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Shelby Cnty Judge of Probate, AL  
06/01/2017 10:58:01 AM FILED/CERT

## MEMORANDUM OF EXPLORATORY PERMIT AND RIGHT OF FIRST REFUSAL

**STATE OF ALABAMA** )

)

**KNOW ALL MEN BY THESE PRESENTS THAT:**

**COUNTY OF SHELBY** )

)

**COUNTY OF BIBB**

THIS MEMORANDUM OF EXPLORATION PERMIT AND RIGHT OF FIRST REFUSAL (“**Memorandum**”) is made and entered into this the 30<sup>th</sup> day of May, 2017, by and between **ALABAMA PROPERTY COMPANY**, an Alabama corporation, and **SOUTHERN ELECTRIC GENERATING COMPANY**, an Alabama corporation, whose address is 600 N. 18<sup>th</sup> Street, Birmingham, Alabama (hereinafter referred to collectively as “**Southern**”), and **JESSE CREEK MINING, LLC**, a Delaware limited liability company, whose address is 1615 Kent Dairy Road, Alabaster, Alabama 35007-7658 (hereinafter referred to as “**Jesse Creek**”).

**WITNESSETH:**

WHEREAS, under the terms, conditions, covenants, and provisions set forth in that certain letter agreement dated and effective May 25, 2017 (the “**Effective Date**”), executed by and between Southern and Jesse Creek (the “**Agreement**”), Southern has granted Jesse Creek a right of first refusal and a permit to conduct exploratory coal and mineral drill tests on certain property in Shelby and Bibb Counties, Alabama, as described in **Exhibit “A”** attached hereto and made a part hereof (hereinafter “**Properties**”). The Agreement includes additional rights and obligations in and to the Properties, the terms of which are incorporated herein by reference.

TO HAVE AND TO HOLD, the right to conduct exploratory coal and mineral drill tests on the Properties commencing on the Effective Date and continuing thereafter for a period of four (4) years (the “Term”), which right shall be subject to the terms of the Agreement which are incorporated herein by reference. Jesse Creek is further granted a right of first refusal to lease all or any portion of the Property for and during the Term and for a period of one (1) year thereafter (the “ROFR Period”). Southern shall not enter into a lease for all or any portion of the Properties during the ROFR period without first offering the same to Jesse Creek pursuant to and in accordance with the terms of the Agreement. Said Agreement and all of the terms, conditions, covenants and provisions thereof being by this reference incorporated herein and made a part hereof in all respects as though fully set forth herein and reference being hereby made to one (1) fully executed copy of the Agreement in the possession of Southern and Jesse Creek for the full particulars thereof. The rights granted to Jesse Creek in the Agreement are in addition to those granted to Jesse Creek in that certain Mineral Lease Agreement dated December 31, 2015, as amended by that certain Agreement Regarding Mineral Lease Agreement dated October 20, 2016 (the “Lease”), entered into by and between Southern Electric Generating Company and Jesse Creek, and the Agreement shall not be construed to supersede, diminish, expand, limit or otherwise alter the rights granted to Jesse Creek under the Lease.

It is not intended by this Memorandum to construe, define, limit or modify the Agreement, but merely to disclose to the public the existence of the Agreement.

This Memorandum may be executed in multiple counterparts, each of which shall be deemed to constitute a single agreement. For recording purposes, the executed counterparts shall be combined into a single instrument.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Memorandum to be duly executed as of the date first above written.

SOUTHERN:

ALABAMA PROPERTY COMPANY

By

Name:

Title:

SOUTHERN ELECTRIC GENERATING  
COMPANY

By

Name:

Title:



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STATE OF Alabama  
COUNTY OF Jefferson

Before me, the undersigned Notary Public in and for said County and State, on this 23rd day of May, 2017, personally appeared Christopher R. Blake, known to me to be the identical person who subscribed the name of Alabama Property Company to the foregoing instrument as TREASURER of Alabama Property Company, its authorized representative, and acknowledged to me that he/she executed the same as his/her free and voluntary act and as the free and voluntary act and deed of such company, for the uses and purposes therein set forth.

Given under my hand and seal this 23rd day of May, 2017.

Chrystalyn Dumas Wright  
Notary Public  
My Commission Expires: 10/18/2017

STATE OF Alabama  
COUNTY OF Jefferson

  
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Before me, the undersigned Notary Public in and for said County and State, on this 23rd day of May, 2017, personally appeared Christopher R. Blake, known to me to be the identical person who subscribed the name of Southern Electric Generating Company to the foregoing instrument as TREASURER of Southern Electric Generating Company, its authorized representative, and acknowledged to me that he/she executed the same as his/her free and voluntary act and as the free and voluntary act and deed of such company, for the uses and purposes therein set forth.

Given under my hand and seal this 23rd day of May, 2017.

