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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPELLATE CASE NO. 2020-000578

APPEAL FROM THE SOUTH CAROLINA COURT OF COMMON PLEAS

CIVIL ACTION NOS.: 2018-CP-01-00094 AND 2018-CP-01-00250

Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde H. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC, James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders and Mary and Homer Martin……...Respondents,

v.

Town of Calhoun Falls and Savannah Valley Trails, Inc. ……. Appellants.

AMENDED RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)
)
Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde B. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC,

Plaintiffs

v.

Town of Calhoun Falls,

Defendant.

James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders, and Mary and Homer Martin.

v.

Savannah Valley Trails, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Case No.: 2018-CP-01-00094
2018-CP-01-000250

ORDER

PRESIDING JUDGE: R. SCOTT SPROUSE
DATE OF HEARING: NOVEMBER 19, 2019
PLAINTIFFS' ATTORNEY: C. RAUCH WISE
DEFENDANTS' ATTORNEYS: ROY R. HEMPHILL
DOUGLAS L. BELL
COURT REPORTER: LISA SCOTT

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This matter came before the Court for a bench trial in a dispute over real property. The case involves rights-of-way granted over a century ago to a now defunct railroad and the desire of the Defendants to utilize said rights-of-way for the construction of a public hiking trail. The Plaintiffs argue that each right of way was extinguished and automatically reverted to each landowner once the railroad tracks were removed and abandoned. The Defendants argue that each right of way was properly transferred to successors and that, even if the Plaintiff's claims as to each right of way is correct, the Plaintiff's claims are barred by the doctrine of laches. The McCormick County cases were consolidated with the Abbeville County cases by consent.

The Court heard arguments from counsel at the hearing. The parties submitted Joint Stipulated Facts (JSF) along with exhibits. There are no disputed facts nor was there any testimony presented at the hearing. The Court allowed the parties to brief the issues. Extensions were granted for the submissions of the briefs. After considering the JSF and exhibits, the Court makes the following findings of fact:

FINDINGS OF FACT

The Plaintiffs are the owners of real property situated in Abbeville County, South Carolina and McCormick County, South Carolina.

The Defendant Savannah Valley Trails, Inc. is a non-profit corporation organized and existing under the laws of the State of South Carolina, the sole purpose of which is to hold title to the real property conveyed to it to groom, maintain and improve the former railroad bed for interim use as a recreational trail, subject to the revitalization of the railroad bed for future rail use.

The Defendant Town of Calhoun Falls is a political subdivision of the State of South Carolina and County of Abbeville.

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This Court has jurisdiction over the parties and subject matter. Venue is proper in Abbeville County, South Carolina.

The subject property was part of a railroad that ran once between the Town of McCormick and the Town of Calhoun Falls. The Savannah Valley Railroad Company was chartered by the State of South Carolina on March 12, 1878 (Exhibit 1). Many landowners granted a railroad right of way on their respective properties so that the railroad in question could be constructed and operated. The parties did not submit each original right of way as an exhibit, but presented one as a representative example (Exhibit 3). Exhibit 3 states that " ...upon condition and it is expressly understood that said Railroad contemplated as aforesaid be not erected and established on and along said strip, tract, or parcel of land described in the above and foregoing indenture, then the indenture is to be wholly null and void and of no effect." There is no evidence presented that any right of way granted to said railroad by the landowners contained alternative language in the rights granted. The Court finds that the rights conveyed to the Savannah Valley Railroad Company by each landowner were identical as it applied to each particular piece of property. Each right of way was issued for the express purpose of "running and erecting and establishing thereon a Railroad." Each Plaintiff, in subsequent deeds, was deeded parcels of real property subject to the right of way given by their predecessor in title (JSF 5).

The Savannah Valley Railroad Company was succeeded by the Seaboard Coastline Railroad Company, which operated the railroad for many years. In the late 1970s, the railroad decided to close and abandon this stretch of railroad. The exact date that operations on the line ceased is unknown. The company applied to the Interstate Commerce Commission (ICC) for approval of abandonment of the railroad between McCormick and the Town of Calhoun Falls. A committee of the ICC issued a decision on November 21, 1978 allowing the abandonment with

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conditions (Exhibit 4). The ruling set a one hundred twenty (120) day period to "permit and state or local government agency or other responsible person to negotiate the acquisition of all or any part of the property for public use." No government agency or other responsible person attempted to purchase or use the abandoned railroad bed within said time period. The ICC conducted a review of the committee decision and issued a final decision on March 2, 1979, allowing abandonment of the railroad line in question. The abandonment process included a public hearing. It appears as though McCormick County was opposed to the abandonment of the railroad line in question due to concerns about its effect on the economy of the county. Nevertheless, it appears as though the requirements for abandonment as set by the ICC were fulfilled and that the process was completed. No evidence was presented regarding journal entries by the railroad regarding the retirement of the line. Seaboard Coastline Railroad Company notified the ICC by letter on February 25, 1980 that the "track" had been abandoned as of February 15, 1980 (Exhibit 6). The company removed the track sometime prior to the issuance of the letter. The parties were unable to give the specific dates on which the track was removed, but stipulate that it was completely gone in the disputed area by the time of the February 25, 1980 letter. There is no railroad track in the disputed area today. No evidence was presented of any further communication with concerned parties by the ICC. While the Court is limited to what was submitted in evidence, it appears that the ICC had no further involvement with the subject railroad bed after the receipt of the March 25, 1980 letter.

There was no further activity regarding the railroad line in question until June 16, 1983, when the Seaboard System Railroad, Inc., the successor to the Seaboard Coastline Railroad Company (JSF 9), conveyed by quitclaim deed its interests in the subject property to the Clarks Hill-Russell Authority of South Carolina (Exhibit 8). In order to effectuate the transfer, a release had to be obtained from the Chemical Bank, which held a mortgage on lines owned by the

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Seaboard Coastline Railroad Company and its successor Seaboard System Railroad, Inc. (Exhibit 7). Chemical Bank received the sum of $58,290.00 from Clarks Hill-Russell Authority in exchange for the release. The Court has no information regarding how many lines were covered in the larger mortgage or what percentage of which the subject properly constituted.

The South Carolina Department of Commerce, Division of Savannah Valley Development (SDC) is the successor in interest to the Clarks Hill-Russell Authority of South Carolina and it claimed title to the railroad bed from June 16, 1983 to April 12, 2012 (JSF 13). The SDC then conveyed its interest in the railway bed located in McCormick County to the Ninety-Six District Resource Conservation and Development Council, Inc. on April 12, 2012 (Exhibit 9), which in turn transferred its interest to Savannah Valley Trails, Inc. by deed dated June 28, 2012 (Exhibit 10). The SDC conveyed its interest in the portions of the railway bed located in Abbeville County to the Town of Calhoun Falls by deed dated April 12, 2012 (Exhibit 11).

The Plaintiffs made no permanent structural improvements to the railway bed from February 25, 1980 until the present, with the possible exception of a structure located on the subject property in Abbeville County titled in the name of Plaintiff Willie Clyde Smith (Exhibit 12, JSF 17). There is no evidence that the Defendants took any action to prevent each Plaintiff from using the subject property attached to his or her tract. The Defendants have made no permanent structural improvements to the railway bed, but have performed maintenance and grooming of the rail corridor, and extensive refurbishments of a railway trestle with the corridor. Tax maps in both Abbeville and McCormick Counties have identified and assessed the railroad bed separately from the Plaintiffs' properties since 1976 (Exhibit 13A, Exhibit 13B, JSF 18).

The McCormick County Plaintiffs filed suit when the Defendant Savannah Valley Trails, Inc. constructed a hiking trail from the Town of McCormick toward the Abbeville County line that

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reached the Plaintiffs' property lines. The Abbeville County Plaintiffs filed suit when the Town of Calhoun Falls began the construction process of a hiking trail toward the McCormick County line and reached those Plaintiffs' property. An agreement was reached between the parties to allow some clearing of the railroad bed but for no permanent improvements to be erected pending resolution of this lawsuit.

Applicable Law

The first issue is whether or not the actions of Seaboard Coastline Railroad Company constitute an abandonment of the railroad right of way, thereby removing the case from the jurisdiction of the ICC. The case of Eldridge v. City of Greenwood, 331 S.C. 398, 388 S.E.2d 247 (1998) has similar facts to our present case. In Eldridge, railroad tracks were relocated by the railroad company, then the strip of land where the old tracks had been was conveyed to the City and County of Greenwood by quitclaim deed, which in turn conveyed their interests to the S.C. Highway Department. Eldridge sets forth the standard that the Court must consider on several issues in our present case. The Defendants allege that this Court lacks subject matter jurisdiction to determine the rights of the parties in this case because of federal law, particularly the lack of documentary evidence showing each requirement set by the ICC in its November 21, 1978 letter was fulfilled by Seaboard Coastal Railroad prior to abandoning the line. Eldridge held that:

> "Federal law provides that an interstate rail carrier cannot "abandon any part of its railroad lines" unless the carrier applies to and obtains approval from the STB, which must determine whether the abandonment is consistent with "present or future public convenience and necessity." These statutes expressly state that the STB has exclusive jurisdiction over the abandonment of railroad tracks."

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Like our present case, the facts in Eldridge also involve a "public use restriction" in the ICC ruling. The Court expressly held that:

> "Despite the mandatory sound of "public use condition," the term does not mean that the former rail line property must be sold and used for some stated public purpose. A public use condition normally refers to a "waiting period" in the form of a 180-day prohibition on the railroad's "disposal" of the property, which allows for a potential sale to an entity that will use the property for public purposes".

The Court traced the development of the case law on this issue in great detail. A "public use restriction" does not prohibit abandonment, but merely stays disposal during the time period set by the ICC. The railroad is not required to donate the property to some public entity if no purchaser seeking to use the property for a public use is found. The Court directly addresses the facts in our present case when it said "a public use condition does not affect real property issues if the railroad owned only an easement interest in the property, as such an interest would automatically terminate upon abandonment." No deed can operate so as to convey an interest which the grantor does not have in the land described in the deed. Griggs v. Griggs, 199 S.C. 295, 19 S.E.2d 477 (1942).

A central issue of this case is whether or not the railroad bed in question was actually abandoned. A termination of an easement by abandonment is a factual question in an action at law. There must be shown either a use separate and distinct from railroad purposes or nonuse for railroad purposes under such circumstances as to indicate an intention to abandon the right of way. Lorick & Lowrance, Inc. v. Southern Ry. Co., 87 S.C. 71, 88 S.E 337 (1916).

The defense also asserts the defense of laches. Laches is an equitable doctrine that is defined as neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Byars v. Cherokee County, 237

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S.C. 548, 118 S.E. (2d) 324 (1961). Whether a claim is barred by laches is to be determined in light of [the] facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches. To establish the defense of laches, a party must show: (1) a delay, (2) that was unreasonable under the circumstances, and (3) prejudice. Hallums v. Hallums, 296 S.C. 195, 371 S.E.2d 525 (1988). The Defendants cite the case of Robinson et. al v. Estate of Harris et. al, 388 S.C. 616, 698 S.E.2d 214 (2010) in which the Court held that a real property claim was barred by laches due to a "flagrant and egregious" delay of thirty-nine years in asserting the claim. The Court found significant prejudice to the other party by the delay in the assertion of the claim.

Conclusions of Law

The Court has jurisdiction over the parties and subject matter of this litigation. Venue is proper.

The facts of this case clearly show an abandonment of the railroad by the Seaboard Coastline Railroad Company. The Court considered several established facts in coming to this conclusion. The railroad company initiated a formal abandonment process. The governmental bodies of Abbeville County and McCormick County had the opportunity to contest the abandonment of the railroad in the ICC process----which McCormick County in fact did. The initial ICC committee report approved the abandonment but gave a time window in which governmental bodies and other organizations had the opportunity to purchase the subject property for other public purposes. None did. The time period expired and the railroad proceeded with abandonment, physically removing the tracks. The ICC was notified by letter that the "tracks" had been abandoned as of February 15, 1980. The Court concludes that the use of the word "tracks" in the abandonment letter evidenced a clear intention of the railroad to

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abandon the line. The letter is just one piece of evidence, but must be viewed in conjunction with the other evidence in the case. The Court considered the railroad ceasing operations on the line sometime in the 1970s, the initiation of a formal abandonment procedure through the ICC, the physical removal of the tracks and the subsequent conveyance of the subject property. All of these pieces of evidence, when taken together, show both clear intent on the part of the railroad to abandon the line and the actual accomplishment of the abandonment.

The original right of way to each landowner, as shown by Exhibit 3, conditioned the right- of -way on the existence of a railroad. It contains the explicit language that the conveyance is "wholly null and void" should a railroad not exist. The Defendants assert that the subject property rights could be reserved for future railroad use. Apparently, although its foundational documents are not in evidence, the Savannah Valley Trails Inc. has future railroad revitalization as one purpose of the non-profit corporation. In this case, there is no evidence of the disputed property ever being intended or contemplated by any party to be used for future railroad purposes. None of the deeds placed into evidence (Exhibit 8, Exhibit 9, Exhibit 10 and Exhibit 11) have any mention of future railroad use or construction of a new railroad. The construction of a hiking trail is an altogether different purpose.

The Defendants attempt to distinguish the Eldridge facts, correctly pointing out that there are some different circumstances in that case. However, the Court must compare the pertinent right-of-way portions of that case with our present case. Parts of that case involved properties conveyed in fee simple which are distinguishable from the facts of our present case. However, the railroad right-of-way in that case creates identical legal issues as our present case. The law regarding the property rights owned by the railroad in our present case is clear---once each right of way was abandoned, it automatically terminated. The presence of the mortgage held by

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Chemical Bank did not extend Seaboard Coastline Railroad's rights once the railroad had been abandoned. Accordingly, the Court concludes that the railroad right-of-way held by the Seaboard Coastline Railroad Company in regards to each Plaintiff in this case was abandoned as of February 25, 1980.

The question of laches is a more difficult question. It is undeniable that the Plaintiffs did nothing to assert their claims to the subject property for over thirty years, making the delay prong of the laches test clearly met by the Defendants. The next two prongs are closer questions. The Defendants argue that the delay was unreasonable. There had been a public hearing through the ICC procedures, wherein the Plaintiffs or their predecessors had the opportunity to attend and be heard. The removal of the tracks was open and visible. Each Plaintiff or their predecessor would have been able to see that the tracks had been removed by walking along their property line. The deed issued to the Clarks Hill-Russell Authority was in the public record. The tax maps reflected that the right of way through each Plaintiff's property was still separated. None of the Plaintiffs or their predecessors paid property taxes on the disputed property during this time period. There was no evidence of any use of the subject property by any Plaintiff except for the possible small building constructed on the property titled in Plaintiff Willie Clyde Smith's name. No survey was submitted which showed whether or not said structure was within the right-of-way. The photographic evidence submitted shows a strip of land that was open between trees. Some maintenance was performed on at least some of the subject property in that the railroad bed is still visible in the submitted photographs after over three decades of nonuse. The Court notes that neither the Defendants nor their predecessors did much during the time period to evidence any desire on their part to make use of the subject property. Although there was no testimony or evidence presented regarding use, it appears as though the railroad bed was just empty, unused

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land for over three decades. However, the Plaintiffs or their predecessors had sufficient notice to know that they could assert their rights in 1980. Accordingly, the Court concludes that the Defendants' delay in filing suit was unreasonable.

The last prong of the laches test is prejudice. The Defendants assert that they have suffered prejudice as a result of the Plaintiffs' delay. The Defendants have constructed a portion of the trail project, erecting signs and restoring a bridge on a portion of the trail. The Defendants assert that they have secured grants and incurred indebtedness for the project, although those amounts are not in evidence. Nothing is in evidence to show specific amounts spent or set aside for work on the subject property. The Defendants also assert in their brief that they face potential liability if the trail is not completed. The specifics of said potential liability are not in evidence. The only amount of money in evidence is the amount paid to release the subject property from a larger mortgage held by Chemical Bank in 1983. No evidence was presented regarding the total number of lines affected by the larger mortgage. What was presented showed what the Defendants' predecessor in title paid to release the subject property. These particular Defendants were not parties to that transaction. The Court notes that a portion of the trail has been completed. There is no evidence of the funds required to complete the trail on the subject property or whether this money has been obtained or spent on the portions affected by this Order.

The Plaintiffs assert that the Defendants are not prejudiced because portions of the trail are completed and can be used, although they are not the completed trail as envisioned at the outset of the project.

The Court concludes that, despite a significant and unreasonable delay in the assertion of their rights, the Plaintiffs' inaction has not been proven to prejudice the Defendants in other than

vague and general terms. Accordingly, the Court declines to prevent the Plaintiffs from asserting their legal rights to the property under the doctrine of laches.

ACCORDINGLY, IT IS ORDERED, that each Plaintiff in these combined cases shall be declared to be the owner in fee simple of the property in the abandoned railroad bed to which their predecessors in title granted a right-of-way.

AND IT IS SO ORDERED.

R. Scott Sprouse, Judge
Tenth Judicial Circuit

Walhalla, South Carolina

February___, 2020

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Abbeville Common Pleas

Case Caption: Annie L Myers , plaintiff, et al VS Town of Calhoun Falls

Case Number: 2018CP0100094

Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

ELECTRONICALLY FILED - 2020 Feb 21 4:55 PM - ABBEVILLE - COMMON PLEAS - CASE#2018CP0100250

STATE OF SOUTH CAROLINA)) **COUNTY OF ABBEVILLE**)) Annie L. Myers, Billy R. Nobles, M.) Elaine Nobles, James Lewis Willis,) James and Lucille Mason, Joann) Atkinson, Willie Clyde Smith, Clyde) B. Broadwell, Jr., and Stephen) Pettigrew of Sawney Creek Farm,) LLC,) Plaintiffs) v.)) Town of Calhoun Falls,)) Defendant.)) James Tuberville, Dean Burton,) Robert W. and Minnie O. New,) Walter L. Anders, and Mary and) Homer Martin.)) v.)) Savannah Valley Trails, Inc.,)) Defendant.)	**IN THE COURT OF COMMON PLEAS** **EIGHTH JUDICIAL CIRCUIT** Case No.: 2018-CP-01-00094 2018-CP-01-000250 **ORDER**

PRESIDING JUDGE:	R. SCOTT SPROUSE
DATE OF HEARING:	NOVEMBER 19, 2019
PLAINTIFFS' ATTORNEY:	C. RAUCH WISE
DEFENDANTS' ATTORNEYS:	ROY R. HEMPHILL DOUGLAS L. BELL
COURT REPORTER:	LISA SCOTT

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This matter came before the Court for a bench trial in a dispute over real property. The case involves rights-of-way granted over a century ago to a now defunct railroad and the desire of the Defendants to utilize said rights-of-way for the construction of a public hiking trail. The Plaintiffs argue that each right of way was extinguished and automatically reverted to each landowner once the railroad tracks were removed and abandoned. The Defendants argue that each right of way was properly transferred to successors and that, even if the Plaintiff's claims as to each right of way is correct, the Plaintiff's claims are barred by the doctrine of laches. The McCormick County cases were consolidated with the Abbeville County cases by consent.

The Court heard arguments from counsel at the hearing. The parties submitted Joint Stipulated Facts (JSF) along with exhibits. There are no disputed facts nor was there any testimony presented at the hearing. The Court allowed the parties to brief the issues. Extensions were granted for the submissions of the briefs. After considering the JSF and exhibits, the Court makes the following findings of fact:

FINDINGS OF FACT

The Plaintiffs are the owners of real property situated in Abbeville County, South Carolina and McCormick County, South Carolina.

The Defendant Savannah Valley Trails, Inc. is a non-profit corporation organized and existing under the laws of the State of South Carolina, the sole purpose of which is to hold title to the real property conveyed to it to groom, maintain and improve the former railroad bed for interim use as a recreational trail, subject to the revitalization of the railroad bed for future rail use.

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There was no further activity regarding the railroad line in question until June 16, 1983, when the Seaboard System Railroad, Inc., the successor to the Seaboard Coastline Railroad Company (JSF 9), conveyed by quitclaim deed its interests in the subject property to the Clarks Hill-Russell Authority of South Carolina (Exhibit 8). In order to effectuate the transfer, a release had to be obtained from the Chemical Bank, which held a mortgage on lines owned by the

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reached the Plaintiffs' property lines. The Abbeville County Plaintiffs filed suit when the Town of Calhoun Falls began the construction process of a hiking trail toward the McCormick County line and reached those Plaintiffs' property. An agreement was reached between the parties to allow some clearing of the railroad bed but for no permanent improvements to be erected pending resolution of this lawsuit.

Applicable Law

The first issue is whether or not the actions of Seaboard Coastline Railroad Company constitute an abandonment of the railroad right of way, thereby removing the case from the jurisdiction of the ICC. The case of Eldridge v. City of Greenwood, 331 S.C. 398, 388 S.E.2d 247 (1998) has similar facts to our present case. In Eldridge, railroad tracks were relocated by the railroad company, then the strip of land where the old tracks had been was conveyed to the City and County of Greenwood by quitclaim deed, which in turn conveyed their interests to the S.C. Highway Department. Eldridge sets forth the standard that the Court must consider on several issues in our present case. The Defendants allege that this Court lacks subject matter jurisdiction to determine the rights of the parties in this case because of federal law, particularly the lack of documentary evidence showing each requirement set by the ICC in its November 21, 1978 letter was fulfilled by Seaboard Coastal Railroad prior to abandoning the line. Eldridge held that:

> "Federal law provides that an interstate rail carrier cannot "abandon any part of its railroad lines" unless the carrier applies to and obtains approval from the STB, which must determine whether the abandonment is consistent with "present or future public convenience and necessity." These statutes expressly state that the STB has exclusive jurisdiction over the abandonment of railroad tracks."

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Like our present case, the facts in Eldridge also involve a "public use restriction" in the ICC ruling. The Court expressly held that:

> "Despite the mandatory sound of "public use condition," the term does not mean that the former rail line property must be sold and used for some stated public purpose. A public use condition normally refers to a "waiting period" in the form of a 180-day prohibition on the railroad's "disposal" of the property, which allows for a potential sale to an entity that will use the property for public purposes".

The Court traced the development of the case law on this issue in great detail. A "public use restriction" does not prohibit abandonment, but merely stays disposal during the time period set by the ICC. The railroad is not required to donate the property to some public entity if no purchaser seeking to use the property for a public use is found. The Court directly addresses the facts in our present case when it said "a public use condition does not affect real property issues if the railroad owned only an easement interest in the property, as such an interest would automatically terminate upon abandonment." No deed can operate so as to convey an interest which the grantor does not have in the land described in the deed. Griggs v. Griggs, 199 S.C. 295, 19 S.E.2d 477 (1942).

A central issue of this case is whether or not the railroad bed in question was actually abandoned. A termination of an easement by abandonment is a factual question in an action at law. There must be shown either a use separate and distinct from railroad purposes or nonuse for railroad purposes under such circumstances as to indicate an intention to abandon the right of way. Lorick & Lowrance, Inc. v. Southern Ry. Co., 87 S.C. 71, 88 S.E 337 (1916).

The defense also asserts the defense of laches. Laches is an equitable doctrine that is defined as neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Byars v. Cherokee County, 237

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S.C. 548, 118 S.E. (2d) 324 (1961). Whether a claim is barred by laches is to be determined in light of [the] facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party; delay alone in assertion of a right does not constitute laches. To establish the defense of laches, a party must show: (1) a delay, (2) that was unreasonable under the circumstances, and (3) prejudice. Hallums v. Hallums, 296 S.C. 195, 371 S.E.2d 525 (1988). The Defendants cite the case of Robinson et. al v. Estate of Harris et. al, 388 S.C. 616, 698 S.E.2d 214 (2010) in which the Court held that a real property claim was barred by laches due to a "flagrant and egregious" delay of thirty-nine years in asserting the claim. The Court found significant prejudice to the other party by the delay in the assertion of the claim.

Conclusions of Law

The Court has jurisdiction over the parties and subject matter of this litigation. Venue is proper.

The facts of this case clearly show an abandonment of the railroad by the Seaboard Coastline Railroad Company. The Court considered several established facts in coming to this conclusion. The railroad company initiated a formal abandonment process. The governmental bodies of Abbeville County and McCormick County had the opportunity to contest the abandonment of the railroad in the ICC process----which McCormick County in fact did. The initial ICC committee report approved the abandonment but gave a time window in which governmental bodies and other organizations had the opportunity to purchase the subject property for other public purposes. None did. The time period expired and the railroad proceeded with abandonment, physically removing the tracks. The ICC was notified by letter that the "tracks" had been abandoned as of February 15, 1980. The Court concludes that the use of the word "tracks" in the abandonment letter evidenced a clear intention of the railroad to

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abandon the line. The letter is just one piece of evidence, but must be viewed in conjunction with the other evidence in the case. The Court considered the railroad ceasing operations on the line sometime in the 1970s, the initiation of a formal abandonment procedure through the ICC, the physical removal of the tracks and the subsequent conveyance of the subject property. All of these pieces of evidence, when taken together, show both clear intent on the part of the railroad to abandon the line and the actual accomplishment of the abandonment.

The original right of way to each landowner, as shown by Exhibit 3, conditioned the right- of -way on the existence of a railroad. It contains the explicit language that the conveyance is "wholly null and void" should a railroad not exist. The Defendants assert that the subject property rights could be reserved for future railroad use. Apparently, although its foundational documents are not in evidence, the Savannah Valley Trails Inc. has future railroad revitalization as one purpose of the non-profit corporation. In this case, there is no evidence of the disputed property ever being intended or contemplated by any party to be used for future railroad purposes. None of the deeds placed into evidence (Exhibit 8, Exhibit 9, Exhibit 10 and Exhibit 11) have any mention of future railroad use or construction of a new railroad. The construction of a hiking trail is an altogether different purpose.

