


STATE OF ALABAMA )

SHELBY COUNTY )

  
20141023000336140 1/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

**SECOND AMENDMENT TO DECLARATION  
OF COVENANTS AND RESTRICTIONS;  
QUITCLAIM DEED; AND AGREEMENTS**

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS; QUITCLAIM DEED; AND AGREEMENTS, (the "Second Amendment") is made and entered into as of the 28<sup>th</sup> day August, 2014, by and between Sidney W. Smyer, Jr. ("Billy"); Harald L. Smyer and Mary T. Smyer, husband and wife (together referred to as "Hal" herein); Ingrid Frances Smyer, an unmarried woman ("Fran"); Sidney W. Smyer, III, an unmarried man ("Sid"); and Hollybrook Lake Corporation ("HLC"). Billy, Hal, Fran and Sid are sometimes collectively referred to in this Second Amendment as the "Smyers," while the Smyers and HLC are sometimes collectively referred to as the "Parties". Richard G. Edge, and Andrew N. A. Edge and spouse Elizabeth P. Edge (collectively the "Edges" herein), join in the execution of this Second Amendment for the sole and limited purpose set forth in the Consent and Joinder appended to this Second Amendment.

**RECITALS**

The Parties were among the parties to a Declaration dated June 2, 1998, and recorded in Instrument Number 1998-20485 in the Probate Office of Shelby County, Alabama (the "Original Agreement") pertaining to certain parcels of real property situated in Shelby County, Alabama, which are within or adjacent to the Hollybrook Development (unless otherwise defined herein, all capitalized terms in this Second Amendment shall have the meanings provided for in the Original Agreement); and

All of the parties to the Original Agreement also entered into a first amendment to the Original Agreement, also dated June 2, 1998, as recorded in Instrument Number 1998-20486 in said Probate Office (the "First Amendment"); and

The Original Agreement, as amended by the First Amendment, is referred to herein as the "Agreement"; and

The Smyers are the current owners of the parcels of land (collectively referred to as the "Smyers' Property") affected by the Agreement and generally shown on EXHIBIT "A" (the Plat):

- (i) the land, which is legally described on EXHIBIT "B" (the "Children's Lots");
- (ii) the land, which is legally described on EXHIBIT "C" (the "Additional Hal & Fran Parcel");



- (iii) approximately two hundred forty-six (246) acres, which is legally described on EXHIBIT "D" (the "Ridge Property");
- (iv) an additional tract of land owned by Billy, containing approximately fourteen and eight tenths (14.8) of an acre, which is depicted on the Plat (the "14.8 Acres");
- (v) the land ("Duck Pond") described on "EXHIBIT "E"", it being acknowledged that the Edges own a portion of Duck Pond as well; and
- (vi) all additional land owned by Sid that adjoins any of the Hollybrook development, Duck Pond, or the Adjacent Acreage (as such term was defined under Section 9 of the First Amendment, as in effect prior to this Second Amendment), including, without limitation, the "Highway 41 Acreage" referred to in the First Amendment, which is legally described on EXHIBIT "F" ("Sid's Acreage").

(The Smyer's Property, exclusive of (i) the Children's Lots and (ii) any portion of Duck Pond currently owned by the Edges, is sometime collectively referred to as the "Remaining Smyers' Property"); and

The Smyers have agreed to sell and grant a conservation easement (the "Conservation Easement") to the Freshwater Land Trust (the "Land Trust"), a publically supported, tax-exempt nonprofit organization qualified under Sections 501(c)(3), 509(a) and 170(h), respectively, of the Internal Revenue Code of 1986, as amended, covering the Ridge Property, that would preclude any construction or development of the Ridge Property, and preserve it in perpetuity in its present forested condition as a natural wildlife habitat and scenic view-shed; and

The preservation and protection of the Ridge Property from development under the terms of the Conservation Easement would help preserve and enhance the value of the properties owned by the Smyers, the HLC Shareholders, and others in Dunnavant Valley; and

In addition to successful fund raising by the Land Trust for the purchase of the Conservation Easement, the agreement by the Smyers for the sale of the Conservation Easement is contingent upon the agreements on the part of HLC provided for in this Second Amendment.

**(Please Note: None Of The Real Estate Herein Conveyed  
Or Described Constitutes The Homestead Of Any Of The Parties  
Hereto Or That Of Their Spouses.)**

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is separately and severally acknowledged by all parties, the undersigned Parties agree as follows:

1. Access to Smyer Children's Parcel. The following changes are made to Section 2.C(1) of the Agreement, which was previously added to the Agreement by the First Amendment:

(a) Section 2.C(1)(b)(i) is hereby revised in its entirety to read as follows:

The owners of the Smyer Children's Parcel shall have the right to use

Hollybrook Lake Road for ingress and egress from Parcels 1, 2, 3, and 4 shown on the Plat. (These parcels are separately referred to as “Children’s Lot 1, 2, 3, or 4”). Each of the Children’s Lots shall contain more than twenty (20) acres. Each Children’s Lot may be improved with no more than one (1) single family residence. No re-subdivision of any of the Children’s Lots shall be permitted.

(b) The additional words are hereby added at the beginning of Section 2.C(1)(b)(ii):

Unless constructed on Children’s Lot 2, 3, or 4, at a time when such Children’s Lot no longer has access through Hollybrook Lake Road by reason of Section 2.C(1)(d) below, as such provision is revised under this Second Amendment, ...

(c) The following additional sentence is added to Section 2.C(1)(b)(iii):

Such rules and regulations may include, without limitation, measures which HLC may determine to be necessary or appropriate: (A) to ensure that the owners of the Children’s Lots and their guests have no access to or use of Hollybrook Lake; and (B) to address any safety or risk factors, in view of the use of Hollywood Lake Road by up to four (4) additional families.

(d) The entire proviso clauses, following the semicolons in Sections 2.C(1)(c)(ii) and 2.C(1)(c)(iii), are both hereby deleted.

(e) A new Section 2.C(1)(c)(iv) is added, as follows:

- (A) The provisions of Sections 2.C(1)(c)(iv)(B) through 2.C(1)(c)(iv)(D) are all subject to Section 2.C(1)(e), as added below by this Second Amendment;
- (B) The owners of the Children’s Lots may not use Hollybrook Lake Road (or any extension or connection to Hollybrook Lake Road) for access, ingress, or egress to any other real estate;
- (C) Hollybrook Lake Road shall not be used for the transport of any materials, supplies, equipment, or persons associated with any aspect of construction on the Children’s Lots, whether initial construction, renovation, improvement, restoration, reconstruction, or the like, [all of the things and activities contemplated by this Section 2.C(1)(c)(iv)(C) are collectively referred to as “Construction Uses”]; and
- (D) Hollybrook Lake Road shall not be connected to any land other than the Children’s Lots, and shall not be connected to any other



roads, whether now existing, or later constructed, but for the usual driveways that service such of the Children's Lots that are afforded access under this Second Amendment; and

(E) Without limiting the generality of the provisions of Section 2.C(1)(c)(iv)(D), Billy specifically acknowledges and agrees that the 14.8 Acres shall not have any access across Hollybrook Lake Road (unless the 14.8 Acres should be combined through subdivision cases with one or more of the Children's Lots that do have such access), and waives and relinquishes any right to otherwise take any position or enjoy any governmental finding that such access would be "convenient" or otherwise available.

(f) Section 2.C(1)(d) is hereby revised in its entirety to read as follows:

**(d) Certain Unimproved Children's Lots.** If at any time a new road or extension of an existing road is begun around the eastern end of Duck Pond from Highway 41, then that road or extension shall thereafter become the only means of ingress to and access from such of the Children's Lots 2, 3, and 4 on which the construction of a residence has not already commenced at the time of the commencement of such new road or extension.

(g) New Sections 2.C(1)(e) and 2.C(1)(f) are all hereby added, as follows:

**(e) Certain Construction Activities.** The owners of Children's Lot 1, together with such of the remaining Children's Lots as shall continue to have general access, notwithstanding Section 2.C(1)(d), shall have a right of reasonable and temporary access for Construction Uses over only that portion of extended Hollybrook Lake Road which lies between (i) an extension of Stonegate Road and (ii) that particular Children's Lot. A gate, reasonably acceptable to HLC both in operation and location, shall be erected on the Stonegate Road extension to assure that ingress and egress for all other purposes is prevented between Hollybrook Lake Road and Stonegate Road.

