

1225

AGREEMENT between ALABAMA POWER COMPANY, hereinafter referred to as Licensor, and BIRMINGHAM SLAG COMPANY, a Corporation

hereinafter referred to as Licensee.

WHEREAS, Licensor has acquired and is the owner of an easement which embraces, among other rights, the right to construct, operate and maintain electric transmission lines and telegraph and telephone lines, towers, poles and appliances necessary or convenient in connection therewith upon a strip of land 100 feet in width, which is a part of a tract of land situated in Shelby County, Alabama, and is particularly described in that certain deed executed by Annie Dimmick and others to Alabama Power Company of date December 10, 1912, which is recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Volume 48, at page 589, and reference is hereby expressly made to such record for a particular description of such land; and

WHEREAS, Licensor is using a portion of such strip of land pursuant to such easement and has erected thereon an electric transmission line; and

WHEREAS, Licensee has constructed upon part of such strip of land the following:

A pond in connection with a proposed quarry as shown on the two drawings, marked Exhibit "A" and Exhibit "B", which are attached hereto and made a part hereof, and also an underground cable containing electric power conductors and a four inch water pipe line, both as shown on Exhibit "C" attached hereto and made a part thereof.

hereinafter referred to as the encroachment.

WHEREAS, the continued maintenance of such encroachment benefits Licensee in the use of the tract of land of which such strip of land is a part; and

WHEREAS, such encroachment at present inconveniences Licensor in the exercise of such easement and restricts the uses which Licensor is now making of such strip of land and may do so in the future to a greater extent; and

WHEREAS, such encroachment increases the risks imposed upon Licensor in connection with the exercise of such easement;

NOW, THEREFORE, in consideration of the premises, it is hereby agreed and covenanted between the parties hereto as follows:

Licensors hereby expressly gives its consent and permission to Licensee that such encroachment may remain upon such strip of land subject to the terms of this agreement.

Licensee agrees and covenants to release, indemnify and hold harmless Licensors from any liability which Licensors may incur as a result of any damages suffered by Licensee, any member of his family, his employees, his tenants, his guests, his licensees, or any other persons whomsoever, based upon any injury to person or property resulting from, or growing out of any use by the Licensors of that portion of its easement affected by the encroachment.

Licensee agrees and covenants that neither by the occupancy of such portion of such strip of land with such encroachment, nor in any other way, is he claiming: (1) adversely to Licensors in its ownership of such easement, (2) the right to maintain such encroachment on such strip of land, but that the maintenance of such encroachment by Licensee is with the recognition of the superior easement of Licensors.

Licensee further agrees and covenants that he will within sixty (60) days from the date of a written notice given him by Licensors remove such encroachment from such strip of land.

Notice herein referred to shall be deemed to be given by Licensors if the same is in writing and addressed to the Licensee at Birmingham, Alabama, and posted in the United States Mail with postage prepaid. In the event Licensee should fail, within sixty (60) days after such notice is so mailed, to remove such encroachment Licensors is hereby given the express privilege, power and authority to remove the same or any part thereof without any liability to Licensee which may accrue on account of any loss thereby sustained.

Licensee agrees and covenants that he will in such event promptly reimburse Licensors for the reasonable expense incurred thereby upon bill being rendered for the same.

It is understood and agreed between the parties hereto that all the undertakings and covenants contained herein are to be construed as covenants which run

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with the land and are to be binding upon and enforceable against the respective successors and assigns of the parties hereto; and

Wherever in this agreement the term Licensor or Licensee is used, it shall be deemed to include their respective successors, heirs or assigns.

IN WITNESS WHEREOF, the parties hereto have executed this instrument and affixed their seals on this the 16th day of November, 1954.

ALABAMA POWER COMPANY, Licensor

Attest:

By

[Signature]
Vice President

[Signature]
Secretary

Attest:

BIRMINGHAM SLAC COMPANY, Licensee

By

[Signature] (L.S.)

