

TAW - Underground

This Instrument Prepared By:

**SUBJECT: BESSEMER – CALERA 115KV
DRAVO – VULCAN MATERIAL 46KV**

**Nickie VanPelt
Alabama Power Company
Post Office Box 2641
Birmingham, AL 35291**

**STATE OF ALABAMA)
:
COUNTY OF SHELBY)**

THIS AGREEMENT, made and entered into on this the 15th day of April, 20 13, by and between **ALABAMA POWER COMPANY**, a corporation, (hereinafter called the "**Licensor**") and **VULCAN LANDS INC**, a New Jersey corporation (hereinafter called the "**Licensee**").

WITNESSETH:

WHEREAS, the said Licensor has acquired and is the owner of an easement, which embraces, among other rights, the right to construct, operate and maintain electric transmission lines and communication lines, towers, poles and appliances necessary or convenient in connection therewith upon a strip of land 100 feet in width, which is a part of a tract of land situated in the **Southwest of the Southwest Quarter of Section 4, Township 22 South, Range 4 West**, Shelby County, Alabama, such easement being more particularly described in that certain Condemnation proceedings between Shelby Springs Missionary Baptist Association dated April 4, 1913 and recorded in Condemnation Book 3, Page 146, In the Office of the Judge of Probate, Shelby County, Alabama and being referenced in Alabama Power Company Documents under Parcel No. 348, and reference is hereby expressly made to such record for a particular description of such land (such easement area being referred to herein as the "**APCO Easement**"); and

WHEREAS, Licensee desires to acquire a license for the purpose hereinafter set out upon, under, through, along and across the APCO Easement and underneath the electric power transmission lines located thereon; and

WHEREAS, Licensor is willing to grant such license, to the extent of its interest upon, under, along, through and across such transmission line easement hereinabove described upon the terms and conditions hereinafter set out:

NOW, THEREFORE:

In consideration of the premises and the further consideration of the sum of One and No/100 Dollar (\$1.00), in hand paid to Licensor by Licensee, receipt of which is hereby acknowledged, Licensor to the extent of its interest in the APCO Easement, does hereby grant to Licensee, its successors and assigns, subject to the terms, conditions and reservations hereinafter set forth, the revocable right and license to construct, operate and maintain **underground gas pipeline** (hereinafter sometimes referred to as "**Licensee's Facilities**") upon, under, along, through and across its right of way and underneath the APCO Easement. The location of Licensee's Facilities with reference to the APCO Easement is shown on Drawing marked Exhibit "A", attached hereto and made a part hereof (the "**Licensed Area**").

Licensor reserves the right to construct, operate and maintain electric transmission and communication lines and appliances in connection therewith over and across the Licensed Area. Licensor shall not be liable to Licensee, its employees or anyone else for any damage accruing or resulting directly or indirectly from the construction, maintenance or operation of electric facilities of Licensor over or adjacent to the Licensed Area.

Licensee shall install and maintain its facilities and appurtenances in connection therewith at the location hereinabove described in accordance with the following:

(1) This revocable license is upon the expressed condition that in the event Licensee shall abandon the use of its facilities for such purpose for a continuous period of one (1) year, this license shall terminate and all rights granted herein shall cease and revert to Licensor.

(2) This revocable license is upon the express condition that should Licensee's facilities interfere with the present or future installations of Licensor, then upon written notice from Licensor to Licensee, Licensee shall within ninety (90) days after receipt of such notice, modify, remove or relocate its facilities (as directed by Licensor) from their then location on APCO's Easement so as to eliminate

any interference with Licensor's present or future installations. If Licensee fails to remedy such interference within ninety (90) days from the date of said written request, Licensor may modify, remove or otherwise remedy such interference at the expense of Licensee, which expense Licensee agrees to pay within ten (10) days after receipt of statement of such expense from Licensor. Licensor shall be the sole judge of what constitutes interference.

(3) Licensee's facilities shall be constructed, operated and maintained in accordance with the adopted procedures of well-regulated businesses and undertakings of same or similar kind, and in such manner as not to cause the facilities of Licensor to be in conflict with the specifications of the National Electrical Safety Code, or any other specifications prescribed by laws of the United States or the State of Alabama, or any regulatory body having jurisdiction with respect to such facilities. If at any time such specifications are not being met because of the construction, maintenance and/or presence of said Licensee's facilities, then Licensee shall within thirty (30) days after notice that such specifications are not being met, revise or alter said facilities in accordance with such specifications. In the event it may now or may hereafter become necessary to reconstruct the power lines or communication lines of Licensor or to make changes therein, in order to comply with any of the aforementioned specifications, such reconstruction or change shall be made at the expense of Licensee, if the situation of its facilities are the underlying cause for the necessary reconstruction or change to meet such specifications, and Licensee will promptly reimburse Licensor for any expense incurred in connection therewith.

