

STATE OF ALABAMA,

PETITIONER,

-VS-

HAMPTON D. EWING, JR., JAMES  
R. COGAN and HAMPTON D. EWING,  
JR. As Co-Executors under the  
Last Will and Testament of  
James D. Ewing, Deceased, and  
BAY MINETTE LAND COMPANY, and  
Alabama corporation, and Tract  
No. 35-B et al.

RESPONDENTS.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO.

9196

### STIPULATION

It is hereby stipulated by and between the Petitioner and Hampton D. Ewing, Jr., James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors under the Last Will and Testament of James D. Ewing, Deceased, and Bay Minette Land Company, and Alabama Corporation, 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 the proceeding to acquire an easement or right-of-way for public road purposes over and across the land of the Respondents, designated as Tract No. 35-B in Alabama Highway Department, Project S-60-E.

2. That the date of the taking of said property interest was the 13th January, 1970, the date on which the application for condemnation was filed in the Probate Court of Baldwin County, Alabama; and the valuation of said property has remained constant since that date.

3. That these proceedings are properly before this Court, and a trial by jury of question of damages and compensation was properly demanded.

4. That the Petitioner, notwithstanding the allegations of the original application, seeks only to acquire as easement or right-of way for public road purposes in connection with said Project over and across said tract of land.

5. That the Respondents herein are the only parties known to either Petitioner or Respondents who have or assert any right, title or interest in or to the lands or interests therein sought to be acquired.

6. That the Respondents have had due notice of this trial and all proceedings herein and expressly enters their appearance in this Court.

7. That the only issue in this proceeding is the damages and compensation, if any, to which the Respondents are entitled for the lands and interest in lands sought to be acquired by the Petitioner for the uses and purposes as above stated.

  
ATTORNEY FOR PETITIONER

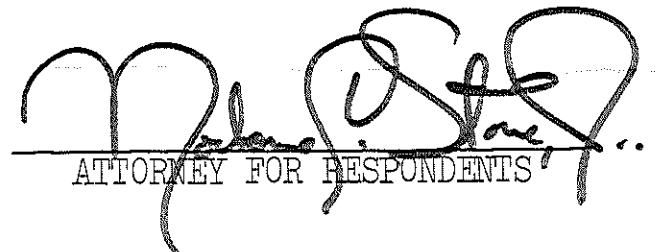
  
ATTORNEY FOR RESPONDENTS

Figure 1. The effect of the concentration of the *Agrobacterium* suspension on the transformation efficiency of *Agrobacterium* strains. The *Agrobacterium* strains were grown in YEA medium for 24 h at 28°C. The cell concentration of the strains was adjusted to 10<sup>8</sup> cells/ml. The cell suspension was mixed with the plant tissue and the transformation efficiency was determined. The results are the mean of three independent experiments. Error bars represent standard deviation.

Figure 1. The effect of the concentration of the  $\text{Fe}^{2+}$  solution on the adsorption of  $\text{Fe}^{2+}$  by the  $\text{Fe}^{2+}$ -loaded  $\text{Fe}^{2+}$ -loaded  $\text{Fe}^{2+}$  solution. The concentration of the  $\text{Fe}^{2+}$  solution was 0.1, 0.2, 0.3, 0.4, 0.5, 0.6, 0.7, 0.8, 0.9, 1.0, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 2.0, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, 2.9, 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 4.0, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7, 4.8, 4.9, 5.0, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 7.0, 7.1, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 8.0, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 9.0, 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 10.0, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8, 10.9, 11.0, 11.1, 11.2, 11.3, 11.4, 11.5, 11.6, 11.7, 11.8, 11.9, 12.0, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9, 13.0, 13.1, 13.2, 13.3, 13.4, 13.5, 13.6, 13.7, 13.8, 13.9, 14.0, 14.1, 14.2, 14.3, 14.4, 14.5, 14.6, 14.7, 14.8, 14.9, 15.0, 15.1, 15.2, 15.3, 15.4, 15.5, 15.6, 15.7, 15.8, 15.9, 16.0, 16.1, 16.2, 16.3, 16.4, 16.5, 16.6, 16.7, 16.8, 16.9, 17.0, 17.1, 17.2, 17.3, 17.4, 17.5, 17.6, 17.7, 17.8, 17.9, 18.0, 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, 18.9, 19.0, 19.1, 19.2, 19.3, 19.4, 19.5, 19.6, 19.7, 19.8, 19.9, 20.0, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8, 20.9, 21.0, 21.1, 21.2, 21.3, 21.4, 21.5, 21.6, 21.7, 21.8, 21.9, 22.0, 22.1, 22.2, 22.3, 22.4, 22.5, 22.6, 22.7, 22.8, 22.9, 23.0, 23.1, 23.2, 23.3, 23.4, 23.5, 23.6, 23.7, 23.8, 23.9, 24.0, 24.1, 24.2, 24.3, 24.4, 24.5, 24.6, 24.7, 24.8, 24.9, 25.0, 25.1, 25.2, 25.3, 25.4, 25.5, 25.6, 25.7, 25.8, 25.9, 26.0, 26.1, 26.2, 26.3, 26.4, 26.5, 26.6, 26.7, 26.8, 26.9, 27.0, 27.1, 27.2, 27.3, 27.4, 27.5, 27.6, 27.7, 27.8, 27.9, 28.0, 28.1, 28.2, 28.3, 28.4, 28.5, 28.6, 28.7, 28.8, 28.9, 29.0, 29.1, 29.2, 29.3, 29.4, 29.5, 29.6, 29.7, 29.8, 29.9, 30.0, 30.1, 30.2, 30.3, 30.4, 30.5, 30.6, 30.7, 30.8, 30.9, 31.0, 31.1, 31.2, 31.3, 31.4, 31.5, 31.6, 31.7, 31.8, 31.9, 32.0, 32.1, 32.2, 32.3, 32.4, 32.5, 32.6, 32.7, 32.8, 32.9, 33.0, 33.1, 33.2, 33.3, 33.4, 33.5, 33.6, 33.7, 33.8, 33.9, 34.0, 34.1, 34.2, 34.3, 34.4, 34.5, 34.6, 34.7, 34.8, 34.9, 35.0, 35.1, 35.2, 35.3, 35.4, 35.5, 35.6, 35.7, 35.8, 35.9, 36.0, 36.1, 36.2, 36.3, 36.4, 36.5, 36.6, 36.7, 36.8, 36.9, 37.0, 37.1, 37.2, 37.3, 37.4, 37.5, 37.6, 37.7, 37.8, 37.9, 38.0, 38.1, 38.2, 38.3, 38.4, 38.5, 38.6, 38.7, 38.8, 38.9, 39.0, 39.1, 39.2, 39.3, 39.4, 39.5, 39.6, 39.7, 39.8, 39.9, 40.0, 40.1, 40.2, 40.3, 40.4, 40.5, 40.6, 40.7, 40.8, 40.9, 41.0, 41.1, 41.2, 41.3, 41.4, 41.5, 41.6, 41.7, 41.8, 41.9, 42.0, 42.1, 42.2, 42.3, 42.4, 42.5, 42.6, 42.7, 42.8, 42.9, 43.0, 43.1, 43.2, 43.3, 43.4, 43.5, 43.6, 43.7, 43.8, 43.9, 44.0, 44.1, 44.2, 44.3, 44.4, 44.5, 44.6, 44.7, 44.8, 44.9, 45.0, 45.1, 45.2, 45.3, 45.4, 45.5, 45.6, 45.7, 45.8, 45.9, 46.0, 46.1, 46.2, 46.3, 46.4, 46.5, 46.6, 46.7, 46.8, 46.9, 47.0, 47.1, 47.2, 47.3, 47.4, 47.5, 47.6, 47.7, 47.8, 47.9, 48.0, 48.1, 48.2, 48.3, 48.4, 48.5, 48.6, 48.7, 48.8, 48.9, 49.0, 49.1, 49.2, 49.3, 49.4, 49.5, 49.6, 49.7, 49.8, 49.9, 50.0, 50.1, 50.2, 50.3, 50.4, 50.5, 50.6, 50.7, 50.8, 50.9, 51.0, 51.1, 51.2, 51.3, 51.4, 51.5, 51.6, 51.7, 51.8, 51.9, 52.0, 52.1, 52.2, 52.3, 52.4, 52.5, 52.6, 52.7, 52.8, 52.9, 53.0, 53.1, 53.2, 53.3, 53.4, 53.5, 53.6, 53.7, 53.8, 53.9, 54.0, 54.1, 54.2, 54.3, 54.4, 54.5, 54.6, 54.7, 54.8, 54.9, 55.0, 55.1, 55.2, 55.3, 55.4, 55.5, 55.6, 55.7, 55.8, 55.9, 56.0, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8, 56.9, 57.0, 57.1, 57.2, 57.3, 57.4, 57.5, 57.6, 57.7, 57.8, 57.9, 58.0, 58.1, 58.2, 58.3, 58.4, 58.5, 58.6, 58.7, 58.8, 58.9, 59.0, 59.1, 59.2, 59.3, 59.4, 59.5, 59.6, 59.7, 59.8, 59.9, 60.0, 60.1, 60.2, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.9, 61.0, 61.1, 61.2, 61.3, 61.4, 61.5, 61.6, 61.7, 61.8, 61.9, 62.0, 62.1, 62.2, 62.3, 62.4, 62.5, 62.6, 62.7, 62.8, 62.9, 63.0, 63.1, 63.2, 63.3, 63.4, 63.5, 63.6, 63.7, 63.8, 63.9, 64.0, 64.1, 64.2, 64.3, 64.4, 64.5, 64.6, 64.7, 64.8, 64.9, 65.0, 65.1, 65.2, 65.3, 65.4, 65.5, 65.6, 65.7, 65.8, 65.9, 66.0, 66.1, 66.2, 66.3, 66.4, 66.5, 66.6, 66.7, 66.8, 66.9, 67.0, 67.1, 67.2, 67.3, 67.4, 67.5, 67.6, 67.7, 67.8, 67.9, 68.0, 68.1,

