

STATE OF ALABAMA)
CALHOUN COUNTY)

DEED 3227 366
Recorded In Above Book and Page
12/28/2017 10:41:21 AM
Alice K. Martin
Judge of Probate
Calhoun County, Alabama

THE MCCLELLAN DEVELOPMENT AUTHORITY
ENVIRONMENTAL COVENANT
NUMBER FY-18-01.00

KNOW ALL MEN BY THESE PRESENTS: That pursuant to the Alabama Uniform Environmental Covenants Act, §§ 35-19-1 through 35-19-14, Code of Alabama 1975, as amended, (the "Act") and the ADEM Administrative Code of Regulations promulgated thereunder,

THE MCCLELLAN DEVELOPMENT AUTHORITY

(hereinafter "MDA" or "Grantor") grants this Environmental Covenant, Numbered FY-18-01.00, which constitutes a servitude arising under an environmental response project that imposes activity and/or use limitations, to the following statutory Holder:

THE MCCLELLAN DEVELOPMENT AUTHORITY

("MDA"), (hereinafter "Grantee" or "Holder"), to-wit:

WHEREAS, the MDA is the owner of a portion of that certain real property known as "MRS-3" (see Exhibit "A", attached hereto) which is located on the grounds of the former Fort McClellan, in the City of Anniston, Calhoun County, Alabama (the "Property"), which was conveyed to MDA by deed dated April 1, 2010, and recorded in the Office of the Judge of Probate for said County, Alabama, in Deed Book 3125 at Page 275; and,

WHEREAS, the Covenant Boundaries are more particularly described as follows:

MRS-3 DIGGING PROHIBITION AREA 3-Aa DESCRIPTION

A parcel of land located in the SE ¼ of Section 21 lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence North 89 degrees 12 minutes 06 seconds West, 2597.55 feet; thence North 00 degrees 47 minutes 54 seconds East, 1301.79 feet to the **POINT OF BEGINNING**, being the Northwest corner of the tract described herein and having Alabama State Plane, East Zone, Coordinates of North: 1,166,134.9 and East: 665,301.0; runs thence as follows:

North 90 degrees 00 minutes 00 seconds West, 673.19 feet;
North 13 degrees 46 minutes 22 seconds East, 781.25 feet;
North 13 degrees 37 minutes 48 seconds East, 798.63 feet;
North 74 degrees 22 minutes 52 seconds East, 343.61 feet;
North 15 degrees 37 minutes 11 seconds West, 343.96 feet;
North 74 degrees 22 minutes 51 seconds East, 492.71 feet;

South 15 degrees 37 minutes 08 seconds East, 251.43 feet;
 North 74 degrees 22 minutes 52 seconds East, 474.37 feet;
 North 16 degrees 05 minutes 26 seconds West, 251.44 feet;
 North 74 degrees 22 minutes 39 seconds East, 655.53 feet;
 South 00 degrees 00 minutes 00 seconds East, 295.05 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 400.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 800.00 feet to the Point of Beginning and
 containing 40.45 acres, more or less.

MRS-3 DIGGING PROHIBITION AREA 3-Ab DESCRIPTION

A parcel of land located in the SW $\frac{1}{4}$ of Section 22 and NW $\frac{1}{4}$ of Section 27, lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence South 00 degrees 47 minutes 54 seconds West, 684.18 feet; thence South 89 degrees 12 minutes 06 seconds East, 929.47 feet to the **POINT OF BEGINNING**, being the Southwest corner of the prohibition area 3-Ab and having Alabama State Plane, East Zone, Coordinates of North: 1,164,100.00 and East: 668,800.01; runs thence as follows:

North 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;

North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 800.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 280.41 feet;
 South 84 degrees 32 minutes 18 seconds East, 177.54 feet;
 South 10 degrees 26 minutes 49 seconds West, 125.45 feet;
 South 80 degrees 40 minutes 15 seconds East, 147.97 feet;
 South 00 degrees 00 minutes 00 seconds East, 216.15 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 500.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 300.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet to the Point of Beginning and
 containing 10.61 acres, more or less.

