

1147

AFFIDAVIT OF POSSESSION

STATE OF ALABAMA  
COUNTY OF JEFFERSON

THIS DAY PERSONALLY APPEARED BEFORE ME, the undersigned authority within and for the jurisdiction duly commissioned and acting, Robert L. Taylor, known to me to be credible, and who, after having been duly sworn, upon his solemn oath, DID DEPOSE AND SAY:

My name is Robert L. Taylor. I am sixty-four (64) years of age. I reside at 5319 Woodford Drive, Birmingham, Alabama 35242. I retired in the year 1989 as Manager-Southern Lands and Minerals, U. S. Diversified Group of USX Corporation after thirty-six (36) years of service. I was manager directly in charge of all land matters related to the property from the year 1971 to June, 1989. I held prior positions from 1953 to 1971 as a Junior Engineer, Chief Engineer and Land Negotiator. I have participated in land surveys and mapping on USX Corporation property. I am a Registered Engineer-Surveyor Number 2326 of the State of Alabama. I have now formed my own company and am presently under contract to USX Corporation as a consultant. I am familiar with the USX Corporation lands. Subject land is more particularly described as:

TOWNSHIP 21 SOUTH, RANGE 4 WEST

Shelby County, Alabama

Section 22: The NW $\frac{1}{4}$ .

USX Corporation acquired title to the subject land through various corporate mergers. The Tennessee Coal, Iron and Railroad Company (TCI) acquired fee simple title by two separate conveyances. TCI acquired fee simple title to an undivided two-thirds (2/3) of the subject property from the Cahaba Coal Mining Company by deed dated December 19, 1892. Said deed was filed of record with the Judge of Probate, Shelby County, Alabama, February 4, 1893 in Volume 17 of Deeds, Page 200, et. seq.

TCI acquired fee simple title to an undivided one-third (1/3) interest in the subject property from Southern Mineral Land Company by deed dated November 1, 1921. Said deed was filed of record with the Judge of Probate, Shelby County, Alabama, April 14, 1922, in Volume 71 of Deeds, Pages 455-459. TCI, et al, merged into United States Steel Company in the year 1951. United States Steel Company merged into United States Steel Corporation in the year 1953 and into USX Corporation in the year 1986.

The following activities constituting authority by USX Corporation (or its predecessors in title) occurred on the subject property in Section 22, Township 21 South, Range 4 West. The activity information was taken from the files of USX and is listed below under an appropriate heading and date.

Timber Sales Cutting Contract of USX

<u>No.</u>	<u>Dates</u>	<u>Cutting Entity</u>	<u>Location in Section 22 Township 21 South, Range 4 West</u>
(1)	1973	Kimberly-Clark	The NW $\frac{1}{4}$ .

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McKen

Coal Mining and Gas Leases - USX, as Lessor

- (1) June 1, 1971  
Coal Lease - United States Steel Corporation, (owner and predecessor in title to USX Corporation), and Black Diamond Coal Mining Company as a contractor, entered into a initial contract of one (1) year whereby the contractor agreed to mine by strip mining methods, transport, wash and load coal into railroad cars for delivery to the owner's Fairfield, Alabama Coke Plant.

The Coal interest of the owner mined by the contractor included several thousand acres in Bibb and Shelby Counties, Alabama, including ownership of USX Corporation in Section 22, Township 21 South, Range 4 West.

The contract between USX Corporation and Black Diamond Coal Mining Company was extended each year from June 1, 1971 ending December 6, 1977.

- (2) November 1, 1977  
Coal Lease - United States Steel Corporation (owner and predecessor in title to USX Corporation) and Burgess Mining and Construction Company, as a contractor entered into a four (4) year agreement which was terminated early on December 31, 1980, whereby the contractor agreed to mine by strip mining methods and to transport, wash and load coal into railroad cars or trucks for delivery to the owner's (USX) coke plant located in Fairfield, Alabama.

The Coal interests of the owner (USX) mined by the contractor included several thousand acres in Bibb and Shelby Counties, Alabama, including ownership of USX Corporation in Section 22, Township 21 South, Range 4 West.

- (3) Sept. 30, 1988  
Coal Seam Gas  
Agreement &  
Option - USX Corporation and McKenzie Methane Corporation entered into an Agreement whereby McKenzie was given six (6) months option rights for production of coalbed methane on approximately 55,000 acres of USX. The option was exercised on all acreage including the USX interest in Section 22.

Drill Hole Locations

USX Corporation has contracted for the drilling of test holes in Section 22, Township 21 South, Range 4 West, for the purposes of determining thickness of coal seams and quantities of coal seam gas. Test Hole M-712 was drilled in 1976 in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 22. Also, Test Hole M-714 was drilled in the SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 22 in 1976. Two (2) other test holes (M-846 and M-849) were drilled in 1985 in Section 22. A prior diamond drill hole D.D.H. No. M-344 had been drilled and located in the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 22 in about the year 1953.

The boundaries of said land have been well defined and there has been no dispute or controversy with respect to the correct location thereof, but on the contrary, they have been well established. The surveyors/engineers for the Tennessee Coal, Iron and Railroad Company (TCI) undertook in 1907 the task of retracing the footsteps of the deputy surveyor for the USA in Section 22, Township 21 South, Range 4 West of the Huntsville Principal Meridian. The surveyors for the USA had surveyed and marked the land lines and placed corners in this Section 22 subsequent to the acceptance of Alabama Statehood in 1819.

The assistant engineer, J. W. Gwinn, of TCI resurveyed and re-established the government land lines by marking trees with hacks and blazes and placing prominent iron corners at the government section corners. Gwinn surveyed,

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marked, placed line and interior corners, as required, and prepared a final section plat of his re-surveys in September, 1907.

The index of all past and present surveys, records and maps are on file in the offices of Southern Lands and Minerals of USX Corporation in Fairfield, Alabama.

No churches, schools or cemeteries have ever existed on the subject property to the best knowledge of the affiant.

Except as otherwise noted herein above, during all of said period of time, the land described has been actually occupied as stated above, and such occupancy and claim of title has been open, visible, notorious, continuous, peaceable, exclusive and hostile to all of the world and those claiming said lands, as aforesaid, have recognized no title superior to theirs during all of said period of time and the aforesaid occupants of said land have cultivated and enjoyed the same and have exercised exclusive acts of ownership of the same and have appropriated any rents, income and revenues during all of said period of time, without any hostile claim or interference from any source whatsoever, so as to put the true owner on notice that the land is held upon an adverse claim of ownership, and that said possession has been continuous for at least the last thirty-six (36) years, and the aforesaid property has been commonly known in the surrounding area as the property of said person in possession of said property at that time.

I have read the above and foregoing affidavit and all facts and matters set out therein are true and correct to the best of my knowledge and belief.

Witness my signature this the 26<sup>th</sup> day of March, 1990.

STATE OF ALABAMA, SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED  
90 NOV 16 AM 9:59

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

Robert L. Taylor  
Robert L. Taylor  
7.50  
3.00  
1.00  
11.50

Personally appeared before the undersigned, a Notary Public, in and for said County in said State, Robert L. Taylor, who being by me first duly sworn, says that the above and foregoing Affidavit and the facts stated therein are true and correct according to the best of his knowledge, information and belief. Given under my hand and official seal, this 26<sup>th</sup> day of March, 1990.

Betty S. Leman  
Notary Public

My Commission Expires: 3-16-92