

Timber Cutting Agreement  
Page 1  
7/7/82

STATE OF ALABAMA )  
JEFFERSON COUNTY )

1330

AGREEMENT entered into by and between Alabama Power Company (hereinafter referred to as Seller), and Bama Wood, a corporation

(hereinafter referred to as Buyer), of Wetumpka,  
Alabama;

WITNESSETH:

1. That for and in consideration of a payment of Twenty-Three  
Thousand, Nine Hundred Twenty-Four & <sup>no/100</sup> Dollars (\$23,924.00), in hand paid by  
the Buyer to the Seller, receipt of which is hereby acknowledged, the Seller  
hereby gives and grants to the Buyer the right to cut and remove within a period  
of Twelve (12) months from the date hereof the pulpwood timber on  
lands owned by the Seller in Shelby County, Alabama, which has been  
marked by the Seller with a Yellow sprayed paint spot at eye level and  
another such paint spot six inches from the ground.

2. The rights hereby granted by the Seller extend only to such trees  
as are situated on portions of the Seller's Lay Dam Lands (Pulpwood Sale  
No. 1 - 1986)

as the same is shown in a red color on the attached map, marked Exhibit "C",  
containing Sheet 1, which is made a part hereof as if fully set out herein.

3. Buyer will abide by and perform such obligations and duties with  
respect to the cutting and removing of such timber as are imposed upon him by  
the provisions of Exhibits "A" and "B", which are attached hereto and made a  
part hereof as if fully set out herein.

4. The rights and obligations of each party shall inure to the  
benefit of and be binding upon their heirs, assigns and successors.

Deborah Davis  
PO Bx 276  
Wetumpka, AL 36092

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IN WITNESS WHEREOF, the parties hereto have executed this agreement  
on this the 12<sup>th</sup> day of January, 19 87.

ALABAMA POWER COMPANY

ATTEST:

[Signature]  
Secretary  
For Alabama Power Company  
Seller

By [Signature]  
Its Executive Vice President and Counsel  
Seller

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ATTEST:

[Signature]  
Secretary  
For  
Buyer

Bama Wood, a corporation  
By [Signature]  
President  
Buyer

APPROVED AS TO FORM } BALCH, BINGHAM,  
APPROVED AS TO TERMS AND DESCRIPTION } [Signature]  
MANAGER CORPORATE REAL ESTATE

EXHIBIT "A"

1. It is understood that all rights and privileges hereunder are to cease and terminate at the expiration of Twelve (12) months from the date of this instrument and at such time shall revert to and vest in the Seller. If Buyer completes his cutting operation prior to the expiration date set out above, he shall notify Seller thereof in writing within ten days after such completion.

2. In the event the Buyer fails or refuses to perform the obligations of the Buyer hereunder, any money paid by Buyer to the Seller shall be and become the property of the Seller in liquidation of any damages suffered by the Seller by reason of such failure of Buyer.

3. In the exercising by the Buyer of the right of ingress and egress to and from the lands herein described over and across adjacent lands of Seller for the purposes of cutting and removing such timber, the exercising of such rights shall be subject to the rights of Seller's tenants. Should the Buyer in the exercise of the rights herein granted make roads through or cut trees onto fences or across cultivated fields or damage the crops on other property owned or leased by such tenants, the Buyer shall be liable for and pay either to Seller or its tenants all damages resulting therefrom.

4. It is agreed that if Buyer cuts any trees not marked for cutting as provided herein Buyer shall on demand pay to Seller \$10.00 or double the stumpage value, whichever is greater, for each unmarked tree so cut. In the event Buyer objects to Seller's count or determination of the number of trees so cut, the number shall be determined by a check made of the stumps by the Seller and Buyer, or by their designated agents, and a third person selected by the two. It is specifically agreed, however, that in cutting trees the Buyer shall leave exposed the paint spots nearest the ground, and any tree which is cut and does not have such exposed paint spot shall be considered a tree improperly cut by Buyer, to be paid for in accordance with this paragraph. The accidental removal of a paint spot from a marked tree, or a stump, will not relieve Buyer from responsibility under this paragraph, and in addition, Buyer agrees to report immediately to the Seller's responsible agent any such accidental removal of paint spots.

