

AGREEMENT AND RELEASE

9424

THIS AGREEMENT, made and entered into this 23<sup>rd</sup> day of February, 1978 by and between Plantation Pipe Line Company, a Delaware coporation, hereinafter referred to as "Plantation", and Harry W. Dearing, Jr., an individual of Shelby County, Alabama, hereinafter referred to as "Dearing".

W I T N E S S E T H:



19780329000038600 1/5 \$.00  
Shelby Cnty Judge of Probate, AL  
03/29/1978 12:00:00 AM FILED/CERT

WHEREAS, Plantation and Dearing own property with a common property line between the west right-of-way line of Shelby County Road #95 and the east right-of-way line of Alabama Power Company right of way in Section 22, T20S, R3W, Shelby County, Alabama; and

WHEREAS, Plantation, during the course of operation of its pipeline system, has placed fill dirt on its property west of Shelby County Road #95, and during the process of this hauling and placing of dirt, Dearing contacted Plantation and requested that a certain amount of dirt be placed on his property south of Plantation's property line and west of the right of way of Shelby County Road #95; and,

WHEREAS, controversy has arisen between Plantation and Dearing concerning the consequences of placing this dirt on Plantation's property. Dearing complained that the placing of this fill dirt on Plantation property is causing quantities of water to be impounded on his property and preventing proper drainage from his property across property owned by Plantation; and further, that a certain unrequested quantity of dirt and other material (additional material) was pushed from Plantation's property over and across his property line and onto his land; and

WHEREAS, Plantation denies that the placing of fill dirt on its property has created a drainage problem, but in order to compromise a controversy, is willing to take certain action, outlined below, which the parties agree should serve to alleviate all of Dearing's complaints.

NOW, THEREFORE, Plantation and Dearing agree as follows:

1.

Plantation will at its expense construct or have constructed, a channel or ditch partly on Dearing property and partly on Plantation property in a location agreed to by the parties hereto at a depth that will penetrate the entire depth of the fill recently placed on said property. Attached hereto.

is a drawing identified as <sup>B-WD-L-71</sup><sub>DAD 3-1-78</sub> which defines the size of and identifies the location by distances from property lines to a row of stakes placed in the ground which is the centerline of the route of the proposed channel, and which has been inspected and approved by Dearing. Said drawing is attached hereto and made a part hereof.

2.

It is agreed that after the construction of said channel or ditch by Plantation, each party will be responsible for the maintenance of that portion of the channel or ditch that is on his property so that it will perform the function for which it was designed and constructed.

