

I certify this to be a true and correct copy *Thomas A. Browder Jr.*

STATE OF ALABAMA 6-25-92 Probate Judge IN THE PROBATE COURT
Shelby County

Plaintiff,

vs.

MYRTLE CAROLINE RUTHERFORD,
ET AL

Defendants.

OF SHELBY COUNTY,

ALABAMA

CASE NO: _____

Project No. I-65-2(37)

Tract No. 48, 48-A

Tract No. 48
Myrtle Caroline Rutherford
Rt. 19, Box 163
Birmingham, Alabama

Alma Lee Brooker
Rt. 1
Helena, Alabama

Laura Estelle Rutherford
Rt. 19, Box 163
Birmingham, Alabama

Mattie Irene Jones
Rt. 1
Helena, Alabama

James A. Jones
Rt. 1
Helena, Alabama

Julius E. Rutherford
Rt. 1,
Helena, Alabama

Mildred Rutherford
Rt. 1
Helena, Alabama

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

Florence Rutherford
Rt. 1, Box 167
Helena, Alabama

Tract No. 48-A
Laura Estelle Rutherford
Rt. 19, Box 163
Birmingham, Alabama

AS TO ALL TRACTS
Fay Quick-Tax Collector
Shelby County Courthouse ✓
Columbiana, Alabama

Tommy Snowden, Tax Assessor
Shelby County Courthouse ✓
Columbiana, Alabama

APPLICATION FOR ORDER OF CONDEMNATION

Filed this 17 day of June 1993-03747
CONRAD M. FOWLER
Judge of Probate

02/08/1993-03747
03:04 PM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
012 MCD 34.00

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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 herein-after 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 19 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 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 as 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 Parcels are stated, where known, immediately following each said Parcel, as follows, to-wit:

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 19 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 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 the 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 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

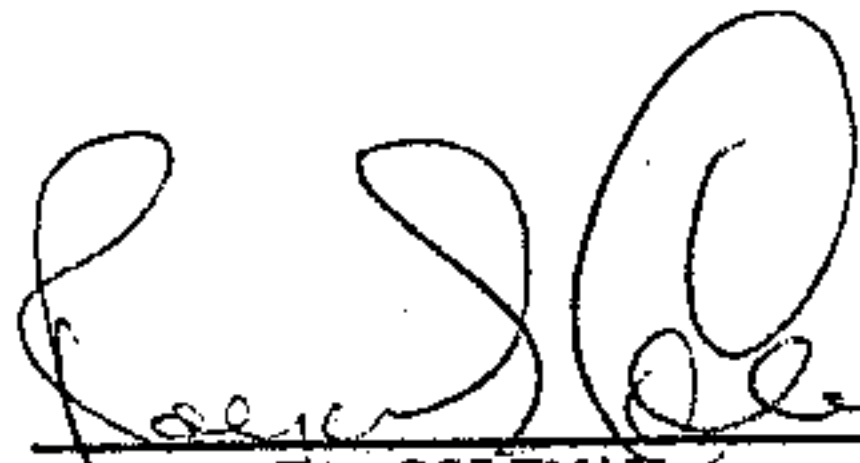
BY:

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

PARCEL NO. 1

SHELBY

TRACT NO. 43, REV.

Shelby

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 County, Alabama:

PARCEL NO. 1: Commencing at the northeast corner of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence westerly along the north line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 880 feet, more or less, to the present northwest right-of-way line of Shelby County Road No. 17; thence southwesterly along said present northwest right-of-way line, a distance of 283 feet, more or less, to the present southwest right-of-way line of a road and the point of beginning of the property herein to be conveyed; thence continuing southwesterly along said present northwest right-of-way line, a distance of 394 feet, more or less, to the west line of the NW $\frac{1}{4}$ of said Section 29, the west property line; thence northerly along said west property line, a distance of 430 feet, more or less, to the present southwest right-of-way line of a road; thence southeasterly along said present southwest right-of-way line, a distance of 325 feet, more or less, to the point of beginning.

Said strip of land lying in the W $\frac{1}{2}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 1.13 acres, more or less.

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), County of Shelby, 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.

PARCEL NO. 2: Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence westerly along the north line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 832 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. 1-65-2(37) and the point of beginning of the property herein to be conveyed; thence S 16° 00' 15" W, parallel to the centerline of said project, a distance of 118 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southeasterly along a straight line (which if extended would intersect a point that is 450 feet southeasterly of and at right angles to the centerline of said project at Station 350+33) a distance of 125 feet, more or less, to the east property line; thence southerly along said east property line, a distance of 1346 feet, more or less, to the present northwest right-of-way line of Shelby County Road No. 17; thence southwesterly along said present northwest right-of-way line, a distance of 288 feet, more or less, to the present northeast right-of-way line of a road; thence northwesterly along said present northeast right-of-way line, a distance of 260 feet, more or less, to the west line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, the west property line; thence northerly along said west property line (crossing the centerline of said project at approximate Station 346+64) a distance of 1241 feet, more or less, to the north line of said Section 29, the north property line; thence easterly along said north property line (crossing the centerline of said project at approximate Station 354+56) a distance of 465 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 15.29 acres, more or less.

