

1475

STATE OF ALABAMA I
SHELBY COUNTY I

LEASE FOR PUBLIC BOAT LAUNCHING
SITE - SHELBY COUNTY, ALA.
- LAY LAKE BOAT RAMP

THIS LEASE made and entered into on the 30th day of November, 1988, by and between the ALABAMA POWER COMPANY, a corporation (hereinafter sometimes referred to as the LESSOR), and the STATE OF ALABAMA, acting through its DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES (hereinafter sometimes referred to as the LESSEE):

W I T N E S S E T H:

WHEREAS, Alabama Power Company and the State of Alabama, Department of Conservation and Natural Resources entered into a certain lease agreement dated October 1, 1968, as amended May 19, 1978, for the construction and operation of a public boat landing known as Lay Lake Boat Ramp, and

WHEREAS, said Agreement bearing date of October 1, 1968, as amended May 19, 1978, has an expiration date of the 1st day of October, 1988; and

WHEREAS, Alabama Power Company and the State of Alabama, Department of Conservation and Natural Resources, are desirous of entering into another lease on said property, with an effective date of October 1, 1988;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, That as a contribution for the benefit of the public and for and in consideration of the sum of One Dollar (\$1.00) in hand paid by the State of Alabama, Department of Conservation and Natural Resources, the receipt whereof is hereby acknowledged, Alabama Power Company does hereby lease and let unto the State of Alabama, Department of Conservation and Natural Resources, the following described property situated in Shelby County, Alabama, to-wit:

Beginning at the Southeast corner of Northeast 1/4 of the Northwest 1/4 of Northwest 1/4 of Section 24, Township 24 North, Range 15 East; thence North 3° 00' West 100.0 ft.; thence North 87° 00' East 1083 ft. ± to the normal low water line of Lay Lake; thence in a Southwesterly direction along the water

Joseph H. Addison
64 North Union St.
Montgomery, Ala.
36130

BOOK 219 PAGE 209

line to a point that is South 3° 00' East 387 ft. + from the point of beginning; thence North 3° 00' West 387 ft. + back to the point of beginning; thus describing a tract of land containing 9.0 acres more or less.

Said lease is made under the following specific terms, conditions and stipulations:

1. This Lease shall be for a term of Twenty (20) years beginning on October 1, 1988, with an option by the State to renew for an additional Twenty (20) year period under the same terms and conditions as contained herein.

2. It is understood and agreed that the property herein leased is to be used only as a free public boat landing area and free public picnic area and if same is used for any other purpose, Alabama Power Company, may, at its option, immediately terminate this Lease.

3. The LESSEE understands and agrees that this Lease is not assignable and that it will not operate or sublease any concession rights on the property herein leased; provided, however, LESSEE may by separate contract with Shelby County, Alabama, arrange for the maintenance and operation of the property herein leased, which contract would be subject to all terms as contained herein.

4. The LESSEE shall not commit or suffer to be committed, any waste on or offensive use of the premises, and shall not maintain a nuisance thereon, nor suffer a nuisance to be maintained thereon, and shall maintain the premises and facilities thereon in good order at all times.

5. The LESSOR reserves the right to cut and remove any timber from any portion of said land. LESSEE agrees not to cut wood, and is expressly forbidden to cut or remove, or cause to be cut or removed, any healthy trees or saplings, or deaden any green timber, regardless of size, growing on such land, or any other land of LESSOR, without the written consent by the LESSOR

being secured in advance. However, LESSEE hereby assumes the duty of inspecting the trees growing on the leased area to determine whether or not there are any dead, or otherwise dangerous trees, which might constitute a threat of harm to persons using the leased premises. Should LESSEE locate any such dangerous trees, LESSEE shall immediately advise LESSOR that it will cut and remove such dangerous tree or trees after the lapse of three days of such notice, unless within such three days there shall be objection to such cutting by LESSOR. Notwithstanding anything herein to the contrary, however, LESSEE may, without the consent of LESSOR, cut or remove any trees which are required to be removed during construction, renovation, or repair of the boat landing or allied facilities.

