown to have migrated<sup>1</sup> (collectively, the “Site”<sup>2</sup>). Such Short Term Access Agreements have allowed Colonial to continue recovery and remediation efforts relating to the Environmental Condition within areas of the Property while the Parties negotiate a long-term agreement for access and use of certain areas of the Property.

On June 14, 2023, the NCDEQ issued Colonial a final National Pollutant Discharge Elimination System permit (“NPDES Permit”) to allow for the discharge of treated water into a nearby creek. The NPDES Permit will enable Colonial to construct, operate, and maintain a water treatment system as part of its recovery and remediation efforts relating to the Environmental Condition. On February 17, 2024, Colonial submitted to NCDEQ a Corrective Action Plan that summarizes and documents the corrective measures, activities, and operations Colonial will undertake to remediate the Environmental Condition (the “CAP”). The corrective measures described in the CAP were based on circumstances and site information currently available to

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<sup>1</sup> The Parties acknowledge that, as circumstances change stemming from remediation of the Environmental Condition, the area of the Site may change based on updated assessments by Colonial and approved by NCDEQ.

<sup>2</sup> For the avoidance of doubt, the term “Site” means “the delineated area of impacts under the RCSA and any additional area within the Property into which petroleum constituents resulting from the Environmental Condition may be shown to have migrated.”

Colonial at the time the CAP was submitted; however, in the event circumstances change and new information is gained in the future, the CAP and the corrective measures, activities, and operations described therein may be revised accordingly with NCDEQ approval.

The Environmental Condition has resulted in damage to the soil, groundwater, and/or surface water in, under, and/or on the Site, the Environmental Condition has resulted in loss of use of portions of the Property, specifically the Colonial Use Area, and remediation and emergency response activities related to the Environmental Condition have resulted in impacts to certain areas and landscapes within the Colonial Use Area (collectively, the "Property Damage"). In order for Colonial to remediate the Environmental Condition in a manner such that the Environmental Condition does not pose a significant danger or risk to public health, the environment, or users of the real property such that the impacted areas of the Property may be returned as a nature preserve, and in order for Colonial to fulfill obligations set forth herein this Access Agreement, Colonial intends as part of its remediation strategy to impose certain and specific use restrictions on portions of the Property consistent with the provisions of N.C.G.S. § 143B-279.9 to reduce or eliminate the danger to public health or the environment posed by the Environmental Condition. Furthermore, as part of the efforts that have been, are currently being, and that will be undertaken to remediate the Environmental Condition and to address the Property Damage, Colonial has entered various construction, services, and design agreements with contractors, consultants, design professionals, and the like to undertake construction activities, remediation activities, and other services at and on the Property. This Access Agreement is entered into in connection with such agreements.

Colonial has requested, for itself and for its agents, consultants, contractors, employees, and/or subcontractors (collectively with Colonial, "Colonial Representatives"), access to and the right to use: (i) the Property for certain limited uses, activities, and operations, described in greater detail below as the "Property Permitted Uses," and (ii) a certain specified area of the Property identified on Attachment A (the "Colonial Use Area") for certain additional uses, activities, and operations, described in greater detail below as the "Colonial Use Area Permitted Uses." The Parties enter into this Access Agreement in order to define their respective rights, responsibilities, and obligations relating to access to and use of the Property and the Colonial Use Area, as set forth herein. Simultaneously with this Access Agreement, the Parties are entering into a Settlement and Release Agreement (the "Settlement Agreement").

**NOW THEREFORE**, in accordance with the mutual covenants, terms, and other good and valuable consideration (including the Settlement Agreement, into which this Access Agreement is incorporated), the receipt and sufficiency of which are hereby acknowledged by both Parties, the Parties agree as follows:

1. Recitals. The recitals set out above are true and correct and are incorporated herein by reference.
2. Right of Entry. Subject to the terms and conditions of this Access Agreement, Owner hereby grants to Colonial Representatives: (a) the right to access and use the Property for the express and limited purposes described below as the Property Permitted Uses, and (b) the right to access and use the Colonial Use Area for the express and limited purposes described below as the Colonial Use Area Permitted Uses. Furthermore, subject to the terms and conditions of this Access Agreement, Owner hereby grants to Colonial Representatives the right of

unimpaired access to the Property, including without limitation the Colonial Use Area, and the right of ingress and egress on, over, and through the Property for the purpose of accessing the Colonial Use Area, for performing the Permitted Uses and for fulfilling the various requirements, permits, rules, regulations, ordinances, laws, statues, codes, and the like promulgated by the U.S. Environmental Protection Agency, the Pipeline and Hazardous Materials Safety Administration, the N.C. Department of Labor-Occupational Safety and Health, the N.C. Department of Health and Human Services, NCDEQ, Mecklenburg County Air Quality, Mecklenburg County Health and Human Services Agency, and the Town of Huntersville (collectively, the “Government”).

