

## ENVIRONMENTAL COVENANT

Pursuant to the Alabama Uniform Environmental Covenants Act, Ala. Code §§ 35-19-1 to 35-19-14 (the Act) and the regulations promulgated thereunder, Larry R. Skipper and Ellen D. Skipper (Grantors), grant this Environmental Covenant (Covenant) this 5<sup>th</sup> day of April 2018, to the following Grantees: Larry R. Skipper and Ellen D. Skipper (Grantees or Holders).

WHEREAS, Grantors are the owners of certain real property located in the City of Vincent, Alabama, located at 570 Highway 231 and Shelby County Road 60, in the City of Vincent, Shelby County, Alabama (Property), which was conveyed to Grantors 1) by the Judge of the Probate Court of Shelby County, Alabama, (Probate Court), pursuant to Instrument Number 20020022926000000, recorded in the Probate Court on 5/15/2016, the conveyance being pursuant to a decree rendered on 4/5/1999, for the sale of lands and conveyed for the state and county taxes then due from James MK. Rowe, Jr., the former owner of the land, and 2) by Order of the Circuit Judge in Case Number CV-2015-900376, recorded in the Probate Court on 3/30/2016, as Instrument Number 20160330000102110, quieting title in the name of the Grantor(s);

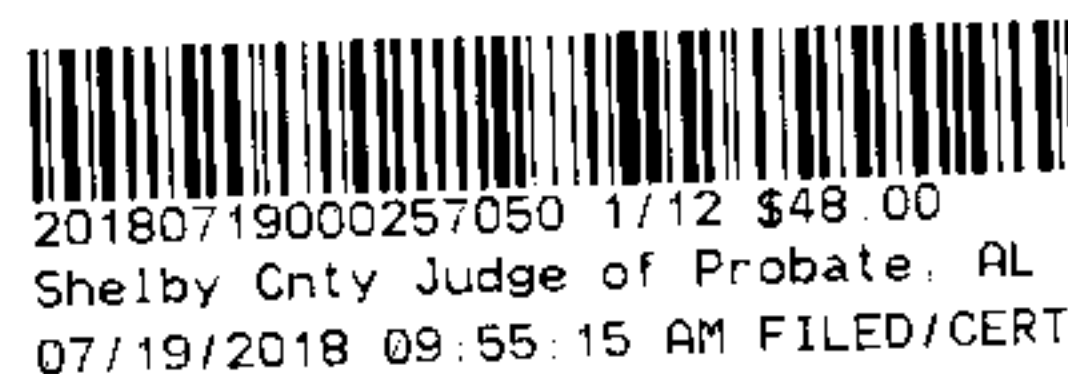
WHEREAS, the Property is more particularly described as the following:

Parcel ID# 58/07/01/11/1/001/008.002 described as: COM SW COR NW¼ NE¼ N18.41 TO POB CON N441 TO N R/W CO RD #60 W182 ALG R/W NE430 ALG E R/W HWY 231 E512 SW464.8 E109 SW485 TO POB S11 T 19S R02E AC 5.85.

Or

Starting at the NE corner of the SW 1/4 of NW 1/4 of Section 11, Township 19, Range 2 East, and running along the old Coosa Valley Road in a Northerly direction to the NW corner of the M.A. Jennings lot; thence West to the NE corner of the W.B. Freeze lot bought of John B. Davis; thence South to the starting point. Containing 5 2/3 acres, more or less. Said real estate being more particularly described as follows; Beginning at the point of intersection of the North line of right of way of Glover's Ferry Road and West line of NW 1/4 of NE 1/4, Section 11, Township 19, Range 2 East; thence North 5 degrees West 448 feet to the East line of the right of way of Vincent-Pell City Highway; thence South 80 degrees East 512 feet; thence South 30 degrees 45 minutes East 464.8 feet to the North line of Glover's Ferry Road; thence along said road South 77 degrees 45 minutes East 109 feet to the Old Coosa Valley Road; thence along said Old Coosa Valley Road South 42 degrees 30 minutes West 485 feet; thence North 5 degrees West 441 feet, more or less, to the point of beginning;

WHEREAS, this instrument is an Environmental Covenant developed and executed pursuant to the Act and the regulations promulgated thereunder;



WHEREAS, the Property is the subject of enforcement and/or remedial action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§9601 et seq., as amended (CERCLA), as more particularly described in the U.S. Environmental Protection Agency's (EPA) Record of Decision, issued on September 23, 2014, (ROD);

WHEREAS, a release/disposal of hazardous substances, including, but not limited to, zinc, cyanide, and cadmium, occurred both in soils and groundwater at the Property;

WHEREAS, between 1998 and 2001, cleanup actions conducted by the EPA removed and disposed of approximately 46,356 tons of non-hazardous soil, 11,125 tons of hazardous soil, 165 tons of zinc dross, 3,126 tons of cyanide-saturated soil, 135 tons of cadmium-saturated soil, and various other hazardous materials from the Property. These actions removed the threats posed by direct contact and leaching of the contaminated source materials, to the groundwater. The current focus of the EPA's response is cleanup of the groundwater to address remaining contamination from metals in the groundwater.