The Defendants attempt to distinguish the Eldridge facts, correctly pointing out that there are some different circumstances in that case. However, the Court must compare the pertinent right-of-way portions of that case with our present case. Parts of that case involved properties conveyed in fee simple which are distinguishable from the facts of our present case. However, the railroad right-of-way in that case creates identical legal issues as our present case. The law regarding the property rights owned by the railroad in our present case is clear---once each right of way was abandoned, it automatically terminated. The presence of the mortgage held by

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Chemical Bank did not extend Seaboard Coastline Railroad's rights once the railroad had been abandoned. Accordingly, the Court concludes that the railroad right-of-way held by the Seaboard Coastline Railroad Company in regards to each Plaintiff in this case was abandoned as of February 25, 1980.

The question of laches is a more difficult question. It is undeniable that the Plaintiffs did nothing to assert their claims to the subject property for over thirty years, making the delay prong of the laches test clearly met by the Defendants. The next two prongs are closer questions. The Defendants argue that the delay was unreasonable. There had been a public hearing through the ICC procedures, wherein the Plaintiffs or their predecessors had the opportunity to attend and be heard. The removal of the tracks was open and visible. Each Plaintiff or their predecessor would have been able to see that the tracks had been removed by walking along their property line. The deed issued to the Clarks Hill-Russell Authority was in the public record. The tax maps reflected that the right of way through each Plaintiff's property was still separated. None of the Plaintiffs or their predecessors paid property taxes on the disputed property during this time period. There was no evidence of any use of the subject property by any Plaintiff except for the possible small building constructed on the property titled in Plaintiff Willie Clyde Smith's name. No survey was submitted which showed whether or not said structure was within the right-of-way. The photographic evidence submitted shows a strip of land that was open between trees. Some maintenance was performed on at least some of the subject property in that the railroad bed is still visible in the submitted photographs after over three decades of nonuse. The Court notes that neither the Defendants nor their predecessors did much during the time period to evidence any desire on their part to make use of the subject property. Although there was no testimony or evidence presented regarding use, it appears as though the railroad bed was just empty, unused

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land for over three decades. However, the Plaintiffs or their predecessors had sufficient notice to know that they could assert their rights in 1980. Accordingly, the Court concludes that the Defendants' delay in filing suit was unreasonable.

The last prong of the laches test is prejudice. The Defendants assert that they have suffered prejudice as a result of the Plaintiffs' delay. The Defendants have constructed a portion of the trail project, erecting signs and restoring a bridge on a portion of the trail. The Defendants assert that they have secured grants and incurred indebtedness for the project, although those amounts are not in evidence. Nothing is in evidence to show specific amounts spent or set aside for work on the subject property. The Defendants also assert in their brief that they face potential liability if the trail is not completed. The specifics of said potential liability are not in evidence. The only amount of money in evidence is the amount paid to release the subject property from a larger mortgage held by Chemical Bank in 1983. No evidence was presented regarding the total number of lines affected by the larger mortgage. What was presented showed what the Defendants' predecessor in title paid to release the subject property. These particular Defendants were not parties to that transaction. The Court notes that a portion of the trail has been completed. There is no evidence of the funds required to complete the trail on the subject property or whether this money has been obtained or spent on the portions affected by this Order.

The Plaintiffs assert that the Defendants are not prejudiced because portions of the trail are completed and can be used, although they are not the completed trail as envisioned at the outset of the project.

The Court concludes that, despite a significant and unreasonable delay in the assertion of their rights, the Plaintiffs' inaction has not been proven to prejudice the Defendants in other than

vague and general terms. Accordingly, the Court declines to prevent the Plaintiffs from asserting their legal rights to the property under the doctrine of laches.

ACCORDINGLY, IT IS ORDERED, that each Plaintiff in these combined cases shall be declared to be the owner in fee simple of the property in the abandoned railroad bed to which their predecessors in title granted a right-of-way.

AND IT IS SO ORDERED.

R. Scott Sprouse, Judge
Tenth Judicial Circuit

Walhalla, South Carolina

February___, 2020

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Abbeville Common Pleas

Case Caption: James Tuberville , plaintiff, et al VS Savannah Valley Trails, Inc.

Case Number: 2018CP0100250

Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

STATE OF SOUTH CAROLINA)
) **IN THE COURT OF COMMON PLEAS**
COUNTY OF McCormick)

James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders, and Mary Martin and Homer Martin,) **CIVIL ACTION COVERSHEET**

FILED
GWENDOLYN D. CHILES
2016 JUL -5 A 10:23
CLERK OF COURT
McCORMICK, SC

Plaintiff(s))

vs.) 2016-CP-35-85

Savannah Valley Trails, Inc.,)

Defendant(s))

Submitted By: C. Rauch Wise
Address: 305 Main Street
Greenwood, SC 29646

SC Bar #: 06188
Telephone #: 864-229-5010
Fax #: 864-229-2665
Other:
E-mail: rauchwise@gmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

***If Action is Judgment/Settlement do not complete*

☐ **JURY TRIAL** demanded in complaint. ☒ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/ Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199) _____

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)

Previous Notice of Intent Case # 20___-NI-___-____ _____
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299) _____

Torts – Personal Injury
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399) _____

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☒ Other (499) _____

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599) _____

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899) _____

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement _____
- ☐ Other (799) _____

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999) _____

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699) _____
- ☐ Sexual Predator (510)
- ☐ Permanent Restraining Order (680)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Pre-Suit Discovery (670)

Submitting Party Signature: _____ **Date:** June 28, 2016

27

Submitting Party Signature:

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.

4. Cases are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Requests for temporary relief;

    c. Appeals

    d. Post Conviction relief matters;

    e. Contempt of Court proceedings;

    f. Forfeiture proceedings brought by governmental entities;

    g. Mortgage foreclosures; and

    h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF McCORMICK)

FILED
GWEN DUNTHE CULES
2016 JUL -5 A 10:23
CLERK OF COURT
McCORMICK COUNTY, SC

James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders, and Mary and Homer Martin,

Plaintiffs,

-vs-

Savannah Valley Trails, Inc.

Defendant.

SUMMONS

2016-CP-35- 85

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED TO answer the Complaint in the within action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint on the subscriber hereto at his office, 305 Main Street, Greenwood, South Carolina, within Thirty (30) Days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

Greenwood, South Carolina
June 28, 2016

C. RAUCH WISE
Attorney at Law
305 Main St.
Greenwood, SC 29646
(864) 229-5010

Attorney for Plaintiffs

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF McCORMICK)

FILED
GWENDOLYN D. TAYLOR
2016 JUL -5 A 10:23
CLERK OF COURT
McCORMICK, SC

James Tuberville, Dean Burton,)
Robert W. and Minnie O. New,)
Walter L. Anders, and)
Mary and Homer Martin,) COMPLAINT
)
Plaintiffs,)
) 2016-CP-35-85
-vs-)
)
Savannah Valley Trails, Inc.)
)
Defendant.)

The Plaintiffs, complaining of the Defendant, allege and would show to the Court as follows:

1. The Plaintiff James Tuberville is a citizen and resident of County of Aiken, State of South Carolina.

2. The Plaintiff Dean Burton is a citizen and resident of the County of Oconee, State of South Carolina.

CNV #1

3. The Plaintiffs Robert W. and Minnie O. New are citizens and residents of the County of McCormick, State of South Carolina.

4. The Plaintiff Walter Anders is a citizen and resident of the County of Greenville, State of South Carolina.

5. The Plaintiffs Mary and Homer Martin are citizens and residents of the County of McCormick, State of South Carolina.

6. All the Plaintiffs listed above own real estate located in the County of McCormick,

State of South Carolina.

7. All of the Plaintiffs own property through which Seaboard Coastline Railroad, Inc. had a right of way that was limited in its use for railroad purposes.

8. The Defendant is a corporation organized and existing under and by virtue of the laws of the State of South Carolina and doing business in the County of McCormick, State of South Carolina.

9. This action is brought pursuant to South Carolina Code §15-53-10, the Uniform Declaratory Judgments Act.

10. The Plaintiffs are informed and believe that Defendant is claiming by a deed dated June 28, 2012 to be the fee simple owner of land which runs through or along the property of the Plaintiffs that Seaboard System Railroad, Inc. used for railroad purposes.

11. The predecessors in title for the land presently owned by the Plaintiffs granted to the predecessor in title to Seaboard Coastline Railroad, Inc. an easement that permitted the railroad company to use the property for railroad purposes only.

12. On or about March 2, 1979 the Interstate Commerce Commission granted the Seaboard Coastline Railroad Company permission to abandon the railroad through the property of the Plaintiffs. Once the railroad right of way was in fact abandoned, the property reverted as a matter of law to the Plaintiffs.

13. The Plaintiffs are now informed and believe that the Defendant is using or attempting to use the now abandoned right of way that runs through the property owned in fee simple by the Plaintiffs, as a public trail.

14. The Plaintiffs have never permitted or agreed to permit the Defendant to use any of

their property for the purpose of a walking trail or any other purpose. One or more of the Plaintiffs have attempted to block access to the abandoned right of way that runs through their property. They are informed and believe that the agents and servants of the Defendant have removed the blockades.

15. The Plaintiffs request that this Court declare that the Plaintiffs own the abandoned right of way in fee simple and that the Defendant has no interest in the abandoned right of way that runs through the property of the Plaintiffs. The Defendant should be enjoined from interfering with the Plaintiffs' ownership and use of the property of the Plaintiffs.

WHEREFORE, the Plaintiffs pray for an order as follows:

1. Declaring the Plaintiffs to be the fee simple owners of the abandoned railroad right of way which runs through their property.

2. Enjoining the Defendant from interfering with the use and ownership of the abandoned railroad right of way which runs through the property of the Plaintiffs.

3. For such other and further relief as the Court may deem just and proper.

June 28, 2016

C. RAUCH WISE
305 Main St.
Greenwood, SC 29646
(864) 229-5010
S.C. Bar № 06188
rauchwise@gmail.com

Attorney for Plaintiffs

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF ABBEVILLE) EIGHTH JUDICIAL CIRCUIT

Annie L Myers, Billy R Nobles and M Elaine Nobles, James Lewis Willis, James and Lucille M. Mason, Joann Atkinson, Willie Clyde Smith, Clyde H Broadwell, Jr. and Stephen Pettigrew of Sawney Creek Farm, LLC,

Plaintiff,

vs

Town of Calhoun Falls,

Defendants.

SUMMONS

Case No. 2018-CP-01- 00094

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2018 MAR 29 AM 10 57
EMILY Y MCMAHAN
CLERK OF COURT

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED TO answer the Complaint in the within action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint on the subscriber hereto at his office, 305 Main Street, Greenwood, South Carolina, within Thirty (30) Days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

Greenwood, South Carolina
March 29, 2018

C. RAUCH WISE
Attorney at Law
305 Main St.
Greenwood, SC 29646
(864) 229-5010

Attorney for Plaintiffs

STATE OF SOUTH CAROLINA COUNTY OF ABBEVILLE	)	IN THE COURT OF COMMON PLEAS
Annie L Myers, Billy R Nobles and M Elaine Nobles, James Lewis Willis, James and Lucille M. Mason, Joann Atkinson, Willie Clyde Smith, Clyde H Broadwell, Jr. and Stephen Pettigrew of Sawney Creek Farm, LLC, Plaintiffs, -vs- Town of Calhoun Falls, Defendant.	)	COMPLAINT Case No. 2018-CP-01-00094

The Plaintiffs, complaining of the Defendant, allege and would show to the Court as follows:

1. The Plaintiffs are all citizens and residents of the County of Abbeville, State of South Carolina.

2. All the Plaintiffs listed above own real estate located in the County of Abbeville, State of South Carolina.

3. All the Plaintiffs own property through which Seaboard Coastline Railroad, Inc. had a right of way that was limited in its use for railroad purposes.

4. The Defendant is a municipality located and existing in the County of Abbeville, State of South Carolina and existing under and by virtue of the laws of the State of South Carolina and doing business in the County of McCormick, State of South Carolina.

5. This action is brought pursuant to South Carolina Code §15-53-10, the Uniform Declaratory Judgments Act.

6. The Plaintiffs are informed and believe that Defendant claims by a deed dated (date of deed to City of Calhoun Falls) to be the fee simple owner of land which runs through or long the property of the Plaintiffs that Seaboard System Railroad, Inc. used for railroad purposes.

7. The predecessors in title for the land presently owned by the Plaintiffs granted to the predecessor in title to Seaboard Coastline Railroad, Inc. an easement that permitted the railroad company to use the property for railroad purposes only.

8. On or about March 2, 1979 the Interstate Commerce Commission granted the Seaboard Coastline Railroad Company permission to abandon the railroad through the property of the Plaintiffs. Once the railroad right of way was in fact abandoned, the property reverted as a matter of law to the Plaintiffs.

9. The Plaintiffs are now informed and believe that the Defendant is using or attempting to use the now abandoned right of way that runs through the property owned in fee simple by the Plaintiffs as a public trail.

cmv
#2

10. The Plaintiffs have never permitted or agree to permit the Defendant to use any of their property for the purpose of a walking trail or nay other purpose. The Plaintiffs are informed and believe that the Defendant intends to come upon the property of the Plaintiffs to make improvement for the purpose of creating a walking or hiking trail across the property of the Plaintiffs.

11. The Plaintiffs request that this Court declare that the Plaintiffs own the abandoned right of way in fee simple and that the Defendant has no interest in the abandoned right of way that runs through the property of the Plaintiffs. The Defendant should be enjoined temporarily and permanently from interfering with the Plaintiffs' ownership and use of the property of the

Plaintiffs.

WHEREFORE, the Plaintiffs pray for an order as follows:

1. Declaring the Plaintiffs to be the fee simple owners of the abandoned railroad right of way which runs through their property.

2. Enjoining the Defendant, temporarily and permanently from interfering with the use and ownership of the abandoned railroad right of way which runs through the property of the Plaintiffs and belongs to the Plaintiffs in fee simple.

3. For such other and further relief as the Court may deem just and proper.

#3

March 29, 2018

C. RAUCH WISE
305 Main St.
Greenwood, SC 29646
(864) 229-5010
S.C. Bar № 06188
rauchwise@gmail.com

Attorney for Plaintiffs

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2018 MAR 29 AM 10 57
EMILY Y MCMAHAN
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**ELEVENTH JUDICIAL CIRCUIT**
COUNTY OF MCCORMICK	)	**CIVIL ACTION NO. 2016-CP-35-0085**
	)	
JAMES TUBERVILLE, DEAN BURTON, ROBERT W. and MINNIE O. NEW, WALTER L. ANDERS, and MARY AND HOMER MARTIN,	)	**ANSWER AND COUNTERCLAIM**
Plaintiffs,	)	
vs.	)	
SAVANNAH VALLEY TRAILS, INC.,	)	
Defendant.	)	

FILED
GWENDOLYN [illegible]
2016 NOV 23 A 9:38
CLERK [illegible]
McCORMICK [illegible]

TO: C. RAUCH WISE, ESQ., ATTORNEY FOR THE PLAINTIFFS:

Defendant, Savannah Valley Trails, Inc., by and through its undersigned counsel, hereby answers the allegations of Plaintiffs, and would respectfully show unto the Court as follows:

1. Each and every allegation of the Plaintiff's Complaint not herein specifically admitted, qualified, or explained is denied, and strict proof demanded thereof.

FOR A FIRST DEFENSE

2. Upon information and belief, Defendant admits the allegations of Paragraphs 1 through 5 of the Plaintiffs' Complaint.

3. Defendant lacks sufficient information or knowledge to form a belief as the allegations contained in Paragraph 6 of the Complaint and the same are denied.

4. Defendant lacks sufficient information or knowledge to form a belief as the allegations contained in Paragraph 7 of the Complaint and the same are denied.

5. Defendant admits the allegations of Paragraph 8 of Plaintiff's Complaint.

6. Upon information and belief, Defendant admits the allegations of Paragraph 9 of Plaintiff's Complaint.

7. Defendant, in response to Paragraph 10 of Plaintiffs' Complaint, would admit that

it is the owner of certain land in the County of McCormick, State of South Carolina, by virtue of a chain of legal title including a derivative deed dated June 28, 2012. The Defendant does not have sufficient information and belief at this time to evidence title ownership of all adjoining lands and would therefore deny Plaintiffs claims of ownership of adjoining lands and demand strict proof thereof. The Defendant would admit that its property has been used for railroad purposes. The remaining allegations of Paragraph 10 are denied and strict proof demanded thereof.

8. Defendant lacks sufficient information or knowledge to form a belief as the allegations contained in Paragraph 11 of the Complaint and the same are denied.

9. Defendant lacks sufficient information or knowledge to form a belief as to the factual allegations contained in Paragraph 12 of the Complaint and the same are denied. All other allegations contained in Paragraph 12 of the Complaint draw legal conclusions and do not require a response but the same are expressly denied.

10. Defendant, in response to the allegations of Paragraph 13 of Plaintiff's Complaint, would state that Defendant is utilizing its property for purposes of a public trail. To the extent that the allegations of Paragraph 13 are inconsistent therewith the same are denied and strict proof demanded thereof.

11. The allegations in Paragraphs 14 of Plaintiff's Complaint are denied.

12. In response to the allegations of Paragraph 15 of Plaintiffs' Complaint, the same are requests for relief for which no response is required, but to the extent that a response is required the same are denied and strict proof demanded thereof.

WHEREFORE, having fully answered the allegations contained in Plaintiff's Complaint, Defendant prays that the same be dismissed with prejudice as to Defendant, that Savannah Valley Trails, Inc. be granted the relief requested by virtue of its claims, together with its costs including reasonable attorneys fees, and for such other and further relief as the Court deems just and proper.

MCDONALD PATRICK POSTON HEMPHILL & ROPER, LLC

By:_____

Douglas L. Bell, Esquire
414 Main Street
Post Office Box 1547
Greenwood, South Carolina 29648
(864) 229-2511
Attorneys for Plaintiffs

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2018-CP-01-00094**
	)	
Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde H. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC,	)	**SUMMONS**
Plaintiffs,	)	
vs.	)	
Town of Calhoun Falls,	)	
Defendant.	)	

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2018 MAY -4 PM 2:06
EMILY MCMAHAN
CLERK OF COURT

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Counterclaims in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Counterclaims on the subscribers at their offices at 414 Main Street, Post Office Box 1547, Greenwood, South Carolina, 29648 within THIRTY (30) DAYS, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you and the Defendant in this action will apply to the Court for the relief demanded in its Answer and Counterclaims.

MCDONALD PATRICK POSTON

By: _____

Roy R. Hemphill
414 Main Street (29646)
Post Office Box 1547
Greenwood, South Carolina 29648
(864) 388-1006
Email: rhemphill@mcdonaldpatrick.com
Attorneys for Defendant

May 4, 2018
Greenwood, South Carolina

TRUE COPY
BY mkennedy
ABBEVILLE COUNTY CLERK OF COURT

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2018-CP-01-00094**
	)	
Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde H. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC,	)	**ANSWER AND COUNTERCLAIMS**
Plaintiffs,	)	
vs.	)	
Town of Calhoun Falls,	)	
Defendant.	)	

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2018 MAY -4 PM 2:06
EMILY MONAHAN
CLERK OF COURT

That Defendant hereby answers the Plaintiffs' Complaint and alleges as follows:

FOR A FIRST DEFENSE
(General Denial)

1. That Defendant admits the allegations of Paragraphs 1 and 2 of the Plaintiffs' Complaint.

2. That Defendant denies the allegations of Paragraph 3 of the Plaintiffs' Complaint.

3. That Defendant admits so much of the allegations of Paragraph 4 of the Plaintiffs' Complaint as allege that is situated in Abbeville County, but denies that it does business in McCormick County.

4. That, no response is required to the allegations of Paragraph 5; however, to the extent a response is required, Defendant denies same.

5. That Defendant admits the allegations of Paragraph 6 of the Plaintiffs' Complaint.

TRUE COPY
BY
ABBEVILLE COUNTY CLERK OF COURT

6. That Defendant denies the allegations of Paragraphs 7, 8, 9, 10 and 11 of the Plaintiffs' Complaint and demands the requisite proof thereof.

FOR A SECOND DEFENSE AND FIRST COUNTERCLAIM
(Declaratory Judgment)

8. That Defendant repeats and realleges its foregoing allegations as if fully realleged herein verbatim.

9. That the property which is the subject matter of this case was conveyed by Seaboard System Railroad, Inc. to Clarks Hill-Russell Authority of South Carolina, now known as the South Carolina Department of Commerce, Division of Savannah Valley Development, by deed dated June 16, 1983 and recorded in the Office of the Clerk of Court for Abbeville County in Deed Book 138 at Page 835 on November 1983.

10. That the property which is the subject matter of this case was conveyed by South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina to the Town of Calhoun Falls by quitclaim deed recorded in the Office of the Clerk of Court for Abbeville County.

11. That neither Plaintiffs nor any third party have challenged ownership or possession of property titled in Defendant or its predecessors in title.

12. That Defendant seeks an order of the Court pursuant to SC Code Ann., § 15-53-10, declaring that is has fee simple title to strip of land at issue.

13. That Defendant further seeks an order of the Court awarding its attorney fees and costs in defending this action, pursuant to the Uniform Declaratory Judgment Act.

FOR A THIRD DEFENSE AND SECOND COUNTERCLAIM
(Quiet Title)

14. That Defendant repeats and realleges its foregoing allegations as if fully realleged herein verbatim.

15. That Defendant seeks an order of quiet title as to the real property at issue.

WHEREFORE, having fully answered the Plaintiffs' Complaint, Defendant prays that same be dismissed with costs and for such other and further relief as this court may deem just and proper.

McDONALD PATRICK POSTON
HEMPHILL & ROPER, LLC

By: _____

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Attorneys for Defendant

May 4, 2018
Greenwood, South Carolina

State of South Carolina

Court of Common Pleas

County of Abbeville

Annie L. Myers, et al James Tuberville Plaintiff, v. Town of Calhoun Falls Savannah Valley Trails, Inc.) Defendant.	)	Transcript of Record 2018-CP-01-00094 2018-CP-01-00250

November 14, 2019
Abbeville, South Carolina

B E F O R E:

The Honorable R. Scott Sprouse, Judge.

A P P E A R A N C E S:

Rauch Wise, Esquire
Attorney for the Plaintiff

Roy R. Hemphill, Esquire
Attorney for the Defendant

Lisa Scott
Circuit Court Reporter

I N D E X

WITNESS	PAGE

No Witnesses.

- - -

E X H I B I T S

NO.	DESCRIPTION	ID.	EVD.
1	Joint - Acts & Joint Res		X
2	Joint - Revised Statutes		X
3	Joint - Letter		X
4	Joint - 12/11/78 Decision		X
5	Joint - 3/19/79 ICC cert.		X
6	Joint - 2/25/80 Seaboard CL		X
7	Joint - 4/30/71 Cons. Mort.		X
8	Joint - 6/16/83 Deed		X
9	Joint - 4/12/12 Quit claim		X
10	Joint - 6/28/12 Quit claim		X
11	Joint - 4/12/12 Quit claim		X
12	Joint - Pic		X
13(a)	Joint - Public net		X
13(b)	Joint - 098-00-00-028		X
14	Joint - Savannah Valley RRD		X

- - -

P R O C E E D I N G S

* * * * *

THE COURT: All right. Madam Clerk, call the next case.

THE CLERK: 2018-CP-01-4, [sic] *Annie L. Myers, plaintiff, and others v. Town of Calhoun Falls*. It's a consolidated case to be heard at the same time 2018-CP-01-250, *James Tuberville v. Savannah Valley Trails, Inc.*

THE COURT: All right. I will note for the record that counsel from both sides have had a conference with the Court prior to the beginning of the trial, indicated that the number of facts have been able to be stipulated to.

Mr. Wise, why don't you -- or Mr. Hemphill, whichever one would like to -- tell me what's been stipulated to and if you have exhibits, let's go ahead and note those for the record.

MR. WISE: I think Mr. Hemphill has handed up to the Court stipulated facts that are 18 in number, together with stipulated exhibits. And the exhibits should be referred to as just "exhibits." They're a combination of something both of us had and we just thought it easier to refer to them as exhibits. Those would be the facts of this case if we spent a

day testifying as to the different issues.

It involves a claim of a -- of abandoned railroad right-of-way. Basically, a little history of it, this goes back to 1881 when the predecessor to the Seaboard Coastline, the Savannah Valley Railroad Company, got a right-of-way for a piece of the property. And it's a line that runs basically between Calhoun Falls and McCormick.

It was abandoned over the years. The Interstate Commerce Commission issued an order authorizing it to be abandoned. The -- all this is in the stipulated facts. The Seaboard Coastline issued a letter saying they were formally abandoning it.

The rub arose -- and this was in February 25th of 1980. The issue involved in this case arose when several years later, Congress passed a Rails-to-Trails Bill. And, you know, to be frank, we think to some extent it's a good idea, but it just doesn't work well on the ground. And what they -- what they did in the Rails-to-Trail Bill was said that when a railroad was abandoned, you can turn it into a trail.

And so some time in the -- some three or four years after Seaboard sent their letter, Seaboard

then deeded their right-of-way -- their right-of-way or interest in the right-of-way or whatever property interest they had to a predecessor entitled to the Calhoun -- to Calhoun Falls and to the Trails people in the McCormick County case.