3. Survey, Uses of the Property, and the Colonial Use Area.

A. Colonial will undertake prompt and diligent efforts to obtain a survey of the Property, including the Colonial Use Area, and the legal description of the Property and the Colonial Use Area derived from the survey will be used as the legal description of the Property and the Colonial Use Area for purposes of this Access Agreement and, subject to the County’s review and approval, will replace Attachment A to this Access Agreement (it being understood that the description of the Property and the Colonial Use Area reflected on Attachment A as of the Effective Date is for informational purposes only.)

B. The Property. Colonial shall have the right to use the Property for the “Property Permitted Uses,” which pertains to those areas of the Property that are outside of the Colonial Use Area and means non-invasive and non-ground disturbing uses and activities related to surface water sampling, surveying, the deployment of assets during a release of petroleum products or other chemical constituents (e.g., booms for surface water protection, the construction and installation of underflow dams, etc.), and other minor non-ground disturbing activities consistent with or in support of Colonial’s efforts to comply with the Consent Order, the NPDES Permit, the CAP, and any other regulatory or remediation requirements of the Government. Specifically excluded from the Property Permitted Uses are installing, maintaining, and operating any wells (including water supply wells, monitoring wells, remediation system wells, and the like), and/or pipelines (including hose lines and the like) associated with the remediation of the Environmental Condition. Property Permitted Uses also excludes Unpermitted Uses (defined herein). For the avoidance of doubt, and without limiting the generality of the foregoing, Property Permitted Uses does not include the excavation of soils or the removal of any trees or vegetation.

C. The Colonial Use Area. Colonial shall have the right to use the Colonial Use Area for the “Colonial Use Area Permitted Uses” (and, together with the Property Permitted Uses, the “Permitted Uses”), which means accessing, installing, operating, maintaining, modifying, removing, and replacing all components of any recovery, treatment, remediation, and water discharge facilities and systems that Colonial elects to employ consistent with or in support of Colonial’s efforts to comply with the Consent Order, the NPDES Permit, the CAP, and any other regulatory or remediation requirements of the Government. The Colonial Use Area Permitted Uses also include, without limitation, the uses, activities, and operations described on Attachment B attached hereto and

incorporated herein by reference. For the avoidance of doubt, Colonial Use Area Permitted Uses excludes Unpermitted Uses.

D. Unpermitted Uses. Notwithstanding anything to the contrary contained herein, the term “Unpermitted Uses” means the uses, activities, and operations described on Attachment C, attached hereto and incorporated herein by reference. If Colonial wishes to undertake any Unpermitted Uses on the Property or the Colonial Use Area, then Colonial must first obtain written approval from the Division Director of the Nature Preserves and Natural Resources at Mecklenburg County Park and Recreation (“Division Director”) to undertake any such Unpermitted Use.

4. Quality of Work. All work performed on the Property, including the Colonial Use Area, by Colonial Representatives pursuant to this Access Agreement must be performed in a professional manner in accordance with the professional standards of environmental consulting firms in the area and in accordance with applicable laws and regulations.

5. Term. The rights granted herein are effective as of the Effective Date.

A. The rights granted herein will remain in effect for ten years from the Effective Date (“Initial Term”) and will be subject to extensions at Colonial’s request and the County’s approval, whereby such requests by Colonial to the County shall not be unreasonably withheld, for an unlimited number of successive five-year terms (each such five-year extension is a “Renewal Term” and together with the Initial Term, the “Access Period”, and for avoidance of doubt, Colonial’s request to extend this Access Agreement for the Renewal Terms will not require the payment of any additional consideration to Owner) so long as Colonial continues to diligently pursue during the Access Period operations associated and consistent with this Access Agreement (including Colonial’s restoration obligations described in Section 6 herein), the Consent Order, the NPDES Permit, or the CAP (as approved by NCDEQ) until the issuance of a No Further Action (“NFA”) letter or equivalent document from NCDEQ for the Environmental Condition, unless this Access Agreement is terminated earlier as provided in Section 5(B) below. Upon the issuance of a NFA letter or its equivalent for the Environmental Condition, the Access Period will continue for two years thereafter to allow Colonial time to remove its equipment and restore the impacted areas of the Colonial Use Area consistent with Colonial’s restoration obligations as described more specifically in Section 6 below, unless this Access Agreement is terminated earlier as provided in Section 5(B) below.

