

**DEPARTMENT OF THE ARMY**  
**EASEMENT FOR WASTEWATER COLLECTION SYSTEM**

**LOCATED ON**

**Fort McClellan**

**Calhoun County, Alabama**

**THE SECRETARY OF THE ARMY**, under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2669, and the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, as amended, having found that the granting of this Easement is not incompatible with the public interest, hereby grants on behalf of the United States of America, hereinafter referred to as "Grantor", to The Water Works and Sewer Board of the City of Anniston, hereinafter referred to as the "Grantee", an Easement for constructing, operating, maintaining, repairing and replacing a Wastewater Collection System, over, across, in and upon lands of the United States, as identified on Exhibit 1, and further identified below, hereinafter referred to as the "Premises". Exhibit 1 is attached hereto and made a part hereof.

Width of Easements:

Pipe Size in inches	Width in feet
8 or smaller	20
10 to 15	30
16 to 30	40
And additional areas as shown on Drawings <sup>1, 2, 3</sup> attached.	

This Easement is for mains only and does not include service lines to buildings.

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

**1. TERM**

This Easement hereby granted is perpetual and begins on 1 April 2000.

**2. CONSIDERATION**

The consideration for this Easement shall be the transfer of the facilities and the operation and maintenance of these facilities for the benefit of the United States and the general public in accordance with the terms herein set forth.

**3. NOTICES**

Except as otherwise provided herein, all correspondence and notices to be given pursuant to this Agreement shall be addressed, if to the Grantee, to General Manager, The Water Works and Sewer Board of the City of Anniston, P.O. Box 2268, Anniston, Alabama 36202-2268, 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", "Transition Force 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 GRANTOR**

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 Transition Force Commander, or the officer of the United States having jurisdiction over the property, 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, collectively, "Applicable Laws".

#### **7. CONDITION OF PREMISES**

The Grantee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

#### **8. INSPECTION AND REPAIRS**

The Grantee shall at reasonable intervals inspect and make repairs to the Grantee's Facilities in keeping with good business practices or 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 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 therefore 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, hereinafter referred to as "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 said District Engineer, which approval shall not unreasonably be withheld, the Grantee shall neither transfer nor assign this Easement granted herein or any part thereof nor grant any interest, privilege or license whatsoever in connection with this 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 this 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 Grantee's 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 Grantee's 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 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 Grantor will use its best efforts to minimize operational disruptions to Grantee.

e. The Grantee shall provide to the Grantor 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 Grantor. As the Grantor'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 successors 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 Grantor 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 Grantor 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 and other subsequent studies, Grantee may contact the Fort McClellan, U.S. Army Transition Force Commander's 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 Grantee. Upon 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 Ordnance, 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 historical significance. 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 Wastewater Collection System that affect the integrity of the historic district require consultation with the SHPO. Historic districts are shown on the map at Exhibit 2, 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-TRANSFERABLE 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 Easements as shown on maps at Exhibit 2, 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 Transition Force Commander's 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 \_\_\_\_\_) will be required to receive an OE recognition and safety briefing. The briefings will be provided by qualified OE personnel.

e. As the Grantor's OE removal actions continue and sites are completed, this Easement restriction may be removed by the Grantor 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 2, 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, including habitat modification and destruction, harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) listed species of fish and wildlife without a special exemption.

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)**

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 Grantor. As a condition of its consent, the Grantor 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 Grantor 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 predicated 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) AND COVENANT**

PCB's have been used widely 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 PCB's and PCB containing equipment and that the Grantor 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. NOTICE OF THE PRESENCE OF ASBESTOS AND COVENANT**

a. The Grantee is hereby informed and does acknowledge that friable and non-friable asbestos or asbestos-containing materials (ACM) maybe present on the Premises. Available information concerning known friable asbestos, non-friable asbestos, or ACM is contained in the Environmental Baseline Survey, which has been provided to Grantee.

b. The Grantor has agreed to convey said buildings and structures to the Grantee prior to remediation of asbestos hazards, in reliance upon the Grantee's express representation and promise that the Grantee will, prior to use or occupancy of said facilities, agree to undertake any and all abatement or remediation that may be required under CERCLA 120(h)(3) or any other law or regulation. The Grantee acknowledges that the consideration for the conveyance of the property was negotiated based upon the Grantee's agreement to the provisions contained in this Subsection.