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 6-15-98  
 David W. W.

STATE OF ALABAMA

PETITIONER,

VS.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6792

- A. HOOPER BROTHERS, a Partnership, Composed of Camellia N. Hooper, Leonard J. Hooper, Glen S. Hooper, William J. Hooper, and Thomas N. Hooper, and Tract No. 35;
- B. BAY MINETTE LAND COMPANY, an Alabama Corporation, Hampton D. Ewing Jr., and James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors Under Last Will and Testament of James D. Ewing, Deceased, and Tract No. 35-B;
- C. BAY MINETTE LAND COMPANY, an Alabama Corporation, Hampton D. Ewing Jr., and James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors Under Last Will and Testament of James D. Ewing, Deceased, and Tract No. 35-C;
- D. BAY MINETTE LAND COMPANY, an Alabama Corporation, Hampton D. Ewing Jr., and James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors Under Last Will and Testament of James D. Ewing, Deceased, and Tract No. 35-D;
- E. Sara B. Cromartie, Marguerite R. Cromartie, Lula Jewel Cromartie, and Nell Ree McGill, and Tract No. 35-E;
- F. BAY MINETTE LAND COMPANY, an Alabama Corporation, Hampton D. Ewing Jr., and James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors Under Last Will and Testament of James D. Ewing, Deceased, and Tract No. 35-F;
- G. Albert M. Thompson, As Trustee, and Tract No. 36;
- H. Hampton D. Ewing, and Tract No. 37;
- I. Fred B. Dempsey, Jr. and Nell H. Dempsey, and Tract No. 38;
- J. James R. Despres and Lucille J. Despres, and Tract No. 39; and
- K. Wash Love, Julia Mae Preston, Curtis Gene Jones, Jennifer Jones, Kenneth Jones, Clinton Jones, Jr., George Edward Jones, Lola Mae Allen, Ruby Dean Gilmore, Anderson Jones, Obie Jones, Randolph Jones, and Powell Jones, and Tract No. 44; AND
- L. Any and All other persons, firms, corporations or partnership claiming any right, title, or interest in or to the lands described in this Petition; and
- M. BALDWIN COUNTY, ALABAMA, A POLITICAL SUBDIVISION OF THE STATE OF ALABAMA.

RESPONDENTS.

APPLICATION FOR CONDEMNATION

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

Comes now the State of Alabama, Petitioner in the above-styled cause and files this, its application in the Probate Court of Baldwin County, Alabama, for order of condemnation of a right of way over the lands hereinafter described for a public road or highway, and as a basis for the relief sought shows unto the Court as follows:

(1) Petitioner is authorized under the Constitution of Alabama, 1901, and under the provisions of Title 19, Section 1, Code of Alabama 1940, as amended, to institute and prosecute these proceedings in its own name for the purposes of a public road or highway.

(2) That said public highway has been designated by the State Highway Director as a part of the State Highway System and also known as Project No. S-60-E, Baldwin County, Alabama.

(3) That said public highway begins at D'Olive Street, in Bay Minette, Alabama, and runs North to the intersection of Alabama Highway No. 59 and the Rabon Road, known as Highway No. 47, about two miles north of Bay Minette, Alabama, all in Baldwin County, Alabama.

(4) The right of way over the property and lands hereinafter described as Tracts Nos. 35, 35B, 35C, 35D, 35E, 35F, 36, 37, 38, 39 and 44, and as set out in the right of way map of Project No. S-60-E on file in the State Highway Department, Montgomery, Alabama, and in the office of the Judge of Probate of Baldwin County, Alabama, at Bay Minette, Alabama, has been deemed necessary by the State Highway Director, State of Alabama, in order to facilitate the flow of traffic and promote public safety.

(5) That fee simple title to said tracts of land is necessary for use by Petitioner as a right of way for such public highway, and in which Petitioner seeks to condemn fee simple title, is

located wholly within Baldwin County, Alabama, and is so described in Exhibits A, B, C, D, E, F, G, H, I, J, and K, attached hereto, and made a part hereof as if fully set forth herein.

(6) That the fee simple title which Petitioner seeks to condemn for highway purposes is set out and described in the right of way map on Project No. S-60-E, which is on file in the State Highway Department, Montgomery, Alabama, and in the office of the Judge of Probate of Baldwin County, Alabama, at Bay Minette, Alabama.

(7) That a diligent search has been made of the records of Baldwin County, Alabama, and diligent inquiry made to ascertain the names and addresses of the parties owning said tracts of land and according to the best of Petitioner's information, knowledge and belief, the said lands are owned and interest in said lands are claimed by the parties named as Respondents in this cause, EXCEPT for BALDWIN COUNTY, ALABAMA.

(8) That Baldwin County, Alabama, a body corporate under the laws of the State of Alabama with its county seat in the City of Bay Minette, Alabama, may have or claim an interest in said tracts by reason of taxes and easements due and chargeable, and is hence made a party Respondent herein.

WHEREFORE, the premises considered, your Petitioner respectfully prays:

(1) That an order be made appointing a day for the hearing of this application and that notice of the filing thereof and of the day set for the hearing thereof be given to the Respondents.

(2) That this Court will appoint commissioners to ascertain and report the compensation and damages occasioned by such taking.

(3) That upon a final hearing of this petition, an order and decree be made by this Court condemning the lands for the right of way, as set out in the right of way map on Project No. S-60-E, over the lands as set out in Exhibits A for Tract No. 35;

Exhibit B for Tract 35-B; Exhibit C for Tract 35-C; Exhibit D for Tract 35-D; Exhibit E for Tract 35-E; Exhibit F for Tract 35-F; Exhibit G for Tract 36; Exhibit H for Tract 37; Exhibit I for Tract 38; Exhibit J for Tract 39; and Exhibit K for Tract 44 of this application, all for the uses and purposes of a public highway for the State of Alabama.

