


**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA, SOUTHERN DIVISION**

In re:)
)
INDUSTRIAL CONCRETE) **Case No. 04-06671-TOM-7**
CONTRACTORS, INC.,)
RICH RUTHERFORD,)
)
Debtors.)

NOTICE OF LIS PENDENS

Notice is hereby given that the Debtors, Industrial Concrete Contractors, Inc. and Rich Rutherford, filed a chapter 7 bankruptcy case on August 2, 2004. Andre Toffel was appointed as chapter 7 trustee to administer the Debtors' bankruptcy case and liquidate the Debtors' non-exempt assets for the benefit of their creditors. Pursuant to this duty, the Trustee claims a right, title, interest, or claim in and to the following described property located in Shelby County, Alabama:

See attached Exhibits A, B, C, and D for legal descriptions.



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Exhibit "A"

A tract of land situated in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NW diagonal $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama, more particularly described by meters and bounds as follows:

Commence at the Southwest corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 16, Township 19 South, Range 2 West, Shelby County, Alabama and run thence Easterly along the South line of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 833.64 feet to an existing steel pin marking the southernmost corner of Lot 13, of the Survey of Indian Valley, First Sector, as recorded in Map Book 5, on Page 43, in the Office of the Judge of Probate of Shelby County, Alabama and the point of beginning of the property being described; thence continue along last described course a distance of 391.41 feet (measured) to an existing steel pin on the Northwesternly margin of Shelby County, Highway No. 17 (aka, Valleydale Road); thence turn a deflection angle of 49 deg. 15 min. 58 sec. to the left and run Northeasterly along the said margin of said Highway No. 17 a distance of 934.05 feet (measured) to an existing concrete highway monument marking the P.C. (point of curvature) of a curve to the right having a radius of 1,469.21 feet and being subtended by a central angle of 2 deg. 29 min. 09 sec.; thence continue Northeasterly along the arc of said curve an arc distance of 62.03 feet to an existing steel pin; thence turn a deflection angle of 73 deg. 24 min. 24 sec. to the left from tangent and run North-Northwesterly a distance of 227.28 feet (measured) to an existing steel pin corner; thence turn a deflection angle of 105 deg. 34 min. 40 sec. to the left and run Southwesterly along the back lot lines of Lots 4 to 13, in Block 1, of said Indian Valley, First Sector, Subdivision, a distance of 1,328.28 feet (measured) to the point of beginning.

Exhibit "B"

From the Northwest corner of Section 35, Township 24 North, Range 15 East, Shelby County, Alabama, run East along the North line of Section 35, 409.8 feet to the point of beginning of the lot herein described; from said point run S 34 deg.33'39" E 218.03 feet; thence N 90 deg. 00'00" E 308.00 feet to the 397 contour of Lay Lake of the Coosa River; thence run the following calls along said contour:

thence South 10 deg. 40 min. 43 sec. East along said slough a distance of 56.69 feet to a point; thence South 20 deg. 16 min. 53 sec. East along said slough a distance of 72.82 feet to a point; thence South 15 deg. 44 min. 07 sec. East continuing along said slough a distance of 33.09 feet to a point; thence south 1 deg. 14 min. 20 sec. West continuing along said slough a distance of 20.67 feet to a point; thence south 15 deg. 10 min. 54 sec. west continuing along said slough a distance of 22.50 feet to a point; thence south 43 deg. 01 min. 15 sec. West continuing along said slough a distance of 25.09 feet to a point; thence south 66 deg. 51 min. 12 sec. West continuing along said slough a distance of 30.5 feet to a point; thence south 71 deg. 00 min. 00 sec. West continuing along said slough a distance of 18.00 feet to a point; thence North 62 deg. 03 min. 52 sec. West continuing along said slough a distance of 22 .40 feet to a point; thence north 45 deg. 40 min. 39 sec. West continuing along said slough a distance of 25.01 feet to a point; thence North 29 deg. 16 min. 03 sec. West continuing along said slough a distance of 22.69 feet to a point; thence North 17 deg. 56 min. 21 sec. West continuing along said slough a distance of 20.26 feet to a point; thence North 26 deg. 51 min. 51 sec. West continuing along said slough a distance of 15.76 feet to a point; thence north 7 deg. 40 min. 51 sec. West continuing along said slough a distance of 11.15 feet to a point; thence north 68 deg. 24 min. 17 sec. West continuing along said slough a distance of 18.66 feet to a point; thence south 25 deg. 16 min. 52 sec. West continuing along said slough a distance of 13.02 feet to a point; thence south 6 deg. 01 min. 47 sec. West continuing along said slough a distance of 39.83 feet to a point; thence continue along said contour line S 02 deg. 50' 00" W for 52.26 feet; thence leaving said contour line run N 51 deg. 36' 51" W 571.95 feet; thence N 64 deg. 38' 07" E 148.00 feet back to the beginning point, containing 2.0 acres, more or less.

According to survey dated September 11, 2000, of Frank B. Garrett, Jr., Ala. License No. 9500.