5. The burden of loss of timber marked to be cut under this contract shall be upon Buyer at all times during the period of this contract, whether such loss results from fire, storm, theft or other cause. Seller shall not be liable for any such loss, and no adjustment of the advance payment shall be made by reason of such loss.

6. It is further agreed that while engaged in cutting or removing said timber, the Buyer, and the agents and employees of the Buyer, and their agents and employees, shall avoid so far as possible injury to young growth and to such trees as are left standing, and that the Buyer shall be especially bound to exercise reasonable diligence to prevent and extinguish forest fires upon said lands within the time limit covered by this instrument during which the timber may be removed; and the Buyer shall not leave any tops or limbs or inflammable debris resulting from the cutting or removal of said timber in contact with any living pine trees or saplings where it is practicable to prevent such contact. The Buyer shall not use power skidding in logging such timber unless permitted in writing so to do by an authorized agent of the Seller, and any such permitted skidding shall be done in accordance with the provisions contained in Exhibit "B", which is attached to and made a part of this agreement.

7. It is understood that the Seller makes no covenant or warranty whatsoever with respect to the quality, merchantability or fitness of such timber for the purposes of the Buyer or with respect to title to such timber or the land on which such timber is located, and the Seller shall not be liable to the Buyer for any defects in such timber affecting its quality, merchantability or fitness for such purpose or for any failure of title to such timber or lands. If there be a failure of title to any part of such timber or of title to the land on which the same is located, so that the Buyer is prohibited or prevented by third party claiming title thereto from cutting and removing any part of such timber, then in such case the Seller will refund to the Buyer for such timber with respect to which the title has failed. The amount of such timber upon which refund shall be made in such case shall be determined by estimate agreed upon by the Seller and the Buyer.

8. The total volume of pulpwood timber marked for sale is estimated to be 1,017.38 cords of pine pulpwood and 569.98 cords of hardwood pulpwood,

however, the seller makes no warranty whatsoever as to the amount of timber covered by this contract.

9. Buyer agrees that Buyer and Buyer's agents, employees and assigns, and their agents, will not use, store or have in connection with any operations hereunder any paint or other mixture of a color similar to that used by the Seller in marking trees to be cut hereunder. Buyer further agrees not to use axe blades on undesignated trees for any purpose. Buyer may use ordinary lime whitewash material to mark the location of roads. Buyer will remove all tree tops and/or logs which fall into the waters of, or onto any lands below the high water line of any lake created by any dam of the Seller. Such tree tops and/or logs will be removed promptly from below said high water mark irrespective of whether or not the logs in the trees are abandoned after sawing.

10. It is further agreed that this contract may not be assigned by Buyer without the written consent and approval of the Seller, nor may the Buyer sell the right to cut any part of said timber without first obtaining the written consent and approval of the Seller.

11. Buyer shall commence and conduct his timbering operations with the understanding that Seller has or may make or construct, and will continue to make or construct, certain improvements and structures (such as electric transmission lines) upon the lands here involved. In his timbering operations upon such lands, Buyer, his agents, servants and employees shall in no way damage, injure or interfere with such improvements or structures now existing or made or constructed during the term of this contract.

12. For and in consideration of the rights granted to Buyer under the contract of which this Exhibit "A" is a part, Buyer agrees to indemnify, protect, save and hold harmless Seller from and against any and all loss, damage or expense which Seller may suffer or sustain or be liable for, and against any and all claims, demands and suits, as a result of injury or death of persons and/or damages or injury to property (including but not limited to electric transmission lines and any other property of Seller) in whatever manner the same may be caused or occasioned, which arise out of or are in any way connected with the performance of any work under or related to this contract, including, but not limited to payments made under any Workmen's Compensation

Law or under any plan for employees' disability and death benefits and any claims asserted by Buyer's employees, laborers, suppliers or materialmen performing labor or furnishing materials or supplies incident to the said work covered by this contract. Such agreement of Buyer shall be effective even though any of the aforesaid injuries or damages have been caused, occasioned or contributed to by the negligence, sole or concurrent, of Seller, its agents, servants or employees. Buyer agrees to pay all charges of attorneys and costs and other expenses arising from the defense of any claim or action referred to in this paragraph.

