

20081124000447870 1/6 \$26.50
Shelby Cnty Judge of Probate, AL
11/24/2008 12:07:47PM FILED/CERT

Shelby County, AL 11/24/2008
State of Alabama

Deed Tax: \$.50

500⁰⁰

DECLARATION OF EASEMENT

STATE OF ALABAMA)
COUNTY OF SHELBY)

THIS DECLARATION OF EASEMENT FOR A DRAINAGE SYSTEM is made this 21 day of November, 2008, by Seaman Timber Company, Inc., an Alabama Corporation in favor of Melford O. Cleveland, a single man, individually, and as Executor and Representative of the Estate of Sarah Head.

WHEREAS, a Settlement Agreement entered into between Seaman Timber Company, Inc., and its successors, (hereafter Seaman) and Shane Boatright (hereafter Boatright) on the one hand, and Melford O. Cleveland and Melford O. Cleveland as Executor and Representative of the Estate of Sarah Head on the other, (hereafter Cleveland) dated September 19, 2008, which was recorded in the Office of the Probate Judge of Shelby County, Alabama, on September 22, 2008, as document number 20080922000374480, provides that Seaman, and its successors, agrees to prevent any water or other substance in liquid form, or suspended in liquid, from coming on to the Cleveland Farm from the Seaman Timber Company Plant site at the time of the completion of the Drainage System referred to herein and at all times thereafter, and also to prevent the Seaman Plant drainage from coming on to the Cleveland Farm from the Seaman Farm; and

WHEREAS, Paragraph numbered four in the said Settlement Agreement provides that Seaman will reaffirm the Agreements in the said Paragraph four by executing and delivering to Cleveland an easement reiterating them; and

WHEREAS, Seaman has constructed a Drainage System the purpose of which is to prevent drainage from the Seaman Plant from coming on to the Cleveland Farm, and also to prevent the Seaman Plant drainage from coming on to the Cleveland Farm from the Seaman Farm; and

WHEREAS, this Drainage System consists of a drainage area, a ditch including the slopes of the ditch, its banks, concrete culverts, and berms located in some places along the ditch.

NOW, THEREFORE, in consideration of the foregoing recitals, and the sum of Ten Dollars (\$10.00) in hand paid to Seaman, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Seaman and its successors will not interfere with the operation of the Drainage System in any way, and will at their own expense maintain it in its entirety in good working order, and repair as necessary, provided that Cleveland will repair any damage to the System caused by his agents, servants, or employees. A drawing of this Drainage System and a description of it by metes and bounds is attached hereto as Exhibit A1, and incorporated herein as if fully set out. Exhibit A1 is a supplement to Exhibit A that is attached to and incorporated in the Settlement Agreement. Exhibit A in that Agreement was a tentative plan for a drainage system, whereas Exhibit A1 shows and describes the Drainage System as it was actually constructed in more detail. For example, Exhibit A shows two parallel ditches starting at the Norfolk Southern Railroad. Instead, only one ditch was constructed here because it was

determined that would be adequate. This is shown on Exhibit A1. All parties to the Settlement Agreement have agreed, and do hereby agree that the Drainage System as constructed and as shown on Exhibit A1 is satisfactory and accepted.

Also attached hereto as Exhibit B is a copy of a letter from Rick Nail of LYBD dated November 11, 2008, which states that the drainage ditch will perform satisfactorily. This completes Seaman's obligation to construct a drainage system under the terms of the Settlement Agreement.

2. Seaman and its successors will exercise their best efforts to protect the Drainage System as it is presently situated, and to prevent any person or entity from diverting the drainage in the Drainage System, or harming the System in any other way. Seaman will repair any damage and restore any alterations caused or made by any such third persons at its own expense.

3. Without regard as to who owns the property on which the Drainage System is located, at any time in the future, Seaman has the right and duty to travel on or beside the Drainage System in its entirety in order to carry out its duties in maintaining, repairing, and protecting the Drainage System. Similarly, Cleveland may at any time in the future travel on or beside the entire Drainage System to inspect it for needed repairs and maintenance.