c. The Grantee covenants and agrees that its use and occupancy of the Premises will be in compliance with all applicable laws relating to asbestos and that the Grantor assumes no liability for any future remediation of asbestos or damages for personal injury, illness, 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 the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos or ACM on the Premises, whether the Grantee has properly warned or failed to properly warn the individual(s) injured. The Grantee agrees to be responsible for any future remediation of asbestos found to be necessary on the Premises. The Grantee assumes no liability for damages for personal injury, illness, disability, death or property damage arising from (i) any exposure or failure to comply with any legal requirements applicable to asbestos on any portion of the Premises arising prior to the Grantor's conveyance of such portion of the Premises to the Grantee pursuant to this Easement, or (ii) any disposal of any asbestos or ACM arising prior to the Grantor's conveyance of the Premises to the Grantee pursuant to this Easement.

d. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.



e. The Grantee acknowledges that it has inspected the Premises as to its asbestos content and condition and any hazardous or environmental conditions relating thereto. The Grantee shall be deemed to have relied solely on its own judgement in assessing the overall condition of all or any portion of the Premises, including, without limitation, any asbestos hazards or concerns.

f. No warranties, either express or implied, are given with regard to the condition of the Premises, including, without limitation, whether the property does or does not contain asbestos or is or is not safe for a particular purpose. The failure of the Grantee to inspect, or to be fully informed as to the condition of all or any portion of the property offered, will not constitute grounds for any claim or demand against the Grantor.

g. The Grantee further agrees to indemnify and hold harmless the Grantor, its officers, agents and employees from and against all suits, claims, demands or actions, liabilities, judgements, costs, and attorney's fees arising out of, or in any manner predicated upon, exposure to asbestos on any portion of the Premises after this conveyance of the Premises to the Grantee or any future remediation or abatement of asbestos or the need therefore. The Grantee's obligation hereunder shall apply whenever the Grantor incurs costs or liabilities for actions giving rise to liability under this section.

### **30. INTENT OF THE PARTIES**

It is the intent of the parties herein to convey Easements over all of the Wastewater Collection System owned by the Grantee on Fort McClellan. The parties believe and intend that the location of the lines and facilities depicted on Exhibit 1 includes all of the Wastewater Collection System. If any Easement was omitted the parties agree that such omission was inadvertent and such Easements, shall be treated as if it were expressly contained in this Easement.

### **31. 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.

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  
27 day of March, 2000.

WITNESS:

THE UNITED STATES OF AMERICA  
SECRETARY OF THE ARMY

BY: 

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

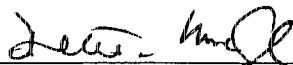
The State of Alabama

Mobile County

CAUTION

I, Donald L. Burchett 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 the 27<sup>th</sup> day of March, 2000.

  
Notary Public

MY COMMISSION EXPIRES JAN. 24, 2003

WITNESS:

WATER WORKS AND SEWER BOARD  
OF THE CITY OF ANNISTON

BY: 