Chrystalyn Dumas Wright  
Notary Public  
My Commission Expires: 10/18/2017



JESSE CREEK:

JESSE CREEK MINING, LLC

By: B. Scott Spears

Name: B. Scott Spears

Title: CEO

STATE OF ALABAMA       )  
COUNTY OF SHELBY     )

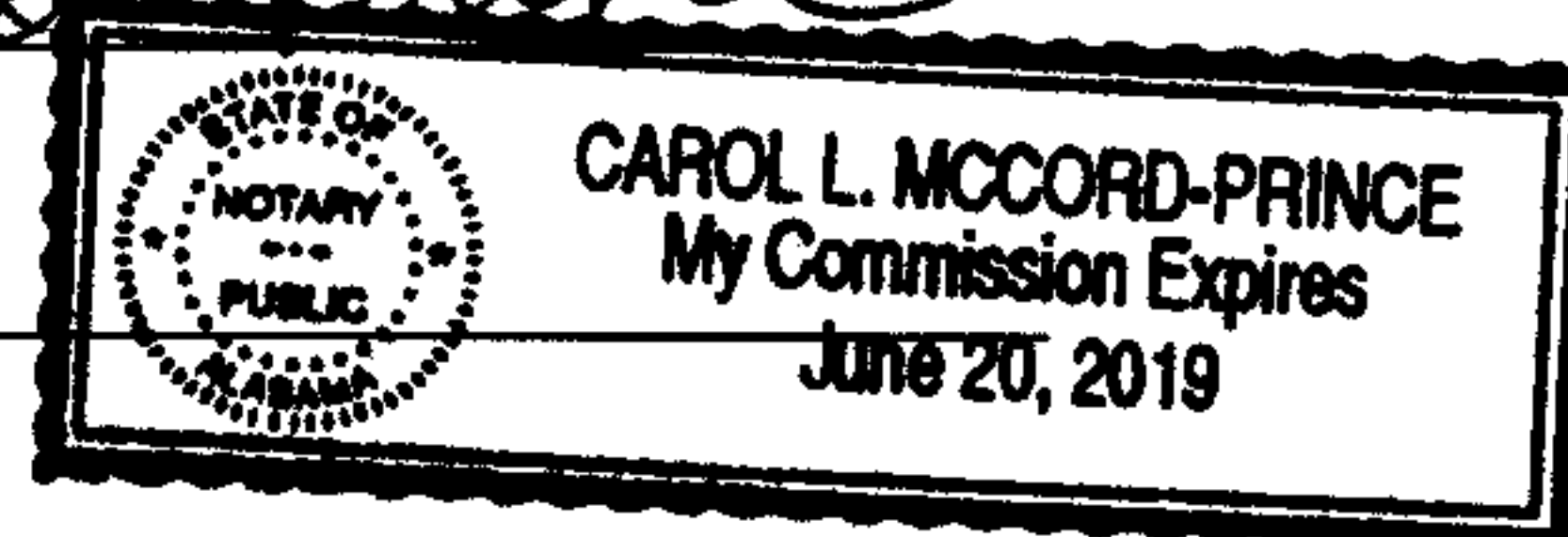
Before me, the undersigned, a Notary Public in and for said County and State, on this 30<sup>th</sup> day of May, 2017, personally appeared B. Scott Spears, known to me to be the identical person who subscribed the name of Jesse Creek Mining, LLC to the foregoing instrument as its officer and acknowledged to me that he/she executed the same as his/her free and voluntary act and as the free and voluntary act and deed of such company for the uses and purposes therein set forth.

Given under my hand and seal this 30<sup>th</sup> day of May, 2017.

Carol McCord-Prince

Notary Public

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



This instrument was prepared by Kevin M. Halter, Jackson Kelly PLLC, 221 N.W. Fifth Street, P.O. Box 1507, Evansville, Indiana 47706.



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**EXHIBIT A  
TO EXPLORATION PERMIT**

**Township 21 South, Range 3 West, Shelby County**

<b>Section</b>	<b>Description</b>
Section 5	The West half of the Northeast quarter The East half of the Southwest quarter
Section 21	That part of the Southeast quarter of the Northwest quarter lying east of the Southern Railroad right of way, except a Negro church and cemetery lot in the southeast corner described as follows: Begin at the southeast corner of said Southeast quarter of the Northwest quarter and run thence west along the south forty line a distance of 105 feet; run thence North 30 degrees East a distance of 319 feet to a point on the east forty line; run thence south along the east forty line 298.65 feet to the point of beginning The Northeast quarter of the Northwest quarter The East half

