

BALDWIN COUNTY, ALABAMA,

X

Condemnor,

X

IN THE PROBATE COURT OF

vs.

X

LUTHER JAMES MIZELL and  
CLARA MAE C. MIZELL,

X

BALDWIN COUNTY, ALABAMA

Condemnees.

X

X

TO: THE HONORABLE PROBATE COURT OF BALDWIN COUNTY, ALABAMA, AND  
TO THE HONORABLE HARRY D'OLIVE, JUDGE THEREOF:

Comes your Applicant, Baldwin County, Alabama, acting  
by and through John B. Hadley as its agent and as the duly elected  
Chairman of the County Commission thereof, the governing body  
thereof, and respectfully represents and shows unto Your Honor  
and unto this Honorable Court as follows:

FIRST:

That under the laws of the State of Alabama, Baldwin  
County is charged with the duty of providing rights-of-way for  
public roads constructed or to be constructed within said County;  
and it has, acting by and through the State Highway Department of  
the State of Alabama, surveyed and proposes to construct a public  
road over and across the lands hereinafter described.

SECOND:

That the County Commission of Baldwin County, Alabama,  
has by resolution determined that it is necessary that a right-of-  
way be acquired over and across said lands, and it has been re-  
quested to acquire such right-of-way by the State Highway Depart-  
ment of Alabama, acting by and through D'Olive Bill as its resi-  
dent engineer, all as shown by a certified copy of a resolution  
of the County Commission attached hereto and marked "Exhibit A"

STATE OF ALABAMA, BALDWIN COUNTY

Filed January 10th 1965

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Harry D'Olive

Judge of Probate

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and by reference made a part hereof, in which resolution is incorporated the request from the State Highway Department of the State of Alabama.

THIRD:

That the lands over which it is necessary that Baldwin County, Alabama, acquire a right-of-way for a public road are described as follows:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway.

FOURTH:

That the above described property is owned by Luther James Mizell and Clara Mae C. Mizell, who are over the age of twenty-one years and are presently residing in the State of Alabama, their more particular address being Bay Minette, Alabama.

FIFTH:

That Baldwin County, Alabama, proposes to acquire an easement or right-of-way over and across the above described lands for public road purposes.

SIXTH:

That Baldwin County, Alabama, does not know of any other

person, firm or corporation who owns any right, title or interest in the above property and has used reasonable diligence to ascertain if any other person, firm or corporation other than the ones named, own any right, title or interest in said property.

WHEREFORE, the premises considered your Applicant respectfully prays that this Honorable Court will, on the filing of this application, make and enter an order appointing a day for the hearing hereof and will cause due notice of the filing hereof and the day set for the hearing hereof to be given to the owners of the above described land. And your Applicant further prays that on the day set for the hearing of this application, that this Honorable Court will enter an order granting this application and will, in and by the terms of said order, appoint three citizens of this County in accordance with the statutes in such cases made and provided to assess the damages and compensation, if any, to which the said Luther James Mizell and Clara Mae C. Mizell are entitled. And your applicant further prays that upon the receipt by this Court of the report of the Commissioners and the certificate in connection therewith that this Honorable Court will enter an order or decree of condemnation of the interest sought to be acquired in the above described property for the uses and purposes herein set forth; and your Applicant prays for such other, further and different orders and decrees as may be necessary and proper for the acquisition by the Applicant of the interest in the property sought to be condemned for the uses and purposes herein stated.

Respectfully submitted,

BALDWIN COUNTY, ALABAMA

By:

John B. Hatley  
As Its Agent and as Chairman of The County  
Commission of Baldwin County, Alabama.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, John Earle Chason, a  
Notary Public, in and for said County in said State, personally  
appeared John B. Hadley, who is known to me and who, after being  
by me first duly and legally sworn, did depose and say under oath  
as follows:

That he is the duly elected and qualified Chairman of  
the County Commission of Baldwin County, Alabama, and as such is  
the Agent of Baldwin County, Alabama. That he executed the fore-  
going application as such and he is informed and believes and  
upon such information and belief states that the facts alleged  
in the foregoing application are true and correct.

John B. Hadley

Sworn to and subscribed before me on  
this 10 day of January, 1965.

John Earle Chason  
Notary Public, Baldwin County, Alabama

WHEREAS, the road designated as White Avenue Extension has been surveyed and approved by the State Highway Department for construction and surfacing, all of which appears by letter of the State Highway Department by D'Olive Bill, Resident Engineer, dated the 4<sup>th</sup> day of January, 1965, in words and figures as follows:

"County Commission of Baldwin County  
Bay Minette, Alabama

Gentlemen:

The road designated as White Avenue Extension has been surveyed and approved by the State Highway Department for construction and surfacing. The following lands are needed and desired as a right-of-way for such road, to-wit:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway.

