


**This instrument was prepared by, and  
after recording, return to:**

Ray F. Robbins, III  
Westervelt Ecological Services, LLC  
1400 Jack Warner Parkway NE  
Tuscaloosa, AL 365404

  
20230512000141390 1/12 \$55.00  
Shelby Cnty Judge of Probate, AL  
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## **MITIGATION RIGHTS EASEMENT AGREEMENT**

This Mitigation Rights Easement Agreement (this “**Agreement**”) is made as of March 6, 2023 (the “**Agreement Date**”), by and between The Westervelt Company, a Delaware corporation (“**Grantor**”), and Westervelt Ecological Services, LLC, a Delaware limited liability company (the “**Grantee**”).

### **RECITALS**

A. Grantor is the owner of certain real property located in Shelby County (the “**County**”), State of Alabama, more particularly described on **Exhibit “A”**, attached hereto (the “**Easement Area**”).

B. Grantor and Grantee have agreed to the transfer from Grantor to Grantee of all Mitigation Rights (as defined below) with respect to the Easement Area.

C. In connection with the Mitigation Rights, a Conservation Easement (“**Conservation Easement**”) with respect to the Easement Area, dated as of January 2, 2007, has been entered into by and between Grantor and Freshwater Land Trust, an Alabama non-profit corporation. The Conservation Easement was recorded on January 12, 2007 in the Official Records of Shelby County as Instrument 20070112000021630.

D. Grantor and Grantee mutually desire to execute this Agreement and cause the same to be recorded in the official records of the County for the purpose of Grantor granting to Grantee the Mitigation Rights and the Mitigation Rights Easement (as defined below) and to provide third parties with notice of the transfer of the Mitigation Rights and the Mitigation Rights Easement to Grantee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Grant of Mitigation Rights and Easement.** Effective upon the Agreement Date, the Grantor hereby grants and conveys to the Grantee, exclusively, all Mitigation Rights with respect to the Easement Area, and the Grantor hereby grants to Grantee and Grantee’s agents, representatives, employees, contractors, subcontractors, and consultants an irrevocable, permanent, non-exclusive easement (the “**Mitigation Rights Easement**”) in, on, over, under, and



across the Easement Area for access, ingress and egress and any other purpose, all as reasonably required for Grantee to fully enjoy and utilize the Mitigation Rights. As used herein, the term “**Mitigation Rights**” shall mean:

(a) the right of Grantee (i) to be the sole habitat conservation or mitigation bank owner and operator and/or to sell the mitigation rights and/or habitat conservation rights related to the Easement Area on a “turn-key” basis and retain all proceeds from any such sales, (ii) to enter into and to require Grantor, as landowner, to execute such documents as may be required by the United States Army Corps of Engineers (“**USACE**”), and/or other applicable resource agencies (collectively, the “**Resource Agencies**”) to be executed by Grantee or Grantor, as landowner, in connection with Grantee establishing, obtaining and disposing of the Mitigation Rights, including without limitation, a bank agreement (“**Bank Agreement**”), if applicable, with the applicable Resource Agency in the form mutually agreed to by Grantor and Grantee, all of which, shall be subject to the Approval Standard, and (iii) to require Grantor, as landowner, to satisfy any and all landowner obligations under the Conservation Easement, the Bank Agreement, the Land Management Plan (as defined below), each to the extent applicable;

(b) the right of Grantee to have the Easement Area subject to a land management plan (“**Land Management Plan**”) to be prepared by Grantee, which will be consistent with the Conservation Easement and other land management plans for comparable mitigation projects, and will be subject to the approval of the Resource Agencies and shall otherwise be in a form that satisfies the Approval Standard;

(c) all mitigation rights with respect to the Easement Area, including without limitation mitigation rights related to preservation of wetlands, and streams on the Easement Area, and the right to create additional wetlands and streams on the Easement Area, subject to consultation with and approval by Grantor regarding the size and location of such newly created wetlands and streams in a manner that does not unreasonably interfere with Grantor’s use of the Easement Area in accordance with the Conservation Easement, the Bank Agreement, and the approved Land Management Plan;

(d) the right of Grantee and Grantee’s agents, representatives, employees, contractors, subcontractors and consultants to access the Easement Area as may be reasonably necessary for Grantee to fully enjoy and utilize the Mitigation Rights being acquired hereunder;

(e) any and all other rights that relate to the management, preservation, restoration, and/or creation and sale of wetlands and streams values of the Easement Area;

(f) the right to require Grantor, upon written request from Grantee, to execute and deliver to Grantee, its nominees, successor and/or assigns, any new or confirmatory agreements or instruments (the “**Confirmatory Instruments**”), each in a form that satisfies the Approval Standard, and do and perform any other acts, at no out-of-pocket cost to Grantor, which Grantee, its nominees, successors and/or assigns, may request, in order to fully transfer possession and control of, and protect the rights of Grantee, its nominees, successors and/or assigns in the Mitigation Rights and the Mitigation Rights Easement intended to be transferred and assigned hereby; and



(g) the right to require Grantor and any successors, assigns, owners, lessees, users and/or occupants to conduct their activities or operations on the Easement Area in a manner consistent with this Agreement, the Conservation Easement, Bank Agreement, and approved Land Management Plan.

