

ALABAMA POWER COMPANY,

APPLICANT

VS

TOM C. LAW, ET AL,

DEFENDANTS

IN THE COURT OF PROBATE OF

BALDWIN COUNTY, ALABAMA

9785

NOTICE OF APPEAL

COMES E. B. WALKER & SON LUMBER CO., INC., A CORPORATION,
DEFENDANT IN THE ABOVE ENTITLED CAUSE, AND PRAYS FOR AND TAKES AN
APPEAL TO THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA, FROM THE
ORDER OF CONDEMNATION ENTERED IN SAID CAUSE ON THE 19TH DAY OF
JANUARY, 1971, INSOFAR AS SAID ORDER OF CONDEMNATION RELATES TO
THE LANDS DESCRIBED IN PAR. 2, 3, 4, 5, AND 6 OF ARTICLE FOURTH.

E. B. WALKER & SON LUMBER CO., INC., A CORPORATION,
DOES HERewith FILE IN THE COURT OF PROBATE OF BALDWIN COUNTY,
ALABAMA, THE COURT RENDERING SUCH ORDER OF CONDEMNATION, THIS ITS
WRITTEN NOTICE OF SAID APPEAL.

THIS THE 19th DAY OF FEBRUARY, 1971.

BAILEY & TAYLOR

By: James M. Bailey
ATTORNEYS FOR DEFENDANT

DEFENDANT DOES HEREBY DEMAND A
TRIAL BY JURY.

STATE OF ALABAMA, BALDWIN COUNTY

Filed Feb 19, 1971

Recorded Minutes 57 224

Judge of Probate Bill

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ALABAMA POWER COMPANY,

Applicant,

VS.

E. B. WALKER & SON LUMBER
COMPANY, INC., a corpor-
ation, and OLA P. MALCOLM,

Defendants.

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9785

CONSENT JUDGMENT

On this day came into open court the applicant, Alabama Power Company, a corporation, by and through Mr. J. B. Blackburn and Messrs. Balch, Bingham, Baker, Hawthorne & Williams, its attorneys, and also came the defendants, E. B. Walker & Son Lumber Company, Inc., a corporation, and Ola P. Malcolm, by and through Messrs. Bailey & Taylor and Mr. Kenneth Cooper, their attorneys;

And all said parties, appearing in open court, stated to the Court that the defendants with the consent of the applicant had withdrawn their request and demand for a trial by jury and that said parties had entered into an agreement providing for the entering of a judgment of condemnation by the Court herein for the applicant, Alabama Power Company, granting to it all the relief, rights, interests, easements and privileges set out and described and prayed for in its application for condemnation, as amended, filed in the Probate Court of Baldwin County, Alabama, on, to-wit, October 28, 1970, and further providing for the payment to defendants of the sum of \$7185.00 for the rights, ways and rights of way described in Pars. 3, 4, 5 and 6 of Article Fourth of said application for condemnation, as amended, being the lands involved in this case on appeal.

IT IS, THEREFORE, premises considered, ORDERED, ADJUDGED AND DECREED by this Court that said demand for jury trial be and the same is withdrawn, and that the said agreement between the

parties be and it is in all respects confirmed and approved by the Court.

And now comes the applicant, Alabama Power Company, and shows unto the Court that it has heretofore deposited with the Judge of Probate of Baldwin County, Alabama, the sum of \$6885.00 in money pursuant to the decree of the Probate Court of Baldwin County, Alabama, rendered on, to-wit, the 21st day of January, 1971, as damages and compensation for the condemnation of the lands and rights and easements described in Pars. 3, 4, 5 and 6 of Article Fourth of said application for condemnation, as amended, and has upon the taking of an appeal to this Court, filed bonds in the total amount of \$13,770.00 by which Alabama Power Company, as principal, and Trinity Universal Insurance Company, as surety, bound themselves unto defendants in the amount of such sum, being twice the amounts of the awards returned by the commissioners appointed in said proceeding in the Probate Court of Baldwin County, Alabama; and all the parties hereto show further unto the Court that they have entered into an agreement whereby such sum of \$6885.00 so deposited in the Probate Court of Baldwin County, Alabama, together with the further sum of \$300.00 to be paid into court by applicant, be paid said defendants for the condemnation of the lands, rights, interests, and easements described in said Article Fourth of said application for condemnation, as amended, and more particularly in Pars. 3, 4, 5 and 6 thereof;

