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correct copy

Probate Judge

6-25-92

Shelby County

APPLICATION FOR ORDER OF CONDEMNATION

Filed in the Probate Court of  
Shelby County, Alabama, this  
16th day of January, 1962.

*Conrad M. Fowler*  
Conrad M. Fowler, Judge of  
said Court

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Inst # 1992-23353

10/13/1992-23353  
03:50 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
012 NCD 34.00

STATE OF ALABAMA,

PETITIONER

VS.

BYERS HARRIS, IDA STRICKLAND, FANNIE BYARS, DAISY LEE JACKSON, MARY ETTA HOLMES,  
JOHN DANIEL, SARAH JONES, CALLIE DANIEL, SAM JONES, THE FIRST BANK OF ALABASTER,  
JONES MARIE DANIELS, an infant, VIRGINIA MAE DANIELS, an infant,  
a corporation, MARY DELIA DANIELS, ROBERTA MARTIN, FLETCHER SWAYNE, MATTIE LEE  
TAYLOR, SAMUEL LEE SWAYNE, an infant, FLETCHER SWAYNE, JR., UNITED STATES OF AMERICA,  
assignee of mortgage from Fletcher Swayne recorded in Mortgage Book 232 at page 445,  
Office of the Judge of Probate of Shelby County, Alabama, DAISY HARRIS, HAZEL WIL-  
LIAMS, ANNIE B. DUNCAN, OLLIE BYARS, ALICE FONTAINE, LUCILLE HAYMON, MARJORIE HARD-  
AWAY, BARBARA JEAN HOLLOWELL SIMMONS, WILLIE W. STEELE, GEORGIA MARTIN, KATIE MARTIN  
WILLIAMS, MARY ROBERTSON, TIM WILLIAMS, ALBERTA WOOLVERTON, ALBERTA WOOLVERTON JACK-  
SON, NATHANIEL SWAYNE, ALBERTA SWAYNE HILL, JAMES SWAYNE, WILLIE FRANCES MARBURY,  
ELIZABETH SWAYNE, R. A. REYNOLDS, CEASAR HOLLOWELL, THE UNKNOWN HEIRS OR DEVISEES  
AND PERSONAL REPRESENTATIVES OF LEE BYARS, deceased, THE UNKNOWN HEIRS OR DEVISEES  
AND PERSONAL REPRESENTATIVES OF ED DANIELS, deceased, THE UNKNOWN HEIRS OR DEVISEES  
AND PERSONAL REPRESENTATIVES OF WILLIE MARTIN, deceased, THE UNKNOWN HEIRS OR DE-  
VISEES AND PERSONAL REPRESENTATIVES OF MATTIE SWAYNE, deceased, AND THE UNKNOWN  
HEIRS OR DEVISEES AND PERSONAL REPRESENTATIVES OF ANY OF THE ABOVE PARTIES WHO MAY  
BE DECEASED, AND ANY OTHER PERSON OR CORPORATION OWNING OR CLAIMING ANY LAND OR  
PROPERTY DESCRIBED IN THE FOLLOWING APPLICATION FOR ORDER OF CONDEMNATION, THE  
NAMES OF ANY SUCH PERSONS OR CORPORATIONS BEING UNKNOWN TO THE PETITIONER,

RESPONDENTS

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 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 of a certain public road or highway which reaches from a point near Dargin in a northerly direction 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, 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 and said property-owners' remaining real property, if any, as is more of way/specifically described and set out in Paragraph 3 below; that said public road or highway is, or will<sup>be,</sup> 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 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. 1 and continuing through and including Parcel No. 6; 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. 1;

A tract of land designated as Tract Number 74, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

PARCEL NO. 1: Commencing on the centerline of Project No. I-65-2(7) at Station 651.80 which equals Station 149.19.1 on the centerline of U. S. Highway No. 31; thence southeasterly along the centerline of said U. S. Highway No. 31 a distance of 201.1 feet; thence turn an angle of 35 deg. 20 min. to the left and run a distance of 170.8 feet to the present northeast right of way line of U. S. Highway No. 31; thence southeasterly along said present northeast right of way line a distance of 395 feet, more or less, to the north boundary line of the property herein conveyed and the point of beginning; thence continuing southeasterly along said present northeast right of way line a distance of 72 feet, more or less, to the south property line; thence easterly along said south property line a distance of 80 feet, more or less, to the point that is 145 feet northeasterly of and at right angles to the centerline of U. S. Highway No. 31; thence northwesterly and parallel to the centerline of said U. S. Highway No. 31 a distance of 87 feet, more or less, to the north property line; thence westerly along said north property line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 1, Township 21 South, Range 3 West, and containing 0.06 acres, more or less.

