

# Families fight county's right to condemn tracts of land for bypass

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Staff Writer

TUSCALOOSA – Allegations that toll bridge owner Jim Allen manipulated the western bypass route for self gain and intimidated landowners into providing rights of way dominated a nearly six hour hearing Thursday.

The hearing, at the Tuscaloosa County Courthouse, was held to determine if the county can condemn rights of way on 16 tracts for the future western bypass, which will connect to Allen's bridge.

Allen did not attend the hearing and could not be reached for comment Thursday.

Tuscaloosa attorney Park Barton, appointed by the state Supreme Court as probate judge, will issue an order in 10 days on whether to condemn property owned by Philip and Bunnie LaMoreaux, John and Janet Waits, and John and Marjorie Freeman.

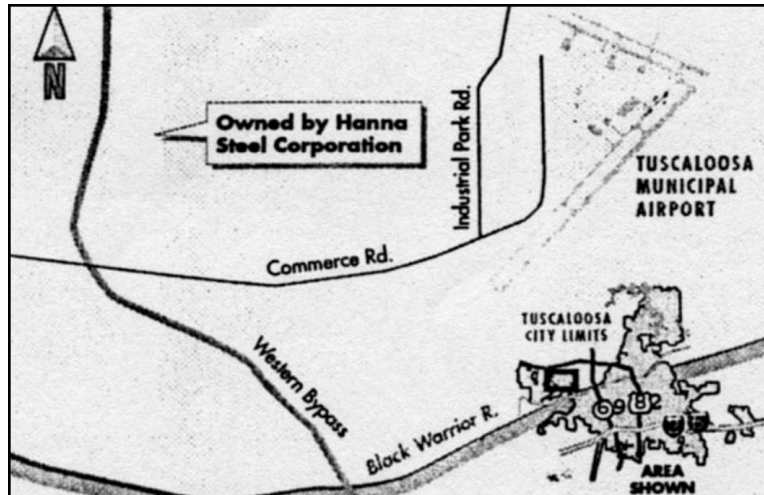
County Probate Judge Hardy McCollum could not preside over the process because he is in charge of the bypass oversight.

Members of the Waits and LaMoreaux families, alleging this was an illegal condemnation and land taking, asked for continuances, which Barton denied.

The LaMoreauxs' attorney, Warren Herlong Jr., presented information aimed at showing inaccuracies in the county's property description. He also produced an appraisal letter he says lacks sufficient detail, which Barton is considering.

Land owned by Hanna Steel Corp. and Hanna Truck Line Inc. also faced condemnation to make way for the bypass. Barton granted both requests to delay action until Feb. 14.

Attorney Forrest Hinton said the company never received a required property-appraisal letter.



Staff/Fred Fluker

Ed Allen, a Birmingham lawyer the county hired because he specializes in condemnation proceedings, agreed.

Herlong presented documents he says show that Allen negotiated a deal for his attorney, D. Kyle Johnson of Montgomery, to purchase Wyman Brown's property, which adjoins the LaMoreauxs' land along the bypass route.

Project Engineer Jeff Wood and county Planning Director Farrington Snipes said they were aware Johnson was buying the land but denied knowing he was Allen's attorney.

Herlong presented an option-to-purchase agreement dated March 25 showing Sherrod-Johnson Properties LLC as buying the land from Brown. It was signed by Brown on March 5, witnessed by Jim Allen and signed on March 24 by Johnson.

Herlong alleged that Allen, whom he maintained controlled the bypass route, manipulated the road alignment so an interchange would remain on the Brown property. Herlong contends that Allen or his attorney may now own that land, which would increase in value because of the interchange.

The LaMoreauxs wanted to move the bypass route so it wouldn't cross their property, which adjoins the Brown land. But Allen rejected that request because, Herlong claims, it would have scuttled his plans to locate the interchange on the Brown property.

On March 9, the LaMoreauxs say, Allen approached them about the right of way on their property. They offered two alternate routes

across it to avoid two lakes, a cabin and a barn. But the family says Allen never responded.