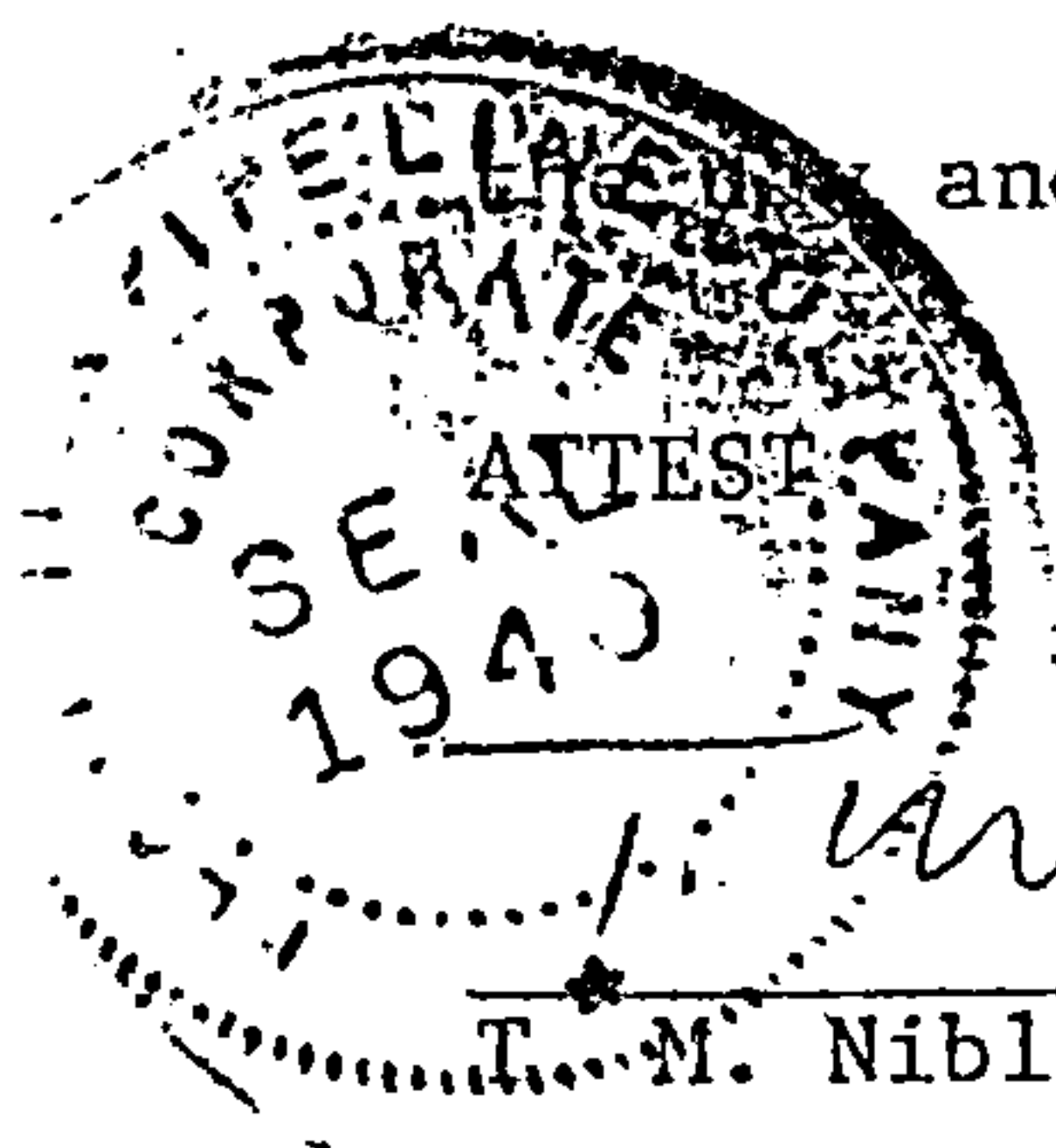
3.

For and in consideration of Plantation bearing the expense to construct the necessary channel or ditch, Dearing hereby agrees to accept the "additional material" he alleges has been pushed over on his property and agrees that Plantation will have no obligation to remove it or any other fill which Plantation may have placed on Dearing's property. Dearing further releases Plantation from any and all claims related to impoundment of water or alteration of drainage on his property.

This agreement shall run with the land and shall inure to and be binding upon both parties hereto and their successors in title.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals

and year first above written.



T. M. Niblack - Secretary

PLANTATION PIPE LINE COMPANY

By

H. B. McCauley, Jr.  
Vice President-Operations

HARRY W. DEARING, JR.

WITNESS:

*[Signature]*

*[Signature]*  
Notary Public

*[Signature]*



19780329000038600 2/5 \$.00  
Shelby Cnty Judge of Probate, AL  
03/29/1978 12:00:00 AM FILED/CERT

