

2010

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DA

This Instrument Prepared by:
Nancy F. McClellan, Bland, Harris & McClellan, P.C.
401 2nd Avenue, SW, Cullman, AL 35055

STATE OF ALABAMA

SCRIVENER'S AFFIDAVIT

CULLMAN COUNTY

Before me, the undersigned authority, personally appeared Nancy F. McClellan, whose name is signed to this Affidavit and who is known to me and who, being by me first duly sworn, does depose and state as follows:

My name is Nancy F. McClellan and I am a practicing attorney in the City and County of Cullman, State of Alabama. I have personal knowledge of all facts set forth herein.

On or about September 29, 2008, I prepared, or had prepared under my supervision, a Statutory Warranty Deed executed by AL LAND PARTNERS, LLC, to Misty Shores Homeowners Association. In typing the description an error was committed in that Lot 26A was included in the property conveyed by said deed, which property was described as follows:

TRACT I:

Lots 1, 26, 26A, and 27 of Misty Shores Subdivision as recorded in Book 2004, Page 10 and 11 in the Office of the Judge of Probate, Cullman County, Alabama. Subject to the Restrictive Covenants of Misty Shores Subdivision as recorded in Misc. Book 219, Page 647, in the Office of the Judge of Probate, Cullman County, Alabama. Also, subject to easement to Alabama Power Company for water storage rights up to the 510' water level of Smith Lake, and for overflow rights up to the 522' water level as recorded in the Probate Office of Cullman County, Alabama, including the exclusive jurisdiction to regulate the permitting of any dock located or sought to be located on the subject property.

Also, a right of way easement being a part of Lots 1 and 2 of Misty Shores Subdivision as recorded in the Office of the Judge of Probate, Cullman County, Alabama and a part of the Northwest quarter of the Southwest quarter of Section 2, Township 12 South, Range 4 West, Cullman County, Alabama and being more particularly described as follows:

Commence at a found concrete monument marking the northeast corner of the northeast quarter of the southeast quarter of said Section 3 and run North 27° 55' 57" West, a distance of 52.28 feet to the northeast corner of Lot 1 and the westerly most corner of Lot 2 of said Misty Shores Subdivision, same being on the south right-of-way line of County Road No. 113 and the point of beginning, being in a curve to the right having a central angle of 05° 45' 11", a radius of 250.00 feet and a chord bearing of South 66° 59' 17" West; thence run along the arc of said curve an arc distance of 25.10 feet; thence South 27° 55' 57" East, a distance of 169.00 feet to the point of curvature of a curve to the right having a central angle of 48° 50' 08", a radius of 200.00 feet and a chord bearing of South 03° 30' 52" East; thence run along the arc of said curve an arc distance of 170.47 feet to the point of tangency; thence South 20° 54' 12" West, a distance of 91.38 feet to a point on the north right-of-way line of County Road No. 109; thence South 44° 28' 51" East, and run along said right-of-way line, a distance of 20.17 feet to a point; thence South 41° 01' 52" East and continue along said right-of-way line, a distance of 35.88 feet to a point; thence North 20° 54' 12" East, departing said right-of-way line, a distance of 116.66 feet to the point of curvature of a curve to the left having a central angle of 48° 50' 08", a radius of 250.00 feet and a chord bearing of North 03° 30' 52" West; thence run along the arc of said curve an arc distance of 213.09 feet to the point of tangency; thence North 27° 55' 57" West, a distance of 167.21 feet to a point on the south right-of-way line of County Road No. 113 and being in a curve to the right having a central angle of 05° 43' 57", a radius of 250.00 feet and a chord bearing of South 61° 14' 43" West; thence run along the arc of said curve an arc distance of 25.01 feet to the point of beginning.

It is agreed and understood that the Grantee shall have the right to use the easement granted and conveyed hereby for roadway purposes, for utility lines and unlimited and full access, and for ingress and egress purposes. This easement shall constitute a covenant running with the land and shall inure to the benefit of the Grantee, its successors and assigns, as well as the tenants, servants, visitors, licensees, invitees and guests of the Grantee, its successors and assigns.