MACDONALD GALLION, ATTORNEY  
GENERAL, STATE OF ALABAMA

BY: Kenneth Cooper  
DULY APPOINTED SPECIAL  
ASSISTANT ATTORNEY GENERAL  
FOR THE STATE OF ALABAMA.

STATE OF ALABAMA  
BALDWIN COUNTY

Before me, the undersigned authority, personally appeared Kenneth Cooper, Special Assistant Attorney General of the State of Alabama, who is personally known to me, and who is known to me in his official capacity, a Special Assistant Attorney General of the State of Alabama, and after being first duly sworn, deposes and says that the allegations of the foregoing application for condemnation are true and correct.

Kenneth Cooper  
AFFIANT

Sworn and subscribed before me on this 12 day of January, 1970.

W. C. Med Smith  
NOTARY PUBLIC, BALDWIN COUNTY,  
ALABAMA

ORDER OF PROBATE COURT

The foregoing application for condemnation having been presented to the Probate Court of Baldwin County, Alabama, and considered by the Court,

It is ORDERED that the same be and is hereby set for hearing on the 5<sup>th</sup> day of Feb., 1970, at 9:00 A.M. o'clock.

It is, further, ORDERED that notice of the application for condemnation and of the date set for the hearing thereof be given to Condemnees at least ten (10) days before the hearing of this application.

Dated this 13<sup>th</sup> day of Jan., 1970.

Harry D. Olive  
PROBATE JUDGE

BY: \_\_\_\_\_



EXHIBIT A

TRACT NO. 35-Rev.

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

PARCEL NO. 1: Commencing at the northwest corner of Section 16, T-2-S, R-3-E; thence southerly along the west line of said section a distance of 1,117 feet, more or less, to the present southwest right-of-way line of McMeans Avenue; thence southeasterly along said present southwest right-of-way line a distance of 122 feet, more or less, to a point that is 60 feet northwesterly of and at right angles to the centerline of D'Olive Street and the point of beginning of the property herein to be conveyed; thence continuing southeasterly along said present southwest right-of-way line a distance of 35 feet, more or less, to the present northwest right-of-way line of said street; thence southwesterly along said present northwest right-of-way line a distance of 70 feet, more or less, to the west line of said section, the west property line; thence northerly along said west property line a distance of 42 feet, more or less, to a point that is 60 feet northwesterly of and at right angles to the centerline of said street; thence northeasterly, parallel to the centerline of said street, a distance of 56 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 16, T-2-S, R-3-E and containing 0.05 acres, more or less.

PARCEL NO. 2: Commencing at the northwest corner of Section 16, T-2-S, R-3-E; thence southerly along the west line of said section a distance of 612 feet, more or less, to the present southeast right-of-way line of Second Street; thence northeasterly along said present southeast right-of-way line a distance of 122 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing northeasterly along said present southeast right-of-way line (crossing the centerline of said project at approximate Station 576+40) a distance of 127 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project; thence southeasterly along a curve to the right (concave southwesterly) having a radius of 1,697.02 feet, parallel to the centerline of said project, a distance of 438 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 572+04; thence southeasterly along a straight line a distance of 123 feet, more or less, to a point on the present northwest right-of-way line of D'Olive Street that is 157 feet northeasterly of and at right angles to the centerline of said project; thence southwesterly along said present northwest right-of-way line a distance of 470 feet, more or less, to the present northeast right-of-way line of McMeans Avenue; thence northwesterly along said present northeast right-of-way line a distance of 38 feet, more or less, to a point that is 60 feet northwesterly of and at right angles to the centerline of said street; thence northeasterly, parallel to the centerline of said street, a distance of 149 feet, more or less, to a point that is 157 feet southwesterly of and at right angles to the centerline of said project; thence northeasterly along a straight line a distance

Exhibit A con't

of 157 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project at Station 572+10; thence northwesterly along a curve to the left (concave southwesterly) having a radius of 1,577.02 feet, parallel to the centerline of said project, a distance of 425 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 16, T-2-S, R-3-E and containing 1.99 acres, more or less.

PARCEL NO. 3: Commencing at the northwest corner of Section 16, T-2-S, R-3-E; thence southerly along the west line of said section a distance of 250 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence S 45° 45' E, parallel to the centerline of said project, a distance of 55 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 579+18.19; thence southeasterly along a curve to the right (concave southwesterly) having a radius of 1,697.02 feet, parallel to the centerline of said project, a distance of 200 feet, more or less, to the present northwest right-of-way line of Second Street, the southeast property line; thence southwesterly along said southeast property line (crossing the centerline of said project at approximate Station 557+45) a distance of 127 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project; thence northwesterly along a curve to the left (concave southwesterly) having a radius of 1,577.02 feet, parallel to the centerline of said project, a distance of 80 feet, more or less, to the west line of said section, the west property line; thence northerly along said west property line (crossing the centerline of said project at approximate Station 579+12) a distance of 175 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 16, T-2-S, R-3-E and containing 0.44 acres, more or less.

EXHIBIT B

TRACT NO. 35-B

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the northeast corner of Section 17, T-2-S, R-3-E; thence southerly along the east line of said section a distance of 250 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing southerly along the east line of said section, the east property line (crossing the centerline of said project at approximate Station 579+12) a distance of 175 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project; thence northwesterly along a curve to the left (concave southwesterly) having a radius of 1,577.02 feet, parallel to the centerline of said project, a distance of 71 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project at Station 579+18.19; thence N 45° 45' W, parallel to the centerline of said project, a distance of 173.81 feet; thence northwesterly along a straight line a distance of 89 feet, more or less, to the intersection of the present northeast right-of-way line of McMeans Avenue and the present southeast right-of-way line of Third Street; thence northeasterly along said present southeast right-of-way line (crossing the centerline of said project at approximate Station 581+20) a distance of 235 feet, more or less, to a point that is 108 feet northeasterly of and at right angles to the centerline of said project; thence southwesterly along a straight line a distance of 56 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 580+48; thence S 45° 45' E, parallel to the centerline of said project, a distance of 72 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 17, T-2-S, R-3-E and containing 0.64 acres, more or less.

EXHIBIT C

TRACT NO. 35-C

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the northeast corner of Section 17, T-2-S, R-3-E; thence southerly along the east line of said section a distance of 12 feet, more or less, to the present northwest right-of-way line of Third Street; thence southwesterly along said present northwest right-of-way line a distance of 122 feet, more or less, to a point that is 108 feet northeasterly of and at right angles to the centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing southwesterly along said present northwest right-of-way line (crossing the centerline of said project at approximate Station 581+29) a distance of 198 feet, more or less, to the present northeast right-of-way line of McMeans Avenue; thence northerly along said present northeast right-of-way line (crossing the centerline of said project at approximate Station 585+03) a distance of 700 feet, more or less, to the present southeast right-of-way line of Fifth Street; thence northeasterly along said present southeast right-of-way line a distance of 10 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project; thence S 23° 44' 30" E, parallel to the centerline of said project, a distance of 10 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 588+69.25 "Ahead" which equals Station 589+31.74 "Back"; thence southeasterly along a curve to the left (concave northeasterly) having a radius of 1,849.86 feet, parallel to the centerline of said project, a distance of 658 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 582+58; thence southeasterly along a straight line a distance of 83 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 17 and the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.91 acres, more or less.

EXHIBIT D

TRACT NO. 35-D Rev.

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

PARCEL NO. 1: Commencing at the intersection of the present northwest right-of-way line of Fifth Street and the present southwest right-of-way line of McMeans Avenue; thence northwesterly along said present southwest right-of-way line a distance of 650 feet, more or less, to a point that is southwesterly of and at right angles to the centerline of Project No. S-60-E at Station 596+28 and the point of beginning of the property herein to be conveyed; thence continuing northwesterly along said present southwest right-of-way line a distance of 50 feet, more or less, to the present southeast right-of-way line of Seventh Street; thence southwesterly along said present southeast right-of-way line a distance of 50 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said Seventh Street at Station 9+00; thence southeasterly along a straight line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.03 acres, more or less.

