

#4(N.)

COPY

SAND, CLAY, AND GRAVEL LEASE

VOL. 54 PAGE 953

THIS SAND, CLAY, AND GRAVEL LEASE (this "Agreement"), is made effective June 1, 2008 (the "Effective Date"), between RMS TEXAS TIMBERLANDS I LP, whose Federal Tax ID Number is 83-0465482 and whose business address is P.O. Box 359, Livingston, Texas 77351 ("Grantor"), and POLK COUNTY PCT. 4, whose business address is Polk County PCT. 4, c/o County Judge, 101 West Church Street, Suite 300, Livingston, Texas 77351 (the "Operator").

WITNESSETH:

That Grantor, in consideration of the premises and the covenants herein-below described, and other good and valuable consideration the receipt and adequacy of which is hereby acknowledged does hereby let, lease and demise unto the Operator for the sole purpose of mining, loading, and otherwise handling sand, gravel, clay and other similar materials, from an existing pit containing five acres, more or less, the approximate location of which is shown marked on the Exhibit "A" attached hereto and made a part hereof, being situated in Polk County, Texas (the "Leased Premises"). As used in this Agreement the term "sand, gravel, clay and other similar materials" shall mean the sand/soil material, excluding the topsoil overburden, occurring on the Leased Premises that is suitable for use as road surface and base fill material on county roads. (the "Products").

1. Term of the Agreement. Subject to the provisions herein, the "Term" of this Agreement shall be for one year from the Effective Date.
2. Royalty Payments. Operator agrees to pay to Grantor as a "Royalty" an amount equal to \$1.50 per cubic yard for the first 5,000 cubic yards of Products removed from the Leased Premises. Operator shall pay Grantor \$5.00 per cubic yard for the amount of Products over 5,000 cubic yards removed from the Leased Premises under the terms of this Agreement. All Royalty shall be paid on the basis of monthly settlements, supported by detailed daily records, which shall be maintained by Operator and sent to Grantor with each settlement. Grantor shall receive all such rental payments no later than the 10th day of the following calendar month at the address specified below.
3. Determination of Quantity of Products Mined. Operator agrees to use reasonable, proper and accurate methods, for determining the quantity of Products transported from the Leased Premises by Operator. Operator shall also comply with all further reasonable rules and regulations that Grantor may prescribe from time to time for the calculation and payment of Royalty.
4. Preservation of Records. Operator shall keep and preserve for not less than one year past the termination of this Agreement accurate books of account ("Records"), showing the quantity of Products mined and removed by Operator from the Leased Premises.
5. Access to the Records and the Right to Obtain Information from Transporters. Grantor and its agents shall have access at all reasonable business hours to the Records of Operator to conduct an audit. Operator hereby grants to Grantor, or its agents, the right to obtain from any railroad, towing, trucking or other common carrier (collectively "Transporter") on which Products mined under this Agreement shall be shipped, information as to the quantity of Products mined under this Agreement and shipped through the Transporter at the time, or times, as Grantor may desire the information, and this provision shall constitute full authority without any further express authority to the Transporter to give the information to Grantor, its agents, or assigns.
6. Lien on property of Operator. All Royalty or other payments required to be made in this Agreement shall be and always remain and constitute, until paid to Grantor, a lien upon all property of Operator which shall be brought upon the Leased Premises, and upon the leasehold estate hereby created, but only insofar as such a lien is granted to landlords by the law of the State of Texas.
7. Grantor's Right to Remove Products From the Leased Premises. Grantor reserves the right to remove Products for its own use from the Leased Premises during the Term of this Agreement and the parties

hereto agree to mutually cooperate each with the other should their operations be conducted simultaneously.