Also, a perpetual easement and right of way thirty (30) feet in width, as hereinafter described, as granted and conveyed in Right-of-way Deed from Larry Swafford and Shelia Swafford to Ernest Swafford and Brenda Swafford, dated October 21, 1997 and recorded as Instrument No. 1997-35510, the centerline of which said joint and perpetual easement and right of way herein granted is described as follows, to-wit:

Commence at the Northwest corner of Section 35, Township 24 North, Range 15 East, Shelby County, Alabama, and run thence East along the North line of said Section 35 a distance of 173.99' to a point; thence run South a distance of 238.42' to the point of beginning, on centerline, of easement being described; thence turn an angle of 72 deg. 14 min. 28 sec. left and run 63.85' to a point; thence turn an angle of 31 deg. 44 min. 32 sec. right and run a distance of 145.35' to a point; thence turn an angle of 10 deg. 48 min. 35 sec. left and run a distance of 28.99' to the Northwest line

of the parcel described in the attached Exhibit A following the identifying preface "Parcel No. 26" at a point on said Northwest line of said "Parcel No. 26" that is 64.16' Southwest from the Northeast corner of said "Parcel No. 26", to the point of ending, on centerline, of easement being described.

SUBJECT TO THE FOLLOWING:

1. Taxes for 2000 and subsequent years; 2000 ad valorem taxes are a lien but not due and payable until October 1, 2000.
2. Any loss, claim, damage or expense including additional tax due, if any, arising from or due to the fact that ad valorem taxes for subject property have been paid under a current use assessment.
3. Title to minerals underlying caption lands with mining rights and privileges belonging thereto, as reserved in Deed Book 145, page 165 and in Real Record 072 page 171, in Probate Office.
4. Transmission lines, if any, in evidence through use.
5. Flood rights acquired by Alabama Power Company as recorded in Deed Book 242 page 369, in Probate Office.
6. 50-foot building set back line from Lay Lake for field lines as shown on survey of Joseph E. Conn, Jr., Reg. No. 9049, dated May 5, 1986, in Probate Office.
7. Subject to conditions as shown in deeds recorded in Real Record 72, page 171, and in Real Record 72, page 186, in Probate Office.

Exhibit "C"

PARCEL 25:

Commence at the Northwest corner of Section 35, Township 24 North, Range 15 East, Shelby County, Alabama, and run thence East along the North line of said Section 35 a distance of 276.07 feet to a point; thence south a distance of 422.46 feet to the point of beginning; thence South 44 degrees 43 minutes 01 seconds East a distance of 566.44 feet to a point on the North bank of Shack Branch Slough on Lay Lake; thence South 75 degrees 20 minutes 01 seconds West along said North bank a distance of 41.64 feet to a point; thence South 69 degrees 11 minutes 28 seconds West continuing along said North bank a distance of 62.83 feet to a point; thence south 83 degrees 17 minutes 23 seconds West continuing along said North bank a distance of 10.69 feet to a point; thence North 44 degrees 43 minutes 01 second West a distance of 549.34 feet to a point; thence North 64 degrees 38 minutes 06 seconds East a distance of 108.00 feet to the point of beginning. According to survey of Joseph E. Conn, Jr., Reg. No. 9049, dated May 5, 1986.

Subject to:

1. Title of others to minerals underlying above described lands with mining rights and privileges belonging thereto, as reserved in Deed Book 145, page 165, and Real Book 72, page 171, in the Probate Office of Shelby County, Alabama.
2. Rights acquired by Alabama Power Company recorded in Deed Book 242, page 369, in the Probate Office of Shelby County, Alabama.
3. 50-foot building set back line from Lay Lake for field lines, as shown on survey of Joseph F. Conn, Jr., Reg. No. 9049.
4. Subject to conditions as shown in deeds recorded in Real Book 72, page 171; Real Book 75, page 536; Real Book 80, page 532; Real Book 76, page 818; and Real Book 76, page 714, all in the Probate Office of Shelby County, Alabama.

Exhibit "D"

Commence at the NW corner of Section 35, Township 24 North, Range 15 East, Shelby County, Alabama and run N 90 deg. 00 min. 00 sec. E along the North line of said Section 35 a distance of 178.47 feet; thence run S 00 deg 00 min. 00 sec. W a distance of 468.72 feet to the point of beginning of the property herein described; thence run S 44 deg. 43 min. 01 sec. E a distance of 549.34 feet to a point on the water line of Lay Lake; thence run S 83 deg. 17 min. 23 sec. W along said water line of lake a distance of 41.28 feet; thence run N 85 deg. 51 min. 33 sec. W along said water line of lake a distance of 102.63 feet; thence run N 44 deg. 57 min. 08 sec. W a distance of 482.47 feet to a point on the east side of a public road; thence run N 15 deg. 14 min. 56 sec. E along east line of said public road a distance of 181.90 feet; thence run N 06 deg. 51 min. 20 sec. W along east line of said public road a distance of 31.99 feet; thence run N 45 deg. 30 min. 11 sec. E along the south line of a 30 foot wide access easement a distance of 124.97 feet; thence run N 39 deg. 50 min. 38 sec. E along south line of said easement a distance 85.68 feet; thence run S 34 deg. 33 min. 39 sec. E a distance of 248.50 feet; thence run S 64 deg. 38 min. 07 sec. W a distance of 256.feet to the point of beginning.

Less and Except any part of land that may lie in a public road right of way.