[Signature]
PRESIDENT

[Signature]
SECRETARY

STATE OF *Alabama*)

COUNTY OF *Jefferson*)

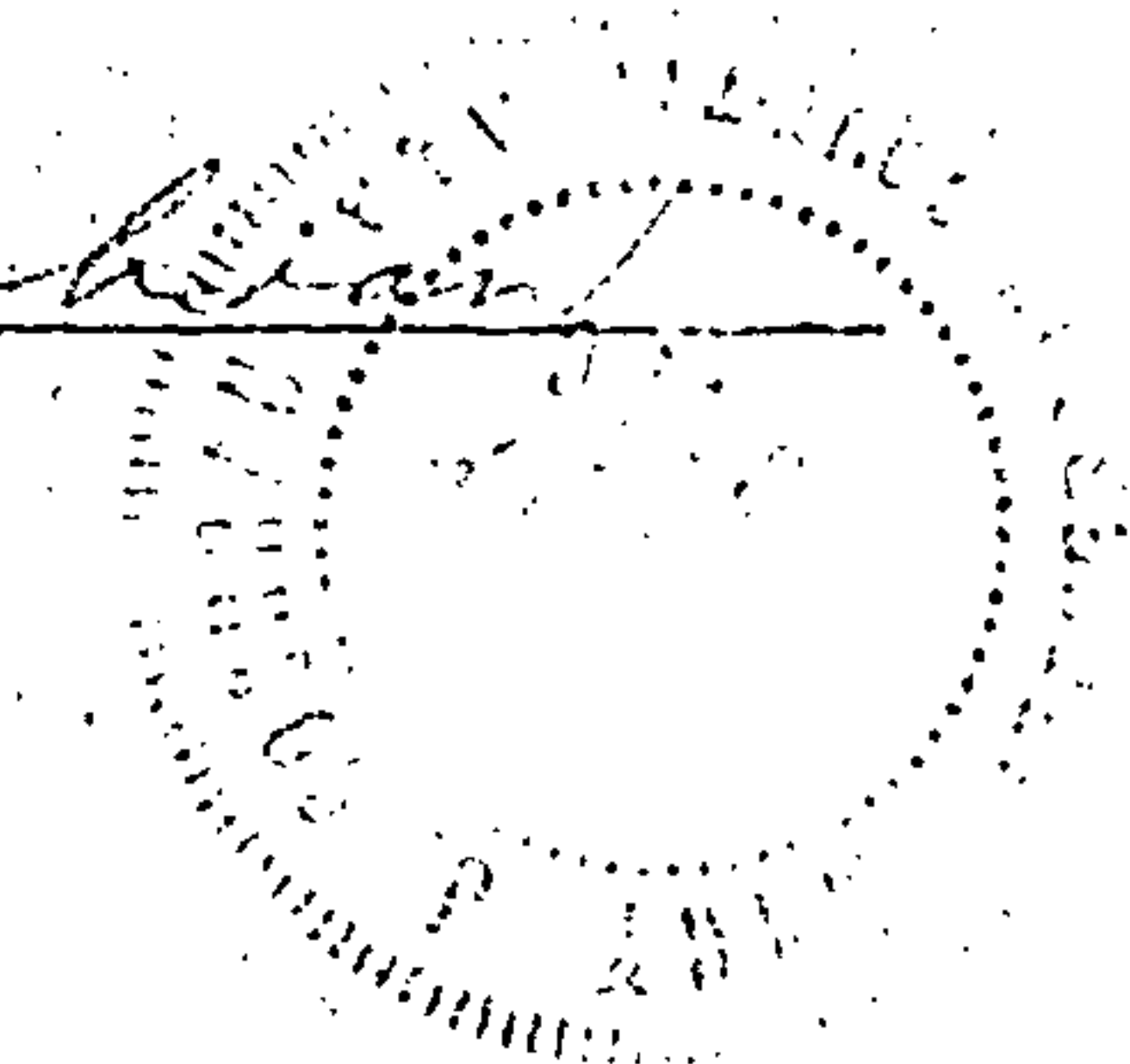
I, *Mary Buchanan*, a *Notary Public*

in and for said County in said State, hereby certify that

E. W. Robinson, whose name as *Vice* President of Alabama

Power Company, a corporation, is signed to the foregoing instrument, and who is known to me; acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the *16th* day of *November*, 19*34*.

Mary Buchanan


STATE OF *ALABAMA*)

COUNTY OF *JEFFERSON*)

I, *R. F. RAY*, a *Notary Public*

in and for said County in said State, do hereby certify that *C. W. Ireland*

President and N. L. Smith Secretary

whose names *are* signed to the foregoing instrument and who *are*


known to me, acknowledged before me on this day that being informed of the contents of the instrument *have* executed the same voluntarily, on the day the same bears date.