**Township 22 South, Range 3 West, Shelby County**



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<b>Section</b>	<b>Description</b>
Section 18	The West half of the Southwest quarter The North half of the Northeast quarter of the Southwest quarter West of old Montevallo-Tuscaloosa dirt road A parcel of land in the Southwest corner of the East half of the Northwest quarter more fully described as follows: Begin at the Southwest corner of the East half of the Northwest quarter, thence Northeast about 150 yards to a certain spring, thence down said spring branch 50 yards, thence direct to the Tuscaloosa road, thence down said Tuscaloosa road about 150 yards to the South boundary of the Southeast quarter of the Northwest quarter, thence West along the line between the Northwest quarter and the Southwest quarter of said Section to the beginning
Sections 18 and 19	186.04 acres, more or less, in Sections 18 and 19 more particularly described as follows: Begin at the Southeast corner of the Southwest quarter of the Southwest quarter, Section 19, go North along the East line of said Southwest quarter of the Southwest quarter for 362.79 feet, thence right 55 degrees 25 minutes for 160.88 feet, thence left 25 degrees 35 minutes for 140.10 feet, thence left 115 degrees 11 minutes for 202.83 feet to said East line, thence North along said East line 19.87 feet, thence left 67 degrees 03 minutes for 71.90 feet, thence right 40 degrees 05 minutes for 85.73 feet, thence right 25 degrees 53 minutes for 20.0 feet, thence left 35 degrees 22 minutes for 124.14 feet, thence left 37 degrees 28 minutes for 105.68 feet, thence right 16



degrees 23 minutes for 131.60 feet, thence right 118 degrees 05 minutes for 271.44 feet, thence left 10 degrees 15 minutes for 122.62 feet, thence left 4 degrees 48 minutes for 85.18 feet to said East line of the Southwest quarter of the Southwest quarter, thence left 45 degrees 29 minutes for 134.30 feet to the Northeast corner of said Southwest quarter of the Southwest quarter, thence right 91 degrees 26 minutes for 81.15 feet to the West line of Lot 4, Block 8, Thomas Addition to the town of Aldrich, map of which is recorded in the office of Judge of Probate of Shelby County, thence left 121 degrees for 63.37 feet along West line of said Lot 4, thence right 98 degrees 57 minutes for 270 feet, thence left 112 degrees 04 minutes for 161.10 feet, thence right 93 degrees 26 minutes for 290.90 feet, thence left 90 degrees 10 minutes for 123.71 feet, thence right 4 degrees 13 minutes for 562.11 feet, thence left 61 degrees 41 minutes for 16.26 feet, thence right 12 degrees 48 minutes for 315.73 feet, thence left 95 degrees 56 minutes for 296.12 feet, thence left 61 degrees 22 minutes for 358.61 feet to the East line of the Northwest quarter of the Southwest quarter of said Section 19, thence South along said East line for 157.72 feet, thence right 102 degrees 49 minutes for 324.50 feet, thence right 90 degrees for 20.1 feet, thence left 62 degrees 26 minutes for 355.95 feet, thence left 22 degrees 27 minutes for 125.53 feet, thence left 10 degrees 16 minutes for 187.42 feet, thence right 90 degrees for 364.08 feet, thence right 90 degrees for 326.91 feet, thence left 89 degrees 54 minutes for 606.58 feet, thence right 28 degrees 35 minutes for 350 feet, thence left 90 degrees for 150 feet, thence right 71 degrees 32 minutes to the public road, thence in an Easterly direction along the public road to the intersection of the North line of the public road with the South line of Lot 2, Block 3, said Thomas' Addition to the town of Aldrich, thence Northwest along the South line of said Lot 2 for 298.39 feet, thence right 86 degrees 13 minutes for 205.65 feet along the West side of said Lot 2, thence Easterly along the North line of said Lot 2 for 208 feet, thence Easterly along the North line of Summit Part "B" for 398 feet to the Northwest corner of Lot 6, Block 2, said Thomas' Addition to the town of Aldrich, thence looking East along the North line of said Lot 6, Block 2, turn an angle to the left of 65 degrees 18 minutes for 303.48 feet, thence right 0 degrees 19 minutes for 580.46 feet, thence left 85 degrees 55 minutes for 696.48 feet, thence right 54 degrees 16 minutes for 109.50 feet, thence right 5 degrees 22 minutes for 636.67 feet, thence right 33 degrees 50 minutes for 173.78 feet to the center of Davis Creek, the East along the center line of Davis Creek to the East line of the Southeast quarter of the Southwest quarter, Section 18, thence North along said East line to the Northeast corner of said Southeast quarter of the Southwest quarter, thence West along the North line of said Southeast quarter of the Southwest quarter to the Northwest corner of said forty, thence South along West line of said forty to North line of Section 19, thence West to the Northwest corner of said Section 19, thence South to the Southwest corner of said Section 19, thence East to the point of beginning, except the following tracts: Commence the Northwest corner of the Southeast quarter of the Southwest quarter, Section 19, and run South 798 feet along the West side of




