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STATE OF ALABAMA,

Petitioner,

-v-

K. E. FULTON, et al.,

Respondents.

IN THE CIRCUIT COURT OF

SHELBY COUNTY, ALABAMA

NO. 484

ORDER AND DECREE OF CONDEMNATION

THIS CAUSE came on for trial on this, the 12th day of April, 1960, on appeal from the order of condemnation made and entered in the Probate Court of this County on the 19th day of May, 1959. The parties to this proceeding came into open court in their own persons and by their attorneys of record, entered an unqualified appearance and all parties announced ready for trial. The court is of the opinion and finds that it has jurisdiction of the cause and the parties.

The petitioner, State of Alabama, moved the court to dismiss its appeal from the order of condemnation entered in the Probate Court of Shelby County on June 26, 1959. It appears to the court from the record in this cause that the application for order of condemnation was filed on behalf of the petitioner in the Probate Court of Shelby County, Alabama, on May 19, 1959; that the order of condemnation was entered in the Probate Court of Shelby County on June 26, 1959, from which said order the petitioner, State of Alabama, appealed to this court on July 14, 1959. The motion of the State of Alabama to dismiss its appeal was resisted by the respondents. The court is of the opinion and finds that the motion of the petitioner, State of Alabama, to dismiss said appeal hereby is denied, to which action of the court the petitioner (appellant) excepts.

THEREUPON, the court proceeded to hear the allegations of the application or petition for order of condemnation, and upon

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consideration of said application and the testimony introduced in support thereof, it is the opinion and judgment of the court that the allegations of the said petition are true, and that it is necessary that the property hereinafter described be condemned for the uses and purposes stated in said petition, and that the said application of the petitioner for order of condemnation should be granted. It is, therefore, CONSIDERED, ORDERED, ADJUDGED and DECREED by the court, and it is the judgment of the court that the application or petition for the condemnation of an easement or right-of-way in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent any persons from placing or maintaining any obstruction on said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public improvements constructed or installed thereon or thereover, together with all existing, future or potential easements of access between the right-of-way of the public way described in said petition and all the real property of the respondents remaining after the appropriation of said easement and right-of-way described in the petition, be and the same hereby is granted and allowed.

THEREUPON, a jury having been legally demanded in said cause, the court proceeds to have assessed by a jury the damages and compensation to which the several respondents are entitled for the condemnation of the parcel of property set out and described in said petition or application for condemnation and as hereinafter described.

THEREUPON, on the 14th day of April, 1960, a jury of good and lawful men, to-wit, Avery E. Stricklin, Foreman, and

eleven others, who being duly impaneled and sworn according to law, upon their oaths do say:

We, the jury, ~~hereby~~ assess and fix the damages and compensation to the owners of property described in Parcel No. 1 Paragraph 3, Tract No. 55, of the ~~petitioner's~~ application for condemnation filed in the Office of the Probate Judge of Shelby County, Alabama, on the 19th day of May, 1959, and as amended April 12, 1960, ~~involved in this appeal~~ at the sum of Nineteen Thousand Dollars (\$19,000.00).

S/ Avery E. Stricklin
Foreman

And now comes the petitioner, by its attorneys, and shows unto the court that it has heretofore deposited with the Judge of the Probate Court of Shelby County, Alabama, the sum of Thirteen Thousand Two Hundred Fifty-four and 25/100 Dollars (\$13,254.25), as damages and compensation for the condemnation of the lands and interest in lands hereinafter described, which said sum has been transferred and delivered by the Judge of the Probate Court of Shelby County, Alabama, to the Clerk of this Court, who now has possession of said funds.

It is hereby ORDERED, ADJUDGED and DECREED by the court that the petitioner pay the additional sum of Five Thousand Seven Hundred Forty-five and 75/100 Dollars (\$5,745.75), as damages and compensation to the respondents for the land taken and condemned in this cause, and, further, that the costs of this proceeding be, and the same hereby are, taxed against the petitioner. It is further ORDERED, ADJUDGED and DECREED by the court that the respondents are entitled to have and receive of the Clerk the sum of Nineteen Thousand Dollars (\$19,000.00). Upon payment of the award and costs in this proceeding by the petitioner in this cause, the following described lands and interest in lands are hereby condemned and awarded to the petitioner.