2. Covenants Running with the Land. Grantor's obligations and Grantee's rights and obligations hereunder shall be enforceable as equitable servitudes and shall constitute covenants running with the Easement Area pursuant to applicable law, are a burden upon the Easement Area, run with the Easement Area and shall be binding upon Grantor and each successive owner of all or a portion of the Easement Area during its ownership of such property. Moreover, if Grantor conveys, transfers or grants any right, title or interest in the Easement Area or any portion thereof to any third party, the instrument conveying such right, title or interest shall be subject to and bound by the restrictions described in this Agreement.

3. Tax Treatment of Transfer. The parties hereto agree that any transfer described herein shall be treated as a transfer pursuant to Section 707(a) of the Code and not a contribution by Grantor under Section 721 of the Code. The parties further agree not to report such transfer for tax purposes in a manner inconsistent with the foregoing.

4. Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other similar taxes and fees (including any penalties and interest thereon) resulting from or arising out of this Agreement shall be borne by Grantor. The party required by applicable law shall file all necessary tax returns and other documentation with respect to all such transfer, documentary, sales, use, stamp, registration and other taxes and fees. If required by applicable law, the parties shall join in the execution of any such tax return or other documentation.

5. Grantor's Representations and Warranties. Grantor hereby represents and warrants to Grantee as follows:

(a) Grantor has the capacity and full power and authority to enter into and carry out the obligations and agreements contained in, and the transactions contemplated by, this Agreement, and this Agreement has been duly authorized and executed by Grantor and, upon delivery to and execution by Grantee, shall be a valid and binding agreement of Grantor.

(b) Grantor shall approve and/or execute and deliver (as applicable) any Conservation Easement, Bank Agreement, Land Management Plan, Confirmatory Instrument or other document, plan, instrument or agreement reasonably required by any applicable Regulatory Agency in connection with the Mitigation Rights, so long as such document, plan, instrument or agreement (i) is in a form that satisfies the requirements of each applicable Resource Agency, (ii) has been approved by Grantee and (iii) includes terms and conditions that are not materially less favorable to Grantor than the terms and conditions in the documents, plans, instruments or agreements (as applicable) for comparable mitigation projects in which Grantor or one of its affiliates has participated as landowner (clauses (i) through (iii), collectively, the "**Approval Standard**").





(c) Grantor has not alienated, encumbered, transferred, leased, assigned or otherwise conveyed its interest, or agreed to convey its interest, in the Mitigation Rights, the Easement Area or any portion of the foregoing, except by way of this Agreement.

(d) neither Grantor nor any third party has used, generated, manufactured, stored or disposed any Hazardous Substance (as defined below) in, at, on, under or about the Easement Area or transported any Hazardous Substance to or from the Easement Area, in all cases in a manner that was or is in violation of any applicable law or Resource Agency requirement. To Grantor's knowledge, the Easement Area is not in violation, nor has been or is currently under investigation for violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene, worker health and safety, or to the environmental conditions in, at, on, under or about the Easement Area including, but not limited to, soil and groundwater conditions. To Grantor's knowledge, there is not now, on or in the Easement Area underground storage tanks. **"Hazardous Substance"** shall mean any substance which is defined or regulated under any present federal, state and local laws, statutes, ordinances, regulations, rules, judicial and administrative orders and decrees, permits, licenses, approvals, authorizations and similar requirements pertaining to the protection of human health and safety or the environment.

(e) There is no pending lawsuit or, to the knowledge of Grantor, threatened suit, action, arbitration, legal, administrative or other proceeding or governmental investigation, formal or informal, including, without limitation, eminent domain, condemnation, assessment district or zoning change proceeding, or any judgment, moratorium or other government policy or practice which affects the Easement Area, the Mitigation Rights or the Mitigation Rights Easement.

(f) Each of the representations and warranties made by Grantor in this Agreement shall be true and correct in all material respects on the Agreement Date.

6. Grantor's Covenants. Grantor shall not alienate, encumber, transfer, lease, assign or otherwise convey any interest in the Easement Area that materially adversely affects or interferes with the Mitigation Rights or Grantee's full use and enjoyment of the Mitigation Rights.


7. Partial Invalidity. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in full force and effect and shall in no way be impaired or invalidated, and the parties agree to substitute for the invalid or unenforceable provision a valid and enforceable provision that most closely approximates the intent and economic effect of the invalid or unenforceable provision.

8. Governing Law. This Agreement and each and every related document are to be governed by, and construed in accordance with, the laws of the state in which the Easement Area is located, without regard to conflicts of laws principles.

9. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

10. Waivers. The waiver by one party of the performance of any covenant, condition or promise, or of the time for performing any act, under this Agreement shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise, or of the time for performing any other act required, under this Agreement.