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said forty to the point of beginning; thence turning an angle of 70 degrees right, run a distance of 40 feet to the Northwest corner of church lot, thence turning an angle of 90 degrees left, run a distance of 80 feet to the Southwest corner, thence turning an angle of 90 degrees left, run a distance of 100 feet to the Southeast corner, thence turning an angle of 90 degrees left, run a distance of 80 feet to the Northeast corner, thence turning an angle of 90 degrees left, run 60 feet to the point of beginning, containing 0.183 acres, more or less. There is also included in this conveyance the following tract: From the Southwest corner of the Southeast quarter of the Southwest quarter, Section 19, go East along the South line of said Southeast quarter of the Southwest quarter for 970.89 feet to a point of beginning; run thence left 36 degrees 48 minutes for 163.06 feet, thence right 29 degrees, 36 minutes for 90.60 feet to the West edge of the Southern Railroad right-of-way, thence South along said West edge of right-of-way to the South line of said Southeast quarter of the Southwest quarter, thence west to the point of beginning.

Section 30            The entire fractional Section West of Southern Railway right-of way

**Township 21 South, Range 4 West, Shelby County**

<b>Section</b>	<b>Description</b>
Section 3	The South half The Northeast quarter of the Northwest quarter
Section 6	The Southwest quarter of the Southwest quarter
Section 7	The North half of the Northwest quarter
Section 8	The North half of the Southeast quarter The South half of the Northeast quarter
Section 14	East half of the Southeast quarter
Section 15	The Northwest quarter of the Southwest quarter The South half of the Southwest quarter
Section 16	The entire Section
Section 17	The South half of the Southeast quarter The Northwest quarter of the Southeast quarter The West half of the Southwest quarter
Section 19	The West half of the Northeast quarter

  
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The Northeast quarter of the Northwest quarter  
 The East half of the Northwest quarter of the Northwest quarter  
 The Southeast quarter of the Southwest quarter  
 The Northwest quarter of the Southeast quarter  
 The North half of the Southwest Quarter  
 The Southwest quarter of the Southwest quarter

Section 24      The Northeast quarter  
                     The West half of the Southeast quarter

Section 29      The Northwest quarter of the Northwest quarter (1/2 interest)

Section 30      The Southeast quarter of the Southwest quarter  
                     An undivided 1/3 interest in the North half of the Northeast quarter and the  
                     Northeast quarter of the Northwest quarter  
                     10 acres in the Northeast corner of the Northwest quarter of the Southeast  
                     quarter  
                     The South half of the Northeast quarter  
                     The West half of the Northwest quarter  
                     The Southwest quarter of the Southeast quarter  
                     The Northeast quarter of the Southwest quarter  
                     The West half of the Southwest quarter

**Township 22 South, Range 4 West, Shelby County**

<b>Section</b>	<b>Description</b>
Section 4	The entire Section, except the Northeast quarter of the Southeast quarter
Section 9	The West half of the Northeast quarter The East half of the Northwest quarter The West half of the Northwest quarter
Section 10	The Northeast quarter of the Southwest quarter The Northwest quarter of the Southwest quarter The Southeast quarter of the Southwest quarter The West half of the Southeast quarter
Section 13	The Southwest quarter of the Southwest quarter The Southeast quarter The East half of the Southwest quarter
Section 14	The South half, except the East half of the Northeast quarter of the Southeast



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quarter

Section 15      The West half of the Northeast quarter  
The North half of the South half  
The Northeast quarter of the Northwest quarter  
The West half of the Northwest quarter  
The Southeast quarter of the Northwest quarter  
The South half of the Southwest quarter  
The South half of the Southeast quarter

Section 16      The Northeast quarter  
The South half  
The Northwest quarter

Section 21      The entire Section

Section 22      The East half  
The North half of the Northwest quarter  
The Southeast quarter of the Northwest quarter  
The East half of the Southwest quarter

Section 23      The entire Section

Section 24      The entire Section

Section 25      The entire Section (fractional)

Section 26      The entire Section (fractional)

Section 27      The Fractional Northeast quarter


**Township 21 South, Range 5 West, Shelby County**

**Section      Description**

Section 1      The Southeast quarter of the Southeast quarter

Section 2      5 acres along the south side of the Northeast quarter of the Northeast quarter  
The Northeast quarter of the Northeast quarter, except 5 acres along the south side thereof

Section 12      The West half of the Northwest quarter of the Northeast quarter  
The Southeast quarter of the Northwest quarter of the Northeast quarter  
The Northeast quarter of the Northeast quarter