**(f) Termination of Access Rights.** Without limiting HLC's rights to seek money damages or other remedies available at law or in equity, all of the easements granted to the owners of the Children's Lots in and to Hollybrook Lake Road shall be permanently terminated, and HLC shall have the right to erect permanent barriers denying access to the Children's Lots by means of Hollybrook Lake Road, in the following events: (i) if any part of the Children's Lots should be subdivided in a manner not specifically permitted by Section 2.C(1); (ii) any owner of a Children's Lot should ever undertake any activity for which any governmental agency having jurisdiction would require an upgrade or improvement of Hollybrook Lake Road (it being the intent the Hollybrook Lake Road shall

continue to be in its present state); or (iii) if any use is made of any temporary connection between Hollybrook Lake Road and any extension of Stonegate Road, except as explicitly provided in Section 2.C(1)(e).

(h) A new Section 2.C(1)(g) is hereby added, to read as follows:

**(g) Limitations Acknowledged.** Notwithstanding any provision of the Original Agreement, First Amendment, or this Second Amendment which might suggest otherwise, there shall be no access, ingress, or egress for any purposes across Hollybrook Lake Road afforded to or used by the owners of Hal & Fran Parcel, the Ridge Property, or any other Remaining Smyers' Property.

(i) Section 2.C(1)(e) of the Agreement (as in effect prior to this Second Amendment, and entitled “**(e) Agreements Run With the Land**” is re-designated as Section 2.C(1)(h), and is amended, in its entirety, to read as follows:

**(h) Agreement Run With the Land.** The provisions of this Section 2.C(1) shall be covenants running with the land contained within the Children's Lots, binding upon the owners thereof, and upon their respective heirs, personal representatives, successors, and assigns, and inuring to the benefit of HLC; provided, however, that in the event that ingress to and egress from the Children's Lots by mean of Hollybrook Lake Road is terminated for any cause described herein, then all of these covenants shall also terminate.

2. Amendments Concerning the Buffer. The following amendments are made to the provisions of the Agreement regarding the seventy-five (75) foot Buffer:

- (a) The beginning clause “Except as expressly provided in this Section 3,” is hereby deleted from the fourth sentence of Section 3 of the Agreement.
- (b) The final (seventh) sentence of Section 3 (starting with “HLC agrees with SWS, III ...”) is hereby deleted from Section 3 of the Agreement.
- (c) In connection with the modifications to Section 9 made by this Second Amendment, the Parties acknowledge and agree that Paragraph 3 of the First Amendment has no further force or effect.



3. Access to the Remaining Smyers' Property. Section 9 of the Original Agreement is deleted, and replaced in its entirety with the following:

9. ABANDONMENT OF NEW ACCESS ROAD. No road may exist between Hollybrook Lake and Duck Pond, other than Hollybrook Lake Road. Accordingly, and in further consideration of the access easements granted herein to the owners of the Children's Lots by HLC, the Parties acknowledge and agree that the sixty (60) foot wide "New Access Road" as defined in Section 9 of the Original Agreement, and previously amended by Paragraph 3 of the First Amendment, be and is hereby irrevocably and permanently vacated, released, and abandoned.

4. Condition of this Second Amendment to the Agreement. All of the terms and conditions provided for in this Second Amendment are subject to the express condition precedent of the closing of the sale by the Smyers of the Conservation Easement to the Land Trust (the "Closing") on or before December 31, 2014 (the "Closing Date"). The Closing Date may be extended through the mutual written agreement of Billy, Hal, Fran, and the Land Trust to a date not later than March 31, 2015. The Smyers shall notify HLC immediately following Closing of the sale of the Conservation Easement, and execute and deliver to HLC a certificate in the form attached as Exhibit "G" confirming the sale and the satisfaction of that condition to the performance of the Parties obligations under this Second Amendment (the "Certificate"). The Smyers collectively stipulate and agree that this Certificate may be executed by either Billy or Hal, and that the execution of the Certificate by either or both of them shall be binding upon all Smyers.

5. Miscellaneous.

A. Binding Effect; Agreements Run with Land. The provisions of the Agreement as hereby amended shall (i) be binding upon and inure to the benefit of each Party hereto and their respective heirs, personal representatives, successors and assigns, and (ii) shall constitute covenants running with the land described herein of each of the Parties and their respective heirs, personal representatives, successors and assigns.

B. Further Assurances. Each party hereto covenants and agrees to execute, sign and deliver, or cause to be signed and delivered, any and all agreements, papers, deeds, acts or things, supplemental, conforming or otherwise which may be reasonably requested by any other Party for the purpose of further evidencing any of the transactions, matter or agreements provided for herein.

C. Interpretation. This Second Amendment to the Agreement shall be construed under and in accordance with the laws of the State of Alabama. To the extent that there may be any inconsistency between the terms of this Second Amendment and the terms of the Agreement, the terms of this Second Amendment shall be deemed to be controlling. This Second Amendment constitutes the entire and complete agreement among the Parties concerning its subject matter, and supersedes any prior oral or written communications between them.

Descriptive headings included are for convenience only, and shall not affect the construction of this Second Amendment. All of the Parties acknowledge that he, she, or it has had the opportunity to be represented by counsel of their choosing in the negotiation and preparation of this Second amendment. This document shall be construed without regard to any presumption or other rule based on the person or persons who drafted this Second Amendment.

D. Counterparts. This Second Amendment to the Agreement may be executed in a number of counterparts, all of which together shall for all purposes constitute one agreement.

E. Full Force and Effect. Except as hereby amended, the Agreement shall remain in full force and effect.

F. Effect of Failure of Condition. All of the Parties acknowledge and agree that should the condition set forth in Paragraph 4 of this Second Amendment not timely occur, then there shall be no inference drawn from the execution of this Second Amendment as to the meaning, import, or effect of any provisions of the Original agreement or the First Amendment.

G. Effect of Agreement. Subject to Paragraph 4 hereof, this Second Amendment represents a final determination of the rights, duties, obligations, and legal real estate ownership interests of Hollybrook Lake Road and the Smyers' Property. The provisions of the Agreement, as amended by this Second Amendment, shall be enforceable in a court of equity as being directly related to interests in real property which are unique, such that money damages would not constitute an adequate remedy for the breach of any of the terms of the Agreement, as amended by the Second Amendment.


H. Costs of Enforcement. In the event that any action is commenced to interpret or enforce any provision of the Amendment, as amended by this Second Amendment, the prevailing party shall be entitled to recover all enforcement expenses, including, without limitation, a reasonable attorney's fee.

[SIGNATURES ON FOLLOWING PAGES]



IN WITNESS WHEREOF, the parties have affixed their hands and seats as of the day first above written.

SMYERS:

  
\_\_\_\_\_  
Sidney W. Smyer, Jr.

\_\_\_\_\_  
Harald L. Smyer

\_\_\_\_\_  
Mary T. Smyer

\_\_\_\_\_  
Ingrid Frances Smyer

  
\_\_\_\_\_  
Sidney W. Smyer, III

HOLLYBROOK LAKE CORPORATION

By: \_\_\_\_\_

Its: President

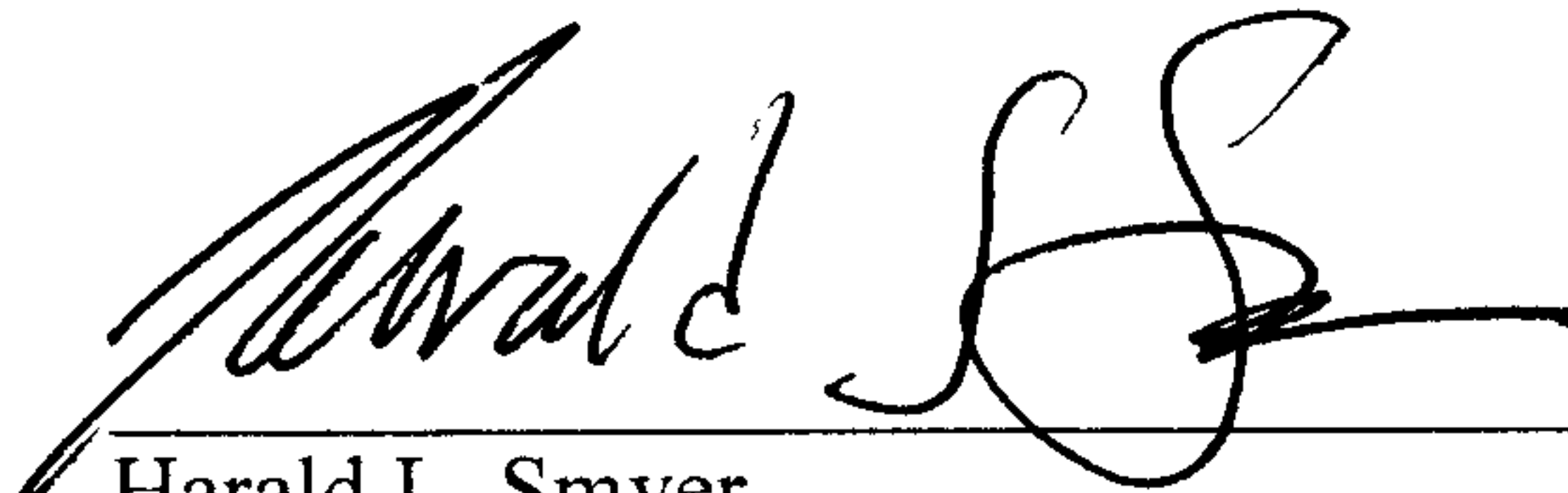
[SIGNATURES CONTINUE ON FOLLOWING PAGE]