B. At any time during the Access Period, the Owner may terminate this Access Agreement for any material breach of this Access Agreement or the Settlement Agreement or the termination of the Settlement Agreement. Any such termination by Owner must be in writing with a reasonably detailed description of the applicable material breach or termination, and will be effective only if such breach is not cured to the Owner’s reasonable satisfaction within 60 days following receipt by Colonial of such written notice consistent with the provisions of Section 11 below. The time to cure can be extended in the County’s reasonable discretion if the material breach, or its cure, relates to or involves a government requirement, regulation, ordinance, or the like (“Government Requirement”) that prevents Colonial from curing within 60 days, in which case Colonial

will have the additional time necessary to comply with or accommodate those Government Requirements. Further, if Colonial reasonably determines that additional time beyond 60 days will be required to cure the material breach, then Colonial may make a written request to the County consistent with Section 11 below.

6. **Restoration.** Upon the earlier of the expiration of the Access Period or lawful termination of this Access Agreement, Colonial shall, at Colonial's sole expense, restore the Colonial Use Area consistent with a restoration plan approved by County, which approval will not be unreasonably withheld, which such restoration plan shall, at a minimum, include (1) the planting of native tree species having a caliper size of 2.5 inches or being six-foot in height for evergreen and multi-stem trees, or otherwise having such natural characteristic as required by the Division Director, and at a number determined by the Division Director consistent with the property characteristics prior to the Environmental Condition, and (2) the removal of wells, pipelines related to remediation, equipment, tools, materials, excess soil cuttings, and other objects generated or installed as part of the Colonial Use Area Permitted Uses. The restoration will be completed in two phases. Phase 1 restoration shall commence after the remediation system becomes operational and select recovery infrastructure is removed from the Colonial Use Area. Phase 2 restoration shall commence following: (i) completion of all remedial activities legally required by the Government and consistent with the approved CAP, (ii) the receipt of a NFA letter or similar document from NCDEQ, and (iii) decommissioning of all remediation system components. Such restoration activities will be conducted promptly and in good faith and in accordance with the Consent Order, the CAP, the NFA or similar requirements in connection with NFA status from NCDEQ with respect to the Environmental Condition, and all applicable local, state, and federal laws, requirements, and regulations.
7. **Environmental Reports.** Colonial will promptly provide Owner with notice of Colonial's submittal of final environmental reports, final work plans, and final analytical data (the "Reports") submitted to NCDEQ or the Government regarding the Property. At the County's request, Colonial will provide the County, at no charge, with copies of or access to the Reports. Colonial will also promptly provide Owner with written notice of any Claims (defined in Section 8 herein) related to or arising from Colonial Representatives conducting the Permitted Uses on or within the Colonial Use Area or the Property.
8. **Indemnification.** Colonial Representatives shall enter the Colonial Use Area and the Property at their own risk and accept the Property, including the Colonial Use Area, in its "as is" condition for purposes of performing the Permitted Uses. Colonial shall defend Owner and Owner's agents, employees, successors, and assigns (collectively with Owner, "Owner Representatives") from any and all third-party claims, costs, damages, demands, fines, judgments, expenses, liabilities, liens, penalties, and suits caused by (i) the performance of the Permitted Uses by Colonial Representatives on or within the Colonial Use Area or the Property; (ii) the entry of the Property and the Colonial Use Area by Colonial Representatives during the Access Period; or (iii) any breach by Colonial of this Access Agreement (collectively, the "Third-Party Claims"). In fulfilling its obligations pursuant to this Paragraph 8, Colonial shall engage competent legal counsel to represent Owner Representatives' interests, or Colonial's and Owner Representatives' joint interests as the case may be, in such defense. To the extent a conflict of interest exists preventing joint

representation, Owner may elect to choose its own counsel in such defense, and Colonial shall reimburse Owner such reasonable defense costs and expenses. With respect to the Third-Party Claims described in this Paragraph 8, Colonial shall indemnify and hold harmless Owner Representatives from any and all Third-Party Claims except to the extent of Owner Representatives' negligence as determined by a court of competent jurisdiction. This obligation will survive the termination or expiration of this Access Agreement.

