

County of Calhoun )  
State of Alabama )

NO. DACA01-2-99-0282

DEPARTMENT OF THE ARMY

EASEMENT FOR NATURAL GAS DISTRIBUTION RIGHT-OF-WAY  
AND TRANSFER OF OWNERSHIP OF NATURAL GAS DISTRIBUTION SYSTEM

LOCATED ON

Fort McClellan and Pelham Range

Calhoun County, Alabama

THE SECRETARY OF THE ARMY, hereinafter referred to as "Secretary" under and by virtue of the authority vested in the Secretary by 10 United States Code, Section 2669, having found that the granting of this easement and other property interests conveyed hereby will be in the public interest and will not substantially injure the interests of the United States, hereby grants, on behalf of the United States of America hereinafter referred to as "Grantor", to Alabama Gas Corporation, hereinafter referred to as "Grantee", the Easement, as more particularly described herein below, for laying, constructing, installing, renewing, inspecting, operating, maintaining, repairing, removing, changing the size of, modifying, relocating and replacing the natural gas distribution pipelines, mains, conduits, appliances, Propane Air System and the 300 square foot utility building, as described hereinbelow, and appurtenance, hereinafter referred to as "Facilities", over, across, in and upon lands (30 feet in width, 15 feet on either side of the gas pipeline) of the Grantor as shown on Exhibits A through F and Exhibit H, attached hereto and made apart hereof, hereinafter referred to as the "Premises", together with THE TRANSFER of the interests of the United States in the Natural Gas Distribution System, hereinafter referred to as the "System", including pipelines, tanks, metering equipment, plants, fixtures (but not the gas in the lines), the Propane-Air System located on the Premises, which consists of five (5) aboveground propane gas storage tanks, with a total capacity of 127,500 gallons, and the 300 square foot utility building, concrete foundation and rafter roof, used in association with the propane gas storage tanks as shown on Exhibits A through F and Exhibit H, attached hereto and made a part hereof. The "System" shall not include, for purposes hereof, pipelines and equipment located downstream of outlets of Grantee's individual meters (which term excludes Grantee's master meter) or, to the extent a pipeline is not individually metered by Grantee, downstream of outlets of the first above-ground cutoff valves or regulators on pipelines beyond Grantee's master meter or, where no such above-ground cutoff valve or regulator exists, those pipelines located downstream of a point located a distance of five (5) feet from the point where the pipeline first exits the ground. Said easement shall be 30 feet in width, 15 feet on either side of the gas pipeline, as located on the date of execution of this easement, together with an easement of the following dimensions at the 3217 Complex:

Starting from the corner of 16<sup>th</sup> Avenue and Summerall Gate Road proceeding 500 feet northerly following the ditch line, turn 90 degrees westerly and proceed 140 feet; turn 90 degrees and proceed southerly to the edge of Summerall Gate Road and turn easterly following edge of Summerall Gate Road and proceed to corner of 16<sup>th</sup> Avenue and Summerall Gate Road.

THIS AGREEMENT for the conveyance of the interests set forth above is granted subject to the following conditions.

**1. TERM**

The Easement hereby granted is perpetual and begins on December 1, 1999.

**2. CONSIDERATION**

As consideration for the Easement, Natural Gas Distribution System, Propane-Air System and related interests conveyed herein, the Grantee shall pay the Grantor the amount of One Dollar (\$1.00) and shall operate and maintain the Facilities for the benefit of the Grantor, the Grantee and the general public in accordance with the terms herein and Alabama Public Service Commission rules and regulations. The parties hereto agree that the interests conveyed hereby have a nominal fair market value of ONE DOLLAR (\$1.00) the same having been put out for competitive bids and Grantee being the successful bidder.

**3. NOTICES**

Except as otherwise expressly provided herein, all correspondence and notices to be given pursuant to this Agreement shall be addressed, if to the Grantee, to Alabama Gas Corporation, Attention: Vice President -- Technical and Transportation Services, 605 21<sup>st</sup> Street, North, Birmingham, Alabama 35203-2707 and, if to the Grantor, to the District Engineer, Attention: Chief, Real Estate Division, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628-0001, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited postage prepaid in a post office regularly maintained by the United States Postal Service.