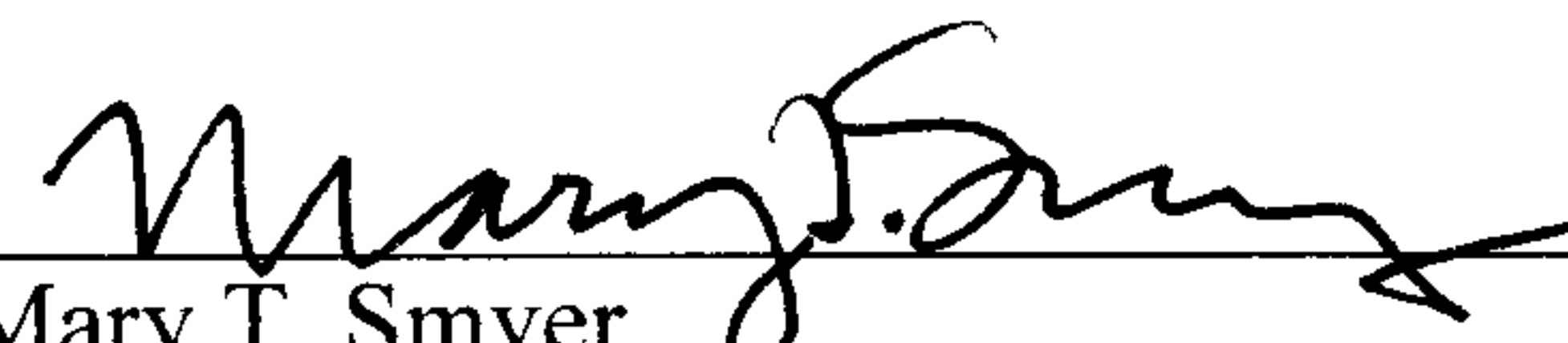


IN WITNESS WHEREOF, the parties have affixed their hands and seats as of the day first above written.

SMYERS:

\_\_\_\_\_  
Sidney W. Smyer, Jr.

  
\_\_\_\_\_  
Harald L. Smyer

  
\_\_\_\_\_  
Mary T. Smyer

\_\_\_\_\_  
Ingrid Frances Smyer

\_\_\_\_\_  
Sidney W. Smyer, III

HOLLYBROOK LAKE CORPORATION

By: \_\_\_\_\_

Its: President

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

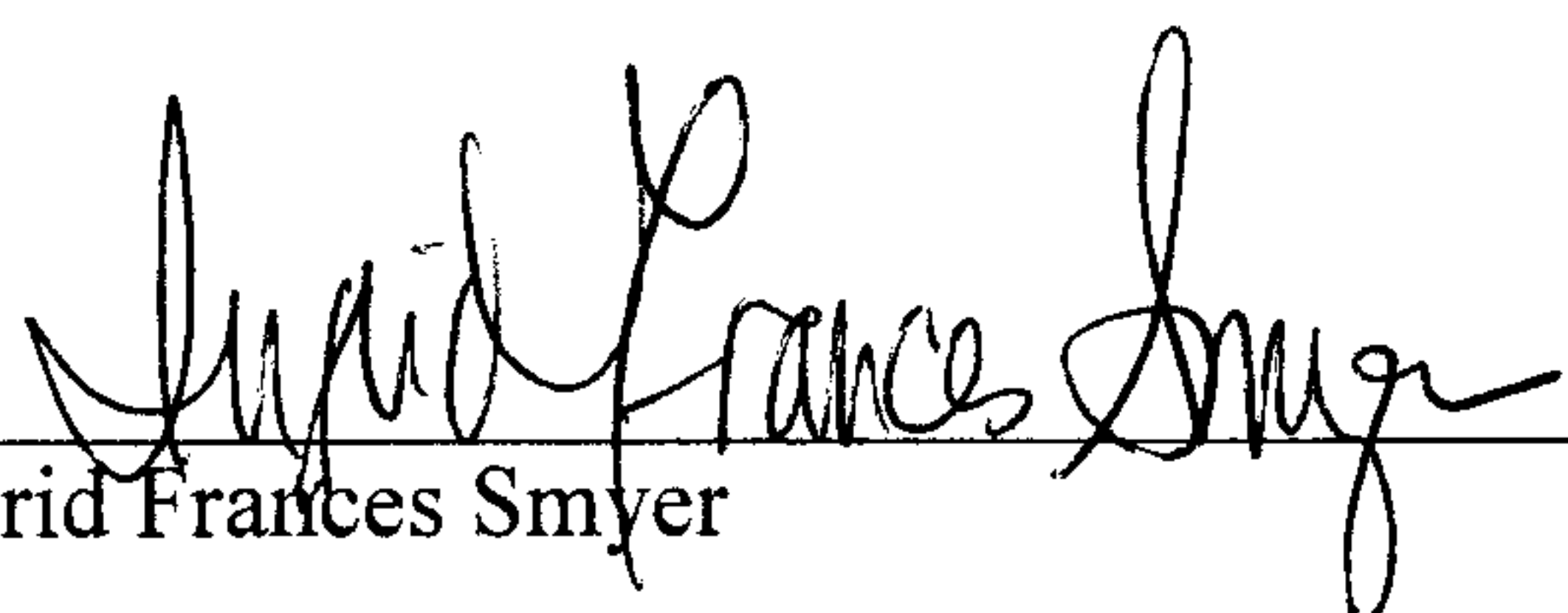
IN WITNESS WHEREOF, the parties have affixed their hands and seats as of the day first above written.

SMYERS:

\_\_\_\_\_  
Sidney W. Smyer, Jr.

\_\_\_\_\_  
Harald L. Smyer

\_\_\_\_\_  
Mary T. Smyer

\_\_\_\_\_  
  
Ingrid Frances Smyer

\_\_\_\_\_  
Sidney W. Smyer, III

HOLLYBROOK LAKE CORPORATION

By:\_\_\_\_\_

Its: President

[SIGNATURES CONTINUE ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the parties have affixed their hands and seats as of the day first above written.

SMYERS:

\_\_\_\_\_  
Sidney W. Smyer, Jr.