MRS-3 DIGGING PROHIBITION AREA 3-B DESCRIPTION

A parcel of land located in the W ½ of Section 28 lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence South 00 degrees 47 minutes 54 seconds West, 228.81 feet; thence North 89 degrees 12 minutes 06 seconds West, 2277.19 feet to the **POINT OF BEGINNING**, being the Northeast corner of the prohibition area 3-B and having Alabama State Plane, East Zone, Coordinates of North: 1,164,600.00 and East: 665,600.01; runs thence as follows:

South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 1200.00 feet;

North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 500.00 feet;
North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 300.00 feet;
North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 400.00 feet;
North 90 degrees 00 minutes 00 seconds West, 233.76 feet;
North 04 degrees 42 minutes 31 seconds West, 138.87 feet;
North 29 degrees 01 minutes 07 seconds West, 412.31 feet;
North 16 degrees 01 minutes 27 seconds West, 1100.19 feet;
North 75 degrees 55 minutes 37 seconds West, 205.91 feet;
North 14 degrees 59 minutes 02 seconds West, 199.99 feet;
North 27 degrees 47 minutes 09 seconds East, 544.90 feet;
North 15 degrees 32 minutes 02 seconds East, 413.55 feet;
North 09 degrees 08 minutes 38 seconds East, 464.72 feet;
North 13 degrees 46 minutes 22 seconds East, 371.71 feet;
North 90 degrees 00 minutes 00 seconds East, 673.19 feet to the Point of Beginning and containing 32.77 acres, more or less.

MRS-3 DIGGING PROHIBITION AREA 3-C DESCRIPTION

A parcel of land located in the SW $\frac{1}{4}$ of Section 28 and SE $\frac{1}{4}$ of Section 29 lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence North 89 degrees 12 minutes 55 seconds West, 6444.46 feet; thence South 00 degrees 43 minutes 15 seconds West, 2885.56 feet to the **POINT OF BEGINNING**, being the Northwest corner of the prohibition area 3-C and having Alabama State Plane, East Zone, Coordinates of North: 1,162,000.00 and East: 661,400.01; runs thence as follows:

North 90 degrees 00 minutes 00 seconds East, 200.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 400.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 400.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 111.13 feet;
South 64 degrees 49 minutes 13 seconds East, 147.95 feet;
North 00 degrees 36 minutes 23 seconds East, 51.82 feet;
North 90 degrees 00 minutes 00 seconds East, 65.56 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 200.00 feet;

South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 200.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 300.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 600.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 200.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 700.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 200.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 200.00 feet;
North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
North 00 degrees 00 minutes 00 seconds East, 300.00 feet to the Point of Beginning and containing 39.43 acres, more or less.

MRS-3 DIGGING PROHIBITION AREA 3-D DESCRIPTION

A parcel of land located in the SW $\frac{1}{4}$ of Section 28 and NW $\frac{1}{4}$ of Section 33 lying in Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama, and being more particularly described as follows:

COMMENCING at the Southwest corner of Section 22, Township 15 South, Range 8 East, Huntsville Meridian, Calhoun County, Alabama; runs thence North 89 degrees 12 minutes 06 seconds West, 4436.56 feet; thence South 00 degrees 47 minutes 54 seconds West, 3159.19 feet to the **POINT OF BEGINNING**, being the Northwest corner of the prohibition area 3-D and having Alabama State Plane, East Zone, Coordinates of North: 1,161,700.00 and East: 663,400.01; runs thence as follows:

North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
North 90 degrees 00 minutes 00 seconds East, 331.91 feet;

South 59 degrees 24 minutes 12 seconds East, 477.88 feet;
 South 02 degrees 45 minutes 03 seconds East, 306.81 feet;
 South 38 degrees 23 minutes 31 seconds East, 163.61 feet;
 South 04 degrees 35 minutes 25 seconds West, 530.67 feet;
 South 20 degrees 26 minutes 02 seconds West, 245.41 feet;
 South 03 degrees 40 minutes 05 seconds West, 422.17 feet;
 South 37 degrees 35 minutes 31 seconds East, 305.19 feet;
 North 90 degrees 00 minutes 00 seconds West, 890.60 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 400.00 feet;
 South 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 200.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 500.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 400.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 400.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 200.00 feet;
 North 90 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 100.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 100.00 feet;
 North 90 degrees 00 minutes 00 seconds West, 200.00 feet;
 North 00 degrees 00 minutes 00 seconds East, 500.00 feet to the Point of Beginning and
 containing 48.70 acres, more or less.

