

STATE OF ALABAMA,  
Petitioner,  
Vs.

WAYNE HUGGINS and  
GERALDINE W. HUGGINS,  
and TRACT NO. 9,  
Respondents.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA  
CASE NO. 6192

FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 12th day of June, 1967, now comes the parties and their respective attorneys of record and it appearing to the Court from the stipulation of the parties made and entered into on this date and filed in this cause, that on the 30th day of June, 1964, an application was filed in the Probate Court of Baldwin County, Alabama, by the State of Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, and that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama were made, and that said Court did, on the 27th day of August, 1964, enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 27th day of August, 1964, the State of Alabama appealed from said order of condemnation to this Court and demanded a trial by jury; and it further appearing to the Court from the stipulation of the parties hereinabove referred to that the only issue in this proceeding is the damages and compensation, if any, to which the Defendant landowners are entitled and that an order of condemnation should be here entered condemning the lands hereinafter described for the uses and purposes set forth in the application, which is now on file in this Court.

And now comes a jury of twelve good and lawful men, to-wit, Frank Hunt and eleven others, and the issue of the amount of damages

and compensation, if any, to which the landowners are entitled having been submitted to them, did return a verdict in words and figures as follows:

"We, the jury, find for the Defendants and assess their damages at \$22,000.00."

Frank Hunt  
FOREMAN

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should be here entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowners; it is, therefore

ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands, rights and construction, hereinafter described in Exhibit "A" attached hereto, and by reference made a part thereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a right of way for a public road of limited access as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowners and into the State of Alabama, upon the payment of the State of Alabama of the sums hereinafter ordered and decreed to be paid.

2. That the damages and compensation to which the Defendant landowners in this case, Wayne Huggins and Geraldine W. Huggins, are entitled is hereby fixed at the sum of \$22,000.00, which said sum is hereby ordered to be paid by the State of Alabama to said Defendant landowners; and that upon the payment of said amount by the State of Alabama to said landowners the condemnation of the lands hereinabove described shall be, and become effective.

3. That the State of Alabama pay the costs of this proceeding.

DATED this 12th day of June, 1967.

428 - 2

Jeffrey J. Madison  
CIRCUIT JUDGE

FILED  
JUN 22 1967

MAILED  
JUN 22 1967

# EXHIBIT "A"

Commencing at the SW corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Sec. 34, T4S, R3E, thence northerly along the West boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the West property line, a distance of 240 ft. to the point of beginning at Sta. 516+77 on the centerline of Project No. I-10-1(11)44; thence northerly along the said West property line, a distance of 235 feet, more or less, to a point that is 235 feet northerly of and at right angles to the centerline of said project; thence S 89°-43'-31" E, parallel to the centerline of said project; a distance of 1308 ft. more or less, to a point on the East boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the East property line; thence southerly along said East property line (crossing the centerline of said property at Sta. 529+85) a distance of 410 feet, more or less, to a point that is 175 feet southerly of and at right angles to the centerline of said project; thence N 89°-43'-31" W, parallel to the centerline of said project, a distance of 1308 feet, more or less, to a point on said West property line; thence northerly along said West property line a distance of 175 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, and containing 12.33 acres more or less, as recorded in the Office of the Judge of Probate of Baldwin County, Alabama, on the right of way map of Project No. I-10-1(11)44; and all of said lands being in Baldwin County, Alabama.

This condemnation is made for the purpose of a controlled access facility, and any and all rights of ingress and egress or other abutter's rights relative to the right of way sought to be condemned as above described, are hereby expressly taken and included in Plaintiff's said application of condemnation, so that the above described right of way shall be controlled access facility; provided, however, there is hereby reserved along a line described as commencing at a point on the West boundary of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, which is 175 feet northerly of and at right angles to the centerline of Project No. I-10-1(11)44; thence northerly along said West boundary of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, a distance of sixty (60) feet to a point that is 235 feet northerly of the centerline of said project; thence S 89°-43'-31" E, and parallel to the centerline of said project; a distance of 1308 feet, more or less, to a point on the East boundary line of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, thence southerly along said East boundary, being the East property line a distance of sixty (60) feet to a point that is 175 feet northerly of and at right angles to the centerline of said project; thence N 89°-43'-31" W, and parallel to the centerline of said project, a distance of 1308 feet, more or less to the point of beginning.

The above described access road shall be accessible from the North, East and West, but shall be accessible to the controlled access facility (Interstate Highway 10 as described above) only at such points as may hereafter be established by public authority.

FEB 23 1967

THE STATE OF ALABAMA - - - JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

OCTOBER TERM 1966-67

1 Div. 305

State of Alabama

v.

Wayne Huggins et al.

Appeal from Baldwin Circuit Court

LAWSON, JUSTICE.

The State of Alabama filed a petition in the Probate Court of Baldwin County to condemn lands belonging to Wayne Huggins and Geraldine W. Huggins for highway purposes.

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The award of the Commissioners in the Probate Court was \$40,000 and a judgment of condemnation was entered accordingly.

The State took an appeal to the Circuit Court of Baldwin County, where no issue was made as to the right of the State to condemn the property in question. The sole question was the amount of damages to be awarded the property owners.

In the Circuit Court the trial was before the court and a jury. The jury returned a verdict in favor of the landowners in the sum of \$25,000. Judgment was entered accordingly and the State's motion for a new trial was overruled. The State has appealed to this court.

The cause was submitted here on motion and merits.

#### Motion to Dismiss Appeal

The appellees filed a motion to dismiss the appeal on the ground that the appellant, the State of Alabama, has not filed bonds in compliance with § 23 of Title 19 and § 960 of Title 7 of the 1940 Code of Alabama.

The motion to dismiss is denied on the authority of State v. Barnhill et al., 1 Div. 364, (MS), this day decided.

#### Merits

The appellant argues that the trial court erred in refusing to grant it a new trial based on the grounds of its

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motion for a new trial which took the point that the amount awarded to appellees by the jury was excessive.

Before the taking the appellees owned approximately one hundred acres of land situated very near the town of Loxley in Baldwin County. The controlled or limited access highway, which runs in an easterly and westerly direction through appellees' land, together with an all-weather free access road to be constructed along the northern edge of the right-of-way, takes approximately twelve acres of the one-hundred-acre tract. Approximately sixty-six acres remain north of the land taken and approximately twenty-two acres remain to the south.

The rule of compensation in a condemnation proceeding in this state, where only a part of a tract of land is taken for highway purposes, is that the owner is entitled to the difference between the value of the entire tract immediately before the taking and the value of the part remaining after the taking, giving effect to any enhancement in value to the part remaining. - State v. Goodwyn, 272 Ala. 618, 133 So. 2d 375; State v. Jacks, 272 Ala. 107, 128 So. 2d 734; St. Clair County v. Bukacek, 272 Ala. 323, 131 So. 2d 683; State v. Boyd, 271 Ala. 584, 126 So. 2d 225; State v. Stoner, 271 Ala. 3, 122 So. 2d 115.

The witnesses' estimate of compensation and damages varied to a great extent. One witness for appellant expressed the opinion that the appellees' property before the taking had

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a value of \$40,800 and after the taking the remaining lands had a value of \$52,000. In other words, according to this witness, Allen Sullivan, Jr., the construction of the controlled or limited access highway and the all-weather free access road to be constructed enhanced the value of appellees' property in the amount of \$11,200.