**4. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Garrison Commander", or "said officer" shall include their duly authorized representatives. Any reference to "Grantee" shall include assignees, transferees and their duly authorized representatives.

**5. SUPERVISION BY THE GARRISON COMMANDER**

The laying, constructing, installing, renewing, inspecting, operating, maintaining, repairing, removing, changing the size of, modifying, relocating and replacing of Grantee's Facilities shall be performed at no cost or expense to the Grantor. Upon the completion of any of the above activities, the Grantee shall promptly restore the Premises to the reasonable satisfaction of the Garrison Commander, hereinafter referred to as "said officer". The use and occupation of the Premises for the purposes herein granted shall be subject to such general and non-discriminatory (against Grantee) rules and regulations as said officer prescribes in writing from time to time.

**6. APPLICABLE LAWS AND REGULATIONS**

The Grantee shall comply with all applicable federal, state, county and municipal laws, permits, standards, ordinances and regulations wherein the Premises are located, including the Alabama Public Service Commission collectively, "Applicable Laws".

**7. CONDITION OF PREMISES**

The Grantee acknowledges that the interests conveyed hereby are granted without any representation or warranties whatsoever and without any obligation on the part of the Grantor.

## **8. INSPECTION AND REPAIRS**

The Grantee shall inspect and make repairs to the Facilities (other than the Propane Air System and the 300 square foot utility building) made known to Grantee, as required by the Applicable Laws.

## **9. PROTECTION OF GRANTOR'S PROPERTY**

The Grantee shall be responsible for any damage that may be caused to the property of the Grantor by the activities of the Grantee under this Agreement and shall exercise due diligence in the protection of all property located on the Premises against fire or damage from any and all other causes. Any property of the Grantor damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to a condition reasonably satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Grantee in an amount necessary to restore or replace the property to a condition reasonably satisfactory to said officer.

## **10. RIGHT TO ENTER**

The right is reserved to the Grantor, its officers, agents, and employees to enter upon the Easement at any time and for any purpose necessary or convenient in connection with government purposes which do not unreasonably interfere with the Grantee's rights herein granted, to make inspections, to conduct environmental and ordnance and explosives (OE) response actions, to remove timber or other material, except property of the Grantee, and/or make any other use of the lands as may be necessary in connection with government purposes. The Grantor and its officers, agents, employees, contractors, and subcontractors have the right, upon reasonable notice to the Grantee its successors and assigns, to enter upon the Easement Property for the purposes enumerated in this subparagraph:

(a) to conduct investigations and surveys, including, where necessary, drilling, soil and water sampling, test-pitting, testing soil borings and other activities related to the Fort McClellan Installation Restoration Program ("IRP");

(b) to inspect field activities of the Grantor and its contractors and subcontractors in implementing the Fort McClellan IRP;

(c) to conduct any test or survey related to the implementation of the IRP or environmental conditions at the Easement Property or to verify any data submitted to the Environmental Protection Agency (EPA) or Alabama Department of Environmental Management (ADEM) by the Grantor relating to such conditions; and

(d) to construct, operate, maintain or undertake any other response or remedial action as required or necessary under the Fort McClellan IRP, including, but not limited to monitoring wells, pumping wells and treatment facilities.

The Grantee shall have no claim for damages on account thereof against the Grantor or any officer, agent, contractor, or employee thereof, not including damages due to the fault or negligence of the Grantor or its officers, employees, agents or contractors.

## **11. TRANSFERS AND ASSIGNMENTS**

Without prior written approval by the District Engineer, which approval shall not unreasonably be withheld, the Grantee shall neither transfer nor assign the Easement granted herein or any part thereof nor grant any interest, privilege or license whatsoever in connection with the Easement; provided that Grantee may convey the Easement without such consent to any subsidiary, parent or other affiliated entity, to the surviving entity in the event of merger or other corporate restructuring, or to a purchaser of substantially all of Grantee's assets. The provisions and conditions of the Easement shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

**12. INDEMNITY**

The Grantor shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property or injuries to the person of the Grantee's officers, agents, or employees or others who may be on the Premises at their invitation or the invitation of any one of them. The Grantee shall hold the Grantor harmless from any and all such claims not including damages due to the fault or negligence of the Grantor or its officers, employees, agents or contractors.