BOOK 24 PAGE 586

OK  
3-21-78



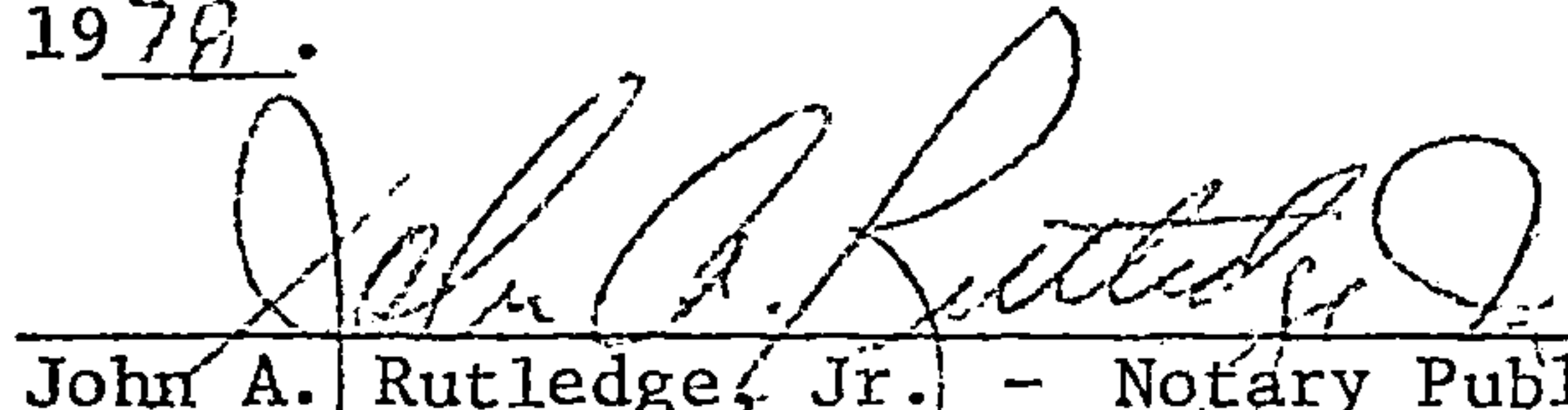


19780329000038600 3/5 \$.00  
Shelby Cnty Judge of Probate, AL  
03/29/1978 12:00:00 AM FILED/CERT

STATE OF GEORGIA  
COUNTY OF FULTON

I, the undersigned authority, in and for said County, in said State, hereby certify that H. B. McCauley, Jr., whose name as Vice President-Operations of the Plantation Pipe Line Company, 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.