BOOK 219 PAGE 211
6. The LESSOR shall have the right to enter upon the premises at any reasonable time during the term of this Lease for the purpose of inspecting the premises and shall have the right to carry on erosion control programs and forestry programs and other programs upon the premises, due protection and consideration being afforded the structures, improvements, and uses of the LESSEE. The LESSOR shall be the judge as to what constitutes "any reasonable time" as set out in the first part of this paragraph.

7. The LESSOR expressly reserves the right of ingress and egress across the leased premises for itself, its successors and assigns, and also the right at any time in the future to grant easements or rights of way to others for the installation and maintenance of gas, water, sewerage and drainage mains and pipes, and electric, telephone and telegraph lines and poles, and other utilities, on, across, or under said property, so long as such grants do not unreasonably interfere with the use of the premises by LESSEE.

8. The LESSOR makes no representation by the leasing of said premises as to whether or not such premises or the waters

adjacent thereto are safe or suitable for the purposes for which they are permitted to be used under the terms of this lease.

9. All rights of the LESSEE hereunder are subject to the terms and conditions of any license heretofore issued or which may be issued hereafter from the Federal Energy Regulatory Commission, or its successor agency, to Alabama Power Company relating to the lands involved in this Agreement, together with the applicable provisions of the Federal Power Act and of the rules and regulations of the Federal Energy Regulatory Commission and of any amendments to such license, Act, and rules and regulations hereafter put into effect.

10. The LESSEE is informed and understands that in the operation of LESSOR's business there will be major fluctuations in the level of the water on which the leased lands are located. It is understood and agreed that the rights of the LESSEE hereunder shall be subject at all times to the right of the LESSOR, its successors and assigns, to raise and lower the waters of the Coosa River or any extensions of such waters from time to time in the operation of its dam or dams and works, whether upstream or downstream from said lands, and to flood said lands and any other lands owned by it or which it has the right to flood, continuously or from time to time, and the LESSOR shall not be liable for damages of any nature whatsoever which may result directly or indirectly from such flooding or by reason of the maintenance or operation of its said dam or dams and works.

11. In the event such water level is to be raised pursuant to issuance of a license after date hereof by the Federal Energy Regulatory Commission, or its successor agency, and should LESSOR notify LESSEE at the address and in the manner provided in Paragraph (17) hereof, at least six (6) months in advance of the date on which such raise in water level is expected to commence, LESSEE shall promptly, after receipt of

such notice, submit to LESSOR written plans and specifications and pertinent elevations for rearrangement or relocation of any improvements which will be adversely affected by such new water elevation so as to avoid such adverse effect. In such event LESSOR shall promptly approve such plans or return them to LESSEE for changes and resubmitting to LESSOR. After receiving written approval of LESSOR of such plans and specifications and pertinent elevations for rearrangement or relocation of these improvements, LESSEE shall complete such rearrangement or relocation at least three months prior to such date of expected commencement or raise in water level. At least three months prior to such date, LESSEE shall tear down and remove all improvements or parts thereof which are not to be a part of the approved, rearranged, or relocated improvements and in the event LESSEE does not tear down and remove all such improvements or parts thereof within such time, LESSOR shall have the right to remove the same at the expense of LESSEE or to flood or cover the same with water.

12. It is understood and agreed by and between the parties hereto that in the event of the termination of this Lease for any reason, or its cancellation for any reason, or upon the expiration of the term hereof, the State shall have the right to remove any and all of its properties, both real and personal, that it may have placed on the premises, within one hundred and twenty (120) days after the date of termination.

13. In the event the said free public boat landing, is not maintained, or if same is discontinued, for one hundred twenty (120) consecutive days at any time during the term of this Lease or extension thereof, the lease shall be considered as terminated by LESSEE if the deficiency is not corrected by LESSEE within ninety (90) days after notice by LESSOR to LESSEE. Upon the occurrence of the above-described instances, any rights acquired by the LESSEE under this lease would revert to the

LESSOR forthwith and it is understood that the LESSOR will have no obligation to reimburse the LESSEE for any improvements made to such land.