Also, any buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 1;

X Byers Harris	X Ida Strickland	X Fannie Byars	X Daisy Lee Jackson
Route 1	Alabaster,	Siluria,	Route 1, Box 184
Siluria, Ala.	Alabama	Alabama	Siluria, Alabama

X The heirs or devisees and personal representatives of Lee Byars, deceased, whose names, ages, residences, and legal disabilities are unknown.

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 know residences appear as indicated:

X Daisy Harris	X Caesar Hollowell
3657 Scovill Ave.	(residence unknown)
Cleveland, Ohio	
X Ollie Byars	X Lucille Haymon
State of Illinois	State of Ohio
X Annie B. Duncan	X Marjorie Hardaway
Lynch, Ky.	State of Ohio
X Hazel Williams	X Alice Fontaine
8704 Beckman Ave.	State of Ohio
Cleveland, Ohio	
X Barbara Jean Hollowell Simmons	
State of Ohio	

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PARCEL NO. 2 :

A tract of land designated as Tract Number 90-A, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Beginning at a point that is 260 feet northwesterly of and at right angles to the centerline of Project No. I-65-2(7) at Station 663/35; thence North 25 deg. 33½ min. East a distance of 210 feet, more or less, to the north property line; thence easterly along said north property line a distance of 35 feet, more or less, to the east property line; thence southerly along said east property line a distance of 195 feet, more or less, to the south property line; thence westerly along said south property line a distance of 140 feet, more or less, to a line that extends to a point that is 140 feet northwesterly of and at right angles to the centerline of said Project at Station 659/15 to a point that is 260 feet northwesterly of and at right angles to said centerline at Station 663/35; thence northeasterly along said line a distance of 15 feet, more or less, to the point of beginning.

Said strip of land lying in the NE¼ of the SW¼, Section 1, Township 21 South, Range 3 West, and containing 0.40 acres, more or less.

This acquisition of property by the State of Alabama is made for the purpose of a controlled access facility and adjacent service road or roads and the State of Alabama acquires from the named owners any and all abutter's rights appurtenant to said owner's 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.

Also, any buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 2 :

+ Mary Etta Holmes  
Siluria, Alabama

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

x Willie W. Steele  
Alabaster, Alabama

PARCEL NO. 3

A tract of land designated as Tract Number 91, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Beginning at Station 668/06 where the centerline of Project No. I-65-2(7) intersects the north property line; thence easterly along the said north property line a distance of 88 feet, more or less, to the east property line; thence southerly along said east property line a distance of 150 feet, more or less, to the point that is 150 feet southeasterly of and at right angles to the centerline of said project; thence South 25 deg. 33½ min. West and parallel to said centerline a distance of 210 feet, more or less, to a point that is 150 feet southeasterly of and at right angles to the centerline of said Project at Station 665/07.4; thence southwesterly along a straight line (which, if extended, would meet a point that is 240 feet southeasterly of and at right angles to said centerline at Station 659/10) a distance of 250 feet, more or less, to the south property line; thence westerly along said south property line (crossing the centerline of said Project at approximate Station 661/70) a distance of 245 feet, more or less, to the west property line; thence northerly along said west property line a distance of 560 feet, more or less, to said north property line; thence easterly along said north property line a distance of 320 feet, more or less, to the point of beginning.

Said strip of land lying in the NE¼ of the SW¼, Section 1, Township 21 South, Range 3 West, and containing 3.72 acres, more or less, excepting there upon the following described real estate:

That certain tract of land deeded Siluria Atostalic Overcoming Hold Church of God as recorded in Deed Book 149 at page 98 in the Office of the Judge of Probate, Shelby County, Alabama.