13. The Buyer, in executing this agreement, covenants that the Buyer or the Buyer's qualified representative, has examined all timber to be cut under this agreement for the purpose of discovering defects therein which might render such timber unmerchantable or unfit for the purposes of the Buyer.

14. Seller and Buyer agree that all possible protection of the country's natural environment is very desirable. This includes measures to prevent littering of the landscape in disposing of wrappers, cans, and garbage. Buyer agrees that he and his agents will not litter any open woodland area during operation under this contract. Buyer further agrees to promptly remove any litter caused by, or in connection with operation under this agreement.

15. The Buyer may, at its option, extend the contract for an additional Six ( 6 ) months by paying an amount equal to 5% of its advance payment for each sub area affected by the extension, with payment for extension covering each sub area extended to be paid in full prior to the expiration of this contract and prior to any extension becoming effective. If Buyer completes his cutting operation prior to the expiration of any extension of this contract, he shall notify Seller thereof in writing within ten days after completion. The total value of Sub Area "A" is \$12,428.08 and the total value of Sub Area "B" is \$11,495.92.

## ALABAMA POWER COMPANY

## Skidding Provisions

1. All skidways shall be located at points which will likely cause the least erosion to result from the trail. The remaining tree cover after logging shall be considered.

2. Skidways shall be located and maintained in a way to prevent cable and logs from scraping timber not covered in the sale agreement.

3. Anchor trees shall be those covered in the sales agreement, and if it is necessary to tie to other trees, adequate cushions of boards or other material must be used to prevent skin damage.

4. In the event of excessive damage, on written notice from an authorized representative of the Seller, the skidding of log or tree length in excess of 21 feet in length for distances greater than 200 feet shall immediately cease and thereafter not be permitted.

5. As the timber cutting operation progresses, or from time to time, Seller may at its option, mark and count the number of trees that have received bark damage by reason of Buyer's operation, and make an estimate of the merchantable pulpwood cord volume in the damaged trees. In this event, Buyer will promptly pay upon invoices from time to time \$12.00 per cord for pine and \$3.00 per cord for hardwood damage for the estimated volume of trees damaged, with title to such trees to remain in the Seller who may at its option to sell such trees for salvage as pulpwood or sawtimber with the damage payment plus sale value to represent the compensation to Seller for damaged trees; or Seller may at its option require Buyer to promptly paint all damaged surfaces with creosote oil of a strength equal to that used in treating commercial utility poles. In the event that Seller elects to collect monetary damage for trees injured as set out herein, and Buyer does not accept the cord volumes estimated to be in such trees, Buyer may at his option elect to have a licensed forester acceptable to Seller, to make a 100% estimate of the merchantable pulpwood volumes in the damaged trees and pay to Seller based upon this volume twelve dollars (\$12.00) per cord for pine and three dollars (\$3.00) per cord for hardwood with title to such trees to remain in Seller. In this event, Buyer will pay the cost of the services of the licensed forester selected to make the estimate. This provision is to cover only those damages which, in the opinion of the Seller, are above or in excess of normal logging damages.

