

**BRUCE MARSH EASEMENT**

**CONTRACT NO. DACW38-2-12-2**

**DEPARTMENT OF THE ARMY**

**EASEMENT FOR VARIOUS RIGHTS OF WAY**

**LOCATED ON**

**LAKE OUACHITA**

**MONTGOMERY COUNTY, ARKANSAS**

**THE SECRETARY OF THE ARMY** under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement will not be against the public interest, hereby grants to **Bruce Marsh**, hereinafter referred to as the grantee, an easement for the allowance of a driveway, containing 0.1 acre, more or less, hereinafter referred to as the facilities, over, across, in, and upon the lands of the United States as identified in red on **Exhibit "A"**, attached hereto and made a part hereof, hereinafter referred to as the premises.

**THIS EASEMENT** is granted subject to the following conditions:

**1. TERM**

This easement is hereby granted for a term of twenty-five (25) years, beginning 15 February 2012 and ending 14 February 2037.

**2. CONSIDERATION**

The grantee shall pay in advance to the United States the amount of seven hundred and fifty dollars (\$750.00) in full for the term hereof, payable in advance to the order of **"FAO, USAED"** and delivered to **USAED, Vicksburg, Attention: CEMVK-RE-M, 4155 Clay Street, Vicksburg, Mississippi 39183-3435**.

**3. NOTICES**

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to **Bruce Marsh, 32 Mathews Hill, Story, Arkansas 71970**, and if to the United States, to the **District Engineer, Attention: Chief, Real Estate Division, 4155 Clay Street, Vicksburg, Mississippi 39183-3435**, 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", "Installation 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 DISTRICT ENGINEER**

The construction, operation, maintenance, repair or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the District Engineer, Vicksburg District, hereinafter referred to as said officer. Upon the completion of any of the above activities, the Grantee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to such 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, ordinances and regulations wherein the premises are located.

**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 inspect the facilities at reasonable intervals and immediately repair any defects found by such

inspection or when required by said officer to repair any such defects.

**9. PROTECTION OF GOVERNMENT PROPERTY**

The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this easement, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all causes. Any property of the United States 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 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 satisfactory to said officer.

**10. RIGHT TO ENTER**

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the grantee, to flood the premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

**11. RIGHT TO CONNECT**

The United States reserves the right to make such connections between the road or street herein authorized and roads and streets on other government lands as said officer may from time consider necessary, and also reserves to itself rights-of-way for all purposes across, over or under the right-of-way hereby granted; provided that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the grantee of the right-of-way herein granted.

**12. REPRESENTATIVES, SUCCESSORS AND ASSIGNS**

a. The conditions of this instrument shall extend to and be binding upon and shall inure to the benefit of the representatives, successors and assigns of the Grantee.

b. Prior to the transfer or assignment of subject easement; written notification must be provided to: **USACE, ATTN: Real Estate Division, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.**

**13. OTHER AGENCY AGREEMENTS**

It is understood that the provisions of the conditions on **SUPERVISION BY THE DISTRICT ENGINEER** and **RIGHT TO ENTER** above shall not abrogate or interfere with any agreements or commitments made or entered into between the grantee and any other agency of the United States with regard to financial aid to the grantee in connection with the construction, maintenance, or repair of the facilities herein authorized.

**14. TERMINATION**

This easement may be terminated by the Secretary upon 30 days written notice to the grantee if the Secretary shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

**15. SOIL AND WATER CONSERVATION**

The grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or 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. 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.



**16. ENVIRONMENTAL PROTECTION**

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground and water. The grantee shall 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 disposal of any toxic or hazardous materials within the premises is specifically 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.

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

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.

**17. ENVIRONMENTAL BASELINE STUDY**

An Environmental Baseline Study (EBS), documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as Exhibit "B". Upon 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 studies will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the grantee in accordance with the condition on **RESTORATION**.

**18. HISTORIC PRESERVATION**

The grantee shall not remove or disturb, or cause or 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 said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

**19. 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.

**20. RESTORATION**

On or before the termination or revocation of this easement, the grantee shall, without expense to the United States and within such time as said officer may indicate, restore the premises to the satisfaction of said officer. In the event the grantee shall fail to restore the premises, at the option of said officer, said improvements shall either become the property of the United States without compensation therefore, or said officer shall have the option to perform the restoration at the expense of the grantee, and the grantee shall have no claim for damages against the United States or its officers or agents for such action.

**21. DISCLAIMER**

This instrument is effective only insofar as the rights of the United States in the premises 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 this easement does not eliminate the necessity for 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, interstate or local laws in connection with the use of the premises.


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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 24<sup>th</sup> day of February, 2012.