On the other hand, all of the witnesses for appellees expressed the opinion that the taking of the twelve-acre tract reduced the value of the property more than \$30,000. One of them placed the damage to appellees by the taking at approximately \$43,500.

Our view is that under the evidence which was admitted by the trial court, the amount of the award was peculiarly the prerogative of the jury to determine. We find no basis for saying that under the admitted evidence the award to appellees was so high as to show bias, passion, prejudice, corruption or other improper motive on the part of the jury. The trial court's conclusion that the award was not excessive lends support to our holding. - Southern Electric Generating Co. v. Howard, 275 Ala. 498, 156 So. 2d 359; State v. Young, 275 Ala. 648, 157 So. 2d 680; State v. Stoner, supra.

The trial court did not err in refusing to grant appellant a new trial on the ground that the verdict was excessive. See State v. Hodge, 1 Div. 345, Alabama Supreme Court MS, decided February 2, 1967.

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In its oral charge to the jury the trial court said:  
" . . . The only element of enhancement you could consider:  
Was the remaining land enhanced in value by the construction  
of the access road to the side of the property; did that en-  
hance the value of the land?" An exception to that state-  
ment was duly taken by appellant.

It is clear from a reading of the entire record that  
the able trial judge was under the impression that this  
court had held that the question of enhancement to the re-  
maining lands of the condemnee should not be considered  
where the land taken is used for the construction of a con-  
trolled or limited access highway. During the course of  
the trial the court made the following statement in answer  
to an insistence of appellant's counsel that evidence of-  
fered for the purpose of showing enhancement should be ad-  
mitted:

" . . . The Supreme Court has held that  
a limited access road through a piece of  
property - controlled access, there is  
no question of enhancement in value and  
I am going to so instruct the jury, but  
I am going to instruct the jury, but I  
will instruct them if they find the land  
was enhanced by the dirt road, they should  
consider that." (Record, p. 47)

Our research has not disclosed such a holding by this  
court and counsel for appellees cite no case in support of



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the statement made by the trial court in its oral charge to which exception was reserved.

On the contrary, in each of the cases next cited we were concerned with the taking of a part of a tract of land for a controlled or limited access highway and in each of them we said in effect that the landowner, as compensation, was entitled to the difference between the value of the tract immediately before the taking and the value of the part remaining after the taking, "giving effect to any enhancement in value to the part remaining." (Emphasis supplied) - State v. Stoner, supra; State v. Jacks, supra; St. Clair County v. Bukacek, supra; State v. Goodwyn, supra; State v. Boyd, supra; State v. Barnhill et al., supra.

In State v. Boyd, supra, the State contended that the trial court erred in giving the following written charge to the jury:

"The Court charges the jury that in arriving at the amount of the award to be made to appellees herein that you cannot consider any possible enhancement to the remainder of appellees' property, there being no evidence of enhancement in value before the Court."

We held that the charge was properly given because "the expert witnesses all agreed that the highway would not

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enhance the value of the remaining portion of appellees' property and there was no evidence that the value of the property was enhanced." We did not hold that the charge was properly given for the reason that enhancement cannot be shown where the property taken is to be used for the construction of a controlled or limited access highway.

In the case at bar, the witness Allen Sullivan, Jr., as we have heretofore shown, stated that in his opinion the taking enhanced the value of appellees' remaining property in the amount of \$11,200. We cannot say that his estimate of the enhancement was based solely on the fact that the all-weather free access road was to be constructed on the right-of-way which was taken.

We hold, therefore, that the trial court committed reversible error in charging the jury to the effect that the only element of enhancement which the jury could consider was the construction of the all-weather service or access road.

We do not think the trial court erred in refusing to permit the State to introduce evidence for the purpose of showing enhancement to the effect that appellees could use a part of their land north of the condemned tract as a "barrow" or "borrow" pit, from which dirt could be sold to the appellant to be used in the construction of the controlled or limited access highway and the all-weather service road. There is no evidence in this record to show that the State

was obligated to purchase dirt from appellees. For aught appearing, the State was at liberty to secure dirt from any source. The possibility that the State might buy dirt from appellees was too uncertain and conjectural to be considered as an element of enhancement. See Zook v. State Highway Commission, 156 Kan. 79, 131 P. 2d 652. In disposing of this question in this manner, we do not want to be understood as holding that enhancement would have been shown even if a contract or agreement with the State to purchase dirt from appellees had been proved. The sale of the dirt might bring immediate revenue to appellees, but on the other hand the sale of dirt, particularly if it was topsoil, would no doubt depreciate the value of the land for farming purposes.

Appellant in its brief groups Assignments 12 and 38 under Proposition IV, which is that: "For an interchange to be considered as an element of enhancement, it is not necessary that it touch the property being condemned." We agree that lands may be enhanced by the location of a service road and a controlled or limited access highway which connects by way of an interchange with another highway in close proximity to the condemnee's remaining lands. We have held that both general and special benefits may be set off against both damages to the remainder and the value of the part taken. - Pryor v. Limestone County, 222 Ala. 621, 134 So. 17; McRea v. Marion County, 222 Ala. 511, 133 So. 278. But the assignments

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of error argued under Proposition IV. do not relate to any ruling of the trial court sustaining objections of appellees to questions propounded by appellant to witnesses seeking to elicit testimony concerning the effect upon appellees' property of the construction of the interchange.

Finally, the appellant argues that the trial court erred to a reversal in refusing to permit the State to show that appellees' residence, which had been located on the condemned tract, was removed by appellees to their remaining lands, that is, land not taken by the condemnation proceeding.

We agree with appellant. Every witness for appellees, in arriving at the value of appellees' property before the taking, treated the residence as having been destroyed or rendered useless to appellees.

The trial court apparently refused to permit the State to show that appellees had removed their residence from the condemned tract on the theory that valuation and compensation should both be determined as of the date of the filing of the application. But this is not an invariable or absolute rule, one exception being illustrated by our case of Jefferson County v. Adwell, 267 Ala. 544, 103 So. 2d 143. In that case a building situated on property against which condemnation proceedings had been instituted was thereafter partially destroyed by fire. We observed:

"Although the valuation should be determined as of the date of the filing of the application, compensation should not be awarded for property destroyed by fire subsequent to the date of the filing of the application for which the landowner has been compensated, by insurance or otherwise. . . ." (267 Ala., 555)

In our opinion, a condemnee should not be compensated by the condemnor for the full value of a residence which the condemnor does not destroy or appropriate, but which remains the property of the condemnee after the filing of the application for condemnation and which is removed by condemnee to other lands owned by him. It seems to us that any other holding would result in the condemnee being awarded more than just compensation and that is all to which he is entitled.

We have not overlooked appellees' criticism of the manner in which appellant has grouped and argued assignments of error in bulk in its brief. It is our view that the assignments were sufficiently related to be argued in bulk.-  
Boohaker v. Trott, 274 Ala. 12, 145 So. 2d 179.

For an excellent discussion of the question of "Enhancement in Condemnation Cases" see the article bearing that title by the Honorable Maurice F. Bishop, of the Jefferson County Bar, and the Honorable Joseph D. Phelps, of the

11.