It is further ORDERED, ADJUDGED and DECREED by the court that the petitioner, State of Alabama, be and it hereby is given and awarded a right-of-way and easement in, over, on and upon the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands and the right to prevent any persons from placing or maintaining any obstructions on or upon said lands, and also the right to enter upon said lands for the purpose of constructing, maintaining and repairing the public road, street, avenue or highway for which said land is sought to be and hereby is condemned, and for the uses and purposes sought in the petition or application; together with all existing, future and potential easements of access between the said right-of-way of the public way hereinafter described and all of the real property of the respondents remaining after appropriation of said easement and right-of-way herein described.

It is further ORDERED, ADJUDGED and DECREED that title to the property hereinafter described be and the same hereby is divested out of the respondents and hereby is vested in the petitioner, State of Alabama, said property being particularly described as follows:

A tract of land designated as Tract Number 55, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7) August, 1957, as recorded in the Office of the Judge of Probate, Shelby County, Alabama, being more particularly described as follows:

PARCEL NO. 1: Beginning at Station 552+84 where the center line of Project No. I-65-2(7) intersects the south line of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 18, T-21-S, R-2-W, the south property line; thence westerly along said south property line a distance of 290 feet, more or less, to a point that is 230 feet southwesterly of and at right angles to the center line of said project; thence N 38 deg. 49 min. W, parallel to the center line of said project, a distance of 660 feet, more or less, to the northeast right of way line of an Alabama Power Company Transmission line; thence northwesterly along said NE right of way line of said Alabama Power Company Transmission line a distance of 330 feet, more or less, to the point where said NE right of way line of said Alabama Power Company Transmission line intersects the E line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, Township 21 S, Range 3 West; thence North along said East line of said last designated forty acre tract a distance of 275 feet, more or less, (crossing the center line of said project at approximate station 566+45), to Buck Creek; thence Southwesterly along Buck Creek (crossing the center line of said project at approximate

station 566/55) a distance of 110 feet, more or less, to said NE right of way line of Alabama Power Company Transmission line; thence Northwesterly along said NE right of way line of said Alabama Power Company Transmission line a distance of 1,015 feet, more or less, to the south right of way line of the L. & N. Railroad, the north property line; thence easterly along said north property line a distance of 20 feet, more or less, to a point that is 155 feet northeasterly of and at right angles to the center line of said project; thence S 38 deg. 49 min. E, parallel to the center line of said project, a distance of 1410 feet, more or less, to a point that is 155 feet northeasterly of and at right angles to the center line of said project at station 562/50; thence southeasterly along a straight line a distance of 60 feet, more or less, to a point that is 190 feet northeasterly of and at right angles to the center line of said project at station 562/00; thence S 38 deg. 49 min. E, parallel to the center line of said project, a distance of 1000 feet; thence southeasterly along a straight line a distance of 90 feet, more or less, to a point (on the south line of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 18, T-21-S, R-2-W, the south property line) that is 150 feet northeasterly of and at right angles to the center line of said project; thence westerly along said south property line a distance of 190 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 18, T-21-S, R-2-W and the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 13, T-21-S, R-3-W, and containing 15.04 acres, more or less.

Also, all existing future, or potential common law or statutory rights of access between the right of way of the public way identified as Project I-65-2(7), County of Shelby, and all of the named owners' remaining real property consisting of all parcels contiguous one to another, whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the real property described above or are connected thereto by other parcels owned by said above named owners.

Also an easement to a strip of land 200 feet wide lying northeasterly of, parallel to and adjoining the above described right of way from Station 557/50 to Station 558/50, covering the right to enter thereon for the construction and maintenance of an outlet ditch and containing 0.46 acres, more or less.