Said lands are owned by Luther James Mizell and Clara Mae C. Mizell, who are presently residing in the State of Alabama, their more particular address being Bay Minette, Alabama. Request is hereby made that you proceed to acquire the same by purchase or condemnation.

Yours very truly,

/s/ D'Olive Bill  
D'Olive Bill  
Resident Engineer."

And it appearing that the lands described in the said letter are needed by the County for public road right-of-way, and that the State Highway Department has approved and requested this Commission to acquire the same for such purposes.

THEREFORE, BE IT RESOLVED that it be and is hereby judicially ascertained and determined that it is necessary and proper and to the best interest of the County that an easement across said lands be acquired and owned by the County for and as a public road right-of-way and that John B. Hadley, as Chairman of the County Commission be, and he is hereby authorized and directed to institute eminent domain proceedings to acquire an easement across the lands above described for and as a right-of-way for public road.

043 MAR 022

I, John B. Hadley, as Chairman of the County Commission and as such the custodian of the records of the said County Commission, do hereby certify that the foregoing is a true and correct and literal copy of a resolution duly adopted by the County Commission at its meeting on the 4<sup>th</sup> day of January, 1965, as the same appears in the minutes of the said meeting.

Witness my hand and official seal this the 10 day of January, 1965.

John B. Hadley  
John B. Hadley, Chairman of Commission

BALDWIN COUNTY, ALABAMA,	X	
Condemnor,	X	IN THE PROBATE COURT OF
vs.	X	
LUTHER JAMES MIZELL and	X	BALDWIN COUNTY, ALABAMA
CLARA MAE C. MIZELL,	X	
Condemnees.	X	

BOOK 643 PAGE 623

ORDER SETTING DAY

This day came Baldwin County, Alabama, acting by and through John B. Hadley, as its Agent and as Chairman of the County Commission of Baldwin County, Alabama, and filed its application to have condemned an easement or right-of-way for public road purposes over and across the lands therein described; and it appearing to the Court from the allegations of said application that it is necessary that Baldwin County, Alabama, acquire such easement or right-of-way and that Baldwin County, Alabama, desires to have such easement or right-of-way condemned; and the Court having considered the same is of the opinion that an order should be entered appointing a day for the hearing of said application and that notice should be given to the owners of the land as shown by said application; it is, therefore

ORDERED, ADJUDGED and DECREED by the Probate Court of Baldwin County, Alabama, that the 31<sup>st</sup> day of January, 1966, at 9:00 A. M., be, and the same is hereby appointed as the day for the hearing of said application and that notice of the filing of said application and of the day set for the hearing of said application be given to Luther James Mizell and Clara Mae C. Mizell who are presently residing in the State of Alabama, their more particular address being Bay Minette, Alabama.

Done this the 11<sup>th</sup> day of January, 1966.

Harry D. Oliver  
Judge of Probate

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BALDWIN COUNTY, ALABAMA, X  
Condemnor, X IN THE PROBATE COURT OF  
vs. X  
LUTHER JAMES MIZELL and X BALDWIN COUNTY, ALABAMA  
CLARA MAE C. MIZELL, X  
Condemnees. X

BOOK 145 PAGE 127

TO: LUTHER JAMES MIZELL AND CLARA MAE C. MIZELL, BAY MINETTE, ALABAMA:

YOU ARE HEREBY NOTIFIED that on the 10<sup>th</sup> day of January, 1966, Baldwin County, Alabama, acting by and through John B. Hadley as its Agent and as Chairman of the County Commission of Baldwin County, Alabama, filed an application in writing for the condemnation of an easement or right-of-way for public road purposes over and across the following described real property situated in Baldwin County, Alabama, alleged to be owned by you:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway.

and that the 31<sup>st</sup> day of January, 1966, at 9:00 A. M., has been appointed as the day for the hearing of said application, at which time you may appear and contest the same if you so desire.

Done this the 11<sup>th</sup> day of January, 1966.  
Harry D. Davis  
Judge of Probate

CHASON, STONE & CHASON  
Attorneys for Condemnor

E4-1-12-66



Received 11 day of Jan 1966  
and on 12 day of Jan 1966  
I served a copy of the within Notice  
on Luther James Mizell  
Dana Mae C. Mizell  
By service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By W. A. Talbot D. S.

am

BALDWIN COUNTY, ALABAMA,	X	
Condemnor,	X	IN THE PROBATE COURT OF
vs.	X	
LUTHER JAMES MIZELL and	X	BALDWIN COUNTY, ALABAMA
CLARA MAE C. MIZELL,	X	
Condemnees	X	

ORDER GRANTING APPLICATION AND  
APPOINTING COMMISSIONERS

This being the day appointed by the Court for the hearing of the application heretofore filed in this Court praying that this Court condemn certain lands described therein for the purpose set forth therein, now comes said Applicant, by its Attorney, and the condemnees having had due notice as required by law, the Court proceeds to hear said application, together with all legal evidence touching the same; and it appearing to the Court that the allegations of said application are true and that it is necessary that said land be condemned for the purpose mentioned in said application, and the Court having considered all of the above; it is, therefore

ORDERED, ADJUDGED and DECREED by the Probate Court of Baldwin County, Alabama, that said application be, and the same is hereby, granted.