\_\_\_\_\_  
Harald L. Smyer

\_\_\_\_\_  
Mary T. Smyer

\_\_\_\_\_  
Ingrid Frances Smyer

\_\_\_\_\_  
Sidney W. Smyer, III

HOLLYBROOK LAKE CORPORATION

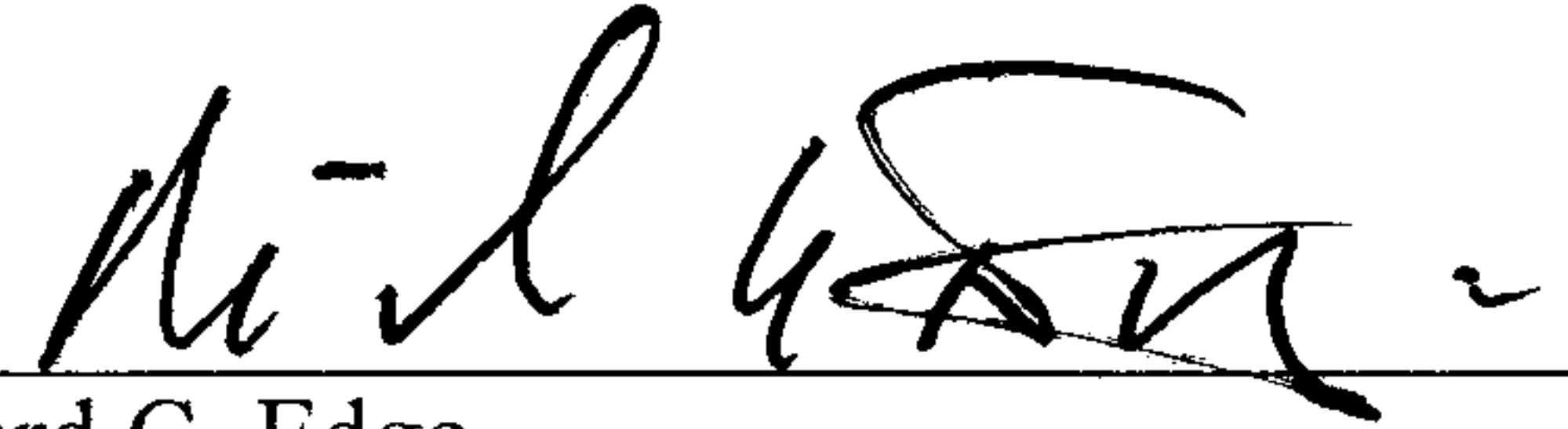
By: \_\_\_\_\_

Its: President

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

## CONSENT AND JOINDER

The Edges join in the execution of this Second Amendment for the limited purposes of evidencing their consent and agreement to: (i) the abandonment of any right to construct the "New Access Road" referred to in the First Amendment; (ii) the prohibition of any road being constructed between Hollybrook Lake and Duck Pond, other than the existing Hollybrook Lake Road; and (iii) any related easement rights, all upon and subject to the satisfaction of the condition provided in the Paragraph 4 of the foregoing Second Amendment, which relates to the timely Closing of the Conservation Easement transaction with the Land Trust. The Edges further acknowledge and agree that a Certificate executed by either Billy or Hal shall conclusively establish the satisfaction of this condition precedent.



Richard G. Edge

Andrew N. A. Edge

Elizabeth P. Edge

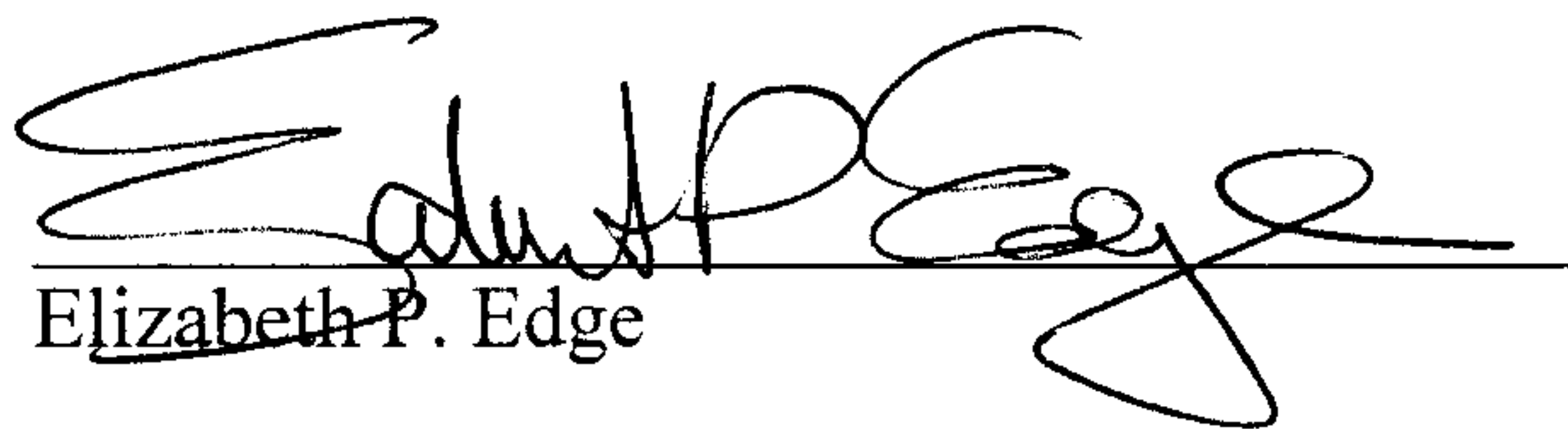


## CONSENT AND JOINDER

The Edges join in the execution of this Second Amendment for the limited purposes of evidencing their consent and agreement to: (i) the abandonment of any right to construct the "New Access Road" referred to in the First Amendment; (ii) the prohibition of any road being constructed between Hollybrook Lake and Duck Pond, other than the existing Hollybrook Lake Road; and (iii) any related easement rights, all upon and subject to the satisfaction of the condition provided in the Paragraph 4 of the foregoing Second Amendment, which relates to the timely Closing of the Conservation Easement transaction with the Land Trust. The Edges further acknowledge and agree that a Certificate executed by either Billy or Hal shall conclusively establish the satisfaction of this condition precedent.

\_\_\_\_\_  
Richard G. Edge

  
\_\_\_\_\_  
Andrew N. A. Edge

  
\_\_\_\_\_  
Elizabeth P. Edge

STATE OF Alabama )  
Jefferson COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Sidney W. Smyer, Jr.**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 14<sup>th</sup> day of August, A.D. 2014.

Garry Neal Evers  
Notary Public  
My Commission Expires: 11/16/2015

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Harald L. Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Mary T. Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Sidney W. Smyer, Jr.**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

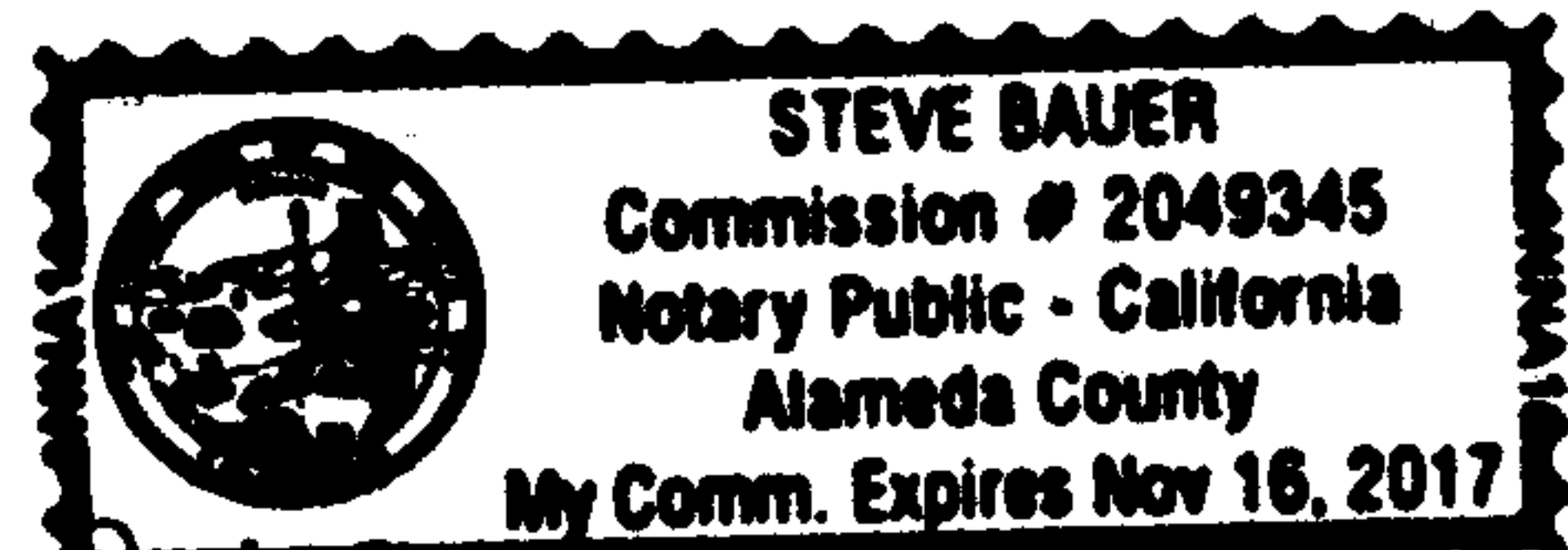
Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF California )  
Alameda COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Harald L. Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 22 day of August, A.D. 2014.

