

20141119000364680 1/9 \$38.50
 Shelby Cnty Judge of Probate, AL
 11/19/2014 02:28:41 PM FILED/CERT

EASEMENT – DISTRIBUTION FACILITIES

STATE OF ALABAMA

COUNTY OF SHELBY

W.E. No. AL170-23-A114

APCO Parcel No. 70231101

Transformer No. _____

This document prepared by:

Daniel Hurd Hudson, Esq., MSB# 2836
 Molpus Timberlands Management, LLC
 178 Bonhomie Road
 Hattiesburg, MS 39401
 (601) 545-3063

Felton Smith Esq.
 Balch & Bingham LLP
 1901 Sixth Avenue North
 Birmingham, AL 35203-4642
 (205) 226-3458

Grantor:
 SWF Birmingham, LLC
 c/o Molpus Timberlands Management, LLC
 178 Bonhomie Road
 Hattiesburg, MS 39401
 (601) 545-3063

INDEXING INSTRUCTIONS:

Part E ½ of NW ¼; part W ½ of NE ¼; part NW ¼ of SE ¼; part E ½ of SW ¼; part SW ¼ of SW ¼ of Section 21, and part N ½ of NW ¼ of Section 28, Township 21 South, Range 4 West, Shelby County, Alabama

Grantee:
 Alabama Power Company
 600 North 18th Street
 Birmingham, Alabama 35203-2206
 Attention: CRE Department
 (205) 257-4643

STATE OF ALABAMA

COUNTY OF SHELBY

WHEREAS, USX Corporation, formerly known as United States Steel (“USX”) and Alabama Power Company entered into that certain power line easement dated August 20, 1990 (the “1990 Easement”); and

WHEREAS, the 1990 Easement contains provisions regarding the possible relocation of Alabama Power Company’s powerline (the “Existing Powerline”) under certain conditions upon written request of USX Corporation (the portion of the Existing Powerline to be relocated as provided herein, “Relocated Powerline”); and

WHEREAS, the 1990 Easement further provides for the termination of all rights of Alabama Power Company to the route of the Existing Powerline with respect to any portion thereof relocated upon the completion of the Relocated Powerline; and

WHEREAS, USX previously made a request that Alabama Power Company relocate a portion of the Existing Powerline and subsequent to such request USX sold the land subject to the 1990 Easement and SWF Birmingham, LLC is the successor in title to the land subject to the 1990 Easement; and

WHEREAS, Notwithstanding any limitations contained within the relocation provisions in the 1990 Easement, SWF Birmingham, LLC and Alabama Power Company have reached an agreement on the relocation of a portion of the Existing Powerline.

NOW THEREFORE, SWF Birmingham, LLC and Alabama Power Company have this day entered into the following Power Line Easement Relocation Agreement.

POWER LINE EASEMENT RELOCATION AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that **SWF BIRMINGHAM, LLC** a Delaware limited liability company, by and through its designated agent and property manager, Molpus Timberlands Management, LLC, a Mississippi limited liability company, ("Grantor"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, and subject to the exceptions and reservations herein stated, does hereby grant unto **ALABAMA POWER COMPANY**, an Alabama corporation, its successors and assigns ("Grantee") the right from time to time to construct, install, operate and maintain, upon, over and across the Property described below, all poles, towers, wires, conduits, fiber optics, cables, trans closures, transformers, anchors, guy wires and other facilities useful or necessary in connection therewith (collectively, the "Facilities"), for the overhead transmission and distribution of electric power along a route to be selected by the Grantee, as generally shown on the map or plat labeled "Exhibit A" and attached hereto and made a part hereof, but which is to be determined by the actual location in which the Facilities are installed. The width of the Grantee's easement will extend fifteen (15) feet on each side of the centerline of said Facilities as and where installed (the "Easement").

The purpose of this grant is to allow the Grantee to relocate a portion of its Existing Powerline and to allow Grantee to construct and maintain an electric power line on Grantor's property for the sale and distribution of electric power to a third party (the "Grantee's Purpose").