TRACT II:

27-01-02-

A tract or parcel of land containing 1.3 acres of land, more or less and being a part of the NW ¼ of the SW ¼ of Section 2, Township 12 South, Range 4 West, Cullman County, Alabama and being more particularly described as follows: Begin at a found concrete monument marking the NW corner of said quarter-quarter and run thence South 89 degrees 18 minutes 53 seconds East, and run along the accepted North line, a distance of 238.49 feet to a set rebar; thence South 24 degrees 01 minutes 54 seconds West, a distance of 450.88 feet to a set rebar on the North right-of-way line of County Road No. 109; thence North 41 degrees 33 minutes 15 seconds West, and run along said right-of-way line, a distance of 48.75 feet to the point of curvature of a curve

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LEAH PATTERSON LUST, Probate Judge, Cullman

Recording Fee 9.50, TOTAL 9.50

to the left having a central angle of 02 degrees 55 minutes 24 seconds, a radius of 630.00 feet and a chord bearing of North 43 degrees 00 minutes 57 seconds West; thence run along the arc of said curve an arc distance of 32.14 feet to a set rebar on the accepted West line of said quarter-quarter; thence North 00 degrees 05 minutes 48 seconds West, departing said right-of-way line, a distance of 354.67 feet to the point of beginning. Subject to any rights-of-way and/or easements of record.

Subject to easement to Alabama Power Company for water storage rights up to the 510' water level of Smith Lake, and for overflow rights up to the 522' water level as recorded in the Probate Office of Cullman County, Alabama, including the exclusive jurisdiction to regulate the permitting of any dock located or sought to be located on the subject property.

Also subject to:

1. Ad valorem taxes which are not due until October 1, 2008.
2. All easements and rights of way of record.
3. Subject to those certain Restrictive Covenants as recorded in Miscellaneous Book 219, Page 647.
4. Mineral and mining rights not owned by grantor it being the intention of the grantor herein to convey only such mineral and mining rights as it might own without Warranty.
5. All that part of the NE ¼ of the SE ¼ of Section 3, Township 12, Range 4 West which may be subject to Timber Lease to Hiwassee Land Company, recorded in Deed Book 252, Page 111, and the amendment thereto, recorded in Miscellaneous Book 46, Page 545.

When, in fact, the property conveyed by said deed should have been described as follows:

TRACT I:

Lots 1, 26 and 27 of Misty Shores Subdivision as recorded in Book 2004, Page 10 and 11 in the Office of the Judge of Probate, Cullman County, Alabama. Subject to the Restrictive Covenants of Misty Shores Subdivision as recorded in Misc. Book 219, Page 647, in the Office of the Judge of Probate, Cullman County, Alabama. Also, subject to easement to Alabama Power Company for water storage rights up to the 510' water level of Smith Lake, and for overflow rights up to the 522' water level as recorded in the Probate Office of Cullman County, Alabama, including the exclusive jurisdiction to regulate the permitting of any dock located or sought to be located on the subject property.

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run thence South 89 degrees 18 minutes 53 seconds East, and run along the accepted North line, a distance of 238.49 feet to a set rebar; thence South 24 degrees 01 minutes 54 seconds West, a distance of 450.88 feet to a set rebar on the North right-of-way line of County Road No. 109; thence North 41 degrees 33 minutes 15 seconds West, and run along said right-of-way line, a distance of 48.75 feet to the point of curvature of a curve to the left having a central angle of 02 degrees 55 minutes 24 seconds, a radius of 630.00 feet and a chord bearing of North 43 degrees 00 minutes 57 seconds West; thence run along the arc of said curve an arc distance of 32.14 feet to a set rebar on the accepted West line of said quarter-quarter; thence North 00 degrees 05 minutes 48 seconds West, departing said right-of-way line, a distance of 354.67 feet to the point of beginning. Subject to any rights-of-way and/or easements of record.

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5. All that part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 3, Township 12, Range 4 West which may be subject to Timber Lease to Hiwassee Land Company, recorded in Deed Book 252, Page 111, and the amendment thereto, recorded in Miscellaneous Book 46, Page 545.

This affidavit is given to verify that the foregoing is the correct legal description for the property that should have been conveyed by the Statutory Warranty Deed executed by AL LAND PARTNERS, LLC, to MISTY SHORES HOMEOWNERS ASSOCIATION, which is recorded in Deed Book 582, Page 565.




 NANCY F. MCCLELLAN

STATE OF ALABAMA
 COUNTY OF CULLMAN

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that NANCY F. MCCLELLAN, whose name 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, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 8th day of October, 2008.





 Notary Public
 My Commission Expires: 2/14/10