11. Construction; Entire Agreement. The agreements contained herein shall not be construed in favor of or against either party but shall be construed as if both parties prepared this Agreement. This Agreement (together with each Exhibit attached hereto) contains all of the agreements of the parties hereto with respect to the matters contained herein and no prior or contemporaneous agreement or understanding, oral or written, pertaining to any such matters shall be effective for any purpose. All headings herein are inserted only for convenience and ease of reference and are not to be considered in the interpretation of any provision of this Agreement. No provision of this Agreement may be modified, waived, amended or added to except by a writing signed by the party against which the enforcement of such modification, waiver, amendment or addition is or may be sought.



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[SIGNATURES ON THE FOLLOWING PAGE]



IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the day and year first above written.

**"GRANTOR"**

THE WESTERVELT COMPANY, a  
Delaware corporation

By: [Signature]  
Name: Ray F. Robbins, III  
Title: Vice President

STATE OF ALABAMA )

COUNTY OF Truscaldosa



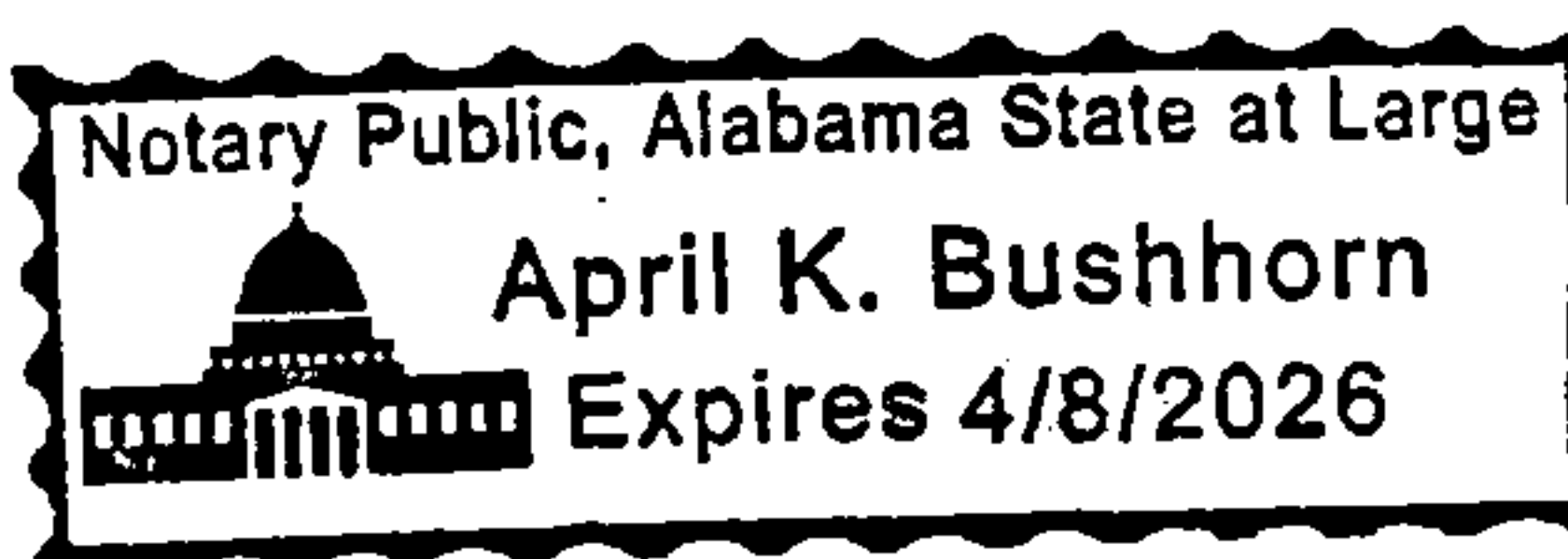
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I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Ray F. Robbins, III, as Vice President of The Westervelt Company, a Delaware corporation whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such Officer, and with full authority, executed the same as and for the act of said corporation.

Given under my hand this 6th day of March, 2023.

