

STATE OF ALABAMA

Plaintiff,

vs.

C.E. RUTHERFORD and  
FLORENCE RUTHERFORD

Defendants.

Tract No. 51 - Parcel No. 1

C. E. Rutherford  
Rt. 1, Box 167  
Helena, Alabama

Florence Rutherford  
Rt. 1, Box 167  
Helena, Alabama

Fay Quick, Tax Collector  
Shelby County Courthouse  
Columbiana, Alabama

Tommy Snowden, Tax Assessor  
Shelby County Courthouse  
Columbiana, Alabama

IN THE PROBATE COURT

OF SHELBY COUNTY,

ALABAMA

CASE NO: 19-260

Project No. I-65-2(37)

Tract No. 41

APPLICATION FOR ORDER OF CONDEMNATION

I certify this to be a true and  
correct copy Thomas A. Snowling Jr.  
Probate Judge 6-25-92  
Shelby County

Filed this 17 day of June 1976  
CONRAD M. FOWLER  
Judge of Probate

Inst # 1993-03752

02/08/1993-03752  
03:30 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
011 MCD 31.50

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TO THE HONORABLE CONRAD M. FOWLER, JUDGE OF PROBATE COURT OF  
SHELBY COUNTY, ALABAMA

Now comes the State of Alabama, as Plaintiff, and files this, it's application in the Probate Court of Shelby County, Alabama, for an Order of Condemnation of the lands and properties hereinafter described for public roads and highway purposes, and, as a basis for the relief sought, shows unto the Honorable Court as follows:

1. Petitioner is authorized by the Constitution and the Laws of the State of Alabama, to institute and prosecute this proceeding in it's own name for the purposes herein stated: That the places of residence or post office addresses of the person or entities against whom this application is filed each reside at the address set opposite his or her name, and are of sound mind and who are residents of the State of Alabama. Petitioner avers that the lands set out and described herein are owned by the defendant set out underneath the description of the said lands, and avers that each of the individual defendants are over the age of 21 years, and under no legal disability, unless otherwise specifically recited. Petitioner further avers that the corporate defendant named, if any, are incorporated or qualified to do business in the State of Alabama, unless otherwise indicated.

2. That the State of Alabama is now engaged in the planning or construction of a certain public road or highway, said public road or highway to be known or designated as State of Alabama Highway Department Project No. I-65-2(37); that said public road or highway will be a highway, and that part of the property herein sought to be condemned is the respective property owners' rights and easements of access between the said public road or highway

right of way and the said property owners' real property, if any, as is more specifically described and set out in Paragraph Three (3) below; including rights of access where applicable and where designated, is necessary to effect said public road or highway, and that said lands and properties will be used after the acquisition thereof to effect said public road or highway; that by reason of the foregoing, the acquisition of the lands and properties hereinafter described in Paragraph 3 below is in the public interest.

3. That the tract of land necessary for use by Petitioner as a right of way for said public road or highway purposes, and which Petitioner seeks to condemn an easement or right of way in, over, upon, or across for said public road or highway purposes, together with other properties herein sought to be condemned which is necessary to effect said public road or highway as a road, or highway, are more particularly described or designated as the following separate paragraph, or "Parcel", and that the names and residences of the owners and other parties who claim or who hold any right, title or interest in said "Parcel" are stated, where known, immediately following each said "Parcel", as follows, to-wit:

PARCEL NO. 1

SHELBY &  
JEFFERSON

TRACT NO. 51, Rev.