WHEREAS, in the ROD, the EPA selected a remedial action for the groundwater, which consists of in-situ treatment followed by monitoring and natural attenuation, institutional controls restricting the use of the Property. The Remedial Design began on January 22, 2014, and was completed on September 1, 2015. Implementation of the Remedial Action began on December 15, 2017.

WHEREAS, ADEM agreed to perform operation and maintenance activities at the Property, pursuant to the ROD to achieve groundwater cleanup levels.

WHEREAS, the ROD requires institutional controls to be implemented to address the effects of the release/disposal and to protect the remedy so that exposure to the hazardous waste, hazardous constituents, hazardous substances, pollutants, or contaminants is controlled by restricting the use of the Property and the activities on the Property;

WHEREAS, hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants remain on the Property;

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property to reduce the risk to human health to below the target risk levels for those hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants that remain on the Property;

WHEREAS, due to contamination in the groundwater, soils, and sediments, the exposure pathways of concern are groundwater consumption, dermal contact, ingestion, and ingestion of soil;

WHEREAS, further information concerning the release/disposal and the activities to correct the effects of the release/disposal may be obtained by contacting the Director, EPA Region 4 Superfund Division, at 61 Forsyth Street, Atlanta, GA, 30303 and the Chief of the Land Division at ADEM, or his or her designated representative, at 1400 Coliseum Boulevard, Montgomery, Alabama, 36110; and

WHEREAS, the Administrative Record concerning the Property is located at:

Vincent McGraw Public Library  
42860 Highway 25  
Post Office Box 3  
Vincent, Alabama 35178  
Telephone & Fax 205-672-2749

and

The Superfund Records Center  
USEPA, Region 4  
61 Forsyth Street  
Atlanta, GA 30303 2

NOW, THEREFORE, Grantors hereby grant this Environmental Covenant to the Holders, Larry R. Skipper and Ellen D. Skipper, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the following requirements set forth in paragraphs 1 through 3 below:

## **1. DEFINITIONS**

Owner. "Owner(s)" means Larry R. Skipper and Ellen D. Skipper, their heirs, successors and assigns in interest.

Holders. "Holder(s)" means Larry R. Skipper and Ellen D. Skipper, their heirs, successors and assigns in interest.

## **2. USE RESTRICTIONS**

A. The following shall not take place on the Property without obtaining prior written approval from EPA:

i) Any residential use or any use of groundwater at the Property. Residential use of the Property is prohibited. Residential uses include, but are not limited to, housing, daycare facilities, playgrounds and schools (excluding education and training programs for persons over 18 years of age), and assisted living facilities.



### **3. GENERAL PROVISIONS**

A. Restrictions to Run with the Land. This Environmental Covenant runs with the land pursuant to Ala. Code §35-19-5; is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to Ala. Code §35-19-9; is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof; inures to the benefit of and passes with each and every portion of the Property; and binds the Owners, any Holders, all Persons using the land, all persons, their heirs, successors and assigns having any right, title or interest in the Property, or any part thereof who have subordinated those interests to this Environmental Covenant, and all persons, their heirs, successors and assigns who obtain any right, title or interest in the Property, or any part thereof after the recordation of this Environmental Covenant.

B. Notices Required. In accordance with Ala, Code §35-19-4(b), the Owners shall send written notification pursuant to Section J, below, following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the Property. Said notification shall be sent within fifteen (15) days of each event listed in this Section.

C. Registry. Pursuant to Ala, Code §35-19-12(b), this Environmental Covenant and any amendment or termination thereof, shall be contained in ADEM's registry for environmental covenants.

D. Compliance Certification. In accordance with Ala. Code §35-19-4(b), the Grantors shall submit an annual report to the Director of the EPA Region 4 Superfund Division, and to the Chief of the ADEM Land Division on the anniversary of the date this Covenant was signed by the Grantors. Said report shall detail the Grantors' compliance, and any lack of compliance with the terms of the Covenant.

E. Right of Access. Subject to the requirements of the ROD, the Grantors hereby grant ADEM, ADEM's agents, contractors and employees, the Grantors' agents, contractors and employees, and any Holders the right of access to the Property for implementation or enforcement of this Environmental Covenant.