  
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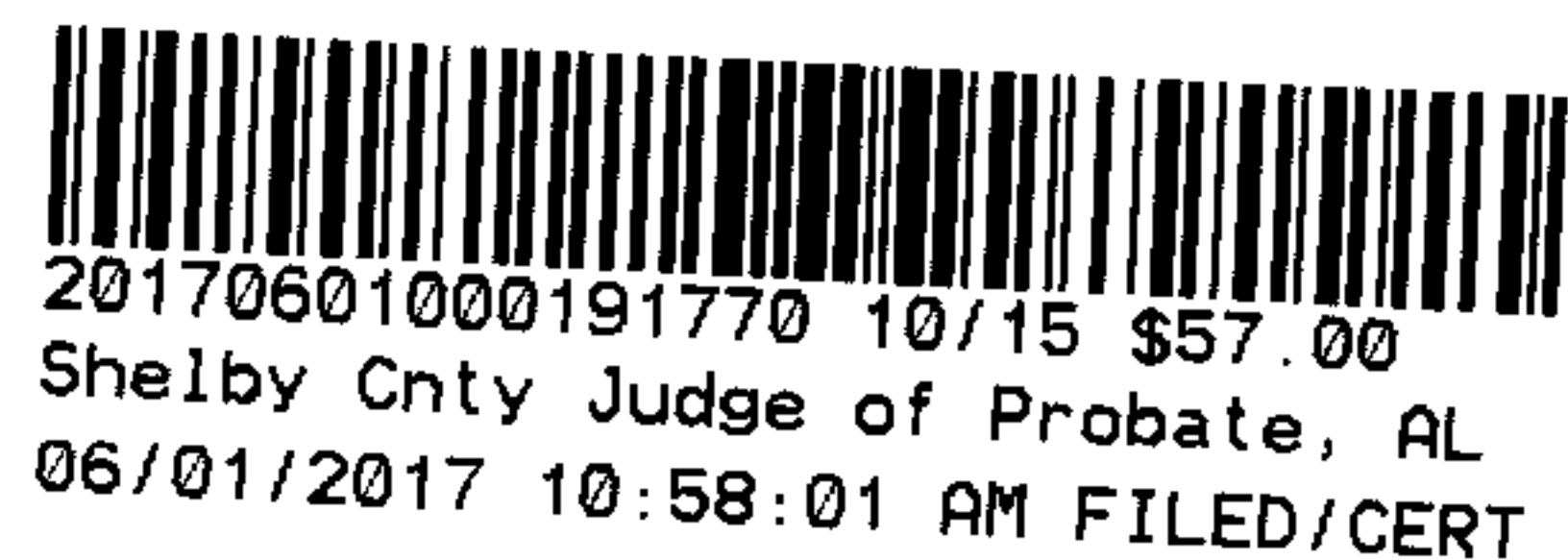
Section 24	The North half of the Northeast quarter The North half of the Southwest quarter
Section 25	The Southeast quarter of the Northwest quarter The Southwest quarter of the Southwest quarter
Section 26	The Southeast quarter of the Southeast quarter
Section 35	The Northeast quarter of the Northeast quarter
Section 36	1/3 interest in the Southwest quarter of the Northwest quarter The East half of the Northeast quarter The Northwest quarter of the Northwest quarter

**Township 24 North, Range 11 East, Shelby County**

<b>Section</b>	<b>Description</b>
Section 1	The entire Section
Section 2	The entire Section
Section 11	The West half of the Northwest quarter The Northeast quarter The East half of the Northwest quarter
Section 12	The North half The Southeast quarter The North half of the Southwest quarter
Section 13	The West half of the Northeast quarter

**Township 24 North, Range 12 East, Shelby County**

<b>Section</b>	<b>Description</b>
Section 5	The Northwest quarter of the Southwest quarter That part of the North half of Fractional Section West of Southern Railroad right-of-way except that part of the following tract which lies West of said right-of-way; commencing at a certain sweet gum tree on the West bank of Simmons Creek, run South 86 degrees West, 13.31 chains, thence North 3 degrees 30 minutes West, 9 chains to Section line, thence North 86 degrees East along Section line to aforesaid creek, thence down and along said creek, thence down and along said creek to point of beginning





	The Southwest quarter of the Southwest quarter
Section 6	The Northeast quarter of the Southeast quarter The Northeast quarter (Fractional) The East half of the Northwest quarter The Northeast quarter of the Southwest quarter The Northwest quarter of the Southeast quarter The West half of the West half The East half of the Southeast quarter of the Southeast quarter
Section 7	The North half of the Northeast quarter The Southwest quarter of the Northeast quarter The South half of the Northwest quarter The Northwest quarter of the Northwest quarter 1/2 interest in the Southwest quarter of the Southwest quarter
Section 18	The Northwest quarter of the Northwest quarter