Montgomery County Bar in Alabama Law Review, Vol. 13, p. 123.

Because of the errors pointed out, the judgment of  
the trial court is reversed and the cause is remanded.

REVERSED AND REMANDED.

Livingston, C. J., and Goodwyn, J., concur.

Coleman, J., (concurring specially):

I agree in the result.

I do not agree that Proposition IV in appellant's  
brief is a correct statement of the law.

I, Richard W. Neal, Deputy Clerk of the Supreme  
Court of Alabama, do hereby certify that the fore-  
going is a full, true and correct copy of the instru-  
ment(s) hereon set out as same appears of record  
in said Court.  
Witness my hand this 23 day of July 1967

Richard W. Neal  
Deputy Clerk, Supreme Court of Alabama

STATE OF ALABAMA,	)	IN THE CIRCUIT COURT OF
Petitioner,	)	BALDWIN COUNTY, ALABAMA
Vs.	)	CASE NUMBER 6192
WAYNE HUGGINS and	)	
GERALDINE W. HUGGINS	)	
and Tract No. 9,	)	
Respondents.	)	

FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 8th day of March, 1965, now comes the parties and their respective attorneys of record and it appearing to the Court from the stipulation of the parties made and entered into on this date and filed in this cause, that on the 30th day of June, 1964, an application was filed in the Probate Court of Baldwin County, Alabama, by the State of Alabama, seeking to condemn certain lands therein described for the uses and purposes therein averred, and that subsequent thereto proceedings were had in the Probate Court of Baldwin County, Alabama, and that the necessary action to properly effect the appeal from the Probate Court of Baldwin County, Alabama in accordance with all the statutes and laws in such cases made and provided, to the Circuit Court of Baldwin County, Alabama were made, and that said Court did, on the 27th day of August, 1964, enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 27th day of August, 1964, the State of Alabama appealed from said order of condemnation to this Court and demanded a trial by jury; and it further appearing to the Court from the stipulation of the parties hereinabove referred to that the only issue in this proceeding is the damages and compensation, if any, to which the Defendant landowners are entitled and that an order of condemnation should be here entered condemning the lands hereinafter described for the uses and purposes set forth in the application, which is now on file in this Court.

And now comes a jury of twelve good and lawful men, to-wit, Arthur A. Holk and eleven others, and the issue of the amount of damages and compensation, if any, to which the landowners are entitled

having been submitted to them, did return a verdict in words and figures as follows:

"We the jury hereby assess the damages and compensation to which the property owners of Tract No. 9 are entitled at the sum of \$25,000.00."

Arthur A. Holk  
Foreman

And the Court having considered all of the above is of the opinion and judgment that an order or judgment of condemnation should be here entered conditioned upon the payment by the State of Alabama to the Clerk of this Court for the use and benefit of the Defendant landowners; it is, therefore

ORDERED, ADJUDGED AND DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

1. That the application of the State of Alabama for the condemnation of the lands, rights and construction, hereinafter described be, and the same are hereby granted, and that the property described in Exhibit "A" attached hereto, and by reference made a part thereof as though fully set forth herein, be, and the same is hereby condemned for the use by the State of Alabama as a right of way for a public road of limited access as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowners and into the State of Alabama, upon the payment by the State of Alabama of the sums hereinafter ordered and decreed to be paid.

2. That the damages and compensation to which the Defendant landowners in this case, Wayne Huggins and Geraldine W. Huggins, are entitled is hereby fixed at the sum of \$25,000.00, which said sum is hereby ordered to be paid by the State of Alabama to said Defendant landowners; and that upon the payment of said amount by the State of Alabama to said landowners the condemnation of the lands hereinabove described shall be, and become effective.

3. That the State of Alabama pay the costs of this proceeding.

DATED this 9th day of March, 1965.

FILED

MAR 9 1965

ALICE L. DICK, CLERK  
REGISTER

Joseph J. Mullins  
Circuit Judge

428-F



Exhibit "A"

STATE OF ALABAMA,

Plaintiff,

VS.

WAYNE HUGGINS, ET AL.,

Defendants.

IN THE CIRCUIT COURT

OF BALDWIN COUNTY, ALABAMA

AT LAW. NO: 6192

Comes now the Plaintiff, State of Alabama, and amends its petition and application for condemnation so that the description of the property and the rights sought to be condemned shall read as follows:

Commencing at the SW corner of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 34, T 4 S R 3 E, thence northerly along the West boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the West property line, a distance of 240 feet to the point of beginning at Sta 516 + 77 on the centerline of Project No. 1-10-1(11)44; thence northerly along the said West property line, a distance of 235 feet, more or less, to a point that is 235 feet northerly of and at right angles to the centerline of said project; thence S 89°-43'-31" E, parallel to the centerline of said project, a distance of 1308 feet, more or less, to a point on the East boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  Section, the East property line; thence southerly along said East property line (crossing the centerline of said property at Sta 529 + 85) a distance of 410 feet, more or less, to a point that is 175 feet southerly of and at right angles to the centerline of said project; thence N 89°-43'-31" W, parallel to the centerline of said project, a distance of 1308 feet, more or less, to a point on said West property line; thence northerly along said West property line a distance of 175 feet, more or less, to the point of beginning.

Said strip of land lying in the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 34, T 4 S, R 3 E, and containing 12.33 acres more or less, as recorded in the Office of the Judge of Probate of Baldwin County, Alabama, on the right of way map of Project No. 1-10-1(11)44; and all of said lands being in Baldwin County, Alabama.

This condemnation is made for the purpose of a controlled access facility, and any and all rights of ingress and egress or other abutter's rights relative to the right of way sought to be condemned as above described, are hereby expressly taken and included in Plaintiff's said application of condemnation, so that the above described right of way shall be controlled access facility; provided, however, there is hereby reserved along a line described as commencing at a point on the West boundary of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 34, T 4 S, R 3 E, which is 175 feet northerly of and at right angles to the centerline of Project No. 1-10-1(11)44; thence northerly along said West boundary of the NE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 34, T 4 S, R 3 E, a distance of sixty (60) feet to a point that is 235 feet northerly of the centerline of said project; thence S 89°-43'-31" E, and parallel to the centerline of said project a distance of 1308 feet, more or less, to a point on the East boundary line of said  $\frac{1}{4}$  of  $\frac{1}{4}$  Section, thence southerly along said East boundary, being the East property line a distance of sixty (60) feet to a point that is 175 feet northerly of and at right angles to the centerline of said project; thence N 89°-43'-31" W, and parallel to the centerline of said project, a distance of 1308 feet, more or less to the point of beginning.

The above described access road shall be accessible from the North, East and West, but shall be accessible to the controlled access facility (Interstate Highway 10 as described above) only at such points as may hereafter be established by public authority.

428-2

This the 9th day of March, 1965.

Richmond Flowers,  
Attorney General

By Kenneth Cooper  
Special Assistant Attorney General

Service is accepted on behalf of the defendants on the 9th day of  
March, 1965.