9. **Insurance.** Colonial will carry a minimum of \$5,000,000.00 of insurance coverage for General Commercial Liability and Pollution Liability. Colonial shall have the option to, and may elect to maintain, self-insurance having retentions sufficient to satisfy such insurance requirements. Colonial, solely at its cost, will have the Owner added as an additional insured to Colonial's policies. Upon written request by Owner, Colonial shall provide a copy of Colonial's Certificate of Insurance to Owner.

Unless otherwise approved or exempted by Owner in writing, Colonial will require that any contractor used by Colonial to perform Permitted Uses carry a minimum of \$5,000,000.00 of insurance coverage for General Commercial Liability, and, if applicable as determined by Colonial, Error and Omissions and/or Pollution Liability. Colonial will require that all other contractors performing services on the Property carry a minimum of \$1,000,000 of insurance coverage for General Commercial Liability.

10. **Assignment.** No assignment of this Access Agreement by Colonial will be effective without the express written consent of Owner.
11. **Notice.** Any communications given under this Access Agreement will be deemed to have been received when delivered if delivered by hand, U.S. Mail, return receipt requested, national overnight courier service to the applicable Party representative designated below ("Party Representative") at the address designated below for such Party Representative if so delivered on a Business Day (a "Business Day" is any day other than a Saturday, Sunday, or federal holiday) before 5 PM at the place of delivery or, if so delivered on a day that is not a Business Day or after 5 PM at the place of delivery, on the next Business Day. A Party may also provide notice by email if the notice is subsequently provided by one of the methods described in the prior sentence and the receipt of the initial email communication is acknowledged by the applicable Party representative. Either Party may, by giving notice to the other Party, change its Party Representative designated below to receive notices hereunder and the address and email address for such representatives.

**If to County Party Representative:**  
Dena Diorio  
County Manager or Designee  
Mecklenburg County Government  
600 E. Fourth Street  
Charlotte, NC 28202  
Dena.Diorio@Mecklenburgcountync.gov  
(980) 314-2880

**If to Colonial Party Representative:**  
Colonial Pipeline Company  
Attn: Preston Seagraves  
Advisor - Operations  
1000 Lake Street  
Alpharetta, Georgia 30009  
Email: pseagrav@colpipe.com  
Phone: (404) 391-6685



**With a copy(ies) to:**  
Tyrone Wade  
Mecklenburg County Attorney  
Mecklenburg County Government  
600 E. Fourth St. CMGC 11th Floor  
Charlotte, NC 28202  
TyroneC.Wade@mecklenburgcountync.gov  
(980) 314-2908

Bradford A. De Vore  
Womble Bond Dickinson (US) LLP  
One Wells Fargo Center, Suite 3500  
301 South College Street  
Charlotte, NC 28202-6037  
(704) 331-4941  
*Attorney for County*

**With a copy(ies) to:**  
Colonial Pipeline Company  
Attn: David Gray  
Senior Vice President, Chief Legal  
Officer, Chief Compliance Officer &  
Corporate Secretary  
1000 Lake Street  
Alpharetta, Georgia 30009  
dwgray@colpipe.com  
(678) 762-2203

12. Entire Agreement. Excluding the Settlement Agreement, which is being entered into simultaneously with this Access Agreement, this Access Agreement constitutes the entire agreement between the Parties relating to the subject matter expressed herein. No covenants, agreements, promises, representations, or warranties of any kind whatsoever, whether written or oral, have been made by the Parties except as specifically set forth in this Access Agreement and the Settlement Agreement. All prior and contemporaneous discussions and negotiations concerning the issues of access and use of the Property and the Colonial Use Area have been and are merged and integrated into, and are superseded by, this Access Agreement.
13. Choice of Law and Forum. This Access Agreement is intended to be construed, interpreted, and enforced under North Carolina law without application of any jurisdiction's choice of law principles. The Parties agree any litigation concerning this Access Agreement must be brought in a North Carolina state or federal court.
14. No Waiver. No failure or delay by either Party in exercising any right under this Access Agreement operates as a waiver of that right, nor does a single or partial exercise of that right preclude any other or further exercise of that right or any other right under this Access Agreement. To be enforceable, any waiver under this Access Agreement must be stated in a writing signed by the waiving Party.
15. No Drafting Presumption. Each Party to this Access Agreement has been, and as of the Effective Date, is, represented by counsel. Each Party has participated in negotiating and drafting this Access Agreement. If an ambiguity or question of intent or interpretation arises, this Access Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions.
16. Partial Invalidity: Severability. If any term or provision of this Access Agreement is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the