**13. SUBJECT TO EASEMENTS**

The Easement is subject to all other existing easements, or those subsequently granted for established lines and access routes for roadways and utilities located, or to be located, on the Premises. The proposed grant of any new easement or route will be coordinated with the Grantee, and easements will not be granted which will unreasonably interfere with the use of the Easement by the Grantee.

**14. REQUIRED SERVICES**

The Grantee shall furnish through said Facilities such services as may be required from time to time for governmental purposes, provided that payment for such service will be made by the Grantor at rates which shall be mutually agreeable but which shall never exceed the most favorable rates granted by the Grantee for similar service.

**15. RELOCATION OF FACILITIES**

In the event all or any portion of the Premises occupied by the said Facilities shall be needed by the Grantor, or in the event the existence of said Facilities is determined to be detrimental to governmental activities, the Grantee shall from time to time, upon notice from the Grantor to do so, and as often as so notified, remove said Facilities at the Grantor's expense (with the cost to be agreed upon) to such other location on Fort McClellan or Pelham Range property, as applicable, as owned by the Grantor and as may be designated by said officer. In the event said Facilities shall not be removed or relocated within ninety (90) days after such notice, the Grantor may cause such relocation at its sole expense.

**16. TERMINATION**

This easement may be terminated by the Grantor upon the failure of the Grantee to comply with any or all of the conditions of this easement, in any material respect within two (2) years after receipt of written notice from the Grantor describing in reasonable detail such failure or failures or for abandonment by the Grantee.

**17. SOIL AND WATER CONSERVATION**

The Grantee shall not interfere with any soil and water conservation structures that may be in existence upon said Premises at the beginning of the term of this easement and shall maintain, in accordance with sound engineering standards any of the same that may be constructed by the Grantee during the term of this easement, and the Grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted in a manner satisfactory to said officer. Any soil erosion occurring outside the Premises resulting from the activities of the Grantee shall be corrected by the Grantee as directed by said officer.

**18. ENVIRONMENTAL PROTECTION**

(a) The Grantee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The storage, treatment, or disposal of any toxic or hazardous materials on Department of Defense properties, hereinafter referred to as "DoD properties", is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said

Environmental Protection Agency or any Federal, state, interstate or local governmental agency are hereby made a condition of this Easement. The Grantee shall not discharge waste or effluent from the Premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance. The Grantee shall strictly comply with the hazardous waste permit requirements under the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. §§ 6921-6939); Alabama Hazardous Wastes Management and Minimization Act, Code of Alabama (1975), §§ 22-30-1 through 22-30-24, as amended, and ADEM Administrative Code Div. 335-14; and any other applicable laws, rules, or regulations. The Grantee must provide at its own expense such hazardous waste storage facilities that comply with all laws and regulations, as it may need for such storage. Any violation of the requirements of this provision shall be deemed a material breach of this Easement.

(b) The use of any pesticides or herbicides within the Premises shall be in conformance with all applicable Federal, state and local laws and regulations. The Grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to DoD properties.

(c) The Grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the Grantee's activities, the Grantee shall be liable to restore the damaged resources.

(d) The Grantee agrees to comply with the provisions of any health or safety plan in effect under the Installation Restoration Program (IRP) during the course of any of the above described response or remedial actions. The Army will use its best efforts to minimize operational disruptions to Grantee.

(e) The Grantee shall provide to the Army an approved plan for responding to hazardous waste, fuel, and other chemical spills prior to commencement of operations on the Easement.