14. In the event of a national emergency, civil commotion, any strikes which in the opinion of the LESSOR might affect the LESSOR's operations, or other unforeseeable conditions which in the opinion of LESSOR might affect its operations, LESSEE agrees to close the leased area immediately upon request of LESSOR until notified by LESSOR that such emergency or condition has passed and during the period in which such area is requested to be closed, this Lease is suspended and no person or persons shall have the right to enter or go upon the leased premises without the express and written authorization of the LESSOR.

15. The LESSEE shall be responsible for the maintenance and sanitation of the premises and facilities, including keeping the premises clean and debris removed. The LESSEE shall be required to cooperate with LESSOR, in complying with Federal licenses and directives, the State of Alabama Department of Public Health, state, and local regulations in developing a solid waste management plan. The LESSEE may by separate contract with Shelby County, Alabama, arrange for the collection, storage and disposal of solid waste generated through public access and use of project lands and waters.

16. Where notices are provided herein, such notices shall be conclusively deemed given when posted in United States mail addressed as follows:

Notice to the LESSOR

Alabama Power Company
Corporate Real Estate
Department
Post Office Box 2641
Birmingham, Alabama 35291

Notice to the LESSEE

State of Alabama,
Department of Conservation
and Natural Resources
64 North Union Street
Montgomery, Alabama 36130

17. The lands at these sites are utilized by the State, for the benefit of the public, and are contributed as a public service without charge.

18. LESSEE acknowledges and agrees that it has inspected the leased premises and familiarized itself with the premises and all facilities, structures and the physical condition of the leased premises and agrees that there are no defects or hidden dangers in, on or about such leased premises. LESSEE further acknowledges and agrees that LESSOR shall have no responsibility to LESSEE and the general public and all other persons using the leased premises which arises out of or is in any way connected with or attributable to the condition of the leased premises, the structures thereon, if any, and further agrees that LESSOR has made no representation regarding the suitability of said leased premises for any use by LESSEE and other persons. LESSOR, its successors and assigns shall not be responsible for claims for damages and liability arising out of damage to persons or property which may in any way be caused or occasioned at any time, directly or indirectly by the use of such leased premises, boat launches and other structures on said leased premises by LESSEE, its successors, assigns, licensees and all other persons using such property. LESSOR shall have no duty to LESSEE and other persons to maintain the leased premises and any structures thereon and shall have no responsibility to give any notice to any person relating to the condition of said leased premises. LESSEE agrees that LESSOR has reduced the consideration for this lease in further consideration of LESSEE'S agreement hereby that LESSEE shall be solely and exclusively responsible for maintaining the condition of the leased premises in a suitable and satisfactory condition and that LESSOR shall have no responsibility to LESSEE, its successors, assigns and other persons using such property for the condition and maintenance of such leased premises which are the exclusive responsibility of LESSEE.

BOOK 219 PAGE 215

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that W. E. Dempsie, whose name as MANAGER CORPORATE REAL ESTATE of the ALABAMA POWER COMPANY 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 within 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 seal this the 10th day of Nov, 1988.

William H. Hall
Notary Public

BOOK 219 PAGE 217

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I, the undersigned authority, a Notary Public in and for said State and County, hereby certify that James D. Martin, whose name as Commissioner of Conservation and Natural Resources of the State of Alabama, 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 within instrument, he, in his capacity as such Commissioner of Conservation and Natural Resources of the State of Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the 30 day of November, 1988.

Sharon S. Rambo
Notary Public

ALABAMA
I CERTIFY THIS
INSTRUMENT WAS FILED
88 DEC 22 PM 3:34

Sharon S. Rambo
JUDGE OF PROBATE

RECORDING FEES
Recording Fee \$22.00
Index Fee 1.00
TOTAL 23.00