8. Limitation of Rights Granted. The rights and privileges granted by this Agreement are limited to the rights and privileges Grantor possesses and has lawful right to grant, and this Agreement shall not be construed as granting or attempting to grant to Operator any rights and privileges other or more than those that are vested in Grantor. Nothing contained herein shall otherwise affect or impair Grantor's rights as owner of the Leased Premises and any property of Grantor's adjacent thereto. No act shall be committed either by Operator or the agents, representatives, contractors or assigns of Operator, that may be detrimental or hazardous to Grantor's use of its property.
9. No Representations. Grantor disclaims all representations and warranties, whether express, implied, or statutory, concerning the Leased Premises. Operator acknowledges and agrees that the Leased Premises are accepted in an "as is" and "where is" condition with all faults. Operator acknowledges that: it is accepting this Agreement based on Operator's own investigation of the Leased Premises, including its subsurface rights and conditions; that Grantor, its agents, consultants, employees, and other persons acting for Grantor have not made any representations or warranties of any kind about any matter relating to the condition, value, fitness, or use of the Leased Premises for the intended purpose; and that it has not relied, directly or indirectly, upon any such representations or warranties.
10. Third Party Rights. Nothing herein shall be construed as a conveyance of any part of the ownership of the Leased Premises or the mineral rights underlying the Leased Premises or the hunting, fishing or other recreational rights thereon. The rights granted in this Agreement are subject to all liens, rights of way, oil, gas and mineral leases, timber deeds, hunting leases and other grants or rights of any kind or nature whatsoever affecting the Leased Premises. Operator covenants with Grantor that in Operator's operations under this Agreement it will not knowingly violate any of the terms, provisions and conditions of any such agreements under which Grantor owns the Leased Premises and will not knowingly violate the rights of any third persons not parties to this Agreement, whether those rights are documented or apparent from an examination of the Leased Premises.
11. Exceptions and Reservations. Grantor excepts and reserves all water, forest products, and other substances not specifically conveyed under this Agreement for all purposes together with full and free rights of ingress and egress as may be necessary or convenient in the proper development thereof or of other lands.
12. Reservation of Rights of Use. Grantor expressly reserves the right of use of the Leased Premises for purposes which are not inconsistent with the privileges granted herein.
13. Due Regard for Grantor's Interest. Operator shall always act in good faith, competently, and with due regard for Grantor's interest while pursuing its own. Operator shall conduct itself as would other members of the industry (national standard) in similar circumstances and make decisions with due regard to the interests of Grantor and the long term business relationship between Grantor and Operator, as well as Operator's own interest. Operator shall employ modern techniques and equipment that is properly maintained according to national standards in the exercise of the rights granted it under this Agreement.
14. Grantor's Inspection of the Mine. Grantor, shall have the right after reasonable notice to Operator to enter Operator's mines on the Leased Premises and the mines of Operator on other lands operated in conjunction with the Leased Premises from time to time in order to inspect, examine, survey or measure the mining operations of Operator, or any part thereof, as well as mined out areas. Grantor shall be able to freely use the means of access to the mining operations of Operator without hindrance or molestation by Operator and without being required by Operator to sign or execute any release, indemnity or similar document.