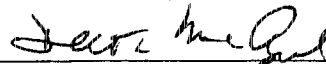
The State of Alabama

County of Jefferson

CAUTION

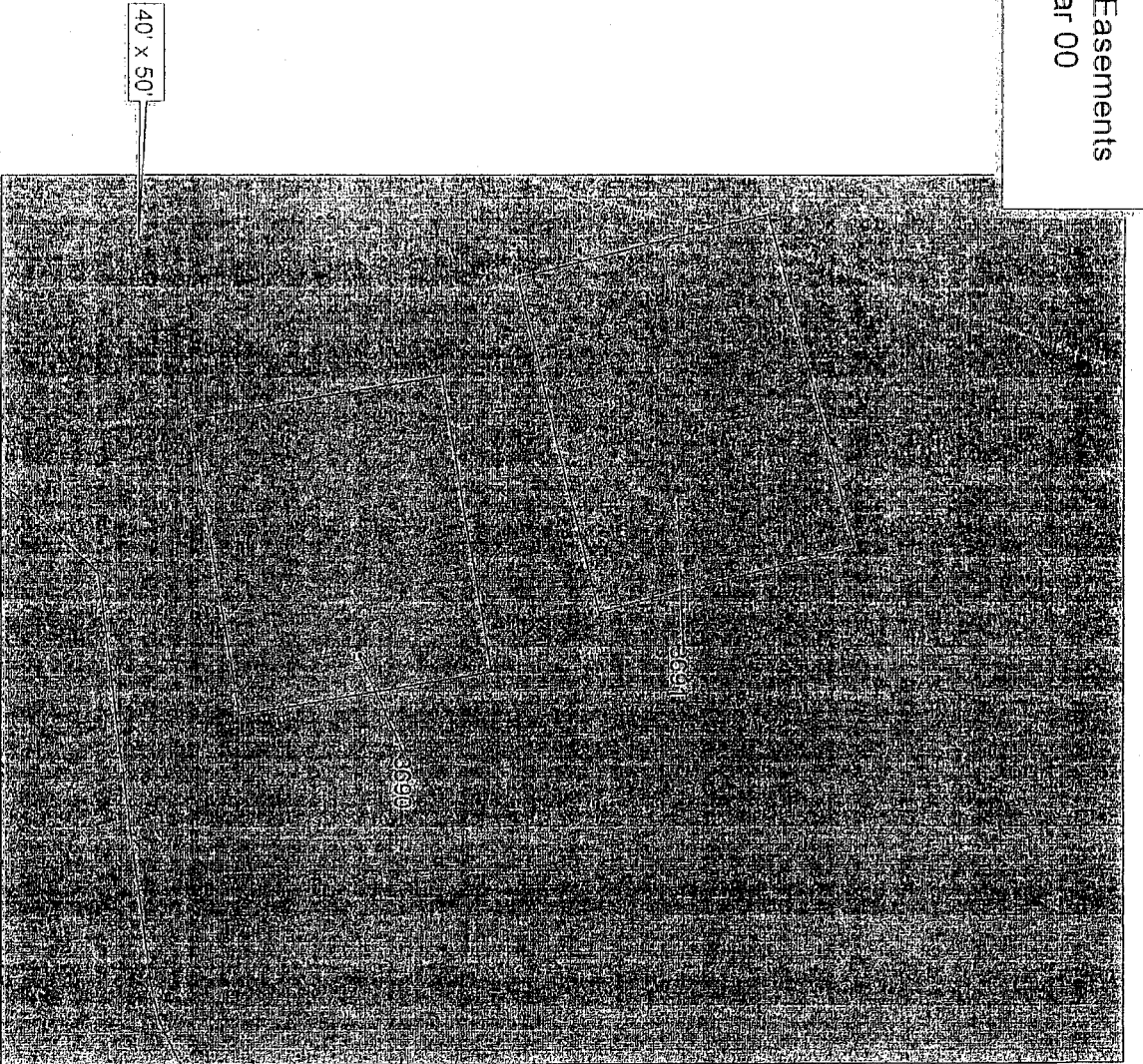
I, Donald L. Burchett a Notary Public, in and for said County in said State, hereby certify that JAMES D. MILLER, whose name as General Manager of the Water Works and Sewer Board of the City of Anniston, a corporation, is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 27<sup>th</sup> day of March, 2000.

  
Notary Public

MY COMMISSION EXPIRES JAN. 24, 2003

Water-Distribution-Easements  
As of : 21 Mar 00



40' x 50'