As a part of the consideration hereinabove stated there is also bargained, sold, conveyed and relinquished to the grantee 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. 1-65-2(37), County of Shelby, 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 drainage ditch and being more fully described as follows: Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence westerly along the north line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 832 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. 1-65-2(37); thence S 16° 00' 15" E, parallel to the centerline of said project, a distance of 118 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southeasterly along a straight line (which if extended would intersect a point that is 450 feet southeasterly of and at right angles to the centerline of said project at Station 350+33) a distance of 28 feet, more or less, to a point that is southeasterly of and at right

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... to the centerline of said project at station 353+... and the point of beginning of the property herein to be conveyed; thence continuing southeasterly along said line (which if extended would intersect said point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 353+38) a distance of 52 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said project at Station 353+32; thence northeasterly along a straight line (which if extended would intersect a point that is 325 feet southeasterly of and at right angles to the centerline of said project at Station 353+60) a distance of 14 feet, more or less, to the east property line; thence northerly along said east property line, a distance of 54 feet, more or less, to a point on a line, which extends from a point that is 300 feet southeasterly of and at right angles to the centerline of said project at Station 354+00 to a point that is southeasterly of and at right angles to the centerline of said project at Station 353+77, said point being on a line which extends from a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 353+38, to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southwesterly along a straight line, a distance of 29 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ or NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 0.03 acres, more or less.

THE OWNERS OF PARCEL NO. 1 ARE AS FOLLOWS:

Myrtle Caroline Rutherford, Alma Lee Brooker, Laura Estelle Rutherford, Mattie Irene Jones, James A. Jones, Julius E. Rutherford, Mildred Rutherford, Clyde E. Rutherford, and Florence Rutherford

Cecilia & Myrtle C. Rutherford
Tract No. 48, Rev.
April 22, 1976

Shelby

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 County, Alabama:

Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence southerly along the east line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, the east property line, a distance of 335 feet, more or less, to the point of beginning of the property herein to be conveyed, said point of beginning being on a line, which extends from a point that is 130 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 81+19.96 to a point that is 180 feet northwesterly of and at right angles to the centerline of said road at Station 70+60; thence continuing southerly along said east property line, a distance of 117 feet, more or less, to the present northwest right-of-way line of said road; thence southwesterly along said present northwest right-of-way line, a distance of 1160 feet, more or less, to the west property line; thence northerly along said west property line, a distance of 1046 feet, more or less, to a point on a line, which extends from a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. I-65-2(37) at Station 354+00 to a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38; thence southeasterly along said line, a distance of 300 feet, more or less, to said point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38; thence easterly along a straight line, a distance of 470 feet, more or less, to a point that is 120 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 70+60; thence northeasterly along a straight line (which if extended would intersect a point that is 130 feet northwesterly of and at right angles to the centerline of said road at Station 81+19.96) a distance of 323 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W and containing 7.26 acres, more or less.

As a part of the consideration hereinabove stated there is also bargained, sold, conveyed and relinquished to the grantee 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-55-2(37), County of Shelby, 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 drainage ditch and being more fully described as follows: Commencing at the northeast corner of the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 29, T-19-S, R-2-W; thence westerly along the north line of said NW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 832 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of Project No. I-65-2(37); thence S 16° 00' 15" W, parallel to the centerline of said project, a distance of 118 feet, more or less, to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 334+00; thence southeasterly along a straight line (which if extended would intersect a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38) a distance of 28 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said project at Station 353+77; thence northeasterly along a straight line (which if extended would intersect a point that is 300 feet southeasterly of and at right angles to the centerline of said project at Station 354+00) a distance of 29 feet, more or less, to the west line of the property herein to be conveyed and the point of beginning; thence continuing southeasterly along said line, a distance of 13 feet, more or less, to said point that is 300 feet southeasterly of and at right angles to the centerline of said project at Station 354+00; thence southeasterly along a straight line, a distance of 50 feet, more or less, to a point that is 325 feet southeasterly of and at right angles to the centerline of said project at Station 354+60; thence southeasterly along a straight line (which if extended would intersect a point that is southeasterly of and at right angles to the centerline of said project at Station 353+32) said point being on a line which extends from a point that is 480 feet southeasterly of and at right angles to the centerline of said project at Station 350+38 to a point that is 250 feet southeasterly of and at right angles to the centerline of said project at Station 354+00, a distance of 26 feet, more or less, to the west property line; thence northerly along said west property line, a distance of 54 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section
29, T-19-S, R-2-W and containing 0.03 acres, more or less.

THE OWNER OF PARCEL NO. 2:

Laura Estelle Rutherford

Rt. 19, Box 163

Birmingham, Alabama

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Inst # 1993-03747

Laura E. Rutherford
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