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correct copy

6-25-92

Probate Judge
Shelby County

STATE OF ALABAMA
SHELBY COUNTY

IN THE PROBATE COURT OF
SHELBY COUNTY, ALABAMA

TO THE HONORABLE CONRAD M. FOWLER, JUDGE OF SAID COURT:

Now comes the State of Alabama, as Petitioner, and files this, its 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 Court as follows:

1. Petitioner is authorized by the Constitution and Laws of the State of Alabama to institute and prosecute this proceeding in its own name for the purposes herein stated, and that Petitioner's attorney has received specific authority for the bringing of this suit, as required by law.

2. That the State of Alabama is now engaged in the planning or construction or maintenance or improvement of a certain public road or highway which reaches from a point on the Chilton-Shelby County line to a point near Alabaster, in Shelby County, Alabama, said public road or highway being known or designated as State of Alabama Highway Department Project No. I-65-2(7) or State of Alabama Highway Department Project No. I-202-2(7) (the two said Project Numbers both designating one and the same project); that said public road or highway is or will be a limited access road or highway; that Petitioner now seeks to construct and maintain an interchange on said highway at a point near Dargin where U. S. Highway No. 31 presently crosses over said 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 said property-owners' remaining real property, if any, as is more specifically described and set out in Paragraph 3 below; that said public road or highway is, or will be, a part of the designated National System of Interstate Highways and will on completion be available for use by the public; that the acquisition of the lands and properties hereinafter described in Paragraph 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 tracts of land necessary for use by Petitioner as a right of way for said public road or highway purposes, and which Petitioner seeks to

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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 are necessary to effect said public road or highway as a limited access road or highway, are more particularly described or designated as the following separate paragraphs or "Parcels", beginning with Parcel No. A and continuing through and including Parcel No. D; and that the names and residences of the owners and other parties who claim or who hold any right, title, or interest in each separate "Parcel" are stated where known, immediately following each said separate "Parcel", as follows, to-wit:

PARCEL NO. A:

DESCRIPTION OF LAND REQUIRED

A tract of land designated as Tract No. 28A-X, as shown on the Alabama State Highway Department Right-of-Way Map, Project No. I-65-2(7), as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Right-of-Way Map Book No. 3 at page 2, being more particularly described as follows:

Commencing at the southeast corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence northerly along the east boundary of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 480 feet, more or less, to a point that is 150 feet southwesterly of and at right angles to the centerline of Project I-65-2(7); thence northwesterly and parallel to the centerline of said Project along a curve to the left (concave southwesterly) having a radius of 7489.44 feet, a distance of 245 feet, more or less, to a point that is 150 feet southwesterly of and at right angles to the centerline of said Project at Station 268 plus 56, and the point of beginning of the property herein conveyed; thence northwesterly a distance of 80 feet, more or less, to a point that is 173 feet southwesterly of and at right angles to the centerline of said Project at Station 269 plus 50; thence northwesterly a distance of 210 feet, more or less, to a point that is 262 feet southwesterly of and at right angles to the centerline of said Project at Station 271 plus 50; thence southwesterly a distance of 75 feet, more or less, to a point on the present southeast right-of-way line of U. S. Highway No. 31 that is 60 feet southeasterly of and at right angles to the centerline of U. S. 31 at Station 270 plus 00; thence northeasterly along said present southeast right-of-way of U. S. 31 a distance of 85 feet, more or less, to the north property line; thence easterly along the said north property line a distance of 125 feet, more or less, to the present southwest right-of-way line of said Project I-65-2(7); thence southeasterly along said present right-of-way of Project a distance of 280 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West and containing 0.05 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 No. I-65-2(7) County of Shelby, and all of the ~~above~~ 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.