Given under my hand and official seal, this the *19th* day of

October, 19 *34*

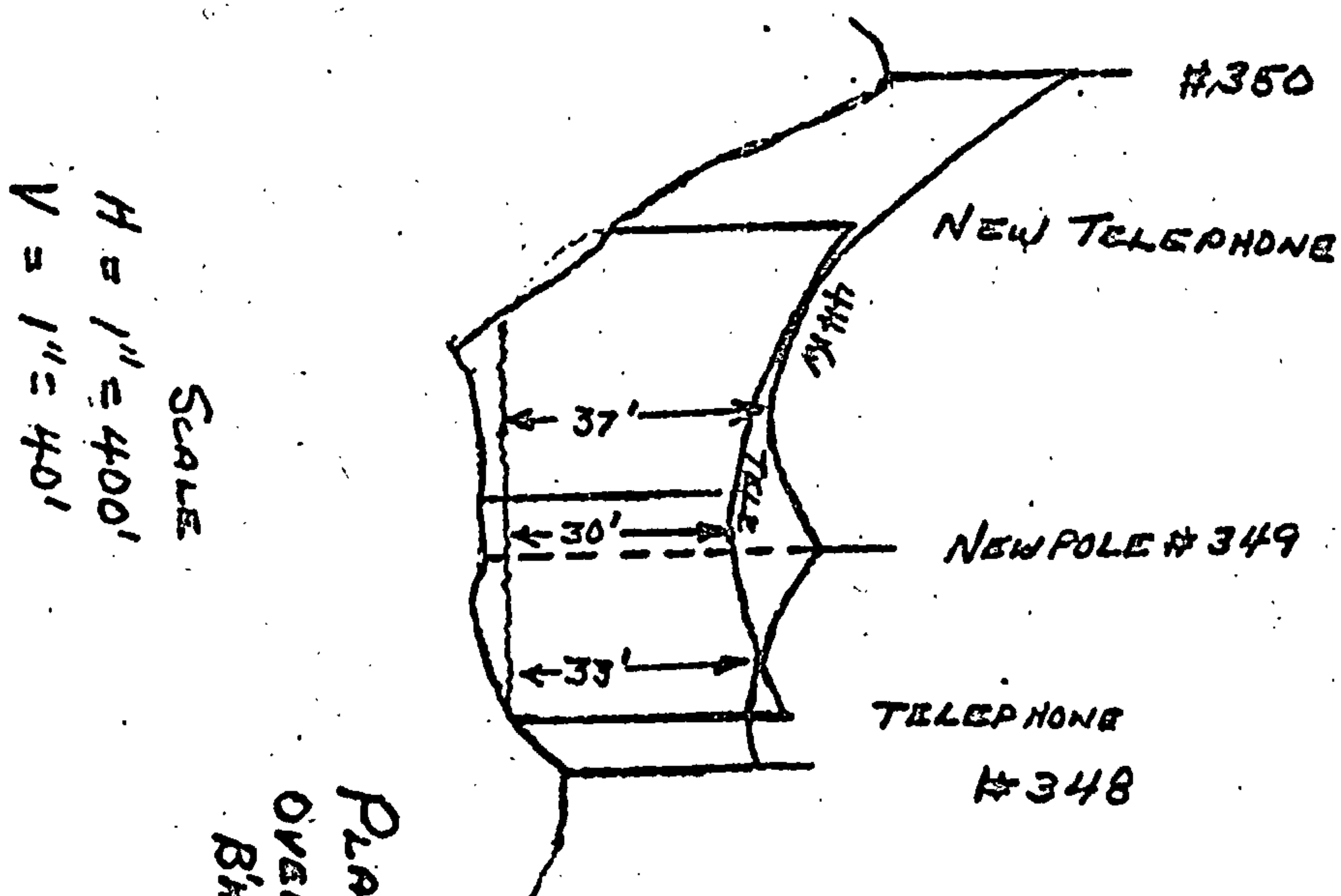
R. F. Ray

My Commission Expires May 1, 1937



BESSEMER - LAV DAM 44 KV LINE AND
TELEPHONE LINE CHANGE OVER
PROPOSED LAKE OF
B'HAM SLAG CO

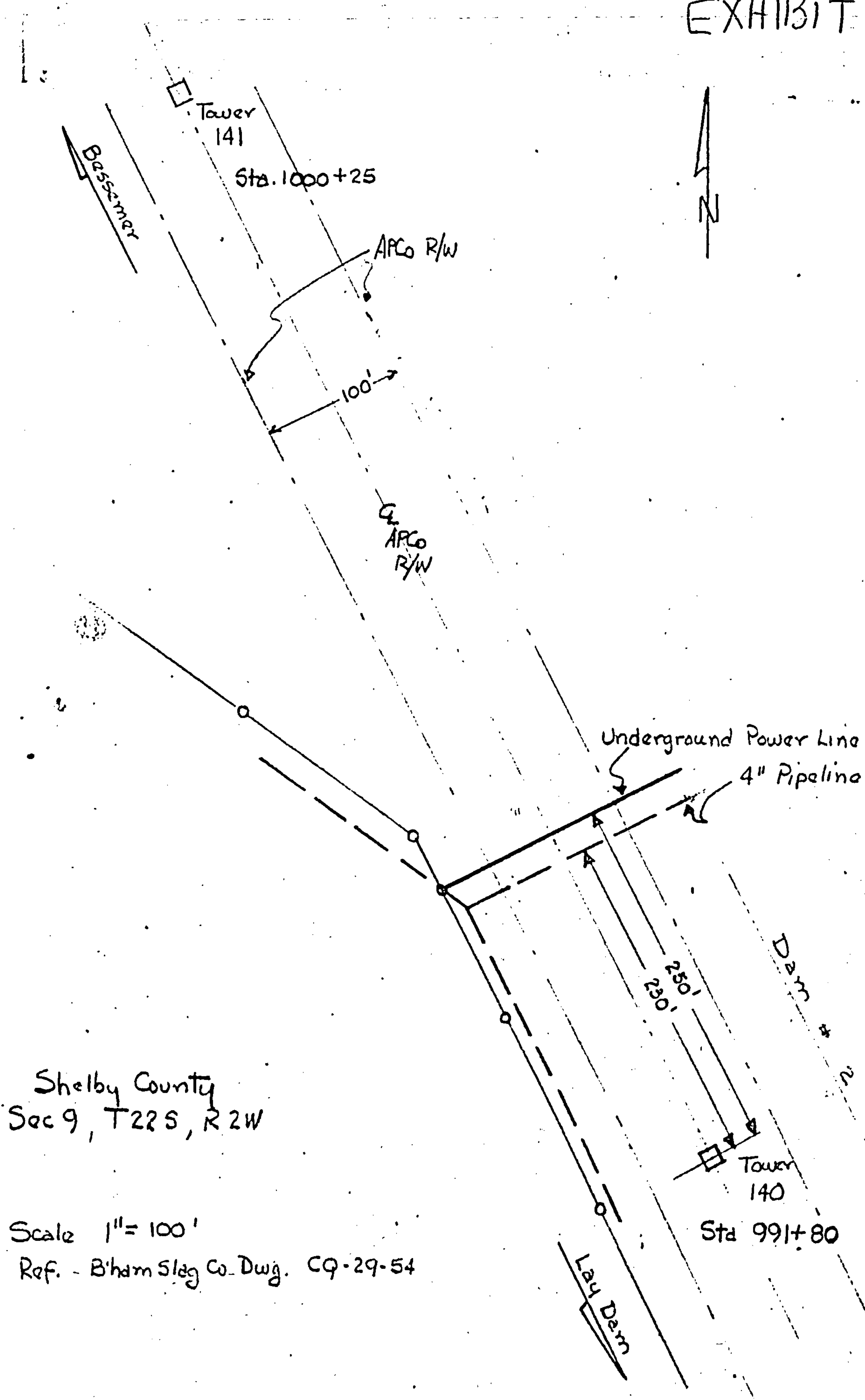
EXHIBIT "B"



PLAN & PROFILE
OVER LAKE OF
B'HAM SLAG CO

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EXHIBIT "C"



Shelby County
Sec 9, T22S, R2W

Scale 1" = 100'
Ref. - B'ham Sldg Co. Dwg. CQ-29-54

STATE OF ALABAMA, SHELBY COUNTY
I, L.C. Walker, Judge of Probate, hereby certify that the within affidavit
was filed for record the 23 day of April, 1954, at 8 o'clock P.M.
and recorded in Deed record 170 Page 368 and the Mortgage Tax of
Deed Tax of has been paid. L.C. Walker Judge of Probate