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

WHEREAS, Parcel Munitions Response Site – 3 (MRS-3) comprises an area totaling approximately 410 acres located in the north-central part of the Bravo Munitions Response Area (MRA) and is bisected by the Eastern Bypass roadway. The western portion of MRS-3 is located east of MRS-6 and north of MRS-11. The eastern portion of MRS-3 is located west of MRS-9 and north and west of MRS-7 and north of MRS-11. It consists in part of the Bravo Engineering Evaluation/Cost Analysis (EE/CA) Sectors M3-2H Mortar Area-Passive Recreation (PR), M3-2H Mortar Area-Development (D), M3-1L Rocket Area-D, M3-1H Rocket Area-PR,

M3-1H Mixed Use Area-D, M3-1H Grenade Area-PR, M3-1L 37mm Projectile Area-D, and M3-3H Rocket/Hand Grenade Area -D;

WHEREAS, historically, MRS-3 was used primarily as a rifle grenade, rocket and mortar launcher area and small arms training with a variety of explosive ordnance recovered during site characterization and remediation activities. To implement the munitions remediation in MRS-3, the site was divided into eight tracts, 3-A through 3-H based on geography and required remedial actions. The remediation for Tracts 3-E through 3-H where the future land use is mixed development was cleared to the depth of detection. The remediation for Tracts 3-A, 3-B, 3-C and 3-D where the future land use is passive recreation was cleared to a depth of one foot. Areas that were not cleared to the depth of detection comprise the Covenant Boundary and include Tracts 3-A, 3-B, 3-C, and 3-D.

WHEREAS, the selected "remedial action" for the Property, which has now been implemented, providing in part, for the following actions,

DESCRIPTION OF REMEDIAL ACTION:

WHEREAS, pursuant to the Alabama Hazardous Wastes Management and Minimization Act of 1978, (AHWMMA), Ala. Code §§ 22-30-1 to 22-30-24, as amended, the GRANTOR and assignees agreed to perform operation and maintenance activities at the Property, pursuant to an ADEM Cleanup Agreement Number AL4-210-020-562 to address the effects of the release/disposal, which includes controlling exposure to the hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants;

WHEREAS, the remedial action was performed in accordance with the ADEM-approved work plan and Action Memorandum and DDESB-approved explosives safety submission;

WHEREAS, detection and removal methods are not 100 percent effective, so that (munitions and explosives of concern) MEC may remain in those areas that were subjected to the remediation;

WHEREAS, the Department of Defense Manual Number 6055.09-M, Volume 7, February 29, 2008 (Administratively Reissued August 4, 2010) in V7.E3.4.2.2.1.2 states that "Areas on which a previous response has been completed, pursuant to a DDESB-approved explosives safety submission (ESS), for the stipulated reuse also qualify for "low" determination"; and, in V7.E4.4.3.2.1 the level of construction support for areas of low probability shall be "On-call";

WHEREAS, the said Cleanup Agreement requires institutional controls to be implemented to address the effects of the release/disposal and to protect the remedy so that exposure to the potential MEC is controlled by restricting the use of the Property and the activities on the Property;

WHEREAS, implementation of the approved Cleanup Agreement has achieved risk-based cleanup levels deemed protective of public health and the environment based upon certain use restrictions imposed on the property to limit exposure to potential MEC;

WHEREAS, the potential for MEC remains in the confines of the Covenant Boundary;

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property in accordance with the approved Cleanup Agreement; and

WHEREAS, further information concerning the remediation activities, including the Administrative Record, may be obtained by contacting:

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110
(334) 271-7700

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to the named Holder, and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the requirements set forth below:

1. **DEFINITIONS**

Owners. "Owners" means the GRANTOR, its successors and assigns in interest.

2. **USE RESTRICTIONS**

Activities that violate the following restrictions shall not take place on the Property without obtaining prior written approval from ADEM:

- (i) Prohibition on intrusive activities without EOD (explosive ordnance personnel) or UXO-qualified personnel being contacted to ensure their availability, advised about the project, and placed "on-call" to assist if suspected UXO are encountered during construction within the confines of the Covenant Boundary.
- (ii) Grantor reserves an access easement to the Property in any case in which a response action or corrective action is found to be necessary after the date of the establishment of this covenant upon such Property, or in any case such access is necessary to carry out a response action or corrective action on adjoining property.