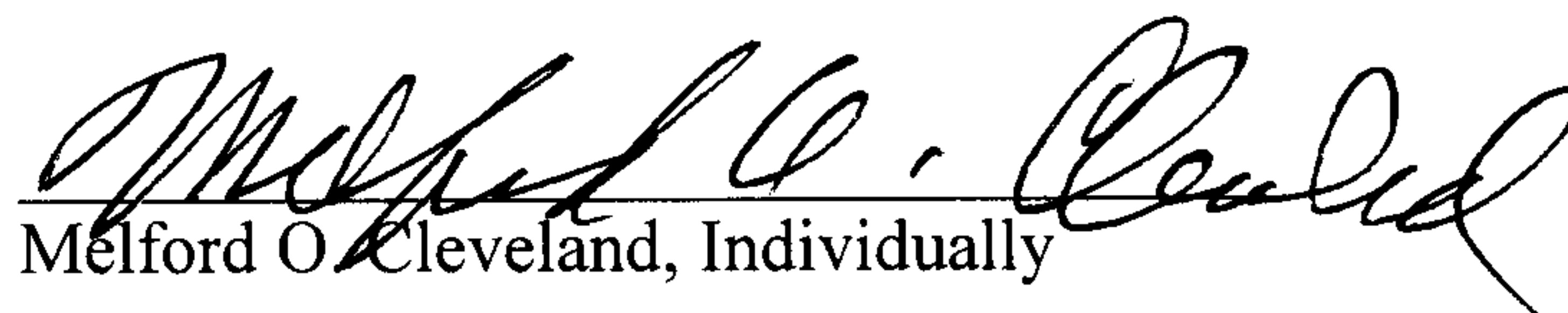
4. The parties further warrant, agree, and represent that no person or entity who owns or may in the future own any portion of the Seaman Plant site or the Seaman Farm may make any claim or demand or bring any action at law against Seaman for constructing the Drainage System, maintaining and repairing it, or for alleged damage to property beyond the Drainage System on account of outflow from the Drainage System. Such claims, demands or actions at law are void. However, nothing contained herein prevents Seaman from filing counterclaims for actual and exemplary damages if such actions at law are brought against it.

5. This Easement and Covenant for the Drainage System is a burden on Seaman, including the Seaman Plant and the Seaman Farm, for the benefit of the Cleveland Farm, it runs with the land and is perpetual in nature.

6. If any term, covenant or condition of this Declaration or the application thereof to any person or circumstance shall, to any extent be held invalid or unenforceable, such provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby and each term, covenant, or condition of this Declaration shall be valid and enforced to the full extent permitted by law.

7. Shane Boatright joins in the execution of this Easement and Covenant that runs with the land to evidence his consent as the sole and only shareholder of Seaman Timber Company, Inc.

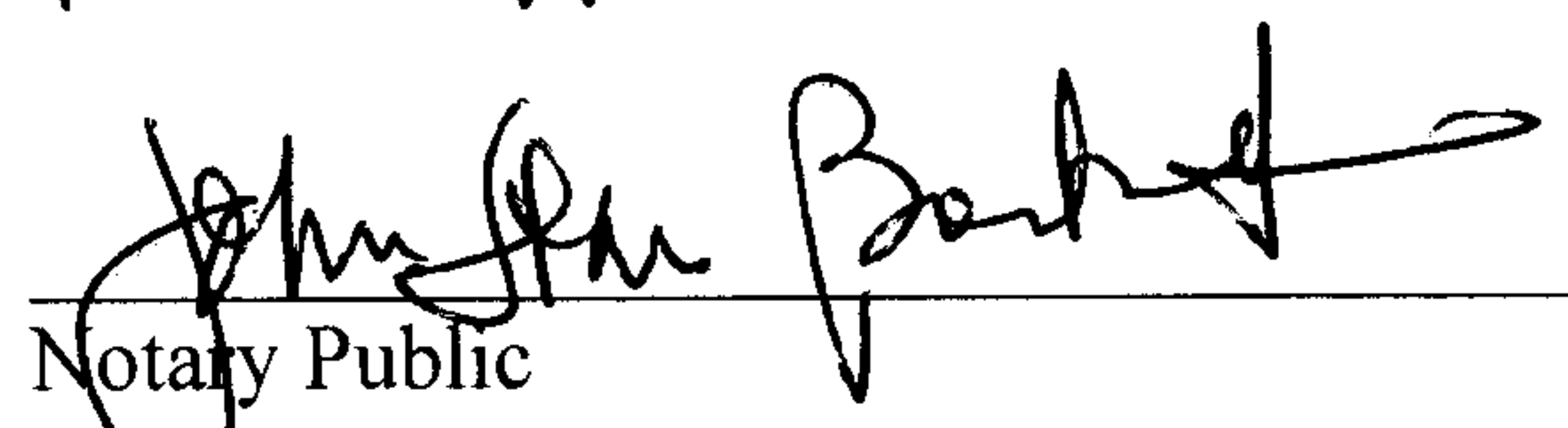
IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be executed as of the day and year first written above.