And it further appearing to the Court that J. R. Wilson,  
JAMES H. LINDSEY and DONALD CAIN are  
three citizens of the County possessing the qualifications of jurors, and who are disinterested, and that the above named citizens are proper and competent persons to act as Commissioners to view the land described in said application, and, after hearing all evidence offered, to assess the damages and compensation to

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which the owners of the land are entitled, and they are hereby  
appointed as Commissioners for the purposes aforesaid.

Done this the 1st day of February, 1965.

Harry D'Olivia  
Judge of Probate

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BALDWIN COUNTY, ALABAMA,

X

Condemnor,

X

IN THE PROBATE COURT OF

vs.

X

LUTHER JAMES MIZELL and  
CLARA MAE C. MIZELL,

X

BALDWIN COUNTY, ALABAMA

Condemnees

X

X

NOTICE OF APPOINTMENT OF COMMISSIONERS

TO: TAYLOR WILKINS, SHERIFF OF BALDWIN COUNTY, ALABAMA:

YOU ARE HEREBY NOTIFIED that the undersigned Judge of Probate of Baldwin County, Alabama, has, in the above styled cause now pending in said Court, appointed J. R. Wilson, JAMES H. LINDSEY and DONALD CAIN as Commissioners to assess the damages and compensation, if any, to which Luther James Mizell and Clara Mae C. Mizell, as the owners of the following described land situated in Baldwin County, Alabama, to-wit:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway,

are entitled.

And you are hereby required to serve a copy of this notice upon each of the persons designated herein as Commissioners within five days of the receipt of this notice, which said Commis-

ioners must, within twenty days from this date, make a report in writing, to the Court stating the amount of damages and compensation ascertained and assessed by them for the owners of the above described land.

And you are required to make due return on this notice to this Court.

Done this the 1<sup>st</sup> day of February  
1966.

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Harry D'Olive  
Judge of Probate

Served 1 day of Feb 1966  
and on 4 day of Feb 1966  
I served a copy of the within Notice  
to J. R. Wilson, James H.  
Lindsey, Donald Cain  
for service on \_\_\_\_\_

TAYLOR WILKINS, Sheriff  
By W. A. Talbot D. S.

BALDWIN COUNTY, ALABAMA, X  
 Condemnor, X IN THE PROBATE COURT OF  
 vs. X  
 LUTHER JAMES MIZELL and X BALDWIN COUNTY, ALABAMA  
 CLARA MAE C. MIZELL, X  
 Condemnees. X

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REPORT OF COMMISSIONERS

TO THE HONORABLE HARRY D'OLIVE, JUDGE OF PROBATE OF BALDWIN COUNTY, ALABAMA:

The under signed J. R. Wilson,  
JAMES H. Lindsey and DONALD CAIN

who were heretofore appointed by the Probate Court of Baldwin County, Alabama, as Commissioners to assess the damages and compensation to which Luther James Mizell and Clara Mae C. Mizell, as the owners of the land hereinafter described, are entitled on the application of Baldwin County, Alabama, for an order of condemnation of an easement for road purposes over and across the following described land situated in Baldwin County, Alabama, to-wit:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway,

do hereby respectfully report that pursuant to said commission we viewed the said land after having been sworn as jurors are sworn, and thereafter we proceeded to assess the damages and compensation

STATE OF ALABAMA, BALDWIN COUNTY

Filed February 8th 1966

Recorded Harry D. Olive book 50 page 695

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to which the owners of the above described property are entitled by reason of the condemnation of said easement for road purposes over and across the above described lands belonging to them, and we, and each of us, separately assessed the damages and compensation to Luther James Mizell and Clara Mae C. Mizell, as owners of the above lands at the sum of \$ 400<sup>00</sup>.

We further certify that we have not been consulted, advised or approached by any person in reference to the value of the land or the proceedings to condemn the same prior to the assessment of damages and that we knew nothing of the same prior to our appointment as such commissioners.

Done this the 8<sup>th</sup> day of February, 1966.