3. **GENERAL PROVISIONS**

- A. Restrictions to Run with the Land. This Environmental Covenant runs with the land pursuant to §35-19-5, Code of Alabama 1975, as amended; is perpetual unless modified or terminated pursuant to the terms of this Covenant or §35-19-9 Code of Alabama 1975, as amended; 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 Owner, the Holder, 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 §35-19-4(b), Code of Alabama 1975, as amended, the Owner shall send written notification pursuant to Section I, below, upon any of the following events affecting the property subject to this covenant: Transfer of any interest, any proposed changes in the use of the property, any applications for building permits, or any proposals for site work that could affect the subsurface areas or contamination on the Property. The Owner shall send this notification within fifteen (15) days of each event listed in this Section.
- C. Registry/Recordation of Environmental Covenant; Amendment; or Termination. Pursuant to §35-19-12(b), Code of Alabama 1975, as amended, this Environmental Covenant and any amendment or termination thereof, shall be contained in the ADEM Registry of Environmental Covenants. After an environmental covenant, amendment, or termination is filed in the registry, a notice of the covenant, amendment, or termination may be recorded in the land records in lieu of recording the entire covenant in compliance with §35-19-12(b). Grantor shall be responsible for filing the Environmental Covenant within thirty (30) days of the final required signature.
- D. Compliance Certification. In accordance with Ala. Code §35-19-4(b), as amended, the Owner shall submit a report on the effectiveness of the land use controls to the Chief of the ADEM Land Division, on an annual basis. The Land Use Control Effectiveness Report (LUCER) shall be submitted in accordance with §IV.B.9. of the Cleanup Agreement each March and shall detail the Owner's compliance, and any lack of compliance with the terms of the Covenant during the preceding calendar year.
- E. Right of Access. Subject to the requirements of the above-referenced Cleanup Agreement, the Owner hereby grants to ADEM, ADEM's agents, contractors and employees; the Owner's agents, contractors and employees; and any other named Holder, its agents, contractors and employees, the right of access to the Property for implementation or enforcement of this Environmental Covenant.
- F. ADEM Reservations. Notwithstanding any other provision of this Environmental Covenant, ADEM 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.
- G. Representations and Warranties. Grantor hereby represents and warrants as follows:
- i) That the Grantor has 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 Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
 - iii) That the Grantor has identified all other parties that hold any interest or encumbrance affecting the Property and has notified such parties of the Grantor's 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 any Grantor is a party, by which such Grantor 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 which is

otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

- H. Compliance Enforcement. In accordance with §35-19-11(b), Code of Alabama 1975, as amended, 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. 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 limit the regulatory authority of ADEM under any applicable law with respect to the environmental response project.
- I. Modifications/Termination. Any modifications or terminations to this Environmental Covenant must be made in accordance with §§ 35-19-9 and 35-19-10, Code of Alabama 1975, as amended.
- 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:
- | | |
|-------------------------|---------------------------|
| <u>ADEM</u> | <u>GRANTOR</u> |
| Chief, Land Division | The McClellan Development |
| A.D.E.M. | Authority |
| 1400 Coliseum Boulevard | 4975 Bains Gap Road |
| Montgomery, AL 36110 | Anniston, AL 36205 |
- K. No Property Interest Created in ADEM. Pursuant to §35-19-3(b), Code of Alabama 1975, as amended, the rights of ADEM under the Act or under this Environmental Covenant, other than a right as a holder, is not an interest in the real property subject to the covenant, nor does the approval by ADEM of this Environmental Covenant create any interest in the real property.
- 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 §35-19-8(a), Code of Alabama 1975, as amended, Grantor shall have this Environmental Covenant, and any amendment or termination thereof, recorded in every county in which any portion of the real property subject to this Environmental Covenant is located. Grantor shall have this Environmental Covenant recorded within fifteen (15) days after the date of the final required signature.
- O. Effective Date. The effective date of this Environmental Covenant shall be the date the fully executed Environmental Covenant is recorded in accordance with paragraph "N" above.

- P. Distribution of Environmental Covenant. In accordance with §35-19-7, Code of Alabama 1975, the Grantor shall, within fifteen (15) days of filing this Environmental Covenant, have a recorded and date stamped copy of same distributed to each of the following: (1) Each person who signed the covenant; (2) Each person holding a recorded interest in the property; (3) Each person in possession of the property; (4) Each municipality or other unit of local government in which the property is located; and (5) Any other person required by ADEM to receive a copy of the covenant. However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as herein provided.
- Q. Party References. All references to ADEM, the Grantor, or other applicable parties, shall include successor agencies, departments, divisions, heirs, executors and/or administrators.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 4th day of October, 2017.

Aaron Acker
MDA Grantor
By: Aaron Acker
Its: Vice-Chairman

STATE OF ALABAMA)
CALHOUN COUNTY)

I, the undersigned Notary Public in and for said County and State, hereby certify that Aaron Acker whose name as Vice-Chairman of the 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 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 4th day of October, 2017.