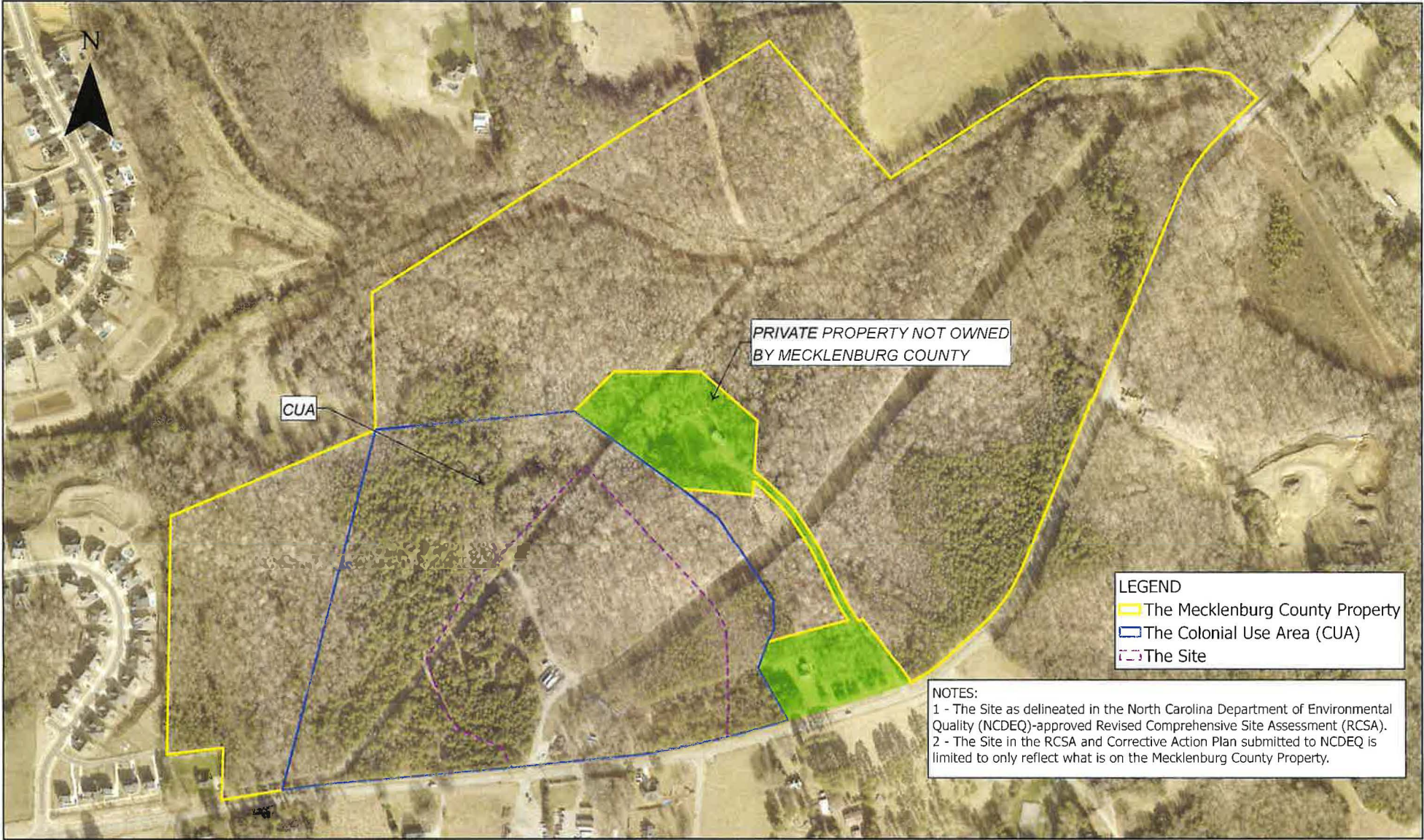
**Attachment A:**

**The Property**

**14511 Huntersville-Concord Road in Huntersville, North Carolina**



14511 Huntersville-Concord Road in Huntersville, North Carolina 28078,  
Comprised of Tax Parcel ID Nos. 019-401-02 and 019-242-31