[Signature]  
Notary Public

My commission expires: 4/8/2026




**"GRANTEE"**

WESTERVELT ECOLOGICAL SERVICES,  
LLC, a Delaware limited liability company

By: [Signature]  
Name: Ray F. Robbins, III  
Title: Secretary

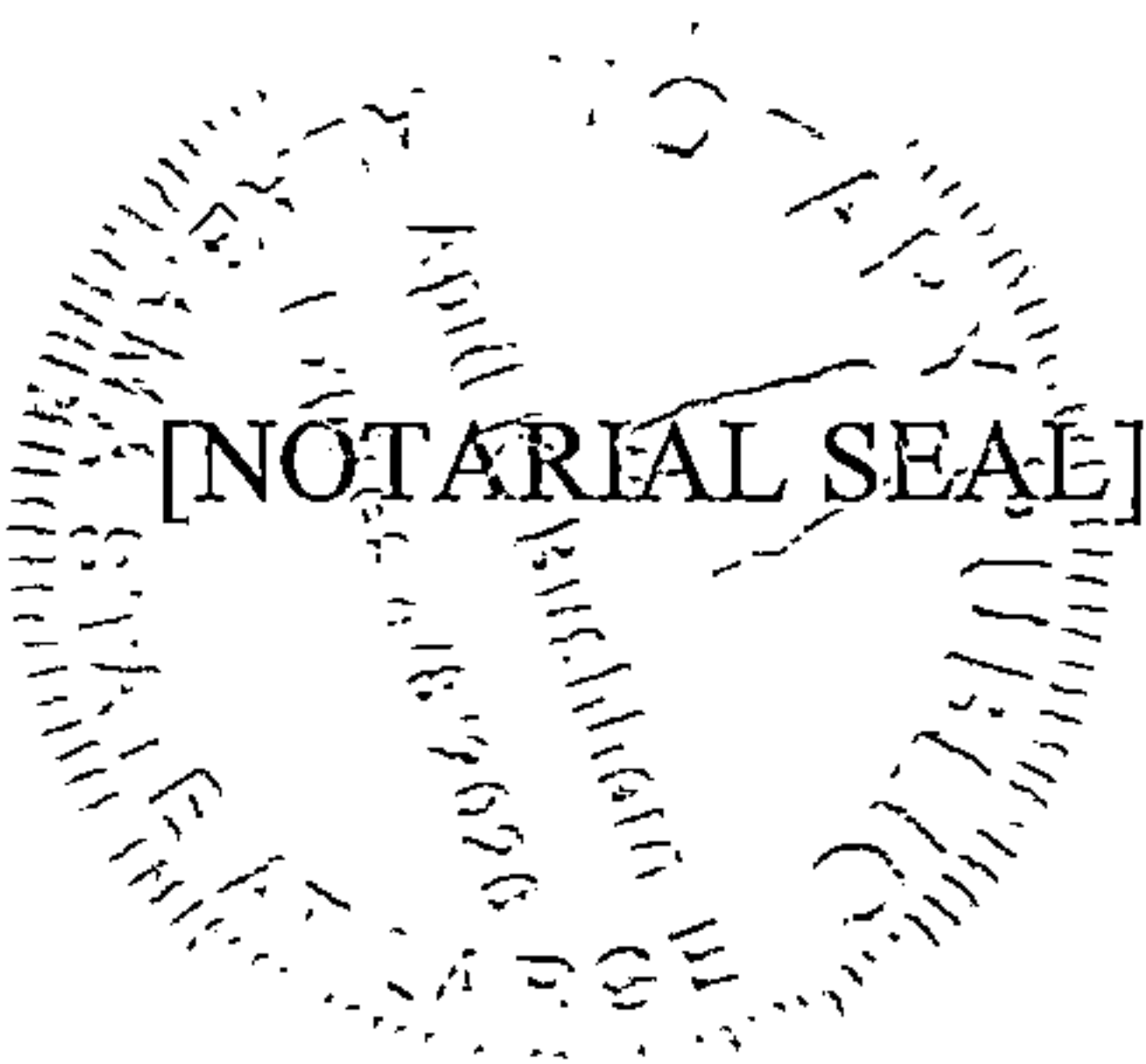
STATE OF ALABAMA )

COUNTY OF Tuscaloosa)

  
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I, the undersigned, a Notary Public in and for said county in said state, hereby certify that Ray F. Robbins, III, as Secretary of Westervelt Ecological Services, LLC, a Delaware limited liability company 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 the instrument, he/~~she~~, as such Officer, and with full authority, executed the same as and for the act of said limited liability company.

Given under my hand this 6th day of March, 2023.