PARCEL NO. 2: Commencing at the intersection of the present southeast right-of-way line of Ninth Street and the present northeast right-of-way line of McMeans Avenue; thence southeasterly along said present northeast right-of-way line a distance of 660 feet, more or less, to a point that is northeasterly of and at right angles to the centerline of Project No. S-60-E at Station 598+28 and the point of beginning of the property herein to be conveyed; thence continuing southeasterly along said present northeast right-of-way line a distance of 50 feet, more or less, to the present northwest right-of-way line of Seventh Street; thence northeasterly along said present northwest right-of-way line a distance of 50 feet, more or less, to a point that is northwesterly of and at right angles to the centerline of said Seventh Street at Station 11+00; thence northwesterly along a straight line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the E $\frac{1}{2}$  of SE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.03 acres, more or less.

EXHIBIT E

TRACT NO. 35-E

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the intersection of the present northwest right-of-way line of Fifth Street and the present northeast right-of-way line of McMeans Avenue; thence northwesterly along said present northeast right-of-way line a distance of 650 feet, more or less, to a point that is northeasterly of and at right angles to the centerline of Project No. S-60-E at Station 596+28 and the point of beginning of the property herein to be conveyed; thence continuing northwesterly along said present northeast right-of-way line a distance of 50 feet, more or less, to the present southeast right-of-way line of Seventh Street; thence northeasterly along said present southeast right-of-way line a distance of 50 feet, more or less, to a point that is southeasterly of and at right angles to the centerline of said Seventh Street at Station 11+00; thence southeasterly along a straight line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.03 acres, more or less.

EXHIBIT F

TRACT NO. 35-F

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the intersection of the present southeast right-of-way line of Ninth Street and the present southwest right-of-way line of McMeans Avenue; thence southeasterly along said present southwest right-of-way line a distance of 660 feet, more or less, to a point that is southwesterly of and at right angles to the centerline of Project No. S-60-E at Station 598+28 and the point of beginning of the property herein to be conveyed; thence continuing southeasterly along said present southwest right-of-way line a distance of 50 feet, more or less, to the present northwest right-of-way line of Seventh Street; thence southwesterly along said present northwest right-of-way line a distance of 50 feet, more or less, to a point that is northwesterly of and at right angles to the centerline of said Seventh Street at Station 9+00; thence northeasterly along a straight line a distance of 70 feet, more or less, to the point of beginning.

Said strip of land lying in the E $\frac{1}{2}$  of SE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.03 acres, more or less.

EXHIBIT C

TRACT NO. 36-Rev. 3

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Beginning at a point on the present northwest right-of-way line of 14th Street, that is 50 feet northeasterly of and at right angles to the centerline of Project No. S-60-E; thence southwesterly along said present northwest right-of-way line (crossing the centerline of said project at Station 629+99.7) a distance of 100 feet, more or less, to a point that is 50 feet southwesterly of and at right angles to the centerline of said project; thence N 23° 44' 30" W, parallel to the centerline of said project, a distance of 400 feet, more or less, to a point that is 50 feet southwesterly of and at right angles to the centerline of said project at Station 634+00; thence northwesterly along a straight line a distance of 102 feet, more or less, to a point that is 65 feet southwesterly of and at right angles to the centerline of said project at Station 635+00; thence N 23° 44' 30" W, parallel to the centerline of said project, a distance of 562 feet; thence northwesterly along a straight line (which if extended would intersect a point that is 45 feet southerly of and at right angles to the centerline of a County Road at Station 9+00) a distance of 21 feet, more or less, to the west line of the NE $\frac{1}{4}$  of Section 8, T-2-S, R-3-E, the west property line; thence northerly along said west property line a distance of 48 feet, more or less, to the present south right-of-way line of said County Road, the north property line; thence easterly along said north property line (crossing the centerline of said project at approximate Station 641+04) a distance of 390 feet, more or less, to a point that is 30 feet southerly of and at right angles to the centerline of said County Road at Station 13+40; thence turn an angle of 90° 00' to the right and run a distance of 15 feet; thence westerly, parallel to the centerline of said County Road, a distance of 200 feet; thence southwesterly along a straight line a distance of 58 feet, more or less, to a point that is 65 feet northeasterly of and at right angles to the centerline of said project at Station 640+08; thence S 23° 44' 30" E, parallel to the centerline of said project, a distance of 508 feet; thence southeasterly along a straight line a distance of 102 feet, more or less, to a point that is 50 feet northeasterly of and at right angles to the centerline of said project at Station 634+00; thence S 23° 44' 30" E, parallel to the centerline of said project, a distance of 400 feet, more or less, to the point of beginning.

Said strip of land lying in the NW $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 3.09 acres, more or less.



EXHIBIT H

TRACT NO. 37-Rev. 3

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the southeast corner of the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 8, T-2-S, R-3-E; thence northerly along the east line of said NE $\frac{1}{4}$  of NW $\frac{1}{4}$  a distance of 1,268 feet, more or less, to a point on a line which extends from a point that is 65 feet southwesterly of and at right angles to the centerline of Project No. S-60-E at Station 640+62 to a point that is 45 feet southerly of and at right angles to the centerline of a County road at Station 9+00 and the point of beginning of the property herein to be conveyed; thence northwesterly along said line a distance of 56 feet, more or less, to said point that is 45 feet southerly of and at right angles to the centerline of said road at Station 9+00; thence westerly parallel to the centerline of said road a distance of 250 feet; thence turn an angles of 90° 00' to the right and run a distance of 15 feet to the present south right-of way line of said road; thence easterly along said present south right-of-way line a distance of 295 feet, more or less, to the east line of said NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , the east property line; thence southerly along said east property line a distance of 48 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 8, T-2-S, R-3-E and containing 0.12 acres, more or less.

EXHIBIT I

TRACT NO. 38-Rev. 3

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the northeast corner of the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 5, T-2-S, R-3-E; thence southerly along the east line of said SE $\frac{1}{4}$  of SW $\frac{1}{4}$  a distance of 1,118 feet, more or less, to the north line of the property herein to be conveyed and the point of beginning; thence continuing southerly along the east line of said SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , the east property line (crossing the centerline of Project No. S-60-E at approximate Station 642+70) a distance of 181 feet, more or less, to the present north right-of-way line of a County Road; thence westerly along said present north right-of-way line, the south property line, a distance of 210 feet, more or less, to the west property line; thence northerly along said west property line a distance of 5 feet, more or less, to a point that is 35 feet northerly of and at right angles to the centerline of said road; thence easterly parallel to the centerline of said road a distance of 150 feet, more or less, to a point that is 35 feet northerly of and at right angles to the centerline of said road at Station 8+88; thence northeasterly along a straight line a distance of 31 feet, more or less, to a point that is 65 feet southwesterly of and at right angles to the centerline of said project at Station 642+26; thence N23° 44' 30" W, parallel to the centerline of said project, a distance of 151 feet, more or less, to the north property line; thence easterly along said north property line (crossing the centerline of said project at approximate Station 643+53) a distance of 98 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , Section 5, T-2-S, R-3-E and containing 0.29 acres, more or less.