Sandra Fober
Notary Public
My Commission Expires: My Commission Expires 01/09/2018



ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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


Dated Dec. 21, 2017

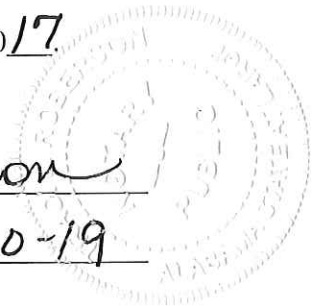
By: 
 Stephen A. Cobb
 Chief, Land Division
 Alabama Department of Environmental
 Management

STATE OF ALABAMA)
 MONTGOMERY COUNTY)

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 21 day of Dec, 2017.


 Notary Public
 My Commission Expires: 1-30-19



STATE OF ALABAMA)
CALHOUN COUNTY)

I, hereby certify that the foregoing Environmental Covenant has been recorded in the property records of Calhoun County, Alabama, at Deed Book 3227, Page 366.

Dated December 28, 2017

By: Moncell Kelley
Clerk, Office of Probate Judge

EXHIBIT DRAWING FOR:

McCLELLAN DEVELOPMENT AUTHORITY &
ALABAMA DEPT. OF ENVIRONMENTAL MANAGEMENT

CLEANUP AGREEMENT NO. AL4 210 020 562
CERFA MEC PARCEL MRS-3 EAST

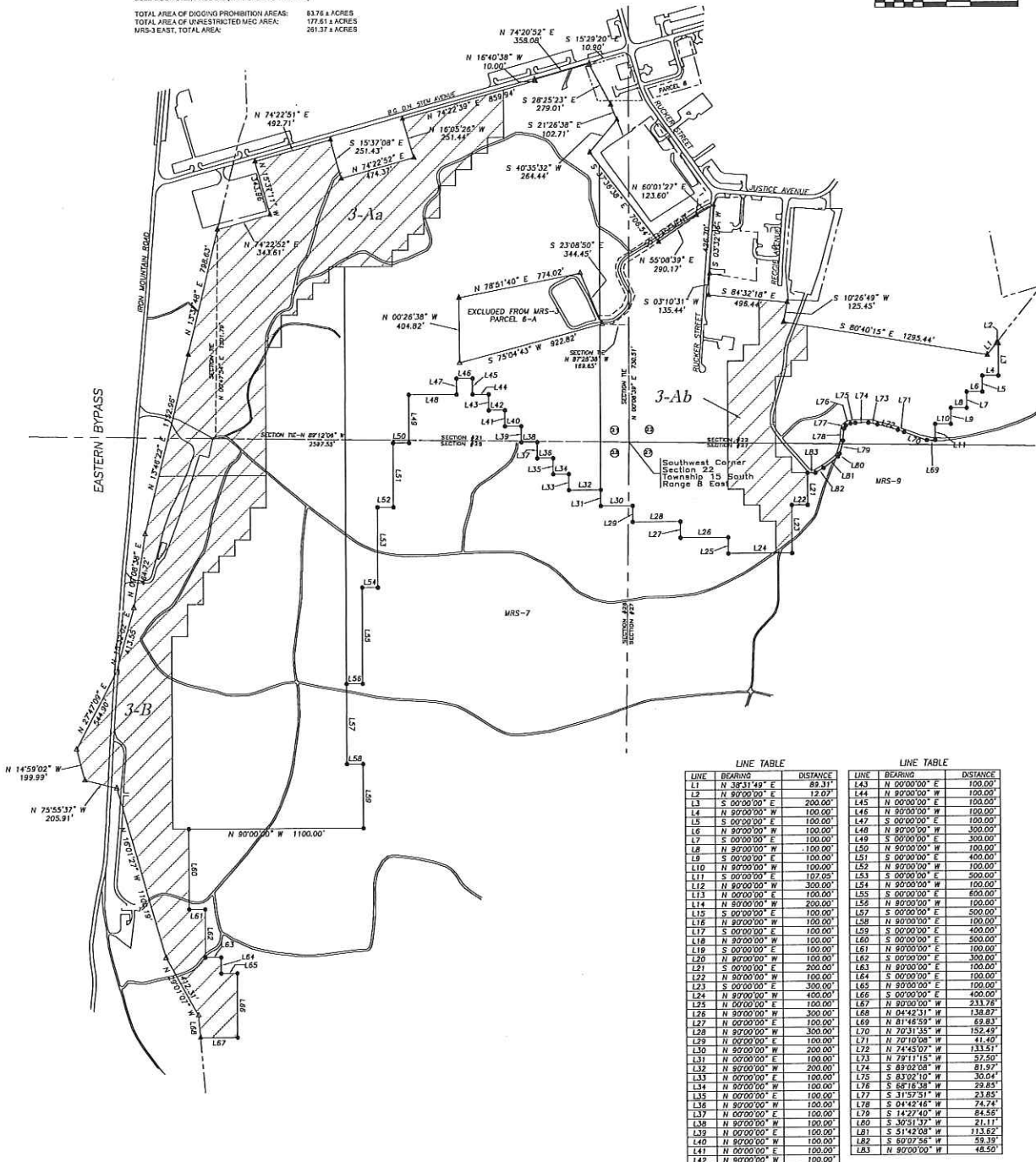
SITUATED IN SECTIONS 21, 22, 27 & 28
LYING IN TOWNSHIP 15 SOUTH, RANGE 8 EAST,
HUNTSVILLE MERIDIAN, CALHOUN COUNTY, ALABAMA