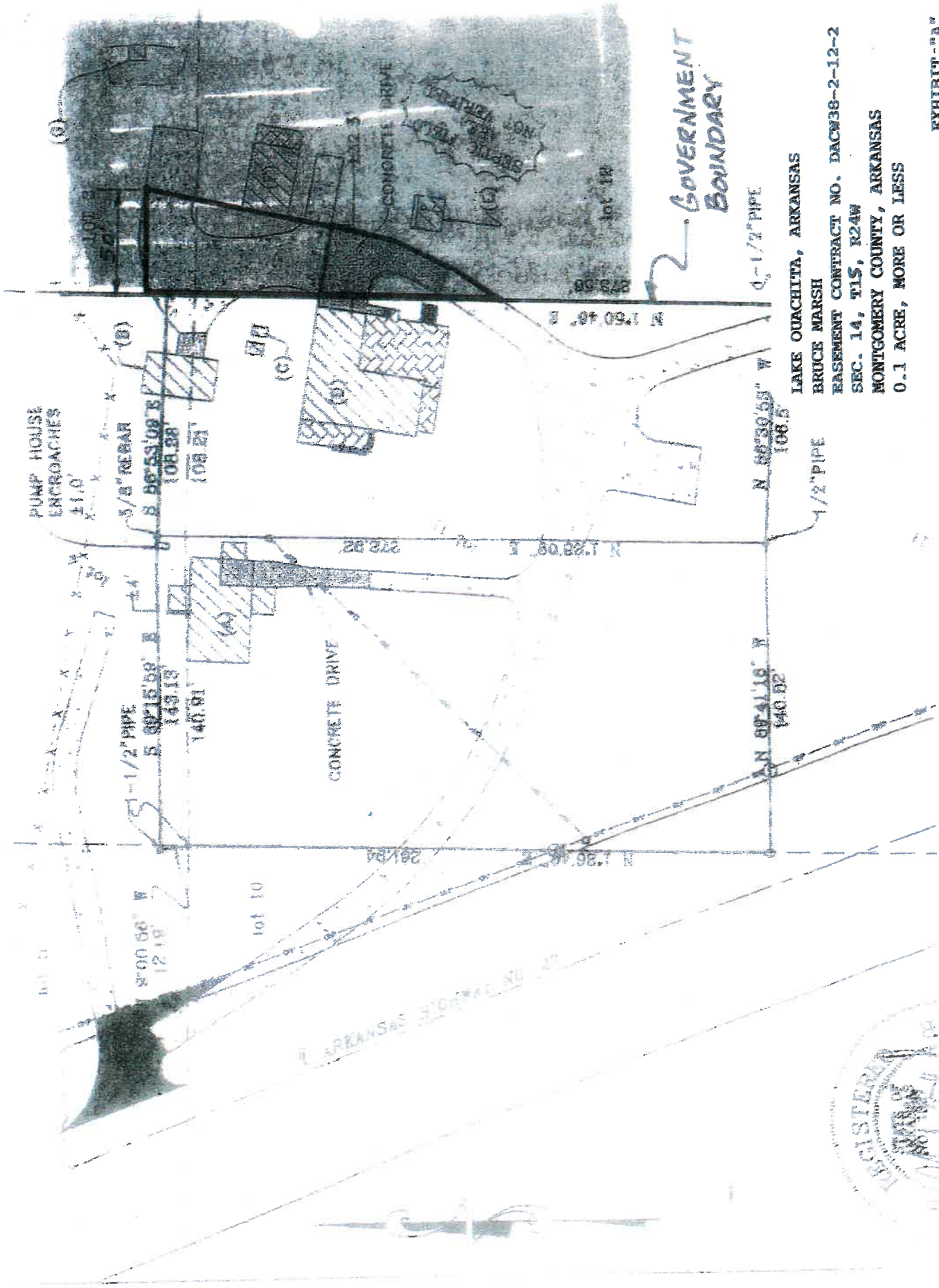
SECRETARY OF THE ARMY

  
ROBERT S. WOOD  
Chief, Real Estate Division

THIS EASEMENT is also executed by the grantee this 15<sup>th</sup> day of February, 2012.

GRANTEE

  
BRUCE MARSH



GOVERNMENT  
BOUNDARY

LAKE OUACHITA, ARKANSAS  
 BRUCE MARSH  
 EASEMENT CONTRACT NO. DACW38-2-12-2  
 SEC. 14, T15, R24W  
 MONTGOMERY COUNTY, ARKANSAS  
 0.1 ACRE, MORE OR LESS

EXHIBIT "A"





BRUCE MARSH EASEMENT

CONTRACT NO. DACW38-2-12-2

ENVIRONMENTAL BASELINE STUDY

**Action:** A 25-year easement to Bruce Marsh to operate and maintain an existing concrete driveway across Government property at Lake Ouachita, Arkansas. The concrete driveway is located in Section 14, Township 1 South, Range 24 West in Montgomery County, Arkansas containing 0.02 acre, more or less.

**Project Title:** Lake Ouachita, Arkansas

**Anticipated Date of the Proposed Action:** FY12

The U.S. Army Corps of Engineers, Vicksburg District, has determined, in accordance with regulations issued by the Environmental Protection Agency at 40 CFR 373, that there is no evidence to indicate that hazardous substance activity took place on the property during the time the property has been owned by the United States.

  
Robert S. Wood  
Chief, Real Estate Division

  
Date

EXHIBIT "B"