FILED

MAR 9 1965

ALICE L. DUCK, CLERK  
REGISTER

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Attorney for the Defendants

428-74.

no. 6192

State of Ala

JURY LIST - SUMMER SESSION, JUNE 12, 1967

W. Wayne Huggins

1. Agerton, J. W., Chemstrand, Bay Minette
2. Allen, Clyde, Newport, Bay Minette
3. Allen, Leslie, Jr., Insurance Salesman, Fairhope
4. Anderson, Anthony, Newport Industry, Bay Minette
5. Anderson, Eddie Lee, Standard Furniture, Bay Minette
6. Barton, John, Sr., Merchant, Bay Minette
7. Berglin, Lavine, Jr., Salesman, Fairhope
8. Bloch, Herman, Farmer, Elberta
9. Boykin, Oswald S., Jr., Teacher, Bay Minette
10. Britt, Cecil, Carpenter, Bay Minette
11. Brooks, Horace D., Farmer, Summerdale
12. Bryars, Rudolph H., Brookley Field, Bay Minette
13. Conway, James, Mobile Construction, Daphne
14. Creamer, Henry, City Employee, Fairhope
15. Dawson, Roy S., Livestock Dealer, Robertsdale
16. Early, L. J., Timber & Lumber, Foley
17. Fell, Russell, Civil Service, Lillian
18. Fell, Walter, Mechanic, Bon Secour
19. Flowers, Edward, Farmer, Bay Minette
20. Gill, R. A., Oil Co., Robertsdale
21. Harris, Walter, Laborer, Foley
22. Heidelberg, Jerry, Farmer, Robertsdale
23. Hill, Calvin, Farmer, Belforest
24. Hogan, C. J., Furniture Store, Bay Minette
25. Holmes, Roy, Teacher, Summerdale
26. Hunt, Frank C., GRAMCO, Spanish-Fort- Daphne
27. Johnson, Coy, L., Laborer, Bay Minette
28. Krischer, John, Farmer, Elberta
29. Krob, Joseph R., Farmer, Silverhill
30. Lamberth, Jack Ogal, Farmer, Bay Minette
31. Landcaster, Jack, Farmer, Robertsdale
32. Lazzari, Anglo, Farmer, Belforest
33. Leiterman, Nick, Civil Service, Elberta
34. Little, Frank Eugene, Mechanic, Foley
35. Lunsford, Albert A., Brookley Field, Foley
36. Lyrene, Edward, Farmer, Silverhill
37. Mahathy, Roy, Civil Service, Stapleton
38. Mancini, Arthur, Farmer, Daphne
39. Mims, John, Griffin Motor Co., Daphne
40. Morris, Robert, Farmer, Gateswood
41. Mosley, Alfred, Farmer, Robertsdale
42. Moyer, Roy, Druggist, Fairhope
43. Nahrgang, Robert, Contractor, Fairhope
44. Neal, Harold, Ponder Co., Fairhope
45. Neimeyer, Lenora (Mrs. Ed), Fairhope
46. Nix, G. Herbert, Reserve Fleet, Bay Minette
47. Peterson, Donald E., Brookley, Robertsdale
48. Oblak, John, Jr., Farmer, Silverhill
49. Quinley, Wilburn, Farmer, Bay Minette
50. Rhodes, Latham, Farmer, Foley
51. Roley, Leonard D., Farmer, Perdido
52. Ruple, J. L., Civil Service, Bay Minette
53. Smith, Otis, Defense Worker, Bay Minette
54. Stephens, Billie W., Brookley, Summerdale
55. Stewart, Daniel W., State, Gulf Shores
56. Stuckey, Joe, Sawmill, Bay Minette
57. Suddith, Jack, Office Mgr., Bay Minette
58. Tullos, Abe, Brookley, Fairhope
59. Vines, Mack, Clerk, Bay Minette
60. Warley, Beverly (Mrs. Ed), Fairhope
61. Weeks, Ralph, Farmer, Magnolia Springs
62. Wilsey, Murry Emmett, Farmer, Robertsdale
63. Yeager, Dorothy (Mrs. Jerry), Fairhope

S-XXXX XXXXX XXXXX XXXXX

D-XXXX XXXXX XXXXX XXXXX

NOTICE TO SHERIFF:

STATE OF ALABAMA    )  
                          )  
BALDWIN COUNTY        )

CASE # 5256

You are hereby COMMANDED to notify: \_\_\_\_\_

JIM STAPLETON

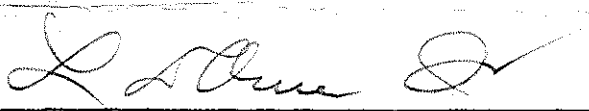
FRED GRIFFIN

LEON GIBSON

that in a proceeding in this Court styled State of Alabama vs. Parcels 1&2  
RAYMOND DYSON, ETAL as to Tracts # 8, 9, 10/ & 13 \_\_\_\_\_, et al  
and Baldwin County, a political subdivision of the State of Alabama,  
in which the State of Alabama sought to condemn a certain right of  
way or easement over certain lands in this County for the purposes  
of a public highway or road as stated in the application for con-  
demnation in this cause, this Court rendered a decree condemning the  
right of way or easement over the lands therein sought, and appoint-  
ed them to view said property sought to be condemned, hear evidence  
and assess such damages and compensation as the owners and interest-  
ed parties are entitled to recover for the taking of the same for  
said public uses and purposes.

You are hereby commanded to serve a copy of the commission  
hereto attached upon each of said commissioners within five (5) days  
from the receipt hereof, and make return as to how you have execut-  
ed this mandate.

Done this 21st. day of July, 1967.

  
\_\_\_\_\_  
~~XXXXXXXXXXXX~~, Judge of Probate.  
L.D. OWEN, JR.

By: \_\_\_\_\_

No. 5256 In the Matter of State of Ala. vs. Raymond Dixon, et al

Administrator, Executor or Guardian. Residence \_\_\_\_\_

Attorneys Jeffrey Marshall Docket \_\_\_\_\_ Page \_\_\_\_\_ Fee Book \_\_\_\_\_ Page \_\_\_\_\_