The easements, rights and privileges granted hereby shall apply to, and the word "Property" as used in this instrument shall mean the following described real property situated in Shelby County, Alabama (the "Property"), to-wit: a parcel of land located in the E ½ of NW ¼; W ½ of NE ¼; NW ¼ of SE ¼; E ½ of SW ¼; and SW ¼ of SW ¼ of Section 21, and the N ½ of NW ¼ of Section 28, Township 21 South, Range 4 West, more particularly described in that certain instrument recorded as Instrument Number 20130204000048990, in the office of the Judge of Probate of said County.

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The Easement traverses parts of Grantor's Property in said Sections 21 and 28, Township 21 South, Range 4 West, Shelby County, Alabama, and is more particularly described as follows:

A 30 foot wide by 8,255.79 foot, more or less, long easement on, over and across Grantor's lands as in the part of the E $\frac{1}{2}$ of NW $\frac{1}{4}$; the W $\frac{1}{2}$ of NE $\frac{1}{4}$; the NW $\frac{1}{4}$ of SE $\frac{1}{4}$; the E $\frac{1}{2}$ of SW $\frac{1}{4}$; and the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 21, and the N $\frac{1}{2}$ of NW $\frac{1}{4}$ of Section 28, Township 21 South, Range 4 West, Shelby County, Alabama, the location of which is more particularly depicted on the map or plat attached hereto as Exhibit "A" and made a part hereof.

The Grantee shall have the right, but not the obligation to clear, and keep clear, all trees, undergrowth and other obstructions on said thirty (30) foot Easement, and the right in the future to install intermediate poles and facilities on said strip. The Grantee is also granted the right to trim and cut, and keep trimmed and cut, all dead, weak, leaning or dangerous trees or limbs outside of the Easement that, in the sole but reasonable opinion of the Grantee, may now or hereafter endanger, interfere with, or fall upon any of said Facilities ("Danger Trees"). No healthy upright trees, regardless of height, shall be considered Danger Trees. Grantor further hereby grants to the Grantee all easement rights and privileges necessary or convenient for the full enjoyment and use thereof, including without limitation the right of ingress and egress to and from said Easement and Facilities and the right to excavate for installation, replacement, repair and removal thereof, and subject to the Grantor's relocation rights herein stated, to have and to hold said Easement and rights to Grantee, its successors and assigns forever.

All stumps, brush, limbs or other debris of any kind which Grantee desires to clear from the Easement shall be placed, piled and burned or otherwise disposed of in such manner that there will be no increased fire or bug hazard to the timber of Grantor near the Easement or to defacement of the timber or other Property of Grantor. No stumps, brush, limbs, or other debris shall be burned, piled, placed or otherwise disposed of on Property of Grantor lying outside the Easement.

Grantee agrees and covenants to pay Grantor, at the then market value, for any of Grantor's timber lying outside of the Easement (excluding "Danger Trees") to the extent cut, destroyed, or damaged from the acts or omissions of Grantee, its employees, agents, or contractors at any time during the period this grant is in force.

Grantee, its successors and assigns, as a further consideration of this grant, covenant and agree to defend, indemnify and hold forever harmless Grantor and Grantor's Designated Land Manager or Managers, currently Molpus Timberlands Management, LLC, ("MTM"), and their respective members, managers, officers, directors, agents, employees, successors and assigns from and against each and every claim, demand or cause of action that may be made or come against Grantor and/or Grantor's Designated Land Manager(s) and their respective members, managers, officers, directors, agents, employees, successors and assigns to the extent resulting from the negligent or intentional acts or omissions of Grantee or its invitees, including, but not limited to, any

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and all loss, cost, expense (including reasonable attorney's fees), or damage to it or them, its or their property, any third party or the property of any third party.