Legend

Streams



Buildings



Road



Fence



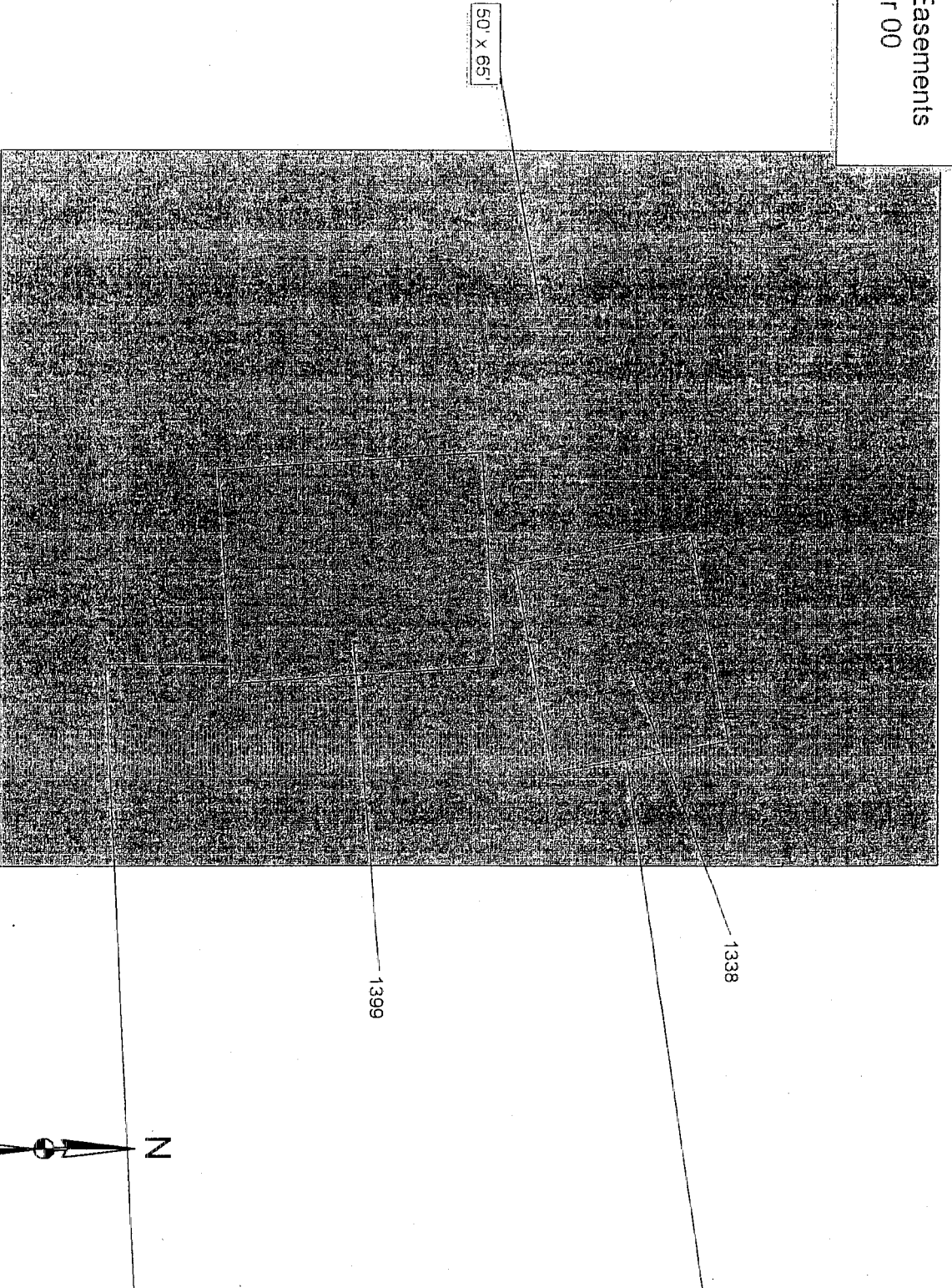
Railroad



Water Disp Easements



*Survey*  
-Water-Distribution Easements  
As of : 21 Mar 00



0 5 10 15 20 25 Feet

**Legend**

Streams



Buildings



Road



Fence



