

STATE OF ALABAMA )

vs. )

CONDEMNATION

CASE NO. L-1032-76

SHAMROCK ENTERPRISES, INC. )

On this the 2nd day of September, 1977, continued to next court term. s/ James H. Sharbutt, Circuit Judge.

On this the 10th day of February, 1978, continued to next court term.  
s/ K. Ingham, J.

On this the 21st day of September, 1978, case set for pre-trial conference on October 4, 1978, at 10:00 A. M. s/ James H. Sharbutt, Circuit Judge

On this the 5th day of October, 1978, order on Pre-trial hearing filed.  
s/ James H. Sharbutt, Circuit Judge.

On this the 12th day of October, 1978, set for pretrial and settlement conference October 30, 1978 at 9:30 A. M. Set for trial November 27, 1978, at 9:00 A. M.  
s/ James H. Sharbutt, Circuit Judge

On this the 27th day of November, 1978, Judgment by consent in favor of Defendant and against the plaintiff for the sum of \$45,000.00 and legal interest and cost of court.  
s/ James H. Sharbutt, Circuit Judge.

On this the 27th day of November, 1978, Formal Judgment to be filed.  
s/ James H. Sharbutt, Circuit Judge.

On this the 2nd day of February, 1979, Order and decree of Condemnation this day filed.  
s/ James H. Sharbutt, Circuit Judge

#### ORDER AND DECREE OF CONDEMNATION

This cause came on for trial on the 27th day of November, 1978, on appeal from the Order of Condemnation made and entered in the Probate Court of this County on the 4th day of December, 1976. The parties to this proceeding came into open Court in their own persons 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 the cause and the parties.

THEREUPON, the Court proceeded to hear the allegations of the application or petition for order of condemnation, and, upon consideration of said application and the testimony introduced in support thereof, and upon consideration of the Stipulation by and between the parties which is a part of the Order on Pre-Trial 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 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 lands, the right to remove all improvements, trees, undergrowth and other obstructions situated on said lands, the right to prevent and 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 constructed or installed thereon or thereover, be, and the same hereby is, granted and allowed, and the lands and all interest in the lands sought to be acquired be, and the same hereby are, condemned for the uses and purposes set out in said petition or application for order of condemnation.

And now comes the Petitioner 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 one thousand and no/100 (\$41,000.00) Dollars, as damages and 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 the Probate Court of Shelby County, Alabama, to the Clerk of this Court, who has heretofore paid therefrom the sum of Twenty-four thousand and no/100 (\$24,000.00) Dollars to the defendants, Shamrock Enterprises, Inc., pursuant to an order of this Court entered in this cause on the 10th day of October, 1978, and that

Certified a true and complete copy

*Dan Reeves* *pb*  
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said Clerk presently holds the remaining sum of Seventeen thousand and no/100 (\$17,000.00) Dollars on deposit in this cause.

And now come the Plaintiff and the Defendants, in their own person, and through their attorneys, and all consent and agree that the fair market value of the property as described in the application for order of condemnation in this cause is the sum of Forty-five thousand and no/100 (\$45,000.00) Dollars and that the defendants are entitled to interest thereon in this cause in the amount of Two thousand four hundred forty-eight and 30/100 (\$2,448.30) Dollars and that consequently, said Defendants are now entitled to have and recover of the Plaintiff in this cause the sum of Twenty-three thousand four hundred forty-eight and 30/100 (\$23,448.30) Dollars, said sum being the difference between said agreed fair market value plus interest and the amount previously withdrawn by said Defendants.

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 Forty-five thousand and no/100 (\$45,000.00) Dollars, as agreed upon by the parties, and that the total amount remaining to be paid to the defendants in this cause is the sum of Twenty-Three thousand, four hundred forty-eight and 30/100 (\$23,448.30) Dollars and further, the Plaintiff is ordered and directed to pay the additional sum of Six thousand four hundred forty-eight and 30/100 (\$6,448.30) Dollars ----- being the difference between said sum of Twenty-three thousand four hundred forty-eight and 30/100 (\$23,448.30), which the defendants are entitled to recover and said sum of Seventeen thousand and no/100 (\$17,000.00) Dollars which the Clerk has on deposit in this cause, and further, that the costs of this proceedings be, and the same are hereby, taxed against the Petitioner.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED by the Court that the Defendants are entitled to have and receive of the Clerk of this Court said sum of Twenty-three thousand, four hundred forty-eight and 30/100 (Dollars), as damages and compensation in this cause, upon payment into Court of said sum of Six thousand four hundred forty-eight and 30/100 (\$6,448.30) Dollars by the Plaintiff.

Upon payment of the award and costs in this proceeding by the Petitioner or Plaintiff in this cause, the hereinafter described lands and interest in lands are hereby condemned and awarded to the Petitioner or Plaintiff.

IT IS FURTHER ORDERED AND ADJUDGED by the Court that the Petitioner or Plaintiff, State of Alabama, be and hereby is given and awarded the hereinafter described lands, together with the right to remove all improvements, trees, undergrowth, and other obstruction situated on said lands and the right to prevent any persons from placing or maintaining any obstructions on or upon said lands and also the right to enter upon said lands 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 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 is divested out of the Defendant and hereby vested in the Petitioner or Plaintiff, State of Alabama, said property being particularly described as follows:

A tract of land designated as Tract No. 25 being attached hereto as Exhibit "A" and by reference hereto being made a part hereof.

DONE AND ORDERED this 28th day of November, 1978.

Filed in Office this the 2nd day  
of February, 1979.  
Kyle Lansford  
Clerk of Circuit Court  
Shelby County, Alabama

s/ James H. Sharbutt  
CIRCUIT JUDGE.

EXHIBIT "A"

PARCEL NO. 2

SHELBY

TRACT NO. 25

Shelby

and as shown on the right-of-way map of Project No. F-214(19) as recorded in the Office of the Judge of Probate of Shelby County, Alabama:

Commencing at the southwest corner of the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 17, T-19-S, R-1-W; thence easterly along the south line of said NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , a distance of 526 feet, more or less, to a point that is 150 feet southwesterly of and at right angles to the centerline of Project No. F-214(19) and the point of beginning of the property herein to be conveyed; thence N 19° 03' 26" W, parallel to the centerline of said project, a distance of 241 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 325+44.35; thence northwesterly along a curve to the right (concave north-easterly) having a radius of 3014.79 feet, parallel to the centerline of said project, a distance of 990 feet, more or less, to a point that is 150 feet westerly of and at right angles to the centerline of said project at Station 316+00; thence northerly along a straight line, a distance of 429 feet, more or less, to a point that is 200 feet northwesterly of and at right angles to the centerline of said project at Station 312+00; thence northeasterly along a straight line, a distance of 218 feet, more or less, to a point that is 150 feet northwesterly of and at right angles to the centerline of said project at Station 310+00; thence northeasterly along a curve to the right (concave southeasterly) having a radius of 3014.79 feet, parallel to the centerline of said project, a distance of 185 feet, more or less, to the north property

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line; thence easterly along said north property line, a distance of 140 feet, more or less, to the present west right-of-way line of U. S. Highway No. 280; thence southerly along said present west right-of-way line, a distance of 2055 feet, more or less, to the south line of said NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , the south property line; thence westerly along said south property line, a distance of 140 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 8, and the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 17, T-19-S, R-1-W and containing 6.47 acres, more or less.

THE OWNERS OF PARCEL NO. 2 ARE AS FOLLOWS:

Shamrock Enterprises, Inc.

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Shamrock Enterprises, Inc.

Tract No. 25

May 14, 1973

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