On Thursday, Wood, the project engineer, said neither route would meet design standards.

Herlong also presented a March 15 internal memo from Wood stating the ramp for the interchange needed to divide the Brown land into two usable lots of one to two acres each.

"We also ran and need to use the material off of his property and at that time try to level his property and make it more usable," Wood's memo says.

Herlong said the memo shows that Wood and the county used taxpayer money and resources to improve property that may be owned by Allen or his attorney.

Snipes said when he approached Brown for a deed, Brown said he didn't own the land anymore and referred him to Allen.

Questions were also raised as to whether County Commissioner Mike Richardson knew his brother, David, owned property along the route south of Mill Creek.

Richardson confirmed that he did but could not recall if his brother bought it before or after the commission approved the bypass's alignment Aug. 25. He said his brother didn't discuss the sale with him and denied giving his brother information about the bypass.

The Waiteses' attorney, Douglas McElvy, challenged the public's need for the bypass and attempted to establish the extent of Allen's involvement in it.

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Snipes said he understood Allen helped secure state money for the bypass. Allen also provided him with all the right-of-way agreements along the route, Snipes said.

Snipes and Wood both agreed they understood the city of Northport asked Allen to acquire the rights of way. But no official who testified could recall a contract or resolution authorizing Allen to act on the county's behalf. Richardson said "it just sort of evolved."

Asked why commissioners banned Allen from securing the rights of way in August, Snipes said about a dozen landowners complained that Allen tried to intimidate them.

Some also complained that they signed agreements but the route later changed, he said.

"They said Allen threatened to move the bypass if they didn't give the right of way, Snipes said.

Landowners also accused Allen of threatening that if they didn't comply, their land would be condemned and they would be denied access from their property to the bypass, Snipes said.

Snipes said Allen didn't tell him he controlled the route, but property owners complained to him that Allen said it to them.

Property owner John Waits said Allen told him he was working for the county. He said Allen led him to believe he was in charge of the road and would even build it.

Waits said Allen told him that if he provided the right of way, Allen would protect Waits' property and even adjust the route to include a \$1 million bridge if necessary.

If he didn't sign, Waits said Allen told him he'd have to deal with the county or state Department of Transportation, face condemnation and the bypass might come right through his house.

Waits said he later signed the agreement specifying the route, but the route was later changed.

Asked if Allen controlled the route, Snipes said that

when he approached Wood with a request to change the route, Wood said it couldn't be done unless Allen approved.

Wood claimed all the route decisions were based on solid engineering.

McElvy, alleging the project was being rushed through, asked Snipes about the county's contract with the bypass's contractor, Racon Inc.

Snipes said, on Dec. 1, the commission awarded Racon the bid for the work. But Probate Judge Hardy McCollum didn't anticipate signing the contract that day.

That afternoon, Snipes said, Wood invited him to his office where Wood, Racon owner Benton Andrews and his son, Keith, and DOT representatives were apparently waiting for McCollum to sign the contract.

Snipes relayed the request to McCollum, who initially refused to sign the contract that soon or until timber agreements were resolved.

"I worked for him for 20 years, and I could tell he didn't like the situation," Snipes said.

McCollum was told the contract was needed to start minor work or "show a presence that can be documented" to maintain project permits, Snipes said.

McCollum signed it the next day only after he was assured by those at the meeting that only minor work would be done.

They didn't do what they promised," Snipes said. Racon aggressively started work immediately and didn't give landowners notice before cutting the timber.

Both Herlong and McElvy extensively questioned county officials on whether they knew Allen owned an interest in the project's environmental engineering firm, LEC.

Wood and McCollum both denied knowing one of Allen's companies has an interest in LEC, based in Montgomery. Both said they didn't ask Allen about it even after the issue was raised at a County Commission meeting.

Snipes said he understood that Allen's company, Environmental and Business Consulting, owns 49 percent of LEC.

Michael Braun, who said he was representing LEC, attended the hearing but did not comment.