(f) The Grantee shall not conduct any subsurface excavation, digging, drilling, or other disturbance of the surface of DoD properties within environmental remediation sites (Installation Restoration Sites) as identified in the Environmental Baseline Survey without the prior written approval of the Army. As the Army's environmental response actions continue and sites are completed, this Easement restriction may be removed by the Army or other appropriate authority. The Grantee shall not conduct or permit its successor and assigns to conduct any subsurface excavation, digging, drilling, or other disturbance of the surface of any other sites without the prior written approval of the Government with the exception of replacement or repair of existing utilities and normal facilities maintenance. The Grantee shall not disrupt, inflict damage, obstruct, or impede on-going environmental restoration work or damage completed response actions on the Easement or anywhere else on Fort McClellan. The Grantee shall indemnify the Army for any costs incurred as a result of Grantee's breach of this provision.

(g) In the event an emergency repair is required within an environmental remediation site, as identified in the Environmental Baseline Survey, Grantee may contact the Fort McClellan, U. S. Army Garrison Operations Office (256)848-5680/4824, the U. S. Army Engineering and Support Center Huntsville (USAESCH) Safety Office (256)895-1589, the Project Manager for Fort McClellan, U.S. Army Corps of Engineers, Mobile District at (334)694-4216, or Environmental Engineer, Environmental and HTRW Branch, U.S. Army Corps of Engineers, Mobile District at (334)690-3077.

## **19. ENVIRONMENTAL BASELINE SURVEY**

An Environmental Baseline Survey (EBS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, has previously been provided to the Grantor. Upon expiration, revocation or termination of this easement, another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Grantee. The Grantee acknowledges that it has received and reviewed the EBS (Final Environmental Baseline Survey, January 1998), the Archive Search Report (U.S. Department of Defense Base Realignment and Closure Ordinance, Ammunition, and Explosives Archives Search Report Conclusions and Recommendations, Fort

McClellan, Anniston, Alabama. Final. July 1999), and the environmental protection provisions herein, prior to the execution of the Easement.

**20. NOTICE OF HISTORIC PROPERTY AND PRESERVATION COVENANT**

The Grantee shall not knowingly remove or disturb, or cause or, to the extent of its legal authority, permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the Premises, the Grantee shall immediately notify the State Historic Preservation Officer (SHPO) and, to the extent of its authority, protect the site and material from further disturbance until the SHPO gives clearance to proceed. Significant changes to the gas system that affect the integrity of the historic district requires consultation with the SHPO. Historic districts are shown on the map at Exhibit G, attached hereto and made a part hereof.

**21. NON-DISCRIMINATION**

The Grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the Premises.

**22. [DELETED]**

**23. DISCLAIMER**

This Agreement is effective only insofar as the rights of the Grantor in the property are concerned, and the Grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of the Easement does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by federal, state or local statute in connection with use of the Premises.

**24. NON-TRANSFERRABLE RIGHTS**

Conditions 3, 4, 5, 8, 9, 10, 11, 12, 14, 15, 16, 17 and 19, are non-transferable rights of the Grantor. In the event of disposal of the United States' underlying fee, these rights and conditions will not transfer with the land and will thereupon terminate.

**25. NOTICE OF THE POTENTIAL FOR THE PRESENCE OF ORDNANCE AND EXPLOSIVES**

(a) Historical information indicates the presence of Ordnance and Explosives (OE) at Fort McClellan. There is a potential for OE to be present within or in the vicinity of the areas of the granted Easement as shown on map at Exhibit G, attached hereto and made a part hereof, which may pose an explosives safety hazard. Before entering potential Unexploded Ordnance and Explosives (UXO) areas, as depicted on said map, Grantee will coordinate access with Fort McClellan Environmental Office. Access requests are to be submitted a minimum of 10 working days prior to the proposed date of entry. The request will include dates of proposed entry and location and scope of any planned work to include depths of any excavation. Access approval will set forth the conditions and requirements that must be met before work may commence within the requested location and may require a UXO Specialist be present so ordnance avoidance procedures can be conducted. When extensive intrusive activities are planned, an OE clearance to support construction activities may be required. In these instances or when hazardous activities are being conducted in the vicinity of the requested access location, access may be delayed until these activities are completed. The grantor will provide a UXO Specialist to support the Grantee during intrusive activities at no cost prior to transfer of underlying fee. The Fort McClellan Environmental Office at (256) 848-7455/6853 will make arrangements for UXO Specialist support as required.