And then they started going and doing improvements to it. My people objected to it. And as a result, we had this litigation. And we've been able to come up with these facts because it's a -- to be frank, it's over -- it is somewhat of a factual question in that the courts have said when a railroad abandons a railroad is a factual issue, but we think that factual issue is also -- we think it's determined in our side. They think it's determined on their side based upon the stipulated facts, but that's what the issue basically is.

And that pretty well ---

THE COURT: Before we get into arguments, Mr. Hemphill, anything?

MR. HEMPHILL: Mr. Bell will speak on it.

MR. BELL: Your Honor, I guess it's hard not to make an introduction without getting into legal argument. Just make an introduction for myself. My name is Doug Bell. I'm with McDonald Patrick Law Firm, here with co-counsel, Roy Hemphill, my

partner. We jointly represent the Town of Calhoun Falls and Savannah Valley Trails.

We have representatives here today with Savannah Valley Trails, Mr. Mark Miller. He's a board member. And Butch Taconer (phonetic), who's a board member. And then we also have the Clerk to the Town of Calhoun Falls.

Stephanie, can you give me your last name?

MS. COPELAND: Copeland.

MR. BELL: Stephanie Copeland. And they have a vested interest in this matter today.

I'm going to take exception to the fact that this is a straight abandonment case. Obviously, we're going to characterize it in different terms and we're going to kind of walk through some of the history of it, some of the policy of it.

We're also going to discuss really what -- what this case -- the crux of it is about, is a piece of real estate. And so we're going to discuss how we come to court today and how we frame this issue for you and how that's very important to the ultimate decision of who has title to the real estate. And I will let Rauch make his ---

THE COURT: Does either party anticipate any -- any further testimony or any further evidence being

submitted, other than the stipulated facts?

MR. WISE: We -- we don't.

MR. BELL: Your Honor, the only -- and I'll -- if you don't mind, I'm just going to share this with you and Mr. Wise real quick, just to give you some frame of reference for the area.

THE COURT: Okay.

MR. BELL: I didn't know if it might be useful for you to have some -- some pictures of the -- the area.

MR. WISE: I think that's -- well, not that, but, yeah. No. That's no problem.

MR. BELL: You can keep that.

MR. WISE: Okay.

THE COURT: So that'll be ---

MR. WISE: I don't mind those pictures as an addendum. They just ---

THE COURT: What are you, going to make that Exhibit 14?

MR. WISE: I think it would be 15.

THE COURT: I see Exhibit 13(B)is the last one.

MR. WISE: Right. It would be 14 then.

THE COURT: Okay. Let's mark -- mark that.

(Court's Exhibit No. 14 was received into evidence.)

THE COURT: All right. Well, let's -- with these stipulations and exhibits being admitted then, we will proceed.

We'll begin. Mr. Wise, you can present the plaintiff's case, and then we'll turn it over to the defendant.

MR. WISE: Your Honor, I think this is a simple abandonment case because at the time that Seaboard Coastline Railroad formally and unequivocally abandoned the railroad by writing to the Interstate Commerce Commission, which is now known as the Surface Transportation Board, and abandoned the railroad. At that moment in time, which is February 25, 1980, title to that property reverted to people who had picked -- who had -- reverted to the previous owner, which in my case is my -- my -- the plaintiffs.

What happened after that moment in time is really irrelevant, I think, to this Court's decision. Because at that moment under South Carolina law, the intent of the Seaboard Coastline to abandon the railroad is clear and unequivocal. There's just simply no doubt about it. They wrote a letter saying they're doing it. Tracks were gone. Everything's gone. And at that point, my clients

then, because they own the -- own the property and their predecessors entitled it, granted the right-of-way, became the owners of the property.

And to me that's pretty well established in a case out of Greenwood, South Carolina, *Eldridge v. City of Greenwood*, which talks about many of the issues involved in this case and rather lengthy opinion and was involved in some 15 or 20 years worth of litigation for what's it's worth too.

But they pointed out that under South Carolina law, once it's determined the railroad's abandoned, it reverts. The only question is, did the railroad get a right-of-way or did the railroad get a fee simple? If they got a fee simple, then of course they still own it. But in this case and the case before Your Honor, it's stipulated that all of them gave a right-of-way and, therefore, in that moment it abandoned it.

Now, the fact that Congress some three years later passes a bill that says these properties or these abandoned railroads can be used for Rails-to-Trails is a nice idea. It's a nice concept. It simply has no application to a railroad that was abandoned before that law was passed. So if -- if the law had been passed literally on the

26th of February 1980, we would still be in the same situation because on the 25th, it was formally abandoned and became -- reverted back to the previous owners.

There's also a case out of the U.S. Supreme Court, *Preseault v. Interstate Commerce Commission*, that also talks briefly about this issue also between -- but between those two cases, I think it's pretty clear that the railroad was abandoned. My clients holding the title from their predecessors are now the lawful owners of the abandoned railroad.

Congress cannot retroactively undue state law. They can only pass a law that affects things forward. They can't go back in time and divest my clients of their property that became their property on February 25th of 1980, and we think that literally is that simple.

I have no criticism with the great idea behind this. There's some practical problems with it obviously, such as trails going through people's yards almost. Some practical problems with trails going through places where people hunt obviously. And, simply, people having a right to just -- if they own the property, they have a right to control it.

I think my clients own the property unequivocally and, therefore, they have the absolutely right to block anybody from crossing that property on that. And it's -- to me, it's relatively clear why it took -- well, I don't know why -- on the reason we're here today is that somebody's trying to make the law that was passed in 1983 retroactive to apply to something that happened in 1980, and I don't think the law stands for that.

THE COURT: Was -- was any -- was any tract of land given to the railroad by -- by deed with fee simple interest on all these right-of-ways?

MR. WISE: In this case with the named plaintiffs here, all of them was right-of-ways. Some was deeded to the -- to the railroad. The -- the statute that's -- that's sets up, the Savannah River Railroad, which is one of the exhibits, authorized them to get a fee simple title for depots and I think a few other things, but in this case, all of them are right-of-ways only.

THE COURT: And I haven't -- obviously, haven't had a chance to read what y'all have submitted yet, but were any improvements made on the railroad bed or the surrounding land by the railroad prior to?

MR. WISE: The only thing the railroad did that

affects this property is have a railroad built. There were no buildings put up by the railroad on any of the property that's involved in this litigation. Obviously, they put up some depots and some other buildings probably periodically at different places, but none of that's involved here.

What's been done since 1980 is basically when it was abandoned and reverted back, it just kind of was taken over by the different people who -- who adjoined the property or who had the right-of-way or had the residual right after the right-of-way was abandoned, and they did various and substantive things to it.

The closest thing to an improvement by any plaintiff is a picture that's in exhibit, in -- in which one plaintiff put a house or mobile home relatively -- well, into the right-of-way and relatively close to the original railroad bed, which is -- which is shown in there.

Outside of that, a side of a fence or two here or there. Somebody, you know, putting a chicken coop on it. There were no real permanent improvements made after 1980, simply because the railroad had been there for so long, it had just -- they just kind of merged in with their land and its

ordinary use.

THE COURT: Thank you. Mr. Bell.

MR. BELL: May it please the Court, Your Honor?

I think a good place to start is giving the Court some idea of who we are and why we're here. I mentioned -- introduced the parties on our side, and Savannah Valley Trails is a nonprofit corporation organized under the laws of the State of South Carolina. It's a 501(c)(3) organization.

The sole purpose of that organization is that it exists to maintain this rail corridor, the very rail corridor that's in question today. And to preserve it, to make sure that it's -- it's open in case there is ever need for rail use again. And in the interim, to provide recreational trails for the benefit of the public.

Likewise, the Town of Calhoun Falls is a public body, a local subdivision of the County of Abbeville, the State of South Carolina. It serves many public purposes, but also a public purpose that it serves is to hold title to this piece of property and to maintain it for the same purposes.

They have obtained grants, both of the defendants, in order to maintain and improve the rail corridor. They've expended monies under those

grants. And so that's who we are.

Why we're here, because this is a very important case to the defendants for a number of reasons. And, primarily, because it frustrates the very purpose that the organization exists for, if there were adverse rulings in this case. It frustrates the purpose of the grants that were obtained and possibly causes liability for funds that have already been received and expended.

And I guess we really need to look at this case as to how we got here, because as Mr. Wise pointed out, that rail line has been there for a long time. We're talking about 1881. And we've just ignored and glossed over the last 39 years and 10 months.

And what happened in the last 39 years and 10 months is -- is very important. This action was styled as a declaratory judgment action, which is by its nature, we look to the causes of action that are under it. Determine how to move forward. But, essentially, this is an attack on time.

Our clients -- and you'll see from the Exhibit No. 8. Exhibit No. 8 is a deed from Seaboard System Railroad to the Clarks Hill-Russell Authority of South Carolina. Clarks Hill-Russell Authority of South Carolina is essentially what became the South

Carolina Department of Commerce.

That deed was issued in June 16, 1983. And it covers the entirety of the rail from the town of McCormick to the town of Calhoun Falls, approximately 24 -- 24 miles of rail corridor. That deed was recorded both in Abbeville County and McCormick County and purported to transfer title.

We shift forward to Exhibit 9. You can see that the deed was issued for the South Carolina Department of Commerce, Division of Savannah Valley Development, to the 96 District Resource Conservation and Development Council. So that's the Department of Commerce after the name change conveying out this property to the 96 District Resource Conservation Development Counsel. That deed was issued on April 12, 2012. And that was for the portion of line that's lying in McCormick County.

Exhibit No. 10 is a deed from the 96 District Resource Conservation and Development Counsel to our clients, Savannah Valley Trails. It's dated June 28, 2012, and recorded in the office of the Clerk of Court for McCormick County in Book 244, page 57, purporting to convey title to that portion of the 25 -- 24-mile line in McCormick County.

And, finally, Exhibit 11. We have a deed from the South Carolina Department of Commerce, Division of Savannah Valley and Development, which is the successor to the Clarks Hill-Russell Authority of South Carolina, and that deed was to the Town of Calhoun Falls. Again, dated April 12, 2012, purporting to convey that portion of the rail corridor which lied in Abbeville County and recorded in the office of the Clerk of Court for Abbeville County in Book 293, page 852.

THE COURT: This is the subject property of this lawsuit?

MR. BELL: This is the subject property of the lawsuit.

THE COURT: Okay.

MR. BELL: So I think it's interesting that we're here today. The plaintiffs are arguing over a specific date, that date being February 25, 1980, and -- and arguing this as an abandonment case. If it were 1985, I think we'd be here for an abandonment case. I think it would be perfectly resolved as an abandonment case, if you're arguing facts from February 25, 1980.

But when you fast forward 39 years, 10 months, how can you establish those facts? How can you

argue those facts 39 years later? How can you sit on your rights that long?

We have a title of record, which has been established and conveyed. There's been no collateral attack on that title, except from this lawsuit. With the stipulated facts that we have before us, there is no objective evidence that the plaintiffs have established title to divest us of this record title, and that's because -- it's not because the stipulation's not there. It's because the facts are not there to support that cause of action. Again, if it were 1985, this would be a perfect resolution.

THE COURT: So are you arguing that plaintiff is barred by the statute of limitation?

MR. BELL: I'm arguing that they are barred by the statute of limitations, Your Honor, because they're -- we've been under color of title since June of 1983 with our two predecessors in title being the State of South Carolina and the 96 District and then our two respective entities. So that color of title since 1983 has not been challenged.

I believe it is Code Section 15-3-340, which is the statute of limitations for an action for

recovery of real property which states that if parties have not been in possession of the property within the prior ten years, that the action will not commence.

Well, essentially, what that means is that if you want to establish a claim of title for adverse possession, you've got to have that statutory ten-year period. But what it also means is that when you're holding legal title of record and have established possession, it is presumed that you have possession of the property. It's a legal presumption and it has to be attacked unequivocally. It has to be proven, not the weakness in our chain of title, but it has to be proven the strength of their chain of title under the terms of this statute of limitations.

Now, there really is no governing statute of limitations on an argument over abandonment, but you think about it. Nobody came to the -- to your court today and stated that we think that this rail line was abandoned in 2017. It didn't happen. The argument that's being made before you is the facts will show that it's abandoned on February 25, 1980.

So, again, we've got an intervening 39 year, 10-month period. We have record title of three

owners intervening. We have no collateral attacks on that chain of title within that period of time, so...

THE COURT: Who -- who possessed the property in the interim in this 39 years? What's happened? I heard from Mr. Wise earlier. What -- what's your client's position on what happened to this property?

MR. BELL: What we've been able to stipulate to is that there have been no permanent improvements by the plaintiffs. There is one photo that you'll see in the stipulated fact that shows a constructed improvement that might encroach onto the right-of-way that does not encroach onto the rail bed, but it might encroach onto the right-of-way.

But other than that, the defendants through the State of South Carolina, the 96 District, these two entities, have been in possession. They have also not made improvements in a structural sense, with the exception of the railroad trestle which you'll see in the photos, but that's not the purpose of holding title.

The purpose of holding title is to continue to maintain the around these lines in order that it can be preserved as a recreational trail for interim use until such time as the railroad may become active

again.

THE COURT: Who -- who maintained the line? Did anyone cut brush or clean it out?

MR. BELL: I would think that an argument could be made that both the plaintiffs and the defendants did so periodically in the stipulated facts, so there's been an acknowledgement there.

What's interesting there under -- under South Carolina law is that if you have occupancy from both a plaintiff and a defendant which is holding legal title, legal titles we've established under the stipulation have been recorded, have been in place since 1983, then if you have co-possession, possession is actually exclusive to the legal titleholder. So based on the deeds and the chain of title, the presumption there is that possession lies in our favor.

THE COURT: How do you address Mr. Wise's argument that a right-of-way is a different -- put your client in a different position than if it had been a fee simple transfer.

MR. BELL: That's a great question and that -- hat question is really handled -- I'm going to have to give you two answers there. Okay.

THE COURT: Okay.

MR. BELL: The first answer is that regardless of what happened with the right-of-way, once the chain of title was established under color of title from 1983 forward, we go on a different path. We are -- we have established a chain. Because of the length of time involved, there's really no proof necessary on possession. There's a presumption of possession after a 20-year period. There is a presumption of the possession when you have legal title versus those that may occupy don't have a legal title. So that's -- we're on a different path there.

But as to the issue of abandonment itself, we feel very comfortable arguing that because if you'll review the original act, 409, that chartered Savannah Valley Railroad, you'll find that that act did, in fact, give Savannah Valley Railroad the authority to acquire properties, to acquire rights-of-way for -- for its purposes under the charter. You'll also find that we have provided the Court with a representative example of the right-of-way that was obtained for various pieces of the line.

Obviously, when you're talking about 24 miles of rail corridor, it's a very significant amount of

property. Property owners on either side. So working it down to the rights-of-way that were in that period is very difficult, but we feel comfortable on both sides that we have identified the documents which would allow the Court to -- to have review of the terms of the right-of-way. And those terms are very specific that the right-of-way is put in place for the benefit of Savanna Valley Railroad, its successors and assigns. That language is very instructive. Assigns, not just successors, but assigns.

Nothing inconsistent with the -- with the chart. Nothing inconsistent with the general statutes which we've provided to the Court. The general statutes authorize the entity under Section 10, I believe, of the general statutes. I beg your indulgence. Under Section 10 of the general statutes, this is the general law that governs corporations under charter.

"Such corporations shall have the power of purchase and hold such real estate may be required for the purposes that they may deem complied or may deem for their interest to take a settlement of any debts deemed and they may dispose of the same."

That's very instructive language in the

statute. They may -- they may dispose of it. If they can't dispose of it, it automatically reverts if they can't dispose of it, right? So by virtue of the language in the actual right-of-way itself that was obtained from individual property owners through the corporation, it's affected by the grant made.

And there's also a warranty in that right-of-way, that not only the grantor warrants it, but warrants it for the benefit or for the burden of his successors and assigns for the benefit of the successors and assigns of Savanna Valley Railroad.

So we have to look beyond the charter if the charter doesn't have any limit numbers there. You have the power to go out and acquire what you need for the purpose of establishing a railroad. You have the language in the actual rights-of-way themselves. You have the general statutes, none of which are inconsistent with the actual grant made. So there's no question that's what Savannah Valley Railroad held at the time.

You move forward during the first part of the 20th Century, railroads were booming. You had 272,000 miles of track in the United States. By the mid-1990s, it was less than half that amount. So Congress had determined that this trail or rail

shrinkage, this track shrinkage just could not stand any further. So Congress started adopting policies and adopting laws of public -- public regulations to try to counterbalance that.

And the first attempt with that is in 1976. It's called the 4R Act or the Railroad Revitalization and Regulatory Reform Act. And within that, it established several policies. It adopted a rail bank for the purpose of holding dedicated railways and funding the holding of dedicated railways.

It tasked the Secretary of Commerce with certain decisions as to working with state and local governments to try to determine how these properties could be held in the future, whether they be held for other purposes or whether they be held for rail bank purposes. So that's a policy that's going on in the 1970s. Okay.

So then Savannah Valley Railroad now becomes Seaboard Coastline. There's some successors and mergers. And Seaboard Coastline does file with Interstate Commerce Commission a notice of intent to abandon. Interstate Commerce Commission is the governing body which at the time had exclusive and plenary jurisdiction to determine abandonment.

Okay. And that's established under our state case law, as well. There's no doubt that the exclusive jurisdiction was with the ICC.

THE COURT: What was the date? And I haven't gone through these exhibits yet, but what was the date when they abandoned?

MR. BELL: Well, Your Honor, they didn't abandon.

THE COURT: Okay.

MR. BELL: Okay. And so -- but we'll get into that in a minute.

But file -- Seaboard Coastline did file a notice of intent to abandon with the ICC in about 1977. Okay. They filed a summary proceeding. They wanted to move forward. They didn't think they'd have any opposition, but interestingly enough, McCormick County intervened.

McCormick County being a -- I think the second least populated county in the state of South Carolina, knowing that it was not near an interstate and knowing that it needed to keep that rail corridor opened, intervened with the ICC.

There was a ruling from the board of the ICC in 1978. And I believe that we have presented that to the Court as Exhibit 4. So you have a decision of

the committee of the Interstate Commerce Commission dated November 21, 1978. And if we look at that decision, it identifies the corridor that we're talking about, 24.65 miles. It notes the intervention of McCormick County.

It specifically states -- and this is very interesting -- that the segment from milepost 503.63 near McCormick to milepost 506 is now used to store SCL, Seaboard Coastline, surplus equipment. Seaboard Coastline states that if the abandonment is authorized, it will leave this track in place subject to its continuing need for storage.

So that -- that's going to give you a little idea of what the term "abandonment" means in these proceedings. Okay. Because to state that we're going to have to abandon it, but we're also going keep three miles of track and we're going to actually use it and post about it, those things are -- couldn't be any further apart, right?

THE COURT: And this is in McCormick County?

MR. BELL: This is in McCormick County, this -- this portion of line. The 24 miles ---

THE COURT: Did they just ---

MR. BELL: -- the 24 miles is the entirety, Your Honor.

THE COURT: Okay.

MR. BELL: Okay. So the -- the notice of -- of the intent to abandon is for the entire 24 miles of line. Again, running from the town of McCormick to the town of Calhoun Falls in Abbeville County.

And what the Court or what the committee points out is that McCormick County suggested that the best solution to the problem is that Seaboard Coastline leave the right-of-way intact for five years to enable McCormick County to try to lure industrial prospects, either keeping the track in place for five years or allowing the track to be pulled up, but the underlying right-of-way retained for the five-year period so that the track could be constructed again if needed and it could be used for railroad purposes if needed.

So there's a clear identification by the Interstate Commerce Comission that there is still a continuing need in McCormick County, it just may not necessarily be fulfilled by Seaboard Coastline at this time. So the decision made is to allow Seaboard Coastline to -- to move forward with abandonment, but not abandonment without conditions and not abandonment of the right-of-way.

It goes on state, McCormick County indicates

that negotiations have been conducted between its representatives and Seaboard Coastline to retain the right-of-way. We point out to McCormick County that based on our finding that the right-of-way is suitable for public use, we are conditioning our approval of the applicant, not disposing of the right-of-way without first permission governmental agencies or other responsible persons with right to negotiate for the acquisition of the property for public use. And, actually -- and, actually, puts that in the order.

We move forward to Exhibit No. 5, which is a review of the decision of the committee. And it is dated March 2, 1979. They uphold the abandonment of the track, but, again, they specifically listed their decision and certificate, that the condition that the applicant shall not sell, lease, exchange, or otherwise dispose the right-of-way underlying the track, including all bridges and all culverts along the line for a period of 120 days from the service date of this certificate to permit any state or local government agency or other responsibile persons to negotiate the acquisition of all or any portion of the property for public use.

120 days is significant there. It's not a cap.

It's not the intent. Under the 4R Act of 1976, regulations were promulgated that basically established that the ICC have the responsibility to state if there is a potential public use, then you have to put this restriction on there. Okay. So that's the minimum, but that's not a cap and that doesn't mean that abandonment occurs at the 121st day. It's all up to the railroad, and that's established under state law.

Go on and look at the 1978 or 1979 order in the actual second ordering paragraph. It says that the authority granted by the certificate and decision is exercised, the applicant shall submit two copies of the journal entry shown to retire the line for service and shall advise the commission in writing immediately after abandonment of the line of the date on which the abandonment actually took place.

Third ordering paragraph it states that if the authority granted in this certificate and decision is not exercised within one year from the effective date, it shall be of no further course and effect. Okay.

So -- so what we know is 39 years, 10 months later, we're looking at the ICC file. First, these are the only pieces of the file that we were able to

obtain. The original petition filed by the applicant was not able to be obtained. I would note to the Court that importantly under the ICC regulations, that if there is a possibility of revert, the applicant is required in the application to inform the ICC of that.

And the whole purpose of that is because you've got this swelled policy at the time in 1970 where the Federal Government has decided we are not going to allow the railroad corridors to go back to private property owners. We respect private property rights, but this is an identifiable need for our country that we have to protect.

So that was the policy that was in place at the time. That was the undercurrent when these decisions were being rendered. That was the recognition of McCormick County's intervention, that was the recognition of the conditions on the approval for abandonment. Okay.

So let's move forward to February 25, 1980. This is the letter from Seaboard Coastline that Mr. Wise has pointed out to the Court. And it states that this refers to the commission certificate and decision in Docket No. AB-55 which covers Seaboard Coastline Railroad company's

application to abandon. 24.65 miles of track between McCormick and Calhoun Falls, South Carolina.

In compliance with the second line in the paragraph of the certificate and decision, please be advised that this track was abandoned as of February 15, 1980.

Okay. So that's -- that's the magic letter right. That's the magic letter, but did you notice that they used the term "track"? They didn't -- they didn't use the term "right-of-way." They used the term "track," but they did abandon the track. They pulled up the track. That was the whole purpose of the application was that right now, unless we identify more industry that can come here and utilize this service, we're not able to do it efficiently and profitably right now.

THE COURT: When was the track physically removed?

MR. BELL: The best that we're able to determine is that we have to use the date of February 15, 1980. We don't -- and, again, 39 years, 10 months removed, it's hard to establish, but we're not able to establish very good records from the ICC. We're not able to establish very good records as to from -- from local parties either. So

that's -- that's the best -- that's the assumption that we have to make, is that the track was removed by February 15, 1980.

So you have the three miles of track, which Seaboard has already stated that they're going to continue to use, but it's subject to the abandonment order. And what happens at that point?

Well, I agree with Mr. Wise. I do think that state law comes into play and the determination has to be made, did the railroad abandon the right-of-way? We know from this order and we know from the letter that it intended to abandon the track. What we don't know is whether Seaboard Coastline ever complied with the second ordering paragraph of the 1979 decision, because there is nothing in the ICC's file regarding journal entries showing the type of the line for the service.

In fact, there's nothing further in the ICC file, other than the letter from Seaboard Coastline stating that it had pulled up the track.

So if we then have to look at based on the orders the fact that the condition had been made, pull up the track, don't get rid of the right-of-way until you start talking to McCormick County, until you start talking to the State of South Carolina,

and we are without authority to make you do that for longer than 120 days, so we're going to -- we're going to make it 120 days. That's the minimum.

So then we have to look to whether or not Seaboard Coastline consummated the abandonment. Okay. Two factors there, intent and action. And so with the stipulated facts before the Court, what shows the intent and what act is consistent with the abandonment of the right-of-way itself? And I'm going to contend to the Court that there is none. There -- there are only stipulated facts which are consistent with the fact that the railroad intended to keep the right-of-way and then convey the right-of-way to the State of South Carolina, which it did in June of 1983.

So for that period, it's -- it's -- it's obvious based on stipulated facts that the counties were separately assessing the right-of-way, as can be seen from the -- the records on file, the tax assessor information. The corridor was held by Seaboard Coastline for that three-year period from February 25, 1980, to June of 1983.

There were no letters to property owners stating, hey, we give it up. You know, there was no reconveyance or quit claim to property owners. The

first evidence that we see is in June of 1983 when for consideration of $58,290, it conveys to the Clarks Hill-Russell Authority being the South Carolina Department of Commerce, the entirety of the rail corridor.

Notably for the Court, there was a mortgage in place at the time on the rail corridor, not February 25, 1980, continuing from that point in June of 1983. Chemical Bank, as the trustee and mortgagor, signed onto the deed itself releasing the rail corridor from the mortgage that was in place at the time.

So is the fact that they had a continuing mortgage on the property during this period, is that consistent with abandonment, or is that consistent with maintaining ownership? If you obtain the consideration and make a conveyance, is that consistent with abandonment?