F. The EPA's Reservations. Notwithstanding any other provision of this Environmental Covenant, the EPA retains all of its access authorities and rights, as well as all of its rights to require additional land/water use restrictions, including enforcement authorities related thereto, under CERCLA and any other applicable statute or regulation.

G. Representations and Warranties. Grantors hereby represent and warrant to the other signatories hereto:

- i) That the Grantors have the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- ii) That the Grantors are the sole owners of the Property and holds fee simple title which is free, clear and unencumbered;

L. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

M. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.

N. Recordation. In accordance with Ala. Code §35-19-8(a), Grantors shall record this Environmental Covenant and any amendment or termination of the Environmental Covenant in every county in which any portion of the real property subject to this Environmental Covenant is located. Grantors agree to record this Environmental Covenant within fifteen (15) days after the date of the final required signature upon this Environmental Covenant.

O. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded, in accordance with Ala, Code §35-19-8(a).

P. Distribution of Environmental Covenant. Within fifteen (15) days of filing this Environmental Covenant, the Grantors shall distribute a recorded and date stamped copy of the recorded Environmental Covenant in accordance with Ala. Code §35-19-7(a). However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as provided herein.

Q. EPA References. All references to the EPA shall include successor agencies, departments, divisions, or other successor entities.

R. ADEM References. All references to the ADEM shall include successor agencies, departments, divisions, or other successor entities.

Grantors have caused this Environmental Covenant be executed pursuant to The Alabama Uniform Environmental Covenants Act, on this 5<sup>th</sup> day of April, 2018.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands this the day and year first above written.

  
LARRY R. SKIPPER  
GRANTOR and HOLDER

  
ELLEN D. SKIPPER  
GRANTOR and HOLDER

iii) That the Grantors have identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantors' intention to enter into this Environmental Covenant;

iv) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantors are a party, by which Grantors may be bound or affected;

v) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;

vi) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

H. Compliance Enforcement. In accordance with Ala. Code §35-19-1 (b), the terms of the Environmental Covenant may be enforced by the parties to this Environmental Covenant; any person to whom this Covenant expressly grants power to enforce; any person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the Covenant; or a municipality or other unit of local government in which the real property subject to the Covenant is located, in accordance with applicable law. The parties hereto expressly agree that ADEM has the power to enforce this Environmental Covenant. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict ADEM from exercising any authority under applicable law.

I. Modifications/Termination. Any modifications or terminations to this Environmental Covenant must be made in accordance with Ala. Code §§35-19-9 and 35-19-10.

J. Notices. Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

**ADEM**  
Chief, Land Division  
Alabama Department of Environmental Management  
1400 Coliseum Boulevard  
Montgomery, AL 36110

K. No Property Interest Created in the Holders. This Environmental Covenant does not in any way create any Property interest by the Holders in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPA or ADEM in the Property in accordance with Ala. Code §35-19-3(b).

20180719000257050 7/12 \$48.00  
Shelby Cnty Judge of Probate, AL  
07/19/2018 09:55:15 AM FILED/CERT

STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned Notary Public in and for said County and State, hereby certify that Larry R. Skipper, whose name as Grantor is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, executed same voluntarily on the day the same bears date.

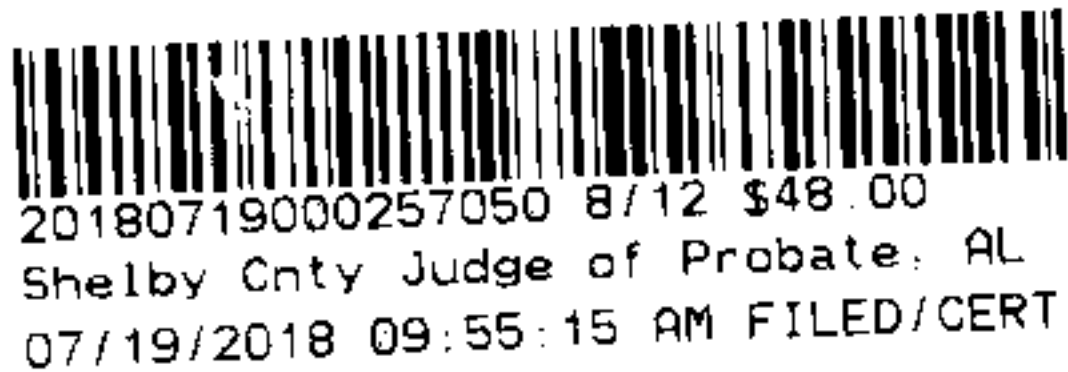
Given under my hand and official seal this 5<sup>th</sup> day of April, 2018.