**Township 21 South, Range 5 West, Bibb County**

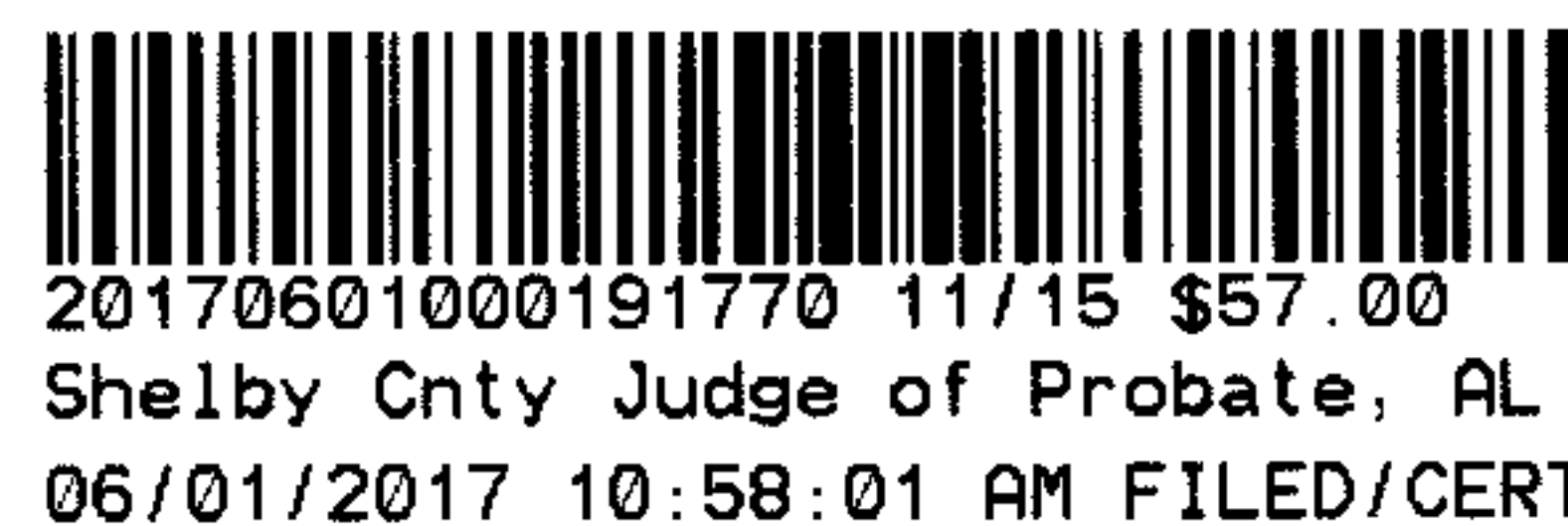
<b>Section</b>	<b>Description</b>
Section 36	The Northeast quarter of the Southwest quarter The North half of the Southeast quarter An undivided 1/3 interest in the Northwest quarter of the Southwest quarter

**Township 21 South Range 6 West, Bibb County**

<b>Section</b>	<b>Description</b>
Section 36	The Southeast quarter of the Northeast quarter The Southwest quarter of the Northwest quarter The Southwest quarter of the Southwest quarter The East half of the Southwest quarter The Southeast quarter

**Township 22 South, Range 4 West, Bibb County**


<b>Section</b>	<b>Description</b>
Section 5	The entire section
Section 7	The South half of the Southeast quarter
Section 8	The Northwest quarter of the Northwest quarter The Southwest quarter of the Southwest quarter



	The East half of the Southeast quarter
Section 17	The Northeast quarter of the Southwest quarter The Southeast quarter The North half
Section 18	The East half of the Northeast quarter
Section 20	The North half The Southeast quarter
Section 29	The North half of the Northeast quarter

**Township 22 South, Range 5 West, Bibb County**

<b>Section</b>	<b>Description</b>
Section 1	The Southwest quarter The Northwest quarter
Section 2	The Southeast quarter of the Northeast quarter The East half of the Southeast quarter
Section 3	The Northeast quarter of the Northeast quarter The South half of the Northeast quarter The West half of the Southeast quarter The West half
Section 5	The entire section
Section 6	The North half of the Northwest quarter
Section 9	The entire section
Section 11	The East half of the Northwest quarter The East half of the Southeast quarter The Northeast quarter The West half of the Northwest quarter The Southwest quarter The West half of the Southeast quarter
Section 12	The West half of the Northwest quarter The Southwest quarter of the Southwest quarter



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Section 14            The Northeast quarter of the Northeast quarter  
                         The Southwest quarter of the Northeast quarter