(4) Licensor specifically reserves unto itself the right of ingress and egress to and from its facilities at all times. Should Licensee's facilities so constructed hinder or interfere with Licensor's ingress and egress for the proper operation and maintenance of its structures and installations, then Licensee, upon receipt of notice from Licensor, shall immediately make the necessary provisions to eliminate same.

(5) Licensee shall construct and maintain its facilities, both now and in the future, in a manner that will prevent any erosion or washing away of the APCO Easement. If at any time Licensee's facilities are the cause of or are contributing to any erosion or washing of the APCO Easement, then Licensee will immediately take the necessary steps to prevent same.

(6) Licensee, in the construction and maintenance of its facilities, shall not deposit or place any spoil closer than twenty-five feet (25') of any Licensor poles, towers, structures and/or guy wires presently located on the APCO Easement, and no spoil shall be placed at any location that will reduce the present conductor clearances underneath Licensor's installations.

(7) Licensor nor its agents, servants or employees shall be liable for any loss, damage, or claims resulting from and/or caused by contact with and/or pressure or weight upon Licensee's facility. No sign or structures shall be erected and maintained on said right of way above ground level by Licensee, except as provided for herein.

(8) Upon completion of Licensee's facilities, Licensee shall, at its expense, remove or cause to be removed all equipment used and all debris and refuse resulting from the construction of its facilities and shall leave the APCO Easement in a condition satisfactory to Licensor. All openings in the ground shall be properly backfilled and rolled so as to leave the surface in as near the same condition as before the openings were made.

(9) Licensee shall use extreme caution in operating machinery and equipment across the APCO Easement in order to assure adequate clearance between the machinery and the high voltage conductors. Further, Licensee shall notify its contractors of the existence of the high voltage conductors and the need to maintain such clearances.

(10) As an important condition of the Licensor's agreeing to this License, Licensee specifically agrees to provide the following protection to the Licensor in all events and under all circumstances as set out.

Licensee will at all times hereafter indemnify, protect and save Licensor harmless from any and all claims, loss, damage, expense, and liability which Licensor may incur, suffer, sustain or be subjected to, resulting from or arising out of the construction, maintenance, use or presence of the facilities of Licensee upon that portion of Licensor's easement affected by Licensee's facilities; unless such injury (including death) or damage is proximately caused by the intentional misconduct of Licensor and/or sole negligence of Licensor.

(11) Licensee shall promptly notify Licensor of any unusual or hazardous condition relating to the construction, maintenance or existence of its facilities.

(12) In the event Licensee fails to comply with all provisions of this license and shall continue such non-compliance after thirty (30) days written notice by Licensor, then Licensor shall have the right to terminate such license upon thirty (30) days written notice.

(13) It is agreed that any provisions hereof relating to indemnity or the payment of expenses by Licensee shall survive any termination of this license.

(14) This agreement shall be construed in its entirety according to its plain meaning and shall not be construed against the party who provided or drafted it.

(15) Where notice is provided for herein, such notice shall be conclusively deemed given when posted in the United States mail, addressed to City of Calera, Alabama, Highway 25, Calera, AL 35040.

(16) This license shall be binding upon the heirs, successors and assigns of the parties hereto.

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

ALABAMA POWER COMPANY

By: John Chitwood
Name: _____
Title: Enrollment Supervisor

WITNESS:

LICENSEE:

_____(L. S.)
_____(L.S.)

OR

ATTEST (if corporation) or WITNESS

By: [Signature]
Its: Assistant Secretary

VULCAN LANDS, INC.
(Name of Corporation/Partnership/LLC)
By: [Signature]
Its: Secretary

STATE OF ALABAMA)
Shelby COUNTY)

I, Nicole VanPelt, a Notary Public in and for said County in said State, hereby certify that John Chitwood, whose name as Encroachment Supervisor of Alabama Power Company, 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 instrument, did, with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the 15th day of April, 2013

My commission expires: 03-20-2017

Nicole VanPelt
Notary Public - State at Large

STATE OF _____)
_____ COUNTY)

I, _____, a Notary Public in and for said County in said State, hereby certify that _____ whose name(s) and/is signed to the foregoing instrument and who are/is known to me, acknowledged before me on this day, that being informed of the contents of the instrument _____ executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal, this the _____ day of _____, 20____.

My commission expires: _____

Notary Public - State at Large

STATE OF Alabama)
Jefferson COUNTY)

I, Robbie O. Storey, a Notary Public in and for said County in said State, hereby certify that Jerry F. Perkins Jr., whose name as Secretary of Vulcan Lands, 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 instrument, he, with full authority, executed the same voluntarily for and as the act of said Corporation.

