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STATE OF ALABAMA )

SHELBY COUNTY )

Before me, the undersigned authority, a Notary Public in and for said County, in said State, personally appeared Samuel F. Bain, who, after being by me first duly sworn to speak the truth deposes and says as follows:

My name is Samuel F. Bain and I am 73 years of age. I presently resided at Route 1, Box 40, Helena, Shelby County, Alabama. I have been familiar with the occupation, use, and possession of the hereinafter described property in Shelby County, Alabama, for a period in excess of 65 years, said property being more particularly described as follows, to-wit:

A part of the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  Section 25 Township 19 South, Range 3 West, described as follows: Begin at the SW corner of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section and run North along the West line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section 715.25 feet; thence 81 deg. 26' right 6.30 feet; thence 57 deg. 22' left 358.37 feet; thence 20 deg. 36' right 388.72 feet to North line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence 46 deg. 15' right Easterly along said North line 232.54 feet to the NE corner of the W $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence 89 deg. 05' right along the East line of said W $\frac{1}{2}$ , 392.64 feet to the centerline of a driveway; thence 65 deg. 01' right along said driveway 126.3 feet; thence 13 deg. 49' left continuing along said driveway 236.28 feet; thence 21 deg. 53' left, continuing along said driveway 143.50 feet to a point that is 290 feet East of the West line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence 29 deg. 17' left parallel to said West line 240.8 feet; thence 104 deg. 41' left Northeasterly 380.78 feet to the East line of the W $\frac{1}{2}$  of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence southerly along said East line 462 feet to the South line of said  $\frac{1}{4}$ - $\frac{1}{4}$  Section; thence Westerly along said  $\frac{1}{4}$ - $\frac{1}{4}$  line 658.65 feet to point of beginning, EXCEPTING Highway right of way. MINERALS AND MINING RIGHTS EXCEPTED.

A part of the NE $\frac{1}{4}$  of Section 26 Township 19 South, Range 3 West, described as follows: Commence at the NE corner of Section 26 and run South along East line for 611.25 feet to point of beginning; thence an angle to right of 81 deg. 26' for 283.5 feet; thence an angle to left of 25 deg. 50' for 954.75 feet; thence an angle to right of 93 deg. 03' for 287.7 feet; thence an angle to left of 92 deg. 22' for 311.3 feet; thence an angle to left of 6 deg. 05' for 329.65 feet; thence an angle to right of 19 deg. 07' for 275 feet to center line of Cahaba River; thence in a Southeasterly direction along the center line of said river to a point on the South line of the NE $\frac{1}{4}$  of Section 26, which point is 75 feet West of the SW corner of the SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 26; thence East along the South line of the NE $\frac{1}{4}$  of Section 26 to SW corner of the E $\frac{1}{2}$  of SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 26; thence North along W line of the E $\frac{1}{2}$  of SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 26, 1327.40 feet to NW corner of said 20 acres; thence East along North line of said SE $\frac{1}{4}$  of NE $\frac{1}{4}$ , 660.10 feet to NE corner; thence North along East line of Section 26, 715.25 feet to point of beginning, EXCEPTING the following described tract: Commence at the NE corner of Section 26 Township 19 South, Range 3 West; thence South along the East line of said Section 611.25 feet; thence an angle of 81 deg. 26' right for 283.5 feet; thence an angle to left of 25 deg. 50' for 455.25 feet to point of beginning of tract of land herein excepted; thence continue along last mentioned course 543.2 feet; thence 73 deg. 15' left 407.7 feet; thence 104 deg. 30' left 244.0 feet; thence 7 deg. 45' left 304.8 feet; thence 67 deg. 30' left 387.4 feet to point of beginning of tract of land herein excepted. MINERAL AND MINING RIGHTS EXCEPTED.

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Actually, I have been intimately acquainted with the occupation, use, and possession of the above described property for the period described above as being in excess of 65 years. In fact, I was born and raised on the above described property and with the exception of a few years between 1916 and 1927, I have resided on the above described property for all of my lifetime. At one time the above described property was owned by William Bain, the grantee in that certain deed dated August 5, 1907, and recorded in Deed Book 41, page 338, in the Probate Records of Shelby County, Alabama. Said William Bain is one and the same person as W. N. Bain. Said W. N. Bain died intestate in Shelby County, Alabama, on May 10, 1931, while residing on the above described property. At the time of his death said W. N. Bain was survived by his widow Susan Bain and the following children: R. W. Bain, Annie Bain, Willie Bain Eaton, Samuel F. Bain and Amy Black. Said Amy Black died in about the mid 1940's and was a widow at that time. There were no children ever born to Amy Black and at her death her interest in the above described property descended to the remaining children of William or W. N. Bain. Said Willie Bain Eaton died in 1956, and left no last will and testament. Her children and sole heirs are as follows: Lois Eaton Stiff, Virginia Eaton Palin, and Paul Eaton. At the present time R. W. Bain is a widower, Annie Bain is a single woman and Samuel F. Bain is a widower. Said Susan Bain, widow of W. N. Bain died intestate in 1948.