Section 15            The entire section

Section 26            The entire fractional section

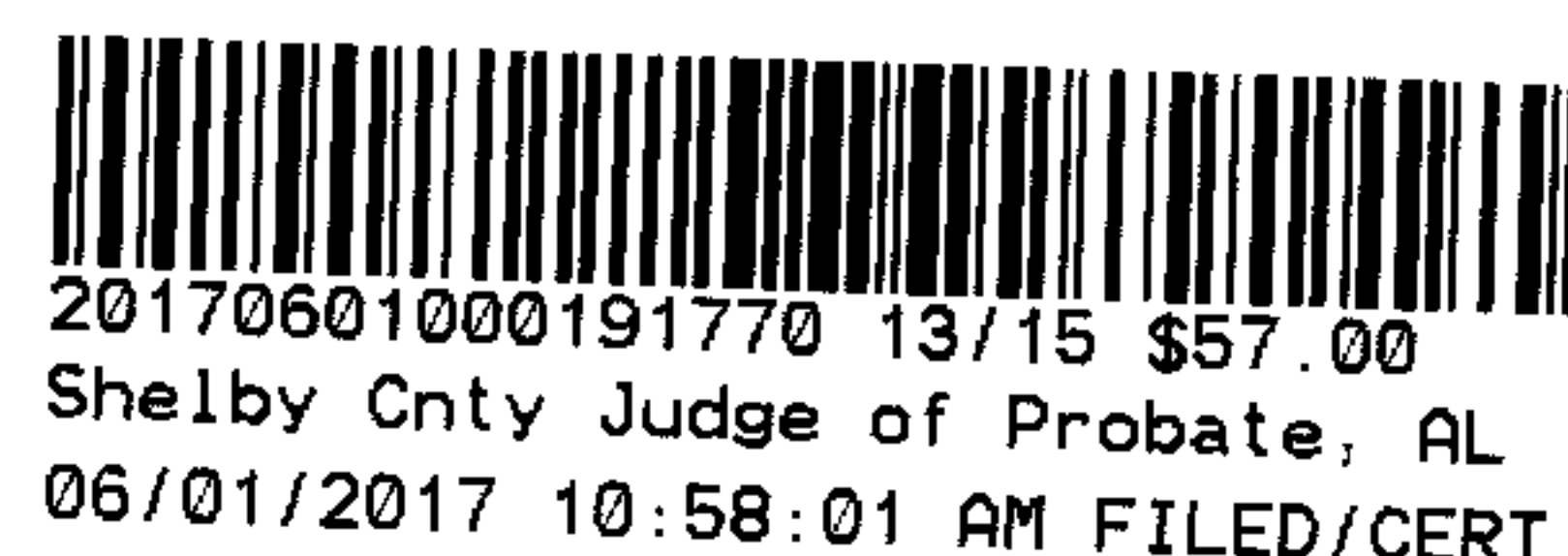
Section 27            The entire fractional section

**Township 22 South, Range 6 West, Bibb County**

<b>Section</b>	<b>Description</b>
Section 1	The West half of the Southwest quarter

**Township 24 North, Range 10 East, Bibb County**

<b>Section</b>	<b>Description</b>
Section 1	The entire section
Section 3	The Northeast quarter of the Northeast quarter The South half of the Northeast quarter The Southeast quarter The West half
Section 11	The entire section
Section 12	The Northeast quarter The North half of the Northwest quarter The Southwest quarter of the Northwest quarter
Section 15	The North half of the Northeast quarter The Southwest quarter of the Northeast quarter The West half of the Southeast quarter The Southeast quarter of the Southeast quarter The West half
Section 21	The Southeast quarter of the Northwest Quarter Two (2) acres in the Northeast corner of the Southwest quarter of the Northwest quarter, described as follows: Begin at the Northeast corner of the Southwest quarter of the Northwest quarter, run thence West 210 feet, thence South 420 feet, thence East 210 feet, and thence North 420 feet to the point of beginning



Section 23      The South half of the Northeast quarter  
The North half of the Northwest quarter  
The South half

**Township 24 North, Range 11 East, Bibb County**

**Section      Description**

Section 3      The Southeast quarter of the Northeast quarter  
The West half of the Northeast quarter  
The East half of the West half  
The Northwest quarter of the Southwest quarter  
The Southeast quarter  
The Northeast quarter of the Northeast quarter  
The West half of the Northwest quarter

Section 4      The Northeast quarter of the Southwest quarter  
The South half of the Southwest quarter  
The Southeast quarter

Section 5      The Southwest quarter  
The Northeast quarter of the Southeast quarter  
The South half of the Southeast quarter  
The Northwest quarter of the Southeast quarter  
The North half