EXHIBIT J

TRACT NO. 39-Rev. 3

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the northwest corner of the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 5, T-2-S, R-3-E; thence southerly along the west line of said SW $\frac{1}{4}$  of SE $\frac{1}{4}$  a distance of 1,113 feet, more or less, to the north line of the property herein to be conveyed and the point of beginning; thence easterly along the north property line a distance of 35 feet, more or less, to a point that is 65 feet northeasterly of and at right angles to the centerline of Project No. S-60-E; thence S 23° 44' 30" E, parallel to the centerline of said project, a distance of 129 feet, more or less, to a point that is 65 feet northeasterly of and at right angles to the centerline of said project at Station 642+06; thence southeasterly along a straight line a distance of 88 feet, more or less, to a point that is 45 feet northerly of and at right angles to the centerline of a County Road at Station 11+03; thence easterly, parallel to the centerline of said County Road, a distance of 237 feet; thence turn an angle of 90° 00' to the right and run a distance of 15 feet to the present north right-of-way line of said County Road, the south property line; thence westerly along said south property line (crossing the centerline of said project at approximate Station 641+68) a distance of 389 feet, more or less, to the west line of said SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , the west property line; thence northerly along said west property line (crossing the centerline of said project at approximate Station 642+70) a distance of 181 feet, more or less, to the point of beginning.

Said strip of land lying in the SW $\frac{1}{4}$  of SE $\frac{1}{4}$ , Section 5, T-2-S, R-3-E and containing 0.44 acres, more or less.

EXHIBIT K

TRACT NO. 44

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows:

And as shown on the right-of-way map of Project No. S-60-E as recorded in the office of the Judge of Probate of Baldwin County:

Commencing at the northeast corner of the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 5, T-2-S, R-3-E; thence southerly along the east line of said SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , the east property line, a distance of 435 feet, more or less, to a point that is 65 feet northwesterly of and at right angles to the construction centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing southerly along said east property line a distance of 108 feet, more or less, to the south property line; thence westerly along said south property line a distance of 52 feet, more or less, to a point that is 65 feet northwesterly of and at right angles to the construction centerline of said project; thence northeasterly along a curve to the right (concave easterly) having a radius of 3,863.98 feet, parallel to the construction centerline of said project, a distance of 123 feet, more or less, to the point of beginning.

Said strip of land lying in the SE $\frac{1}{4}$  of NW $\frac{1}{4}$ , Section 5, T-2-S, R-3-E and containing 0.06 acre, more or less.

STATE OF ALABAMA

PETITIONER,

VS.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6792

A. HOOPER BROTHERS, a  
Partnership, Composed of  
Camellia N. Hooper,  
Leonard J. Hooper, Glen  
S. Hooper, William J.  
Hooper, and Thomas N.  
Hooper, Tract No. 35; and  
et al

RESPONDENTS.

TO: A). (Tract No. 35): Hooper Brothers, A Partnership, composed of Camellia N. Hooper, Bay Minette, Alabama, 36507, Leonard J. Hooper, % Journalism Department, University of Florida, Gainesville, Florida, 36201, William J. Hooper, Bay Minette, Alabama, 36507, Glen S. Hooper, % Tampa General Hospital, Pathology Department, Tampa, Florida, 33600, and Thomas N. Hooper, 7726 La Verdura Street, Dallas Texas, 75200; B). (Tract Nos. 35-B, 35-C, 35-D, and 35-F): Hampton D. Ewing, Jr. and James R. Cogan, % Hon. Norborne C. Stone, Bay Minette, Alabama, 36507; C). (Tract No. 35-E): Sara B. Cromartie, Bay Minette, Alabama, 36507, Marguerite R. Cromartie, 117 Margaret Street, Mobile, Alabama, 36600, Lula Jewel Cromartie, 117 Margaret Street, Mobile, Alabama, 36600, and Nell Ree McGill, 4554 St. Katherine, Baton Rouge, Louisiana, 70800; D). (Tract No. 36): Albert M. Thompson, Bay Minette, Alabama, 36507; E). (Tract No. 37): Hampton D. Ewing, % Hon. Norborne C. Stone, Bay Minette, Alabama, 36507; F). (Tract No. 38): Fred B. Dempsey and Nell H. Dempsey, Bay Minette, Alabama, 36507; G). (Tract No. 39): James R. Despres and Lucille J. Despres, both of Bay Minette, Alabama, 36507; H). (Tract No. 44): Wash Love, Bay Minette, Alabama, 36507; Julia Mae Preston, 12773 North Lane, Detroit, Michigan, 48200; Curtis Gene Jones, 2009 Centerway, South, Birmingham, Alabama, 35200; Jennifer Jones, 2009 Centerway, South, Birmingham, Alabama, 35200; Kenneth Jones, 2009 Centerway, South, Birmingham, Alabama, 35200; Clinton Jones, Jr., 171-43 Woodingham Drive, Detroit, Michigan, 48200; George Edward Jones, 5004 Greenbrair Court, Huntsville, Alabama, 35800; Lola Mae Allen, % Mrs. Rachel Jones, 311 Patterson Street, Mobile, Alabama, 36600; Ruby Dean Gilmore, % Mrs. Rachel Jones, 311 Patterson Street, Mobile, Alabama, 36600; Anderson Jones, 1316 Avenue G, Ensley, Alabama, 35218; Obie Jones, 310 7th Decena, Birmingham, Alabama, 35200; (Randolph Jones, 3021 - 33 Terrace, Birmingham, Alabama, 35207; Powell Jones, 1904 10th Street, Pratt City, Birmingham, Alabama, 35214.

YOU WILL PLEASE TAKE NOTICE that an application was filed in this Court by the State of Alabama, a copy of which said application is attached hereto, alleging that it desires to have condemned fee simple title for a right of way for a public road across

lands belonging to above-named Respondents, which said lands are particularly described in the said application;

And the application prays that a day be appointed for the hearing thereof and for such further, other and different orders and decrees as may be necessary and proper for the acquisition by the Applicant of the fee simple title for the right of way over and across the above-mentioned property.

THIS IS TO NOTIFY YOU that the Probate Court of Baldwin County, Alabama, has, and by an order this day made and entered, appointed the 5<sup>th</sup> day of Feb., 1970, at 9:00 A.M. o'clock as the day and time upon which said application will be heard, at which time you may appear and contest the same, if you choose to do so.

DONE this 13<sup>th</sup> day of Jan., 1970.

Harry D'Olive  
JUDGE OF PROBATE

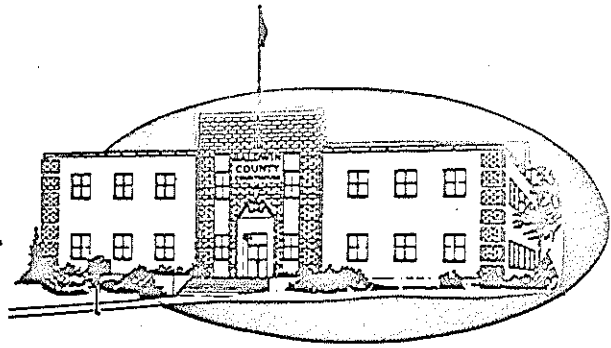
BY: \_\_\_\_\_

PROBATE JUDGE

**BALDWIN COUNTY**

BAY MINETTE, ALABAMA

15 January, 1970



Harry D'Olive

Probate Judge Memorandum:

To : All Respondents in the case of State of Alabama, Petitioner, vs Hooper Brothers, a Partnership, % Hon. Wilson Hayes, Bay Minette, Alabama; Bay Minette Land Company, % Hon. Norborne C. Stone, Bay Minette, Alabama; Sara B. Cromartie, Bay Minette, Alabama; Marguerite R. Cromartie, 117 Margaret Street, Mobile, Alabama 36600; Lula Jewel Cromartie, 117 Margaret Street, Mobile, Alabama 36600; Nell Ree McGill, 4554 St. Katherine, Baton Rouge, Louisiana 70800; Albert M. Thompson, Bay Minette, Alabama; Fred B. and Nell H. Dempsey, Bay Minette, Alabama; James R. and Lucille J. Despres, Bay Minette, Alabama; Wash Love, Bay Minette, Alabama; Julia Mae Preston, 12773 North Lane, Detroit, Michigan 48200; Curtis Gene Jones, 2009 Centerway, South, Birmingham, Alabama, 35200; Jennifer Jones, 2009 Centerway, South, Birmingham, Alabama, 35200; Kenneth Jones, 2009 Centerway, South Birmingham, Alabama, 35200; Clinton Jones, Jr., 171-43 Woodingham Drive, Detroit, Michigan 48200; George Edward Jones, 5004 Greenbrair Court, Huntsville, Alabama 35800; Lola Mae Allen, % Mrs. Rachel Jones, 311 Patterson Street, Mobile, Alabama 36600; Ruby Dean Gilmore, % Mrs. Rachel Jones, 311 Patterson Street, Mobile, Alabama 36600; Anderson Jones, 1316 Avenue G, Ensley, Alabama 35218; Obie Jones, 310 7th Docena, Birmingham, Alabama 35200; Randolph Jones, 3021-33 Terrace, Birmingham, Alabama 35207; Powell Jones, 1904 10th Street, Pratt City, Birmingham, Alabama 35214.