DATE	FEES OF PROBATE JUDGE	AMOUNT	DATE	FEES OF PROBATE JUDGE	AMOUNT
6-30-64	Will Order on Presentation, \$1.00 Affidavit in Petition for Probate, 50c Recording Petition, per 100 words, 15c	10.00		BROUGHT FORWARD, Affidavit to Report, 25c Recording, per 100 words, 15c	27.50
6-20-64	Issuing Citation, ent'g Sheriff's Returns, 50c Appointing and Notifying Guard. ad Litem, 50c Issuing Subpoenas for Witnesses, 50c Affidavit of Witnesses, 25c Examining Wit. and order Probating, \$2.00 Issuing Commission to take Deposition, 50c	1.00		Appointing Com'r to Divide, and Writ, \$2.00 Approving Division and Order thereon, \$1.00 App'ting and Notifying Guard. ad Litem, 50c	
6-20-64	Filing Interrogatories, 10c Copy of same, per 100 words, 15c Recording Will, per 100 words, 15c Recording Testimony, per 100 words, 15c Certificate, without seal, 25c Certificate, with seal, 50c	5.00		PARTIAL SETTLEMENT—Affidavit in Acc't, 25c Examining, Stating Acc't and Ap. Hear., \$1.00 Order to Publish Notice of Sale, 50c App'ting and Notifying Guard. ad Litem, 50c Examining Vouchers, 10c Administering Affidavits, 25c Making Decree and Order to Record, \$1.50 Recording same, per 100 words, 15c Filing Claims and giving Receipt, 15c	
7-21-64	Presiding at Trial Cnt'd Will, per day, \$2.50 LETTERS—Affidavit in Petition, 25c Recording Petition, per 100 words, 15c Recording Report of Adm'r, 100 words, 15c Granting Letters of Administration, 50c Issuing and Recording same, 50c Granting Order of Appraisal, 50c Issuing, Filing and Recording same, 50c Taking, App., Filing, Rec. Adm. Bonds, \$1.00 Taking, App. Filing, Guard. Bond, \$1.00 Affidavit of Justification, 25c Granting Order of Appraisal, 50c Issuing Order of Appraisal, 25c Recording same, per 100 words, 15c Order Removing Executor, Adm. Guard. \$2.00 Order Appointing General Guardian, \$1.00 Order Appointing General Administ'r, \$1.00 Order Appointing Adm'r ad Litem, \$1.00 Recording Decree	1.50		INSOLVENCY—Affidavit in Report, 25c Affidavit to Statements, 25c Recording Rep't and Statem't, 100 words, 15c Order Appointing Day of Hearing, 25c Order to Publish Notice of same, 25c Order for Citations, 25c Iss'g Notice to Creditor Day of Hearing, 50c Order Sustaining Report, 25c Order for Settlement, 25c Order to Publish Day of Settlement, 25c Issuing Notice of Day of Settlement, 25c Affidavit to Amount of Claims, 25c App'ting and Notifying Guard. ad Litem, 50c	
8-10-64	Final Ord. Bond.	1.50		Taylor Wilkins Debits Selling Real Estate—Affidavit in Petition, 25c Recording Petition, per 100 words, 15c Order App't'g Day of Hear. and Notice, \$1.00 Order to Publish Notice of same, 50c Issuing, Filing, and Recording same, 50c App'ting and Notifying Guard. ad Litem, 50c Issuing Commission to take Deposition, 50c Filing Interrogatories, 10c Copy of Interrogatories, per 100 words, 15c App't'g Com. to Divide and Issue Writ, \$2.00 Affidavit to Report of Same, 25c Order Approving Division and Report, \$1.00 Recording same, per 100 words, 15c Hearing Applic'n for Dower, Iss'g Writ, \$4.00 Exam'g Testim'y and Grant Ord'r to Sell, \$2.00 Recording Depositions, per 100 words, 15c Record. Reliq'm't of Dower, 100 words, 15c Recording Report, per 100 words, 15c Rec. Paym't Purchase Money, 100 words, 15c Making Order on Report of Sale of Land, 75c Hear Ap'n to Compel Conveyance, etc., \$2.00	10.50 28.00
8-27-64	Final Ord. Bond.	1.00		Order App't'g Day of Hear. and Notice, \$1.00 Order to Publish Notice of same, 50c Issuing, Filing, and Recording same, 50c App'ting and Notifying Guard. ad Litem, 50c Issuing Commission to take Deposition, 50c Filing Interrogatories, 10c Copy of Interrogatories, per 100 words, 15c App't'g Com. to Divide and Issue Writ, \$2.00 Affidavit to Report of Same, 25c Order Approving Division and Report, \$1.00 Recording same, per 100 words, 15c Hearing Applic'n for Dower, Iss'g Writ, \$4.00 Exam'g Testim'y and Grant Ord'r to Sell, \$2.00 Recording Depositions, per 100 words, 15c Record. Reliq'm't of Dower, 100 words, 15c Recording Report, per 100 words, 15c Rec. Paym't Purchase Money, 100 words, 15c Making Order on Report of Sale of Land, 75c Hear Ap'n to Compel Conveyance, etc., \$2.00	6.00 13.20
	HOMESTEAD—Rec. Pet'n for Com., 100 words, 15c Record, Order for App., per 100 words, 15c Recording Order for Com., per 100 words, 15c Notice to Commissioners, 50c Recording Report of Com., per 100 words, 15c Record, Order Setting Apart, 100 words, 15c			FINAL SETTLEMENT—Affidavit in Account, 25c Affidavit to Statement of Heirs, 25c Exam'g, Stating and Recording Acc't, \$1.00 Order to Publish Notice of same, 50c App'ting and Notifying Guard. ad Litem, 50c Examining Vouchers, 10c Administering Affidavits, 25c Recording same, per 100 words, 15c Decree in Final Settlement, 50c	
	INVENTORY—Order to Approve and Record, 50c Affidavit to same, 25c Recording same, per 100 words, 15c			SPECIAL PROCEEDINGS—Proceedings for Declaration of Unsound Mind and App. Guard. ad Litem, \$5.00 Recording Decree Relieving Minors, etc., \$1.00 Proceed to Perpetuate Testimony, per 100 words, 20c Other Services Relating Thereto, 75c Record. Pro'dings Bind'g Out Appren., \$1.00 For Recording Certificate of Judgment or Decree	
	SUPPLEMENT INVENTORY—Order App., Rec., 50c Affidavit to same, 25c Recording same, per 100 words, 15c Recording Decree, per 100 words, 15c			Misc. Filing	
	APPRAISEMENT—Order Approving, Rec., 50c Affidavit to same, 25c Recording same, per 100 words, 15c				
	SUPPLEMENT APPRAISEMENT—Grant, Order, 50c Issuing Order of Appraisal, 25c Recording Warrant, per 100 words, 15c Order to Approve Appraisal, 50c Affidavit to same, 25c Recording same, per 100 words, 15c Recording Decree, per 100 words, 15c				
	SALE OF PERISHABLE PROPERTY—Petition, 25c Recording same, per 100 words, 15c Granting Order of Sale, 50c Issuing Order of Sale, 25c App'ting and Notifying Guard. ad Litem, 50c Recording, per 100 words, 15c				
	SALE OF PERSONAL PROPERTY—Petition, 25c Recording same, per 100 words, 15c Granting Order of Sale, 50c Issuing Order of Sale, 25c Order to Publish Notice of Sale, 50c				
	CARRIED FORWARD	27.50		TOTAL PROBATE JUDGE'S FEES,	85.20



*state of*  
*Ala 754 Higgins*  
JURY LIST - SPRING SESSION- MARCH 8, 1965.