Kina R. Chesey  
Notary Public

My commission expires: My Commission Expires  
February 27, 2022

Larry R. Skipper  
Larry R. Skipper, Grantor





STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned Notary Public in and for said County and State, hereby certify that Ellen D. Skipper, whose name as Grantor is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, executed same voluntarily on the day the same bears date.

Given under my hand and official seal this 5<sup>th</sup> day of April, 2018.

Gina R. Chesey

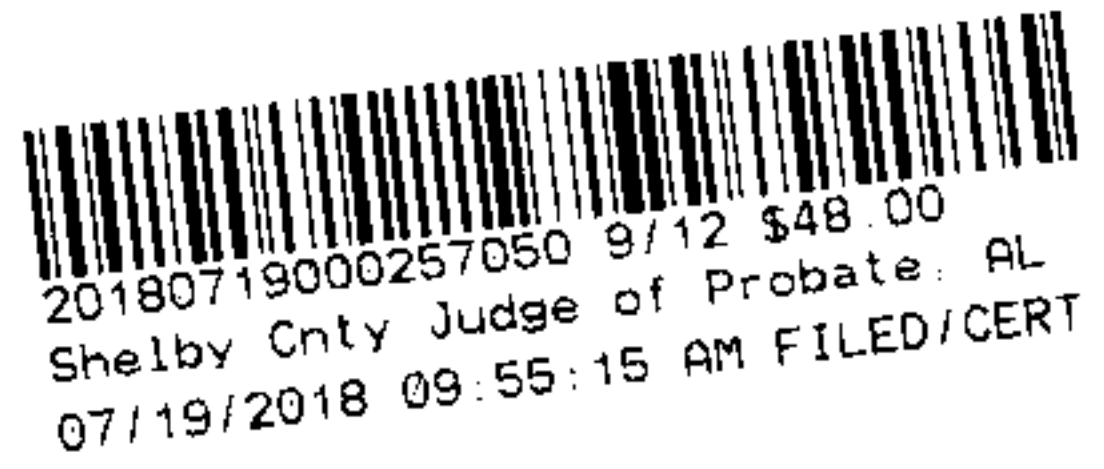
Notary Public

My commission expires: \_\_\_\_\_

My Commission Expires  
February 27, 2022

Ellen D. Skipper  
Ellen D. Skipper, Grantor





STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned Notary Public in and for said County and State, hereby certify that Ellen D. Skipper, whose name as Grantor is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, executed same voluntarily on the day the same bears date.

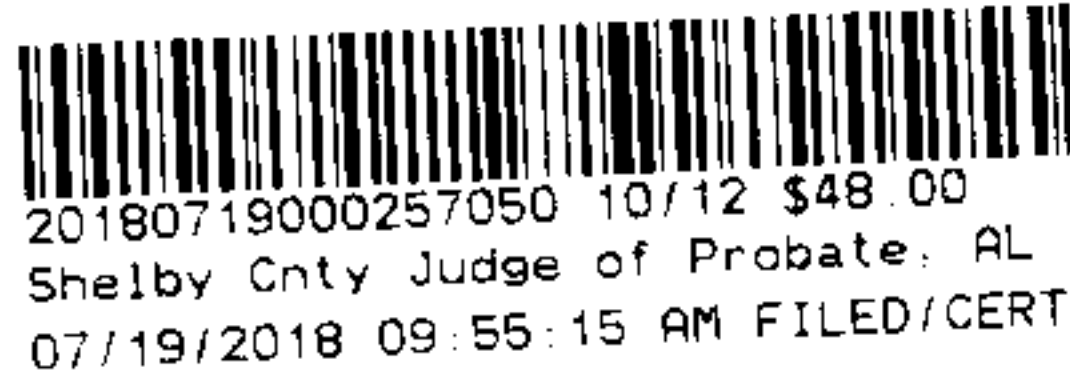
Given under my hand and official seal this 5<sup>th</sup> day of April, 2018.

Gina L. Ches

Notary Public

My commission expires: My Commission Expires  
February 27, 2022

Ellen D. Skipper  
Ellen D. Skipper, Grantor



STATE OF ALABAMA

COUNTY OF Shelby

I, the undersigned Notary Public in and for said County and State, hereby certify that Larry R. Skipper, whose name as Grantor is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, executed same voluntarily on the day the same bears date.

Given under my hand and official seal this 5<sup>th</sup> day of April, 2018.