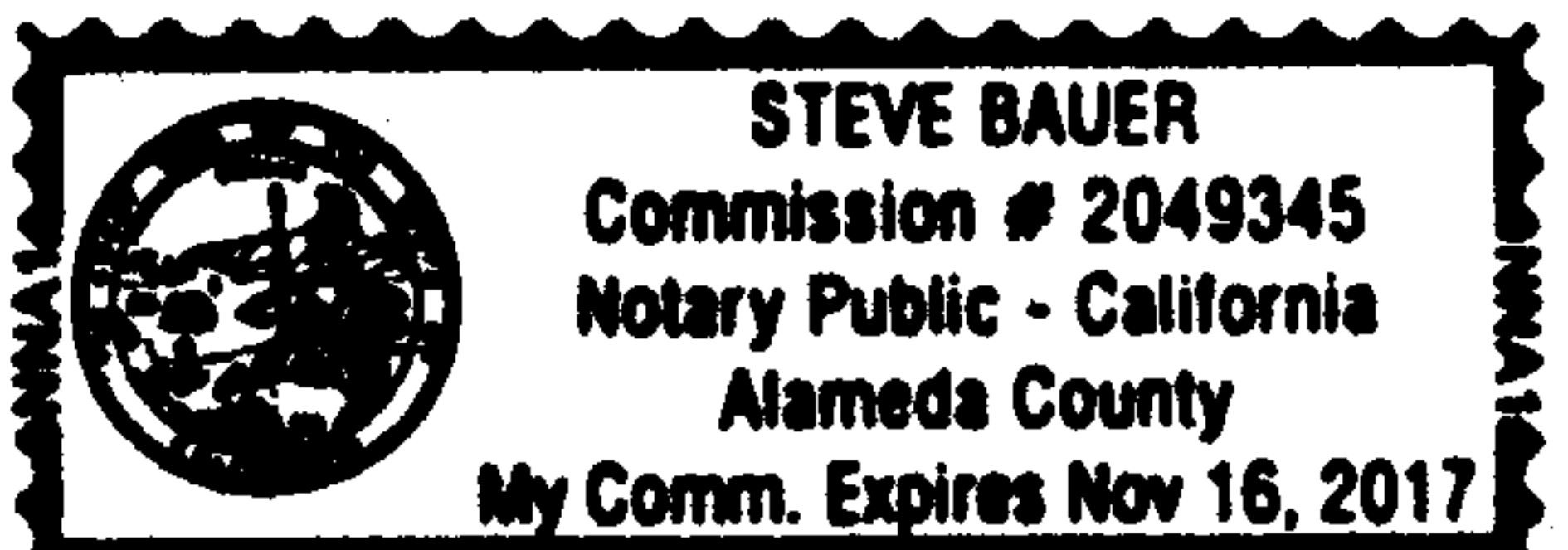


[Signature]  
Notary Public  
My Commission Expires: 11/16/2017

STATE OF California )  
Alameda COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Mary T. Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this 22 day of August, A.D. 2014.



[Signature]  
Notary Public  
My Commission Expires: 11/16/2017

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Ingrid Frances Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF Alabama )  
Jefferson COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Sidney W. Smyer, III**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand this 14th day of August, A.D. 2014.

Gary Neal Evers  
Notary Public  
My Commission Expires: 11/16/2015

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of **Hollybrook Lake Corporation**, a(n) \_\_\_\_\_ corporation, is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_



STATE OF MASSACHUSETTS )  
Suffolk COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Ingrid Frances Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this 25 day of August, A.D. 2014.



A handwritten signature of Barry Gagne, enclosed within a large, hand-drawn oval.

Notary Public Barry Gagne  
My Commission Expires: March 27, 2020

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Sidney W. Smyer, III**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that \_\_\_\_\_, whose name as \_\_\_\_\_ of **Hollybrook Lake Corporation**, a(n) \_\_\_\_\_ corporation, is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Ingrid Frances Smyer**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Sidney W. Smyer, III**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she/they executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF Alabama )  
Shelby COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that Robert G. Bird Sr., whose name as President of **Hollybrook Lake Corporation**, a(n) Alabama corporation, is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand this 7<sup>th</sup> day of August, A.D. 2014.

Crusty D. Park  
Notary Public

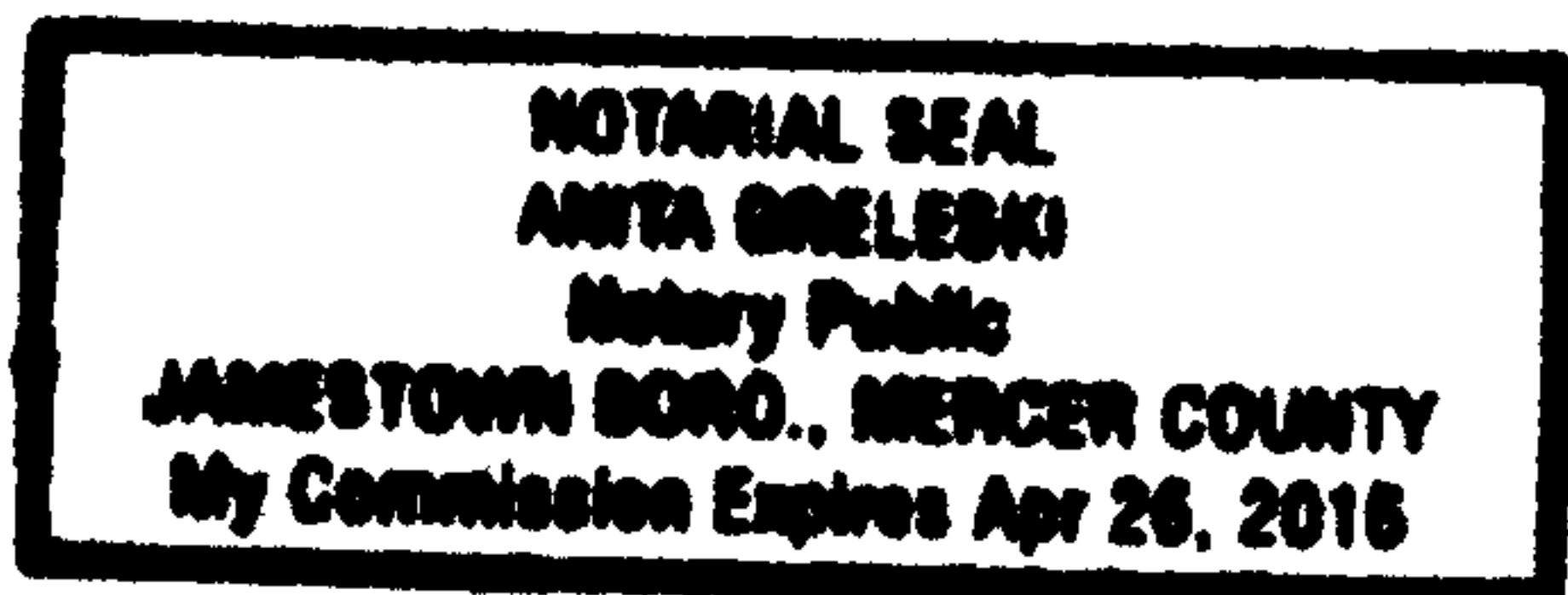
My Commission Expires: MY COMMISSION EXPIRES SEPTEMBER 9, 2017  
MY COMMISSION EXPIRES SEPTEMBER 9, 2017



STATE OF Pennsylvania )  
Mercer COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Richard G. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 28 day of August, A.D. 2014.



Anita Greleski  
Notary Public  
My Commission Expires: Apr 26 2016

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Andrew N. A. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Elizabeth P. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_ COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Richard G. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this \_\_\_\_\_ day of August, A.D. 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF Alabama )  
JEFFERSON COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Andrew N. A. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand this 27<sup>th</sup> day of August, A.D. 2014.

Evangeline H. Moore  
Notary Public  
My Commission Expires: 4/29/18

STATE OF Alabama )  
JEFFERSON COUNTY )

I, a Notary Public, in and for said State and County, hereby certify that **Elizabeth P. Edge**, whose name is signed to the foregoing instrument or conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand this 27<sup>th</sup> day of August, A.D. 2014.

