

2082

STATE OF ALABAMA:

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF SHELBY:

That WHEREAS the undersigned C. F. Adams and wife, Nora Adams, are the owners of the following described real property situated in Shelby County, Alabama, to-wit:

Commence at the Southeast corner of the NW 1/4 of the NW 1/4 of Section 31, Township 18 South, Range 1 West, and run North 825 feet to the point of beginning; thence run West 1320 feet; thence run North 330 feet; thence run East 1320 feet; thence run South 330 feet to the point of beginning.

and WHEREAS the undersigned J. L. Hardin, Sr., and wife, Leona Hardin, are the owners of a parcel of land which adjoins the above described tract on the South, with the North boundary of said parcel coinciding with a portion of the South boundary of the above described tract; and WHEREAS the said parcel likewise is situated in Shelby County, Alabama, and is described as follows, to-wit:

A parcel of land in the NW 1/4 of NW 1/4 of Section 31, Township 18 South, Range 1 West, being more particularly described as follows: Commence at the Southeast corner of said NW 1/4 of NW 1/4; thence run North along East line of said forty 660 feet; thence run West to a point 264 feet West of the West margin of Cahaba Beach Road for the point of beginning of the parcel herein conveyed; thence continue West to the West boundary line of said forty; thence run North 165 feet along the West boundary of said Forty; thence run East to a point 264 feet West of the West margin of said Cahaba Beach Road; thence run South 165 feet along the West boundary of the Curtis Lee and Juanita D. Acton lot to the point of beginning. Situated in Shelby County, Alabama. Mineral and mining rights excepted.

and WHEREAS the said J. L. Hardin, Sr., and wife, Leona Hardin, (hereinafter referred to as the parties of the first part) plan to construct a dam and lake on said parcel (hereinafter called Tract A). And WHEREAS a part of said dam and also some of the waters impounded thereby shall encroach upon the said realty owned by the said C. F. Adams and Nora Adams (which property is hereinafter called Tract B); and WHEREAS the said C. F. Adams and Nora Adams (hereinafter called parties of the second part) approve and desire the creation of said lake and agree to the inundation of such portion of Tract B as may result from the construction of said dam; and WHEREAS the parties of the second part likewise agree to contribute to the cost and the construction of said lake and dam and to the maintenance thereof; but WHEREAS the parties of the second part desire to establish and retain certain rights and privileges in regard to said lake;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements, conditions and stipulations herein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows:

First: The parties of the second part do hereby grant, bargain, sell and convey unto the parties of the first part, their heirs or assigns, an Easement over and upon such portion of Tract B as may be required for the construction of said dam, and as may be inundated by the waters impounded by said dam to be constructed to a height not to exceed 24 feet, together with the right to keep such portion of said realty submerged for as long as such dam may exist.

Second: The parties of the second part shall mark and define the submerged boundary of Tract B by appropriate

posts and wire, which shall be visible above the high water level of said lake, so as to show at all times the portion of said lake that lies above the said submerged portion of Tract B.

Third: The parties of the second part shall pay one-half (1/2) the cost of the construction of said lake bed and dam, provided that the total cost of such construction does not exceed \$ 1,950⁰⁰ and provided further that such construction is performed to the reasonable satisfaction of the parties of the second part. Such payment shall be made in cash directly by the parties of the second part to the parties of the first part within Five days after the ~~commencement~~ ^{completion} of the construction of said dam. *J 87*
C.F.R.

Fourth: The parties of the second part shall pay one-half (1/2) the cost of the maintainance of said dam and lake bed in a usable, sanitary, and safe condition, such payments to be made directly by the parties of the second part to the parties of the first part as and when expenditures for repairs and maintenance are made by the parties of the first part.

Fifth: The parties of the second part shall pay one-half (1/2) the cost of stocking said lake with fish and shall ^{of} pay one-half (1/2) the cost/keeping said lake properly fertilized so as to produce a maximum yield of fish. Such payments shall be made by the parties of the second part directly to the parties of the first part as and when purchases of such fish and of such quantities of fish pond fertilizer are made by the first parties.

