



U.S. Department of Justice

Environment and Natural Resources Division

*Environmental Enforcement Section
P.O. Box 7611
Ben Franklin Station
Washington, DC 20044-7611*

*Telephone (202) 514-2445
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January 3, 2012

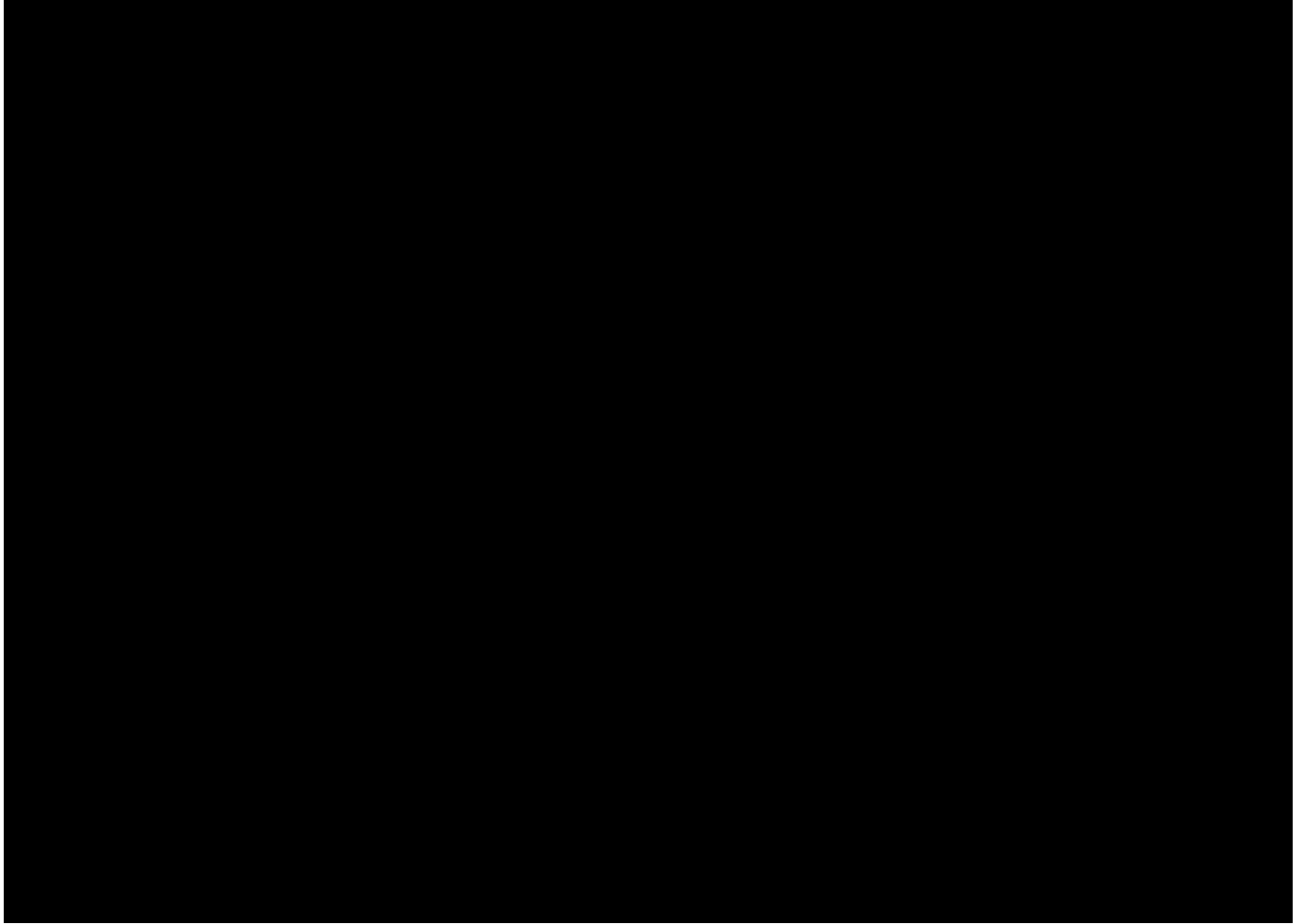
Honorable Virginia E. Hopkins
United States District Court
Northern District of Alabama
Hugo Black U.S. Courtroom
1729 5th Avenue
Birmingham, AL 35203