Evangeline H. Moore  
Notary Public  
My Commission Expires: 4/29/18



## **SCHEDULE OF EXHIBITS**


1. Exhibit "A" Schoel Engineers Plat
2. Exhibit "B" Children's Lots
3. Exhibit "C" Additional Hal & Fran Parcel
4. Exhibit "B-C" Combined Hal & Fran Property (Legal Description)
5. Exhibit "D" Ridge Property (Legal Description)
6. Exhibit "E" Duck Pond (Legal Description and Map)
7. Exhibit "F" Sid's Acreage
8. Exhibit "G" Certificate as to Closing of Conservation Easement

### Schedule of Exhibits

**EXHIBIT "A"**  
**SCHOEL ENGINEERING PLAT**

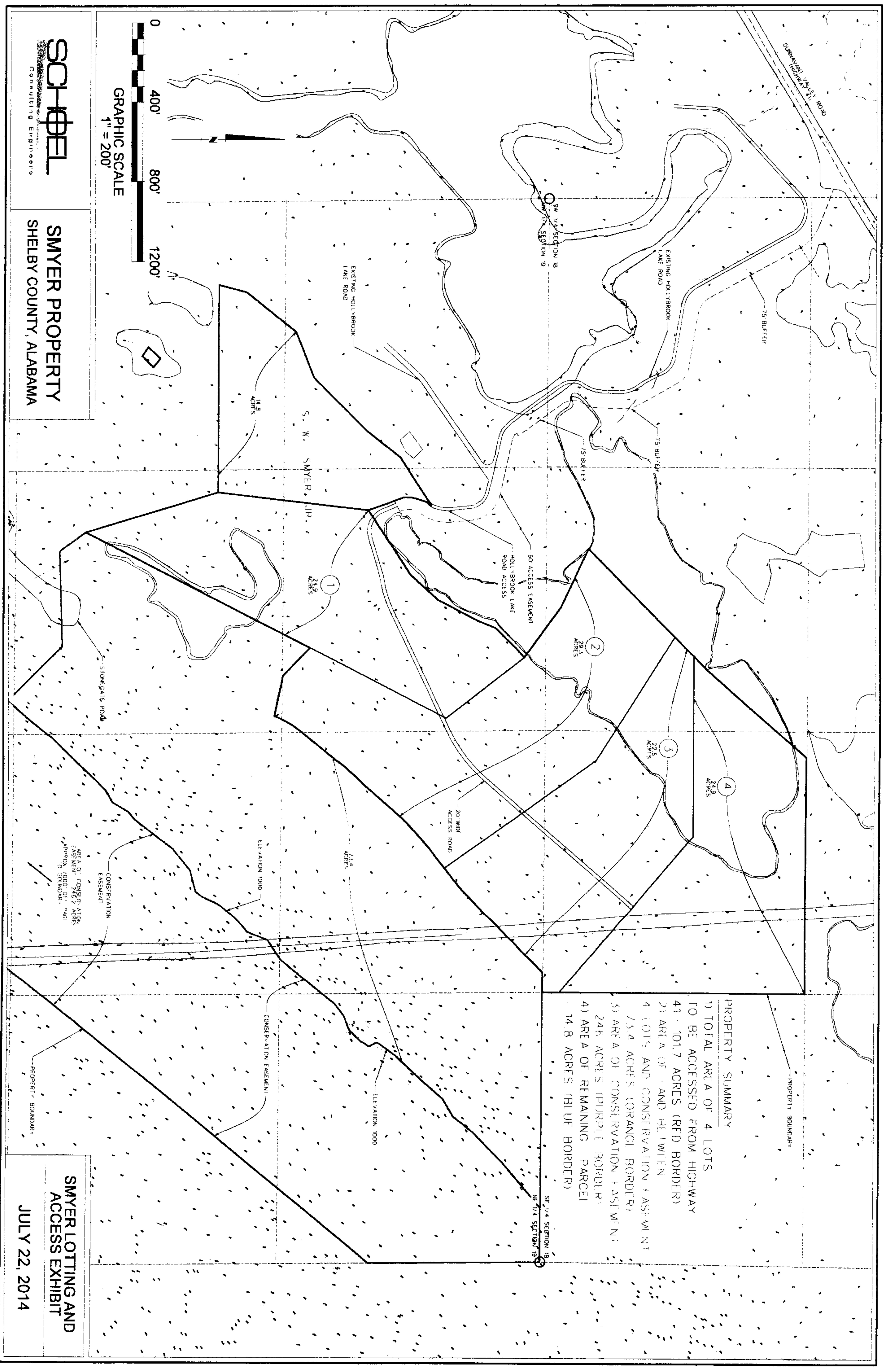
A-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014