Melford O. Cleveland, Individually

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Melford O. Cleveland, Individually, whose name is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 21 day of November 2008.

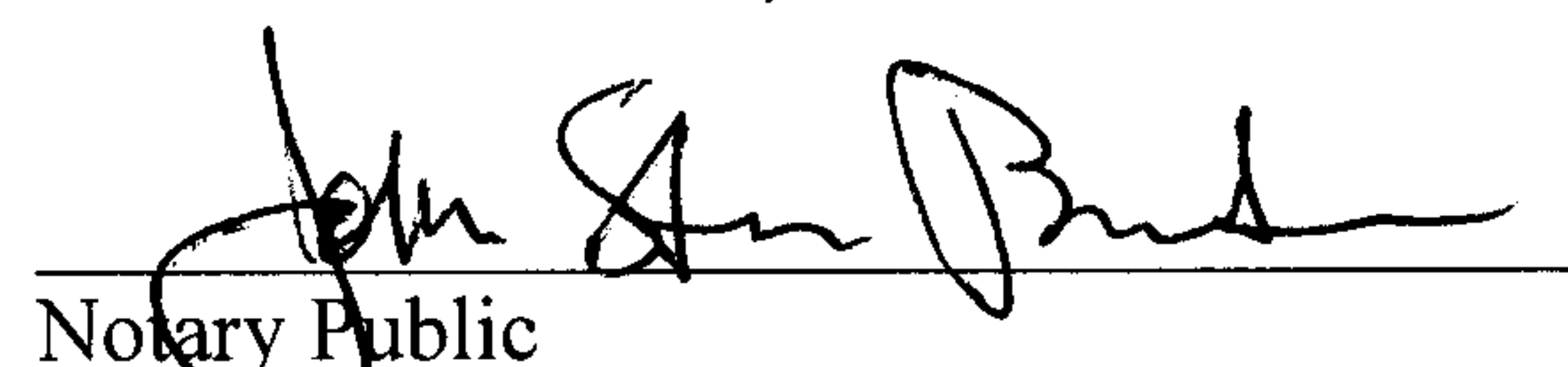

Notary Public
My commission expires: June 13, 2012
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
BONDED THRU NOTARY PUBLIC UNDERWRITERS


Melford O. Cleveland, Executor and
Representative of the Estate of Sarah Head

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned Notary Public in and for said County in said State, do hereby certify that Melford O. Cleveland, whose name as Executor and Representative of the Estate of Sarah Head is signed to the foregoing, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance, he, in his capacity as such Executor and Representative of the Estate of Sarah Head, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal, this the 21 day of November, 2008.


Notary Public
My commission expires: June 13, 2012
NOTARY PUBLIC STATE OF ALABAMA AT LARGE
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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Shane Boatright

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Shane Boatright, whose name is signed to the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 21 day of Nov 2008.

Notary Public

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 13, 2012
BONDED THRU NOTARY PUBLIC UNDERWRITERS

My commission expires: _____

SEAMAN TIMBER COMPANY, INC.

By: _____
Its: President

STATE OF ALABAMA)
COUNTY OF SHELBY)

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Shane Boatright, whose name as President of Seaman Timber Company, Inc., a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the said instrument, Shane Boatright, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