NOTICE is hereby given that the day for hearing the application by the State of Alabama in the condemnation case, filed in this matter on the 13th day of January, 1970, will be heard at 9:00 A.M. Thursday, February 12th, 1970, instead of February 5th as originally set.

It will be noted that this notice is being sent to attorneys of those Respondents whose attorneys are known to this court.

Dated this 15th day of January, 1970

*Harry D'Olive*  
PROBATE JUDGE

STATE OF ALABAMA,

Petitioner

vs.

FRED B. DEMPSEY, JR. and  
NELL H. DEMPSEY, et al.,

Respondents.

X

X

X

X

X

X

X

X

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6792

DEMURRER TO APPLICATION TO CONDEMN

Come now the Respondents, Fred B. Dempsey, Jr. and Nell H. Dempsey, by their Attorneys, and demur to the application to condemn heretofore filed in this Court by the Petitioner and to each paragraph or section thereof and assign, separately and severally, the following grounds in support thereof:

1. The allegations of the application are vague, indefinite and uncertain.

2. It cannot be determined from the allegations of the application whether the State of Alabama seeks to condemn an easement for highway purposes or the fee simple title to the property allegedly belonging to the Respondents.

3. It affirmatively appears from the allegations of the application that the State of Alabama seeks to acquire the title to property located between the lands of the Respondents and a county road on which the property of the Respondents is presently located and to which they have access and the State of Alabama is without authority to deny the Respondents access to and from said county road.

4. The allegation of the application that "fee simple title to said tracts of land is necessary for use by Petitioner as a right of way for such public highway" is a conclusion of the applicant.

STATE OF ALABAMA, BALDWIN COUNTY  
Filed Feb 4, 1970

Recorded \_\_\_\_\_

by H. B. Davis Page \_\_\_\_\_  
Judge of Probate



5. No allegations are contained in the application which, if true, would establish that it is necessary that the State of Alabama acquire the fee simple title to the land of the Respondents described in the application.

Respectfully submitted,

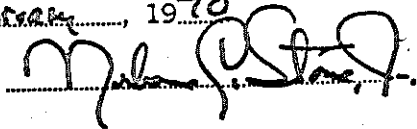
CHASON, STONE & CHASON

By: 

Attorneys for Fred B. Dempsey, Jr.  
and Nell H. Dempsey.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 4 day of February, 1970.



STATE OF ALABAMA, X  
 Petitioner X IN THE PROBATE COURT OF  
 X  
 vs. X BALDWIN COUNTY, ALABAMA  
 X  
 HAMPTON D. EWING, JR., JAMES X CASE NO. 6792  
 R. COGAN and HAMPTON D. EWING, X  
 JR. as Co-Executors under the X  
 Last Will and Testament of X  
 JAMES D. EWING, Deceased and X  
 BAY MINETTE LAND COMPANY, X  
 an Alabama corporation, et al. X  
 Respondents. X

DEMURRER TO APPLICATION TO CONDEMN

Come now the Respondents, Hampton D. Ewing, Jr., James R Cogan and Hampton D. Ewing, Jr. as Co-Executors under the Last Will and Testament of James D. Ewing, Deceased; and Bay Minette Land Company, an Alabama corporation, by their Attorneys, and demur to the application to condemn heretofore filed in this Court by the Petitioner and to each paragraph or section thereof and assign, separately and severally, the following grounds in support thereof:

1. The allegations of the application are vague, indefinite and uncertain.

2. It cannot be determined from the allegations of the application whether the State of Alabama seeks to condemn an easement for highway purposes or the fee simple title to the property allegedly belonging to the Respondents.

3. It affirmatively appears from the allegations of the application that the State of Alabama seeks to acquire the title to property located between the lands of the Respondents and a county road on which the property of the Respondents is presently located and to which they have access and the State of Alabama is without authority to deny the Respondents access to and from said county

STATE OF ALABAMA, BALDWIN COUNTY  
 Filed Feb. 4, 1970  
 Recorded  
 Judge of Probate

road.

4. The allegation of the application that "fee simple title to said tracts of land is necessary for use by Petitioner as a right of way for such public highway" is a conclusion of the applicant.

5. No allegations are contained in the application which, if true, would establish that it is necessary that the State of Alabama acquire the fee simple title to the land of the Respondents described in the application.

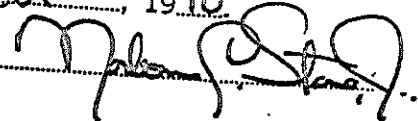
Respectfully submitted,

CHASON, STONE & CHASON

By:   
Attorneys for Respondents

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing pleading has been served upon counsel for all parties to this proceeding, by mailing the same to each by First Class United States Mail, properly addressed and postage prepaid on this 4 day of Feb, 1970.



THE STATE OF ALABAMA, BALDWIN COUNTY

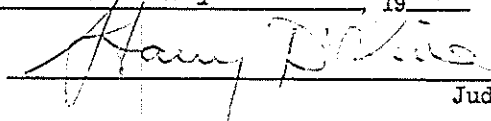
PROBATE COURT, February 11, TERM, 1970

To James R. Owen  
Attorney at Law

Take Notice, That by an order of this Court, this day made and entered, you were appointed to act as Guardian ad litem for Kenneth Jones, a minor,

~~minor here of~~ ~~interest upon~~ ~~deceased~~, to represent and protect his ~~xxx~~ at a hearing to be held on February 12, 1970, at 9:00 A.M., with regard to a condemnation case - The State of Alabama vs Hooper Brothers, et al, Case #6792.

Given under my hand, this 11th day of February, 1970



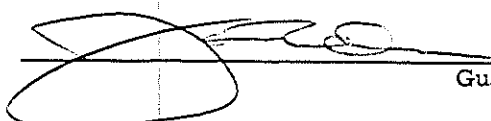
Judge of Probate

I hereby accept the appointment of Guardian ad litem for

Kenneth Jones, a minor

~~minor here of~~ ~~interest upon~~ ~~deceased~~, to represent and protect their interests upon the hearing of the above named proceedings and hereby deny each and every allegation contained in said proceedings and demand proof thereof.

Witness my hand, this 11th day of February, 1970



Guardian ad litem

STATE OF ALABAMA,

Petitioner,

vs.

HOOPER BROTHERS, a  
partnership, et al.,

Respondents.