It is understood and agreed by and between the parties hereto that except for claims or damages suffered by Grantee to the extent resulting from Grantor's or its Designated Land Manager(s)' or their invitees' intentional tort or negligence, Grantee, as a further consideration for this grant, does hereby release and discharge Grantor and Grantor's Designated Land Manager(s) from any and all past, present or future liability, claim or demand which Grantee may have or claim to have against Grantor and/or Grantor's Designated Land Manager(s) arising out of, or in any manner associated with any forestry or mining operation of the Grantor and/or Grantor's Designated Land Manager(s) in the management of Grantor's properties. All property of whatever kind or nature placed in, on or about the Grantor's property, on or off the Easement, by or for the Grantee, shall be at the sole risk of Grantee and Grantor shall not be liable to Grantee for any damage or loss to said property, except to the extent resulting from Grantor's or its invitees' intentional tort or negligence.

Notwithstanding any provision to the contrary contained in this instrument, the Grantee's releases and indemnity obligations contained herein shall survive the expiration or termination of this Easement Agreement.

Grantee shall have the full responsibility of obtaining any and all federal, state and local permits or licenses and shall fully comply with all of the laws, rules, ordinances, codes, regulations and requirements of any and all federal, state or local government authority, agency, commission or regulatory body applicable to Grantee's operations hereunder including, but not limited to, the National Electric Safety Code and such laws, rules, regulations and requirements as may relate to protection of the environment.

This grant is made without warranty of title and is specifically made subject and subordinate to any and all encumbrances, grants, reservations, liens, easements, rights of way, oil and gas leases, and/or servitudes of whatever kind or nature which may be presently of record or visible from a physical inspection or proper survey of the property. Grantor makes no warranties of any kind, express or implied, including, but not limited to, warranties of merchantability and/or fitness for any purpose. Grantor retains all rights of use not inconsistent with the rights herein conferred.

Grantee covenants and agrees to obtain and maintain, so long as this Easement remains in effect, insurance coverage for the indemnity and save harmless provisions hereof. Grantee shall have Grantor and Grantor's designated land manager (currently MTM) included as additional insureds under all such policies acquired or maintained to fulfill the indemnity and save harmless provisions of this Agreement. Grantee shall furnish Grantor with Certificates of Insurance specifically stating that all insurance required herein is in force. Grantee will immediately provide Grantor, in writing, with any notice, written or oral, it receives or makes with respect to cancellation or material change to any of the insurances referred to herein. During the term of this Agreement,

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Grantee shall maintain in force, at its own expense, the following forms of insurance in at least the amounts specified:

- Comprehensive general liability, including contractual, with minimum limits of at least \$2,000,000 per occurrence, \$2,000,000 aggregate bodily injury, and \$2,000,000 aggregate property damage.
- Comprehensive automobile liability including owned, hired and non-owned vehicles with minimum limits of \$2,000,000 per person, \$2,000,000 per accident bodily injury, and \$2,000,000 property damage.
- Workmen's Compensation, as required by law, including employer's liability coverage and \$1,000,000 minimum limit per accident.

Grantee may self-insure for part or all of the above coverage. If Grantee so elects to self-insure to the risk covered by the above described policies, Grantee (i) represents and warrants to Grantor that it shall maintain a professionally administered program of self-insurance which is implemented by funded cash reserves sufficient for full coverages of the risks covered by the above described policies in accordance with generally accepted insurance standards, (ii) agrees to pay all claims and losses, on the same basis and to the same extent as set forth herein as would be the case in the event Grantee did not self-insure any of the risk covered by the policies described herein and, (iii) assumes the risk of and shall pay from its assets all claims (and related cost and expenses) if and to the same extent that a third-party insurance company would have paid those amounts if the insurance company had issued the insurance policies described herein. Grantee shall provide Grantor with documentation of Grantee's self-insurance. In the event Grantee discontinues its self-insurance program, such Grantee shall immediately provide Grantor written notice of such event and evidence of third-party insurance as herein required.