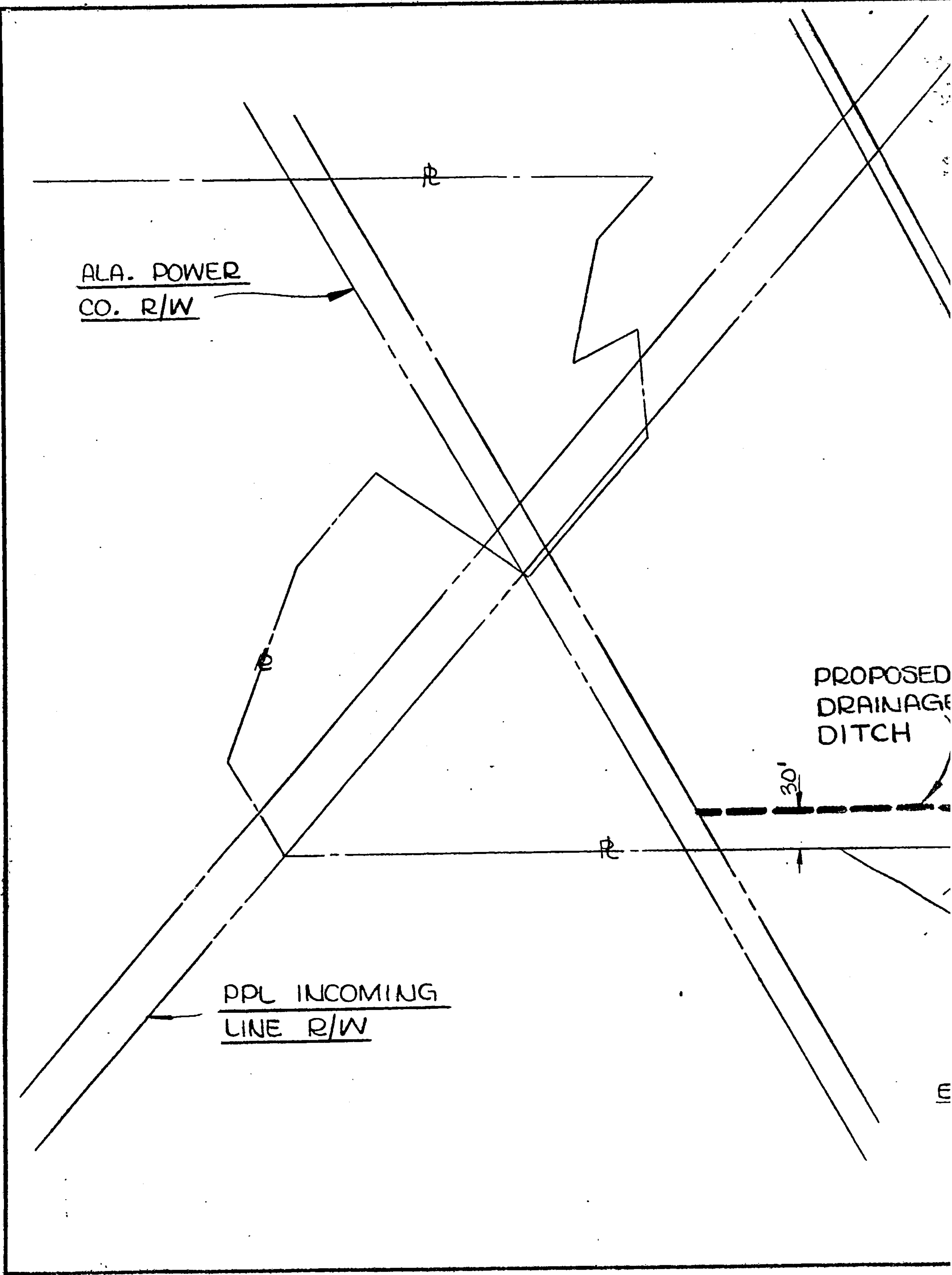
Given under my hand and official seal this 23<sup>rd</sup> day of MARCH, 1978.

  
John A. Rutledge, Jr. - Notary Public



19780329000038600 4/5 \$.00  
Shelby Cnty Judge of Probate, AL  
03/29/1978 12:00:00 AM FILED/CERT

BOOK 24 PAGE 588





19780329000038600 5/5 \$.00  
Shelby Cnty Judge of Probate, AL  
03/29/1978 12:00:00 AM FILED/CERT

BOOK 24 PAGE 589



THE LOCATION OF PROPOSED DRAINAGE DITCH, SHOWN AS HEAVY BROKEN LINE, WAS AGREED UPON BY MR. HARRY DEARING, JR., AND R.M. CULVER, JR. ON MARCH 9, 1978. MESSERS DEARING, CULVER AND R.E. BLACKLEDGE STAKED THE PROPOSED DITCH OUT AS SHOWN.

SHELBY COUNTY  
ROAD # 95

*Harry Dearing, Jr.*  
HARRY DEARING, JR.

*R.M. Culver, Jr.*  
R.M. CULVER, JR.  
(PLANTATION DIV. MGR.)

PPL  
PROPERTY

Hwy. R.M.

180'

DEARING  
PROPERTY

130'

E OF EXIST. FILL

STATE OF ALA. SHELBY CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1978 MAR 29 AM 9:28 REC 7.50  
FILED 1.00

*Thomas A. Lawrence, Jr.*  
JUDGE OF PROBATE

PLANTATION PIPE LINE COMPANY  
ATLANTA, GEORGIA

HELENA PROPERTY PLAT  
DEARING DRAINAGE CONFLICT

SCALE NONE DATE 3-10-78

DRAWN TRACED DS

CHECKED *RMC*

APPROVED *RMC, Jr.*

APPROVED

B-WD-6-78