15. Abstracts of Title and Title Opinions. If Operator obtains or has in its possession any title opinions or abstracts of title that bear on all or any part of the Leased Premises (the "Documents"), Operator, as additional consideration for Grantor granting this Agreement, shall deliver to Grantor a copy of the Documents. The Documents shall be delivered to Grantor within 30 days of the Effective Date hereof or within 30 days from the date the Documents first become available to Operator (whichever date is earlier).
16. Operator's Release of Claim Against Grantor. As used in this paragraph the term "Grantor" shall include, collectively and individually, Resource Management Service, LLC, RMS Texas Timberlands I LP, and their respective officers, directors, shareholders, members, managers, partners, representatives, employees, lien holders, agents, consultants and successors and assigns. It is understood and agreed by and between Grantor and Operator that as a further consideration for Grantor executing this Agreement Operator does hereby release and discharge Grantor, from all liability, claim or demand which Operator may have or claim to have, now or hereafter, against Grantor by reason of any damage to any property of whatever kind or nature which may be now or hereinafter placed in, on, or about the Leased Premises resulting from, arising out of, or in any manner associated with: any operation of Grantor in the management of its properties; any actions of Grantor's existing or future lessees, including its hunting club lessees; or the actions of any other party not a party to this Agreement. All such property of whatever kind or nature which may be now or hereinafter placed in, on, or about the Leased Premises shall be at the sole risk of Operator, and Grantor shall not be liable to Operator for any damage or loss to: such property or for any injury taking place on the Leased Premises. Notwithstanding anything herein to the contrary the provisions of this paragraph shall survive the expiration or earlier termination of this Agreement.
17. Operator's Use of the Surface of the Leased Premises or Adjacent Lands. Operator shall have the right to use so much of the surface of the Leased Premises as is reasonably necessary for the operations permitted under this Agreement subject to the following terms and conditions:
  - 17.1. Grantor's Use of the Leased Premises. It is specifically understood and agreed that the rights granted under this Agreement shall not interfere with or inconvenience Grantor or its affiliates in the growth, production, cutting and transportation of timber and wood from the balance of its lands not specifically included in the Leased Premises, whether such land is now owned or hereafter acquired. The rights specifically reserved unto Grantor are reserved not only for the use of Grantor, its successors and assigns, but also for the use and benefit of all other persons or entities with whom Grantor may conduct business and from whom Grantor may purchase, or to whom Grantor may sell, timber and wood. Such uses, however, shall not unreasonably interfere with or prevent the use of the Leased Premises by Operator for the purpose contemplated by this Agreement.
  - 17.2. Grantor's Reservation of Forest Products. Operator recognizes, that Grantor owns the Leased Premises for the purpose, among other things, of growing, cutting, removing and processing timber and forest products and Operator assumes the risk of the use of the Leased Premises. Grantor reserves the right to the forest products on the Leased Premises and shall have the right to salvage for its account all or so much of the forest products from the Leased Premises as it desires within 60 days of the Effective Date and thereafter until such forest products are removed by Operator. Forest products not salvaged by Grantor may be removed by Operator, provided they are cut and stacked in such a way to prevent hazards from fire and insect infestation to forest products on the Leased Premises and on adjacent lands, stipulated by, or acceptable to Grantor. Grantor shall have a continuing right to cultivate, grow and remove any remaining forest products located on the Leased Premises.
  - 17.3. Timber Damage and Precautionary Actions. Operator agrees and covenants to pay Grantor, at the then market value, for any of Grantor's timber lying off the Leased Premises destroyed or damaged from acts or omissions of Operator, its employees, agents, or contractors. All

stumps, brush, limbs or other debris of any kind which Operator desires to clear from the Leased Premises shall be placed, piled, and burned or otherwise disposed of in such manner that there will be no increased fire, insect or disease hazards to the timber of Grantor on or near the Leased Premises or defacement of the timber or other property of Grantor. No stumps, brush, limbs or other debris shall be burned, piled or placed on property of Grantor lying outside the Leased Premises. Operator shall not cut or injure any tree or nail or otherwise permanently fasten any flag, streamer, sign, wire, or other object to any tree located off the Leased Premises without the written permission of Grantor. If Operator causes damage to any tree off the Leased Premises it shall, within twenty-four (24) hours from the time of such damage, spray all damaged portions of such trees with an insecticide approved by Grantor.

- 17.4. Operator's Rights of Ingress and Egress. Operator shall have the right of ingress and egress over adjacent lands of Grantor, provided, in exercising its right of ingress and egress in mining, hauling or transporting the Products, it shall use as a route or routes roads acceptable to Grantor. Grantor and their employees, agents, contractors, and assigns shall have the right in common with Operator to use any such roads in such manner as not to interfere unreasonably with Operator's operations. Operator may construct a new road on Grantor's property with the prior written consent of Grantor, provided, any roads constructed by Operator on Grantor's land (except those lost in reclamation) shall, at Grantor's option, become the property of Grantor or be reclaimed and restored as nearly as possible to their original condition upon cessation of mining operations by Operator at its sole expense.
- 17.5. Damage to Grantor's Roads and other Property of Grantor. Operator agrees to repair all damage which may arise to bridges, buildings, fences, machinery, roads or other property of Grantor caused, directly or indirectly, by Operator, its contractors, employees, or agents. Any property of Grantor damaged by Operator, whether directly or indirectly, shall be restored to substantially its former condition at the sole cost of Operator. If Operator cannot replace or restore the damaged property to substantially its former condition it shall pay Operator the fair market value of such damaged or destroyed property.
- 17.6. Maintenance of the Leased Premises by Operator. Operator shall maintain the Leased Premises in good repair, keeping it, always, in a safe and clean condition. Operator shall not permit its employees, consultants, agents, or contractors to deposit or scatter any type of waste, broken equipment, used cans or containers, or other debris or leave any packaging materials, oil cans, drink cans, food wrappers, equipment parts, or other debris of any kind on the Leased Premises or any land owned or controlled by Grantor.
- 17.7. No Hunting and Fishing. Operator shall not use the Leased Premises for any purpose other than to conduct operations authorized under the terms of this Agreement. It shall not permit its employees, consultants, agents, or contractors to hunt, fish, or camp on any of Grantor's lands.
- 17.8. Fires. Without the written permission of Grantor, Operator shall not permit its employees, consultants, agents, or contractors to set or use any open fire on the Leased Premises or adjoining land and it shall notify Grantor's local representative immediately if any open fire is observed on the Leased Premises or on adjoining lands. If any fires, explosions or other hazards are reasonably associated with Operator's operations on any lands of Grantor, or of any landowner adjacent to Grantor, caused as a direct or indirect result of Operator's operations hereunder, Operator shall reimburse Grantor and such adjoining landowner for any costs and expenses reasonably incurred in the fighting thereof and in the consequential cleanup of and reparation from any fires, explosions or other hazards caused directly or indirectly by Operator's acts or omissions, whether through Operator's own negligence or otherwise.

