

STATE OF ALABAMA

vs.

C. E. RUTHERFORD and
FLORENCE RUTHERFORD

IN THE CIRCUIT COURT OF

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. L-918-76

FINAL JUDGMENT OF CONDEMNATION

This cause came on for trial on the 11th day of May, 1977, on appeal from the Order of Condemnation made and entered in the Probate Court of Shelby County, Alabama, on the 13th day of September, 1976. The parties to this proceeding came into open Court and by their attorneys of record, entered unqualified appearances, and all parties announced ready for trial. The Court is of the opinion and finds that it has jurisdiction of this cause and of the parties.

THEREUPON, the Court proceeded to hear the allegations of the Petition or Application For Order of Condemnation heretofore filed by the State of Alabama, and, upon consideration of said petition and the testimony introduced in support thereof, is of the opinion and judgment that the allegations of 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 petition of the petitioner for order of condemnation should be granted.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court that the petition or application 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 planned

Certified a true and complete copy

Dan Reeves, Jr.
Register of Circuit Court

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SHELBY COUNTY JUDGE OF PROBATE

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constructed, or installed therefor, thereon, or thereover, together with all existing, future and potential easements of access between the right of way of the public way as described in said Petition for Parcel No. 3 of said lands condemned and all of the real property of the Defendants remaining after the appropriation of said easement and right of way as described and designated in said Petition and as designated in Exhibit "A" attached hereto, be, and the same hereby is, granted and allowed, and all interests in lands sought to be acquired in said petition be, and the same are hereby condemned for the uses and purposes set out in said petition or application for order of condemnation.

And now come the Plaintiff and the Defendants, and with leave of the Court granted, withdraw their respective demands for trial by jury in this cause.

And now comes the Petitioner or 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 Three Hundred Fifty Two Thousand (\$352,000.00) Dollars, as damages and compensation for the condemnation of the lands and interests in lands hereinafter described, which said sum has been transferred and delivered by the Judge of Probate of Shelby County, Alabama, to the Clerk of this Court who has heretofore and pursuant to order of this Court entered in this cause on the 20th day of September, 1976, paid therefrom to the Defendants Two Hundred Fifty Eight Thousand, Three Hundred (\$258,300.00) Dollars and that said Clerk presently holds the remaining sum of Ninety Three Thousand Seven Hundred (\$93,700.00) Dollars on deposit in this cause.

And now comes the Plaintiff, State of Alabama, through its attorney and the Defendants in their own person and through their attorney, and all consent and agree that the fair market value of the property described in the petition or application for order of condemnation in this cause is the sum of Three Hundred Fifteen Thousand Six Hundred (\$315,600.00) Dollars, which said sum includes the sum of Five Thousand and No/100 (\$5,000.00) Dollars damages to the remainder of Defendants's property caused by the acquisition of properties herein condemned, and that the difference between the fair market value and the amount previously withdrawn by the Defendants is the sum of Fifty Seven Thousand Three Hundred and no/100 (\$57,300.00) Dollars, and further, that the Defendants are entitled to interest thereon in this cause in the amount of Two Thousand Two Hundred Sixty and 60/100 (\$2,260.60) Dollars.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED by the Court, and the Court finds as fact, that the fair market value of the property and rights being taken in this cause is the sum of Three Hundred Fifteen Thousand Six Hundred and No/100 (\$315,600.00) Dollars, of which the sum of Five Thousand and No/100 (\$5,000.00) Dollars represents compensation paid to the Defendants for damages to the remainder of their property caused by the acquisition of properties herein acquired by petitioner, and, that the total amount remaining to be paid to the Defendants in this cause is said sum plus said interest, or the sum of Three Hundred Seventeen Thousand Eight Hundred Sixty and 60/100 (\$317,860.60) Dollars, less said amount of Two Hundred Fifty Eight Thousand Three Hundred and no/100 (\$258,300.00) Dollars previously withdrawn, or the sum of Fifty Nine Thousand Five Hundred Sixty and 60/100 (\$59,560.60) Dollars.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the Defendants are now entitled to have and receive of the Clerk said sum of Fifty Nine Thousand Five Hundred Sixty and 60/100 (\$59,560.60) Dollars, as damages and compensation in this cause, and that said Petitioner is entitled to a refund from said Ninety Three Thousand Seven Hundred and No/100 (\$93,700.00) Dollars which the Clerk of this Court now holds in this cause, plus any interest on said amount which may have accumulated while in the hands of the Clerk, less said sum of Fifty Nine Thousand Five Hundred Sixty and 60/100 (\$59,560.60) Dollars to which the Defendants are entitled, and less costs of Court in this cause accrued, the Clerk of this Court being now authorized and directed to deduct

said court cost therefrom and pay the remaining balance to the State of Alabama.