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 Sholby, 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 named owners.

Also, and buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 3:

X John Daniel  
Alabaster, Alabama

X Callie Daniel  
Alabaster, Alabama

X Sam Jones  
Alabaster, Alabama

X Sarah Jones  
Alabaster, Alabama

+ The First Bank of Alabaster, a corporation  
Alabaster, Alabama



PARCEL NO. 4;

A tract of land designated as Tract Number 95, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate, of Shelby County, Alabama, being more particularly described as follows:

PARCEL NO. 1: Commencing at Station 652/94 where the centerline of Project No. I-65-2(7) intersects the present northeast right of way line of U. S. Highway No. 31; thence northwesterly along said present northeast right of way line a distance of 855 feet, more or less, to the southeast boundary of the property herein conveyed and the point of beginning; thence continuing northwesterly along said present northeast right of way line a distance of 35 feet, more or less, to the west property line; thence northerly along said west property line a distance of 65 feet, more or less, to a line that extends from a point on the present northeast right of way line of U. S. Highway No. 31 at Station 161/00 to a point that is 180 feet northeasterly of and at right angles to the centerline of said U. S. Highway No. 31 at Station 158/00; thence southeasterly along said line a distance of 75 feet, more or less, to the said southeast boundary line; thence southwesterly along said southeast boundary line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 1, Township 21 South, Range 3 West, and containing 0.08 acres, more or less.

PARCEL NO. 2: Commencing at a point that is 410 feet northwesterly of and at right angles to the centerline of Project No. I-65-2(7) at Station 659/15; thence southwesterly along a straight line (which, if extended, would meet a point that is 540 feet northwesterly of and at right angles to the centerline of said Project at Station 657/10) a distance of 60 feet, more or less, to the east line of the property herein conveyed and the point of beginning; thence continuing southwesterly along said line a distance of 40 feet, more or less, to the south property line; thence easterly along said south property line a distance of 30 feet, more or less, to the east property line; thence northerly along said east property line a distance of 26 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 1, Township 21 South, Range 3 West, and containing 0.01 acres, more or less.

This acquisition of property by the State of Alabama is made for the purpose of a controlled access facility and adjacent service road or roads and the State of Alabama acquires from the named owners any and all abutter's rights appurtenant to said owner's 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.

Also, any buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 4;

✓ Mary Della Daniels  
R. F. D.  
Siluria, Alabama

\* The heirs or devisees and personal representatives of Ed Daniels, deceased, whose names, residences, ages, and legal disabilities are unknown.

✓ Jones Marie Daniels, an infant, who resides with her mother, Mary Della Daniels, R. F. D., Siluria, Alabama.  
✓ Virginia Mae Daniels, an infant, who resides with her mother, Mary Della Daniels, R. F. D., Siluria, Alabama.

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

✓ R. A. Reynolds  
(residence unknown)



PARCEL NO. 5

A tract of land designated as Tract Number 96, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commencing at Station 652/94 where the centerline of Project No. I-65-2(7) intersects the present northeast right of way line of U. S. Highway No. 31; thence Northwesterly along said present northeast right of way line a distance of 1,050 feet, more or less, to the south boundary line of the property herein conveyed and the point of beginning; thence continuing northwesterly along said present northeast right of way line a distance of 65 feet, more or less, to the point that is northeasterly of and at right angles to the centerline of U. S. Highway No. 31 at Station 161/00; thence southeasterly along a straight line (which, if extended, would meet a point that is 180 feet northeasterly of and at right angles to the centerline of U. S. Highway No. 31 at Station 158 / 00) a distance of 90 feet, more or less, to the said south boundary line; thence westerly along said south boundary line a distance of 32 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 1, Township 21 South, Range 3 West, and containing 0.01 acres, more or less.

Also, any buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 5

Robert Martin  
Alabaster,  
Alabama

\*The heirs or devisees and personal representatives of Willie Martin, deceased, whose names, residences, ages, and legal disabilities are unknown.