18. Operator's Compliance with Laws. Operator shall comply with all laws and ordinances and with the rules and regulations of any codes of Federal, State or local authority applicable to the condition, protection or use of the Leased Premises, including the Endangered Species Act of 1973, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response Compensation and Liability Act, Clean Water Act and the Clean Air Act. Operator also agrees that its construction upon and use of the Leased Premises shall comply with the applicable state's guidelines for Best Management Practices commonly used in the forestry industry, and including, without limitation, the provisions thereof dealing with soil erosion and water quality.
19. Permits and Licenses. Operator shall have the full responsibility of obtaining all required federal, state and local consents, approvals, permits or licenses and shall fully comply with all of the laws, rules, regulations and requirements of any federal, state or local government, authority, agency, commission or regulatory body insofar as the same may apply to Operator's operations hereunder, and particularly as such laws, rules, regulations and requirements may relate to protection of the environment, water and air.
20. Insurance Requirements. As used in this paragraph, the term "Grantor" shall include, collectively and individually, Resource Management Service, LLC, RMS Texas Timberlands I LP, and their officers, directors, employees, agents, consultants and successors and assigns. Operator shall obtain and keep in full force and effect throughout the term of this Agreement adequate insurance, including broad form blanket contractual liability coverage and a waiver of subrogation by the insurance company to claims against Grantor including the following coverage:
- 20.1.1. Worker's Compensation. Worker's compensation insurance covering all employees engaged in operations on the Leased Premises in compliance with the laws and meeting the requirements of the state in which such lands are located and Employee's Liability Insurance of not less than Five Hundred Thousand Dollars (\$500,000.00) for injuries to or death of any one employee and Five Hundred Thousand Dollars (\$500,000.00) for injuries to or death of more than one employee resulting from any one accident;
- 20.1.2. General Public Liability and Property Damage. General Public Liability and Property Damage in connection with all operations conducted hereunder, with bodily injury and death limit of not less than Six Million Dollars (\$6,000,000.00) for injuries to or death of any one person resulting from any one accident, not less than Six Million Dollars (\$6,000,000.00) for injuries to or death of more than one person resulting from any one accident, and Six Million Dollars (\$6,000,000.00) aggregate. Provided further, that such property damage insurance shall not exclude liability for loss of or damage to property on or above the surface of the earth arising from operations carried out pursuant to this Agreement;
- 20.1.3. Automobile Public Liability and Property Damage. Automobile Public Liability and Property Damage Insurance in connection with all operations conducted hereunder (including coverage on owned and non-owned automotive equipment) with bodily injury or death limit of not less than One Million Dollars (\$1,000,000.00) for injuries to or death of any one person resulting from any one accident, and not less than One Million Dollars (\$1,000,000.00) for injuries to or death of more than one person resulting from any one accident, and property damage limit of not less than Three Hundred Thousand Dollars (\$300,000.00) per accident; and
- 20.1.4. Umbrella Coverage. Umbrella Coverage Insurance in the amount of at least Two Million Dollars (\$2,000,000.00).