[Signature]  
Notary Public

My commission expires: 4/8/2026

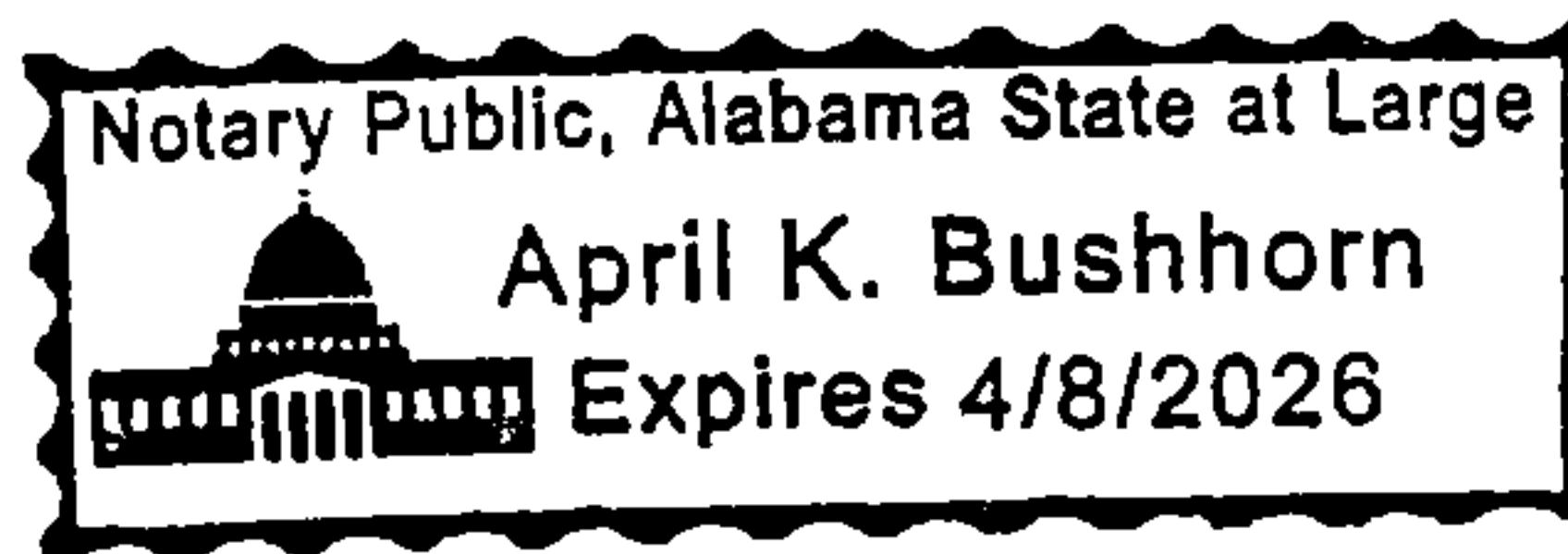
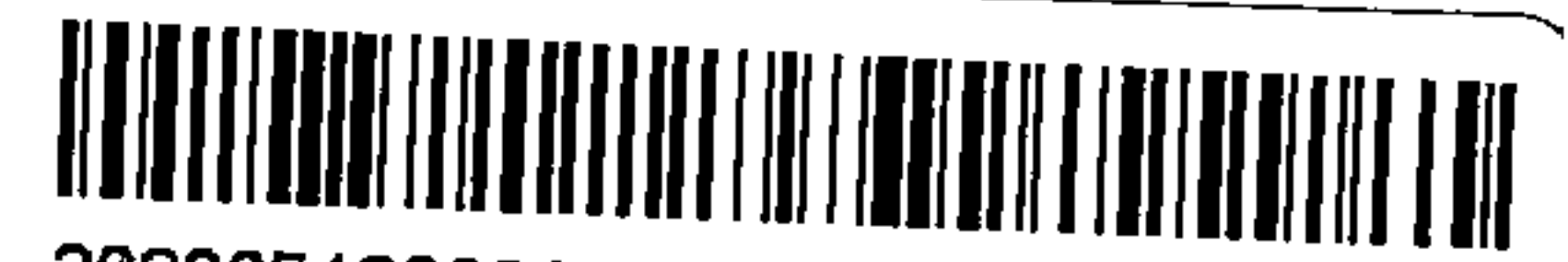


EXHIBIT A  
to  
Mitigation Rights Easement Agreement

Legal Description of Easement Area

Yellowleaf Mitigation Bank


(See Attached)



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State of Alabama)  
Shelby County)

  
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547.2 Acres  
Conservation Easement

A parcel of land located in the South Half of the Southwest Quarter of Section 36, Township 19 South, Range 1 East and in Sections 1 & 12, Township 20 South, Range 1 East and in the Northwest Quarter, the Southwest Quarter and the West half and the Southwest Quarter of the Southeast Quarter of Section 7, Township 20 South, Range 2 East and in the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 6, Township 20 South, Range 2 East, Huntsville Meridian, in Shelby County, Alabama, containing Five Hundred Forty Seven and Two Tenths (547.2) Acres, more or less, and being more particularly described as follows:

Start at a 2" Iron Pipe Found accepted to mark the Southwest corner of said Section 6, Township 20 South, Range 2 East and run North 0 degrees 07 minutes 57 seconds East (Assumed) and along the Western Boundary of said Section 6 for a distance of 422.96 feet to the POINT OF BEGINNING, said point lying South 0 degrees 07 minutes 57 seconds West and a distance of 4896.25 feet from a Concrete Monument accepted to mark the Northwest Corner of said Section 6, Township 20 South, Range 2 East; thence run South 80 degrees 03 minutes 24 seconds East for a distance of 221.16 feet to an iron pin set; thence run North 5 degrees 43 minutes 36 seconds East for a distance of 699.65 feet to an iron pin set; thence run North 14 degrees 28 minutes 28 seconds East for a distance of 936.07 feet to an iron pin set; thence run North 39 degrees 06 minutes 51 seconds East for a distance of 1210.00 feet to an iron pin set, said iron pin lying on the Western boundary of the Southeast Quarter of the Northwest Quarter of said Section 6; thence run South 1 degree 00 minutes 59 seconds West and along the Western boundary of the Southeast Quarter of the Northwest Quarter of said Section 6 for a distance of 300.00 feet to an Iron Pipe Found, said Iron Pipe accepted to mark the Southwest Corner of the Southeast Quarter of the Northwest Quarter of said Section 6; thence run North 89 degrees 53 minutes 09 seconds East and along the Southern boundary of said Southeast Quarter of the Northwest Quarter of said Section 6 for a distance of 350.00 feet to an iron pin set; thence run South 24 degrees 25 minutes 08 seconds West for a distance of 2027.28 feet to an iron pin set; thence run South 00 degrees 54 minutes 44 seconds West for a distance of 780.24 feet to an iron pin set, said Iron Pin lying on the Southern boundary of said Section 6; thence run North 89 degrees 57 minutes 47 seconds West and along the Southern Boundary of said Section 6 for a distance of 300.56 feet to an Iron Pipe Found, said Iron Pipe marking the intersection of the Southern Boundary of said Section 6 and the centerline of a creek, said Iron Pipe lying North 89 degrees 53 minutes 00 seconds East and a distance of 479.55 feet from the Southwest Corner of said Section 6; thence run in a Southeasterly direction and along the meandering centerline of said creek to the intersection of said creek and the centerline of Yellowleaf Creek, said intersection lying South 47 degrees 41 minutes 39 seconds East and a chord distance of 547.83 feet from the aforementioned Iron Pipe Found; thence run along the meandering centerline of said Yellowleaf Creek to the intersection of said Yellowleaf Creek and the Southern Boundary of Section 7, Township 20 South, Range 2 East, said point lying South 20 degrees 14 minutes 48 seconds East and a chord distance of 5233.35 feet from the aforementioned intersection of said creeks; thence run North 89 degrees 48 minutes 54 seconds West and along the accepted Southern boundary of said Section 7 for a distance of 50.71 feet to the Southeast Corner of the Southeast Quarter of the Southwest Quarter of said Section 7; thence run South 88 degrees 47 minutes 55 seconds West and along the accepted Southern boundary of the Southeast Quarter of the Southwest Quarter of said Section 7 for a distance of 247.00 feet to an iron pin set, said iron pin lying North 88 degrees 47 minutes 55 seconds East and a