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

\* Georgia Martin  
Montgomery, Alabama

\* Mary Robertson  
Alabaster, Alabama

\* Alberta Woolverton  
Alabaster, Alabama

\* Katie Martin Williams  
Tuskegee, Alabama

\* Tim Williams  
Alabaster, Alabama

\* Alberta Woolverton Jackson  
Route 1, Box 183  
Siluria, Alabama

PARCEL NO. 6 :

A tract of land designated as Tract Number 98, as shown on the Alabama State Highway Department Right of Way Map, Project No. I-65-2(7), August, 1957, as recorded at page 1 of Right of Way Map Record Number 3, Office of the Judge of Probate of Shelby County, Alabama, being more particularly described as follows:

Commencing on the centerline of Project No. I-65-2(7) at Station 651+80 which equals Station 149+19.1 on the centerline of U. S. Highway No. 31; thence southeasterly along the centerline of said U. S. Highway No. 31 a distance of 201.1 feet; thence turn an angle of 35 deg. 20 min. to the left and run a distance of 170.8 feet to the present northeast right of way line of U. S. Highway No. 31; thence southeasterly along said present northeast right of way line a distance of 697 feet, more or less, to the west boundary line of the property herein conveyed and the point of beginning; thence continuing southeasterly along the present northeast right of way line of U. S. Highway No. 31 a distance of 80 feet, more or less, to the south line of Section 1, Township 21 South, Range 3 West, the south property line; thence easterly along said south property line a distance of 80 feet, more or less, to a point that is 145 feet north-easterly of and at right angles to the centerline of said U. S. Highway No. 31; thence northwesterly and parallel to the centerline of said U. S. Highway No. 31 a distance of 180 feet, more or less, to the said west boundary line; thence southerly along said west boundary line a distance of 58 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 1, Township 21 South, Range 3 West, and containing 0.14 acres, more or less.

Also, any buildings or structures, or any improvements of any nature, which are attached to or located on, entirely or partially, the above described property or any part thereof.

OWNERS OF PARCEL NO. 6 :

X Fletcher Swayne  
Alabaster, Alabama

X Mattie Lee Taylor  
Alabaster, Alabama

X Samuel Lee Swayne, an infant, who resides  
with his father, Fletcher Swayne, Alabaster,  
Alabama

X United State of America, assignee of  
Mortgage from Fletcher Swayne recorded  
in Mortgage Book 232 at page 445, Office  
of the Judge of Probate of Shelby County,  
Ala.

X Fletcher Swayne, Jr.  
Alabaster, Alabama

c/o Federal Housing Administrator  
710 North 20th Street  
Birmingham, Ala.

X The heirs or devisees and personal representatives of Mattie Swayne, deceased, whose names, residences, ages, and legal disabilities are unknown.

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

( Nathaniel Swayne  
Pensacola, Fla.

X Willie Frances Marbury  
Detroit, Mich.

X Alberta Swayne Hill  
Detroit, Mich.

X Elizabeth Swayne  
Detroit, Mich.

X James Swayne  
Detroit, Mich.

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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. 1 through and including Parcel No. 6 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 1 of Right of Way Map Record Number 3, said page 1 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. 1 through and including Parcel No. 6 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 Parcels No. 1 through and including Parcel No. 6 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

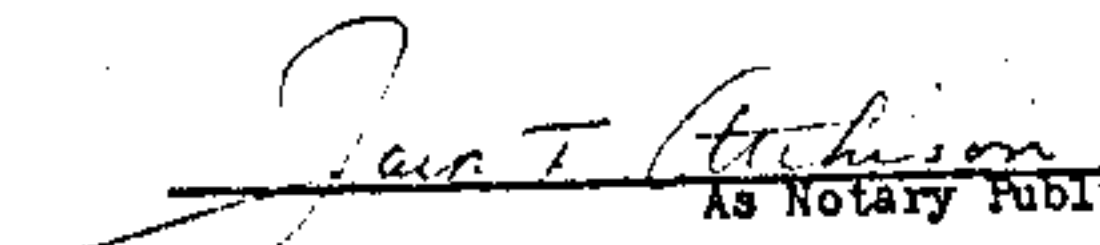
As Special Assistant Attorney  
General for the State of Alabama

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 16<sup>th</sup> day of January, 1962.

  
As Notary Public

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Inst # 1992-23353

10/13/1992-23353  
03:50 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
012 MCD 34.00