- ~~1. Cooper, Nolan P., Merchant, Rosinton~~
- ~~2. Caviness, Marvin, Laborer, Bay Minette~~
- ~~3. Day, Fred D., Farmer, Bay Minette~~
- ~~4. Jones, Jack, Poultry Farm, Bay Minette~~
- ~~5. Hill, Calvin, Farmer, Belforest~~
- ~~6. Harper, Cecil, Brookley Field, Bay Minette~~
- ~~7. Holk, Arthur A., Ins. Agt., Foley~~
- ~~8. Givens, Clyde, Pulp Wood, Semihole~~
- ~~9. Hardy, Wendell B., Salesman, Bay Minette~~
- ~~10. McDaniel, Schuler, Farmer, Robertsdale~~
- ~~11. McLeod, George, State Emp., Gulf Shores~~
- ~~12. McNeil, G.H., R.F.A. Foreman, Foley~~
- ~~13. McDill, Sam C., Farmer, Bay Minette~~
- ~~14. Campbell, Woodrow W., Mgr. Foley Mtr. Co., Foley~~
- ~~15. Attaway, Hubert, State Emp., Gulf Shores~~
- ~~16. Cleveland, Lyle F., Nurseryman, Foley~~
- ~~17. Campbell, A.C., Jr., Farmer, Rosinton~~
- ~~18. Bulman, George W., Shipyard, Fairhope~~
- ~~19. Langham, Ernest, Carpenter, Fairhope~~
- ~~20. Leatherwood, P.M., Clerk, Daphne~~
- ~~21. Boehn, Louie, Farmer, Summerdale~~
- ~~22. Tindal, Kendrick N., Contractor, Bay Minette~~
- ~~23. Trione, Leonard, Real Estate, Daphne~~
- ~~24. Trawick, Cecil, Farmer, Stapleton~~
- ~~25. Tindall, Horace A., Farmer, Gulf Shores~~
- ~~26. Smith, Joel, Farmer, Perdido~~
- ~~27. Stewart, Alen Drew, Farmer, Bay Minette~~
- ~~28. Stewart, Nolan, Farmer, Bay Minette~~
- ~~29. Seibert, Fred, Jr., Farmer, Elberta~~
- ~~30. Smith, Sidney, K., State Employee, Bay Minette~~
- ~~31. Styron, Irby L., Plant Foreman, Robertsdale~~
- ~~32. Stanton, E.F., Merchants, Stockton~~
- ~~33. Sweat, C.D., Real Estate, Robertsdale~~
- ~~34. Stewart, Frank, State Emp., Gulf Shores~~
- ~~35. Bodiford, Charlie, Laborer, Foley~~
- ~~36. Allen, Norman W., Farmer, Gateswood~~
- ~~37. Johnson, Coy L., Laborer, Bay Minette~~
- ~~38. Koehler, Charles G., Jr., Banker, Elberta~~
- ~~39. Kane, James, Farmer, Loxley~~
- ~~40. Kriss, Frank, Farmer, Silverhill~~
- ~~41. Louder, Eric M., Carpenter, Foley~~

40  
12  
28

S XXXXX XXXXX XXXX

D XXXXX XXXXX XXXX

*Stipulation 6/12/67*  
*L.D.*

STATE OF ALABAMA, ) IN THE CIRCUIT COURT OF  
Petitioner, ) BALDWIN COUNTY, ALABAMA  
Vs. ) CASE NUMBER 6192  
WAYNE HUGGINS and )  
GERALDINE W. HUGGINS )  
and Tract No. 9, )  
Respondents. )

STIPULATION:

It is hereby stipulated by and between the Petitioner (appellant), and Wayne Huggins and Geraldine W. Huggins, (appellee) parties to the above styled cause, through their respective attorneys of record, each acting with full authority as follows:

1. That the petitioner is authorized to institute and prosecute this proceeding to acquire the property or interest for order of condemnation filed in the Probate Court of Baldwin County, Alabama, on the 30th day of June, 1964, for the public purposes stated in said application or petition.

2. That all proceedings in the Probate Court of Baldwin County, Alabama, in this cause were regular, and an appeal has been duly and properly perfected within the time allowed and entered in said Probate Court in this cause on the 27th day of August, 1964, in this Court and trial by jury on the issue of valuation has been properly demanded.

3. That the application or petition for order of condemnation correctly sets out the uses and purposes for which the property and rights herein sought is to be devoted, used or applied and the petitioner has the right to obtain said property in this proceeding for the purposes stated.

4. That the respondent herein is the only party known to either petitioner or respondent who has or asserts any right, title or interest in or to the lands or interest therein sought to be acquired.

*BK-48- p-428-PC*



5. That the respondent has had due notice of this trial and all proceedings herein and expressly enters his appearance in this court.

6. That the only issue in this proceeding is the damages and compensation, if any, to which the respondent is entitled for the lands and interest in lands sought to be acquired by the petitioner for the uses and purposes stated.

7. That the time of taking in this proceeding is the date on which the application for order of condemnation was filed in the Probate Court, to-wit, 30 June, 1964, and the valuation of said property was constant between that date and the date on which the order of condemnation was entered, to-wit, 27 August, 1964.

*Robert S. Nettles*  
*Kenneth Cooper*  
Attorneys For Petitioner

*J. B. Blackburn*  
Attorney For Respondent

*Filed*  
*March 9, 1965*  
*Alice J. Duck, Clerk.*

State of Alabama  
Wayne <sup>vs</sup> Huggins et al -

We, the Jury, find for the Defendants  
and assess their damages at \$ 22,000.00

Frank Hunt  
Foreman

We the jury hereby  
assess the Damages and  
compensation to which the  
property owners of Tract  
No 9 are entitled at the  
sum of \$25,000.<sup>00</sup>

Arthur C. Folk  
Foreman

NOTICE TO SHERIFF:

STATE OF ALABAMA )  
BALDWIN COUNTY )

CASE # 5256

You are hereby COMMANDED to notify:

JIM STAPLETON

FRED GRIFFIN

LEON GIBSON

that in a proceeding in this Court styled State of Alabama vs.

RAYMOND DYSON, ET AL Tracts # 8, 9, 10, Parcels 1&2 & 13, et al  
and Baldwin County, a political subdivision of the State of Alabama,  
in which the State of Alabama sought to condemn a certain right of  
way or easement over certain lands in this County for the purposes  
of a public highway or road as stated in the application for con-  
demnation in this cause, this Court rendered a decree condemning the  
right of way or easement over the lands therein sought, and appoint-  
ed them to view said property sought to be condemned, hear evidence  
and assess such damages and compensation as the owners and interest-  
ed parties are entitled to recover for the taking of the same for  
said public uses and purposes.

You are hereby commanded to serve a copy of the commission  
hereto attached upon each of said commissioners within five (5) days  
from the receipt hereof, and make return as to how you have execut-  
ed this mandate.

Done this 21st. day of July, 1964.

Sheriff claims 80 miles at

Ten Cents per mile Total \$ 8.00  
TAYLOR WILKINS, Sheriff

BY J.D. DEPUTY SHERIFF

Received 21 day of July 19 64

and on 22 day of July 19 64

I served a copy of the within Notice

on Jim Stapleton

and Fred Griffin

By service on

TAYLOR WILKINS, Sheriff

By DeLust D. S.

L.D. OWEN, JR.

XXXXXXXXXXXX, Judge of Probate.  
L.D. OWEN, JR.

By:

Received 21 day of July 19 64

and on 22 day of July 19 64

I served a copy of the within Notice

on Leon Gibson

By service on

TAYLOR WILKINS, Sheriff

By DeLust D. S.

STATE OF ALABAMA,	)	
Appellant,	)	IN THE PROBATE COURT OF
vs.	)	
	)	BALDWIN COUNTY, ALABAMA
WAYNE HUGGINS and GERALDINE W. HUGGINS and TRACT NUMBER 9;	)	
ALEX S. BERTOLLA, ANGELO F. BERTOLLA, JOHN P. BERTOLLA and RUDOLPH F. BERTOLLA, individually and doing business as A. BERTOLLA AND SONS and TRACT NUMBER 10; and B. R. WILLIAMSON and TRACT NUMBER 13,	)	CASE NUMBER 5256.
Appellees.	)	

NOTICE OF APPEAL

Comes the State of Alabama in the above entitled cause, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the order of condemnation entered in said cause on the 27th day of August, 1964, insofar as said order of condemnation relates to the Tracts of land and the owners and parties interested therein as follows:

TRACT NUMBER 9: Wayne Huggins and Geraldine W. Huggins are the owners of said Tract.