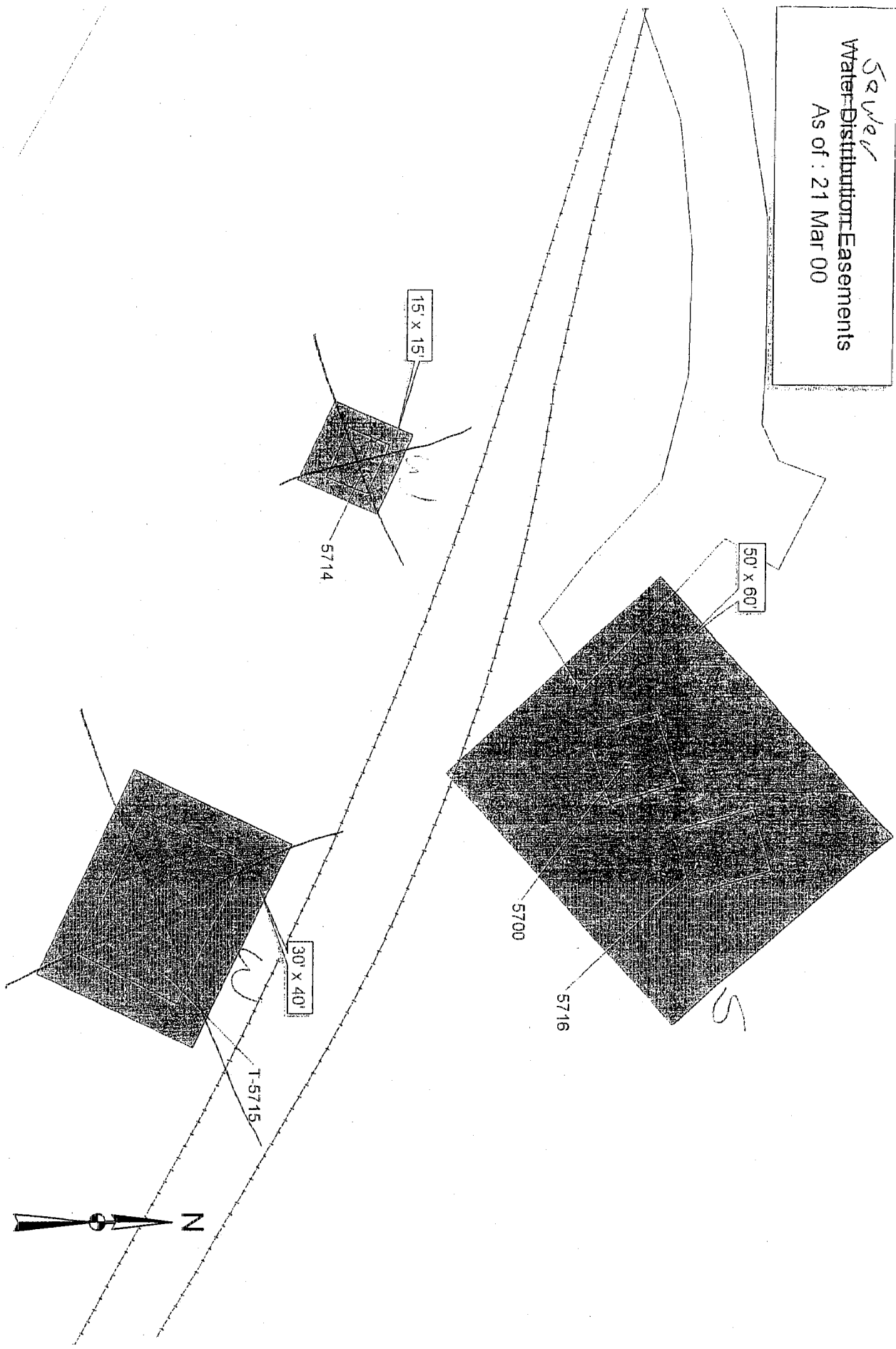
Railroad



Water Disp Easements

*Drawing 21*

*Sevel*  
**Water Distribution Easements**  
 As of : 21 Mar 00

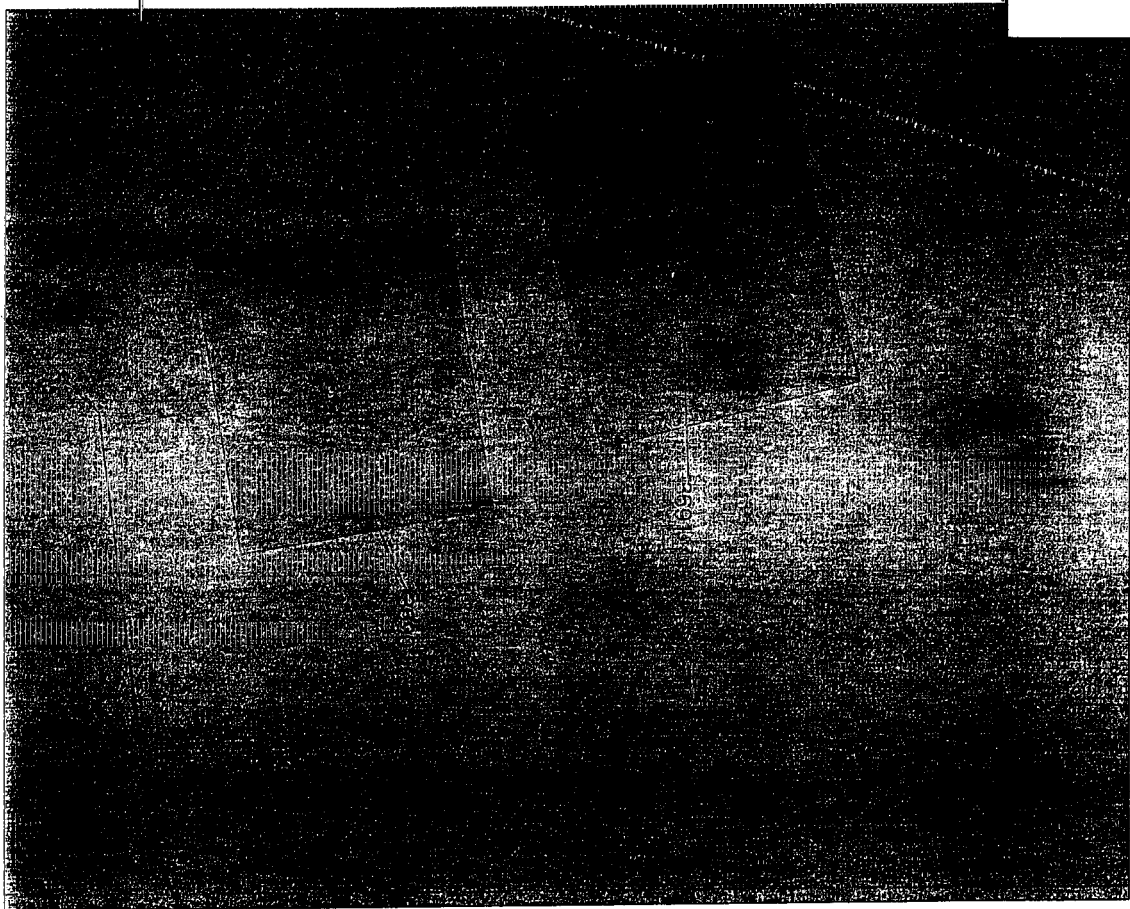


**Legend**

- Streams
- Buildings
- Road
- Fence
- Railroad
- Water Disp Easements

*Drawing 03*