X

X

X

X

X

X

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

NO. 6792

ORDER GRANTING APPLICATION AND  
APPOINTING COMMISSIONERS

This being the day heretofore appointed by the Court for the hearing of the petition heretofore filed in this Court by the State of Alabama praying that this Court condemn certain lands described therein belonging to the parties named therein for public road purposes as a part of the highway system of the State of Alabama; now comes the Petitioner, by its attorney, and also come Hooper Brothers by their attorney and Bay Minette Land Company, Hampton D. Ewing, Jr., and Hampton D. Ewing, Jr., and James R. Cogan as Co-executors of the estate of James D. Ewing, deceased, and also comes James R. Owen, the guardian ad litem heretofore appointed by the Court; and it appearing to the Court that the Respondents-Condemnees have each had due notice as required by law of the filing of said petition and of the date set for the hearing of the same, the Court proceeded to hear said petition together with all legal evidence touching the same; and it further appearing to the Court that the State of Alabama seeks in its petition to condemn the fee simple title to the lands described in the petition for use as a right-of-way for a public road, but that it is not necessary that the fee simple title to said tracts of land be acquired in that said highway proposed to be constructed is not a controlled access facility and that only an easement for public road purposes is necessary for the uses and purposes of the State of Alabama in this particular project. And the Court having

considered all of the above is of the opinion that the State of Alabama should acquire an easement or right-of-way for public road purposes over and across the several tracts of land as opposed to the fee simple title to said tracts of land; it is, therefore

ORDERED, ADJUDGED and DECREED by the Probate Court of Baldwin County, Alabama, that the petition of the State of Alabama hereinabove referred to be, and the same is hereby, granted to the extent that the State of Alabama shall acquire an easement or right-of-way for public road purposes over and across the several tracts described in the petition as opposed to the fee simple title to said tracts.

And it further appearing to the Court that W. E.

Long, Milton Wilson 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 petition, and, after hearing all evidence, to assess the damages and compensation to which the owners of the land are entitled, they are hereby appointed as Commissioners for the purposes aforesaid.

Done this 13<sup>th</sup> day of February, 1970.

Harry D. Oline  
Judge of Probate

STATE OF ALABAMA

PETITIONER,

VS

HOOPER BROTHERS, a  
Partnership, et al

RESPONDENTS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

CASE NO. 6792

COMMISSIONS

TO: W.E. Long,  
Milton Wilson, and DONALD CAIN.

KNOW YE, that having full faith and confidence in your integrity and competency, you have been by order and decree of the Probate Court of Baldwin County, Alabama, designated and appointed as commissioners in the above-styled cause, with all the power, authority and duties vested in or which may devolve on you as such commissioners under and by virtue of the provisions of Chapter I of Title 19 of the Code of Alabama of 1940, as amended.

You will be sworn as jurors and you, or a majority of you, shall assess the damages and compensation to which the owners and interested parties are entitled by virtue of and on account of the condemning of the right of way or easement over the tracts of land described in the application for condemnation filed in this cause, all for the uses and purposes of a public road or highway in and for the State of Alabama. A description of the lands and the names of the owners and the easement sought are specifically set out in the application for condemnation filed in this cause.

You may view the lands to be subjected and you must receive all legal evidence offered by any party touching the amount of damages or compensation the owner of said lands and interested parties will sustain and are entitled to receive. Any person interested in the proceedings may be present in person or by attorney at any of these proceedings which may be conducted by you.

You must within twenty days from the day of your appointment, which is this date, make a report in writing to the Court stating the amount of damage and compensation ascertained and assessed by you for the owners and parties interested in the tracts of land, and file a certificate along with your award that none of you have been consulted, advised with or approached by any person with reference to the value of the lands or the proceedings to condemn the same prior to the assessment of damages, and that you knew nothing of the same prior to your appointment.

Given under my hand and seal of office this 13<sup>th</sup> day of February, 1970.

Harry Doline  
JUDGE OF PROBATE



STATE OF ALABAMA,

PETITIONER,

VS.

HOOPER BROTHERS, a  
Partnership, et al.

RESPONDENTS.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6792

REPORT OF THE COMMISSIONERS

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

Come the undersigned, W. E. Long, Donald Cain, and Milton Wilson, the Commissioners duly appointed to assess the damages to Parcels Nos. 35, 35B, 35C, 35D, 35E, 35F, 36, 37, 38, and 44 of Project No. S-60-E, to which the owner and other parties interested in the parcel of land set forth and described in the original application for condemnation of lands filed in this cause, are entitled for the condemnation of such lands, and having been duly sworn as jurors, and having viewed the lands described in said application for condemnation, and having set a time and place for the hearing of the evidence to be offered by any party touching the amount of damages the owners of the lands and other parties interested therein will sustain and the amount of compensation they are entitled to receive, and having received all legal evidence offered, do hereby state that the amount of damages and compensation has been ascertained and assessed by the undersigned according to law and that the said owners of said Parcel of land and other parties interested therein are entitled to receive as damages and compensation for an easement or right-of-way for public road purposes for the condemnation of their property, the following amount:

STATE OF ALABAMA, BALDWIN COUNTY

Filed Feb. 19, 1970

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Harry D'Olive  
Judge of Probate

Project No. S-60-E, Parcel No. 35 , \$ 17,450.00  
 Project No. S-60-E, Parcel No. 35B, \$ 1,815.00  
 Project No. S-60-E, Parcel No. 35C, \$ 100.00  
 Project No. S-60-E, Parcel No. 35D, \$ 346.14  
 Project No. S-60-E, Parcel No. 35E, \$ 173.07  
 Project No. S-60-E, Parcel No. 35F, \$ 173.07  
 Project No. S-60-E, Parcel No. 36 , \$ 5,884.40  
 Project No. S-60-E, Parcel No. 37 , \$ 220.00  
 Project No. S-60-E, Parcel No. 38 , \$ 8,576.00  
 Project No. S-60-E, Parcel No. 44 , \$ 346.14 *W.C. \$*  
AC  
W.C. \$  
Merr

We hereby certify that we have not been consulted with, advised with or approached by any person with reference to the value of the lands other than as to the evidence submitted to and considered by us or the proceedings to condemn the same prior to the assessment of damages, and that we know nothing of the same prior to our appointment.

W. E. Long  
COMMISSIONER

Donald R. ...  
COMMISSIONER

M. O. ...  
COMMISSIONER

Sworn to and subscribed before me  
this 19<sup>th</sup> day of February, 1970.

Harry D'Olive  
JUDGE OF PROBATE

BY: \_\_\_\_\_

STATE OF ALABAMA,

PETITIONER,

VS.

HOOPER BROTHERS, a  
Partnership, et al.

RESPONDENTS.

IN THE PROBATE COURT OF  
BALDWIN COUNTY, ALABAMA

CASE NO. 6792

FINAL ORDER OF CONDEMNATION


On the 19<sup>th</sup> day of February, 1970, came W. E. Long, Donald Cain, and Milton Wilson, commissioners heretofore appointed by this Court to assess and ascertain the damages and compensation to which the owners and other parties interested in the tract of land set forth in the application for condemnation of lands heretofore filed in this cause are entitled and filed their report in writing and under oath setting forth that they awarded compensation and damages to the said owners and other parties interested in Parcels No. 35, Project No. S-60-E, in the amount of \$ 17,450.00; Parcel No. 35B, Project No. S-60-E, in the amount of \$ 1,815.00; Parcel No. 35C, Project No. S-60-E, in the amount of \$ 100.00; Parcel No. 35D, Project No. S-60-E, in the amount of \$ 346.14; Parcel No. 35E, Project No. S-60-E, in the amount of \$ 172.07; Parcel No. 35F, Project No. S-60-E, in the amount of \$ 173.07; Parcel No. 36, Project No. S-60-E, in the amount of \$ 5,884.40; Parcel No. 37, Project No. S-60-E, in the amount of \$ 220.00; Parcel No. 38, Project No. S-60-E, in the amount of \$ 8,526.00; and Parcel No. 44, Project No. S-60-E, in the amount of \$ 346.14.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that the said report of commissioners be filed in this Court and recorded.

IT IS FURTHER ORDERED, ADJUDGED and DECREED by the Court that the property described is the application for condemnation heretofore filed in this cause be and the same is hereby condemned for the purpose of an easement or right-of-way for public road purposes upon the payment of the damages and compensation so ascertained, assessed and reported or the deposit of the same in Court as provided in Section 16 of Title 19 of the Code of Alabama, 1940.