- 20.1.5. Subcontractors. Any subcontractors must also meet the same insurance requirements except with respect to the coverages required under subsection 20.3.2., the limits must be at a minimum of \$2,000,000 (for each occurrence and in the aggregate) for each such subcontractor rather than the limits stated above; and Operator is responsible to ensure that these requirements are met.
- 20.2. Certificates of Insurance. Operator shall, before commencement of any operations on the Leased Premises, and annually thereafter during the term of this Agreement, furnish Grantor with valid insurance certificates that name Resource Management Service, LLC and RMS Texas Timberlands I LP as additional insureds and evidence the above described coverage. The certificates of insurance shall be issued by an insurance carrier having an A.M. Best's Rating of at least "A" minus and of financial size category of "X" or in a form satisfactory to Grantor. The insurance certificate shall provide that the limits thereunder shall not be changed nor the insurance described therein modified or canceled until thirty (30) days after prior written notice of such change of limits, modification or cancellation has been provided to Grantor. The insurance certificates shall be originals issued by Operator's insurance carrier or agent and shall not be a copy of a previously issued certificate. If the insurance policies maintained by Operator under Subparagraphs 20.3.2 and 20.3.3, above, provide for single limit coverage, the minimum coverage shall be Six Million Dollars (\$6,000,000.00). This provision shall not in any way limit the obligation of Operator to defend, indemnify and hold Grantor harmless, as such obligation of Operator shall both include and extend beyond the limits of the above described insurance policies and survive termination of this Agreement. In the event Operator fails to provide such insurance coverage or evidence thereof, Grantor shall have the right to terminate this grant of easement by filing a Notice of such termination in the land records.
21. Payment of Taxes. Operator shall pay all taxes, levies or assessments that may be legally assessed, imposed or levied by any governmental authority upon or with respect to: this Agreement or the leasehold estate hereby created; all improvements and other property placed upon the Leased Premises by Operator pursuant to this Agreement; or the exercise of any right or privilege in connection with Operator's operations under this Agreement, when the same become due. If any such taxes are paid by Grantor, Operator shall repay to Grantor the amount thereof upon demand. Operator shall not be responsible for any taxes attributable to any improvements, works, or other property placed on the Leased Premises by Grantor, its predecessors in title, or any party other than Operator. If Operator shall pay any such taxes for the protection of its interests under this Agreement, Grantor shall reimburse Operator upon demand, or Operator may at its option deduct the payment from any payment thereafter becoming due from Operator to Grantor under this Agreement.
22. Defaults and Remedies.
- 22.1. Definition of Default. Operator shall be in "Default" if it shall at any time fail to meet its pecuniary obligations under this Agreement and the failure continues for 10 days, or longer or shall fail to perform or be guilty of a breach of any one or more of any of the other terms, conditions, covenants, stipulations, and agreements of this Agreement relating to matters other than the payment of money and shall fail within 30 days after written notice of the breach shall have been given by Grantor to Operator, to cure the breach, if cure is possible within the 30 day period, or if not to start to cure and thereafter diligently pursue cure of any breach.
- 22.2. Late Charge for Delinquent Payment. If Operator shall at any time fail to pay as and when due any of the sums of money required to be paid under the terms of this Agreement it shall pay Grantor a "Late Charge" equal to 20% of the total amount due along with the amount owed.
- 22.3. Forfeiture. If Operator is in Default, Grantor shall have the right to terminate this Agreement and to enter the Leased Premises and hold and possess the same, and all the property of the

Operator thereon, free and acquit from any claims of Operator thereto. Grantor shall have the right to reclaim the Leased Premises and remove any property of Operator at Grantor's direction, but Operator's sole expense.