SITE NOTES:

MCO AREA, MRS-3 EAST LIES WITHIN THE McCLELLAN DEVELOPMENT
AUTHORITY (MDA) PROPERTY AS DESCRIBED IN DEED BOOK 3033,
PAGE 291 (PROPERTY DESCRIPTION)

DEED BOOK 3123, PAGE 213 (TRANSFER TO THE MDA)

TOTAL AREA OF DODGING PROHIBITION AREAS: 63.76 ± ACRES
TOTAL AREA OF UNRESTRICTED MCO AREA: 177.61 ± ACRES
MRS-3 EAST, TOTAL AREA: 261.37 ± ACRES



NOTES:

THE LAND USE RESTRICTIONS FOR THE CERFA PARCELS DEPICTED ON THIS
EXHIBIT ARE SPECIFICALLY DESCRIBED IN MDA ENVIRONMENTAL COVENANT
FY18-01.00 AS FILED WITH THE CALHOUN COUNTY PROBATE OFFICE AND ADEM.

THIS IS AN EXHIBIT DRAWING ONLY AND SHOULD ONLY BE USED AS A REFERENCE
FOR THE LOCATION OF THE CERFA PARCELS(S) DEPICTED HEREON. THIS DRAWING
IS NOT A PLAN OF A SURVEY AND SHOULD NOT BE USED TO CONVEY PROPERTY.
THERE IS NO CERTIFICATION OF THE ACCURACY OF THE MEASUREMENTS SHOWN
HEREON.

EACH CERFA PARCEL'S LOCATION & GEOMETRY ARE BASED ON ESRI GIS
SHAPEFILES PROVIDED BY THE McCLELLAN DEVELOPMENT AUTHORITY.

