

AFFIDAVIT OF FRANK M. BAINBRIDGE

NOW COMES Frank M. Bainbridge, who, having been first duly sworn, deposes and says as follows:

1. My name is Frank M. Bainbridge. I am a licensed practicing attorney in the State of Alabama. I am competent to testify to the matters herein.

2. I have been furnished with a deed dated August 29, 1974 wherein Henry J. Clark Jr. and wife Josephine H. Clark conveyed certain property unto Charles M. Jager. The deed is recorded in Book 288 at Page 618 in the office of the Judge of Probate of Shelby County, Alabama.

3. The deed reflects that I prepared the deed, and I recognize my handwriting dating the deed September 3, 1974. I have absolutely no present recollection concerning the preparation of the deed or any of the facts and circumstances concerning the transaction between the Grantor and Grantee.

4. In paragraph 6 of the deed an exception is made for "any mineral and mining rights now owned by the Seller and also zoning ordinances." If exception number 6 were modified so as to substitute for the word "now" the word "not" such would be an exception which I would normally and routinely include in any deed which I prepare when I represent the seller. I include such exception because such a large percentage of the real estate located in and around Jefferson County has outstanding mineral rights and, in my experience at least, it is the exception rather than the rule when property can be conveyed without an exception for mineral and mining rights of some type of kind.

5. Additionally, it is my opinion that, had my client instructed me to create a reservation of an interest in the mineral and mining rights, I would likely have provided more detailed language spelling out the full extent of the mineral rights which were to be reserved.

11/27/1996-39354
03:09 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
002 SNA 11.00

Inst # 1996-39354