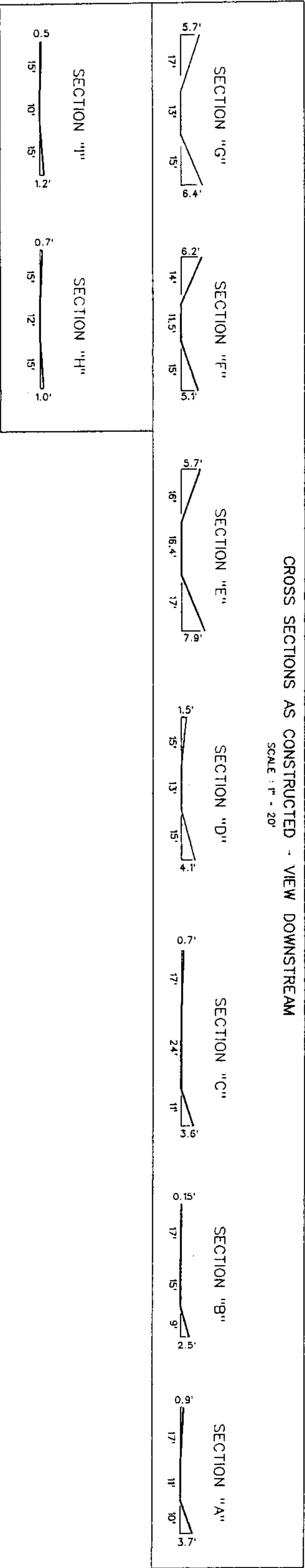
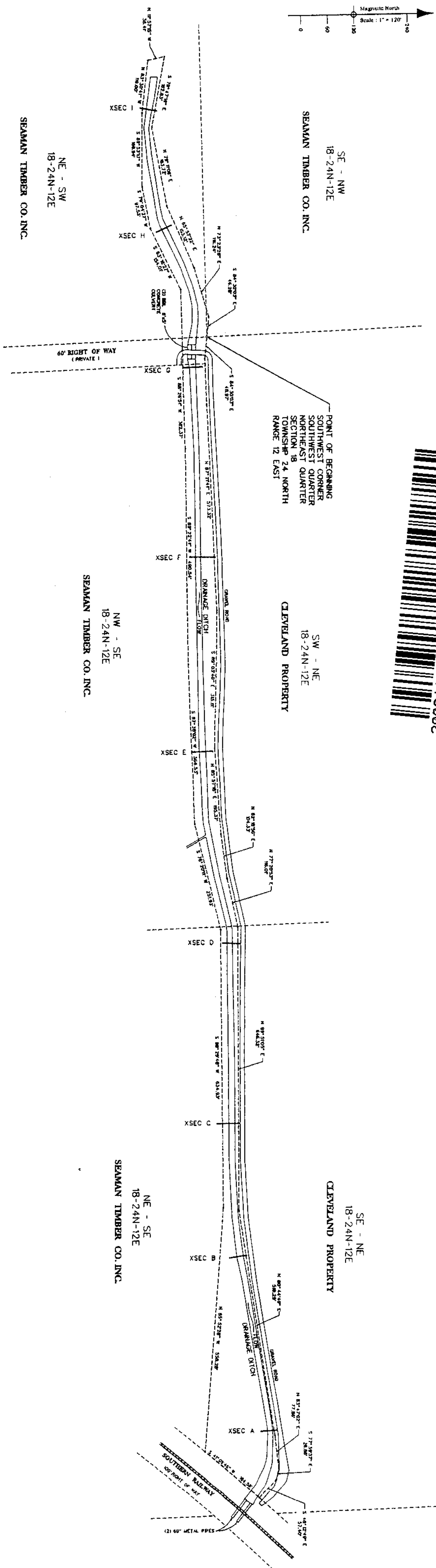
GIVEN under my hand and seal, this 21 day of November, 2008.