(b) In the event an emergency repair is required within a UXO area, contact the Fort McClellan, U. S. Army Garrison Operations Office (256)848-5680/4824 or the U.S. Army Engineering and Support Center Huntsville (USAESCH) Safety Office, (256) 895-1589, immediately.

(c) In the event that a UXO Specialist is not present when a suspected OE item is found, the Grantee shall notify the local law enforcement personnel who will notify the nearest military Explosives Ordnance Disposal (EOD) unit.

(d) All supervisors and field personnel who will be entering sites with potential UXO areas (Exhibit G) will be required to receive an OE recognition and safety briefing. The briefings will be provided by qualified OE personnel.

(e) As the Army's OE removal actions continue and sites are completed, this Easement restriction may be removed by the Army or other appropriate authority.

## 26. NOTICE OF THE PRESENCE OF ENDANGERED SPECIES AND COVENANT

(a) Gray bats (*Myotis grisescens*) are known to forage near the main channel of Cane Creek and Remount Creek, as shown on Exhibit G, attached hereto and made a part hereof, and are known to roost in caves and under bridges in the vicinity. The Golf Course, Parcel 178(7), has been identified as suitable gray bat foraging habitat. Gray bats are listed as endangered by the U.S. Fish and Wildlife Service (FWS) and are afforded federal protection under the Endangered Species Act (ESA) of 1973, as amended. Section 9 of the ESA prohibits private landowners from "taking" (harm, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) endangered species.

(b) The following measures will limit potential take of gray bats on this parcel. Failure to follow these measures could subject the violator to criminal sanctions of the ESA:

- Gray bats are known to use man-made structures in the vicinity of Parcel 178(7). Prior to removing or altering the structure of a bridge, abandoned building, or cistern, the structure should be checked for the presence of gray bats. The FWS will be contacted if bats are found to be present.
- Trees along the main channel of Cane Creek and Remount Creek with high or moderate quality foraging habitat on this parcel provide protective cover and prey for foraging gray bats. Forest within 50 feet of these streams should not be removed. If removal of dead or live trees within 50 feet of these streams is necessary, the FWS must be consulted prior to cutting.
- Gray bats primarily feed on insects with an aquatic life stage; therefore, water quality and the physical characteristics of streams affect the amount and types of insects available for these bats. State and Federal regulations pertaining to water quality and erosion control should be followed. Additionally, modification of stream banks and water flow should be avoided to maintain present water quality and physical structure.
- Use of pesticides, particularly malathion, should be managed according to a FWS consultation letter dated June 11, 1998. The Grantee should avoid (or eliminate or minimize) fogging in the vicinity of all high to moderate quality foraging habitat. FWS requested that if malathion is used it should be sprayed only during daylight hours no earlier than one hour after sunrise and no later than one hour prior to sunset between March 15 and October 31. Use atmospheric conditions to determine appropriate timing for fogging on lands directly adjacent to foraging areas.

**27. NOTICE OF THE PRESENCE OF LEAD-BASED PAINT (LBP) AT 300 SQUARE FOOT UTILITY BUILDING AND COVENANT**

(a) The Easement Property does not contain residential dwellings and will not be used for residential purposes. The Grantee is notified that the Easement Property contains buildings built prior to 1978 that contain LBP. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Such property may present exposure to lead from LBP that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems and impaired memory. No LBP survey or assessment has been conducted. A risk assessment or inspection for possible LBP hazards is recommended prior to use.

(b) The Grantee acknowledges that it has received the opportunity to conduct a risk assessment or inspection for the presence of LBP and/or LBP hazards prior to execution of this Easement.

(c) The Grantee shall not permit use of any buildings or structures on the Easement Property for residential habitation without first obtaining the written consent of the Army. As a condition of its consent, the Army may require the Grantee to: (1) inspect for the presence of LBP and/or LBP hazards; (2) abate and eliminate LBP hazards in accordance with all applicable laws and regulations; and (3) comply with the notice and disclosure requirements under applicable Federal and state law. The Grantee agrees to be responsible for any future remediation of LBP found to be necessary on the Easement Property.

