

STATE OF ALABAMA,

PLAINTIFF,

VS.

HARBERT CONSTRUCTION CORPORATION,

DEFENDANT

IN THE CIRCUIT COURT OF

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. CV-77-1993-03072

ORDER OF DECREE IN CONDEMNATION

This cause came on for trial on the 17th day of January, 1979. ^{on appeal}
from the Order of Condemnation made and entered in the Probate Court of this
County on the 10th day of January, 1977. The parties to this proceeding,
namely, The State of Alabama and The Harbert Construction Corporation, came into
open court in their own persons by their attorneys of record, entered unquali-
fied appearances, and all parties announced ready for trial. The court is of
the opinion and finds that it has jurisdiction in the cause and the parties.

Whereupon, the Court proceeded to hear the allegations of the application
or petition for Order of Condemnation, and, upon consideration of said appli-
cation, and the testimony introduced in support thereof and the written stipu-
lation by and between the plaintiff and the defendant which was made a part of
the order on pretrial hearing in this cause, 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 application of the petitioner,
State of Alabama, the plaintiff herein, 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 land, 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 construction, maintaining,
and repairing the public improvements constructed or installed thereon or
thereover, 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
defendant owner is entitled to have and receive because of the plaintiff's

Dan Kuewe, Jr.
Register of Circuit Court
Certified a true and complete copy

acquisition of the property set out and described in said petition or application for condemnation.

Thereupon, on the 19th day of January, 1979, a jury of good and lawful men and women, to-wit, Olivia Haynie Eddings, Foreman, and eleven others, who, being empanelled and sworn according to law, upon their oaths do say:

"We the jury, assess the damages in favor of defendant, Harbert Construction Corporation, in the sum of \$41,625.00 (Dollars).

/s/ Olivia Haynie Eddings
Foreman"

Now comes the plaintiff by its attorney and shows unto the Court that it has heretofore deposited with the Judge of Probate of Shelby County, Alabama, the sum of FORTY-NINE THOUSAND (\$49,000.00) DOLLARS, as damages in 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 Probate of Shelby County, to the Clerk of this Court.

It is, therefore, considered, ordered, adjudged and decreed by the Court that the petitioner pay the sum of FORTY-ONE THOUSAND, SIX HUNDRED, TWENTY-FIVE (\$41,625.00) DOLLARS, and in addition thereto in accordance with the stipulation of the parties made in open court, the sum of FIVE THOUSAND, FIFTY-SIX and 58/100 (\$5,056.58) DOLLARS, which sum is for accrued interest owing to the defendant, or a total sum of FORTY-SIX THOUSAND, SIX HUNDRED, EIGHTY-ONE AND 58/100 (\$46,681.58) DOLLARS, as damages and compensation and interest to the defendant for the lands taken and condemned in this cause, and, further, that the cost of this proceeding be and the same are hereby taxed against the petitioner, in the amount of FORTY SEVEN AND 00/100 (47.00) DOLLARS.

It is further ordered, adjudged and decreed by the Court that the defendant is entitled to have and receive of the Clerk of this Court said sum of FORTY-SIX THOUSAND, SIX HUNDRED, EIGHTY-ONE AND 58/100 (\$46,681.58) DOLLARS as damages and compensation in this cause, upon payment into court thereof by the plaintiff of such sum and as is sufficient to pay the same, plus cost of court, herein accrued, and the Clerk of this Court, upon receipt of such payment, is hereby ordered and directed to deliver the same to the attorney of record for the defendant in this cause.

