

792

AFFIDAVIT

STATE OF ALABAMA  
SHELBY COUNTY

Before me, the undersigned authority, a Notary Public in and for said county, in said State, personally appeared the undersigned affiant, who, after being by me first duly sworn to speak the truth, deposes and says as follows:

My name is J. E. "Ned" Bearden. I am one and the same as the J. E. Bearden who executed that certain agreement between Alabama Power Company and J. E. Bearden and wife, Irene Bearden, dated August 3, 1990, recorded in Real Book 315, Page 452, in the Probate Records of Shelby County, Alabama. Subsequent to the execution and recording of the aforesaid document dated August 3, 1990, I realized that I had objections to various portions of said agreement. Said agreement had been prepared in an effort to secure permission from Alabama Power Company to complete certain ground filling under the power line in question, but when the objections were raised, we stopped the filling project and did not proceed further. No additional dirt or filling of any kind or character has been placed under said power line subsequent to the August 3, 1990 agreement referred to. Subsequent to the date of said agreement, I contacted Alabama Power Company and discussed the matter with the Alabama Power Company representative, Don Bailey, on several occasions. I asked Alabama Power Company to cancel and nullify the aforesaid agreement recorded in Real Book 315, Page 452, in the Probate Records of Shelby County, Alabama. Alabama Power Company agreed to that cancellation and typed up for my signature a document which I signed and which was approved by Alabama Power Company. Said agreement prepared by Alabama Power Company for my signature cancelling said agreement is attached to this affidavit as Exhibit "A" and made part and parcel hereof as fully as if set out herein. The agreement with Alabama Power Company dated August 3, 1990, recorded in Real Book 315, Page 451, in the Probate Records of Shelby County, Alabama, has been nullified and cancelled and the original of said document was delivered to me by Alabama Power Company for cancellation.

J. E. "Ned" Bearden  
J. E. "Ned" Bearden, Affiant

Sworn to and subscribed to before  
me on this 7<sup>th</sup> day of May,  
1991.

Henry L. Leeson  
Notary Public

My Commission Expires July 13, 1992

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Exhibit "A"

Alabama Power Company  
Birmingham, Alabama

Attention: Mr. Don Bailey

Alabama Power Company -  
E. C. Gaston - Bessemer 115 KV TL  
Right of Way, crossing lands of  
Mr. J. D. "Ned" Bearden,  
Pelham, Alabama

Dear Mr. Bailey:

We have been discussing the filling by Vulcan Materials of the cattle pond on my property, located under the conductors for the above line. The filling has now been completed and I expect to establish a pasture over the several acres of filled pond. No other filling will be accomplished under the transmission line, unless I obtain permission from Alabama Power Company.

I own the land around the filled pond at least for a distance of 500 feet in every direction. The contour of the filled area is such that there will be no significant surface water run-off in any direction therefrom, and certainly not beyond the 500 feet of my ownership.

This letter is being given in lieu of that certain document entered into between Alabama Power Company and J. E. Bearden and wife, Irene Bearden, dated August 3, 1990, and recorded in Shelby County in Book 315 at page 452. The original of such document has been delivered to me for cancellation and it shall in the future be held for naught and of no further force and effect.

Yours very truly,

*J. D. Bearden*  
J. D. "Ned" Bearden

91 MAY -9 PM 3:03  
APPROVED:

ALABAMA POWER COMPANY

BY *[Signature]*  
Its Birmingham Division  
and Supervisor

250  
300  
100  
650

APPROVED AS TO FORM  
BALCH & BINGHAM

91 MAY 24 AM 10:48

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