Gina R. Chess

Notary Public

My commission expires: \_\_\_\_\_ ~~My Commission Expires~~  
February 27, 2022

Larry R. Skipper  
Larry R. Skipper, Grantor

20180719000257050 11/12 \$48.00  
Shelby Cnty Judge of Probate AL  
07/19/2018 09:55 15 AM FILED/CERT

**ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

This Covenant is hereby approved by the State of Alabama, Department of Management.

Dated:

4/16/18

By:

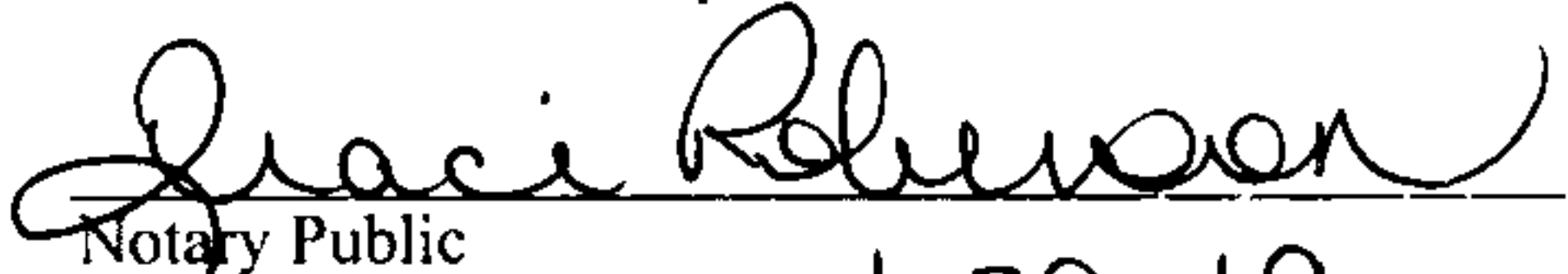


Stephen A. Cobb  
Chief, Land Division  
Alabama Department of  
Environmental Management

STATE OF ALABAMA                    )  
COUNTY OF MONTGOMERY        )

I, the undersigned Notary Public in and for said County and State, hereby certify that Stephen A. Cobb, whose name as Chief, Land Division, Alabama Department of Environmental Management is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he approved the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this 16 day of April, 2018.



Notary Public

My Commission Expires: 1-30-19

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I hereby certify that the foregoing Covenant has been recorded in the property records of

\_\_\_\_\_ County, Alabama, at Deed Book \_\_\_\_\_, Page \_\_\_\_\_.

Dated: \_\_\_\_\_

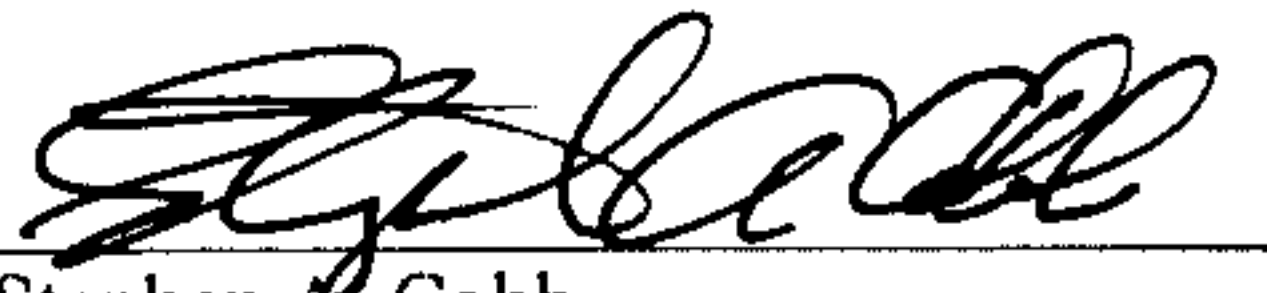
By: \_\_\_\_\_

Clerk, Office of Probate Judge

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Covenant is hereby approved by the State of Alabama, Department of Management.


Dated: 4/16/18

By:   
Stephen A. Cobb  
Chief, Land Division  
Alabama Department of  
Environmental Management

STATE OF ALABAMA )  
COUNTY OF MONTGOMERY )

I, the undersigned Notary Public in and for said County and State, hereby certify that Stephen A. Cobb, whose name as Chief, Land Division, Alabama Department of Environmental Management is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he approved the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this 16 day of April, 2018.

  
Notary Public  
My Commission Expires: 1-30-19

STATE OF ALABAMA

COUNTY OF \_\_\_\_\_

I hereby certify that the foregoing Covenant has been recorded in the property records of

\_\_\_\_\_ County, Alabama, at Deed Book \_\_\_\_\_, Page \_\_\_\_\_.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Clerk, Office of Probate Judge