OWNERS OF PARCEL NO. A:

Lizzie Smith	Onnie Lee Smith	Naomi Smith
Route 2, Box 72	Route 2, Box 72	Route 2
Calera, Alabama	Calera, Alabama	Calera, Alabama
Georgia Lee Drake Thornton	Cornell Thornton	
Route 2, Box 72	Route 2, Box 72	
Calera, Alabama	Calera, Alabama	

PARCEL NO. B:

DESCRIPTION OF LAND REQUIRED

A tract of land designated as Tract No. 29A-X, as shown on the Alabama State Highway Department Right-of-Way Map, Project No. I-65-2(7), as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Right-of-Way Map Book No. 3 at page 2, being more particularly described as follows:

Commencing at the southeast corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence westerly along the south boundary line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 180 feet to a point on a line (which extends from a point that is 350 feet northeasterly of and at right angles to the centerline of Project I-65-2(7) at Station 275 plus 42 to a point that is 246 feet northeasterly of and at right angles to the centerline of said Project at Station 273 plus 04) and the point of beginning of the property herein conveyed; thence continuing westerly along the south boundary line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 130 feet, more or less, to the present southeast right-of-way line of U. S. Highway No. 31; thence northeasterly along the said present southeast right-of-way of U. S. 31 a distance of 188 feet, more or less, to the present southwest right-of-way line of a county road; thence southeasterly along the said present southwest right-of-way of county road a distance of 25 feet, more or less, to said point that is 350 feet northeasterly of and at right angles to the centerline of said Project at Station 275 plus 42; thence southeasterly along said line (which if extended would intersect said point that is 246 feet northeasterly of and at right angles to said Project at Station 273 plus 04) a distance of 190 feet, more or less, to the point of beginning.

Said stip of land lying in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 4, Township 22 South, Range 2 West and containing 0.32 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 No. I-64-2(7), County of Shelby, and all of the ~~above~~ 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.

OWNERS OF PARCEL NO. B:

Ralph M. Aland	Jeanette Aland	Jack Aland	Ellen Aland
51 Overbrook Road	51 Overbrook Road	3842 Cove Drive	3842 Cove Drive
Birmingham, Alabama	Birmingham, Alabama	Birmingham, Alabama	Birmingham, Alabama

PARCEL NO. C:

DESCRIPTION OF LAND REQUIRED

A tract of land designated as Tract No. 30-X, as shown on the Alabama State Highway Department Right-of-Way Map, Project No. I-65-2(7), as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Right-of-way Map Book No. 3 at page 2, being more particularly described as follows:

PARCEL NO. 1: Commencing at the southwest corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence northerly along the east boundary of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 660 feet, more or less, to the south property line; thence easterly along the said south property line a distance of 595 feet, more or less, to the present northwest right-of-way line of the U. S. Highway 31; thence northeasterly along said present right-of-way of U. S. 31 a distance of 60 feet, more or less, to a point that is 130 feet northwesterly of and at right angles to the centerline of said U. S. Highway No. 31 at Station 269 plus 00, and the point of beginning of the property herein conveyed; thence northwesterly a distance of 115 feet, more or less, to a point that is 183 feet northwesterly of and at right angles to the said centerline of U. S. 31 at Station 270 plus 00; thence northwesterly a distance of 460 feet, more or less, to a point that is 326 feet southwesterly of and at right angles to the centerline of Project I-65-2(7) at Station 278 plus 82; thence northwesterly a distance of 125 feet, more or less, to a point that is 363 feet southwesterly of and at right angles to the centerline of said Project at Station 280 plus 00; thence northeasterly along a line (which if extended would intersect a point that is 218 feet southwesterly of and at right angles to the centerline of said project at Station 280 plus 00) a distance of 30 feet, more or less, to the south side of a county road the north property line; thence easterly along the said north property line a distance of 110 feet, more or less, to the present southwest right-of-way line of said Project I-65-2(7); thence southeasterly along the said present southwest right-of-way line of Project a distance of 295 feet, more or less, to the present west right-of-way line of said U. S. Highway No. 31; thence southerly along said present west right-of-way of U. S. 31 a distance of 390 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West and containing 1.45 acres, more or less.

Said property is acquired for a controlled access facility and adjacent service roads: Also, all abutter's rights appurtenant to ~~abutter~~ named owners' remaining property in and to said controlled access facility, provided however, that there is hereby reserved the right of ingress to and egress from such remaining property to and from said service road or roads which will be accessible to the controlled access facility only at such points as may be established by public authority.