SEALAGE LOT SHARSA  
 Water Distribution Easements  
 As of : 21 Mar 00



Legend

Streams

Buildings

Road

Fence

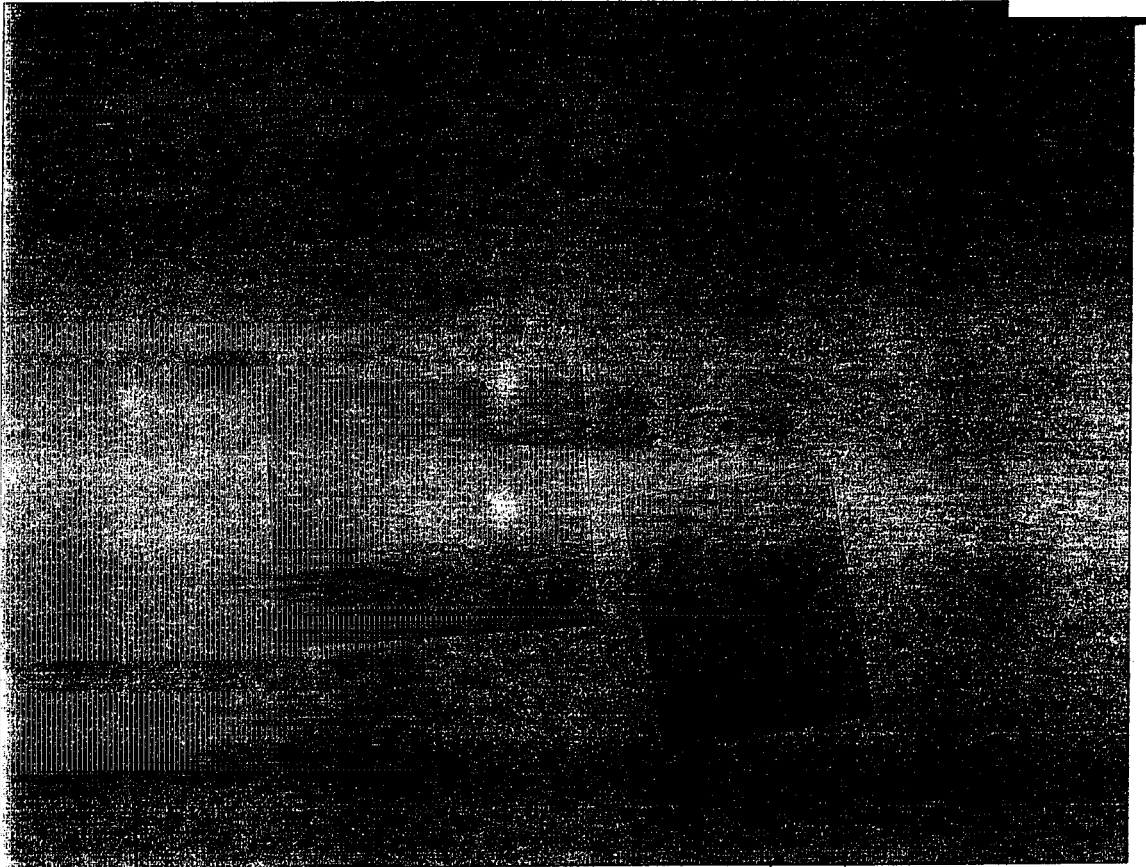
Railroad

Water Disp Easements



SEWAGE LIFT STATION  
Water Distribution Easements  
As of : 21 Mar 00

50' x 65'