Upon payment of the award and costs in this proceeding by the Petitioner in this cause, the hereinafter described lands and interests 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 hereby is given and awarded the hereinafter described lands, together with the rights 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 planned, or constructed, or installed therefor, thereon, or thereover, together with all existing, future and potential easements of access between the right of way of the public way as described in said Petition for Parcel No. 3 of said lands condemned and all of the real property of the Defendants remaining after the appropriation of said easement and right of way as described and designated in said Petition, and as designated in Exhibit "A" attached hereto, to the extent that said easements are shown to be condemned on the current right of way map of the State of Alabama.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED, AND DECREED that the title to the property hereinafter described be, and the same is hereby, divested out of the Defendants and hereby is vested in the Petitioner, State of Alabama, said property being as follows:

A tract of land designated as Parcel No. 3, said property description being attached hereto as Exhibit "A" and by reference hereto being made a part hereof.

DONE and ORDERED this 11th day of May, 1977.

s/ James H. Sharbutt
CIRCUIT JUDGE

PARCEL NO. 1

SHELBY &
JEFFERSON

TRACT NO. 51, Rev.

Shelby & Jefferson

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 and Jefferson Counties, Alabama:

PARCEL NO. 1: Commencing at the southwest corner of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W; thence easterly along the south line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, the south property line, a distance of 389 feet, more or less, to a point that is 190 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 right (concave southeasterly) having a radius of 5919.58 feet, parallel to the centerline of said project, a distance of 140 feet, more or less, to a point that is 190 feet northwesterly of and at right angles to the centerline of said road at Station 80+10.70; thence northeasterly, parallel to the centerline of said road, a distance of 104.15 feet; thence northeasterly along a curve to the left (concave northwesterly) having a radius of 5539.58 feet, parallel to the centerline of said project, a distance of 779 feet, more or less, to a point that is 190 feet northwesterly of and at right angles to the centerline of said road at Station 89+09.85; thence easterly along a straight line, a distance of 240 feet, more or less, to a point on the present northwest right-of-way line of said road that is northwesterly of and at right angles to the centerline of said road at Station 91+00; thence southwesterly along said present northwest right-of-way line, a distance of 979 feet, more or less, to the south line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, the south property line; thence westerly along said south property line, a distance of 288 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W and containing 3.59 acres, more or less.

PARCEL NO. 2: Commencing at the southeast corner of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W; thence westerly along the south line of said SE $\frac{1}{4}$ of SW $\frac{1}{4}$, the south property line, a distance of 45 feet, more or less, to the southwest property line; thence northwesterly along said southwest property line a distance of 169 feet, more or less, to a point that is 135 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 continuing northwesterly along said southwest property line, a distance of 100 feet, more or less, to the present southeast right-of-way line of said road; thence northeasterly along said present southeast right-of-way line, a distance of 488 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said road at Station 91+00; thence southwesterly along a straight line, a distance of 209 feet, more or less, to a point that is 135 feet southeasterly of and at right angles to the centerline of said road at Station 89+09.86; thence southwesterly along a curve to the right (concave northwesterly) having a radius of 5864.58 feet, parallel to the centerline of said road,

a distance of 315 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W and containing 0.90 acres, more or less.

PARCEL NO. 3: Commencing at the southwest corner of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W; thence easterly along the south line of said NW $\frac{1}{4}$ of SW $\frac{1}{4}$, the south property line, a distance of 232 feet, more or less, to a point that is 325 feet northwesterly of and at right angles to the centerline of Project No. I-65-2(37) and the point of beginning of the property herein to be conveyed; thence northerly along a curve to the left (concave westerly) having a radius of 3494.72 feet, parallel to the centerline of said project, a distance of 503 feet, more or less, to a point that is 325 feet westerly of and at right angles to the centerline of said project at Station 373+00; thence northeasterly along a straight line, a distance of 193 feet, more or less, to a point that is 230 feet westerly of and at right angles to the centerline of said project at Station 375+00; thence northerly along a curve to the left (concave westerly) having a radius of 3539.72 feet, parallel to the centerline of said project, a distance of 459 feet, more or less, to a point that is 280 feet westerly of and at right angles to the centerline of said project at Station 380+00; thence northeasterly along a straight line, a distance of 204 feet, more or less, to a point that is 210 feet westerly of and at right angles to the centerline of said project at Station 382+00; thence northerly along a curve to the left (concave westerly) having a radius of 3609.72 feet, parallel to the centerline of said project, a distance of 518 feet, more or less, to a point that is 210 feet westerly of and at right angles to the centerline of said project at Station 387+53.0; thence N 19° 11' 45" W, parallel to the centerline of said project, a distance of 629.4 feet, to a point that is 210 feet southwesterly of and at right angles to the centerline of said project at Station 393+82.4 "Back" which equals Station 394+34.9 "Ahead"; thence continuing N 19° 11' 45" W, parallel to the centerline of said project, a distance of 65.1 feet; thence northwesterly along a straight line, a distance of 252 feet, more or less, to the southeast back of the Cahaba River, the northwest property line; thence northeasterly along said northwest property line, a distance of 139 feet, more or less, to the east line of the NE $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 19, T-19-S, R-2-W, the east property line; thence southerly along said east property line, a distance of 187 feet, more or less, to the north line of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 20, T-19-S, R-2-W, the north property line; thence easterly along said north property line (crossing the centerline of said project at approximate Station 395+78) a distance of 485 feet, more or less, to a point that is 190 feet northeasterly of and at right angles to the centerline of said project, thence S 19° 11' 45" E, parallel to the centerline of said project, a distance of 69 feet, more or less, to a point that is 190 feet northeasterly of and at right angles to the centerline of said project at Station 394+34.9 "Ahead" which equals Station 393+62.4 "Back"; thence continuing S 19° 11' 45" E, parallel to the centerline of said project, a distance of 629.4 feet; thence southerly along a curve to the right (concave westerly) having a radius of 4009.72 feet, parallel to the centerline of said project, a distance of 1635 feet, more or less, to a point that is 190 feet easterly of and at right angles to the centerline of said project at Station 372+00; thence southeasterly along a straight line, a distance of 232 feet, more or less, to a point that is 280 feet easterly of and at right angles to the centerline of said project at Station 370+00; thence southwesterly along a straight line (which if extended would intersect a point that is 250 feet easterly of and at right angles to the centerline of said project at Station 367+00) a distance of 160 feet, more or less, to the south line of the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W, the south property line; thence westerly along said south property line (crossing the centerline of said project at approximate Station 368+09) a distance of 598 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 20, T-19-S, R-2-W and the E $\frac{1}{2}$ of the NE $\frac{1}{4}$, Section 10, T-19-S, R-2-W and containing 28.63 acres, more or less.