PARCEL NO. 2: Commencing at the southeast corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence northerly along the east boundary line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ a distance of 480 feet, more or less, to the present southwest right-of-way line of Project I-65-2(7); thence northwesterly along the said present southwest right-of-way of Project I-65-2(7) a distance of 520 feet, more or less, to the south property line and the point of beginning of the property herein conveyed; thence westerly along the said south property line a distance of 128 feet, more or less, to the present southeast right-of-way line of U. S. Highway No. 31; thence northeasterly along the said present southeast right-of-way of U. S. 31 a distance of 115 feet, more or less, to the present southwest right-of-way line of said Project; thence southeasterly along the present southwest right-of-way line of said Project a distance of 150 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West and containing 0.16 acres, more or less.

PARCEL NO. 3: Commencing at the northeast corner of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence westerly along the north boundary line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, the north property line, a distance of 180 feet, more or less, to a point on a line (which extends from a point that is 350 feet northeasterly of and at right angles to the centerline of Project I-65-2(7) at Station 275 plus 42 to a point that is 246 feet northwesterly of and at right angles to said Project at Station 273 plus 04), and the point of beginning of the property herein conveyed; thence southeasterly along said line a distance of 70 feet, more or less, to said point that is 246 feet northeasterly of and at right angles to the centerline of said Project at Station 273 plus 04; thence southeasterly a distance of 215 feet, more or less, to a point that is 175 feet northeasterly of and at right angles to the centerline of said Project at Station 271 plus 00; thence southeasterly along a line (which if extended would intersect a point that is 200 feet northeasterly of and at right angles to the centerline of said Project at Station 267 plus 75) a distance of 70 feet, more or less, to the east line of the said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, the east property line; thence southerly along the said east property line a distance of 5 feet, more or less, to the present northeast right-of-way line of said Project I-65-2(7); thence northwesterly along the said present northeast right-of-way of said Project a distance of 445 feet, more or less, to the present southeast right-of-way of U. S. Highway No. 31; thence northeasterly along the said present southeast right-of-way line of U. S. 31 a distance of 10 feet, more or less, to the north line of the said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, the north property line; thence easterly along the said north property line a distance of 130 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West and containing 0.42 acres, more or less.

OWNERS OF PARCEL NO. 3:

✓ Ethel Smoot
448 North 4th Street
Birmingham, Alabama

Charles Smoot
448 North 4th Street
Birmingham, Alabama

The following named persons, or their heirs or devisees and personal representatives, if deceased, whose residences, ages, and legal disabilities are unknown, but whose last known residences appears as indicated:

✓ Alma Roberson
521 East Brockenridge Street
Ft. Wayne, Indiana

✓ Charles Lewis
4533 Pades Places N. E.
Washington, D. C.

Clifton Robinson
784 Acheson Street
Columbus, Ohio

Pvt. Tommy Lee Lewis
RA 14469638
Service Btry, Howelin, 6th Arty
Fort Sill, Oklahoma

✓ Lola W. Calhoun
739 Princeton Place N. W.
Washington, D. C.

PARCEL NO. D:

DESCRIPTION OF LAND REQUIRED

A tract of land designated as Tract No. 31-X, as shown on the Alabama State Highway Department Right-of-Way Map, Project No. I-65-2(7), as recorded in the Office of the Judge of Probate of Shelby County, Alabama, in Right-of-Way Map Book No. 3 at page 2, being more particularly described as follows:

PARCEL NO. 1: Commencing at the southwest corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence easterly along the south boundary of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 20 feet, more or less, to the north line of a county road, the south property line; thence easterly along the said south property line a distance of 270 feet, more or less, to a point that is at right angles to the centerline of Project I-65-2(7) at Station 280 plus 00 and the point of beginning of the property herein conveyed; thence northeasterly and perpendicular to the centerline of said Project a distance of 65 feet, more or less, to a point that is 218 feet southwesterly of and at right angles to the centerline of said Project at Station 280 plus 00; thence northwesterly a distance of 355 feet, more or less, to a point on the present southwest right-of-way of said Project that is 150 feet southwesterly of and at right angles to the centerline of said Project at Station 283 plus 50; thence southeasterly along said present southwest right-of-way line of said Project a distance of 510 feet, more or less, to the said south property line; thence westerly along the said south property line a distance of 210 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West, and containing 0.65 acres, more or less.