LEGEND

- N/A, SET-SW GRID CORNER BOUNDARY
- ▲ N/A, SET-BOUNDARY ONLY
- △ REBAR FOUND BOUNDARY
- DODGING PROHIBITION AREA

LINE TABLE			LINE TABLE		
LINE	BEARINGS	DISTANCE	LINE	BEARINGS	DISTANCE
L1	N 38°14'59" E	83.31'	L43	N 00°00'00" E	100.00'
L2	N 00°00'00" E	12.02'	L44	N 00°00'00" W	100.00'
L3	S 00°00'00" E	200.00'	L45	N 00°00'00" E	100.00'
L4	N 00°00'00" W	100.00'	L46	N 00°00'00" W	100.00'
L5	S 00°00'00" E	100.00'	L47	S 00°00'00" E	100.00'
L6	N 00°00'00" W	100.00'	L48	N 00°00'00" W	300.00'
L7	S 00°00'00" E	100.00'	L49	S 00°00'00" E	300.00'
L8	N 00°00'00" W	100.00'	L50	N 00°00'00" W	100.00'
L9	S 00°00'00" E	100.00'	L51	S 00°00'00" E	400.00'
L10	N 00°00'00" W	100.00'	L52	N 00°00'00" E	100.00'
L11	S 00°00'00" E	100.00'	L53	S 00°00'00" E	300.00'
L12	N 00°00'00" W	300.00'	L54	N 00°00'00" W	100.00'
L13	N 00°00'00" E	100.00'	L55	S 00°00'00" E	600.00'
L14	N 00°00'00" W	200.00'	L56	N 00°00'00" W	100.00'
L15	S 00°00'00" E	100.00'	L57	S 00°00'00" E	500.00'
L16	N 00°00'00" W	100.00'	L58	N 00°00'00" E	100.00'
L17	S 00°00'00" E	100.00'	L59	S 00°00'00" E	400.00'
L18	N 00°00'00" W	100.00'	L60	S 00°00'00" E	500.00'
L19	S 00°00'00" E	100.00'	L61	N 00°00'00" E	100.00'
L20	N 00°00'00" W	100.00'	L62	S 00°00'00" E	300.00'
L21	S 00°00'00" E	200.00'	L63	N 00°00'00" E	100.00'
L22	N 00°00'00" W	100.00'	L64	S 00°00'00" E	100.00'
L23	S 00°00'00" E	300.00'	L65	N 00°00'00" E	100.00'
L24	N 00°00'00" W	400.00'	L66	S 00°00'00" E	400.00'
L25	N 00°00'00" E	100.00'	L67	N 00°00'00" W	233.78'
L26	N 00°00'00" W	300.00'	L68	N 04°42'11" W	138.87'
L27	S 00°00'00" E	100.00'	L69	N 81°48'55" W	63.83'
L28	N 00°00'00" W	300.00'	L70	N 70°11'15" W	152.49'
L29	N 00°00'00" E	100.00'	L71	N 70°10'00" W	41.40'
L30	N 00°00'00" W	200.00'	L72	N 74°45'02" W	133.51'
L31	N 00°00'00" E	100.00'	L73	N 79°11'15" W	25.50'
L32	N 00°00'00" W	200.00'	L74	S 83°02'10" W	81.97'
L33	N 00°00'00" E	100.00'	L75	S 83°02'10" W	30.04'
L34	N 00°00'00" W	100.00'	L76	S 88°18'38" W	29.83'
L35	N 00°00'00" E	100.00'	L77	S 31°57'51" W	23.65'
L36	N 00°00'00" W	100.00'	L78	S 04°42'16" W	74.74'
L37	N 00°00'00" E	100.00'	L79	S 14°27'40" W	84.58'
L38	N 00°00'00" W	100.00'	L80	S 30°31'17" W	21.11'
L39	N 00°00'00" E	100.00'	L81	S 51°42'08" W	113.62'
L40	N 00°00'00" W	100.00'	L82	S 60°07'56" W	59.39'
L41	N 00°00'00" E	100.00'	L83	N 80°00'00" W	48.50'
L42	N 00°00'00" W	100.00'			

SHEET: EXHIBIT DRAWING		NUMBER: 2 of 2
<p>L. I. SMITH & ASSOCIATES, INC. SURVEYORS - ENGINEERS</p> <p>302 South College Street Ft. Worth, Texas 76102 751-644-1211 800-247-6811 FAX 751-644-0109</p> <p>Mobile: 817-351-1113 FAX: 817-351-1113</p> <p>Website: www.lisurvey.com</p>		
DRAWN BY: R. BEASLEY	CHECKED BY: L. SMITH	SCALE: 1" = 300'
PROJECT # 170271		DATE: 09/22/2017

EXHIBIT DRAWING FOR:

McCLELLAN DEVELOPMENT AUTHORITY &
ALABAMA DEPT. OF ENVIRONMENTAL MANAGEMENT

CLEANUP AGREEMENT NO. AL4 210 020 562
CERFA MEC PARCEL MRS-3 WEST

SITUATED IN SECTIONS 28, 29 & 31
LYING IN TOWNSHIP 15 SOUTH, RANGE 8 EAST,
HUNTSVILLE RESERVATION, CALHOUN COUNTY, ALABAMA

LEGEND

- UNADJUSTED BOUNDARY CORNER
- ▲ KNOWN CORNER
- △ REVEALED FOUND BOUNDARY
- IRON PIPE FOUND BOUNDARY
- ▨ DIGGING PROHIBITION AREA

SITE NOTES:

MEC AREA, MRS-3 WEST USES WITHIN THE McCLELLAN DEVELOPMENT AUTHORITY (MDA)
PROPERTY AS DESCRIBED IN DEED BOOK 3039, PAGE 291 (PROPERTY DESCRIPTION)

DEED BOOK 3125, PAGE 275 (TRANSFER TO THE MDA)

MRS-3 WEST, DIGGING PROHIBITION AREA: 65.13 ± ACRES
MRS-3 WEST, UNRESTRICTED LAND USE AREA: 60.25 ± ACRES
TOTAL AREA OF MEC LAND USE RESTRICTIONS: 145.38 ± ACRES

NOTES:

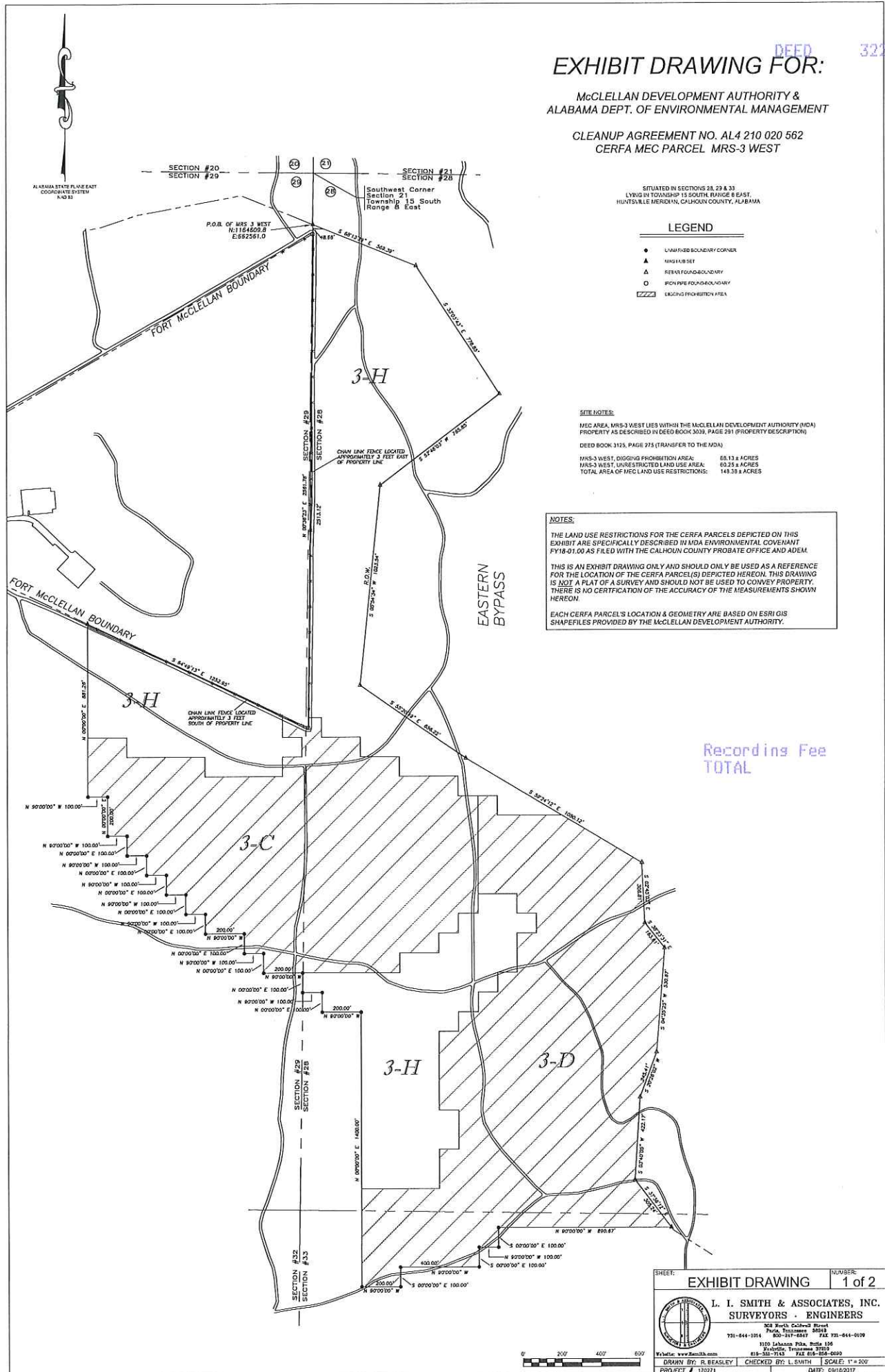
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Recording Fee
TOTAL

0.00
0.00



SHEET: EXHIBIT DRAWING		NUMBER: 1 of 2
L. I. SMITH & ASSOCIATES, INC. SURVEYORS - ENGINEERS 508 North Cahoon Street Prattville, Alabama 36058 334-644-1014 334-217-8817 FAX 334-644-0109 1100 Alabama Pkwy., Suite 100 Enterprise, Alabama 36034 334-333-7113 FAX 334-333-6599		
DRAWN BY: R. BEASLEY PROJECT: 170271	CHECKED BY: L. SMITH DATE: 09/16/2017	SCALE: 1" = 200'