Shelby & Jefferson

and as shown on the right-of-way map of Project No. I-65-2(37) as recorded in the Office of the Judge of Probate of Shelby and Jefferson Counties, Alabama:

PARCEL NO. 1: Commencing at the southwest corner of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W; thence easterly along the south line of said SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , the south property line, a distance of 389 feet, more or less, to a point that is 190 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 and the point of beginning of the property herein to be conveyed; thence northeasterly along a curve to the right (concave southeasterly) having a radius of 5919.58 feet, parallel to the centerline of said project, a distance of 140 feet, more or less, to a point that is 190 feet northwesterly of and at right angles to the centerline of said road at Station 80+10.70; thence northeasterly, parallel to the centerline of said road, a distance of 104.15 feet; thence northeasterly along a curve to the left (concave northwesterly) having a radius of 5539.88 feet, parallel to the centerline of said project, a distance of 779 feet, more or less, to a point that is 190 feet northwesterly of and at right angles to the centerline of said road at Station 89+09.88; thence easterly along a straight line, a distance of 240 feet, more or less, to a point on the present northwest right-of-way line of said road that is northwesterly of and at right angles to the centerline of said road at Station 91+00; thence southwesterly along said present northwest right-of-way line, a distance of 979 feet, more or less, to the south line of said SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , the south property line; thence westerly along said south property line, a distance of 288 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W and containing 3.59 acres, more or less.

PARCEL NO. 2: Commencing at the southeast corner of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W; thence westerly along the south line of said SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , the south property line, a distance of 48 feet, more or less, to the southwest property line; thence northwesterly along said southwest property line a distance of 169 feet, more or less, to a point that is 135 feet southeasterly of and at right angles to the centerline of Shelby County Road No. 17 and the point of beginning of the property herein to be conveyed; thence continuing northwesterly along said southwest property line, a distance of 100 feet, more or less, to the present southeast right-of-way line of said road; thence northeasterly along said present southeast right-of-way line, a distance of 488 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said road at Station 91+00; thence southwesterly along a straight line, a distance of 209 feet, more or less, to a point that is 135 feet southeasterly of and at right angles to the centerline of said road at Station 89+09.86; thence southwesterly along a curve to the right (concave northwesterly) having a radius of 5864.58 feet, parallel to the centerline of said road, a distance of 315 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W and containing 0.90 acres, more or less.

PARCEL NO. 3: Commencing at the southwest corner of the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W; thence easterly along the south line of said NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , the south property line, a distance of 232 feet, more or less, to a point that is 325 feet northwesterly of and at right angles to the centerline of Project No. I-65-2(37) and the point of beginning of the property herein to be conveyed; thence northerly along a curve to the left (concave westerly) having a radius of 3494.72 feet, parallel to the centerline of said project, a distance of 503 feet, more or less, to a point that is 325 feet westerly of and at right angles to the centerline of said project at Station 373+00; thence northeasterly along a straight line, a distance of 193 feet, more or less, to a point that is 280 feet westerly of and at right angles to the centerline of said project at Station 375+00; thence northerly along a curve to the left (concave westerly) having a radius of 3539.72 feet, parallel to the centerline of said project, a distance of 459 feet, more or less, to a point that is 280 feet westerly of and at right angles to the centerline of said project at Station 380+00; thence northeasterly along a straight line, a distance of 204 feet, more or less, to a point that is 210 feet westerly of and at right angles to the centerline of said project at Station 392+00; thence northerly along a curve to the left (concave westerly) having a radius of 3609.72 feet, parallel to the centerline of said project, a distance of 518 feet, more or less, to a point that is 210 feet westerly of and at right angles to the centerline of said project at Station 387+53.0; thence N 19° 11' 45" W, parallel to the centerline of said project, a distance of 629.4 feet, to a point that is 210 feet southwesterly of and at right angles to the centerline of said project at Station 393+82.4 "Back" which equals Station 394+34.9 "Ahead"; thence continuing N 19° 11' 45" W, parallel to the centerline of said project, a distance of 65.1 feet; thence northwesterly along a straight line, a distance of 252 feet, more or less, to the southeast back of the Cahaba River, the northwest property line; thence northeasterly along said northwest property