(d) The Army assumes no liability for remediation or damages for personal injury, illness, disability, or death to the Grantee, its successors or assigns, subgrantees or to any other person, including members of the general public, arising from or incident to possession and/or use of any portion of the Easement Property containing LBP as residential housing. The Grantee further agrees to indemnify and hold harmless the Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorney's fees arising out of, or in any manner predicted upon, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of any portion of the Easement Property containing LBP as residential housing. This section and the obligations of the Grantee hereunder shall survive the expiration or termination of this Easement and any conveyance of the Easement Property to the Grantee. The Grantee's obligation hereunder shall apply whenever the United States of America incurs costs or liabilities for actions giving rise to liability under this section.

**28. NOTICE OF THE POTENTIAL FOR PRESENCE OF POLYCHLORINATED BIPHENYL (PCB) AT 300 SQUARE FOOT UTILITY BUILDING AND COVENANT**

PCB's have been widely used as coolants and lubricants in transformers, capacitors, and other electrical equipment like fluorescent light ballasts. EPA considers PCB's to be probable cancer-causing chemicals in humans. PCB and PCB-contaminated items that will be disposed must be stored in a hazardous waste storage facility. The Grantee is hereby informed that fluorescent light ballasts containing PCB's are present on the Easement Property. The PCB containing equipment does not currently pose a threat to human health or the environment. All PCB equipment is presently in full compliance with applicable laws and regulations. The Grantee agrees that its continued possession, use and management of any PCB containing equipment will be in compliance with all applicable laws relating to PCBs and PCB containing equipment and that the Army shall assume no liability for the future remediation of PCB contamination or damages for personal injury, illness or disability or death to the Grantee, its successors or assigns, or to any other person, including members of the general public arising from or incident to future use, handling, management, disposition or any activity causing or leading to contact of any kind whatsoever with PCB containing equipment during the period of this Easement. The Grantee agrees to be responsible for any remediation of PCB containing equipment found to be necessary on the Premises resulting from its use or possession thereof.



29. INTENT OF THE PARTIES.

It is the intent of the parties herein to convey all of the Natural Gas Distribution System owned by the Grantor on Fort McClellan. The parties believe and intend that the location of the lines and System depicted on Exhibits A through F include all of the Natural Gas Distribution System. If any real estate easement, pipelines or appurtenance that comprise the Natural Gas Distribution System and owned by the Grantor was omitted, the parties agree that such omission was inadvertent and such easement, pipeline or appurtenance shall be treated as if it were expressly contained in this easement and facilities transfer document.

30. ANTI-DEFICIENCY ACT STATEMENT.

The Grantor's obligation to pay or reimburse any money under this Easement is subject to the availability of appropriated funds to the Grantor, and nothing in this Easement shall be interpreted to require obligations or payments by the Grantor in violation of the Anti-Deficiency Act.

31. The provisions of this Agreement in no way release the Grantor from its responsibilities under CERCLA, Section 330 of the Department of Defense Authorization Act of 1993, Public Law 102-484, as amended, or other applicable environmental laws.

THIS EASEMENT is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this 19  
day of November, 1999.

WITNESS:

Sharon K. Knecht

THE UNITED STATES OF AMERICA  
SECRETARY OF THE ARMY

BY: Donald L. Burchett  
DONALD L. BURCHETT  
Chief, Real Estate Division  
Mobile District  
U.S. Army Corps of Engineers

The State of Alabama  
County of Mobile

I, Bruce H. McCale a Notary Public, in and for said county in said State, hereby certify that Donald L. Burchett, whose name as Chief, Real Estate Division, U. S. Army Corps of Engineers, Mobile District, 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, in his capacity as such Chief, Real Estate Division, executed the same voluntarily on the day the same bears date.

Given under my hand this 19<sup>th</sup> day of November, 1999.

Bruce H. McCale  
Notary Public  
My Commission Expires  
on 10/6/2001

IN WITNESS WHEREOF, I have hereunto set my hand by authority of Alabama Gas Corp., this  
22 day of November, 1999.