Re: United States v. Alabama Power Co., No. 2:01-CV-152-VEH

Ex. 5 AWP, DP, AC

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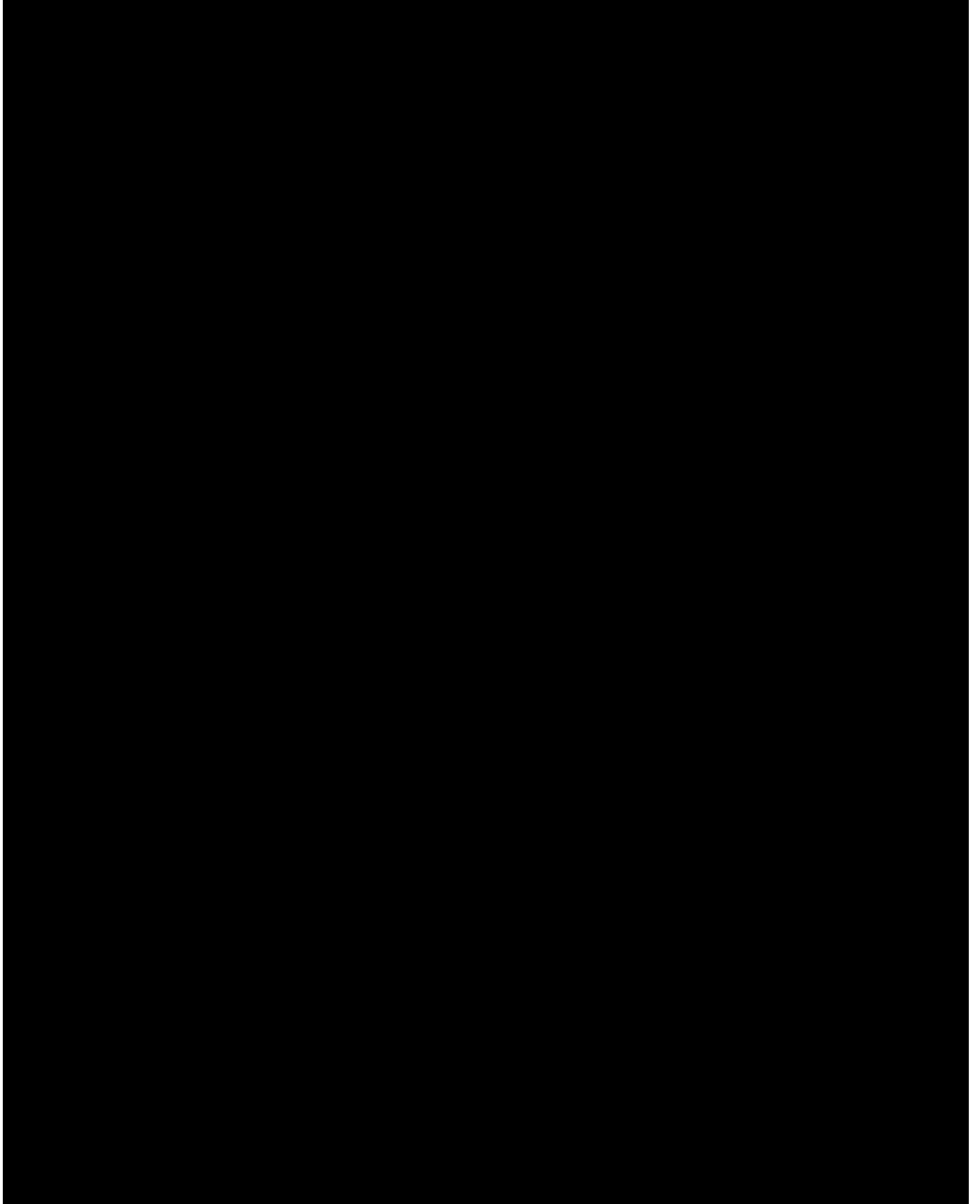
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From: [Berlowe, Andrea \(ENRD\)](#)
To: [Plagenhoef, Ruth \(OPR\)](#)
Subject: FW:
Date: Friday, January 27, 2012 10:19:54 AM
Attachments: [show temp\[1\].pdf](#)

FYI

From: Lofton, Jim (ENRD)
Sent: Tuesday, January 17, 2012 3:15 PM
To: Berlowe, Andrea (ENRD); Gelber, Bruce (ENRD); Vance, Joyce (USAALN); Kastorf, Kurt (ENRD); Kilbourne, Jim (ENRD); Savage, Justin (ENRD); Dunn, Jason (ENRD); Posey, Robert (USAALN); England, John (USAALN); Macklin, Jay (USAEO)
Cc: Beers, James (ENRD)
Subject:

This order was just entered by Judge Hopkins revealing that her mother owned 1000 shares of Southern stock from January until May 2009 and that she was a fiduciary. **Ex. 5 AC, DP, AWP**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
ALABAMA ENVIRONMENTAL	)	
COUNCIL,	)	
	)	
Plaintiff-Intervenor	)	
v.	)	Civil Action No. 2:01-CV-152-VEH
	)	
ALABAMA POWER COMPANY,	)	
	)	
Defendant.	)	

NOTICE

One of the parties to this case has asked the undersigned to disclose, on the record, and by this Notice the undersigned hereby makes such on the record disclosure, of the sale, by the undersigned's mother, on May 18, 2009, of 1000 shares of stock of Southern Company, at a net sales price of \$27,538.00.

Further, the undersigned hereby discloses that the undersigned's mother, as principal, executed, on January 19, 2009, a presently effective Durable Power of Attorney appointing the undersigned as her attorney-in-fact. An attorney in fact is a fiduciary. The undersigned informed herself of her mother's financial assets and asked her mother to sell the Southern Company stock because Southern Company is the parent of Alabama Power Company, the defendant in this action. Although the

undersigned at no time considered that the now-divested interest in Southern Company could be substantially affected by the outcome of this case, absent such a sale, the undersigned's fiduciary status while the case was pending would have required her recusal from this case after having devoted substantial judicial time to it. *See* 28 U.S.C. § 455(b)(4), (b)(5), and (f).

Finally, the undersigned hereby notes that the docket sheet in this case shows that, during the period January 19, 2009, to May 18, 2009, there were no motions pending or orders entered in this case.

DONE this the 17th day of January, 2012.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written over a horizontal line.

VIRGINIA EMERSON HOPKINS
United States District Judge