1338

1399

S

S



0 5 10 15 20 25 Feet

Legend

Streams



Buildings



Road



Fence



Railroad

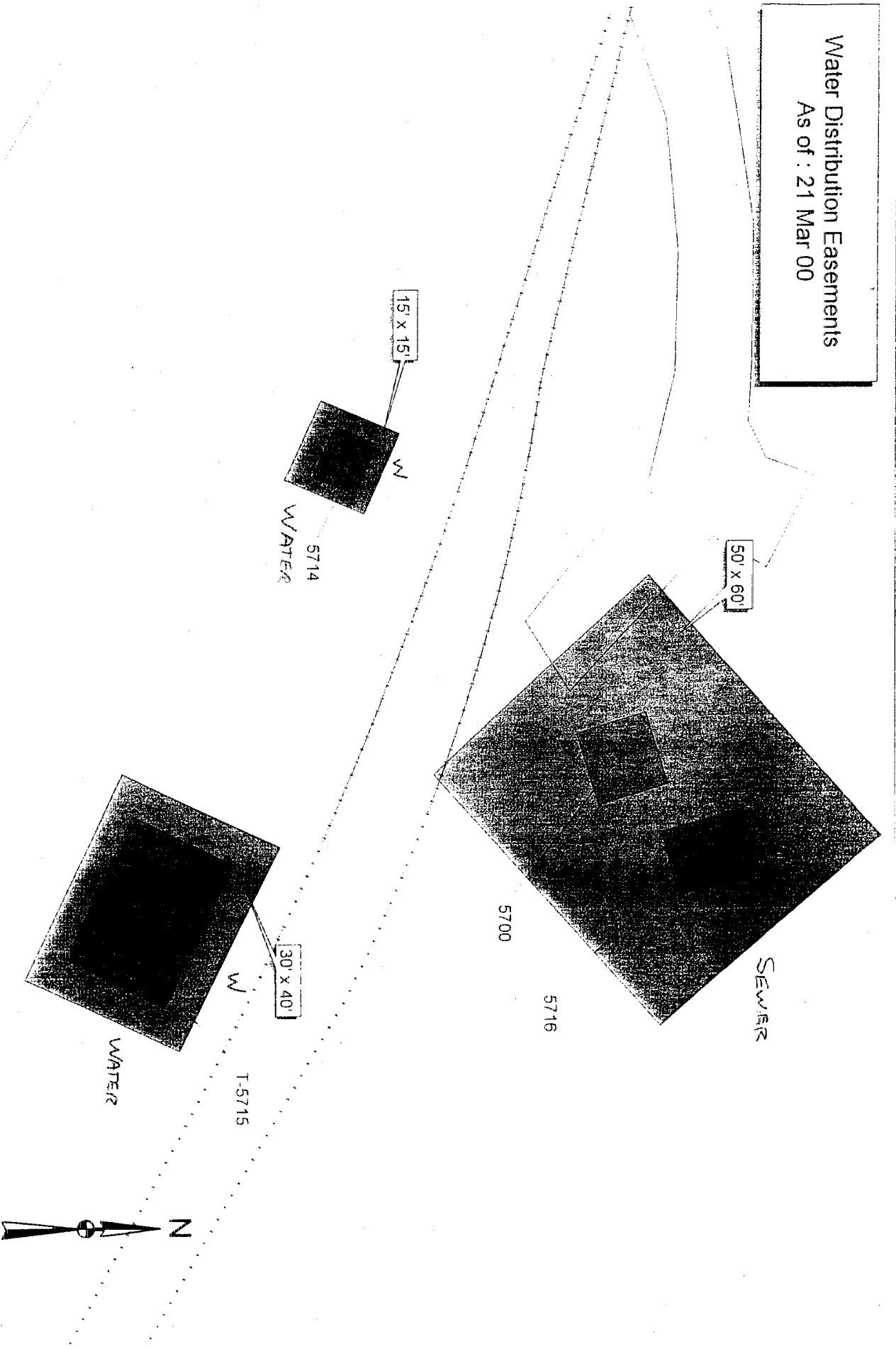


Water Disp Easements



D-7

Water Distribution Easements  
As of : 21 Mar 00



0 10 20 30 40 50 60 70 80 Feet

Legend

Streams

Buildings

Road

Fence

Railroad

Water Disp Easements

D-8



# REQUEST FOR APPROVAL OF DISPOSAL OF BUILDINGS AND IMPROVEMENTS

For use of this form, see AR 405-90; the proponent agency is USACE

DATE

28 May 1999

NAME OF INSTALLATION

LOCATION

ACCOUNTABLE OFFICER

Fort McClellan, AL

Calhoun County

Rose R. Prater, Realty Specialist

POST NO.	DESIGNATION AND DESCRIPTION <i>(Include information on installed property to be removed prior to disposal)</i>	TYPE OF CONSTRUCTION*	ORIGINAL COST AND YEAR BUILT <i>(Estimate if not known)</i>
	<b><u>WATER DISTRIBUTION</u></b>		
01102	WATER (Water Dist Pot), category code 84210, 513,841 LF (includes mains and laterals)	Permanent	5,593,400.00 1965
01102 /	Building 04486, Wtr Sup/Trt Bldg, 144 SF, category code 89141 • Facility 04486, Pump Sta Pot, category code 84141	Permanent Permanent	63,000.00 1985
01102 /	Facility R6519, Pump Sta Pot, category code 84141	Permanent	4,700.00 1986
01102 /	Building 03798, Wtr Sup/Trt Bldg, category code 89141, 462 SF	Permanent	22,000.00 1961
01102 /	Building 05715, Wtr Sup/Trt Bldg, category code 89141, 364 SF	Temporary	4,400.00 1953
TOTAL COST			5,687,500.00

Continue on additional sheets, if necessary.

\* P - Permanent; S - Semi-permanent; T - Temporary (See AR 420-70).

Encl 3 to Section B

REQUEST FOR APPROVAL OF DISPOSAL OF BUILDINGS AND IMPROVEMENTS		DATE	
For use of this form, see AR 425-02; the proponent agency is USACE		28 May 1999	
NAME OF INSTALLATION		LOCATION	
Fort McClellan, AL		Calhoun County	
		ACCOUNTABLE OFFICER	
		Rose R. Prater, Realty Specialist	
POST NO.	CONSTRUCTION AND DESCRIPTION <small>(Include information on installed property to be removed prior to disposal)</small>	TYPE OF CONSTRUCTION*	ORIGINAL COST AND YEAR <small>ONLY (Estimate if not known)</small>
01102	Building 04451, Wtr Sup/Trt Bldg, category code 89141, 24 SF	Permanent	1,500.00 1959
01102	Facility 00744, Water Storage Tank Pot, 1,500,000 gallons category code 84610	Permanent	22,000.00 1942
01102	Facility 00746, Reservoir Pot, 200,000 gallons (abandoned) category code 84620	Permanent	16,900.00 1938