WITNESS:

J. Kevin Andrews

ALABAMA GAS CORPORATION

BY: Kenneth A. Smith  
KENNETH A. SMITH  
Vice President - Technical and  
Transportation Services

The State of Alabama  
County of Jefferson

I, Marsha K. Blackwell a Notary Public, in and for said county in said State, hereby  
certify that Kenneth A. Smith, whose name as Vice President - Technical and Transportation Services, Alabama  
Gas Corporation 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, in his capacity as such  
VP - Technical +, executed the same voluntarily on the day the same bears date.  
Transportation Services

Given under my hand this the 22<sup>nd</sup> day of November, 1999.

Marsha K. Blackwell  
Notary Public

My Commission Expires 12/1/2001

| REQUEST FOR APPROVAL OF<br>DISPOSAL OF BUILDINGS AND IMPROVEMENTS                              |   | DATE                  |   |
|--|---|-----------------------|---|
| For use of this form, see AR 420-70; the proponent agency is Office of the Chief of Engineers. |   | 29 January 1999       |   |
| NAME OF INSTALLATION   |   | LOCATION              | ACCOUNTABLE OFFICER                                       |
| Fort McClellan, Alabama  |   | Calhoun County        | Rose R. Prater  |
| POST NO.   | DESIGNATION AND DESCRIPTION<br>(Include information on installed property to be removed prior to disposal)                    | TYPE OF CONSTRUCTION* | ORIGINAL COST<br>6 YEARS BUILT<br>(Estimate if not known) |
|  | <u>GAS DISTRIBUTION SYSTEM</u>  |                       |   |
| 01102  | Category Code 82410, Facility Number NAGAS (Gas Pipelines), 210,827 LF (Includes mains and laterals and meters)               | P                     | \$2,202,100.<br>1965                                      |
| 01102  | Category Code 89120, Building Number 03217, Plant/Utility Building consisting of 300 SF, concrete foundation and rafter roof. | P                     | \$368,600.<br>1973  |
| 01102  | Category Code 89225, Facility Number 03217, Gas Storage Tanks Aboveground, 5 ea (127,500 gallons capacity)                    | P                     | (Cost incl<br>in 03217<br>bldg above<br>1973              |
| TOTAL COST   |   |                       | \$1,570,700   |
| CONTINUE ON ADDITIONAL SHEETS IF NECESSARY   |   |                       |   |
| * P - Permanent    S - Semi-permanent    T - Temporary (See AR 420-70)                         |   |                       |   |

DA FORM 337

PREVIOUS EDITIONS OF THIS FORM ARE OBSOLETE.

... T. ... R

REMARKS (Include conditions prompting disposal, and indicate whether land on which property is located is leased or Government-owned)

These facilities and building are located on Government-owned land.

None of these facilities are considered historically significant.

Fort McClellan is scheduled for closure 30 Sep 1999 due to BRAC. Preparation of this DA Form 337 is required to initiate the disposal of utility systems.

Report of Excess was prepared 19 Jul 1995 and the Notice of Availability of Surplus Land and Buildings located at Fort McClellan, AL was published in the Federal Register on 22 August 1996. The Notice of Availability stated that "Infrastructure includes roads, storm water, and utility systems. Utility systems available include electric, gas, water, sewer, telephone and central heating/cooling plants."

Property and facilities are anticipated to be in the possession of the new owner to begin operation by 17 Sep 1999.

These utilities are located on Fort McClellan main post and Pelham Range.

THIS ESTIMATED TOTAL SALE VALUE OF THE PROPERTY  
☒ IS ☐ IS NOT IN EXCESS OF ~~XXXXX~~ \$100,000.

*Rose R. Prater*  
ROSE R. PRATER, Realty Specialist

SIGNATURE

*Paul N. Dunn*

TYPED NAME, GRADE, AND ORGANIZATION OF FINAL APPROVING AUTHORITY

PAUL N. DUNN, COL, GS, TRADOC ENGINEER

FINAL DISPOSITION OF PROPERTY