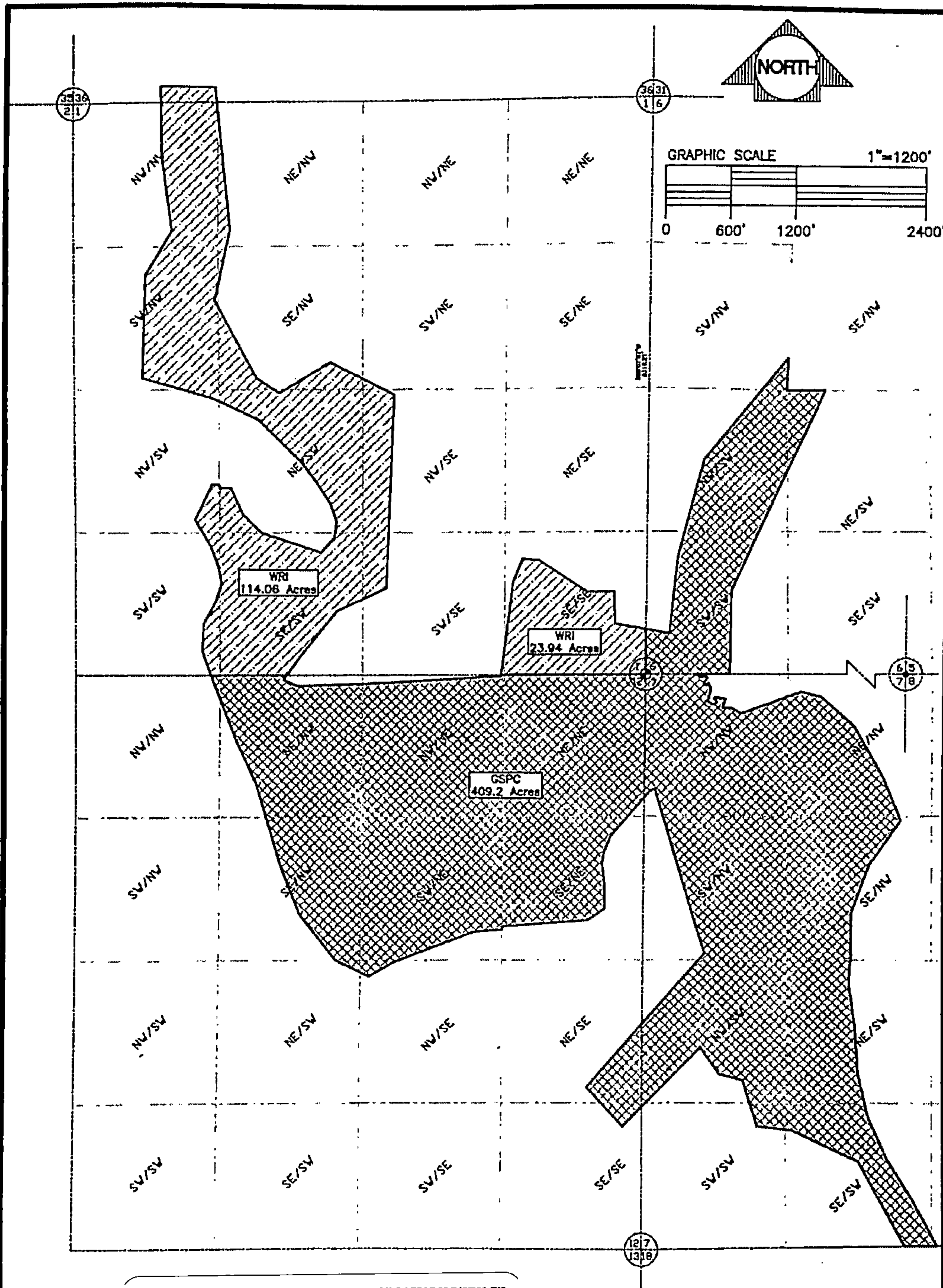
distance of 1092.90 feet from a Iron Pipe Found accepted to mark the Southwest Corner of the Southeast Quarter of the Southwest Quarter of said Section 7; thence run North 29 degrees 07 minutes 47 seconds West for a distance of 876.98 feet to an iron pin set; thence run North 65 degrees 24 minutes 11 seconds West for a distance of 670.00 feet to an iron pin set; thence run North 83 degrees 57 minutes 29 seconds West for a distance of 317.17 feet to an iron pin set; thence run North 17 degrees 21 minutes 33 seconds West for a distance of 442.53 feet to an iron pin set; thence run North 76 degrees 00 minutes 57 seconds West for a distance of 223.65 feet to an iron pin set; thence run North 35 degrees 37 minutes 08 seconds West for a distance of 301.82 feet to an iron pin set; thence run South 44 degrees 36 minutes 27 seconds West for a distance of 1028.44 feet to an iron pin set; thence run North 43 degrees 20 minutes 56 seconds West for a distance of 492.79 feet to an iron pin set; thence run North 41 degrees 08 minutes 43 seconds East for a distance of 1666.50 feet to an iron pin set; thence run North 17 degrees 03 minutes 05 seconds West for a distance of 1593.69 feet to an iron pin set, said iron pin lying 90' South of the centerline of Yellowleaf creek; thence run along a line 90' South of and parallel to the meandering centerline of said Yellowleaf Creek, to a point, said point lying South 47 degrees 59 minutes West and a chord distance of 1913 feet from the aforementioned iron pin set; thence run in a Southerly direction to a point lying 120 feet South of the centerline of said Yellowleaf Creek; thence run along a line 120' South of and parallel to the meandering centerline of said Yellowleaf Creek to a point, said point lying North 32 degrees 40 minutes West and a chord distance of 4892 feet from the aforementioned point; thence run in a Southerly direction to a point lying 90' North of the centerline of said Yellowleaf Creek; thence run along a line 90' North of and parallel to the meandering centerline of said Yellowleaf Creek, to a point, said point lying North 35 degrees 01 minutes West and a chord distance of 1231 feet from the aforementioned point; thence run North 1 degree 16 minutes 34 seconds East for a distance of 948.15 feet to an iron pin set; thence run North 30 degrees 55 minutes 05 seconds East for a distance of 478.72 feet to an iron pin set; thence run North 7 degrees 56 minutes 26 seconds West for a distance of 702.35 feet to an iron pin set; thence run North 0 degrees 53 minutes 54 seconds West for a distance of 628.88 feet to an iron pin set; thence run South 89 degrees 44 minutes 01 seconds East for a distance of 505.73 feet to an iron pin set; thence run South 5 degrees 56 minutes 43 seconds East for a distance of 1308.44 feet to an iron pin set; thence run South 11 degrees 47 minutes 53 seconds West for a distance of 669.28 feet to an iron pin set; thence run South 28 degrees 23 minutes 08 seconds East for a distance of 809.45 feet to an iron pin set; thence run South 56 degrees 28 minutes 53 seconds East for a distance of 249.90 feet to an iron pin set; thence run North 58 degrees 22 minutes 59 seconds East for a distance of 554.16 feet to an iron pin set; thence run South 63 degrees 23 minutes 15 seconds East for a distance of 659.67 feet to an iron pin set; thence run South 2 degrees 05 minutes 11 seconds West for a distance of 1790.68 feet to an iron pin set; thence run South 65 degrees 02 minutes 48 seconds West for a distance of 501.27 feet to an iron pin set; thence run South 38 degrees 30 minutes 58 seconds West for a distance of 552.00 feet to an iron pin set; thence run South 35 degrees 01 minutes 05 seconds West for a distance of 266.66 feet to an iron pin set; thence run South 66 degrees 03 minutes 53 seconds East for a distance of 141.35 feet to an iron pin set; thence run North 87 degrees 30 minutes 09 seconds East for a distance of 812.67 feet to an iron pin set; thence run North 86 degrees 03 minutes 56 seconds East for a distance of 1081.49 feet to an iron pin set; thence run North 7 degrees 08 minutes 54 seconds East for a distance of 890.93 feet to an iron pin set; thence run North 22 degrees 00 minutes 20 seconds East for a distance of 223.24 feet to an iron pin set; thence run South 85 degrees 41 minutes 28 seconds East for a distance of 153.15 feet to an iron pin set; thence run South 57 degrees 26 minutes 19 seconds East for a