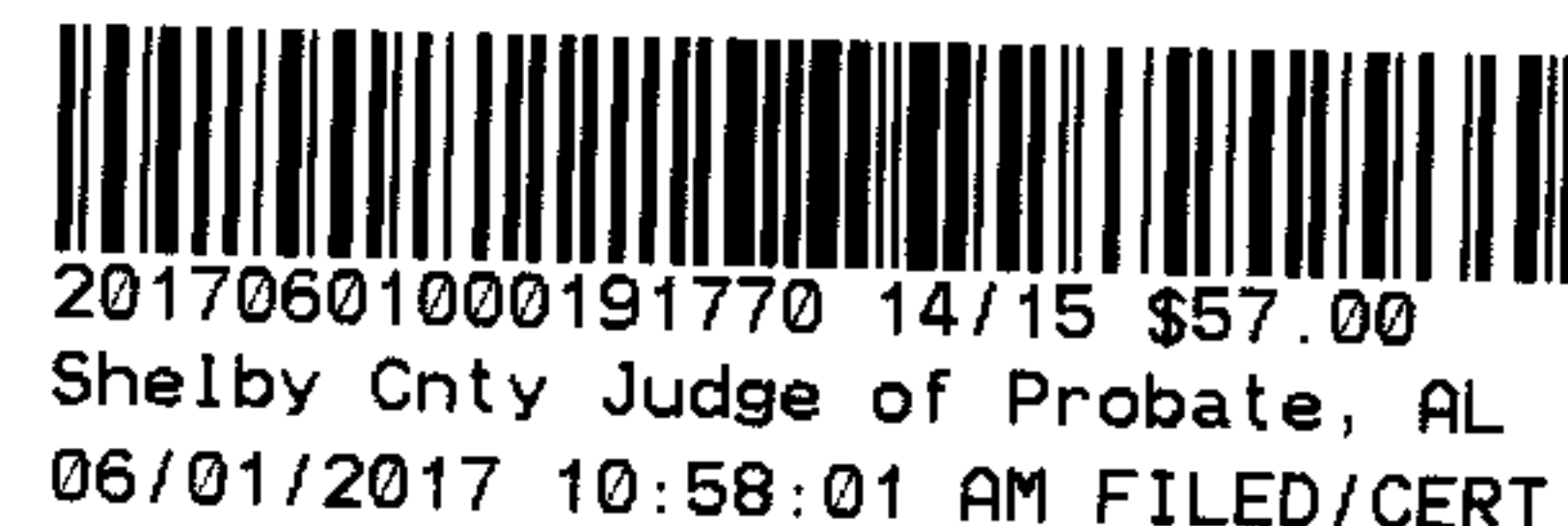
Section 6      The Northeast quarter  
The North half of the Southeast quarter

Section 7      The Northeast quarter of the Northeast quarter  
The West half of the Southwest quarter  
The North half of the Southeast quarter  
The Southwest quarter of the Southeast quarter

Section 8      The Northeast quarter of the Northeast quarter, less 2.70 acres on the East side thereof

Section 9      The Northwest quarter of the Northwest quarter, less and except 2.60 acres in the Southwest corner thereof described as follows: Begin at the Southwest corner of said forty, run thence East 506 feet to Blocton-Piper Road, thence in a Northwesterly direction along said road 675 feet, thence South along the West line of said forty, 448 feet to the point of beginning.  
The Northeast quarter of the Northwest quarter

Section 11      The South half of the Southwest quarter  
Southwest quarter of the Southeast quarter





North half of the Southeast quarter  
The Northeast quarter of the Southwest quarter

**Township 24 North, Range 12 East, Bibb County**

<b>Section</b>	<b>Description</b>
Section 19	<p>The West half of the Southwest quarter</p> <p>A parcel of land in the Southwest corner of the Southwest quarter of the Northwest quarter more particularly described as follows: Begin at the Southwest corner of said Southwest quarter of the Northwest quarter, run thence East 91.6 feet along the South quarter-quarter line, thence North parallel to the West quarter-quarter line about 500 feet to the center of Mahan Creek, thence down said creek to the West line of Section, thence South 480 feet along the Section line to the point of beginning.</p> <p>That portion of the Southwest part of the Southeast quarter of the Southwest quarter more particularly described as follows: Begin at an iron post in the center of the Southwest quarter, thence South along the West line of the Southeast quarter of the Southwest quarter for a distance of 460 feet to the point of beginning of the parcel of land here described, run thence East parallel with the North quarter-quarter line to a point in the center of Mahan Creek 363 feet South of the North boundary line of said forty (and which said line here described crosses the Brierfield-Wilton Highway at a point 462.1 feet South of the North boundary line of said Southeast quarter of the Southwest quarter), thence Southeast along the center of Mahan Creek to the West boundary line of the Southern Railroad right-of-way at the railroad bridge across said Mahan Creek which is approximately on the East line of this forty, thence Southwest along the West boundary line of said Southern Railroad right-of-way a distance of 650 feet to the South section line, thence West approximately 1200 feet to the Southwest corner of said Southeast quarter of the Southwest quarter, thence North along the West boundary line of said Southeast quarter of the Southwest quarter approximately 860 feet to the point of beginning.</p> <p>That part of the Northwest quarter of the Northeast quarter lying West of the railroad, except approximately 1 acre in the Northeast corner upon which a Negro church is located</p> <p>That portion of the Southeast quarter of the Northwest quarter lying West of Mahan Creek, except approximately 1 acre in the Northwest corner thereof which a Negro cemetery is located; and less and except the following described lands, formerly known as the McCullum place, and containing approximately 1/3 of an acre: Begin at the Southwest corner of the Southeast quarter of the Northwest quarter, thence East along the South line of said quarter section 70 feet, thence North parallel to the East line of said quarter section 210 feet, thence West parallel to South line of said quarter section 70 feet to the West line of said Southeast quarter of the Northwest quarter, thence South along said West line 210 feet to first point.</p>



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