6. Areas where skidding is allowed are shown in blue on Exhibit "C".

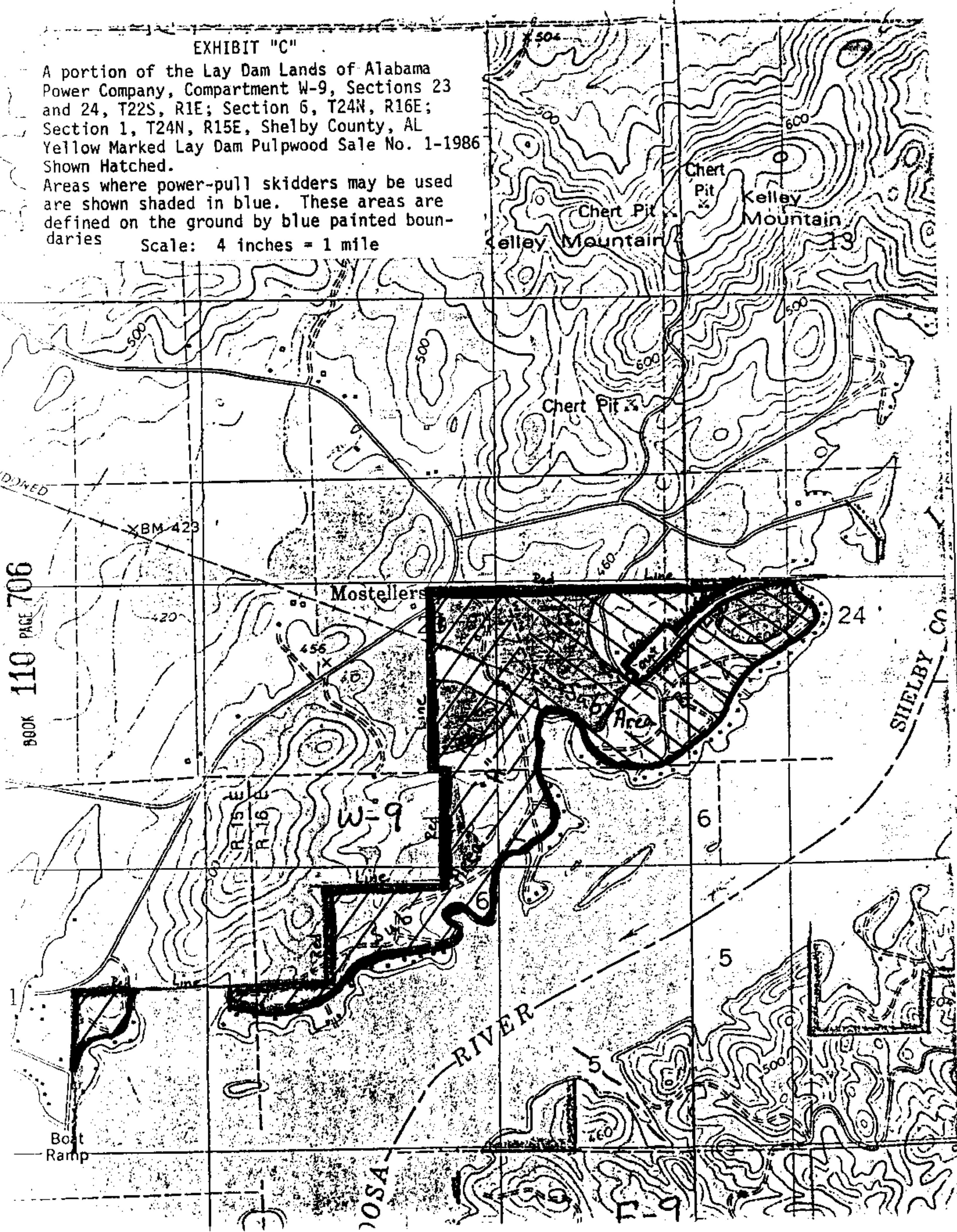


# EXHIBIT "C"

A portion of the Lay Dam Lands of Alabama Power Company, Compartment W-9, Sections 23 and 24, T22S, R1E; Section 6, T24N, R16E; Section 1, T24N, R15E, Shelby County, AL Yellow Marked Lay Dam Pulpwood Sale No. 1-1986 Shown Hatched.

Areas where power-pull skidders may be used are shown shaded in blue. These areas are defined on the ground by blue painted boundaries

Scale: 4 inches = 1 mile



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STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT FILED

1987 JAN 19 AM 9:08

*Thomas A. [Signature]*  
JUDGE OF PROBATE

1. Dead Tax	\$24.00
2. Mtg. Tax	—
3. Recording Fee	20.00
4. Indexing Fee	1.00
<b>TOTAL</b>	<b>45.00</b>