All notices and other communications provided for hereunder will be in writing (including telegraphic communication) and mailed certified mail, return receipt requested, or hand delivered during normal business hours to the following addresses:

Grantor: SWF Birmingham, LLC
c/o Molpus Timberlands Management, LLC
178 Bonhomie Road
Hattiesburg, Mississippi 39401
Attention: Mr. Ken Sewell
Telephone: (601) 545-3063
Telecopier: (601) 545-2902

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Copy to: Molpus Timberlands Management, LLC
3580 Lorna Ridge Drive
Hoover, Alabama 35216
Attention: Mr. Don Sanford
Telephone: (205) 822-7130
Telecopier: (205) 824-7898

Copy to: Molpus Timberlands Management, LLC
178 Bonhomie Road
Hattiesburg, Mississippi 39401
Attention: Michael R. Cooper
Telephone: (601) 545-3063
Telecopier: (601) 545-2888

Grantee: Alabama Power Company
600 North 18th Street
Birmingham, Alabama 35203-2206
P.O Box 2641, Birmingham, Alabama, 35291
Attention: Corporate Acquisition Section,
CRE, 12N-0972
Telephone: (205) 257-4643

Notices will be deemed delivered when received prior to 5:00 p.m. Central Time by or when refused by the party to whom addressed. Either party may change its address for notices at any time upon written notice to the other party, in accordance with this paragraph.

All cost associated with Grantee's removal of the portion of the Existing Powerline to be removed and installation of the Relocated Powerline shall be borne by Grantee.

Upon Grantee's installation of the Relocated Powerline and removal of the portion of the Existing Powerline to be relocated hereunder, all of Grantee's right, title and interest in and to the portion of the Existing Powerline location where the removed facilities were located shall immediately and automatically terminate and revert to Grantor.

The terms and conditions of this Power Line Relocation Agreement and not the 1990 Easement shall apply to the Relocated Powerline. Except as herein modified, all of the terms and conditions of the 1990 Easement are hereby ratified and confirmed and shall remain in full force and effect.

(Execution by the Parties follows on next two pages.)

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In Witness Whereof the Grantor and Grantee have hereunto caused this Agreement to be executed by their duly authorized representatives effective as of ~~October~~ 5th ~~November~~ 2014.

WITNESS the signature of the Grantor.

GRANTOR:

SWF BIRMINGHAM, LLC

By: Molpus Timberlands Management, LLC, its
 authorized agent and property manager

By: [Signature]