Given under my hand and official seal, this the 5th day of April, 2013.

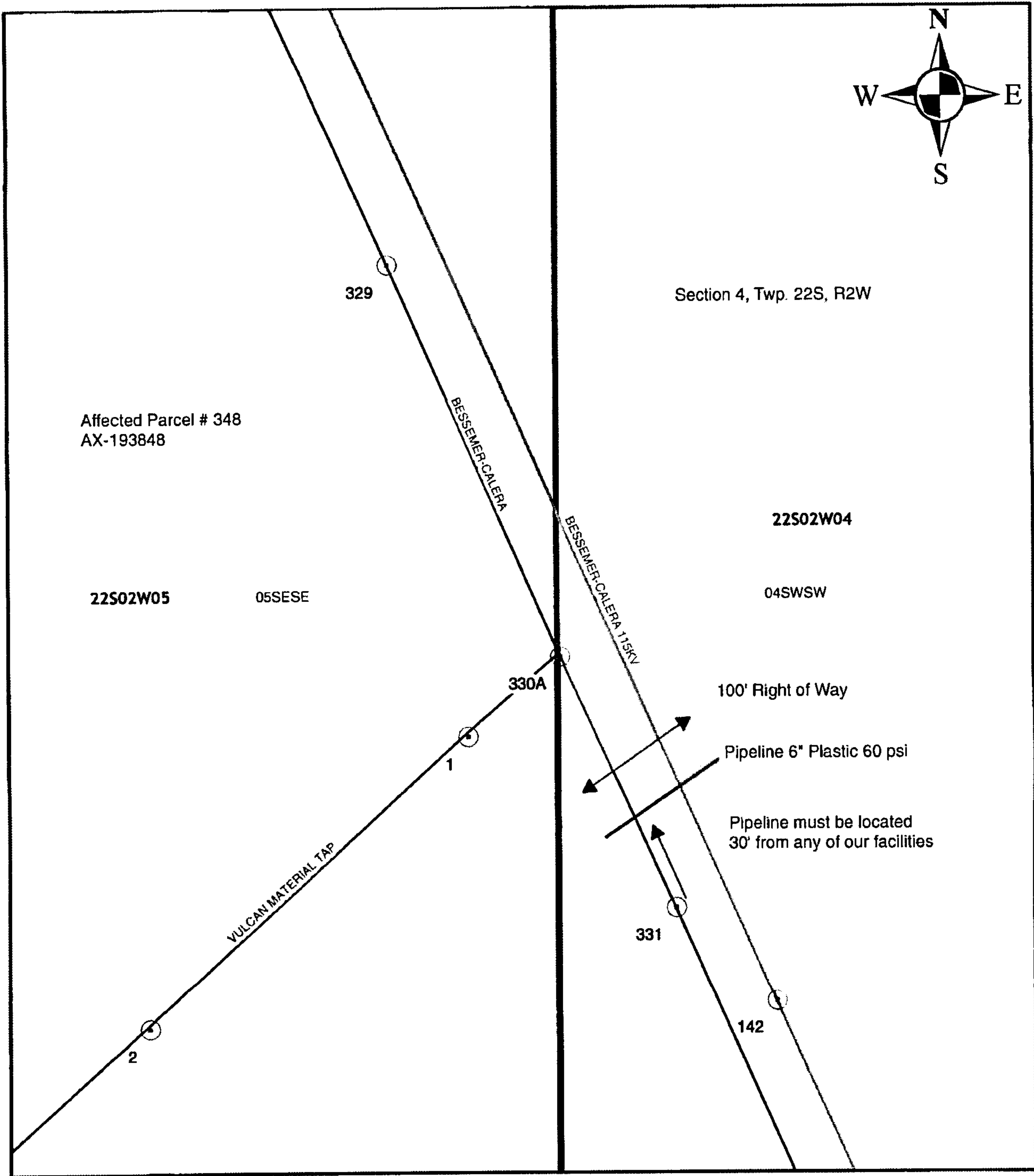
My commission expires: 10/29/16

Robbie O. Storey
Notary Public - State at Large



20130426000169660 4/5 \$24.00
Shelby Cnty Judge of Probate, AL
04/26/2013 10:46:53 AM FILED/CERT

Exhibit "A"



OWNER: VULCAN LANDS, INC

SUBJECT: BESSEMER-CALERA 115KV & 46KV

ENCROACHMENT DETAILS: PIPELINE CROSSING

ALABAMA POWER COMPANY

DRAWING PREPARED BY: BNV

SCALE: NTS

DATE: MARCH 8, 2013



20130426000169660 5/5 \$24.00
Shelby Cnty Judge of Probate, AL
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