- 22.4. No Waiver. A waiver by Grantor of any Default under this Agreement shall not prevent the right of Grantor to forfeit this Agreement for any other cause, or for the same cause continuing or occurring at any other time. The receipt by Grantor from Operator of payments after the occurrence of any Default, or the continued recognition by Grantor of Operator as its tenant after the occurrence of any Default shall not be deemed a waiver of Grantor's right of forfeiture, so long as the cause of forfeiture continues to exist. Receipt and acceptance by Grantor of any amounts tendered by Operator shall not constitute an Agreement by Grantor that the amounts are the proper amounts due or a waiver of Grantor's claims for greater amounts. All payments by Operator to Grantor shall apply on the items longest past due, and the receipt of any such payment shall not be a waiver either of the right of distress or the right of forfeiture or any other remedy available to Grantor regarding items which remain undischarged after crediting the payments.
23. Removal of Improvements and Equipment. On or before the end of the Term of this Agreement, Operator shall remove from the Leased Premises all machinery, equipment and other personal property that has been placed upon the Leased Premises by Operator unless the period is extended by written consent of Grantor. Any personal property not so removed shall, at Grantor's option, be and become the property of Grantor or be removed from the Leased Premises at the direction of Grantor, but at the sole expense of Operator.
24. Reclamation of the Leased Premises. Upon the completion of its mining operations hereunder or upon the termination of this Agreement by either party, whichever occurs sooner, Operator agrees to scarify, smooth up, and grade all pit areas on the Leased Premises so that the slope of each such pit area will have three to one ratio (3:1) or less. Further, Operator agrees to provide a drainage outlet for all such pit areas and evenly redistribute the topsoil overburden.
25. Data to be Supply to Grantor. Upon termination of this Agreement for any cause, Operator shall furnish to Grantor all factual data it obtained during the course of operations on the Leased Premises, including but not limited to, logs, core analysis, maps, drill-hole locations, depths and all other similar or related information.
26. Release of this Agreement. After termination of this Agreement for any reason, Operator shall within thirty (30) days after written demand by Grantor furnish Grantor with a recordable act evidencing the termination of this Agreement. If Operator fails to furnish the required act within thirty (30) days of receipt of the demand, Operator shall be liable to Grantor for all damages resulting therefrom and for reasonable court costs and attorneys' fees incurred to secure cancellation of this Agreement of record, regardless of whether a suit is filed.
27. Assignments. This Agreement may not be assigned in whole or in part by Operator without the prior written consent of Grantor. If there is any such assignment, Operator will in no way be released from any of its pecuniary obligations under this Agreement or the performance of any of the other obligations or conditions herein contained. If Operator, or any subsequent assignee of Operator, assigns an undivided interest in this Agreement to two or more parties, Grantor may require such assignees to designate one party to receive Notices required by this Agreement.
28. Notices and Payments. Each notice, payment, communication, advice, and demand (collectively each "Notice") shall be in writing. Notice may be given by hand delivery, overnight courier, and United States mail. All Notices shall be properly addressed or otherwise directed to the recipient, with all postage and other charges being paid by the Party giving Notice. If Notice is given by United States Mail, Return Receipt Requested, that Notice shall be deemed to be effective at noon, local time at the

address to which the Notice was directed, on the second day (exclusive of Saturday, Sunday, and postal holidays) after the Notice was deposited in the United States Mail postage prepaid. Otherwise, Notice shall be effective when received by the Party being notified. The present address of Grantor and Operator for purposes of Notice and payments is:

If to Grantor: Mr. Jeff Waits  
RMS Texas Timberlands I LP  
P.O. Box 359  
Livingston, TX 77351

Phone: (936) 967-5921

If to Operator: Polk County Pct. 4  
c/o County Judge  
101 West Church Street, Suite 300  
Livingston, Texas 77351

Any party to this Agreement may change its address to another address within the continental United States by giving ten days' written Notice to the other Party(s).

- 29. Prior Agreements. This Agreement constitutes the sole and entire existing Agreement between Grantor and Operator and expresses all the obligations of and the restrictions imposed upon Grantor and Operator. All prior Agreements and commitments, whether oral or written, between the parties are either superseded by specific paragraphs of this Agreement or, without such coverage, specifically withdrawn.
- 30. Headings. The use of headings in this Agreement is solely for the convenience of indexing the various paragraphs and shall in no event limit or define or otherwise affect any provision in this Agreement.
- 31. Amendments. This Agreement is subject to amendment, alteration or addition only by mutual Agreement in writing between the parties.
- 32. Construction. In construing this Agreement: no consideration shall be given to the captions of the articles, sections, subsections, or clauses, which are inserted for convenience in locating the provisions of this Agreement and not as an aid in its construction; no consideration shall be given to the fact or presumption that one party had a greater or lesser hand in drafting this Agreement; examples shall not be construed to limit, expressly or by implication, the matter they illustrate; the word "includes" and its derivatives mean "includes, but is not limited to" and corresponding derivative expressions; a defined term has its defined meaning throughout this Agreement, regardless of whether it appears before or after the place in this Agreement where it is defined; the plural shall be deemed to include the singular, and vice versa; each gender shall be deemed to include the other genders; and each exhibit, attachment, and schedule (if any) to this Agreement is a part of this Agreement, but if there is any conflict or inconsistency between the main body of this Agreement and any exhibit, attachment, or schedule, the provisions of the main body of this Agreement shall prevail.
- 33. Unenforceable Provisions. If any provision of this Agreement is deemed illegal, against public policy, or unenforceable, said provision shall not affect the validity and enforceability of the remainder of this Agreement, but such unenforceable provision shall be deleted, and the remaining terms and provisions of this Agreement shall be interpreted in a manner which most closely causes the apparent intentions of the parties as evidenced by this Agreement.
- 34. Applicable Law and Jurisdiction. This Agreement shall be construed and enforced under the laws of the state where the Leased Premises is located. Any claim or controversy arising out of, or relating to, this Agreement or the breach or interpretation thereof, shall be submitted to a panel of mediators