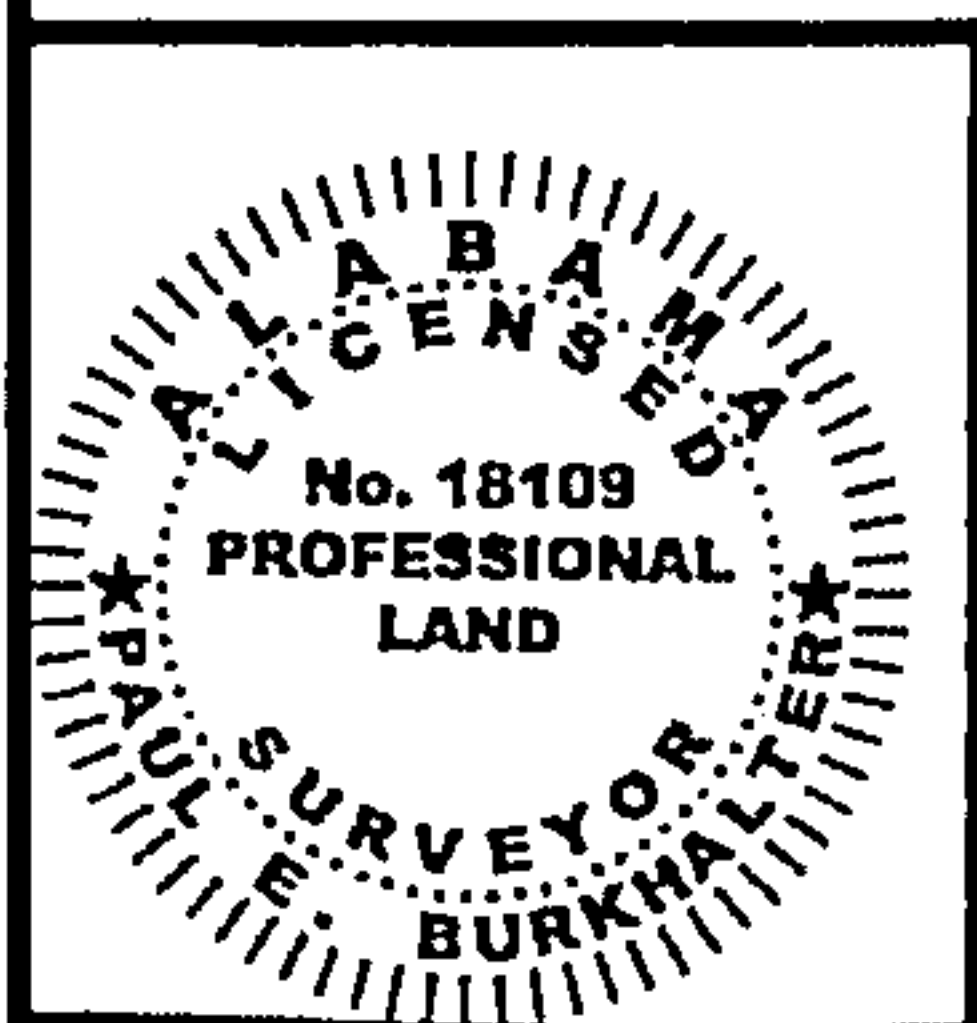
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distance of 535.05 feet to an iron pin set; thence run North 89 degrees 26 minutes 32 seconds East for a distance of 255.05 feet to an iron pin set; thence run South 2 degrees 18 minutes 55 seconds East for a distance of 297.95 feet to an iron pin set; thence run South 80 degrees 03 minutes 24 seconds East for a distance of 293.53 feet to the POINT OF BEGINNING.



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DATE OF FIELD SURVEY: 10/05  
 Revised 1-27-2006 - Boundary  
 In Sections 1 & 12  
 Revised 3-17-06 - Boundary In  
 Sections 1 & 12 - 90' to 120'  
 along Yellowleaf Creek



547.2 Acres +/-  
 Yellowleaf Wetlands Bank  
 Conservation Easement  
 A part of Section 36, T19S, R1E  
 and A part of Sections 1 and 12,  
 T20S, R1E and A part of  
 Sections 6 and 7, T20S, R2E,  
 Shelby County, Alabama

REVISIONS	

**Gulf States**  
 PAPER CORPORATION  
 P.O. BOX 48989 1400 JACK WARNER PKWY  
 TUSCALOOSA, ALABAMA 35404

SCALE 1"=1200'    PREP. JOB    DATE 10-27-05    DESIGNED BY    CHECKED BY    PLO  
 DESCRIPTION SEC. 36, T19S, R1E & SEC. 1 & 12, T20S, R1E & SEC. 6 & 7, T20S, R2E, SHELBY CO., AL  
 PROJECT NO.    YELLOWLEAF WETLANDS BANK    Y-1452-05