line, a distance of 139 feet, more or less, to the east line of the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 19, T-19-S, R-2-W, the east property line; thence southerly along said east property line, a distance of 187 feet, more or less, to the north line of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W, the north property line; thence easterly along said north property line (crossing the centerline of said project at approximate Station 395+70) a distance of 485 feet, more or less, to a point that is 190 feet northeasterly of and at right angles to the centerline of said project; thence S 18° 11' 45" E, parallel to the centerline of said project, a distance of 69 feet, more or less, to a point that is 190 feet northeasterly of and at right angles to the centerline of said project at Station 394+34.9 "Ahead" which equals Station 393+52.4 "Back"; thence continuing S 18° 11' 45" E, parallel to the centerline of said project, a distance of 629.4 feet; thence southerly along a curve to the right (concave westerly) having a radius of 4009.72 feet, parallel to the centerline of said project, a distance of 1635 feet, more or less, to a point that is 190 feet easterly of and at right angles to the centerline of said project at Station 372+00; thence southeasterly along a straight line, a distance of 232 feet, more or less, to a point that is 280 feet easterly of and at right angles to the centerline of said project at Station 370+00; thence southwesterly along a straight line (which if extended would intersect a point that is 250 feet easterly of and at right angles to the centerline of said project at Station 367+00) a distance of 160 feet, more or less, to the south line of the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W, the south property line; thence westerly along said south property line (crossing the centerline of said project at approximate Station 368+00) a distance of 598 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , and the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W and the E $\frac{1}{2}$  of the NE $\frac{1}{4}$ , Section 19, T-19-S, R-2-W and containing 28.63 acres, more or less.

The above described area includes a present 30 foot wide easement granted to the Alabama Gas Company which lies approximately 230 feet northwesterly of approximate Station 396+45.

As a part of the consideration hereinabove stated there is also bargained, sold, conveyed and relinquished to the grantees all existing, future, or potential common law or statutory rights of access between the right of way of the public way identified as Project No. I-65-2(37), Counties of Shelby and Jefferson, and all of the grantor's remaining property consisting of all parcels contiguous one to another, whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the property conveyed by this instrument or are connected thereto by other parcels owned by the grantor.

Also an easement to a strip of land necessary for the construction and maintenance of a channel change and being more fully described as follows: Commencing at the southeast corner of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 20, T-19-S; R-2-W; thence westerly along the south line of said SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , a distance of 303 feet, more or less, to a point that is 80 feet southeasterly of and at right angles to the centerline of said easement and the point of beginning of the property herein to be conveyed; thence southwesterly, parallel to the centerline of said easement, a distance of 198 feet, more or less, to a point that is 190 feet easterly of and at right angles to the centerline of Project No. I-65-2(37) at Station 380+20; thence northerly along a curve to the left (concave westerly) having a radius of 4009.72 feet, parallel to the centerline of said project (crossing the centerline of said easement at approximate Station 12+14) a distance of 170 feet, more or less, to a point that is 80 feet northwesterly of and at right angles to the centerline of said easement; thence northeasterly, parallel to the centerline of said easement, a distance of 253 feet, more or less, to a point that is 80 feet northwesterly of the centerline of said easement at Station 15+00; thence northeasterly, parallel to the centerline of said easement, a distance of 163 feet, more or less, to a point that is 80 feet northwesterly of and at right angles to the centerline of said easement at Station 16+70; thence southeasterly along a straight line, a distance of 42 feet, more or less, to a point that is 25 feet westerly of and at right angles to the centerline of said easement at Station 17+00; thence northerly, parallel to the centerline of said easement, a distance of 70 feet, more or less, to the south bank of the Cahaba River, the north property line; thence easterly along said north property line, a distance of 131 feet, more or less, to the east line of the SW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W, the east property line; thence southerly along said east property line, a distance of 129 feet, more or less, to a point on a line which extends from a point that is 125 feet easterly of and at right angles to the centerline of said easement at Station 17+00 to a point that is 100 feet southeasterly of and at right angles to the centerline of said easement at Station 16+70; thence southwesterly along said line, a distance of 81 feet, more or less, to said point that is 100 feet southeasterly of and at right angles to the centerline of said easement at Station 16+70; thence northwesterly along a straight line, a distance of 20 feet to a point that is 80 feet southeasterly of and at right angles to the centerline of said easement at Station 16+70; thence southwesterly, parallel to the centerline of said easement, a distance of 179 feet, more or less, to a point that is 80 feet southeasterly of the centerline of said easement at Station 15+00; thence southwesterly, parallel to the centerline of said easement, a distance of 126 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$  of NW $\frac{1}{4}$  and the NW $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 20, T-19-S, R-2-W and containing 2.11 acres, more or less.