IT IS FURTHER ORDERED by the Court that said Petitioner pay all costs of the proceeding, except any Court Reporter fees.

Done this 19<sup>th</sup> day of February, 1970.

  
JUDGE OF PROBATE

STATE OF ALABAMA

Petitioner

VS.

HAMPTON D. EWING, JR., JAMES  
R. COGAN and HAMPTON D. EWING,  
JR. AS Co-Executors under the  
Last Will and Testament of  
James D. Ewing, Deceased, and  
BAY MINETTE LAND COMPANY, an  
Alabama corporation, and Tract  
No. 35B et al.

Respondents.

IN THE PROBATE COURT OF

BALDWIN COUNTY, ALABAMA

CASE NO. 6792

### NOTICE OF APPEAL

Comes now the State of Alabama, acting by Kenneth Cooper, Duly Appointed Special Assistant Attorney General, State of Alabama, petitioner in above entitled cause, and prays for and takes an appeal to the Circuit Court of Baldwin County, Alabama, from the Final Order of Condemnation entered in said cause on the 19th day of February, 1970, which said condemnation was against Tract No. 35B of State Highway Project S-60-E.

The State of Alabama does herewith file in the Probate Court of Baldwin County, Alabama, the Court rendering such Final Order of Condemnation, this its written notice of Appeal.

Done this 4<sup>th</sup> day of March, 1970.

MacDonald Gallion  
Attorney General  
State of Alabama

By:

Kenneth Cooper  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

Appellant, State of Alabama, hereby demands a trial by jury in this cause.

Kenneth Cooper  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

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

Kenneth Cooper  
Duly Appointed Special  
Assistant Attorney General  
State of Alabama

STATE OF ALABAMA, BALDWIN COUNTY

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Kenneth Cooper  
Attorney for Respondents

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P. Stone

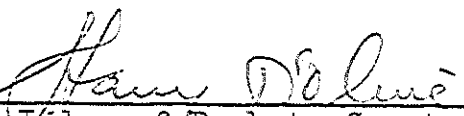
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Attorney for Respondents

TO: Hampton D. Ewing, Jr., James R. Cogan and Hampton D. Ewing, Jr., as Co-Executors under the Last Will and Testament of James D. Ewing, Deceased; and Bay Minette Land Company, an Alabama Corporation and Tract No. 35B, Project S-60-E.

You are hereby notified that the above notice of Appeal was filed in this office of Judge of Probate, Baldwin County, Alabama, on the \_\_\_\_\_ day of March, 1970.

Witness my hand this 4<sup>th</sup> day of March, 1970.



Judge of Probate Court,  
Baldwin County, Alabama

STATE OF ALABAMA,

Petitioner

-VS-

HAMPTON D. EWING, JR.,  
JAMES R. COGAN and  
HAMPTON D. EWING, JR. as  
Co-Executors under the  
Last Will and Testament of  
James D. Ewing, Deceased, and  
BAY MINETTE LAND COMPANY, an  
Alabama Corporation, and  
Tract No. 35-B, et al,

Respondents

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

CASE NO. 9196

MOTION TO WITHDRAW JURY DEMAND

Come now the parties hereto, by their respective attorneys of record, and move this Honorable Court to dismiss their requests heretofore made in this cause for a trial by jury, and each consent that this Honorable Court enter Final Judgment in this proceeding.

FILED

NOV 16 1970

ALICE J. DUCK

CLERK  
REGISTER

*Kenneth Cooper*  
ATTORNEY FOR PETITIONER

*Wm. B. Starnes, Jr.*  
ATTORNEY FOR RESPONDENTS

STATE OF ALABAMA,	§	IN THE CIRCUIT COURT OF
Petitioner	§	
-VS-	§	
HAMPTON D. EWING, JR.,	§	BALDWIN COUNTY, ALABAMA
JAMES R. COGAN and	§	
HAMPTON D. EWING, JR. as	§	
Co-Executors under the	§	AT LAW
Last Will and Testament of	§	
James D. Ewing, Deceased, and	§	
BAY MINETTE LAND COMPANY, an	§	
Alabama Corporation, and	§	CASE NO. 9196
Tract No. 35-B, et al,	§	
Respondents	§	

# FINAL JUDGMENT

This cause coming on to be heard by the Court on this the 16<sup>th</sup> day of November, 1970, now come 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 day and filed in this cause, that on the 13<sup>th</sup> day of January, 1970, 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 affect 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 enter an order of condemnation of the lands described in said application and which are hereinafter described, and that on the 4<sup>th</sup> day of March, 1970, 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, which the defendant land-owners 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 come the parties hereto, by their respective attorneys of record, having, by proper motion in this cause, withdrawn their motion for a trial by jury, and having advised this Court that they have both mutually agreed that the amount of damages and compensation to which the landowners in this cause are entitled is the sum of One Thousand Four Hundred and no/100 (\$1,400.00) Dollars.

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 of the sum aforesaid; it is, therefore

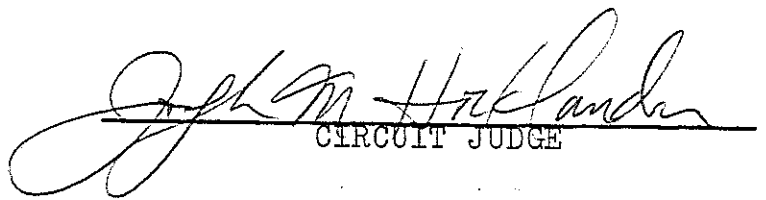
ORDERED, ADJUDGED and DECREED by the Circuit Court of Baldwin County, Alabama, as follows:

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 as set forth in the application aforesaid, and the rights therein are hereby divested out of the landowner and into the State of Alabama, upon the payment by the State of Alabama of the sum hereinafter ordered and decreed to be paid.

2. That the damages and compensation to which the defendant landowners in this case, Hampton D. Ewing, Jr., et al, are entitled is hereby fixed at the sum of \$1,400.00, 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 16<sup>th</sup> day of November, 1970.

  
CIRCUIT JUDGE

FILED

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ALICE J. DUCK CLERK  
REGISTER

EXHIBIT "A"

The following described property, lying and being in Baldwin County, Alabama, and more particularly described as follows, and as shown on the right-of-way map of Project No. S-60-E as recorded in the Office of the Judge of Probate of Baldwin County:

Commencing at the Northeast corner of Section 17, T-2-S, R-3-E; thence southerly along the East line of said section a distance of 250 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of Project No. S-60-E and the point of beginning of the property herein to be conveyed; thence continuing southerly along the East line of said section, the East property line (crossing the centerline of said project at approximate Station 579+12) a distance of 175 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project; thence northwesterly along a curve to the left (concave southwesterly) having a radius of 1,577.02 feet, parallel to the centerline of said project, a distance of 71 feet, more or less, to a point that is 60 feet southwesterly of and at right angles to the centerline of said project at Station 579+18.19; thence N 45°45' W, parallel to the centerline of said project, a distance of 173.81 feet; thence northwesterly along a straight line a distance of 89 feet, more or less, to the intersection of the present Northeast right-of-way line of McMeans Avenue and the present Southeast right-of-way line of Third Street; thence northeasterly along said present Southeast right-of-way line (crossing the centerline of said project at approximate Station 581+20) a distance of 235 feet, more or less, to a point that is 108 feet northeasterly of and at right angles to the centerline of said project; thence southwesterly along a straight line a distance of 56 feet, more or less, to a point that is 60 feet northeasterly of and at right angles to the centerline of said project at Station 580+48; thence S 45°45' E, parallel to the centerline of said project, a distance of 72 feet, more or less, to the point of beginning.

Said strip of land lying in the NE $\frac{1}{4}$  of NE $\frac{1}{4}$ , Section 17, T-2-S, R-3-E and containing 0.64 acres, more or less.

FILED

NOV 16 1970

CLERK  
REGISTER

NOV 16 1970