composed of three disinterested persons, of whom Grantor and Operator shall each appoint one and the two mediators so appointed shall appoint the third, the award of any two of whom shall be final if accepted in writing by the parties, whether or not accepted shall be a condition precedent to the institution of any legal proceedings hereunder. If a party fails to appoint a mediator within fifteen (15) days after the occurrence of the event giving rise to need for the mediator, or the two mediators shall fail to appoint the third mediator within twenty-five (25) days of the occurrence of the event giving rise to their appointment, then a party may apply to a court of competent jurisdiction to make the appointment.

TO HAVE AND TO HOLD the aforesaid rights, privileges, and Agreement unto Operator, its successors and assigns, subject to the conditions, limitations and restrictions contained herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

WITNESSES

RMS TEXAS TIMBERLANDS I LP

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
ITS:

WITNESSES

POLK COUNTY PCT. 4

Jan Stendley  
\_\_\_\_\_

By: John P. Thompson  
John P. Thompson  
County Judge

Jan Stendley  
\_\_\_\_\_

By: Tommy Overstreet  
Tommy Overstreet  
Commissioner Pct. 4.

ACKNOWLEDGMENTS

STATE OF TEXAS §  
COUNTY OF \_\_\_\_\_ §

This day personally appeared before me, the undersigned authority in and for the foregoing jurisdiction, \_\_\_\_\_ who acknowledged to me that he is the \_\_\_\_\_ of RMS TEXAS TIMBERLANDS I LP, and that he executed and delivered the foregoing instrument as of the Effective Date as the act and deed of said company, being duly authorized so to do.

Given under my hand and seal this \_\_\_ day of \_\_\_\_\_, 2008.

My Commission Expires: \_\_\_\_\_

Notary Public

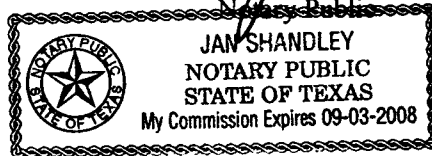
STATE OF TEXAS §  
COUNTY OF POLK §

This day personally appeared before me, the undersigned authority in and for the foregoing jurisdiction, JOHN P. THOMPSON who acknowledged to me that he is the COUNTY JUDGE of POLK COUNTY PCT. 4, and that he executed and delivered the foregoing instrument as of the Effective Date, as the act and deed of said county, being duly authorized so to do.

Given under my hand and seal this 22 day of July, 2008.

My Commission Expires: \_\_\_\_\_

09-03-2008



*Jan Shandley*  
Notary Public

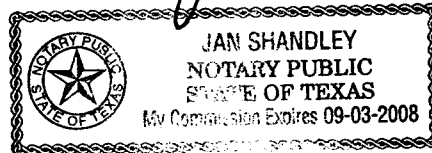
STATE OF TEXAS §  
COUNTY OF POLK §

This day personally appeared before me, the undersigned authority in and for the foregoing jurisdiction, TOMMY OVERSTREET who acknowledged to me that he is the COMMISSIONER of POLK COUNTY PCT. 4, and that he executed and delivered the foregoing instrument as of the Effective Date, as the act and deed of said county, being duly authorized so to do.

Given under my hand and seal this 22 day of July, 2008.