Said property is acquired for a controlled access facility and adjacent service roads:

Also, all abutter's rights appurtenant to ~~some~~ named owners's remaining property in and to said controlled access facility, provided however that there is hereby reserved along a line (described as beginning at a point that is 218 feet southwesterly of and at right angles to the centerline of Project I-65-2(7) at Station 280 plus 00; thence southwesterly and perpendicular to the centerline of said Project at Station 280 plus 00 a distance of 80 feet to the north right-of-way of a county road, the point of ending) the right of ingress to and egress from such remaining property to and from said service road or roads which will be accessible to the controlled access facility only at such points as may be established by public authority.

PARCEL NO. 2: Commencing at the northwest corner of the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, Section 4, Township 22 South, Range 2 West; thence southerly along the west boundary of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$ a distance of 500 feet, more or less, to the present northeast right-of-way line of Project I-65-2(7); thence southeasterly along the said present northeast right-of-way of said Project a distance of 440 feet, more or less, to a point that is 150 feet northeasterly of and at right angles to the centerline of said Project at Station 283 plus 00 and the point of beginning of the property

herein conveyed; thence southeasterly a distance of 380 feet, more or less, to a point that is 276 feet northeasterly of and at right angles to the centerline of said Project at Station 270 plus 58; thence northeasterly a distance of 205 feet, more or less, to a point on the present northeast right-of-way line of U. S. Highway No. 31 that is 120 feet northwesterly of and at right angles to the centerline of said U. S. Highway 31 at Station 280 plus 00; thence southwesterly along the said present northeast right-of-way line of said Project I-65-2(7); thence less, to the present northeast right-of-way line of said Project a distance northwesterly along said present northeast right-of-way of said Project a distance of 160 feet, more or less, to the point of beginning.

Said strip of land lying in the NW¹ of the SE¹, Section 4, Township 22 South, Range 2 West, and containing 0.64 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 No. I-65-2(7) County of Shelby, and all of the ~~above~~ named owners' remaining real property consisting of all parcels ~~and~~ 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.

OWNERS OF PARCEL NO. D:

J. C. Sargeant, Jr.
1050 Lake Hollingsworth
(or 1068 Lake Hollingsworth Drive)
Lakeland, Florida

J. Stanley Sargeant
1050 Lake Hollingsworth
(or 1068 Lake Hollingsworth Drive)
Lakeland, Florida

The Federal Land Bank of New Orleans
618 North 22nd Street
Birmingham, Ala.

Anniston Production Credit Association of Anniston
Anniston, Alabama

Mary F. Sargeant
1050 Lake Hollingsworth
(or 1068 Lake Hollingsworth Drive)
Lakeland, Florida

Shirley Sargeant
1050 Lake Hollingsworth
(or 1068 Lake Hollingsworth Drive)
Lakeland, Florida

4. That Petitioner further shows that diligent search has been made of the records in the Office of the Judge of Probate of 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 that Petitioner is informed and believes, and upon such information and belief, avers, that the said lands and properties are owned, claimed, and held by the parties as are named Respondents in this proceeding and as set forth in Paragraph 3 above, and by no others, and that all of said parties named as Respondents are each over the age of twenty-one 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.

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 Parcels No. A through and including Parcel No. D of Paragraph 3 above are now located and staked out on the ground and are 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, at page 2 of Right of Way Map Record Number 3, said page 2 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being by reference hereto made a part hereof.

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. A through and including Parcel No. D of Paragraph 3 above as to the damages 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 Respondents 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 Respondents set out in Paragraph 3 above of the filing of said Petition and of the day set for the hearing thereof, all

as provided by law, and that a guardian ad litem be appointed to represent and defend the interest of any Respondent 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 Respondent for such taking, as provided by law; ^{and} that upon payment into 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. A through and including Parcel No. D of Paragraph 3 above, together with other properties therein specified, to effect said public road or highway, and that this Court will make 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 
Oliver P. Head


As Special Assistant Attorney General for the State of Alabama

STATE OF ALABAMA
SHELBY COUNTY

Before me, the undersigned authority in and for said County, in said State, personally appeared Oliver P. Head, 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 Order of Condemnation, and that affiant is informed and believes, and upon such information and belief says, that the averments contained therein are true.


Oliver P. Head

Sworn to and subscribed before me
this 4th day of October, 1963.


Notary Public

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