I'm going to take your money. I'm going to take the money. The money that you got from the rail bank, South Carolina Department of Commerce obtained 60 percent of the financing for this project in 1983 from the Federal railway. The rail bank that is established for the sole purpose of banking rail line so that it can be used for

railroad in the future.

So we would contend to the Court that there was no abandonment of the right-of-way in February 15, 1980. We do think that Seaboard Coastline was very consistent with its intent to pull up that line and to use that track in other places, to salvage what it could, to reestablish the line where things were profitable at that period of time, but that's consistent with the Interstate Commerce Commission's order that it was willing to hold the right-of-way, continue to negotiate with McCormick County, continue to negotiate with the State of South Carolina, and ultimately convey that property over in 1983.

So we are in disagreement on the issue of abandonment. Respectfully, I'm not sure that the Court should ever really get to the issue of abandonment.

Again, if it was 1985 and we were arguing over something that happened five years ago, I think we get there. I'd be 11 years old. I'd be the same size I am right now, but I'd have a really thick mustache because my mother would not let me shave. Rauch would still be a great trial attorney, but that's a long time ago and a lot has happened in the

interim, and you can't ignore the facts that have happened in the chain of title since that time.

So there's a doctrine called latches. It's kind of when all else fails, that's -- that's the saving grace, your latches, right? And it's a -- and it's typically an equitable argument. This is a blended case. It's got law. It's got equity, you know, up here. It depends on which side you -- you look at.

If there is no applicable statute of limitations, and I would argue that there is, but if there is no applicable statute of limitations, latches applies under the state common law. Is it right that these parties sat silent from 1983 until 2016 and did nothing, filed nothing, trying to attack the chain of title that's in place here?

We would contend to the Court that's obviously unfair and that there's no ruling that could be had that would allow us to go back in time to that point and try to make this judicial determination. We have to deal with where we are now and the facts that we have now and all of the intervening actions that have happened from 1983 forward.

You know, when you -- when you own property for a period of time on adverse possession, and I would

never really venture to argue a case on adverse possession with stipulated facts, but the longer that you own property, the fewer things and the fewer elements you have to establish for adverse possession.

So even if you were to find that the railroad right-of-way was abandoned, not the track, the right-of-way was abandoned, and even if we were to find that somehow based upon the stipulated facts that the plaintiffs have established their title, we still have color of title for more than 20 years.

Based on color of title for more than 20, and color of title does not have to be based on valid legal title. Color of title can be based on a defective title. Color of title can be based upon a quit claim deed, even if the person executing the deed has knowledge that had no ownership interest, it's there. For color of title purposes, it's there.

So if you've got color of title for more than 20 years, there's a presumption of possession, you don't -- you don't have to prove possession. You don't have to prove that we were out there every day working on the line because there's -- the presumption is in our favor at that point.

We don't have to prove that occupancy was exclusive because as to exclusivity under common law, because we have color of title, anybody else occupying is subordinate to our occupancy.

So I think we get there, Your Honor, first on the fact that the parties have not established their rights at the time that this all should have happened back in 1985. The -- the plaintiff had pointed to the case of *Eldridge v. City of Greenwood*. The Eldridge case is instructive. It does state that the South Carolina law applies to determine abandonment, but the facts were completely different in that case.

The railroad in question of the Eldridge case had actually already conveyed the property over to the City of Greenwood, who then in turn conveyed it over to the Department of Transportation is sort of quid pro quo deal where they were trying to use what was formerly railroad right-of-way for highway purposes.

And actually some of it was highway; some of it was beautification purposes, flower beds. Well, flower beds are not the same thing as railroad right-of-way. And you can pretty well establish that if I had already given it to the City of

Greenwood to be used for a public purpose but a totally different purpose, well, yeah, that's evidence of abandonment.

But in this case where the only evidence or the only presumption because the party with the burden is not able to establish what happened during that period from Seaboard, the only evidence that we have is that it intended to convey to the state. It conveyed the rail corridor.

There's no evidence that it was for a different purpose, other than to be banked for rail purposes in the future. So that's where the Eldridge case is dissimilar. The only way that the Eldridge case is similar is that this all happened about the same time. And if we were going to make a ruling as to abandonment in this case, it should've happened then in 1989 and Eldridge won. Should've gone up on appeal and been heard in 1998. We're 20 years removed from that appellate decision. This track was taken up prior to the track in Eldridge.

So the plaintiffs are good people. They've got a great attorney, but we contend to the Court that they've rested on their rights for too long. Too much has happened. We've established the chain. We've established no abandonment. Looking at the

same documents. Looking at the same decisions. So we would ask for a favorable ruling. Thank you.

THE COURT: Thank you, Mr. Bell.

Mr. Wise, response?

MR. WISE: Yes, sir. I do have a few things.

First of all, let's forget the 39 years because for the first 29 years, the defendants in this case did nothing. The property was conveyed to the 96 -- oh, excuse me -- the -- it was conveyed to the -- to the McCormick -- the Clarks Hill-Russell Authority of South Carolina on June 16, 1983. Nothing was done for 29 years after that.

My clients are sitting there owning the property. No one was going against them saying you don't own the property. No one was trying to do anything with the property, except my clients who were treating it as their property. So it's -- they're on notice of nothing. I don't -- I know of no law in this state that requires a property owner to regularly check the records of the county courthouse to see if someone has deeded their property to someone else. You know, it doesn't happen.

This didn't arise or this suit didn't arise until the defendants in this case, through the Town

of Calhoun Falls and through of trails -- Savannah Trails people tried to go across the property of the plaintiffs. And when they tried to do that, then the suit was brought. That was the first time they really have knowledge of -- that someone else was really claiming to own the property.

Secondly, let's go back to the Interstate Commerce Commission order. And it also says in there, and he's correct, McCormick did file a claim wanting to do something with it. They do say in the finding -- let me see -- they do say that the notice of filing was public in the Federal registry on June 24, 1979. The time for filing of offers of financial assistance has expired without a bona fide offer. So McCormick had a chance to file in there for some assistance. They did not.

And then they actually said, you know, that it's -- it -- 120 days it can be abandoned. More than 120 days later, Seaboard Coastline said we're out of that. We're not doing it.

They have -- under any definition of South Carolina and if you go back and look at the deed too which is done for railroad purposes, once they pull the tracks out, they've abandoned that road. That's no question about that, so I think that goes to show

an abandonment.

I listened to -- to Mr. Bell's argument and I looked at the nice pictures he had of some of the trail that was introduced today. And over that portion of the trail where Savannah Trails has done improvements across people's land and have done those improvements now for some eight or nine years, a lot of what he says may have merit as far as latches or whatever you want to call it where people have sat down and seen hikers come across their land and seen some gravel be put and trails put and -- and stuff like that. It may have some merit, but that is not true for the plaintiffs in this case.

From the moment both defendants expressed a desire to put a trail across what they deem to be their property, they, in fact, have fought it since then and continue to fight it today. So all those nice concepts of latches, which may apply to a portion of this trail, certainly do not apply to these plaintiffs who have never rested on their rights, who have always -- as soon as they were notified that either defendant intends on using this property, they were in court pretty quick to try to stop it. So I think in that respect, it -- the latches doesn't apply.

Our position bases that we do hold title. I don't know how a railroad could be anymore abandoned than to say we picked the tracks up. We've taken up the tracks.

THE COURT: Let me ask you, how do you respond to Mr. Bell's argument that they said they were abandoning the tracks, and that's different than abandoning the right-of-way?

MR. WISE: When you abandon -- when you abandon the track, you're abandoning the use of it for railroad purposes. And when you abandon the use of it for railroad purposes, it reverts back to the original owner. I don't care what you call it, but once you stop using it for railroad purposes in South Carolina as I read the cases, that is when the -- once you have an intent to stop using it for railroad purposes, it abandons back to the previous owner, regardless of what your otherwise intent may be.

I would also point out that the mortgage and whether you can mortgage a right-of-way I think is a matter of subject to dispute and what all the mortgage included is probably moot here also, but the mortgage was done when they still had an active railroad on it back in 1971. It wasn't like they

abandoned the -- the railroad and then went and did a mortgage on it. That obviously would be something that the children did not intend to abandoned it, but they abandoned it -- they put the mortgage on it years before they formally abandoned it, some nine years after the mortgage was put on it. So I think it clearly showed an abandonment.

And like I say, in South Carolina, you don't -- if the deed says "railroad purposes," and you take up the tracks, it's no longer railroad purposes. There's an interesting case out of Saluda that I forget the title. I think it's the *Saluda Motorline v. Couch* if my memory is correct, in which a person bought the right-of-way from the railroad in a very similar case. And he contended that, I'm going to use it for a railroad one day, and that's a -- I have that intent and, therefore, we're going -- it's still my property because I'm going to use it for a railroad. And the Court said, you know, if you ain't got any practical ability or can't show something that you're going to use it for the railroad, its deemed to be abandoned.

And I think the same principle applies here. Once the tracks are gone, it's abandoned for railroad purposes. And once it's abandoned for

railroad purposes, it reverts back to the previous owner. The law on that is, to me, relatively clear.

If Seaboard Coastline had some secret desire to turn it into trails, that's interesting. That's a nice desire. It has nothing to do with this case because they have abandoned their right-of-way by taking up the tracks. And I can't -- you can't be any more applicable than that. They cannot be more affirmative than a letter saying we're going to abandon the tracks and taking up the tracks. And once that's done, it's not being used for railroad purposes. And once it ceases to be used for railroad purposes, it reverts back to the owner at that moment.

Now, whether we get to that intent from the February 25th letter or get that intent from the exact second they picked up the tracks is really moot because both of them occurred well before 1983. So, clearly, the road was abandoned and that's all that's required.

THE COURT: How do you address the argument that this property has been assessed as a separate property or set forth in the county maps as a separate property?

MR. WISE: Well, the county -- the county tax

assessor is not in judicial court. It makes a legal determination of ownership. It's on there. It's the way it's been for a long time. All I got to say is it's on there. It doesn't -- they list it on there as abandoned railroad track. So the fact they did it, they did it.

I would assume when it was an active railroad, there was a need for the county to -- to assess it differently because I don't know how they -- I assume they asses taxes on the railroad right-of-way to the railroad. And then so it's been there, I would assume, well before 1980. And the fact that they tract it separately just means that they tract the right-of-way separately. It doesn't have to do with who actually owns the property upon abandonment of the railroad. It's just a -- it's just a marking on a map.

THE COURT: Okay. Thank you, Mr. Wise.

MR. WISE: Okay.

THE COURT: Mr. Bell, I'll give you last word.

MR. BELL: Your Honor, I promise it will not be as my first. I will be brief.

Constructive notice for deeds that are reported in the public records, that's -- that's the issue. You put the world on notice of what is filed, and

that's the whole purpose of having a recording office and public records. So there's no question that the plaintiffs have constructive notice on that point.

As to the issue of the ICC, I would note just specifically on this issue with the traffic and the right-of-way, that's specifically addressed in the ICC order. They're addressed separately. The conditions are separate. So -- and, again, the ICC had exclusive jurisdiction.

So the railroad was operating under the -- the authority -- under the ruling put in place by the ICC. The fact that it continued to do that moving forward, there's no evidence to the contrary. He's the moving party in this action. He's got the burden of proof. So, again, we ask for a favorable ruling.

I would -- and I'm sure we'll do this in brief, but there is a -- well, I'm sure we'll brief it, but there is a District Court case in the State of South Carolina that after the enactment of the Rails Act deals with the various situation and addresses that 120-day period. What -- what it means is that the railroad responds back affirmatively with that letter stating they had complied. What happens to

the right-of-way at that point?

Essentially, the ruling is that that's simply a green light. The issuance of the certificate of the ICC is simply the green light. If you got the intent to abandon, you can go take the act to abandon now, but you still got to go take the act. And that's what consummation of abandonment means under South Carolina case law. You got to meet both those elements. There's no evidence that they met that second element.

There are cases out there that state that you can meet that second element or that you can do things like deeding it over for a totally different purpose.

THE COURT: What about cases -- their argument is when they took up the tracks, the took the purpose of the right-of-way. How do you respond to that?

MR. BELL: Again, another 29 years doesn't matter, but 39 years and 10 months later, it's still being held for that purpose.

THE COURT: Okay.

MR. BELL: Thank you.

THE COURT: All right. Well, thank you, gentlemen. You've given me a lot of material to

read and consider. I'm going to take this under advisement.

What I would like each side to do is submit a brief with all the cases you would like for me to consider. How long do you need for your brief? Can you get it to me in ten days?

MR. WISE: Oh, no. We got Thanksgiving coming up.

THE COURT: That's true. We do have Thanksgiving.

MR. WISE: Yeah. Umm -- what's today? The 12th of December?

THE COURT: Well, 30 -- 30 days would put you towards -- let's just say 30 days.

MR. BELL: Okay.

THE COURT: We'll -- I'll give you 30 days. Serve -- serve the other party with -- with your brief, and I will -- anything you want me to consider as far as case law and any arguments, set forth fully in your brief.

All right. And I -- I thank y'all for your hard work and getting the facts stipulated. As each side noted to me in chambers, this case could've taken several days if everyone had to testify as to the facts. So this is -- this was very helpful for

me to understand the issues and I -- I look forward to getting into this. It's an interesting legal question that you have presented, so thank you.

MR. WISE: Okay.

MR. BELL: Thank you, Your Honor.

MR. HEMPHILL: Thank you, Your Honor.

(The proceedings concluded at 11:04 a.m.)

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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

I, the undersigned, Lisa Scott, Circuit Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Circuit Court for Abbeville County, South Carolina, on the 14th day of November, 2019.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

January 15, 2020

/s/Lisa Scott

Lisa Scott
Circuit Court Reporter

STATE OF SOUTH CAROLINA	)	**IN THE COURT OF COMMON PLEAS**
	)	**EIGHTH JUDICIAL CIRCUIT**
COUNTY OF ABBEVILLE	)	**CIVIL ACTION NO. 2018-CP-01-00094**
	)	**CIVIL ACTION NO.: 2018-CP-01-00250**
	)	
Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde H. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC,	)	
Plaintiffs,	)	
vs.	)	
Town of Calhoun Falls,	)	
Defendant.	)	**JOINT STIPULATED FACTS**
	)	
James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders, and Mary and Homer Martin,	)	
Plaintiffs,	)	
vs.	)	
Savannah Valley Trails, Inc.,	)	
Defendant.	)	

The Defendants above named hereby propose the following stipulation of facts:

1. The Savannah Valley Railroad Company was chartered by the State of South Carolina on March 12, 1878 by Act No. 409. The charter permitted the railroad company to obtain rights of way across the lands of various property owners. A copy of Act No. 409 is attached as Exhibit 1.

2. Act No. 409 refers to Chapter LXIII of the South Carolina General Statutes. A copy of Chapter LXIII is attached as Exhibit 2.

3. Seaboard Coast Line Railroad Company is the subsequent successor to the Savannah Valley Railroad Company.

4. Savannah Valley Railroad obtained rights of way for the railroad corridor, and fee simple title to other tracts. A representative example of these rights of way obtained is attached hereto as Exhibit 3.

5. Each plaintiff in subsequent deeds, was deeded parcels of real property subject to the right of way previously given by their predecessor in title.

6. A committee of the Interstate Commerce Commission issued a decision dated November 21, 1978 concerning the railroad line owned by Seaboard Coast Line Railroad Company between McCormick and the Town of Calhoun Falls. A copy of the Decision is attached as Exhibit 4.

7. The Interstate Commerce Commission reviewed the November 23, 1978 decision and issued its decision on March 2, 1979. A copy of the review is attached as Exhibit 5.

8. Seaboard Coast Line Railroad Company wrote a letter dated February 25, 1980 to the Interstate Commerce Commission. A copy of the letter is attached as Exhibit 6.

9. Seaboard System Railroad, Inc. is the subsequent successor to Seaboard Coast Line Railroad Company.

10. Seaboard Coast Line Railroad Company and its successor, Seaboard System Railroad, Inc., subjected the railway bed between the Town of Calhoun Falls and McCormick as collateral for its mortgage dated March 15, 1971, as supplemented (the "Mortgage"), held by Chemical Bank. A copy of said Mortgage is attached as Exhibit 7.

11. Seaboard System Railroad, Inc. conveyed its interest in the railway bed between the Town of Calhoun Falls and McCormick by quitclaim deed to Clarks Hill – Russell Authority of South Carolina on June 16, 1983 ("State Deed"). Clarks Hill – Russell Authority of South Carolina paid $58,290.00 for the railway bed. A copy of the deed is attached as Exhibit 8.

12. When Seaboard System Railroad, Inc. conveyed its interest in the railway bed between Calhoun Falls and McCormick on June 16, 1983, it obtained a release of this property from the Mortgage as evidenced by release and joinder in the above-referenced Exhibit 8.

13. The South Carolina Department of Commerce, Division of Savannah Valley Development is the successor in interest to the Clarks Hill – Russell Authority of South Carolina and it claimed title to the railroad bed from June 16, 1983 to April 12, 2012 under the State Deed.

14. The South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill – Russell Authority of South Carolina conveyed its interest in the railway bed located in McCormick County to Ninety-Six District Resource Conservation and Development Council, Incorporated on April 12, 2012. A copy of the deed is attached as Exhibit 9.

15. Subsequently, Ninety-Six District Resource Conservation and Development Council, Incorporated transferred its interest in the railway bed located in McCormick County to Savannah Valley Trails, Inc by deed dated June 28, 2012. A copy of the deed is attached as Exhibit 10.

16. The South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill – Russell Authority of South Carolina conveyed its interest in the railway bed located in Abbeville County to the Town of Calhoun Falls on April 12, 2012. A copy of the deed is attached as Exhibit 11.

17. From February 25, 1980 until present, Plaintiffs have made no permanent structural improvements to the railway bed, with the possible exception of a structure on property titled in Plaintiff Willie Clyde Smith in Abbeville County as depicted in Exhibit 12. Defendants have made no permanent structural improvements to the railway bed, but have performed maintenance and grooming of the rail corridor, and extensive refurbishments of a railway trestle with the corridor.

18. From 1976 until the present, the railroad bed has been identified and assessed separately from the Plaintiffs' parcels. Said tax maps affect parcels in Abbeville County attached hereto as Exhibit 13-A and tax maps affecting parcels in McCormick County attached hereto as Exhibit 13-B.

By: _____
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By: _____
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November 13, 2019
Abbeville, South Carolina

ACTS

AND

JOINT RESOLUTIONS

OF THE

GENERAL ASSEMBLY

OF THE 9.

STATE OF SOUTH CAROLINA,

PASSED AT THE

REGULAR SESSION OF 1877-78.

PRINTED BY ORDER OF THE GENERAL ASSEMBLY, AND DESIGNED TO FORM A PART OF THE SIXTEENTH VOLUME OF THE STATUTES AT LARGE, COMMENCING WITH THE ACTS OF 1875-76.

COLUMBIA, S. C.
CALVO & PATTON, STATE PRINTERS.
1878.

EXHIBIT 1

AN ACT TO CHARTER THE SAVANNAH VALLEY RAILROAD COMPANY.

A. D. 1878.

No. 409.

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That W. W. Humphreys, Stephen McCulley, A. T. Broyles, J. S. Murray, B. F. Whitner, S. Bleckley, E. M. Bucher, J. C. C. Featherston, Edwards B. Murray, Dr. R. F. Divver, J. W. Norris, J. A. Sherard, J. H. Reid, J. T. Barnes, D. L. Hall, W. J. Millford, David Sadler, B. A. Davis, Elias J. Earle, Levi Burriss, Kenon Breazeale, J. Y. Fretwell, Joshua Burris and William O'Briant, of Anderson County, and James M. Latimer, Sr., J. B. Moseley, J. P. Young, T. Baker, George S. Burdett, J. B. Leroy, S. S. Baker, Dr. J. T. Baskins, Dr. M. C. Taggart, A. J. Clinkscales, W. B. Clinkscales, S. J. Hester, Edward Calhoun, H. H. Harper, W. D. Mars, M. O. Tolman, W. K. Bradley, Dr. T. A. Wideman, G. Cade and Thomas Thompson, Esq., of Abbeville County, and such other persons and corporations as may be associated with them, and their successors and assigns, be, and they are hereby, created a body politic and corporate, by the name and style of "The Savannah Valley Railroad Company," and by that name may sue and be sued, plead and be impleaded, answer and be answered unto, in any Court of law and equity in this State or in the United States; may make by-laws and appoint all necessary officers and prescribe their duties, and may accept, purchase, hold and convey any property, either real or personal, necessary for the purposes hereinafter mentioned; may make contracts, have and use a common seal, and do all other lawful acts properly incident to and connected with said corporation and necessary for the control and transaction of its business: *Provided*, That their by-laws be not repugnant to the Constitution and laws of this State or of the United States.

Incorporators and successors made a body politic and corporate.

May sue and be sued, make by-laws, hold property, &c.

SEC. 2. That the said company be, and is hereby, authorized and empowered to construct, maintain and operate a railroad extending from the town of Anderson, South Carolina, with the privilege of connecting with the Blue Ridge Railroad at that point, by the way of Lowndesville, to the city of Augusta, in the State of Georgia, or to connect with the contemplated Greenwood and Augusta Railroad at such point on the said railroad as may be found most suitable.

Object of company.

SEC. 3. That the capital stock of said company shall be one million of dollars, in shares of twenty dollars each, with the privi-

Capital stock.

A. D. 1878.

lege of increasing the capital stock to such an amount as may be found necessary to carry out the intention and purposes of this Act, and the shares shall be transferable in such manner as the by-laws may direct: *Provided*, That when the sum of two hundred thousand dollars shall have been subscribed to the capital stock of said company as hereinafter directed, the said corporators or a majority of them shall, within a reasonable time thereafter, appoint a time and place for the meeting of said stockholders, of which thirty days' notice shall be given in such newspapers of this State as they may deem necessary; at which time and place said stockholders may proceed to the organization of said company by the election of a President and nine Directors, who shall hold their offices for one year and until their successors are elected, which shall be the first Board of Directors, and which Board may, in their by-laws, prescribe the time and manner of holding their subsequent annual elections for President and Directors, subject to the approval of the stockholders at their ensuing annual meeting.

Organization.

Officers and their terms of office.

SEC. 4. That in all conventions of the stockholders of said company, such city or town, County or township as may subscribe to the capital stock thereof may be represented by not less than three nor more than five delegates, who shall be chosen by a convention of the taxpayers of such city or town, County or township; private stockholders representing their own stock in person or by proxy duly executed.

Composition of Convention of stockholders.

SEC. 5. That for the purpose of raising the capital stock of said company, it shall be lawful to open books for private subscriptions at such times and places and under the direction of such persons as the said corporators may appoint, and that said subscriptions to the capital stock may be made in money, bonds, lands, material and work at such rates as may be agreed upon with said company; and the said railroad company shall have power to mortgage its property and franchises and issue bonds on such terms and conditions and for such purposes and uses of said corporation as the said company may deem necessary.

Subscription, how made.

SEC. 6. That in addition to the provisions contained in the preceding Section for private subscriptions, it shall and may be lawful for any city or town, County or township interested in the construction of said road to subscribe to its capital stock such sum as a majority of their voters may authorize the County Commissioners or proper authorities of such city or town to subscribe, which subscription shall be made in seven per cent. coupon bonds, payable in such installments as the County Commissioners or proper

Any town or city may subscribe seven per cent. bonds

authorities of such city or towns shall determine, and to be received by the said company at par, said bonds to be made payable twenty years after the date thereof and to be of the denomination of one hundred dollars, five hundred dollars and one thousand dollars; and for the purposes of said subscription, issuing said bonds and otherwise carrying out the provisions of this Act by any township as aforesaid, the following named townships, to wit: in the County of Anderson, the townships of Varennes, Hall, Connor, Savannah and Centreville, and in the County of Abbeville the townships of Lowndesville, Magnolia and Calhoun, are hereby created bodies politic and corporate under the said names respectively, and are vested with all necessary powers to carry out the provisions of this Act, and may sue and be sued in respect of any rights or causes growing out of the provisions of this Act; and the County Commissioners of the Counties of Anderson and Abbeville are hereby declared to be the corporate agents of all townships so incorporated situated within the limits of their respective Counties.

Townships in Anderson and Abbeville that may subscribe, and are made corporate.

County Commissioners agents for said townships.

SEC. 7. That for the purpose of determining the amount of said subscriptions, it shall be the duty of the County Commissioners for each of the Counties of Anderson, Abbeville and Edgefield, upon the written application of five hundred of the qualified voters in any County or of fifty voters in any township, specifying the amount to be subscribed therein, to submit to the qualified electors of each County or township in their respective Counties, as the case may be, the question of subscription or no subscription to the capital stock of said company, and they shall have power to order an election, specifying the time, place and purpose of the election, and to appoint three Managers at each election precinct, who shall, without compensation, hold and conduct said election, at which election the ballots shall have written or printed thereon either the word "subscription" or "no subscription," the said County Commissioners having first, by a resolution of their Board, fixed the amount proposed to be subscribed, according to the request of the petition submitted to them, notice of which resolution shall be given by the Chairman of the Board in one or more of the newspapers published in the County for which he shall act for forty days next previous to the election. And the proper corporate authorities of any city or town in any of the three Counties of Anderson, Abbeville and Edgefield, upon the written petition of fifty voters in any such city or town, shall, in like manner and after like notice, submit the question to the qualified electors in said city or town, and declare

How and when the question of subscription may be submitted.

Managers.

Form of ballots.

Duty of County Commissioners.

As to corporate towns or cities.