  
20141023000336140 22/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

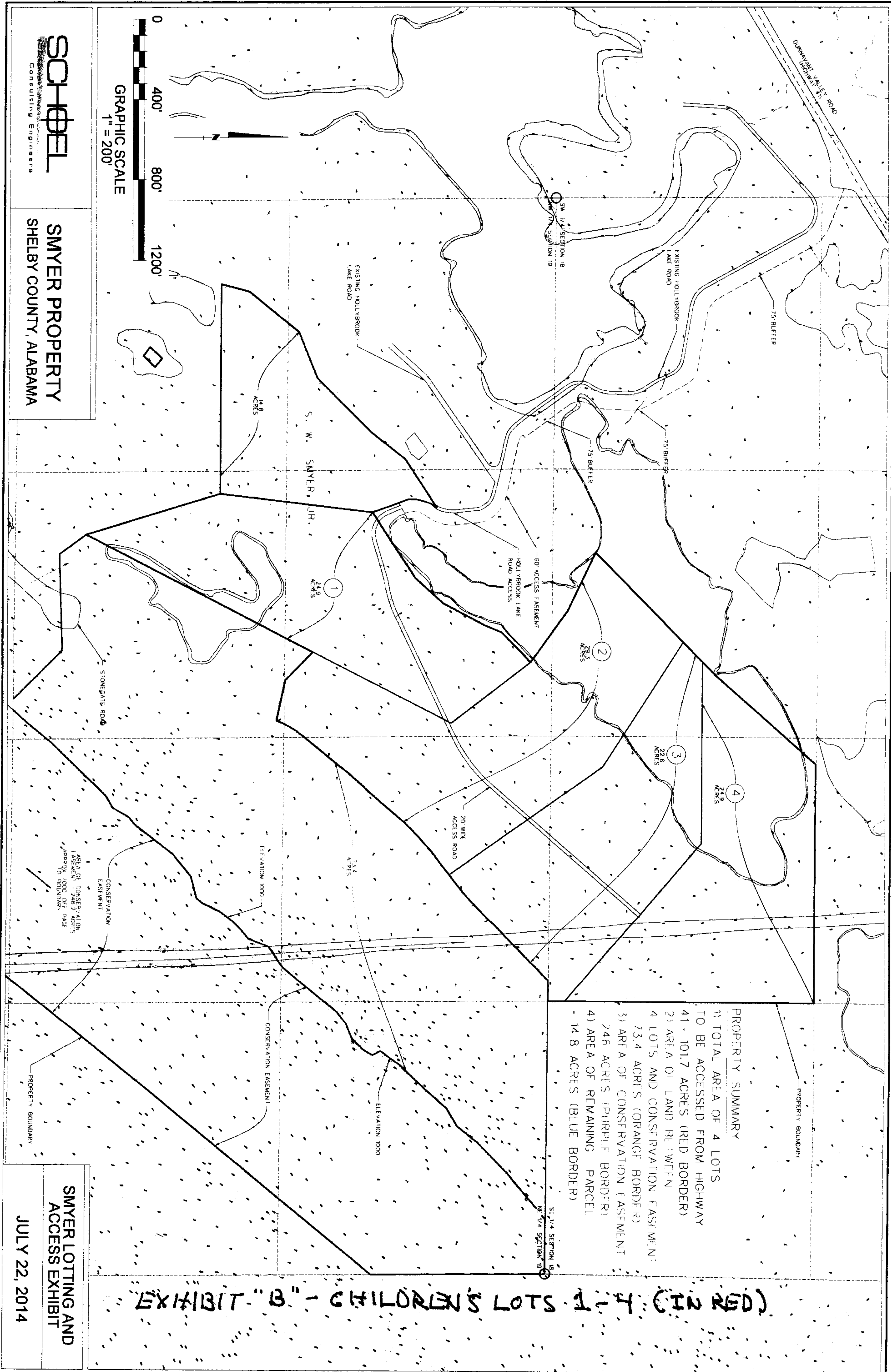


20141023000336140 23/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT



Smyer Property Exhibit 072114.dgn 7/22/2014 11:20:45 AM








**EXHIBIT "B"**  
**CHILDREN'S LOTS**

B-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014




20141023000336140 25/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

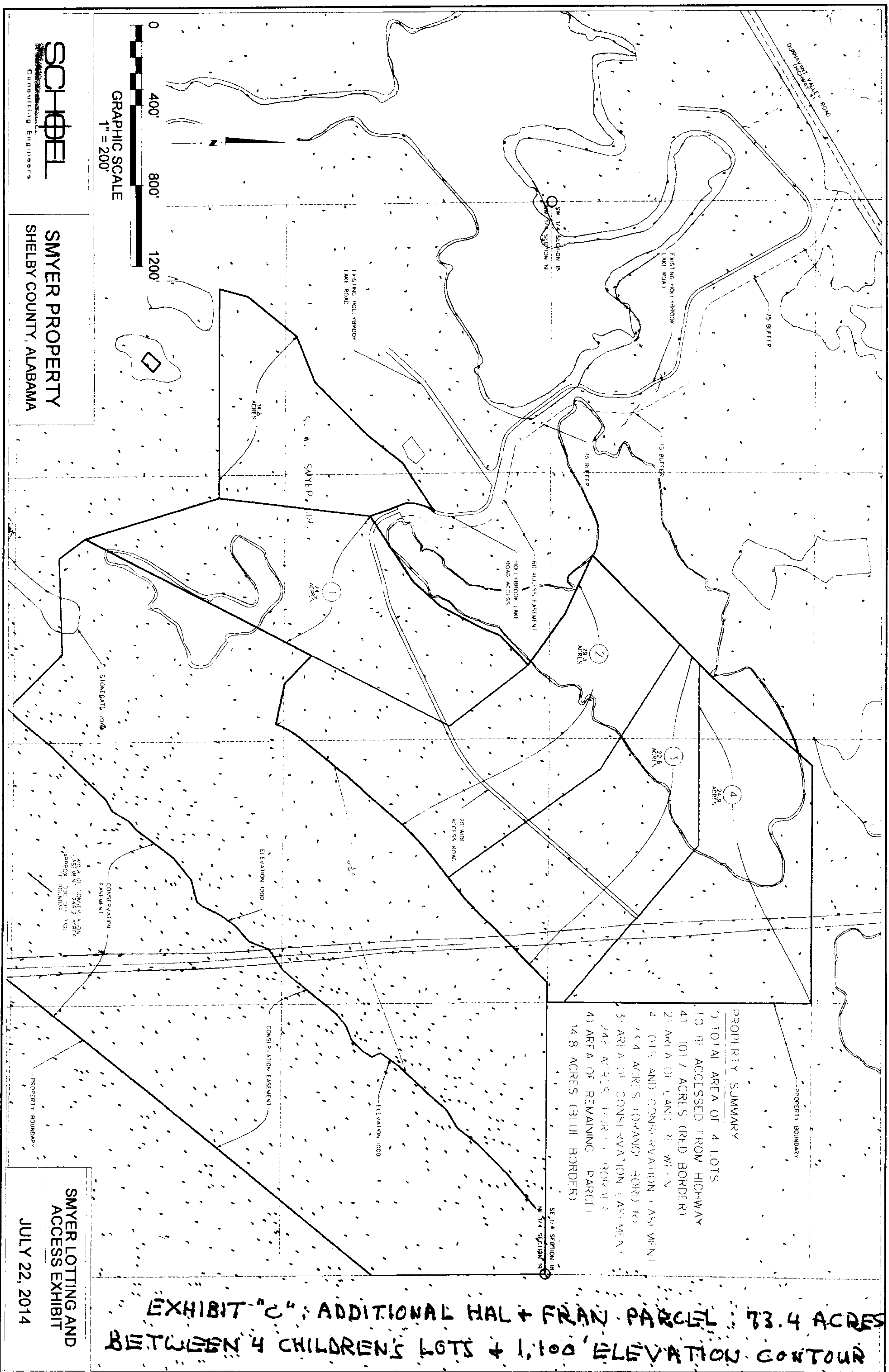
**EXHIBIT "C"**

**ADDITIONAL HAL & FRAN PARCEL**

C-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014

  
201410230000336140 26/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT






**EXHIBIT "B-C"**

**COMBINED HAL AND FRAN PROPERTY**

B-C-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014



20141023000336140 28/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

EXHIBIT "B-C"

COMBINED HAL AND FRAN PROPERTY

All that part of Sections 18 & 19, Township 18 South, Range 1 East, described in separate deeds to Ingrid Frances Smyer ("Fran") and Harald Lassen Smyer ("Hal") recorded in Real Vol. 296, Page 854, and Real Vol. 301, Page 881, respectively, in the Probate Office of Shelby County, Alabama, *Less And Except* the following:

(a) All real property conveyed by Fran and/or Hal as described in Instrument #2001-02967 and Instrument #2001-02972, in the Probate Office of Shelby County, Alabama; and

(b) All real property owned by Fran and/or Hal in Section 18 and 19, Township 18 South, Range 1 East, in Shelby County, Alabama, lying above Elevation 1,000 feet above mean sea level.




**EXHIBIT "D"**

**RIDGE PROPERTY (LEGAL DESCRIPTION)**

D-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014

  
20141023000336140 30/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT





COMMITMENT FOR TITLE INSURANCE  
Issued by  
**Chicago Title Insurance Company**

LTC File No: 7592H-14

**SCHEDULE A**

1. Commitment Effective Date: **July 10, 2014, 08:00 am**
2. Policy or Policies to be issued:

	Amount
a. ALTA Owner's Policy (6-17-06):	<b>\$to be determined</b>
Proposed Insured: <b>Any Purchaser</b>	
b. ALTA Loan Policy (6-17-06)	
Proposed Insured:	
3. The estate or interest in the land described or referred to in this Commitment is **Fee Simple**.
4. Title to the **Fee Simple** estate or interest in the land is at the Effective Date vested in:

☒ **S. W. Smyer, Jr. (1/3 interest) Harald L Smyer (1/3 interest) and Ingrid Frances Smyer Dubrow (1/3 interest) (Parcel I)**  
**Harald L Smyer (1/2 interest) and Ingrid Frances Smyer (1/2 interest) (Parcel II thru VI)**  
**Richard R. G. Edge, Susan S. Edge, Andrew N. A. Edge and Elizabeth P. Edge (Parcel VII & VIII)**
5. The land referred to in the Commitment is described as follows:

**SEE ATTACHED EXHIBIT "A"**

Countersigned July 16, 2014  
By: **LAND TITLE COMPANY OF ALABAMA**  
State License No. 0187964

By   
**Authorized Signatory**

**COMMITMENT FOR TITLE INSURANCE**

Issued by

***Chicago Title Insurance Company***

LTC File No: 7592H-14

**EXHIBIT "A" - LEGAL DESCRIPTION**

**Parcel I:**

✓ All that part of Section 19, Township 18 South, Range 1 East lying Northwest of the crest of Double Oak Mountain; South of the South line of the North 1/2 of the Northwest 1/4 of said Section and Southwest of the property conveyed to Ingrid Frances Smyer by S. W. Smyer Jr. in Deed Volume 296, page 854, in the Probate Office of Shelby County, Alabama

Less and Except that portion of the above property lying within the boundaries of the property conveyed to Robin Sorrell in Instrument 20040220000088460, in the Probate Office of Shelby County, Alabama.

Less and Except that portion of the above property lying within the boundaries of Lot 1 and 2, according to the Survey of Stonegate Realty Subdivision, recorded in Map Book 27, page 133, in the Probate Office of Shelby County, Alabama.

**Parcel II:**

All that part of the North 1/2 of the Northwest 1/4 of Section 19, Township 18 South, Range 1 East, lying Northwest of the property conveyed to Ingrid Frances Smyer by S. W. Smyer Jr. in Deed Volume 296, page 854, Southeast of the property conveyed to Robin Sorrell in Instrument 20040220000088460 and South of the property conveyed to Richard R. G. Edge, Susan S. Edge, Andrew N. A. Edge and Elizabeth P Edge in Instrument 2002-2118, in the Probate Office of Shelby County, Alabama.