THE OWNERS OF PARCEL NO. 1 ARE AS FOLLOWS:

C. E. Rutherford and Florence Rutherford  
Rt 1, Box 167  
Helena, Alabama

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C. E. & Florence Rutherford  
Tract No. 51, Rev.  
November 12, 1974



4. That Petitioner further shows that diligent search has been made of the records in the Office of the Judge of Probate, Shelby County, Alabama, and diligent inquiry has been made to ascertain the names, ages, and places of residence of the owners of the lands and properties herein sought to be condemned and of any other parties who claim or who hold any right, title, or interest therein, and according to the Petitioner's information, knowledge, and belief, the said lands and properties are owned, claimed, and held by the parties as are named defendants in this proceeding and as set forth in Paragraph 3 above, and by no others. That all of said parties named as defendants are each over the age of 21 years and are each under no legal disability unless and except as stated specifically in said Paragraph 3; Petitioner further alleges that the lands and properties herein sought to be condemned will be devoted, when condemned, to the public road or highway purposes, as set forth herein.

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5. Petitioner further shows that the said rights of way which are sought to be condemned over each of said separate tracts of land described or designated as Parcel No. 1, is now located and staked out on the ground and is otherwise shown and described by a map or plat or survey made thereof by the State of Alabama Highway Department now on file in the Office of the Judge of Probate, of Shelby County, Alabama.


6. That Petitioner further shows that it has made bona fide efforts to agree with the owners and claimants of said lands and properties described or designated as Parcel No. 1, of Paragraph 3 above, as to the damage and compensation to be allowed and paid for said lands and properties herein sought to be condemned, and

that Petitioner has failed to come to any such agreement with said owners and claimants, the defendants in this proceeding, and that Petitioner has heretofore taken all steps necessary and all proceedings required by Law to initiate this proceeding.

THE PREMISES CONSIDERED, Petitioner prays that this Court will make and enter an order appointing a day for the hearing of this Petition and will cause issuance of notice to the defendants of the day set for the hearing of said Petition, and of the filing of said Petition, all as provided by Law, and that a guardian ad litem be appointed to represent and defend the interest of any defendant hereto who may be under legal disability, as required by Law, and that, upon final hearing of this Petition, this Court will order and decree that Petitioner is entitled to acquire the lands and properties herein sought to be condemned for the public purpose as set out herein, and will appoint Commissioners to ascertain and report the damages occasioned by such taking, and the compensation to be allowed the defendants for such taking, as provided by Law, and that upon payment into the Court of the compensation assessed by said Commissioners, a judgment or decree be rendered condemning for public road or highway purposes an easement or right of way in, over, upon or across each of said separate tracts of land described or designated as Parcel No. 1 of Paragraph 3 above, together with other properties therein specified, to effect said public road or highway, and that this Court will made and enter in this proceeding all such other and further orders and decrees as may be necessary or proper in the premises.