A. D. 1878.

the result as is herein directed in cases of County or township elections.

Duty of Managers and County Commissioners.

SEC. 8. It shall be the duty of the Managers to make returns and meet at their respective court houses or Council chambers, as the case may be, and count the votes and declare the result as in other elections, which result shall be certified in writing by the Chairman of each Board of Managers to the Chairman of the Board of County Commissioners or to the City or Town Council, as the case may be.

County Commissioners to make the subscription in seven per cent. bonds.

SEC. 9. In case the majority of the ballots cast shall have written or printed thereon "subscription," then the Chairman of the Board of County Commissioners, in all cases of County or township elections, shall be authorized and required to subscribe to the capital stock of said company in behalf of said County the sum which may have been fixed and named in the resolution of said Board, published as aforesaid, which subscription shall be made in seven per cent. bonds, as aforesaid, with interest payable semi-annually; but in all subscriptions made under the direction of a township election, as authorized by this Act, it shall be so expressed in the bonds and coupons issued in payment of such subscription, under the provisions of Section 6 of this Act; and all tax levies for the purpose of raising funds to pay the said bonds or coupons shall be made only upon the taxable property in such township; and if a majority of the ballots cast in any city or town election shall be for subscription, the proper corporate authorities of such city or town are authorized and required to subscribe in behalf of such city or town in like manner and to like extent as the County Commismissioners are herein required in all cases of County subscriptions.

Authorities of corporate towns and cities to subscribe.

Interest on bonds collected by Treasurer.

SEC. 10. That for the payment of the interest on said bonds the County Auditor or other officer discharging such duties or the City or Town Treasurer, as the case may be, shall be authorized and required to assess annually upon the property of such city or town, County or township such per centum as may be necessary to pay said interest, which shall be known and styled in the tax books as said railroad tax, which shall be collected by the Treasurer under the same regulations as are provided by law for the collection of taxes in any of the Counties, cities or towns so subscribing, and which shall be paid over by the said Treasurer to the holders of said bonds as the said interest shall become due: *Provided*, That within ten years of the time said bonds shall fall due the money to pay the same shall be raised by taxation in the same manner and paid out by the County Treasurer as provided above for the payment of the annual interest.

Manner of paying bonds.

A. D. 1878.

Collector to give receipt for tax, which may be funded in stock of company.

SEC. 11. That in collecting said taxes the County, City or Town Treasurer shall deliver to the taxpayer a special receipt therefor, which shall express that the amount stated therein is the tax for said railroad. And when any person, a holder of such receipts issued in his own name or in that of another person and duly transferred to such holder by the endorsement thereon of the name of the person to whom the same was issued, shall present an amount thereof to the President of said company equal to one share of the stock of the said company, the said President shall cause to be issued to the holder of said receipt one share of stock, and such person shall be a stockholder in said company from the date of the scrip for such stock so issued as aforesaid, and the like proceedings and rights and liabilities shall be had and attach to any person who may present such tax receipts amounting to more than one share: *Provided*, That said scrip shall not be issued for any fractional part of a share.

Duties, powers and privileges of company to hold property, &c.

SEC. 12. That said railroad company shall have every right, privilege and power necessary for the purpose of acquiring such lands or rights of way as they may require for the location or construction of the said railroad or for the erection or location of depots, warehouses, stations and other necessary establishments, or for extending or altering the same, and the said company shall have the benefit of every process or proceeding and shall be subject to all the restrictions provided or imposed in Sections 75 to 86, both inclusive, of Chapter LXIII of the General Statutes.

Not exempt from taxation.

SEC. 13. That nothing in this Act contained shall be construed to exempt the property of said railroad company from taxation for State and County purposes.

A public Act.

SEC. 14. That this Act shall be a public Act, to take effect on and after its passage: *Provided*, That this charter shall cease and determine unless the construction of said railroad is commenced on or before January 1, 1883, and completed on or before January 1, 1888.

Approved March 12, 1878.

AN ACT TO INCORPORATE THE CHARLESTON INSURANCE AND TRUST COMPANY.

No. 410.

SECTION 1. *Be it enacted* by the Senate and House of Representatives of the State of South Carolina, now met and sitting in General Assembly, and by the authority of the same, That the per-

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

THIS IS TO CERTIFY THAT this and/or the attached is a true and accurate copy of Act No. 409, "An Act to Charter the Savannah Valley Railroad Company; dated 12 March 1878

Recorded in records of the SC General Assembly, Acts and Joint Resolutions, Regular Session of 1877-78; title page and pages 435-439

Now on deposit with the South Carolina Department of Archives and History

GIVEN UNDER MY HAND AND SEAL OF THE DEPARTMENT
THIS June 21, 2018

Elaine Sherrill Rohr, Archivist
Reference Services

THE REVISED STATUTES

OF THE

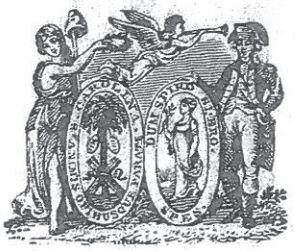
STATE OF SOUTH CAROLINA,

Prepared by Commissioners under an Act of the General Assembly, Approved March 9, 1869, to which is prefixed the

CONSTITUTION OF THE UNITED STATES

AND THE

CONSTITUTION OF SOUTH CAROLINA.



PUBLISHED BY AUTHORITY OF THE GENERAL ASSEMBLY.

COLUMBIA, S. C.:
REPUBLICAN PRINTING COMPANY, STATE PRINTERS.
1873.

EXHIBIT 2

Judge: *Provided*, That nothing contained in this Section shall release any such company or companies upon any policy issued or delivered by it or them.

CHAPTER LXIII.

Of Corporations Organized under Charters.

Sec.
1. Charters subject to amendment, alteration or repeal.
2. Corporations not to make discrimination on account of race, color or previous condition.

Manufacturing Companies.

3. Subject to provisions of Sections 4 to 19, unless specially exempted.
4. Prerequisites to attachment of Acts of incorporation.
5. Meeting of subscribers to stock.
6. Proceedings.
7. When such corporations may go into operation.
8. Liability of members before stock is actually paid in.
9. Debts not to exceed paid in stock; Directors liable for excess; how liability may be avoided.
10. Powers of such corporations.
11. Management; choice of Directors and President.
12. Directors to submit statements to stockholders; penalty.
13. Shares to be personal estate.
14. Capital not to be loaned to stockholders; not to be divided till debts are paid; Directors liable.
15. Liability of executors, &c., and estates of deceased stockholders.
16. Votes of stockholders.
17. Limitation of charters.
18. Foregoing provisions not to remove other liabilities.
19. Funds not to be used in banking.

Plank Road Companies.

20. Reports of plank road companies.
21. Powers, privileges and liabilities of plank road companies.
22. Notice of application for charter.
23. Subscriptions to stock; first payment; report of Commissioners.
24. Meeting of subscribers; election of President and Directors.
25. Statement to be made by President and Directors.
26. When Act of incorporation attaches.
27. Powers of such corporations.
28. Management; vacancies.
29. Elections.
30. Board.
31. Votes.
32. Advances on subscribed stock; stock may be sold if not paid.
33. Surplus of sale; stockholder liable for deficiency.
34. Purchaser subject to liabilities of original stockholder.
35. Each stockholder liable for debts until stock paid in.
36. Debts not to exceed stock paid in; Directors liable; liability, how avoided.
37. Loans; dividends.
38. Shares deemed personal estate.
39. Liability of executors, &c., and estates of deceased stockholders.
40. Road-beds.
41. Time to complete roads; toll and toll gates.
42. Reports; books.
43. Not subject to Sections 47 to 72, inclusive.
44. Fees of Secretary of State.
45. Charter to last fourteen years.
46. Companies may run roads in highways.

Turnpike, Bridge, Causeway and Ferry Companies.

47. Subject to following provisions, unless specially excepted.
48. Shares; installments.
49. Number of shares; increase of members.
50. Commissioners to receive subscriptions.
51. Closing of subscription books; proviso.
52. List of subscriptions and certificate of deposit of first installment to be recorded with Secretary of State.
53. Patent of incorporation to be issued by Secretary.
54. Corporate powers; proviso.
55. Not to be engaged in banking, insuring or trading.
56. Power to hold real estate; amount limited.
57. Funds may be invested, how.
58. Provisions as to officers, &c.
59. Scale by which votes are to be taken; no one entitled to more than twenty votes.
60. Proxies.
61. Elections to be held annually.
62. Report of Directors.
63. Regulations as to contracts made by Direction.
64. Increase of capital stock.
65. Provisions as to reconstruction of road, &c.
66. Contracts with stockholders.
67. Work of corporation to be finished in four years, &c.

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SEC.
68. Subscription by State; number of votes allowed it.
69. State dividends to be paid into Treasury; accumulation may be applied to purchase of stock from stockholders after twenty-four years from first receipt of tolls.
70. State may purchase charters held in fee after thirty-four years from first receipt of toll.
71. Forfeiture of shares; purchaser to be a member of company.
72. Liability of purchaser.
73. Charters of bridges, &c., shall be in fee, and held as real estate.
74. Regulations as to grants to bridges, &c.

Manner of Acquiring Rights of Way.

75. Notice to be given to owner of lands, &c.; consent to enter presumed in case refusal is not signified.
76. If consent not given, how corporation must proceed; petition to be heard by Circuit Judge; jury to be empanneled; Clerk to organize.
77. Jury to inspect premises; fix compensation, and return verdict.
78. Right of appeal to Circuit Court; amount of verdict to be deposited.
79. Lands for depots, &c.
80. Notice to be given to trustee, &c., in certain cases; published notice sufficient for non-residents.
81. Rights to vest for how long; fee to remain in owner of soil.
82. Liability to condemnation; proviso.
83. Right of entry for survey, &c.; proviso.
84. Proceedings to be filed with County Clerk; where to be instituted.
85. Fees of Clerk, Sheriff and jurors; by whom to be paid.
86. Penalty for failure of jurors to attend.

Charters subject to amendment or repeal.
1841, XI, 103, § 41.

SECTION 1. That it shall become part of the charter of every corporation which shall, at any session of the General Assembly, receive a grant of a charter, or any renewal, amendment or modification thereof, (unless the Act granting such charter, renewal, amendment or modification, shall in express terms except it,) that every charter of incorporation granted, renewed, or modified, as aforesaid, shall, at all times, remain subject to amendment, alteration or repeal, by the legislative authority.

Common carriers not to discriminate on account of color, &c.
1869, XIV, 179, §§ 1, 3.

SEC. 2. That it shall not be lawful for any party or parties engaged in any business, calling or pursuit, for the carrying on of which a license or charter is required by law, municipal, State, Federal, or otherwise, to discriminate between persons on account of race, color or previous condition, who shall make lawful application for the benefit of such business, calling or pursuit; and no Act of incorporation shall be conferred upon any organization, the rules and regulations of which contain features not compatible with the provisions of this Section.

Manufacturing Companies.

Subject to provisions of §§ 4 to 19, unless specially exempted.
1847, XI, 459, § 1.

SEC. 3. That all manufacturing companies which shall be incorporated in this State shall have all the powers and privileges, and be subject to all the duties, liabilities and other provisions contained in Sections 4 to 19, inclusive, of this Chapter, unless the said corporations be specially exempted therefrom by their respective charters.

Prerequisites to attachment of Acts of incorporation.
Ib., § 2.

SEC. 4. Books for subscriptions to the stocks of such companies shall be opened by such Commissioners, and in such manner, as their respective charters may appoint. The Commissioners shall proceed in such manner, and discharge such duties as shall be speci-

fied, for the purpose of receiving subscriptions, disposing of the first payments made therein, reducing shares subscribed for in case of over-subscription, and taking other measures for the formation of the company. As soon as the requisite number of shares shall be subscribed for, the company shall be considered as formed, the Act of incorporation shall attach and become effectual, and the company shall proceed to complete its organization.

Meeting of subscribers to stock. Ib.

SEC. 5. To this end the Commissioners shall appoint a convenient time and place for the meeting of the subscribers, and give to them at least a fortnight's notice, either by writing or by public advertisement in some gazette in the County where such corporation is to be located.

Proceedings. Ib.

SEC. 6. At this meeting the stockholders may proceed to elect such President, Directors and officers as they may deem necessary for conducting the affairs of the company; and such Directors, or their successors, shall have power to dispose of any remainder of stock which may not have been subscribed for.

When may go into operation. Ib., 460, § 3.

SEC. 7. The said corporations shall not go into operation until one-half of the capital stock required by their respective charters shall be paid in lawful money of the United States, and an oath or affirmation to that effect shall have been made by the President, Treasurer, and a majority of the Board of Directors, which shall be recorded in the Secretary of State's office, and published in at least two respectable newspapers in the State, one as near the establishment as circumstances will admit, the other in the city of Charleston; the oath or affirmation required as above shall be repeated after the payment of each installment, until the whole capital shall have been paid in.

Liability of members before stock paid in. Ib., § 4.

SEC. 8. The members of such corporation shall be liable, jointly and severally, for all debts and contracts made by such corporation, until the whole amount of capital stock shall have been actually paid in, and no note, bond or obligation given by any stockholder, whether secured by a pledge of the stock in such corporation, or in any other manner, shall be considered as payment of any part of the capital stock.

Debts not to exceed paid-in stock; liability of Directors. Ib., § 5.

SEC. 9. The total amount of debts which such corporations shall at any time owe shall not exceed the amount of its capital stock actually paid in, and, in case of excess, the Directors in whose administration it shall happen, shall be, jointly and severally, liable for the same in their natural capacities, as well to the contractors of the other part as to the corporation; such of the Directors as may have been absent when the said excess was contracted or created, or who may have voted against such contract or agreement, and caused his vote to be recorded in the minutes of the Board, may respectively

prevent such liability from attaching to themselves by forthwith giving notice of the fact to a general meeting of the stockholders, which they are authorized to call for that purpose.

Powers of such corporations. Ib., § 7.

SEC. 10. Such corporations shall have power to purchase and hold such real estate as may be required for their purposes, or such as they may be obliged or may deem for their interest to take in the settlement of any debts due them, and they may dispose of the same; to sue and be sued in all Courts; to have and use a common seal; to elect, in such manner as they may determine to be proper, all necessary officers, and fix their duties; to make by-laws and regulations, consistent with the Constitution and laws of this State, for their own government and the due and orderly conduct of their affairs, and the management of their property.

Management, choice of President and Directors. Ib., 461, § 8.

SEC. 11. The business of every such corporation shall be managed and conducted by the President and Directors thereof, and such other officers, agents and factors as each company may think proper to authorize. The Directors shall be chosen, annually, at such time and place as shall be provided by the by-laws of the company, and shall hold their offices for one year, and until others are chosen in their stead; and one of the Directors shall be chosen President, either by the company or by the Directors, as the by-laws may appoint.

Directors to submit statements to stockholders; penalty. Ib., § 9.

SEC. 12. The Directors shall submit to the stockholders, annually, a written statement, under oath or affirmation of the Treasurer and President of the corporation, setting forth the amount of capital stock paid in and general assets of the company, and, also, the amount of existing debts, which statement shall be published in a newspaper, if there be one in the County where such corporation is located, and in a newspaper in the city of Charleston; and if any Board of Directors shall fail to do so, the said Directors shall be personally liable, jointly and severally, for all debts of the company, then existing, and for all that shall be contracted before such notice is given.

Shares, personal estate. Ib., § 10.

SEC. 13. The shares in the capital stock of such corporation shall be deemed personal estate; and the mode of issuing the evidence of stock, and the manner, terms and conditions of assigning and transferring shares, be prescribed by the by-laws of each corporation.

Loan and division of capital; liability of Directors. Ib., § 11.

SEC. 14. No part of the capital stock of such companies shall, at any time, or upon any pretence whatever, be loaned to the stockholders; neither shall the capital be withdrawn or divided among the stockholders until all the liabilities of the company are lawfully paid, and no dividends shall be declared except from the net earnings of the company. The Directors consenting to such withdrawal

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meeting of the stockholders,
for that purpose.
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or division of the capital before the debts are paid, or to dividends out of the capital stock, shall be liable, jointly and severally, personally, for the debts of the company, to an amount equal to the portion of capital which has been withdrawn or divided, or the dividend declared out of the capital stock.

Liability of executors, &c., and estates of deceased stockholders.
Ib., § 12.

SEC. 15. Persons holding stock in such companies as executors, administrators, or holding, by way of collateral security, shall not be personally subject to the liabilities of the stockholders under the foregoing provisions; but the person pledging such stock shall be liable as a stockholder, and the estates and funds in the hands of such executors or administrators shall be liable in their hands, in like manner, and to the same extent, as the deceased testator or intestate, or the ward or person interested in such trust fund would have been if they had, respectively, been living and competent to act and hold the stock in their own names.

Votes of stockholders.
Ib., 462, § 13.

SEC. 16. At all meetings of the company, and at the election of officers, each stockholder shall have one vote for each share he may own or represent, and executors, administrators, guardians and trustees shall represent the shares in their hands, and a person pledging his stock shall, nevertheless, vote as a stockholder.

Limitation of charters.
Ib., § 15.

SEC. 17. Where no other time is specified, all charters of such companies shall be for the term of fourteen years.

Other liabilities not removed.
Ib., § 16.

SEC. 18. Nothing contained in the foregoing Sections shall be construed to remove such liabilities as, by law, such corporations, their officers and stockholders, are now subject to.

Funds not to be used in banking.
Ib., 460, § 6.

SEC. 19. No part of the capital stock or any of the funds of such corporation shall, at any time during the continuance of their charters, be used or employed, directly or indirectly, in banking operations, or for any purpose whatsoever, inconsistent with the foregoing provisions or their respective charters.

Plank Road Companies.

Reports of plank roads.
1852, XII, 190, § 1.

SEC. 20. That it shall not be requisite for plank road companies to make any report to the Legislature of their acts and doings, receipts and expenditures, condition and business of the roads, unless such reports shall be specially called for by the Legislature.

Powers, privileges and liabilities.
1850, XII, 16, § 11.

SEC. 21. All companies, for the construction of plank roads, which shall receive charters from the State, shall have all the powers and privileges, and be subject to all the liabilities and other provisions contained in Sections 22 to 46, inclusive, unless the company be specially exempted therefrom by the Legislature.

Notice of application for charter.
Ib.

SEC. 22. Companies for the construction of plank roads may be formed and receive their charters in the following manner: Whenever it is desired to construct a plank road between any two points

in the State, public notice thereof shall be given by advertisement at the Court House of such County, in which any part of the said road is intended to be located, and in some gazette in each of the said Counties, if any be published therein, and also in at least one daily gazette in Charleston and Columbia, for the space of one month. The notice shall specify, with reasonable certainty, the intended route of the road, and the amount of capital which it is proposed to raise for its construction. At the time of making the publication, a copy shall be sent to the Executive Office of this State.

Subscriptions; first payment; report of Commissioners.
Ib.; 1851, XII, 110, § 1.

SEC. 23. At the expiration of the time of advertisement, books for subscription to the stock shall be opened at such times and places, and by such Commissioners as shall be designated by the Governor. The Commissioners shall proceed, at the appointed times and places, to open the books for subscriptions to the capital stock of the company, (which shall be subdivided into shares of the value of twenty dollars each,) and shall receive the first payment of one dollar in each share. In case of under subscription, they shall report the fact to the Governor, who may authorize the re-opening of the books at such further times and places as he may appoint. In case of over subscription, they shall reduce the subscription rateably, except that no subscription of five shares or under shall, in the first instance, be reduced. In all cases, a report of their proceedings shall be transmitted by the Commissioners to the Governor.

Meeting of subscribers; election of President and Directors.
1850, XII, 17, § 11.

SEC. 24. As soon as the requisite number of shares shall be subscribed, such of the Commissioners as may be designated shall appoint a convenient time and place for the meeting of the subscribers, and cause it to be advertised for a reasonable time. At that time and place, the subscribers may appear in person, or by proxy, and, the meeting having assembled, a proper registry shall be made of the shares represented, and the subscribers shall vote for a President, and such number of Directors as they may choose, to serve for one year, and until a new election be made.

Statement.
Ib.

SEC. 25. The President and Directors shall immediately prepare, under their hands and seals, a statement of their election, of the number of shares subscribed for, the amount paid over to them by the Commissioners, and the corporate name which they desire to assume for the company, and shall transmit the statement to the office of the Seretary of State, in Columbia, for registry.

When Act of incorporation attaches.
Ib.

SEC. 26. Upon receipt of such statement, the Secretary of State shall issue his certificate, under the seal of the State, testifying that the law has therein been complied with, and, upon the signature of the certificate by the Governor, the company shall be considered as formed, and an Act of Incorporation shall immediately attach.

SEC. 27. Plank Road companies
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SEC. 28. The immediate direction
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SEC. 29. If the day of annual ele
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SEC. 30. The President and Dire
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SEC. 31. At meetings of the com
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SEC. 32. The President and Dire
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Incorporation shall immediately

Powers. Ib.

SEC. 27. Plank Road companies so incorporated shall have perpetual succession of members, and be capable, in their corporate name, to sue and be sued, answer and be answered, appear, defend and prosecute to final judgment, decree and execution in all Courts. They shall have the capacity to have a common seal, to elect, in such manner as they shall determine to be proper, all necessary officers, whose election is not otherwise herein provided for, and fix their compensation and define their duties and obligations; to make by-laws and regulations, consistent with the Constitution and laws of the State, for their own government, and for the due and orderly conducting of their affairs, and the management of their property. They may make, purchase, or otherwise take and hold any land necessary for the site on which to locate, run and establish their plank road, and also all private rights of way, water courses, or other easement which may lie on or along the route through which such plank road shall pass, and may conduct their plank roads across and over any public road, river, creek, water course, or waters that may be on the route, but in such manner as shall not obstruct the passage of the public road or navigation of the stream.

Management; vacancies. Ib., 18.

SEC. 28. The immediate direction of the affairs of such companies shall be vested in a President and Directors, to be chosen, annually, according to by-laws to be made for such purpose. In case of vacancies, they may be filled by appointment, until the next election.

Elections. Ib.

SEC. 29. If the day of annual election pass without an election being effected, the company shall not be dissolved thereby, but it shall be lawful, on some other day, to make such election, in such manner as the by-laws of the company shall determine.

Board. Ib.

SEC. 30. The President and Directors shall be styled the Board of Direction.

Votes. Ib.

SEC. 31. At meetings of the company, each member shall be entitled to one vote for each share held by him, which he may cast either in person or by proxy, but no one but a stockholder shall be a proxy.

Advances on subscribed stock; sale of stock. Ib., 19.

SEC. 32. The President and Directors shall have power to require from the subscribers and stockholders such advances and installments on their respective shares, as in their opinion the wants of the company shall require, until the whole of the subscription shall be paid; and if any subscriber or holder of stock in plank road companies shall neglect to pay the installment required of him within thirty days after the time specified therefor, by advertisement in two or more public gazettes, the President and Board of Directors, after giving thirty days' notice of their intention, may

proceed to sell, at public auction, the shares upon which such installment may be due, and the same shall be transferred to the purchaser.

Surplus of sale; stockholder liable for deficiency. Ib.

SEC. 33. If such shares shall sell for more than the installment due, with interest and charges of sale and notice, the subscriber or stockholder shall be entitled to the surplus. If such share shall not sell for a sum sufficient to pay the installment, with interest and charges of sale and notice, the subscriber or stockholder shall be held liable to the corporation for the deficiency.

Purchaser subject to liabilities of stockholder. Ib.

SEC. 34. A purchaser of stock, under such a sale, shall be subject to the same rules and regulations as the original subscriber, and no sale by the original subscriber of stock, or his assignees, shall release him from his obligation to the company to pay the whole amount of his subscription.

Each stockholder liable until stock paid in. Ib.

SEC. 35. The members of such corporation shall be liable, jointly and severally, for all debts and contracts made by such corporation, until the whole amount of capital stock shall have been actually paid in; and no note, bond or obligation given by any stockholder, whether secured by a pledge of the stock in such corporation, or in any other manner, shall be considered as payment of any part of the capital stock.

Debts not to exceed stock paid in; Directors liable; liability, how avoided. Ib., 20.

SEC. 36. The total amount of debts which such corporation shall, at any time, owe shall not exceed the amount of its capital stock actually paid in, and in case of excess, the Directors in whose administration it shall occur shall be jointly and severally liable for the same in their natural capacities, as well to the contractors of the other part as to the corporation; such of the Directors as may have been absent, when the said excess was contracted or created, or who may have voted against such contract or agreement, and caused the vote to be recorded in the minutes of the Board, may respectively prevent such liability from attaching to themselves, by forthwith giving notice of the fact to a general meeting of the stockholders, which they are hereby authorized to call for that purpose.

Loans; dividends. Ib.

SEC. 37. No part of the capital stock of such companies shall, at any time, or upon any pretence whatever, be loaned to the stockholders; neither shall the capital be withdrawn or divided among the stockholders, until all the liabilities of the company are lawfully paid, and no dividends shall be declared, except from the net earnings of the company. The Directors consenting to such withdrawal or division of the capital before the debts are paid, or the dividends out of the capital stock, shall be liable, jointly and severally, personally, for the debts of the company, to an amount equal to the portion of capital which has been withdrawn or divided, or the dividend declared out of the capital stock.

SEC. 38. The shares in t
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SEC. 39. Persons holdi
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SEC. 41. Such compar
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Shares personal estate.
Ib.

SEC. 38. The shares in the capital stock of such corporations shall be deemed personal estate, and the mode of issuing the evidence of stock, and the manner of assigning and transferring shares, shall be prescribed by the by-laws of each corporation, subject to the general law of the land respecting the transfer and assignment of personalty of that nature.