With the exception of that portion of the above described property which is situated in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 25 as said property is described in deed from the remaining heirs to S. F. Bain dated October 14, 1960, and recorded in Deed Book 212, page 285 in said records, all of the above described property is presently owned by the heirs of W. N. Bain. I am familiar with the location of that certain property which was conveyed by my mother and father to H. A. Elkourie and S. G. Shaia by deed dated September 29, 1928, and recorded in Deed Book 83, page 302, in the Probate Records of Shelby County, Alabama. A portion of said property was later conveyed by Elko Realty Company, Inc. to Harvey McCoy by deed recorded in Deed Book 111, page 231, in said records. I know of my own knowledge that said property as conveyed to Harvey McCoy and said property as conveyed to H. A. Elkourie and S. G. Shaia does not overlap, or conflict with the above described property at any point or in any way whatsoever. There has never been any dispute whatsoever concerning the location of the boundary lines between the above described property and the property so conveyed.

It has been called to my attention that on August 23, 1929, I. E. Veitch filed a lien notice against a portion of the above described property in the Probate Records of

Shelby County, Alabama, said lien notice being based on rights acquired by I. E. Veitch in an option some time prior to the notice of lien. I know of my own knowledge that there has never been any dispute by said I. E. Veitch as to the ownership of the above described property and know that during the last forty years said I. E. Veitch has made no claim to any portion of the above described property and has not been in possession of the same or any part thereof during said period.

It has been called to my attention that the records in the Probate Office of Shelby County, Alabama, show a consent judgment dated February 16, 1968, against affiant and in favor of Fred Honeycutt, in an action which was then pending in the Circuit Court of Shelby County, Alabama. This matter has been settled in full and the amount of the consent judgment has been by me paid to said Fred Honeycutt and he claims nor asserts any right, title, or interest in and to any part or portion of the above described property.

With reference to the deed from Sam C. Bain dated October 1, 1931, in favor of Samuel F. Bain and Robert W. Bain, said deed being recorded in Deed Book 94, page 246, in said records, the property therein described as being a part of the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 25, actually lies East of the above described property and is situated in the E $\frac{1}{2}$  of said NW $\frac{1}{4}$  Section.

With reference to that portion of the above described property which is situated in the NE $\frac{1}{4}$  of Section 26, Township 19, Range 3 West, the said above described property was conveyed to my grandfather G. C. Bain by deed dated March 2, 1903, and recorded in Deed Book 28, page 484. The property conveyed by the last mentioned deed was a larger tract which comprised all of the above described property which was situated in said NE $\frac{1}{4}$  of said Section 26. On July 17, 1907, by deed recorded in Deed Book 34, page 536, in the Probate Records of Shelby County, Alabama, all of the above described property, along with other property, was conveyed to my father W. N. Bain. It has been called to my attention that that portion of the above described property which is situated in the E $\frac{1}{2}$  of the NE $\frac{1}{4}$  of said Section 26, was described as the "E $\frac{1}{2}$  of SE $\frac{1}{4}$ " of said Section. That portion of the above described property which is actually located in the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 26 was described as a portion of the "SW $\frac{1}{4}$  of SE $\frac{1}{4}$ " East of the river. Actually, any such description to the contrary notwithstanding, the property conveyed to my father W. N. Bain by said deed actually was a larger tract which comprised each and every portion and parcel of the above described property which is situated in said NE $\frac{1}{4}$  of Section 26. Pursuant to this deed and immediately thereafter in 1907, my father W. N. Bain moved into the residence located on the above described property and resided there continuously and exclusively for each and every year up to and including the year of his death on May 10,



1931. During said time my father and our entire family resided on said above described property and possessed each and every part and parcel thereof actually cultivating portions of the same and raising timber and firewood, cotton and other crops on various portions of the property. Upon the death of my father in 1931 affiant and other members of affiant's family continued to reside on the above described property for each and every year from said date up to and including the date of this affidavit. There has never been any question or dispute whatsoever concerning the possession, occupation, use, or ownership of the above described property or any part thereof. Said above described property has been in the possession of affiant and the other heirs of W. N. Bain, said W. N. Bain and his predecessor in title, G. C. Bain, for a period in excess of 65 years to the knowledge of affiant.

It has been called to my attention that that certain deed executed by T. J. Smith and Sadie L. Smith in favor of Cahaba River Estates, Inc. dated March 23, 1926, and recorded in Deed Record 79, page 300 in said records, described and attempted to convey the "W<sup>1</sup>/<sub>2</sub> of NE<sup>1</sup>/<sub>4</sub> of said Section 26. I know that the property which was conveyed to Cahaba River Estates, Inc. actually lies West of the river and that no part or portion of the same therein conveyed lays on the East side of the Cahaba River. There has never been any dispute whatsoever concerning the location of said property. The property which was claimed by Minnie Harlow and G. M. Harlow who appeared as mortgagors in that certain mortgage recorded in Mortgage Book 207, page 514, and Mortgage Record 212, page 477, in the Probate Records of Shelby County, Alabama, actually lies on the West side of the Cahaba River and neither of the said last mentioned parties has ever asserted any right, title, or interest to any portion of the above described property which is situated on the East side of the Cahaba River.

During the more than 65 years I have intimately known the occupation, use, and possession of the above described property, it has been in the continuous, open, exclusive, adverse, notorious, and adverse possession of affiant and the other above named heirs of W. N. Bain, said W. N. Bain and the predecessor in title to W. N. Bain, G. C. Bain. I have never heard the title of the present said owners questioned or disputed in any way whatsoever and know that during the past 65 years no other person, firm, or corporation has been in possession of the above described property or any part thereof or asserted any right, title, or interest in or to said above described property.

Sworn to and subscribed before me  
this 19 day of August, 1968.

Cesar Harris  
Notary Public

Sam F. Bain

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