PARCEL NO. 2: Beginning at a point that is 255 feet northeasterly of and at right angles to the center line of project No. I-65-2(7) at station 584/00; thence southernly along a straight line a distance of 190 feet, more or less, to a point that is 150 feet northeasterly of and at right angles to the center line of said Project at Station 582/50; thence S 38 deg. 49 min. E, parallel to the center line of said Project a distance of 460 feet, more or less, to the north right of way of the L. & N. Railroad, the south property line; thence westerly along said south property line (crossing the center line of said project at approximate Station 579/20) a distance of 490 feet, more or less, to a point that is 225 feet southwesterly of and at right angles to the center line of said project; thence N 38deg. 49 min. W, parallel to the center line of said project, a distance of 200 feet, more or less, to a point that is 225 feet southwesterly of and at right angles to the center line of said project at station 582/98.6; thence northwesterly along a curve to the right (concave northeasterly) having a radius of 11684.16 feet, parallel to the center line of said project, a distance of 120 feet, more or less, to a point on the east line of James and Ina Cardwell property; thence northerly along said east line of James and Ina Cardwell property and along the east line of V. M. and Katherine Vanderslice property (crossing the center line of said project at approximate station 587/65) a distance of 437 feet, more or less, to the north line of Section 13, T-21-S, R-3-W, the north property line; thence easterly along said north property line a distance of 315 feet, more or less, to a point that is 255 feet, northeasterly of and at right angles to the center line of said project; thence southeasterly along a curve to the left (concave northeasterly) having a radius of 11,204.16 feet, parallel to the center line of said project, a distance of 185 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, T-21-S, R-3-W and containing 6.75 acres, more or less, including that part now occupied by an Alabama Power Company Transmission Line.

Also, all existing future, or potential common law or statutory rights of access between the right of way of the public way identified as Project I-65-2(7), County of Shelby, and all of the named owners' remaining real property consisting of all parcels contiguous one to another, whether acquired by separate conveyance or otherwise, all of which parcels either adjoin the real property described above or are connected thereto by other parcels owned by said above named owners.

PARCEL NO. 3: Beginning at a point, on the north line of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, T-21-S, R-3-W, that is 225 feet southwesterly of and at right angles to the center line of Project No. I-65-2(7); thence southeasterly along a curve to the left (concave northeasterly) having a radius of 11,684.16 feet, parallel to the center line of said project, a distance of 60 feet, more or less, to the east property line; thence northerly along said east property line a distance of 50 feet, more or less, to the north line of said Quarter-Quarter Section; thence westerly along said north line a distance of 30 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, T-21-S, R-3-W, and containing 0.01 acres, more or less, including that part occupied by a present county road.

Also, all existing future, or potential common law or statutory rights of access between the right of way of the public way identified as Project I-65-2(7), County of Shelby, and all of the named owners' remaining real property consisting of all parcels contiguous one to another, whether acquired by separate conveyance or otherwise, all of which parcels either adjoin the real property described above or are connected thereto by other parcels owned by said above named owners.

DONE and ORDERED this 14th day of April, 1960.

A. L. Hardegree
Circuit Judge

STATE OF ALABAMA
SHELBY COUNTY

I, L. C. Fulton, Clerk of the Circuit Court of Shelby County, Alabama, do hereby certify that the foregoing is a true and correct copy of the original decree in the case of State of Alabama vs. K. E. Fulton, Case No. 484, which was entered and rendered by A. L. Hardegree, Judge of the Circuit Court of Shelby County, Alabama, in said cause, on the 14th day of April, 1960, which said decree is on file and enrolled in my office.

Witness my hand and seal this the 18 day of May, 1960.

L. C. Fulton
Clerk of the Circuit Court of Shelby
County, Alabama

STATE OF ALABAMA
SHELBY COUNTY

I, Conrad M. Fowler, Judge of Probate, do
certify that the within deed was
filed in this office for record the 17 day
of May 1960 at 8 o'clock A.M.
and recorded in deed Record 208
page 22 and examined 5-24-60
and the Mortgage Tax of \$
Deed Tax of \$ has been paid.

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Fee \$ 7.50

Conrad M. Fowler
Judge of Probate