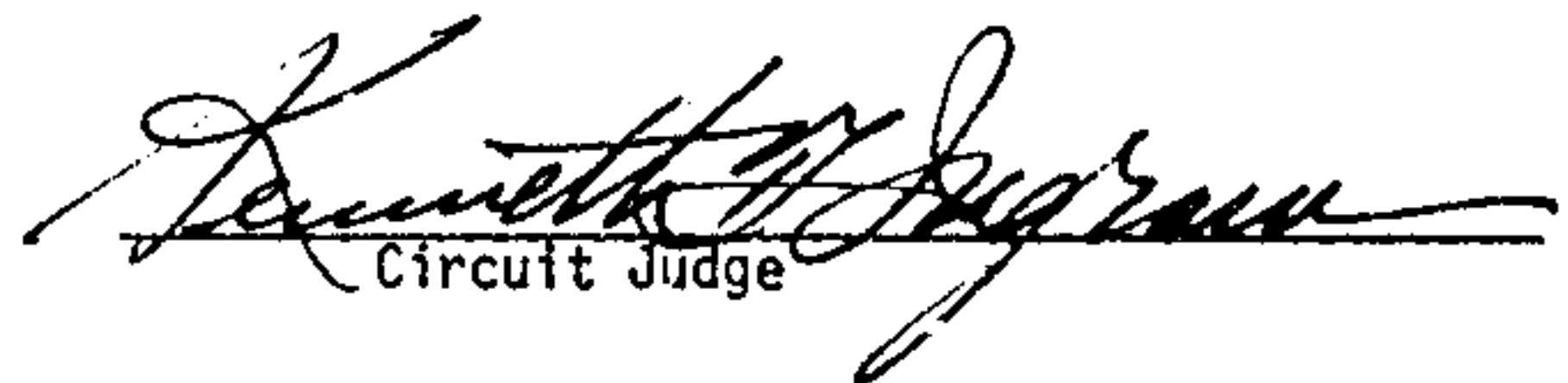
Upon payment of the award and costs in this proceeding by the petitioner in this cause, the hereinafter described lands and interest in said lands are hereby condemned and awarded to the petitioner, State of Alabama, the plaintiff herein.

It is further ordered and adjudged by the Court that the petitioner, State of Alabama, be and he is hereby given and awarded the hereinafter described land, together with the right to remove all improvements, trees, undergrowth, and other obstructions situated on said land, and the right to prevent any person from placing or maintaining any obstructions on or upon such lands and also the right to enter upon said land for the purpose of constructing, maintaining, and repairing the public road, or highway for which said land is sought in the petition or application to the extent that said easements of access and drainage are shown to be condemned on the current right of way map of the State of Alabama.

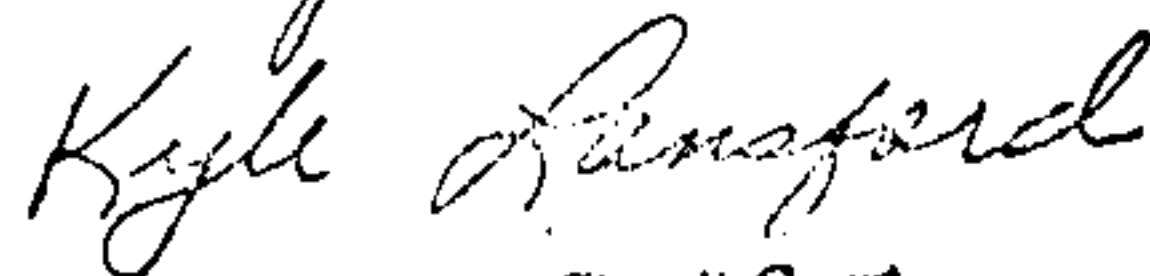
It is further ordered, and decreed that title to the property hereinafter described be and the same hereby is divested out of the defendants and hereby vested in the petitioner, State of Alabama, said property being more particularly described as follows:

A tract of land designated as Tract No. 43-C, said property description being attached hereto as Exhibit "A" and by reference hereto made a part hereof.

Done and ordered this 26th day of January, 1979.