Notary Public

My commission expires

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 13, 2012
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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LEGAL DESCRIPTION
EASEMENT
AN EASEMENT LOCATED IN THE
SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND
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SECTION 18, TOWNSHIP 24 NORTH, RANGE 12 EAST, SHELBY COUNTY, ALABAMA,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGIN AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE
NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 24 NORTH, RANGE 12 EAST
AND RUN SOUTH 84° 30'03" EAST FOR A DISTANCE OF 48.97 FEET;
THENCE RUN NORTH 87° 24'41" EAST FOR A DISTANCE OF 573.32 FEET;
THENCE RUN SOUTH 89° 03'40" EAST FOR A DISTANCE OF 315.11 FEET;
THENCE RUN NORTH 85° 57'18" EAST FOR A DISTANCE OF 195.37 FEET;
THENCE RUN NORTH 82° 18'56" EAST FOR A DISTANCE OF 104.33 FEET;
THENCE RUN NORTH 77° 20'53" EAST FOR A DISTANCE OF 116.01 FEET;
THENCE RUN NORTH 89° 51'03" EAST FOR A DISTANCE OF 646.32 FEET;
THENCE RUN NORTH 80° 44'49" EAST FOR A DISTANCE OF 519.29 FEET;
THENCE RUN NORTH 83° 47'02" EAST FOR A DISTANCE OF 77.86 FEET;
THENCE RUN SOUTH 77° 39'37" EAST FOR A DISTANCE OF 26.86 FEET;
THENCE RUN SOUTH 48° 12'49" EAST FOR A DISTANCE OF 57.40 FEET;
THENCE RUN SOUTH 41° 09'46" WEST FOR A DISTANCE OF 164.58 FEET;
THENCE RUN NORTH 85° 52'28" WEST FOR A DISTANCE OF 558.28 FEET;
THENCE RUN SOUTH 89° 29'48" WEST FOR A DISTANCE OF 634.93 FEET;
THENCE RUN SOUTH 76° 20'11" WEST FOR A DISTANCE OF 291.93 FEET;
THENCE RUN SOUTH 87° 38'02" WEST FOR A DISTANCE OF 364.53 FEET;
THENCE RUN SOUTH 89° 22'41" WEST FOR A DISTANCE OF 490.54 FEET;
THENCE RUN SOUTH 88° 28'51" WEST FOR A DISTANCE OF 362.37 FEET;
THENCE RUN SOUTH 63° 16'27" WEST FOR A DISTANCE OF 154.01 FEET;
THENCE RUN SOUTH 79° 04'27" WEST FOR A DISTANCE OF 97.53 FEET;
THENCE RUN SOUTH 89° 53'17" WEST FOR A DISTANCE OF 169.94 FEET;
THENCE RUN NORTH 83° 30'41" WEST FOR A DISTANCE OF 189.00 FEET;
THENCE RUN NORTH 11° 57'15" WEST FOR A DISTANCE OF 38.41 FEET;
THENCE RUN SOUTH 79° 47'18" EAST FOR A DISTANCE OF 162.83 FEET;
THENCE RUN NORTH 79° 11'08" EAST FOR A DISTANCE OF 183.72 FEET;
THENCE RUN NORTH 65° 57'22" EAST FOR A DISTANCE OF 153.12 FEET;
THENCE RUN NORTH 73° 23'26" EAST FOR A DISTANCE OF 116.24 FEET;
THENCE RUN SOUTH 84° 30'03" EAST FOR A DISTANCE OF 46.28 FEET
TO THE POINT OF BEGINNING.

NOTES
1 Field work for this survey was completed on October 31, 2008.
2 Bearings shown hereon are based on a deed recorded April 21, 2004 in
Deed Book 238, Page 547 in the Probate Office of Shelby County, Alabama.
SURVEYOR'S STATEMENT
This survey has been completed in accordance with the current requirements of the
Standards of Practice for Surveying in the State of Alabama, to the best of my
knowledge, information and belief.

Scaled for Recording
EXHIBIT DRAWING



Keith Vining PROFESSIONAL LAND SURVEYOR 126 First Street North Centerville, Alabama 35042 206.910.9157			
DATE	11-02-2008	SCALE	1" = 120'
BOOK		PAGE NO.	KV
REVISION		REVISION BY	
Section 18, Township 24 North, Range 12 East, Shelby County, Alabama			

Civil and Structural Engineers

November 11, 2008

P.O. Box 250
Wilton, AL 35187



Attention: Judge Melford Cleveland

Reference: Cleveland vs. Seaman Timber
Drainage ditch purpose and construction
LBYD # C1196

Dear Judge Cleveland:

As discussed in our meeting yesterday as well as our meetings on-site over the past several months, the drainage ditch that has been constructed along Seaman Timber Company's northern property line is to convey storm water. The storm water is being conveyed from the east back to the west towards Shoal Creek. The ditch has been sized such that it will have minimum velocities to reduce the risk of erosion for the 100-year storm event. The ditch's location is such that it will prevent storm water from flowing from the Seaman property onto your property.

Based on my site visits, the ditch appears to be built in general conformance to the design sketches we prepared on yours and Seaman's behalf. Therefore, I do not anticipate any further storm water from Seaman onto your land.

Call if you need anything further.

Very truly yours,

Richard A. Nail II, PE
Principal
AL PE #23130

file: l1ran111108-jc.doc

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