01102	Facility 03199, Reservoir Pot, 1,000,000 gallons (abandoned) category code 84620	Permanent	55,300.00 1942
01102	Facility 04449, Water Storage Tank Pot, 5,000 gallons, category code 84610	Permanent	10,000.00 1959
01102	Building 05714, Eng/Housing Mint (water meter house), category code 21910, 60 SF	Permanent	100.00 1936
<b><u>SEWER DISTRIBUTION</u></b>			
01102	SEWER, Sanitary Sewer, 338,579 LF, category code 85210	Permanent	1,794,100.00 1965
01102	Building 01399, Sewage/Wst Trt, 425 SF, category code 89131	Permanent	4,200.00 1941
01102	Building 03690, Sewage/Wst Trt, 218 SF, category code 89131 Facility 03690, Sewage Lift Station, category code 83150	Permanent Permanent	16,300.00 1959
01102	Building 03691, Sewage/Wst Trt, 131 SF, category code 89131 Facility 03691, Sewage Lift Station, category code 83150	Permanent Permanent	28,600.00 1977
01102	Building 05700, Sewage/Wst Trt, 169 SF, category code 89131 Facility 05700, Sewage Lift Station, category code 83150	Permanent Permanent	9,000.00 1953
01102	Building 05716, Sewage/Wst Trt, 131 SF, category code 89131 Facility 05716, Sewage Lift Station, category code 83150	Permanent Permanent	30,500.00 1977
01102	Building 01338, Sewage/Wst Trt, 131 SF, category code 89131	Permanent	29,800.00 1977
			2,018,300.00
			ST

Continue on additional sheets, if necessary.

\* P - Permanent; S - Semi-permanent; T - Temporary (See AR 425-02)

DA FORM 337, MAY 59

1338G

3691G

5700G

not on 337

10847011.00

Encl 3 to Section 13

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

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

Fort McClellan is scheduled for closure on 30 Sep 1999. Preparation of this DA Form 337 is required to begin process of disposal of water and sewer distribution systems.

Report of Excess was prepared 19 July 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 not anticipated to be available for final disposal until 1 October 1999.

None of these facilities are considered historically significant.

The estimated total sale value of the property



is



is not

in excess of \$50,000.

SIGNATURE OF ESTIMATOR

ROSE R. PRATER, REALTY SPECIALIST

TYPE NAME, GRADE, AND ORGANIZATION OF FINAL APPROVING AUTHORITY

PAUL N. DUNN, COL, GS, TRADOC ENGINEER

SIGNATURE

*Paul N. Dunn*

3 Dec 99

FINAL DISPOSITION OF PROPERTY