Liability of executors, &c., and estates of deceased stockholders.
Ib.

SEC. 39. Persons holding stock in such companies as executors, administrators, trustees or guardians, or holding, by way of collateral security, shall not be personally subject to the liabilities of stockholders under Sections 21 to 35, inclusive, of this Chapter; but the person pledging such stock shall be liable as stockholder, and the estates and funds in the hands of such executors or administrators, trustees or guardians, shall be liable in their hands in like manner, and to the same extent, as the deceased testator or intestate, or the ward or person interested in such trust fund would have been, if they had, respectively, been living, and competent to act and hold the stock in their own names.

Road-beds.
Ib.

SEC. 40. Roads constructed by such companies shall be constructed so as to make, secure and maintain a smooth and permanent road, the track of which shall be made of plank, timber, or other like material, so that the same shall form a hard and even surface, and so as to permit all carriages and vehicles to pass on and off where such roads are intersected by other roads of any kind.

Time to complete road; toll and toll gates.
Ib.

SEC. 41. Such companies shall have four years to construct and complete such roads. Whenever three consecutive miles of any such road are completed, it shall be lawful for the company to erect turnpikes or toll gates thereon, and to appoint toll gatherers to charge and collect toll. Toll gates shall thereafter be put up at such points as the company may select, and such rates of toll shall be collected as they may arrange, but the rates of toll shall always be put up to public view at all toll gates. The toll gatherers at each and every toll gate may prevent from passing the gate, or detain until the toll be paid, any carriage, wagon, vehicle or animal subject to toll. Any person who shall forcibly or fraudulently pass any toll gate erected on such road, without having paid the legal toll, or who shall turn out of the road with his carriage, vehicle or animals, to avoid payment of the tolls, and again enter on the road, shall, for each offense, forfeit to the company a sum not exceeding twenty dollars, to be recovered before any neighboring Trial Justice. Any person who shall willfully or maliciously break or throw down any gate on such road, or shall willfully and maliciously destroy or injure any portion of said roads, shall be liable to indictment as for a misdemeanor, and, upon conviction, shall be fined and imprisoned at the discretion of the presiding Judge.

Reports; books.
1852, XII, 190.

SEC. 42. The Board of Direction shall, when specially required by the Legislature, make report to the Legislature, under oath, of their acts and doings, receipts and expenditures, and condition and business of the road. Their books shall, at all times, be open to the inspection of any Committee of the Legislature, appointed for that purpose. Any such corporation refusing or neglecting to make such return shall forfeit, for every neglect or refusal, a sum not exceeding two thousand dollars.

Not subject to §§ 47 to 72.
1850, XII, 21, § 11.

SEC. 43. Said plank road companies shall not be subject to any of the provisions or enactments contained in Sections 47 to 72, inclusive.

Fees of Secretary.
Ib.

SEC. 44. For all services required under Sections 21 to 43, the Secretary of State shall be entitled to receive from every such company the sum of five dollars, and no more.

Charter to last fourteen years.
Ib.

SEC. 45. All such charters shall be taken and held for the term of fourteen years.

May run roads on highways.
Ib.

SEC. 46. It shall be lawful for such companies to conduct their roads along or upon any highway or public road, on such terms and conditions as may be agreed upon between such companies and any Board of County Commissioners.

Turnpike, Bridge, Causeway and Ferry Companies.

Subject to following provisions unless specially excepted.
1827, VI, 302, § 1.

SEC. 47. That whenever the Legislature shall authorize the formation of a company for the construction of a turnpike road, bridge, causeway, or the keeping of any ferry, the company, in its formation, organization, and subsequent proceedings, shall be subject to all the provisions of Sections 48 to 72, inclusive, of this Chapter; except such as the Act of authorization shall expressly or by necessary implication exclude.

Shares; installments.
Ib., ¶ 1.

SEC. 48. The value of each share in the company shall be one hundred dollars. To this amount alone shall installments on one share be called for, and in sums not exceeding ten dollars on one share, in any one period of sixty days. At the time of subscribing, ten dollars shall be paid on each share subscribed for.

Number of shares; increase.
Ib., ¶ 2.

SEC. 49. Where the Act of authorization does not fix the number of shares in the company, they shall not be less than one hundred, nor more than three hundred. A subscription for the lowest number shall be sufficient for organizing the company, and then the shares may be increased by the company to any number not exceeding three hundred.

Commissioners to receive subscriptions.
Ib., ¶ 3.

SEC. 50. The Governor for the time being shall name three or more Commissioners to receive subscriptions for the stock, and appoint the time and place or places of subscribing; the time named

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SEC. 51. If, at closing the boo
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shall be the first day of opening the books, and they shall remain open for six successive secular days, from ten in the morning until four o'clock in the afternoon of each day. During this period, the Commissioners shall receive all subscriptions for shares which may be offered, and on which there shall be paid to the said Commissioners the sum of ten dollars for each share. At the closing of the books, the Commissioners, or a majority of them, shall declare the stock filled, if that be the case. If more shares are subscribed than are authorized, the Commissioners shall reduce them to the authorized number, by taking from the highest subscribers until all are reduced to equality, as near as possible. But if perfect equality cannot be obtained, the last reduction, producing inequality, shall be from the lower subscribers. The deposits on reduced shares shall be immediately returned to the subscribers; and the deposits on all shares not reduced, and which form the stock of the company, shall be immediately paid into some bank of the State of South Carolina, to the credit of the company.

Closing of subscription books.
Ib., ¶ 4.

SEC. 51. If, at closing the books, all the shares are not subscribed, the Commissioners shall return all the deposits which shall be demanded within one month; and, at the expiration of that month, shall pay the rest into the said bank, to the credit of the company, in case it shall be organized, and if not, to be passed to the credit of the subscribers who have paid the same. And thereupon the Commissioners shall deliver the book or books of subscription to the Cashier of the said bank in which the deposit is made, who shall receive private subscriptions for shares, with payment of ten dollars on each, until the whole stock required to organize the company is taken, when the books shall be by him closed: *Provided, nevertheless,* That the books shall in no case be kept open by him after the first day of the next meeting of the Legislature; on which said day the Act of authorization shall expire, unless all the shares are then subscribed, and the deposits on them are paid into bank. The Cashier shall regard all public subscriptions on which the deposits are paid into bank as private subscriptions.

Proviso.

List of subscriptions and certificate of deposit of first installment to be recorded with Secretary of State.
Ib., ¶ 5.

SEC. 52. Where all the shares of the company are taken, either by public or private subscriptions, a list of the subscribers, with the number of shares each has subscribed, shall be made out by the Commissioners who received them; or, in the case of private subscriptions, by the Cashier of the bank; and on the back of such list shall be endorsed a certificate, by the President of the bank, that the deposit of ten dollars on each share has been paid into the said bank; which said list and certificate thereon shall be delivered by the said President to the Secretary of State.

Patent of incorporation to be issued by Secretary.
Ib., 304, ¶ 6.

SEC. 53. Upon the receipt of such list and certificate, it shall be the duty of the said Secretary to make out letters patent, declaring the subscribers on the said list a body corporate, by the name and for the purposes mentioned in the Act of authorization; which said letters patent shall be signed by the Governor, countersigned by the said Secretary, and under the seal of the State; and thereupon the subscribers shall thenceforth form a body politic and corporate, in deed and in law, by the said name, and for the said purposes.

Corporate powers.
Ib., ¶ 7.

SEC. 54. Such corporation, so formed and patented, shall have perpetual succession of members, may have a common seal, may sue and be sued, plead and be impleaded, in any Court of law or equity in this State; and may make all such regulations, rules and by-laws as are necessary for the government of the corporation, or for effecting the object of it, as expressed in the Act of authorization: *Provided*, Such regulations, rules and by-laws shall not be repugnant to the laws or Constitution of this State.

Proviso.

Not to bank, insure or trade.
Ib., ¶ 8.

SEC. 55. Such corporation is expressly prohibited from carrying on any banking operations, from effecting any insurance on lives or property, and from trading either as brokers, factors or merchants.

Power to hold real estate.
Ib., ¶ 9.

SEC. 56. Such corporation shall have power to purchase, have and hold in fee, or for years, any real estate which may be necessary for the accomplishment of the objects expressed in the Act of authorization; but for no other object or purpose: *Provided*, The value thereof shall not exceed one-tenth part of its capital stock; and shall have power to sell, convey or exchange the same.

Amount limited.

Funds may be invested; how.
Ib., ¶ 10.

SEC. 57. Such corporation is authorized to vest in the stock of this State, or of any incorporated bank thereof, or in stock of the United States, annually, one-fourth part of its profits: *Provided*, The whole amount so invested shall not exceed, at any one time, one half of the costs of all the bridges erected by such company; which sum so invested shall constitute the primary fund for the reconstruction of such bridges. The dividends and interest accruing on such investments shall not be regarded as a part of the profits of the corporation in the estimate to be taken; but the amount annually invested shall be taken from the limited profits of the year in which the investment is made.

Provisions as to officers, &c.
Ib., ¶ 11.

SEC. 58. When all the shares of such corporation are held by less than six individuals, they shall appoint a President, and all the other members shall be regarded as Directors. But if the shares are held by six or more individuals, then, at a general meeting of the stockholders, they shall elect a President, and not less than two nor more than twelve Directors, who shall have power to appoint a

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Secretary of the company, and all other agents, officers and contractors, which, by the by-laws of the company, may be authorized. The said President and Directors shall be styled the Direction of the corporation, and shall make all contracts and agreements in behalf thereof, and have power to call for all installments, declare all dividends of profits, and to do and perform all other acts and deeds which by the by-laws of the corporation they may be empowered to do and perform, not inconsistent with the Act of authorization; and the acts of the Direction, authenticated by the signatures of the President and Secretary, shall be binding on the corporation without seal.

Scale by which votes are to be taken.
Ib., ¶ 12.

SEC. 59. In all elections for President and Directors of the corporation, and on all questions coming before a general meeting of the stockholders, the votes shall be taken according to the following scale, viz: The owner of one or two shares shall be entitled to one vote; the owner of not less than three nor more than four shares shall be entitled to two votes; the owner of not less than five nor more than six shares, shall be entitled to three votes; the owner of not less than seven nor more than eight shares, to four votes; the owner of not less than nine nor more than eleven shares, to five votes; the owner of not less than twelve nor more than fifteen shares, to six votes; the owner of not less than sixteen nor more than twenty shares, to seven votes; the owner of not less than twenty-one nor more than twenty-six shares, to eight votes; the owner of not less than twenty-seven nor more than thirty-three shares, to nine votes; the owner of not less than thirty-four nor more than forty shares, to ten votes; and the owner of every ten shares above forty, shall be entitled therefor to one vote: *Provided*, That no individual shall be entitled to more than twenty votes.

No one entitled to more than twenty votes.

Proxies.
Ib., ¶ 13.

SEC. 60. Votes may be given by proxy, but the person so voting must be a stockholder, and, before he votes, may be required by any stockholder to swear that he has no interest, directly or indirectly, in the stock in which he so offers to vote by proxy. A trustee of stock shall not vote on shares held by him in trust, expressed or declared, where the *cestui que trust* holds other shares, either in his own name or in the name of another trustee; but the *cestui que trust* may vote on all shares owned by him, whether legally or equitably, according to the scale aforesaid.

Elections to be annual.
Ib., ¶ 14.

SEC. 61. The election of President and Directors shall be made annually, and at least one Director shall be changed at each election, according to a by-law made for that purpose. But if the day of annual election should pass without an election for President and Directors, or any of them, the corporation shall not be thereby dissolved, but it shall be lawful on any other day to hold and make

such election, in such manner as may be prescribed by the by-laws of the corporation.

Report by Direction. Ib., ¶ 15.

SEC. 62. The Direction shall once in every year make a full report on the state of the corporation and of its affairs, to a general meeting of the stockholders.

Regulations as to contracts made by direction. Ib., ¶ 16.

SEC. 63. The Direction shall not exceed in their contracts the amount of the capital of the corporation; and in case they shall do so, the President and Directors who are present at the meeting at which such contract or contracts so exceeding the said capital shall be made, shall be jointly and severally liable therefor, both to the contractor or contractors, and to the corporation: *Provided*, That any one of them may discharge himself from such liability by voting against such contract or contracts, and causing such vote to be recorded in the minutes of the Direction, and giving notice thereof to the next general meeting of the stockholders.

Increase of capital stock. Ib., ¶ 17.

SEC. 64. By an Act of the Legislature, passed on application signed by such majority of the stockholders as are owners of at least two-thirds of the stock, the capital stock of the corporation may be increased, either by increasing the amount of the shares, or by increasing the number thereof by new subscriptions; and by such Act the powers of the corporation may be extended to the construction of new works, connected with the old.

Provisions as to reconstruction of road, &c. Ib., ¶ 18.

SEC. 65. After a road or bridge has been once completed, and the same shall be destroyed in part or in whole, if the funds of the company are not sufficient to reconstruct it, a general meeting of stockholders may order an installment on each share, beyond the sum of one hundred dollars before limited, which shall be adequate to such reconstruction: *Provided*, Such installment shall not exceed twenty dollars on each share.

Contracts with stockholders. Ib., ¶ 19.

SEC. 66. Where any stockholder of such corporation shall become the contractor for any part of the work at public auction, or with the approbation of the stockholders at a general meeting, and shall give security for the performance thereof, approved by the Direction, he shall receive credit on his installments as called for, for such proportion of the amount of his contract as corresponds with the rate of such installments.

Work of corporation to be finished in four years, &c. Ib., 306, ¶ 20.

SEC. 67. When such corporation is duly chartered as aforesaid, it shall begin the work designated in the Act of authorization, within one year after the date of the charter, and shall complete the same within four years after the said date; and, on failure either to begin or to complete the same within the time limited, the charter shall be *ipso facto* forfeited, and the corporation shall *ipso facto* dissolve.

SEC. 68. In case the Act of aut
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SEC. 69. All dividends on share
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from the day of transferring such
be *ipso facto* a transfer to the Stat
value equal to the amount of the
the dividends on all the stock held
aforesaid; and, after the expiratio
amount may be paid by order of
stockholders: *Provided*, The same
the whole remaining stock held by
appropriation; and, upon such ful
holders of the par value of their w
the State, and the corporation sha
cept for closing its affairs.

SEC. 70. Where the State shall
or where a charter is granted to a
it shall be lawful for the Legislatu
tion of thirty-four years from the
by the corporation or individual o
the solvency of which, in that
twelve months, the par value of
the said individual or individua
pose the corporation, in proporti

may be prescribed by the by-laws

e in every year make a full re-
ion and of its affairs, to a general

not exceed in their contracts the
rporation; and in case they shall
rs who are present at the meeting
so exceeding the said capital shall be
ally liable therefor, both to the con-
corporation: *Provided*, That any
self from such liability by voting
s, and causing such vote to be re-
ection, and giving notice thereof to
stockholders.

egislature, passed on application
stockholders as are owners of at
capital stock of the corporation
easing the amount of the shares,
reof by new subscriptions; and by
poration may be extended to the
ected with the old.

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art or in whole, if the funds of the
construct it, a general meeting of
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e limited, which shall be adequate
ch installment shall not exceed

ler of such corporation shall be-
of the work at public auction, or
holders at a general meeting, and
nance thereof, approved by the Di-
his installments as called for, for
his contract as corresponds with

on is duly chartered as aforesaid,
ted in the Act of authorization,
the charter, and shall complete the
said date; and, on failure either to
thin the time limited, the charter
he corporation shall *ipso facto* dis-

Subscriptions by State.
Ib., ¶ 21.

SEC. 68. In case the Act of authorization shall direct a subscription of stock in behalf of the State, such subscription shall be made by the Comptroller General, as soon as all the other shares are subscribed, and ten dollars on each share are paid into bank. The State shall have a number of votes in the Direction equal to its stock, which may be given by a single person, or by as many persons as there are votes, which person or persons so exercising the power of Directors shall be appointed by the Governor, unless a different mode of appointment shall be prescribed by law. The person or persons acting in the Direction on the part of the State shall represent the State in all the meetings of the stockholders, and be entitled to vote on all questions, except the appointment of President and Directors, and, in voting, shall have the proportionate influence which the stock held by the State entitles it to.

Number of votes allowed.

State dividends to be paid into Treasury; accumulation may be applied to purchase of stock from stockholders.
Ib., ¶ 22.

SEC. 69. All dividends on shares held by the State shall be paid into the Treasury of the State. After the expiration of twenty-four years from the first receipt of tolls by the corporation, the amount thus accumulated, on the part of the State, may be ordered by the Legislature to be paid over to the individual stockholders, in proportion to the number of their shares; and, thereupon, the bank in which the same shall be deposited shall pass the same to their credit individually; and such deposit shall be a valid payment, the State guaranteeing the solvency of the bank in this respect for one year from the day of transferring such credit; and such payment shall be *ipso facto* a transfer to the State of an amount of stock at a par value equal to the amount of the said payment; and, thereupon, the dividends on all the stock held by the State shall accumulate as aforesaid; and, after the expiration of ten years, the accumulated amount may be paid by order of the Legislature to the individual stockholders: *Provided*, The same shall amount to the par value of the whole remaining stock held by them, or shall be made so by an appropriation; and, upon such full payment to the individual stockholders of the par value of their whole stock, the same shall vest in the State, and the corporation shall dissolve for every purpose, except for closing its affairs.

State may purchase charters held in fee after thirty-four years from first receipt of toll.
Ib., ¶ 23.

SEC. 70. Where the State shall not take stock in a corporation, or where a charter is granted to an individual or individuals in fee, it shall be lawful for the Legislature, at any time after the expiration of thirty-four years from the time of the first receipt of tolls by the corporation or individual or individuals, to pay into a bank, the solvency of which, in that respect, the State guarantees for twelve months, the par value of the whole stock to the credit of the said individual or individuals, or of such individuals as compose the corporation, in proportion to their respective shares, and

such payment shall *ipso facto* be a transfer of the whole stock to the State, and the corporation thereupon shall dissolve, and the charter shall expire for every purpose, except for closing its affairs.

Forfeiture of shares; purchaser to be a member of company. Ib., 307, ¶ 24.

SEC. 71. A share in such corporation may be forfeited for non-payment of the installment or installments due on it, according to a by-law of the company to be made for that purpose, and the forfeited shares shall be sold for cash, at public auction, after at least one month's public notice; and, in case the sum for which it sells shall not amount to the installment or installments for which it is sold, the person who owned the share at the time of forfeiture shall pay the deficiency to the company. If the share shall not sell for any sum, the person who owned it at the time of forfeiture shall continue liable for future installments. The purchaser of the share at public auction shall be a member of the company, and shall be liable for future installments in the same manner as an original subscriber.

Liability of purchaser. Ib., ¶ 25.

SEC. 72. In case a share shall be sold or transferred before all the installments are paid on it, the person selling or transferring shall be still liable to the company for all installments due, or to become due, on the share, and the person to whom it shall be sold or transferred shall become a member of the company, and shall be liable for all installments thereafter becoming due.

Charters of bridges, &c., held as real estate. Ib., § 2, ¶ 1.

SEC. 73. Every charter of a bridge, ferry or turnpike road shall be in fee simple, and shall be held by the grantee or grantees, his, her or their heirs, or assigns, or successors, forever, as real estate, subject to be extinguished in manner heretofore expressed.

Regulations as to grants to bridges, &c. Ib., ¶ 2.

SEC. 74. No grant of a bridge, ferry or turnpike road shall prevent the Legislature from making further grants of ferries, bridges or turnpike roads, within any distance of the same, whenever the convenience of the community may require such further grants. But every grant of a ferry, bridge or turnpike road shall exclude all other persons from erecting and keeping up any bridge, ferry or road, which may reduce the profits of such chartered bridge, ferry or turnpike road, except for the individual use of the person erecting and keeping up such unchartered bridge, ferry or road, without the authority of the Legislature expressed by Act.

Manner of Acquiring Rights of Way.

Notice to be given owner of lands, &c. 1868, XIV, 89, § 1.

SEC. 75. That whenever any person or corporation shall be authorized by charter to construct a railway, canal, turnpike, or other public highway in this State, such person or corporation, before entering upon any lands for the purpose of construction, shall give to the owner thereof (if he be *sui juris*) notice in writing that the right of way over said lands is required for such purpose, which notice shall

be given at least thirty days before
if such notice shall be given, and
period of thirty days after service
his refusal or consent, it shall be pr
and such person or corporation r
lands: *Provided, however*, That th
titled to move for an assessment
hereinafter directed.

SEC. 76. If the owner of said l
consent to entry upon his lands, wi
person or corporation requiring su
petition, to the Circuit Judge of tl
situated, for the empannelling of
which shall be paid as just compe
quired, in which petition shall be s
the names of the owners, the purp
quired, and such other facts as ma
hearing of such petition, the Circu
be filed in the office of the Clerk o
said County, and shall further ord
pannel a jury of twelve to ascertai
the lands required; and it shall be
diately on receiving such order, to
notice thereof in writing, and of t
On the day assigned, the said Cle
if they shall attend, shall select th
ested freeholders of the County, ar
the names of twelve to act as juror
to be forthwith summoned to meet
as he may assign, for the purpose
ascertaining the compensation to b
the same; it shall further be the d
or by his deputy, to attend at the
pose of organizing the jury; and l
from the vicinage other disinterest
the stead of any of those first sum
who shall be objected to by either
cation on account of interest.

SEC. 77. The jury so empannell
fully and impartially to determi
submitted to them, shall proceed t
testimony in reference to the const
and the quantity of land which sha
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transfer of the whole stock to the
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for closing its affairs.
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individual use of the person erect-
rtered bridge, ferry or road, with-
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ing Rights of Way.

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railway, canal, turnpike, or other
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ris) notice in writing that the right
for such purpose, which notice shall

be given at least thirty days before entering upon said lands; and if such notice shall be given, and the owner shall not, within the period of thirty days after service of said notice, signify in writing his refusal or consent, it shall be presumed that such consent is given; and such person or corporation may, thereupon, enter upon said lands: *Provided, however*, That the owner of said lands may be entitled to move for an assessment of compensation in the manner hereinafter directed.

Consent to enter presumed, in case refusal is not signified.

SEC. 76. If the owner of said lands shall signify his refusal of consent to entry upon his lands, without previous compensation, the person or corporation requiring such right of way shall apply, by petition, to the Circuit Judge of the County wherein such lands are situated, for the empannelling of a jury to ascertain the amount which shall be paid as just compensation for the right of way required, in which petition shall be set forth a description of the lands, the names of the owners, the purposes for which the lands are required, and such other facts as may be deemed material. On the hearing of such petition, the Circuit Judge shall order the same to be filed in the office of the Clerk of the Court of Common Pleas for said County, and shall further order the Clerk of the Court to empannel a jury of twelve to ascertain the compensation for the use of the lands required; and it shall be the duty of said Clerk, immediately on receiving such order, to give to the owner of the lands notice thereof in writing, and of the day which shall be assigned. On the day assigned, the said Clerk, in the presence of the parties, if they shall attend, shall select the names of twenty-four disinterested freeholders of the County, and from that number shall draw the names of twelve to act as jurors, and shall cause those so drawn to be forthwith summoned to meet at such place and at such time as he may assign, for the purpose of examining the said lands, and ascertaining the compensation to be made for the right of way over the same; it shall further be the duty of the said Clerk, in person or by his deputy, to attend at the same time and place for the purpose of organizing the jury; and he shall have power to summon from the vicinage other disinterested freeholders to act as jurors in the stead of any of those first summoned who shall fail to attend, or who shall be objected to by either party on the ground of disqualification on account of interest.

If consent not given, how corporation must proceed.
Ib., 90, § 2.

Petition to be heard by Circuit Judge and filed with Clerk.

Clerk to organize.

SEC. 77. The jury so empannelled, after being first sworn faithfully and impartially to determine the question of compensation submitted to them, shall proceed to inspect the premises, and to take testimony in reference to the construction of the proposed highway, and the quantity of land which shall be required therefor; and, irrespective of any benefit which the owner may derive from the pro-

Jury to inspect premises, fix compensation and return verdict.
Ib., § 3.

posed highway, and with respect alone to the quantity and value of the land which may be required, and to the special damage which the owner may sustain by reason of the construction of the highway through his lands, they shall ascertain the amount of compensation which shall be made to the owner thereof, and shall render their verdict in writing for the same.

Right of appeal to Circuit Court.
Ib., § 4.

SEC. 78. From the verdict so rendered it shall be the right of either party to appeal to the first term of the Circuit Court next ensuing in the County, giving to the opposite party fifteen days' notice of such intended appeal, with the grounds thereof; and, upon the hearing of such appeal, if the Court shall be satisfied of the reasonable sufficiency of the grounds, an issue shall be ordered, in which the appellant shall be the actor, and the question of compensation shall be thereupon submitted to a jury in open Court, whose verdict shall be final and conclusive, unless a new trial shall be ordered by the Supreme Court. But in no case of appeal shall the progress of the work of construction be stayed: *Provided*, The person or corporation requiring the right of way shall deposit with the Clerk of the Court the amount of the verdict from which the appeal is taken.

Amount of verdict to be deposited.

Lands for depots, &c.
Ib., 91, § 5.

SEC. 79. Whenever any lands shall be required for the location of depots, stations, turn-outs, section-houses, or other necessary uses of a highway, and from want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner, the same may be taken at an assessed valuation, to be made by a jury in like manner as hereinbefore directed for ascertaining the compensation for right of way.

Notice to be given to trustee, &c., in certain cases.
Ib., § 6.