Sixth: For and in consideration of the faithful performance of the above and foregoing conditions by the parties of the second part, the parties of the first part hereby grant

unto the parties of the second part the right and privilege to fish, in any lawful manner as the parties of the second part, their agents, heirs, or assigns, may elect, that portion of said lake which lies over or above said Tract B only; provided, however, that neither of the parties of the second part nor their agents or assigns shall have any right to fish, in any manner, any other portion of said lake without the written consent of the parties of the first part, their agents, heirs or assigns. The right to fish, as herein above limited and defined, carries with it the concomitant right to remove from said portion of said lake all fish so caught by such fishing; provided, however, that no fish shall be removed from said lake by either of the parties hereto, their agents, or assigns, for a period of at least 18 months from the date of the initial stocking of said lake with fish.

SEVENTH: Unless otherwise mutually agreed upon in writing by the parties hereto, their heirs or assigns, said lake shall not be stocked at any time with any specie of fish other than bream and bass. Said lake shall be stocked, at the joint expense of the parties hereto, with bream and bass in such proportions as may be recommended by the Conservation Department of the State of Alabama.

EIGHTH: Should said dam be totally or substantially destroyed by flood or other acts or forces of nature, it shall be rebuilt forthwith to its immediately prior dimensions and condition at the joint expense of the parties hereto, their heirs or assigns, unless the parties hereto shall then mutually agree in writing not to so reconstruct said dam. Neither of the parties hereto, their heirs or assigns, shall have the right to remove, damage, or destroy any portion of said dam without the prior

written consent of the other parties hereto, their heirs or assigns. Each of the parties shall have full access to any and all portions of Tract A and B reasonably necessary for the proper inspection and maintenance of said lake and dam.

Ninth: Either party hereto may petition the proper court for the construction and specific performance of this agreement or for the recovery of damages suffered by such party for the breach of the terms and conditions hereof by the other party or parties hereto, their heirs or assigns.

Tenth: This agreement has been executed in duplicate by the parties hereto and each executed copy thereof shall be considered an original.

IN WITNESS WHEREOF, we do hereby set our hands and seals this the 4th day of November, 1963.

WITNESSES:

Walter Cornelius

J. L. Hardin, Sr. (L.S.)
J. L. Hardin, Sr.

Walter Cornelius

Leona Hardin (L.S.)
Leona Hardin

Walter Cornelius

C. F. Adams (L.S.)
C. F. Adams

Walter Cornelius

Nora Adams (L.S.)
Nora Adams

STATE OF ALABAMA:

COUNTY OF SHELBY:

I, Walter Cornelius, a Notary Public in
and for said County, in said State, hereby certify that C. F.
Adams and wife, Nora Adams, whose names are signed to the fore-
going conveyance, and who are known to me, acknowledged before
me on this day, that, being informed of the contents of the
conveyance they executed the same voluntarily on the day the
same bears date.

Given under my hand and official seal this the
4th day of November, 1963.

Walter Cornelius
NOTARY PUBLIC
My Commission Expires: 5-31-65

STATE OF ALABAMA:

COUNTY OF SHELBY:

I, Walter Cornelius, a Notary Public in
and for said County, in said State, hereby certify that J. L.
Hardin, Sr., and wife, Leona Hardin, whose names are signed to
the foregoing conveyance, and who are known to me, acknowledged
before me on this day, that, being informed of the contents of
the conveyance they executed the same voluntarily on the day
the same bears date.

Given under my hand and official seal this the
4th day of November, 1963.

Walter Cornelius
NOTARY PUBLIC
My Commission Expires: 5-31-65

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STATE OF ALA. SHELBY CO.
I CERTIFY THIS INSTRUMENT
WAS FILED ON 2/10 1964
RECORDED & INDEXED TAX
& 3% UNIFORM TAX HAS BEEN
PAID ON THIS INSTRUMENT.

Walter Cornelius
NOTARY PUBLIC