TRACT NUMBER 10: Alex S. Bertolla, Angelo F. Bertolla, John P. Bertolla and Rudolph F. Bertolla, individually, and doing business as A. Bertolla and Sons, are the owners of said Tract.

TRACT NUMBER 13: B. R. Williamson is the owner of said Tract.

That a copy of the descriptions of the above designated Tracts are hereto attached, marked Exhibit "A", and by reference made a part hereof, as though fully set out herein.

The State of Alabama does herewith file in the Probate Court of Baldwin County, Alabama, the Court rendering such order of condemnation, this its written notice of said appeal.

DONE this 27th day of August, 1964.

RICHMOND M. FLOWERS,  
Attorney General, State of Alabama

By: *Telfair J. Washburn*  
Duly appointed Special Assistant  
Attorney General for State of  
Alabama.

Appellant hereby demands a trial  
of this cause by Jury.

Telfair J. Mashburn  
Duly appointed Special Assistant  
Attorney General for State of Alabama.

The undersigned hereby acknowledges himself security  
for costs in this cause.

Telfair J. Mashburn  
Duly appointed Special Assistant Attorney  
General for State of Alabama.

-----  
TO: WAYNE HUGGINS, GERALDINE W. HUGGINS, J. B. BLACKBURN, as  
Attorney of Record for ALEX S. BERTOLLA, ANGELO F. BERTOLLA,  
JOHN P. BERTOLLA and RUDOLPH F. BERTOLLA, individually and  
doing business as A. BERTOLLA AND SONS, and E. E. WILLIAMSON

YOU ARE HEREBY NOTIFIED that the above Notice of Appeal  
was filed in the Office of the Judge of Probate of Baldwin  
County, Alabama, on the 27th day of August, 1964.

WITNESS my hand this 27th day of August, 1964.

L. D. D.

Judge of Probate Court of Baldwin  
County, Alabama.

EXHIBIT "A"  
TRACT NUMBER 13

Commencing at the NW corner of the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 6, T 5 S, R 4 E; thence southerly along the West boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the West property line, a distance of 100 feet to the point of beginning at Sta. 638 + 78 on the centerline of the Right Lane of Project No. I-10-1 (Q1) 44; thence southerly along said West property line a distance of 162 feet, more or less, to a point; thence N 80°-09'-52" E a distance of 50 feet, more or less, to a point that is 125 feet southwesterly of and at right angles to the centerline of said Right Lane; thence S 69°-50'-08" E, parallel to the centerline of said Right Lane, a distance of 370 feet, more or less, to a point that is 125 feet southwesterly of and at right angles to the centerline of said Right Lane at P.C. Sta. 643 + 53.02; thence southeasterly, parallel to the centerline of said Right Lane, along a curve to the left (concave northeasterly) having a radius of 11,584.15 feet, a distance of 940 feet, more or less, to a point on the East boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the East property line; thence northerly along said East property line a distance of 677 feet, more or less, to a point on the North boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the North property line; thence westerly along said North property line a distance of 1290 feet, more or less, to a point on said West property line; thence southerly along said West property line a distance of 100 feet, more or less, to the point of beginning.

Said strip of land lying in the NW  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of Section 6, T 5 S, R 4 E, and containing 13.90 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-10-1 (Q1) 44, County of Baldwin, and all of the grantors remaining real property consisting of all parcels contiguous one to another whether acquired by separate conveyances or otherwise, all of which parcels either adjoin the real property conveyed by this instrument or are connected thereto by other parcels owned by grantors.

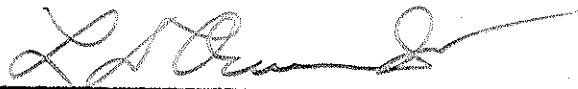
STATE OF ALABAMA )

BALDWIN COUNTY )

TO ANY SHERIFF OF THE STATE OF ALABAMA, GREETINGS:

You are hereby commanded to serve the foregoing Notice of Appeal upon B. R. WILLIAMSON, and make due return to this Court of such service.

DATED this 27th day of August, 1964.



Judge of Probate, Baldwin County, Ala.



STATE OF ALABAMA

Plaintiff

Vs.

WAYNE HUGGINS, ET AL.

Defendants

) IN THE CIRCUIT COURT OF

) BALDWIN COUNTY, ALABAMA

) AT LAW. NO: 6192

)  
Comes now the Plaintiff, State of Alabama, and amends its  
petition and application for condemnation so that the description  
of the property and the rights sought to be condemned shall read  
as follows;

Commencing at the SW corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, thence northerly along the West boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  section, the West property line, a distance of 240 feet to the point of beginning at Sta 516+77 on the centerline of Project No. I-10-1(11)44; thence northerly along the said West Property line, a distance of 235 feet, more or less, to a point that is 235 feet northerly of and at right angles to the centerline of said project; thence S89°-43'31" E, Parallel to the centerline of said project, a distance of 1308 feet, more or less, to a point on the East boundary of said  $\frac{1}{4}$  of  $\frac{1}{4}$  Section, the East property line; thence southerly along said East property line (crossing the centerline of said property at Sta 529+85) a distance of 410 feet, more or less, to a point that is 175 feet southerly of and at right angles to the centerline of said project, thence N 89° -43'-31" W, parallel to the centerline of said project, a distance of 1308 feet, more or less, to a point on said West property line; thence northerly along said West property line a distance of 175 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, and containing 12.33 acres more or less, as recorded in the Office of the Judge of Probate of Baldwin County, Alabama, on the right of way map of Project No. I-10-1(11)44: and all of said lands being in Baldwin County, Alabama.

This condemnation is made for the purpose of a controlled access facility, and any and all rights of ingress and egress or other abutter's rights relative to the right of way sought to be condemned as above described, are hereby expressly taken and included in Plaintiff's said application of condemnation, so that the above described right of way shall be controlled access facility; provided, however, there is hereby reserved along a line described as commencing at a point on the West boundary of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, which is 175 feet northerly of and at right angles to the centerline of Project No. I-10-1(11)44; thence northerly along said West boundary of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 34, T4S, R3E, a distance of sixty (60) feet to a point that is 235 feet northerly of the center line of said project, thence S 89°-43'-31" E, and parallel to the centerline of said project; a distance of 1308 feet, more or less, to a point on the East boundary line of said  $\frac{1}{4}$  of  $\frac{1}{4}$  Section, thence southerly along said East boundary, being the East property line a distance of sixty (60) feet to a point that is 175 feet northerly of and at right angles to the centerline of said project; thence N 89°-43'-31" W, and parallel to the centerline of said project, a distance of 1308 feet, more or less to the point of beginning.

P. 48-428-17

The above described access road shall be accessible from the North, East and West, but shall be accessible to the controlled access facility (Interstate Highway 10 as described above) only at such points as may hereafter be established by public authority.

This the 9 day of March, 1965.