Circuit Judge

FILED IN OFFICE THIS THE 26th DAY
OF January 1979



Clerk of Circuit Court
Shelby County, Alabama

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 southeast corner of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W; thence northerly along the east line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 990 feet, more or less, to a point that is 110 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 southwesterly along a curve to the right (concave northwesterly) having a radius of 11,569.16 feet, parallel to the centerline of said county road, a distance of 105 feet, more or less, to the southwest property line; thence northwesterly along said southwest property line, a distance of 72 feet, more or less, to the present southeast right-of-way line of said county road; thence northeasterly along said present southeast right-of-way line, a distance of 149 feet, more or less, to the east line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$, the east property line; thence southerly along said east property line, a distance of 87 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W and containing 0.21 acres, more or less.

PARCEL NO. 2: Commencing at the southeast corner of the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W; thence northerly along the east line of said NW $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 1077 feet, more or less, to the present southeast right-of-way line of Shelby County Road No. 17; thence southwesterly along said present southeast right-of-way line, a distance of 276 feet, more or less, to the east line of the property herein to be conveyed and the point of beginning; thence southerly along the east property line, a distance of 96 feet, more or less, to a point that is 110 feet southeasterly of and at right angles to the centerline of said county road; thence southwesterly along a curve to the right (concave northwesterly) having a radius of 11,569.16 feet, parallel to the centerline of said county road, a distance of 350 feet, more or less, to a point that is 110 feet southeasterly of and at right angles to the centerline of said county road at Station 31+23.59; thence southwesterly along a straight line, a distance of 726 feet, more or less, to a point that is 100 feet

straight line, a distance of 113 feet, more or less, to a point on the present southeast right-of-way line of Shelby County Road No. 17 that is southeasterly of and at right angles to the centerline of said county road at Station 23+00; thence northeasterly along said present southeast right-of-way line, a distance of 227 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W and containing 1.78 acres, more or less.

PARCEL NO. 3, Commencing at the northwest corner or the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W; thence southerly along the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 57 feet, more or less, to a point that is 110 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 left (concave northwesterly) having a radius of 11,349.16 feet, parallel to the centerline of said county road, a distance of 50 feet, more or less, to a point that is 110 feet northwesterly of and at right angles to the centerline of said county road at Station 39+63.59; thence northeasterly, parallel to the centerline of said county road, a distance of 36.41 feet; thence northeasterly along a straight line (which if extended would intersect a point that is 170 feet northwesterly of and at right angles to the centerline of said county road at Station 41+00) a distance of 5 feet, more or less, to the north line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the north property line; thence easterly along said north property line, a distance of 108 feet, more or less, to the present northwest right-of-way line of said County Road No. 17; thence southwesterly along said present northwest right-of-way line, a distance of 225 feet, more or less, to the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the west property line; thence northerly along said west property line, a distance of 92 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W and containing 0.24 acres, more or less.

This conveyance is made for the purpose of a controlled access facility and adjacent service road or roads and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights appurtenant to grantor'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 110 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 39+63.59; thence southwesterly along a curve to the right (concave northwesterly) having a radius of 11,349.16 feet, parallel to the centerline of said county road, a distance of 50 feet, more or less, to the west line of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W, the west property line and 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.

Also an easement to a strip of land containing the construction and maintenance of a drainage ditch and being more fully described as follows: Commencing at the northwest corner of the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30, T-19-S, R-2-W; thence southerly along the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 20 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 170 feet northwesterly of and at right angles to the centerline of Shelby County Road No. 17 at Station 39+25 to a point that is 110 feet northwesterly of and at right angles to the centerline of said county road at Station 39+50; thence southeasterly along said line, a distance of 35 feet, more or less, to said point that is 110 feet northwesterly of and at right angles to the centerline of said county road at Station 39+50; thence southwesterly along a curve to the right (concave northwesterly) having a radius of 11,349.16 feet, parallel to the centerline of said county road, a distance of 38 feet, more or less, to the west line of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$, the west property line; thence northerly along said west property line, a distance of 37 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Section 30,
T-19-S, R-2-W and containing 0.01 acres, more or less.

42 PAGE 723

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SHELBY COUNTY JUDGE OF PROBATE

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