SEC. 80. While the owner, or any one of the several owners, of the lands is a *feme covert*, an infant, or *non compos mentis*, the required notices shall be served upon the trustee, guardian or committee of such persons; and if there be no trustee, guardian or committee, the Clerk of the Court of Common Pleas shall have power, and he is hereby authorized, to appoint for such person a guardian *ad litem*, upon whom the service shall be made, and who shall represent the interest of such *feme covert*, infant, or person *non compos mentis*. And if the owner, or any of the owners of the lands, shall reside beyond the State, or his or her place of residence be unknown, it shall suffice if notice of the application for a jury, and of the time and place at which they are summoned to attend, be published by the Clerk of the Court for one month next preceding the day assigned, which publication shall be made in a newspaper published in the County, or if there be none there published, then in some newspaper of the State having general circulation in the County.

Published notice sufficient for non-residents.

SEC. 81. Upon payment of the
a jury, the right of way over said
the purposes for which the same
person or corporation who shall ho
so long as the same shall be used f
but the fee in such lands, subject t
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SEC. 82. No lands or right of w
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President of the corporation whos
required, or upon any Director or

SEC. 83. Nothing herein contain
entry upon any lands for purpos
if in any case the owner of any la
corporation requiring a right of wa
the construction of the highway wit
said owner shall have the right, af
constructed, to demand compensat
sessment of the same in the mann
ded, Such petition shall be filed v
highway shall have been completed

SEC. 84. All proceedings in relat
for the right of way, or for other
highway, shall be filed in the offi
Common Pleas for the County in w
and shall be there of record. If th
the right of way be required, shall
partly in another, the proceedings s
in which the owner, or a majority o
owner or owners shall reside in nei
shall be an equal number of the
the proceedings shall be instituted
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alone to the quantity and value of
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to the opposite party fifteen days'
with the grounds thereof; and, upon
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e actor, and the question of compen-
tted to a jury in open Court, whose
lusive, unless a new trial shall be

But in no case of appeal shall the
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of Common Pleas shall have power,
appoint for such person a guardian
ce shall be made, and who shall repre-
covert, infant, or person *non compos*
any of the owners of the lands, shall
or her place of residence be unknown,
ie application for a jury, and of the
are summoned to attend, be published
one month next preceding the day
all be made in a newspaper published
none there published, then in some
g general circulation in the County.

Rights to vest; for how long: fee to remain in owner.
Ib., § 7.

SEC. 81. Upon payment of the compensation thus ascertained by a jury, the right of way over said lands, or the use of said lands for the purposes for which the same were required, shall vest in the person or corporation who shall hold the charter of such highway, so long as the same shall be used for such highway, and no longer; but the fee in such lands, subject to such special uses, shall remain in the owner thereof, and nothing herein contained shall be construed to confer upon such person or corporation any right in, or power over, the lands so condemned, other than such as may be within the particular purpose for which such lands were condemned.

Liability to condemnation.
Ib., § 8.

SEC. 82. No lands or right of way which have heretofore, or may hereafter be, procured for the construction or use of any highway, shall be considered exempt from liability to condemnation; but the right of way over said land and across or along such right of way may be condemned for the construction of any other highway: *Provided*, That in the construction of such other highway there be no hindrance to the use and enjoyment of the highway for which such lands or right of way were previously procured; and in all such cases notice of the application for a jury shall be served upon the President of the corporation whose lands or right of way shall be required, or upon any Director or local agent of the corporation.

Proviso.

Right of entry for survey, &c.
Ib., § 9.

SEC. 83. Nothing herein contained shall be construed to prevent entry upon any lands for purposes of survey and location; and if in any case the owner of any lands shall permit the person or corporation requiring a right of way over the same to enter upon the construction of the highway without previous compensation, the said owner shall have the right, after the highway shall have been constructed, to demand compensation, and to petition for an assessment of the same in the manner hereinbefore directed: *Provided*, Such petition shall be filed within twelve months after the highway shall have been completed through his or her lands.

Proviso.

Proceedings to be filed with County Clerk.
Ib., 92, § 10.

SEC. 84. All proceedings in relation to the condemnation of lands for the right of way, or for other necessary uses of any chartered highway, shall be filed in the office of the Clerk of the Court of Common Pleas for the County in which such proceedings were had, and shall be there of record. If the lands required, or over which the right of way be required, shall be partly in one County and partly in another, the proceedings shall be instituted in that County in which the owner, or a majority of the owners, reside; and if the owner or owners shall reside in neither of the Counties, or if there shall be an equal number of the several owners in each County, the proceedings shall be instituted in that County in which shall lie the greater part of the lands in reference to which such proceedings are instituted.

Where to be instituted.

Clerk's fees. Ib., § 11.

SEC. 85. The Clerk of the Court shall be entitled to a fee of ten dollars in every case instituted for the condemnation of lands under this Chapter; the same to cover all charges incident thereto prior to appeal, including all fees for recording, but not including costs of advertising; to which shall be added, in cases of appeal, an additional fee of two dollars, the same to cover all charges incident to the appeal; that the Sheriff shall be entitled to a fee of one dollar and mileage at the rate of five cents per mile for each service of notice or other paper; and, for the summoning of jurors, the same fee by law allowed for the summoning of jurors for the Courts of Common Pleas; and the jurors shall be entitled to the same per diem and mileage by law allowed for attendance as jurors at the Courts of Common Pleas; all of which costs, except the costs of appeal, shall be paid by the person or corporation requiring the lands or right of way, and the costs of appeal shall, in all cases, be paid by the losing party.

Sheriff's fees.

Jurors' fees.

By whom paid.

Penalty for failure of jurors to attend. Ib., § 12.

SEC. 86. Any juror, duly summoned to attend at the time and place designated, who shall fail to attend, shall be proceeded against in the same manner, and be subject to the same penalties, which are or may be prescribed by law for default in attending as jurors at the Court of Common Pleas.

CHAPTER LXIV.

OF CORPORATIONS ORGANIZED UNDER GENERAL STATUTES.

SEC.

Mechanical, Mining, Quarrying and Manufacturing Companies.

1. Organization.
2. Object and locality.
3. First meeting.
4. Proceedings if legality of organization be questioned.
5. By-laws.
6. Officers.
7. How and when chosen.
8. Number of Directors; President.
9. Clerk; Treasurer's bond.
10. Proxies; quorum.
11. Capital stock.
12. Shares.
13. Shares to be numbered; certificates of stock.
14. Limitation of amount of capital stock; shares not to issue for less than par value.
15. Such corporation may hold property, and may carry on business without the State.
16. Certificate to be published and filed before commencing business; also after payment of installments.
17. Also when stock is increased or reduced.
18. Transfer of shares.
19. Assessments.
20. Stock may be sold for unpaid assessments.
21. Sales and transfer of stock sold for unpaid assessments.
22. Personal liability of members.
23. On payment of last installment; certificate to be filed with Register
24. To file certificate on increasing capital stock.
25. Liability of officers in certain cases.
26. To record resolution to reduce stock.
27. Stock not to be refunded before payment of debts.
28. Certificates, when to be filed, and what to contain.
29. Liability of officers for violations of Sections 16, 17 and 28.
30. Certificates may be filed after due; officers' liability ceases from date of filing.
31. Directors liable for debts if dividend is declared by insolvent Company; proviso.
32. No loans to be made to stockholders.
33. Debts not to exceed double amount of capital stock; Directors liable; proviso.
34. Liability for false certificates.
35. Action against company, and action against officers liable, may be prosecuted together.
36. Property of stockholders may be taken on attachment or execution against Company.
37. Officers or stockholders may recover over against Company.
38. Cotton and woolen manufacturing companies may manufacture silk &c., goods.
39. Corporations may issue bonds.
40. "Corporation" and "company," synonymous.

Religious, Educational and Charitable Associations.

41. Incorporation of Protestant Episcopal Church Associations.

SEC.

Mechanical, Mining, Quarrying

SECTION 1. That three or m
ciated themselves together by a
the purpose of carrying on an
manufacturing business, and sh
sions of this Chapter, shall be a
name indicating their corporate c
association, and which is not pr
ration or company.

SEC. 2. The purpose for and
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the articles of association, and s
operations or appropriate its fur

SEC. 3. The first meeting of s
notice, signed by one or more c
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each member, or published in so
where the corporation is to be l

SEC. 4. If doubts arise whet
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vote, confirm such organization
by so doing, and depositing one
of the Court of Common Pleas
tion is located, and one with th
ion, and the subsequent acts th
as if the original organization h

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

THIS IS TO CERTIFY THAT this and/or the attached is a true and accurate copy of Chapter LXIII, "Of Corporations Organized Under Charter"

Recorded in records of the SC General Assembly, Revised Statutes Of the State of South Carolina Prepared by Commissioners under an Act of the General Assembly, Approved March 9, 1869; title page and pages 337-356; published 1873

Now on deposit with the South Carolina Department of Archives and History

GIVEN UNDER MY HAND AND SEAL OF THE DEPARTMENT
THIS June 21, 2018

Elaine Sherrill Rohr, Archivist
Reference Services

302

State of
J. C. Calhoun } South Carolina
To } Abbeville County
Savannah Valley R.R.Co.

This Indenture made this sixteenth day of August in the year of our Lord one thousand eight hundred and eighty, between J. C. Calhoun of the County of the one part and the Savannah Valley Rail Road Company of the other part witnesseth that the said J. C. Calhoun for and in consideration of the sum of One Dollar to him in hand paid at and before the sealing and delivery of these presents the receipt whereof is hereby acknowledged hath granted bargained and sold and by these presents doth grant bargain and sell unto the said Savannah Valley Rail Road Company their successors and assigns the Right of way over which it now or at all times hereafter shall have its Officers Agents Engineers and Servants with any men they may choose to employ and peaceably for the purpose of surveying locating and constructing thereon a Rail road with the requisite number of Tracks posts & Electric telegraph wires and Appurtenances and the land for depot or any other necessary purposes fifty feet on each side of the center line of the road way of said Railroad when completed and as much more land as the whole Road of land owned and claimed by said J C Calhoun lying and being in Abbeville County adjoining the lands of W. M. Pagan, S. J. Kirby, B. Bowen & others running with such direction thereon as said Road of the said Savannah Valley Rail Road Company by their Engineers shall think best and most for the purpose of locating and laying down said Road. And the said Right of way the said Company shall have the right to cut down and remove all such trees on each side of said road as may endanger the same injure the Road or any part of said Road By reason of said location and laying down the same and the said Company shall have the Right Members and Appurtenances to the said Strip or parcel of land belonging or in any wise appertaining and also the Right of way

EXHIBIT 3

Sacramento thereto Sacramento Valley Rail Road Company their successors and assigns to their own proper use and behoof forever in perpetuity upon Condition and it is hereby understood that Should the said Rail Road Company do not commence and establish and along said Strip Piece or parcel of land described in the above and foregoing Indenture, then and in that case this Indenture is wholly null and void of no effect Any thing to the said J. E. Calhoun for his heirs and assigns to all intents and purposes but Title thereof unto the said Sacramento Valley Rail Road Company their successors and assigns against the claims of myself my heirs and executors any person. In witness whereof the said J. E. Calhoun has hereunto set his hand and seal the day and year first above written.

J. Edwd Calhoun (Seal)

Signed Sealed & delivered in Presence of

Thos L. Lee

Jas. H. Bell

State of South Carolina

Abbeville County

Personally appeared Jas. H. Bell before me and made oath that he saw J. E. Calhoun Esqr. Execute as his Act & Deed Deliver the foregoing written Deed and that he saw Thos L. Lee witness the execution thereof

Sworn to before me this the 20 day of May 1889

Geo C Thomson

Notary Public

Jas. H. Bell

Recorded 31 May 1889 & Compared

Thos. L. Moore

Register

The Signal Printing Co. Columbia, S.C.
Blank and Job Work a Specialty.

J. E. Calhoun)
)
Savannah Valley RRCO)

South Carolina
Abbeville County

This Indenture made this sixteenth day of August in the year of our Lord One Thousand Eight Hundred and Eight One (1881) between J E. Calhoun of said County of the one part and the Savannah Valley Rail Road Company of the other part witnesseth that the said J. E. Calhoun for and in consideration of running this contemplated Rail Road over and along his land as well as in consideration of the sum of one dollar to him in hand paid at and before the sealing and delivering of these presents the receipt whereof is hereby acknowledged hath given granted bargained and sold and by these presents doth give grant bargain and sell unto the said Savannah Valley Rail Road Company and their successors and assigns the Right of Way over which to pass at all times by themselves Directors Officers Agents hirelings and Servants in any manner they may think proper and particularly for the purpose of running erecting and establishing thereon a Railroad with the requisite number of tracks pursuant to Charter of Incorporation passed March 12, 1878 and acts amendatory thereof and to this end the limit of said right-of-way shall extend in width sixty-six feet on each side the (centre) line of the roadway of the said Railroad when completed and to extended in length through the whole tract of land owned and claimed by said J. E. Calhoun situated lying and being in Abbeville County adjoining lands of W. M. Taggart S. J. Hester, B. Baylor and others and running in such direction through the said tract of land as the said Savannah Valley Railroad Company by their engineers shall think best suited for the purpose of erecting and establishing their works; and connected with said right of way the said Company shall have the right to cut down and remove all such trees, underwood and others growth and timber on each side of said road as would be by falling on or striking the same, injure the rails or other parts of the said road, Together with all and singular the Rights, Members, and Appurtenances, to the said Strip, Tract or parcel of land being, belonging or in any wise appertaining and more especially the Right of Way over the same, To have and to hold the same unto the said Savannah Valley Rail Road Company their successors and assigns their own proper use, benefit, and behoof forever, in perpetuity upon condition and it is expressly understood that should the said Rail road contemplated as aforesaid be not erected and established on and along said strip, tract or parcel of land described in the above and foregoing indenture, then, said Indenture is to be wholly null and void and of no effect and the said J.E. Calhoun for his heirs and assigns will warrant and defend the Title thereof unto the Savannah Valley Rail Road Company their Successors and assigns, against the claims of myself, my heirs and executors and assigns. In witness whereof the said J. E. Calhoun hath hereunto set his hand and seal the day and year first above written.

**Note of First Page – The width "sixty-six" entered by J.L. Perrise, COC, as original indenture called for this width. The original indenture was before me when changes were made, comes it severance to him from an error in recording at 33 – J.L. Perrise

**Note on Second Page - Correct of the record made by J. L. Perrise, Clerk of Court this April 2nd1926, as original indenture called for. The original indenture was before me when such changes were made.

RDS INTERSTATE COMMERCE COMMISSION

SERVICE DATE

DEC 11 1978

DECISION

AB-55 (Sub-No. 16)

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT NEAR McCORMICK AND CALHOUN FALLS, IN McCORMICK AND ABBEVILLE COUNTIES, SC

Decided November 21, 1978

By an application[1] filed December 29, 1977, Seaboard Coast Line Railroad Company (SCL or applicant), a common carrier by railroad subject to part I of the Interstate Commerce Act (Act), seeks authority to abandon a portion of its Anderson Subdivision, extending from railroad mile post AKH-503.63 near McCormick, SC, to mile post AKH-527.86 near Calhoun Falls, SC, a distance of 24.63 miles, in McCormick and Abbeville Counties, SC. The line includes mobile agency stations at Mt Carmel, SC (mile post AKH-519), and at Hester, SC (mile post AKH-526), both of which are governed by a mobile agency headquartered at Anderson, SC.

The application is governed by sections 1 of the Act and by the Commission's Regulations Governing Abandonment of Railroad Lines and Discontinuance of Service, 49 C.F.R. part 1121 (the Regulations).

The application was filed under the "summary" procedures of section 1121.33 of the Regulations, which are designed to facilitate the filing and processing of abandonment applications to which little or no opposition is anticipated. Public notice of the application was given in compliance with the Regulations.

Late-filed pleadings in opposition to the application were filed by 12 parties, including representatives for McCormick County, SC. The pleadings were treated by the Commission as petitions for leave to intervene, and were granted. By order served February 21, 1978, the Commission, Director Robert J. Brooks, Office of Proceedings, instituted an investigation into the proposed abandonment, postponed the effective date of the abandonment, and ordered the applicant to file the remainder of the information required in a standard long-form application under section 1121.32 of Regulations. The applicant filed the supplemental information with the Commission on April 17, 1978.

On April 13, 1978, the Commission's Section of Energy and Environment issued and environmental threshold assessment survey (TAS) in which the Section found that the proposed abandonment would not result in a serious adverse impact on the environment. A notice setting forth that conclusion was served April 24, 1978, inviting comments. No substantive comments in opposition, of an environmental nature, were received by the Commission in response to the notice.

By order served May 4, 1978, the Commission, Director Robert J. Brooks, Office of Proceedings, set the proceeding for the modified procedure and established a time-table for the submission of verified statements.

Applicant timely filed its opening verified statement. McCormick County, an intervenor in opposition, filed its statement on July 10, 1978, but did not serve SCL with the statement as required by the Commission's Rules of Practice. On July 26, 1978, SCL filed a pleading which sought, in the alternative, (1) to strike McCormick County's statement, or (2) an extension of time in which to file its reply to the opposition statement. By letter dated August 3, 1978, the Commission granted a copy of the opposition statement on SCL and granted an extension of time within which SCL could file its reply. The reply was timely filed. No other statements in opposition were filed, and those parties failing to file such statements may no longer participate in the proceeding.

1/ SCL complied with 49 C.F.R. sections 1121.20-23 by including this line in its system diagram map.

EXHIBIT 4

Of the 24.65 miles sought to be abandoned, operations are presently conducted only over that segment from milepost [illegible] to milepost [illegible], a distance of 3.48 miles. This track is used to serve the only shipper on the line, Intermatic Knob and Specialty Company, in Dunbar, SC. This shipper is not protesting the application because of the agreement to indemnify the line. However, mile posts [illegible] and [illegible] are an industrial lead track other than the abandonment, connecting Intermatic's plant to the shipper. This track will continue with service and line as railroad holds. In addition to the rationalization, SCL has agreed to continue to use the constructive rail distances between Dunbar and McCormick in computing rail distances for the purpose of determining freight rates applicable to railroad and water rates that are made on shortest distances. This agreement on "short miles" is to last 5 years from the date of actual abandonment, or until the shipper moves its Dunbar facilities, whichever first occurs. We find this maintenance of distances [illegible], pending the abandonment of that basis of rates will not result in unreasonableness, unlawfulness, or discrimination.

The segment from mile post AKH-[illegible] near McCormick to mile post AKH-[illegible] is now used to store SCL surplus equipment. SCL states that if the abandonment is authorized, it will leave this track in place subject to its continuing need for storage.

The 18-mile segment between mile posts AKH-[illegible] and AKH-[illegible] has been out of service since December 30, 1972. Since that date no maintenance work has been done on this track, and as a consequence the track is now overgrown with vegetation.

The unrefuted evidence presented by SCL's witnesses is that rehabilitation of the inactive 18-mile segment to FRA Class I standards would cost SCL $630,000. SCL further claims that normalized maintenance on an annual basis over the line would cost $190,000. On the other hand, if the abandonment is authorized SCL estimates that [illegible] tons of rail and other track materials can be salvaged as scrap for scrap for a value of $23,000, and that approximately 2,154 tons of reusable rail can be extracted which, if the applicant were to purchase equivalent new rail, would cost about $646,200. These direct benefits and cost savings would be offset against the cost in removing the materials. If authorized, the abandonment will allow SCL to put the rail materials into productive service, whereas now they are serving no useful purpose.

McCormick County, SC, through the verified statements of its 6 witnesses, opposes the application. The thrust of the opposition is that abandonment of the line and subsequent [illegible] of the right-of-way will harm the industrial development of McCormick County. The witnesses submit that "the best solution" to the problem is for SCL to leave the right-of-way intact for five years to enable McCormick County to lure industrial prospects. The witnesses want either (1) the track kept in place for five years, or (2) the track pulled up, but the underlying right-of-way retained for the five-year period so that trackage could again be constructed if needed.

In reply, the applicant states that it has made repeated efforts to interest industry in the area, including the publication of site data briefs, but that these efforts have heretofore proven unsuccessful.

We find that the public convenience and necessity permits the abandonment by SCL of the line of railroad between Calhoun Falls and McCormick, SC. The one shipper that is served by any part of this line will continue to receive service after abandonment and has not entered its opposition.

The formal opposition of McCormick County centers on that part of the line in the County extending north from the city of McCormick. The record shows that no revenues have been attributable to this portion since late 1972. The line has been unused during that time. The intervenor in opposition does not indicate any specific prospective industrial projects that depend on the continued existence of the line in the County.

McCormick County admits that historically there has been little interest in the area by industrial developers. This is in spite of the demonstrated attempts made by both the applicant and officials of McCormick County to attract such development. The conclusion is inescapable that immediate future development dependent on the continued existence of the line is highly speculative at best. The Commission has often said that the mere possible need for railroad service at some indefinite time in the future is insufficient grounds upon which to deny permission to abandon an unprofitable line. Baltimore & Ohio R. Co. Abandonment, 354 I.C.C. 240, 243, (1978).

While we are sympathetic with the County's efforts to attract industry, the facts simply do not show that the speculations on development are sufficient to warrant denial. Nor do these facts warrant the imposition of conditions designed either to preserve the track in place or to retain the underlying right-of-way. The first condition would be tantamount to denying the abandonment, and the second would be an unwarranted restriction upon the railroad's right to dispose of its real property.

McCormick County indicates that negotiations have been conducted between its representatives and SCL to retain the right-of-way. We point out to McCormick County that, based on our finding that the right-of-way is suitable for public use, we are conditioning our approval of the abandonment upon the applicant not disposing of the right-of-way without first permitting governmental agencies or other responsible persons the right to negotiate for the acquisition of the property for public use.

In order to protect the interests of railroad employees, we will impose the protective conditions prescribed in Oregon Short Line R. Co.--Abandonment--Goshen, 354 I.C.C. 584 (1978).

We find:

1. Abandonment of the line of railroad extending from mile post AKH-503.63 to mile post AKH-527.86 will not result in a serious adverse impact on the rural and community development of McCormick and Abbeville Counties, SC.

2. The underlying right-of-way is suitable for other public purposes.

3. This decision will not significantly affect the human environment.

We further find:

The present and future public convenience and necessity permits the abandonment by the Seaboard Coast Line Railroad Company of the line of railroad extending from mile post AKH-503.63 to mile post AKH-527.86, in McCormick and Abbeville Counties, SC, subject to the conditions for the protection of employees discussed in Oregon Short Line R. Co.--Abandonment--Goshen, 354 I.C.C. 584 (1978), and subject to the condition that, subsequent to abandonment, the Seaboard Coast Line Railroad Company will continue to base its rates on pulpwood and wood chips on mileages existing prior to the abandonment for a period of five years or until the Brunswick Pulp and Paper Company moves its woodyard from Hester, SC, whichever first occurs, and subject further to the condition that the Seaboard Coast Line Railroad Company shall not sell, lease, exchange or otherwise dispose of the right-of-way underlying the track, including all bridges and all culverts on the line, for a period of 120 days following issuance of the certificate to permit any state and/or local governmental agency or other responsible persons to negotiate the acquisition of all or any portion of the property for public use.

It is ordered:

1. In the event any person or government entity is considering an offer of financial assistance to enable the rail service involved to be continued, it should comply with 49 C.F.R. section 1121.38(b). Within 10 days after receiving appropriate notification that an offer of financial assistance is being considered, applicant shall comply with the informational requirements of 49 C.F.R. section 1121.38(e).

2. All correspondence to the Commission with respect to offers of financial assistance for the continued operation or acquisition of the subject line shall contain an appropriate reference to this proceeding, and the following notation shall be typed in boldface on the on the lower left corner of envelopes containing such correspondence: "Section of Finance, AB-[illegible]".

3. Subject to the conditions set forth above, an appropriate certificate of abandonment shall be issued. Applicant shall not effect any abandonment or discontinuance of service prior to the effective date of the certificate of abandonment.

4. This decision will be effective 30 days from the date it is served.

5. The strict time constraints imposed by the Railroad Revitalization and Regulatory Reform Act of 1976 make it necessary to expedite all proceedings concerning common carriers by railroad. Accordingly, requests for extensions or postponements of due dates for filing an appeal will be scrutinized closely and will be granted only upon a showing of extraordinary circumstances. Any appeal must be filed within 20 days after service of this decision or within such further period (not to exceed 20 days) as may be authorized.

By the Commission, Review Board Number 3, Members Krock, Pobst, and Taylor.

H. G. [illegible], Jr.
Secretary.

(SEAL)

SERVICE DATE

MAR 19 1979

INTERSTATE COMMERCE COMMISSION

CERTIFICATE AND DECISION

Docket No. AB-55 (Sub-No. 16)

SEABOARD COAST LINE RAILROAD COMPANY ABANDONMENT NEAR McCORMICK AND CALHOUN FALLS, IN McCORMICK AND ABBEVILLE COUNTIES, SC

Decided March 2, 1979

I have considered the record in this proceeding, including the administratively final decision served December 11, 1978, in which the Commission, Review Board Number 5, authorized the abandonment by the Seaboard Coast Line Railroad Company of a portion of its Anderson Subdivision, extending from railroad milepost AKH-503.63 near McCormick, SC, to railroad milepost AKH-527.86 near Calhoun Falls, SC, a distance of 24.65 miles, in McCormick and Abbeville Counties, SC. That decision also provided that any person, including a government entity, would be given the opportunity to make an offer of financial assistance to the carrier applicant, within 15 days of the date of publication of the Commission's findings in the Federal Register, by filing with the Commission an offer containing the evidence specified in Procedures for Pending Rail Abandonment Cases, 41 Fed. Reg. 13691 (1976).