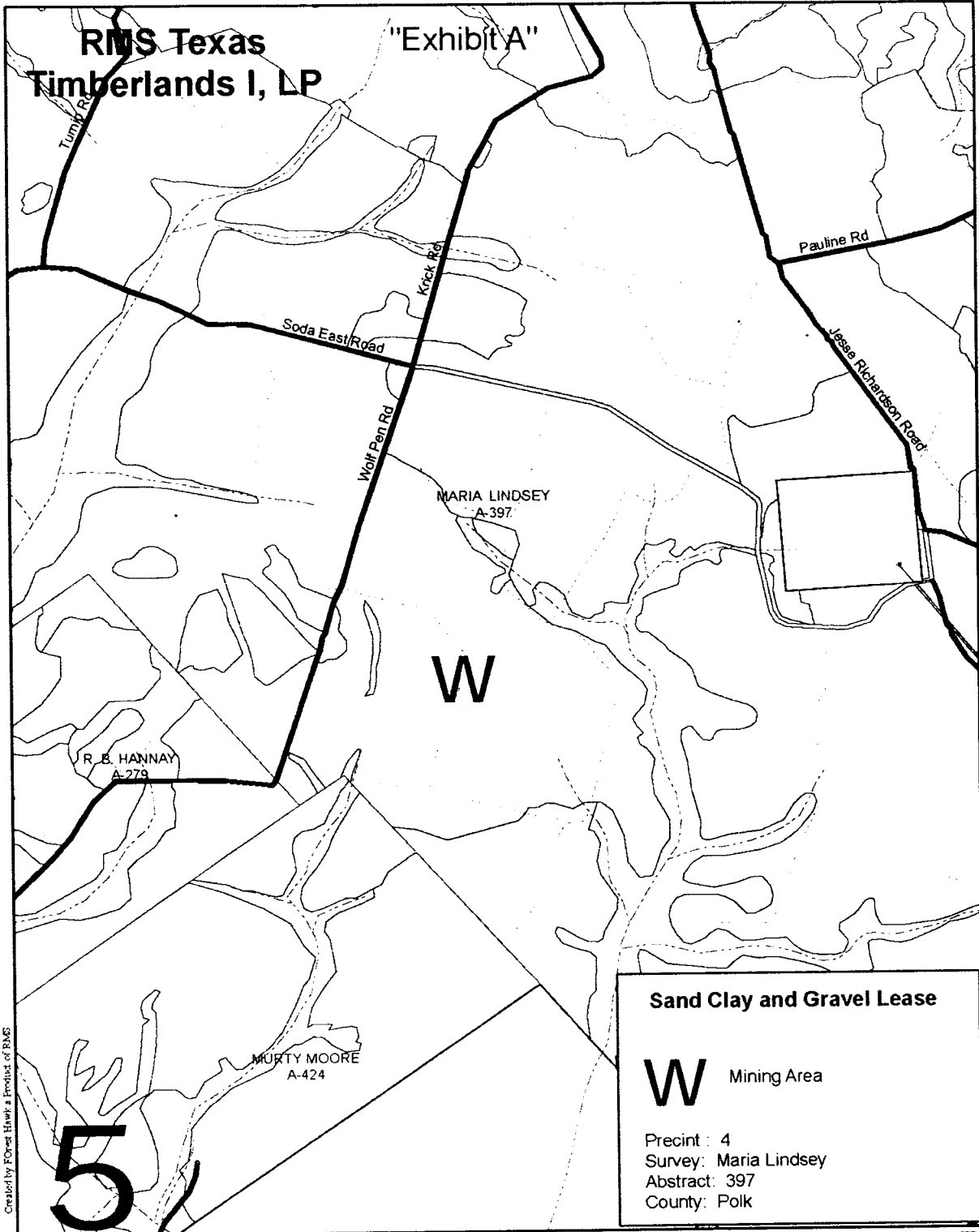
My Commission Expires: \_\_\_\_\_

09-03-2008



*Jan Shandley*  
Notary Public

EXHIBIT "A"  
ATTACHED TO AND MADE A PART OF SAND, CLAY, AND GRAVEL LEASE BETWEEN  
RMS TEXAS TIMBERLANDS I LP AND POLK COUNTY PCT. 4



Created by Forest Hawk, a Product of RMS

0 462.5 925 1,850 2,775 3,700 Feet 1:15,400

This map is not warranted for completeness or accuracy