Richmond Flowers  
Attorney General

By Kenneth Cooper  
Special Assistant Attorney General

FILED

MAR 9 1965

ALICE J. DUCK, CLERK  
REGISTER

KENNETH COOPER  
ATTORNEY AT LAW  
109 EAST 1ST STREET  
BAY MINETTE, ALABAMA 36507  
TELEPHONE 937-7412  
24 June, 1967

Mrs. Alice J. Duck  
Clerk, Circuit Court  
Bay Minette, Alabama

Re: State vs Huggins,  
Case No. 6192.

Dear Mrs. Duck:

You are hereby authorized to pay to Hon. J. B. Blackburn the jury's award of \$22,000.00, which award was made on 12 June, 1967, in above case. Please remit to me, for the State, the balance of \$3,000.00, together with your cost bill in this cause.

Sincerely,

*Kenneth Cooper*  
Kenneth Cooper,  
Special Assistant  
Attorney General

KC/lb

cc: Hon. J. B. Blackburn

DIV. NO. \_\_\_\_\_

CERTIFICATE OF APPEAL. (Civil Cases.)

No. 6192

THE STATE OF ALABAMA

BALDWIN County.

I, Alice J. Duck, Clerk of the Circuit Court of Baldwin County, in and for said State and County, hereby certify that the foregoing pages numbered from one to \_\_\_\_\_, both inclusive, contain a full, true and complete transcript of the record and proceedings of said Court in a certain cause lately therein pending wherein STATE OF ALABAMA

was plaintiff, and WAYNE HUGGINS & GERALDINE HUGGINS

was Defendants as fully and completely as the same appears of record in said Court.

And I further certify that the said State of Alabama did on the 28th day of May, 1965, pray for and obtain an appeal from the judgment of said Court to the Supreme Court of Alabama to reverse said judgment of said Court upon entering into bond with Kenneth Cooper, Attorney for Plaintiff, as surety thereon, which said bond has been approved by me.

Witness my hand and the seal of said Circuit Court of 28th Baldwin County is hereto affixed, this the 28th day of May, 1965

Alice J. Duck  
Clerk of the Circuit Court of  
Baldwin County, Alabama.

(Code 1940, Title 7, Sec. 767)

STATE OF ALABAMA, : IN THE CIRCUIT COURT OF  
Plaintiff, : BALDWIN COUNTY, ALABAMA  
vs. :  
WAYNE HUGGINS & GERALDINE HUGGINS, : AT LAW  
Defendants. : CASE NO: 6192

NOTICE OF APPEAL AND SECURITY FOR COSTS THEREOF

Comes now the Plaintiff (Condemnor) in the above-styled cause, and appeals to the Supreme Court of Alabama from the final judgment rendered in this cause in and by the Circuit Court of Baldwin County, Alabama, Law Side, on, to-wit, 9 March, 1965, and in which cause your Plaintiff's Motion for New Trial was overruled and denied by a judgment of the trial court on, to-wit, 15 May, 1965.

Kenneth Cooper

Bert S. Nettles  
Duly Appointed Special Assistants  
Attorney General for State of Alabama,  
Attorneys for Plaintiff

SECURITY FOR COSTS

I, the undersigned, do hereby acknowledge myself as security for all costs of the foregoing appeal to the Supreme Court of Alabama taken by the Plaintiff (Condemnor) in this cause.

Kenneth Cooper  
Attorney for Plaintiff

Taken and approved on this

28 day of May, 1965.

Deirdre Houch  
Clerk, Circuit Court Baldwin County, Alabama

FILED

MAY 28 1965

RECEIVED CLERK  
BALDWIN COUNTY ALABAMA

THE STATE OF ALABAMA  
Baldwin County - Circuit Court

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the 9th  
day of March, 1965 ~~Monday~~, 1965, in a cer-  
tain cause in said Court wherein State of Alabama,

Plaintiff, and WAYNE HUGGINS & GERALDINE HUGGINS,  
Defendants a judgement was rendered against said  
State of Alabama  
to reverse which Judgment, the said State of Alabama

applied for and obtained from this office an APPEAL, returnable to the next  
Term of our Supreme Court of the State of Alabama, to be held at Montgomery, on  
the        day of       , 196   next, and the necessary bond  
having been given by the said State of Alabama  
with Kenneth Cooper, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said Wayne Huggins and  
Geraldine Huggins or Hon. J.B. Blackburn  
      , attorney, to appear at the next Term of our  
said Supreme Court, to defend against the said Appeal, if they think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 28th  
day of May, A. D., 1965.

Attest:

Alice J. Duck, Clerk.

6192

**CIRCUIT COURT**  
**Baldwin County, Alabama**

Received 28 day of May 1965  
and on 31 day of May 1965  
I served a copy of the within Citation  
on Wayne & Geraldine  
Huggins

By service on

Don J. B. Blackburn  
TAYLOR WILKINS, Sheriff  
S. W. A. Talbot D. S.

STATE OF ALABAMA

Vs. } Citation in Appeal

WAYNE HUGGINS &  
GERALDINE HUGGINS

Issued 28th day of May, 1965,

serve: Hon. J. B. Blackburn

THE STATE OF ALABAMA---JUDICIAL DEPARTMENT

THE SUPREME COURT OF ALABAMA

October Term, 1966-67

To the Clerk of the Circuit Court of  
Baldwin County, Greeting:

Whereas, the Record and Proceedings of the Circuit Court  
of said county, in a certain cause lately pending in said Court between  
STATE OF ALABAMA, Appellant,  
and  
WAYNE HUGGINS, ET AL., Appellees,

wherein by said Court it was considered adversely to said appellant, were brought before our  
Supreme Court, by appeal taken, pursuant to law, on behalf of said appellant:

Now, it is hereby certified, That it was thereupon considered, ordered, and adjudged by our Su-  
preme Court on the 23 day of January, 1967, that said appellees'  
~~motion to dismiss appeal be denied.~~  
~~xxsaidxx xxCourt be reversed and annulled, and the cause remanded to said Court~~  
~~for further proceedings therein, and that it was further considered, ordered, and adjudged that the~~  
~~xxappelleesxx pay~~ motion to dismiss appeal be denied.

IT WAS FURTHER CONSIDERED ORDERED AND ADJUDGED that the judgment  
of the Circuit Court be reversed and annulled, and the cause remanded  
to said Court for further proceedings therein, and that it was futher  
ORDERED and ADJUDGED that the appellees, Wayne Huggins and Geraldine  
W. Huggins, pay

the costs accruing on said appeal in this Court and in the Court below, for which costs let execution  
issue.

Richard W. Neal Deputy  
Witness, ~~to Bender Thomas~~ Clerk of the Supreme  
Court of Alabama, at the Judicial Department

Building, this the 23 day of  
February, 1967

*Richard W. Neal*  
Deputy Clerk of the Supreme Court of Alabama.



THE SUPREME COURT OF ALABAMA

October Term, 1966-67

1st Div., No. 305

State of Alabama

Appellant,

vs.

Wayne Huggins, et al.,

Appellee. s

From Baldwin Circuit Court.

No. 6192

CERTIFICATE OF  
REVERSAL

The State of Alabama,

Baldwin County. } Filed

this 24 day of Feb 1967

W. J. Clark  
Clerk