NOW, THEREFORE, IT IS, premises considered, ORDERED, ADJUDGED AND DECREED by this Court that the defendants have had the damages and compensation to which they are entitled assessed at \$7185.00 and that the Clerk of this Court pay over to the defendants, E. B. Walker & Son Lumber Company, Inc., a corporation, and Ola P. Malcolm, the sum of \$7185.00, which sum consists of the

\$6885.00 heretofore deposited by applicant, Alabama Power Company, with the Judge of Probate of Baldwin County, Alabama, and transferred by him to this Court when this case was appealed to this Court, and further consists of the \$300.00 to be paid into court by the applicant.

And it further appearing to this Court that the applicant, Alabama Power Company, is entitled to have vested in it the lands, rights, interests and easements herein condemned for the uses and purposes described in said application for condemnation, as amended, filed in the Probate Court of Baldwin County, Alabama, on, to-wit, October 28, 1970, and that such application, as amended, should be granted.

IT IS, THEREFORE, premises considered, ORDERED, ADJUDGED AND DECREED by this Court that the said application, as amended, of Alabama Power Company for the condemnation of the lands, and the rights, interests and easements therein, of the said E. B. Walker & Son Lumber Company, Inc., a corporation, and Ola P. Malcolm described in Pars. 3, 4, 5 and 6 of Article Fourth of such application for condemnation be and the same is hereby granted.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED by this Court that the lands, and the rights, interests and easements therein, of the said named defendants described in Pars. 3, 4, 5 and 6 of Article Fourth of said application for condemnation, as amended, and the other rights, interests and easements sought to be condemned as described in such application relating to said lands described in Pars. 3, 4, 5 and 6 of said Article Fourth thereof be and are hereby condemned, granted and awarded to the applicant, Alabama Power Company, with the rights and for the uses and purposes as set forth in said application; and that to the extent sought by applicant in said application for condemnation, as amended, the right, title and interest of the said E. B. Walker & Son

Lumber Company, Inc., a corporation, and Ola P. Malcolm in the lands, interests, and easements described in Pars. 3, 4, 5 and 6 of said Article Fourth, together with all rights, interests and authority concerning the same as prayed for in said application, be and the same are hereby divested out of the said defendants and vested in the applicant, Alabama Power Company.

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED AND DECREED by this Court that the applicant, Alabama Power Company, be and it is hereby granted the right to construct, operate and maintain on, across and over the 60-foot strips of land described in Pars. 3, 4 and 6 of Article Fourth of said amended application, such towers, poles, and wire lines and all appliances necessary, convenient and useful in connection therewith for the purposes described in said application, as amended, together with all the rights conferred by law and all the rights that are necessary, useful or convenient to the full enjoyment of said rights, ways and rights of way for such uses and purposes, including the right to clear and remove from said 60-foot rights of way all timber and other growth thereon and to remove outside of said ways and rights of way and outside the right of way described in Par. 5 of Article Fourth of said amended application all timber that may injure or endanger said towers, poles and wire lines, and other appliances necessary or useful in connection therewith by falling or otherwise, and further including the right and authority to place guy wires and anchors outside of said ways and rights of way as described in Par. 4 of said Article Fourth.

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED AND DECREED that applicant, Alabama Power Company, be and it is hereby granted all the relief, rights, interests, title and privileges set out, described and prayed for in said application for

condemnation, as amended, insofar as said application relates to the said E. B. Walker & Son Lumber Company, Inc., a corporation, and Ola P. Malcolm and the lands described in Pars. 3, 4, 5 and 6 of Article Fourth of said application;

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED by this Court that the applicant, Alabama Power Company, and the said Trinity Universal Insurance Company are hereby released from any liability arising from the said bonds filed by applicant, whereby applicant, as principal, and Trinity Universal Insurance Company, as surety, have been bound in double the amounts of the probate court awards and that the Clerk of this Court shall invalidate said bonds;

AND IT IS, premises considered, FURTHER ORDERED, ADJUDGED AND DECREED by this Court that applicant be and it is hereby taxed with the costs incurred in this cause, for which let execution issue.

DONE IN OPEN COURT, this 12th day of July, 1971.

Debra J. Washburn

Judge of the Circuit Court of Baldwin
County, Alabama