JR Wilson  
James H. Lindsey  
Donald Cain

CERTIFICATE OF COMMISSIONERS

We, the undersigned, as Commissioners heretofore appointed by the Judge of Probate of Baldwin County, Alabama, in the above styled cause, do hereby certify that we each possess the qualifications of jurors, that we have never been consulted, advised or approached by any person in reference to the value of the lands which are the subject of this proceeding, or the proceedings to condemn the same prior to the assessment of the damages, and that we and each of us, knew nothing of the same prior to our appointment as such.

And each of us do hereby certify that we were sworn as jurors are sworn and that the following oath administered to

us:

"You do solemnly swear that you will well and truly try all issues, execute all writs of inquiry which may be submitted to you during the present session, and true verdicts render according to the evidence----so help you God."

Done this the 8<sup>th</sup> day of February

1966.

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JRW Wilson

James H. Lindsey

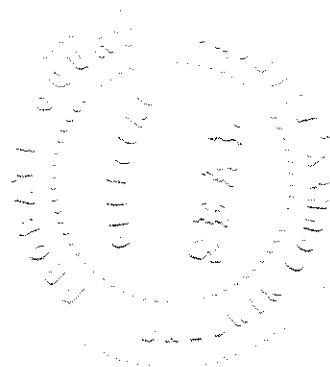
Donald Cain

Sworn to and subscribed before me  
this 8<sup>th</sup> day of February,  
1966.

Harry D'Olive  
Notary Public, Baldwin County, Alabama

By

Joe Allen  
Chief Clerk





BALDWIN COUNTY, ALABAMA,	X	
Condemnor,	X	IN THE PROBATE COURT OF
vs.	X	
LUTHER JAMES MIZELL and	X	BALDWIN COUNTY, ALABAMA
CLARA MAE C. MIZELL,	X	
Condemnees.	X	

BOOK 043 PAGE 698

ORDER OF CONDEMNATION

The Commissioners heretofore appointed by this Court to assess the damages and compensation to which Luther James Mizell and Clara Mae C. Mizell are entitled as the owners of the herein-after described land, having heretofore, on the 8<sup>th</sup> day of February, 1966, filed their report in writing, to which was attached their certificate as required by law in and by the terms of which report it appears that said commissioners have determined that said owners are entitled to the sum of \$ 400<sup>00</sup>, and it further appearing to the Court that Baldwin County, Alabama, has this day paid into Court the costs of this proceeding and the amount assessed to the owner of the said land, and that an order should be entered condemning an easement or right-of-way over and across the land hereinafter described in favor of Baldwin County, Alabama; and the Court having considered all of the above, it is therefore

ORDERED, ADJUDGED and DECREED by the Probate Court of Baldwin County, Alabama, that an easement or right-of-way for public roads be, and the same is hereby condemned, granted and awarded to Baldwin County, Alabama, over and across the following described parcel of real property situated in Baldwin County,

Alabama, to-wit:

Beginning at the Northeast corner of Section 21, Township 2 South, Range 3 East, run 666.0 feet South along the East line of said section to the point of beginning, thence 100.0 feet South 0°-00' East, thence 62.0 feet South 90°-00' West, thence 22.5 feet North 4°-45' West, thence 78.5 feet North 3°-06' West, thence 60.0 feet North 90°-00' East to the point of beginning.

Said right of way being in the Northeast quarter of the Northeast quarter of Section 21, Township 2 South, Range 3 East of Baldwin County and containing 0.014 acres, more or less, including the present roadway,

and that such easement be, and the same is, divested out of the Condemnee and in Baldwin County, Alabama.

It is further ORDERED, ADJUDGED and DECREED by the Court that all of the papers now on file in this Court, including the report of the Commissioners, be recorded.

Done this the 23<sup>rd</sup> day of February,  
1966.

Harry D. Oline  
Judge of Probate

BALDWIN COUNTY, ALABAMA,  
CONDEMNOR

VS

LUTHER JAMES MIZELL and  
CLARA MAE C. MIZELL

CONDEMNNEES

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

BOOK 043 PAGE 634

NOTICE OF APPEAL

Comes now Luther James Mizell and Clara Mae C. Mizell  
Condemnees in the above styled cause and prays and takes an  
appeal to the Circuit Court of Baldwin County, Alabama from the  
order of condemnation dated February 23, 1966.

Luther James Mizell

Clara Mae C Mizell

W. H. Hays

Condemnees demand trial  
by jury.

W. H. Hays

STATE OF ALABAMA, BALDWIN COUNTY

Filed March 23rd 1966

Recorded Harry W. Oliver book 043 page 634

Judge of Probate SH

I hereby certify that I have this day personally  
served a copy of the within notice of appeal  
on Attorney J. C. Anderson, Norman C. Stone.  
March 23, 1966.

W. H. Hays