The above described area includes a present 30 foot wide easement granted to the Alabama Gas Company which lies approximately 230 feet northwesterly of approximate Station 396+45.

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-65-2(37), Counties of Shelby and Jefferson, 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 channel change and being more fully described as follows: Commencing at the southeast corner of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 20, T-19-S, R-2-W; thence westerly along the south line of said SW $\frac{1}{4}$ of NW $\frac{1}{4}$, a distance of 303 feet, more or less, to a point that is 80 feet southeasterly of and at right angles to the centerline of said easement and the point of beginning of the property herein to be conveyed; thence southwesterly, parallel to the centerline of said easement, a distance of 195 feet, more or less, to a point that is 190 feet easterly of and at right angles to the centerline of Project No. I-65-2(37) at Station 380+20; thence northerly along a curve to the left (concave westerly) having a radius of 4009.72 feet, parallel to the centerline of said project (crossing the centerline of said easement at approximate Station 12+14) a distance of 170 feet, more or less, to a point that is 80 feet northwesterly of and at right angles to the centerline of said easement; thence northeasterly, parallel to the centerline of said easement, a distance of 253 feet, more or less, to a point that is 80 feet northwesterly of the centerline of said easement at Station 15+00; thence northeasterly, parallel to the centerline of said easement, a distance of 163 feet, more or less, to a point that is 80 feet northwesterly of and at right angles to the centerline of said easement at Station 16+70; thence southeasterly along a straight line, a distance of 42 feet, more or less, to a point that is 25 feet westerly of and at right angles to the centerline of said easement at Station 17+00; thence northerly, parallel to the centerline of said easement, a distance of 70 feet, more or less, to the south bank of the Cahaba River, the north property line; thence easterly along said north property line, a distance of 131 feet, more or less, to the east line of the SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 20, T-19-S, R-2-W, the east property line; thence southerly along said east property line, a distance of 129 feet, more or less, to a point on a line which extends from a point that is 125 feet easterly of and at right angles to the centerline of said easement at Station 17+00 to a point that is 100 feet southeasterly of and at right angles to the centerline of said easement at Station 16+70; thence southwesterly along said line, a distance of 81 feet, more or less, to said point that is 100 feet southeasterly of and at right angles to the centerline of said easement at Station 18+70; thence northwesterly along a straight line, a distance of 20 feet to a point that is 80 feet southeasterly of and at right angles to the centerline of said easement at Station 16+70; thence

southwesterly, parallel to the centerline of said easement, a distance of 179 feet, more or less, to a point that is 80 feet southeasterly of the centerline of said easement at Station 15+00; thence southwesterly, parallel to the centerline of said easement, a distance of 126 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Section 20, T-19-S, R-2-W and containing 2.11 acres, more or less.

THE OWNERS OF PARCEL NO. 1 ARE AS FOLLOWS:

C. E. Rutherford and Florence Rutherford
Rt 1, Box 167
Helena, Alabama

C. E. & Florence Rutherford
Tract No. 51, Rev.
November 12, 1979
Inst # 1993-04661

Filed in Office this the 23rd Day
of May, 1977.
Kyle Lansford
Clerk of Circuit Court
Shelby County, Alabama

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