**Parcel III:**

All that part of the Northeast diagonal 1/2 of the Northeast 1/4 of Section 19, Township 18 South, Range 1 East, lying Northwest of the crest of Double Oak Mountain. Situated in Shelby County, Alabama.

**Parcel IV:**

All that part of the Southwest 1/4 of the Southeast 1/4 Section 18, Township 18 South, Range 1 East lying North, East and South of the "duck swamp". Situated in Shelby County, Alabama.

**Parcel V:**

All that part of Section 19, Township 18 South, Range 1 East lying Northwest of the crest of Double Oak Mountain; lying Southwest of the Northwest-Southeast diagonal line traversing the Northeast 1/4 of said section; Southeast of the small branch traversing diagonally the center of the Northeast 1/4 of the Northwest 1/4 of said section; and Northeast of the Northwest-Southeast diagonal line traversing the center of said section. Situated in Shelby County, Alabama.

**Parcel VI:**

That portion of the Southeast 1/4 of the Southwest 1/4 of Section 18, Township 18 South, Range 1 East lying Southeast of the "duck swamp". Situated in Shelby County, Alabama.



201410230000336140 32/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

**EXHIBIT "E"**

**DUCK POND (LEGAL DESCRIPTION AND MAP)**

E-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014


  
20141023000336140 33/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT



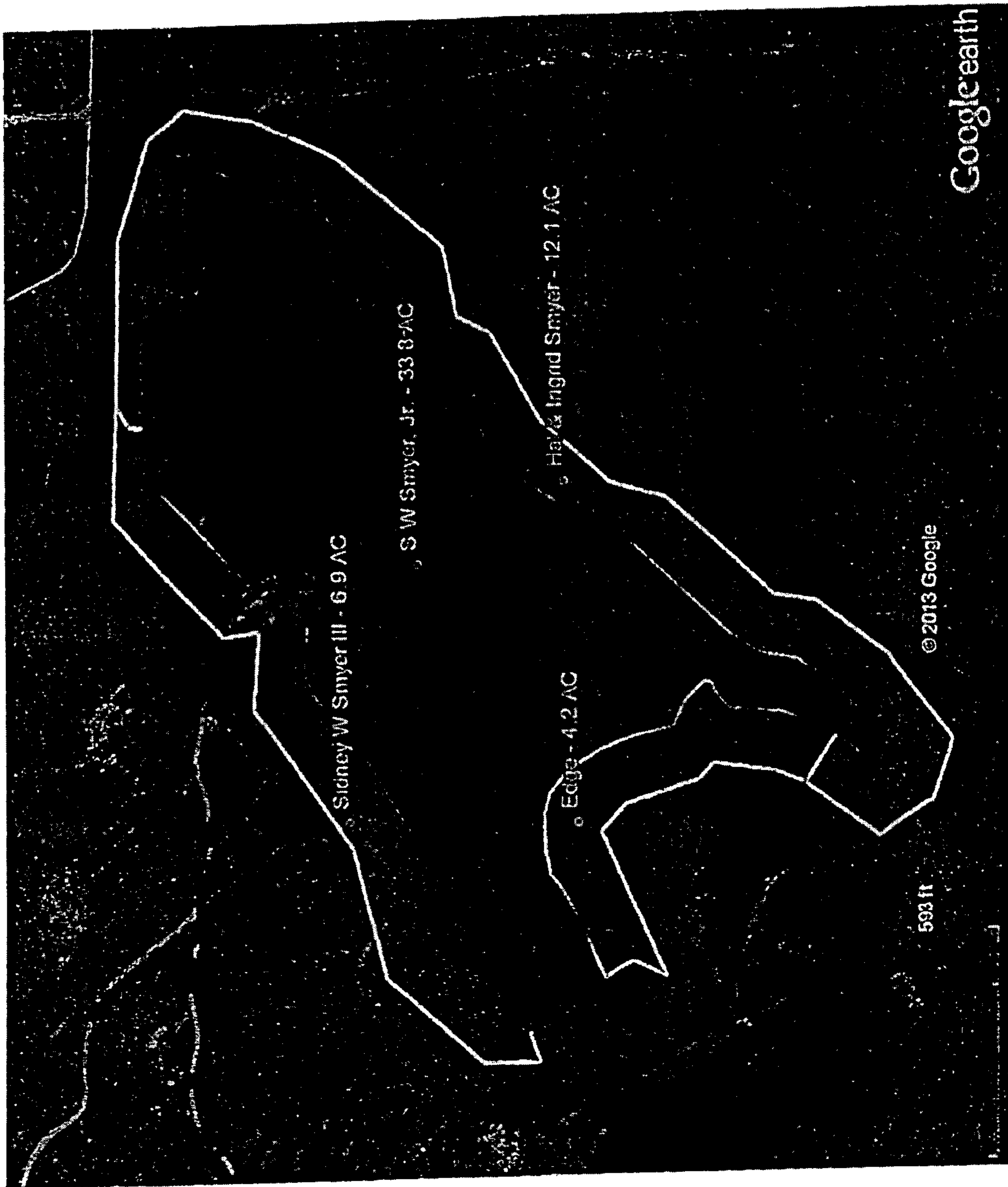
EXHIBIT "E"

DUCK POND

All of the following described real estate owned by Sidney W. Smyer, Jr., which lies below the elevation of 699' above mean sea level:

All that part of South one-half of South one-half of Section 18, and Northeast quarter of Northwest Quarter of Section 18, Township 18 South, Range One East, all lying within the bounds of Duck Swamp at Elevation 699 feet above sea level situated in Shelby County, Alabama.








**EXHIBIT "F"**  
**SID'S ACREAGE**

F-1

B WRS01 1247052 v7  
1033060-000004 08/05/2014

  
20141023000336140 36/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

**EXHIBIT "F"**

**SID ACREAGE**

All that part of the West ½ of SW¼ and SE ¼ of Section 18, Township 18 South, Range 1 East, bounded as follows:

On the north by Shelby County Highway 41; on the west by land conveyed to Ingrid L. Smyer, and lots 1 and 2 and area marked "DAM" according to survey of Hollybrook Lake as recorded in the Office of Judge of Probate of Shelby County in Map Book 4, page 74; and on the south by the northern boundary of Shoal Creek and "duck swamp."

**EXHIBIT "G"**

**CERTIFICATE AS TO CLOSING OF  
CONSERVATION EASEMENT**

**[ATTACHED HERETO]**

G-1



20141023000336140 38/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT



**EXHIBIT "G"**  
**CERTIFICATE AS TO CLOSING OF**  
**CONSERVATION EASEMENT ("CERTIFICATE")**

The undersigned Sidney W. Smyer, Jr. and/or Harald L. Smyer hereby executes and delivers this Certificate to Hollybrook Lake Corporation ("HLC") to notify HLC that the sale of the Conservation Easement to the Freshwater Land Trust described in the Second Amendment to Declaration of Covenants and Restrictions; Quitclaim Deed; and Agreement ("Second Amendment") entered into as of the \_\_\_\_ day of August, 2014, between the Parties described in the Second Amendment has been closed, and that all terms and conditions of the Second Amendment relating to that closing have been satisfied. In accordance with the terms of Section 4 of the Second Amendment, the execution of this Certificate by either or both of Sidney W. Smyer, Jr. or Harald L. Smyer shall be binding upon all of the Smyers, with the Consent and Joinder of the Edges described in the Second Amendment.


Executed and delivered by the undersigned as of the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Sidney W. Smyer, Jr.

\_\_\_\_\_  
Harald L. Smyer

[NOTARY BLOCKS ON FOLLOWING PAGE]

[SAMPLE COPY]

  
20141023000336140 39/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT

STATE OF ALABAMA                    )  
  )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned Notary Public in and for said County, in said State, hereby certify that **Sidney W. Smyer, Jr.**, whose name 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 said instrument, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Notary Public \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  )  
COUNTY OF \_\_\_\_\_ )


I, the undersigned Notary Public in and for said County, in said State, hereby certify that **Harald L. Smyer**, whose name 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 said instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

Notary Public \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

[SAMPLE COPY]

  
20141023000336140 40/40 \$145.00  
Shelby Cnty Judge of Probate, AL  
10/23/2014 03:05:00 PM FILED/CERT