**Attachment B**  
**Colonial Use Area Permitted Uses**

**ATTACHMENT B**  
**COLONIAL USE AREA PERMITTED USES**

- Colonial may excavate soil to install remediation piping, pipe conduits, and pipe chases within the existing Colonial pipeline right-of-way (“ROW”) in the Colonial Use Area.
- Colonial may maintain the above ground piping network, and Colonial may expand or add new above ground remediation piping in the Colonial Use Area.
- Colonial may cut any trees less than or equal to 10 inches diameter at breast height (DBH) and clear vegetation in the Colonial Use Area.
- Colonial may trim, cut, or remove overhead dead tree limbs and branches in the Colonial Use Area if they present a safety hazard to Colonial Representatives working in the Colonial Use Area. For the avoidance of doubt, such maintenance or removal of overhead dead tree limb and branches in the Colonial Use Area may occur on a tree with a trunk greater than 10 inches DBH. Notwithstanding anything to the contrary contained herein, Colonial may not create a condition by trimming, cutting, or removing an overhead or dead tree limb that would lead to the death of a tree with a trunk greater than 10 inches DBH without the prior written approval of Owner.
- Colonial may excavate soils or clear trees during the operation of trucks and heavy equipment (i.e., back hoes, skid loader, or cranes) as needed to complete existing system modifications or maintenance to equipment in the Colonial Use Area related to any use permitted in this Attachment B; provided, however, Colonial may not cut or clear trees with a trunk greater than 10 inches DBH or perform soil excavation greater than 500 square feet by 2 feet deep.
- Colonial may perform surficial soil abatement for incidental spills, which is an excavation with a maximum impact of 500 square feet disturbance by 2 feet deep on the condition Colonial considers and implements mitigation strategies and methods to prevent damage to any adjacent tree root structures near the surficial soil abatement to protect any tree with a trunk greater than 10 inches DBH in the Colonial Use Area.
- Colonial may bring soil approved by NCDEQ from an offsite source to be used on site after excavations are complete to fill in such excavations in the Colonial Use Area.
- Colonial may implement a Spill Prevention, Control, and Countermeasures (“SPCC”) plan and spill response procedures, which may include restructuring berms and excavation or construction of appropriate secondary containment in the Colonial Use Area.
- Colonial may modify or repair the existing well network in the Colonial Use Area.
- Colonial may move remediation equipment (i.e. trailer and skid mounted) and reconfigure above ground piping and associated below ground electrical and natural gas or propane utilities in the Colonial Use Area.

- Colonial may excavate to install routing piping and maintain such routing pipes through existing buried conduits at access road crossings along the Colonial ROW in the Colonial Use Area.
- Colonial may install pole-mounted style swing gates or similar swing gate structures so as to block and limit access over, across, and through (i) the Colonial RoW, and/or (ii) any access route that may be used for vehicular traffic over, across, and through the Colonial Use Area.
- Colonial may install and maintain equipment, such as silt fencing, chipped logs, etc., as part of its Erosion and Sediment Control (“E&SC”) and stormwater best management practices (“BMPs”) plans as needed to comply with pertinent E&SC/BMP requirements in the Colonial Use Area.
- Colonial may install oak matting or plastic matting, as needed in Colonial’s determination, in existing access routes to facilitate ingress and egress on, over, and across the Colonial Use Area.
- Colonial Representatives may perform pest control services (i.e. to mitigate stinging insects) in work areas for the safety of the Colonial Representatives in the Colonial Use Area.
- Colonial may maintain or remove gravel, crushed stone, and earthen berms used for access roads, loading ramps, and frac tank dikes in the Colonial Use Area.
- Colonial may access surface water sample locations in the Colonial Use Area as required by NCDEQ.

**Attachment C**  
**Unpermitted Uses**



**ATTACHMENT C**  
**UNPERMITTED USES**

- Colonial may not perform soil excavations except as permitted and described on Attachment B - Colonial Use Area Permitted Uses.
- Colonial may not clear trees with trunks greater than 10 inches DBH on the Property or in the Colonial Use Area.
- Colonial may not install new wells for remedial activities on the Property or Colonial Use Area.
- Colonial may not perform a remedial activity involving subsurface injections other than air (e.g., in-situ chemical oxidation) on the Property or Colonial Use Area.
- Colonial may not install permanent fencing on the Property or Colonial Use Area. Permanent fencing means any fencing structure installed and in place for longer than 90 days.
- Unless required by a Government regulation, rule, requirement, ordinance, or the like, Colonial may not install above ground signage on posts that would otherwise inform persons present within the Colonial Use Area of hazards within the Colonial Use Area, including but not limited to slip, trip, and fall hazards.