Name: Ken Sewell

Title: Chief Operating Officer

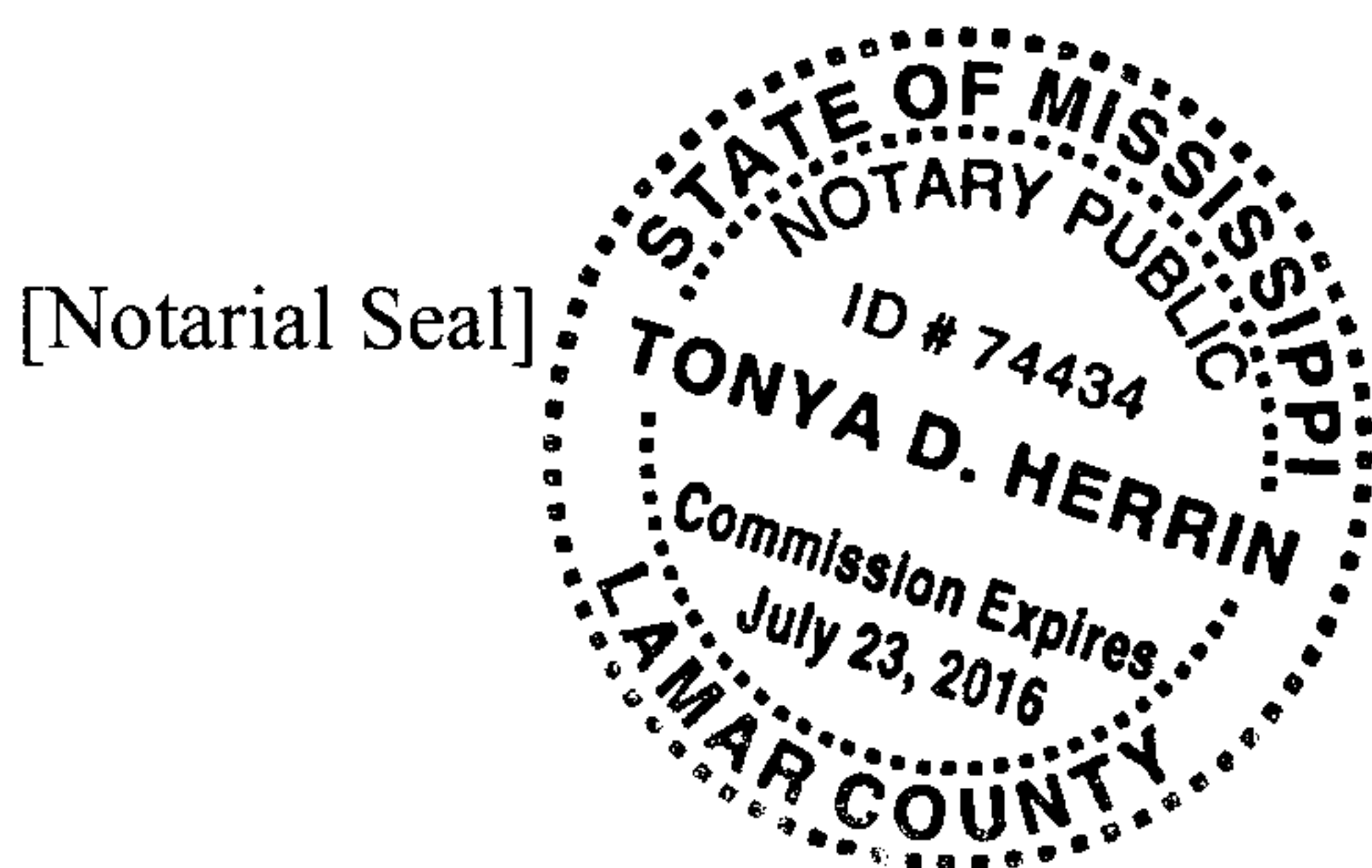
Date: November 5, 2014

STATE OF MISSISSIPPI

COUNTY OF Forrest

I, Tonya D. Herrin, a notary public in and for said County in said State, hereby certify that Ken Sewell whose name as Chief Operating Officer of Molpus Timberlands Management, LLC, a limited liability company acting in its capacity as Authorized Agent and Property Manager for **SWF BIRMINGHAM, LLC**, a Delaware limited liability company, 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 such instrument, he, as such Chief Operating Officer and with full authority, executed the same voluntarily for and as the act of said limited liability company acting in its capacity as Authorized Agent and Property Manager as aforesaid.

Given under my hand this 5th day of November, 2014.



Tonya D. Herrin
 Notary Public

My Commission Expires: July 23, 2016

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WITNESS the signature of the Grantee.

GRANTEE:

ALABAMA POWER COMPANY

By: [Signature]

Name: JERRY D. ROBERSON

Title: TEAM LEADER - APP. / RR / CORP. ACR.

Date: 11-3-14

STATE OF ALABAMA

COUNTY OF JEFFERSON

I, JAMES PATRICK REED, a Notary Public in and for said County in said State, hereby certify that JERRY D. ROBERSON whose name as TEAM LEADER - APP. / RR / CORP. ACR. of **Alabama Power Company**, an Alabama 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, (s)he, as such TEAM LEADER - APP. / RR / CORP. ACR. and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this 3rd day of NOVEMBER, 2014.