STATE OF ALABAMA

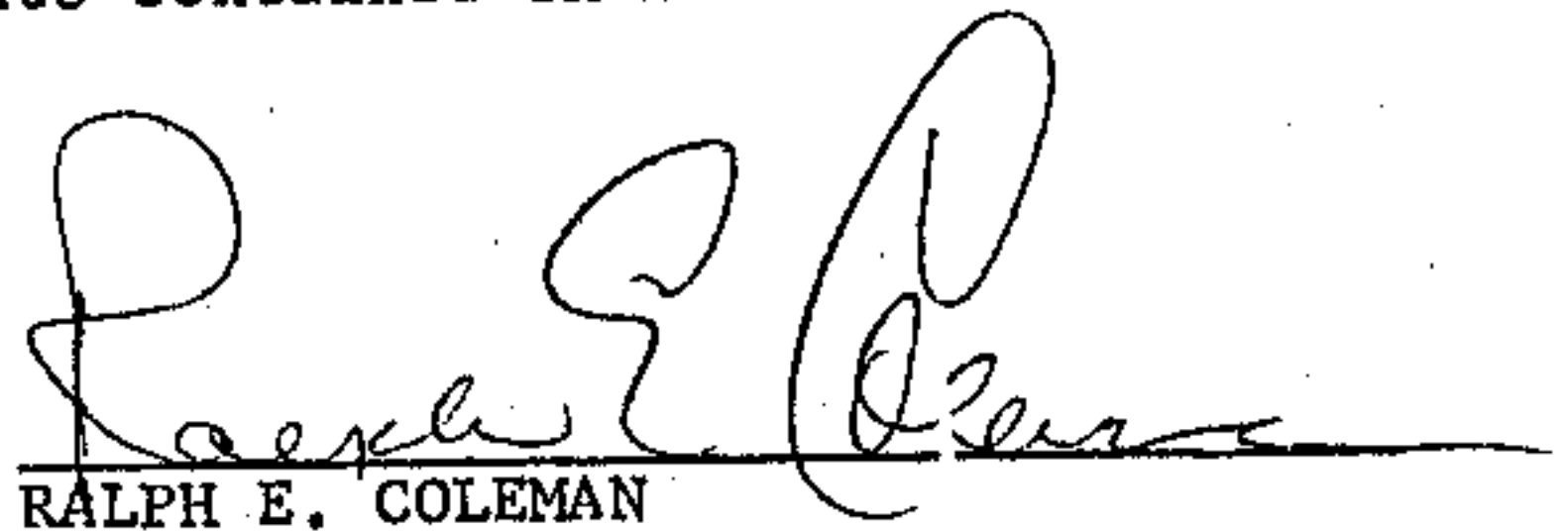
BY:

  
RALPH E. COLEMAN

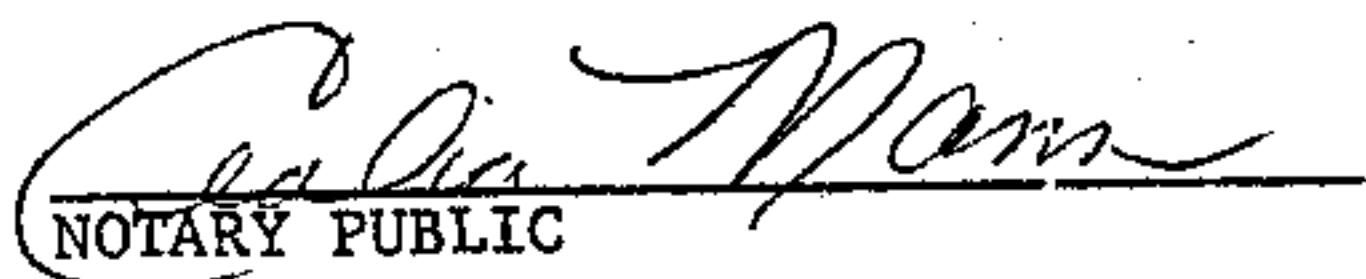
Special Assistant Attorney General  
State of Alabama

STATE OF ALABAMA  
SHELBY COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared RALPH E. COLEMAN, who is known to me and who, being by me first duly sworn, deposes and says on oath that he is a Special Assistant Attorney General for the State of Alabama, and as such, is authorized to make this affidavit, that affiant has read the above Application for Orders of Condemnation and that affiant is informed and believes and upon such information and belief says that the averments contained therein are true.

  
RALPH E. COLEMAN

Sworn to and subscribed to before me, this the 16th day of June, 1976.

  
NOTARY PUBLIC

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SHELBY COUNTY JUDGE OF PROBATE

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