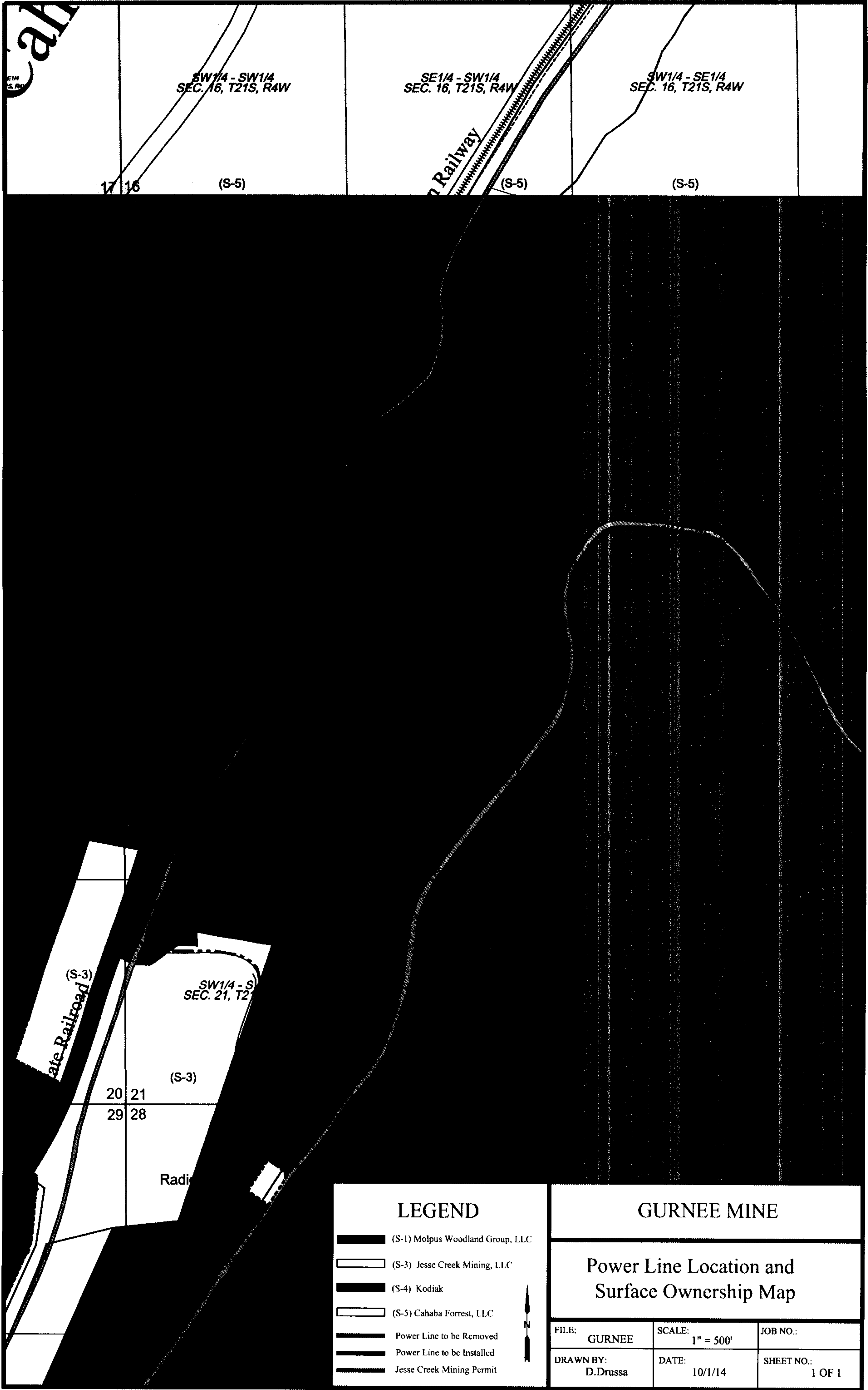
[Signature]
Notary Public

[Notarial Seal]

My Commission expires: 9-4-2018

WE# A6170-23-A114
PARCEL # 70231101

EXHIBIT "A"



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