The notice of findings was published in the Federal Register on January 24, 1979. The time for the filing of offers of financial assistance has expired without a bona fide offer. In the absence of such an offer, an appropriate certificate and decision should be entered.

It is certified that the present and future public convenience and necessity permit abandonment of the above-described line, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.-Abandonment Goshen, 354 I.C.C. 584 (1978), and subject to the condition that, subsequent to abandonment, the Seaboard Coast Line Railroad Company will continue to base its rates on pulpwood and wood chips on mileages existing prior to the abandonment for a period of five years or until the Brunswick Pulp and Paper Company moves its woodyard from Hester, SC, whichever first occurs, and subject further to the condition that applicant shall not sell, lease, exchange or otherwise dispose of the right-of-way underlying the track, including all bridges and all culverts on the line, for a period of 120 days from the service date of this certificate and decision to permit any state or local government agency or other responsible persons to negotiate the acquisition of all or any portion of the property for public use.

It is ordered:

EXHIBIT 5

(1) This certificate and decision shall take effect and be in force on the date it is served. Tariffs applicable to the line permitted to be abandoned may be canceled upon not less than 10 days' notice to this Commission and to the general public by filing and posting in the manner prescribed by the Commission under Section 6 of the Interstate Commerce Act. When filing schedules cancelling tariffs applicable to said line, the applicant shall, in such schedules, refer to this certificate and decision by date and docket number.

(2) If the authority granted by this certificate and decision is exercised, applicant shall submit two copies of the journal entries showing the retirement of the line from service, and shall advise this Commission in writing, immediately after abandonment of the line of railroad, of the date on which the abandonment actually took place.

(3) If the authority granted in this certificate and decision is not exercised within one year from its effective date, it shall be of no further force and effect.

By the Commission, Alan M. Fitzwater, Director, Office of Proceedings.

H. G. HOMME, JR.
Secretary.

(SEAL)

SEABOARD COAST LINE RAILROAD COMPANY

FILE IN DOCKET

Law Department
3600 West Broad Street
Richmond, Virginia 23230

CHARLES H ROSENBERGER
GENERAL ATTORNEY

MAIL ADDRESS P O BOX 27281
RICHMOND VA 23261

February 25, 1980

AB-55(16)

INTERSTATE COMMERCE COMMISSION
RECEIVED
FEB 27 1980
8
ADMINISTRATIVE SERVICES
MAIL UNIT

Mrs. Agatha L. Mergenovich
Secretary
Interstate Commerce Commission
Washington, D. C. 20423

Dear Mrs. Mergenovich:

This refers to the Commission's Certificate and Decision in Docket No. AB-55 (Sub-No. 16), which covers Seaboard Coast Line Railroad Company's application to abandon 24.65 miles of track between McCormick and Calhoun Falls, S. C.

In compliance with the second ordering paragraph of this Certificate and Decision, please be advised that this track was abandoned as of February 15, 1980.

Very truly yours,

Charles H. Rosenberger

RECEIVED
PROCESS SERVING
BRANCH

MAR 19 11 02 AM '80

INTERSTATE COMMERCE COMMISSION

Feb 29 6 54 PM '80

EXHIBIT 6

[CONFORMED COPY]

FILED

SEABOARD COAST LINE RAILROAD COMPANY

TO

CHEMICAL BANK

AND

L. F. SADLER

Trustees

Consolidated Mortgage

Dated as of March 15, 1971

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed for record April 30
A. D. 1971 at 11:00 o'clock A M.
and duly recorded in Book 6-W
of Mortgage Page 443
Earle D. Nickles
Clerk of Court

* For satisfaction, see mtg. book 10X, page 180. 8-24-95 Nancy S. King

Satisfied and Cancelled
this 24th day of Aug 1995
Nancy S. King COOP

EXHIBIT 7
127

"Trustees" and, when referred to separately, the "Corporate Trustee" and the "Individual Trustee", respectively;

WHEREAS, the Company owns, or is in possession of, under leases or other arrangements, and operates, lines of railroad in the States of Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama; and

WHEREAS, the Company desires to provide funds for its lawful corporate purposes and to borrow money for such corporate purposes; and the Company, pursuant to resolutions duly adopted by its Board of Directors, has authorized the creation of the mortgage imposed by this Indenture upon properties of the Company and the issue hereunder from time to time, in the manner and form provided in this Indenture, of its mortgage bonds, to be known as its Consolidated Mortgage Bonds; and

WHEREAS, the Board of Directors of the Company has approved the form and terms of this Indenture and has duly authorized and directed the execution of this Indenture and delivery thereof to the Trustees; and

WHEREAS, the Bonds may be issued in series, of which the first series is to be designated Consolidated Mortgage 8.35% Bonds, Series A, due March 15, 1996 (hereinafter sometimes referred to as "Bonds of Series A"); and

WHEREAS, the Bonds of Series A and the Corporate Trustee's certificate of authentication to be endorsed thereon are to be substantially in the following forms, respectively:

[FORM OF FACE OF BOND OF SERIES A]

No..... $.....

SEABOARD COAST LINE RAILROAD COMPANY

Consolidated Mortgage 8.35% Bond, Series A, due March 15, 1996

SEABOARD COAST LINE RAILROAD COMPANY, a corporation duly organized and existing under the laws of the State of Virginia (hereinafter called the "Company"), for value received, hereby promises to pay to

Item		Approximate Length in Miles
(16)	Creston, South Carolina, to Giant, South Carolina	34.43
(17)	Johns Island, South Carolina, to Ashley River, South Carolina	8.61
(18)	Ashley Junction in South Carolina to Rhett Street, North Charleston, South Carolina	0.72
(19)	Ashley River Phosphate Branch, Charleston, South Carolina	4.61
(20)	Ravenel, South Carolina, to Meggetts, South Carolina	2.97
(21)	Green Pond, South Carolina, to Ehrhardt, South Carolina	37.99
(22)	Savannah River Wharf Branch, Savannah, Georgia	1.95
(23)	Montgomery Belt Line, Montgomery, Alabama	0.55
(24)	Albany, Georgia, to Thomasville, Georgia	58.09
(25)	Climax, Georgia, to Chattahoochee, Florida	30.82
(26)	Grimes, Alabama, to Abbeville, Alabama	26.90
(27)	Waterford, Alabama, to Elba, Alabama	37.19
(28)	Burnetts Lake, Florida, to Rochelle, Florida	24.66
(29)	Dunnellon, Florida, to Crystal River, Florida	13.45
(30)	Milldale, Florida, to Wilcox, Florida	107.78
(31)	Milldale, Florida, to Quinlan, Florida	4.13
(32)	Composite, Florida, to Export Terminal, Jacksonville, Florida	4.20
(33)	Beaver Street Junction in Florida to St. Johns River, Jacksonville, Florida	1.58
(34)	Fort Mason, Florida, to Umatilla, Florida	4.79
(35)	Fort Mason, Florida, to Tavares, Florida	6.56
(36)	Okahumpka, Florida, to Howey, Florida	5.30

Item		Approximate Length in Miles
(37)	DeLand Junction, Florida, to DeLand, Florida	3.78
(38)	Benson Junction, Florida, to Benson, Florida (owned but not operated by the Company)	4.83
(39)	Sanford and Everglades Branch, near Sanford, Florida	3.93
(40)	Sanford, Florida, to Tavares, Florida	28.15
(41)	Sanford, Florida, to Oviedo, Florida	16.80
(42)	Dr. Phillips, Florida, to Clarcona, Florida	15.88
(43)	Lake Alfred, Florida, to Bartow, Florida	16.34
(44)	Haines City, Florida, to Waverly, Florida	9.77
(45)	Lake Wales, Florida, to Frostproof, Florida	14.53
(46)	Sebring, Florida, to Sunniland, Florida	93.55
(47)	Harrisburg, Florida, to Lake Harbor, Florida	39.41
(48)	Winston, Florida, to Fort Meade, Florida	27.96
(49)	Medulla, Florida, to Ridgewood, Florida	6.68
(50)	Okeelanta Branch, Keela, Florida, to Duda, Florida	24.59

Item		Approximate Length in Miles
(10)	Bartow (Homine), Florida, to Fort Myers, Florida	93.49
(11)	Port Royal, Beaufort County, South Carolina, to Augusta, Georgia	112.76
(12)	Augusta, Georgia, to Spartanburg, South Carolina	133.34
(13)	Liberty Street—North Tower, Savannah, Georgia	3.68
(14)	L&N Connection, Parkwood, Alabama	0.39
(15)	South Richmond, Virginia, to Falling Creek, Virginia	5.00
(16)	Pinners Point (Portsmouth), Virginia, to Rocky Mount, North Carolina	114.81
(17)	Goldsboro Belt Line in North Carolina	3.84
(18)	Yadkin Junction (near Wilmington), North Carolina, to Manchester, North Carolina	92.87
(19)	Parkton, North Carolina, to Red Springs, North Carolina	12.35
(20)	Jonesboro, North Carolina, to Sanford, North Carolina	3.41
(21)	Maxton Junction to Maxton, in North Carolina	0.40
(22)	Florence, South Carolina, to Wadesboro, North Carolina	63.82
(23)	Darlington, South Carolina, to Mont Clare, South Carolina	8.64
(24)	Bennettsville, South Carolina, to Marlboro, South Carolina	6.97
(25)	Sumter, South Carolina, to Columbia, South Carolina	43.23
(26)	Central Railroad connection track at Sumter, South Carolina	0.76
(27)	Brunswick, Georgia, to Albany Junction, Georgia	172.48
(28)	Sessoms, Georgia, to Alma, Georgia	7.52
(29)	Thomasville, Georgia, to Kingwood, Georgia	30.94
(30)	Thomasville, Georgia, to Dunnellon, Florida	165.77
(31)	Palatka, Florida, to Brooksville, Florida	145.94
(32)	Sylvan Lake, Florida, to Clarcona, Florida	17.08
(33)	Winter Garden, Florida, to Mascotte, Florida	22.96
(34)	Mable, Florida, to Lacoochee, Florida	14.48
(35)	Trilby, Florida, to Clearwater, Florida	57.46
(36)	Clearwater, Florida, to St. Petersburg, Florida	15.53
(37)	Gary, Florida, to Vitis, Florida	29.02
(38)	Wye connections at Gary (Tampa), Florida	0.28

BRANCH LINES

(1)	Meadow Junction, Virginia, to Clopton, Virginia	2.98
(2)	Dunlop, Virginia, to Collier (via Petersburg), Virginia	6.19
(3)	Bruce, Virginia, to Pig Point, Virginia	5.73
(4)	Pender, North Carolina, to Kinston, North Carolina	86.03
(5)	Tarboro Junction, North Carolina, to Plymouth, North Carolina	53.77
(6)	Parmele, North Carolina, to Washington, North Carolina	25.10
(7)	Rocky Mount, North Carolina, to Bunn, North Carolina	28.07
(8)	Warsaw, North Carolina, to Clinton, North Carolina	13.47
(9)	Wilmington Junction, North Carolina, to Newbern Wharf, North Carolina	90.54
(10)	Elrod, North Carolina, to Fairmont, North Carolina	12.81
(11)	Chadbourn, North Carolina, to Myrtle Beach, South Carolina	52.82
(12)	McCormick, South Carolina, to Anderson, South Carolina	58.22
(13)	Laurens, South Carolina, to Greenville, South Carolina	36.34
(14)	Floyds, South Carolina, to Hartsville, South Carolina	10.05
(15)	Bennettsville, South Carolina, to Breeden, South Carolina	3.14

Item		Approximate Length in Miles
	BRANCH LINES	
(1)	Richmond, Virginia—Junction to Freight Depot	1.96
(2)	Petersburg, Virginia—Dunlop Street to Market Street	0.72
(3)	Roanoke Junction, North Carolina, to Roanoke Rapids, North Carolina	2.63
(4)	Henrietta Junction, North Carolina, to Henrietta, North Carolina	1.79
(5)	Camden, South Carolina—Junction to Freight Station	0.64
(6)	Mullins, South Carolina—Junction to Passenger Station	0.42
(7)	Limehouse Junction, South Carolina, to Limehouse, South Carolina	0.70
(8)	Savannah, Georgia—Island Junction to Freight Station	2.01
(9)	Savannah, Georgia—Bridge Junction to Hutchinson Island	2.50
(10)	Atlanta, Georgia—Belt Junction to Inman Park	3.59
(11)	Jacksonville, Florida—F.&J. Junction to Commodore Point	2.13
(12)	Jacksonville, Florida—Junction to Wilson & Toomer	1.49
(13)	Dames Point, Florida, to North Shore, Florida	7.96
(14)	North Shore, Florida, to Blount Island, Florida	0.53
(15)	Quincy Junction, Florida to Quincy, Florida	1.99
(16)	Alachua, Florida, Spur	0.59
(17)	Coronet Junction, Florida, to Coronet, Florida	1.73
(18)	Lake Charm, Florida	0.12
(19)	Tampa, Florida, to Seddon Island, Florida	1.72
(20)	Arcadia Shops, Florida, to Arcadia, Florida	0.79
(21)	Arcadia, Florida—S. Connection	0.17
(22)	Bradley Junction, Florida, to Mulberry, Florida	7.25
(23)	T.N. Shops, Florida, to T.N. Junction	0.53
(24)	Hookers Point Junction, Florida, to Hookers Point, Florida	2.46
(25)	Woods, Florida, to Wye Junction, Florida	3.27
(26)	Wye Junction, Florida, to Victor, Florida	0.45
(27)	Birmingham, Alabama—K.C.M.&B. Connection	2.48

GROUP C: Lines of railroad of the former Atlantic Coast Line Railroad Company.

	MAIN LINES	
(1)	The main line extending from Richmond, Virginia, through Rocky Mount and Fayetteville in North Carolina; Florence and Charleston in South Carolina; Savannah, Jesup, Nahunta and Folkston in Georgia; Jacksonville, Palatka, Sanford, Orlando, Lakeland and Tampa in Florida to Port Tampa, Florida	893.20
	Also main lines extending from:	
(2)	Jesup, Georgia, through Waycross, Georgia, to Folkston, Georgia	72.52
(3)	Contentnea, North Carolina, to Wilmington, North Carolina	104.77
(4)	Wilmington, North Carolina, to Pee Dee, South Carolina	94.74
(5)	Florence, South Carolina, to Robbins, South Carolina	137.08
(6)	Waycross, Georgia, to Montgomery, Alabama	314.04
(7)	Waycross, Georgia, to Atlanta, Georgia	278.29
(8)	Manchester, Georgia, to Birmingham, Alabama	197.08
(9)	Dupont, Georgia, to Bartow, Florida	247.95

Item		Approximate Length in Miles
(41)	Columbus, Georgia, to Richland, Georgia	38.52
(42)	Richland, Georgia—S. W. Connection	0.20
(43)	Kimbrough, Georgia, to Albany, Georgia	42.41
(44)	Fitzgerald, Georgia, to Ocilla, Georgia	9.57
(45)	Howells (Atlanta), Georgia—W. & A. Connection	0.29
(46)	Georgia State Line to Jacksonville, Florida	32.72
(47)	Jacksonville, Florida, to Chattahoochee, Florida	208.54
(48)	Fernandina, Florida, to Yulee, Florida	13.25
(49)	Gross, Florida, to Baldwin, Florida	34.60
(50)	Baldwin, Florida, to Owensboro, Florida	139.33
(51)	Zephyrhills, Florida, to Tampa, Florida	36.99
(52)	Jacksonville, Florida—Passenger Connection Enterprise Street	0.58
(53)	Baldwin, Florida—S. E. Connection	0.14
(54)	Tallahassee, Florida, to St. Marks, Florida	20.46
(55)	Drifton, Florida, to Monticello, Florida	4.48
(56)	Starke, Florida, to Brooker, Florida	14.95
(57)	Buda, Florida, to Bell, Florida	15.96
(58)	Air Base—Arredonda, Florida	10.12
(59)	Williston, Florida, to Montbrook, Florida	5.90
(60)	Montbrook, Florida, to Early Bird, Florida	9.65
(61)	Dunnellon, Florida, to Mincoll, Florida	8.89
(62)	Globe, Florida, to North Inverness, Florida	5.46
(63)	Landrum, Florida, to Tampa Northern Junction, Florida	60.73
(64)	Sulphur Springs, Florida—T&GC Connection	0.02

Item		Approximate Length in Miles
(65)	Tampa Northern Junction, Florida—N. E. Connection	0.22
(66)	Plant City, Florida, to Alcoma, Florida	51.50
(67)	Edison Junction, Florida, to Agricola, Florida	12.25
(68)	Bartow, Florida, to Homine, Florida	6.78
(69)	Plant City, Florida—S. Connection	0.17
(70)	Valrico, Florida, to Welcome Jct., Florida	11.66
(71)	Durant, Florida, to Manavista, Florida	38.21
(72)	Samoset, Florida, to Sarasota, Florida	9.52
(73)	Sarasota, Florida, to Venice, Florida	18.11
(74)	Sarasota, Florida—Connection (T.S.)	0.22
(75)	Tampa, Florida—Passenger Station Connection	0.02
(76)	Palmetto Junction, Florida, to Palmetto, Florida	1.66
(77)	Tallahassee, Florida—GF&A Connection	0.10
(78)	Wildwood, Florida, to Orlando, Florida	53.12
(79)	Aloma, Florida, to Lake Charm, Florida	9.18
(80)	West Lake Wales, Florida—N. W. Connection	0.08
(81)	West Lake Wales, Florida—S. E. Connection	0.06
(82)	Coleman, Florida, to Miami, Florida—Freight Depot	274.73
(83)	Hialeah Junction, Florida, to Homestead, Florida	30.26
(84)	Bradley Junction, Florida, to Port Boca Grande, Florida	89.22
(85)	Manatee, Florida, to Bradenton, Florida	0.99
(86)	Georgia State Line to Montgomery, Alabama	81.27
(87)	Georgia State Line to Birmingham, Alabama	96.85
(88)	Birmingham, Alabama—Pass. Connection	0.51
(89)	Montgomery, Alabama—Junction to Freight Station	0.18

Item		Approximate Length in Miles
(5)	Boykins, Virginia, to North Carolina State Line	2.77
(6)	Richmond, Virginia -- Broad Street Station Connection	.09
(7)	Virginia State Line to Norlina, North Carolina (Richmond Line)	7.75
(8)	Virginia State Line to Norlina, North Carolina (Portsmouth Line)	54.99
(9)	Norlina, North Carolina, to South Carolina State Line (South of Hamlet)	161.61
(10)	Hamlet, North Carolina (East Jct.), to South Carolina State Line	11.17
(11)	Wilmington, North Carolina, to Rutherfordton, North Carolina	265.87
(12)	Monroe, North Carolina, to South Carolina State Line	14.32
(13)	Virginia State Line to Lewiston, North Carolina	32.55
(14)	Henderson, North Carolina, to Durham, North Carolina	41.50
(15)	Dickerson, North Carolina, to Oxford, North Carolina	2.94
(16)	Franklinton, North Carolina, to Louisburg, North Carolina	9.79
(17)	Moncure, North Carolina, to Pittsboro, North Carolina	11.45
(18)	Ellenboro, North Carolina, to Caroleen, North Carolina	4.65
(19)	Hamlet, North Carolina—N. W. Connection	0.24
(20)	Hamlet, North Carolina—N. E. Connection	0.45
(21)	North Carolina State Line to Charleston, South Carolina Freight Depot	157.44

Item		Approximate Length in Miles
(22)	Dupont, South Carolina, to Stono, South Carolina	5.30
(23)	Lobeco, South Carolina, to Georgia State Line	39.66
(24)	North Carolina State Line to Georgia State Line (Via Columbia)	205.54
(25)	North Carolina State Line to Georgia State Line (Birmingham Line)	136.42
(26)	McBee, South Carolina, to Hartsville, South Carolina	16.04
(27)	Floreace, South Carolina, to Pamplico, South Carolina	17.42
(28)	Hartsville, South Carolina, to Sumter, South Carolina	38.31
(29)	Georgetown, South Carolina, to Andrews, South Carolina	16.19
(30)	Catawba, South Carolina, to Great Falls, South Carolina	20.28
(31)	Andrews, South Carolina—S. E. Connection	0.19
(32)	South Carolina State Line to Alabama State Line (Montgomery Line)	200.03
(33)	South Carolina State Line to Alabama State Line (Birmingham Line)	183.53
(34)	South Carolina State Line to Savannah, Georgia (Central Jct.)	31.33
(35)	Howells (Atlanta), Georgia—Southern Railway Connection	0.76
(36)	Howells (Atlanta), Georgia—West Connection	0.21
(37)	Rockmart, Georgia, to Cartersville, Georgia	22.82
(38)	Savannah (Telfair Jct.), Georgia, to Burroughs, Georgia	9.79
(39)	Ogeechee, Georgia, to Florida State Line	90.69
(40)	Vidalia, Georgia, to Macon, Georgia	91.78

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

I, JOHN L. BERVAR, a Notary Public in and for the State and County aforesaid, do hereby certify that on this 24th day of March, 1971, personally appeared before me in said County L. F. SADLER, personally known to me and known to me to be the individual and the same person who is described in and who subscribed his name to and who executed the foregoing instrument, who, being by me duly sworn, deposed and said that he resides at 4928 Arapahoe Avenue, Jacksonville, Florida; and that he signed, sealed, executed and delivered the said instrument freely and voluntarily, and as his free and voluntary act and deed for the uses and purposes therein set forth.

I further certify that said instrument was duly signed, sealed, delivered and acknowledged by said L. F. Sadler, as hereinabove set forth, in the presence of Else Maughan and John T. Lord, who then and there respectively subscribed their names to the same as attesting witnesses, and who, having been by me duly sworn, stated that they saw said L. F. Sadler sign, execute, deliver and acknowledge said instrument to be his act and deed, and that they witnessed the said execution, delivery and acknowledgment thereof by signing their names thereto as attesting witnesses at the instance and in the presence of said L. F. Sadler, and in the presence of each other and in my presence; and said attesting witnesses have affixed their signatures to this certificate (at the left of my own signature) for the purpose of confirming the same so far as it relates to them.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as such Notary Public in said County and State, the day and year first above written.

(NOTARIAL SEAL)

JOHN L. BERVAR

JOHN L. BERVAR
Notary Public, State of New York
No. 41-5303890
Qualified in Queens County
Cert. Filed in New York County
Term Expires March 30, 1972

ELSE MAUGHAN

ELSE MAUGHAN

JOHN T. LORD

JOHN T. LORD

EXHIBIT A

Description of the lines of railroad subject to the lien of the Consolidated Mortgage of the Seaboard Coast Line Railroad Company dated as of March 15, 1971.

GROUP A: Lines of railroad acquired since merger of July 1, 1967.

Item		Approximate Length in Miles
(1)	Charlotte, North Carolina, to Gastonia, North Carolina	22.98
(2)	Spartanburg, South Carolina, to Greenwood, South Carolina	88.74
(3)	Belmont Junction, North Carolina, to Belmont, North Carolina	3.16
(4)	Cowans Ford, North Carolina, to Terrell, North Carolina	16.15
(5)	Belton, South Carolina, to Anderson, South Carolina	11.18
(6)	South Collier, Virginia, to North Burgess, Virginia	5.26
(7)	Ellsworth Junction, Florida, to Astatula, Florida	4.31
(8)	Winter Garden, Florida, to Ocoee, Florida	3.25
(9)	Hilton, North Carolina, to Navassa, North Carolina	2.52
(10)	Rockingham, North Carolina, to Freeman, North Carolina	7.76
(11)	Lumberton, North Carolina, to Duart, North Carolina	25.76

GROUP B: Lines of railroad of the former Seaboard Air Line Railroad Company.

MAIN LINES

(1)	(Acca) Richmond, Virginia, to Centralia, Virginia	15.49
(2)	Dunlop, Virginia, to North Carolina State Line	70.23
(3)	Bellwood, Virginia, to Hopewell, Virginia	15.76
(4)	Portsmouth, Virginia, to North Carolina State Line	60.25

24467-RR
1RD0525831 21

See Consideration Book 3, Page 180.

THIS DEED, Made this 16th day of June, A.D., 1983, between SEABOARD SYSTEM RAILROAD, INC., a Virginia corporation, hereinafter called "Grantor"; and CLARKS HILL-RUSSELL AUTHORITY OF SOUTH CAROLINA, whose mailing address is P. O. Drawer K, McCormick, South Carolina 29835, hereinafter called "Grantee"; and CHEMICAL BANK, Corporate Trustee under the Consolidated Mortgage dated as of March 15, 1971, made by the former Seaboard Coast Line Railroad Company, to which Seaboard System Railroad, Inc. is made successor by merger, hereinafter called "Trustee";

(Wherever used herein, the terms "Grantor" and "Grantee" shall be construed in the singular or plural as the context may require or admit and shall include the heirs, legal representatives and assigns of individuals and the successors and assigns of corporations.)

WITNESSETH: That Grantor, for and in consideration of the sum of FIFTY-EIGHT THOUSAND TWO HUNDRED NINETY DOLLARS ($58,290.00) to it in hand paid by Grantee, the receipt of which is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto Grantee all the estate, right, title, lien, equity, interest, claim and demand which Grantor has in and to that vacated right of way between McCormick and Calhoun Falls, Counties of McCormick and Abbeville, State of South Carolina, and described as follows, to wit:

All of that vacated Railroad right of way, varying in width, along with numerous side parcels of land of various dimensions, beginning on Railroad Valuation Map V5/1, at Milepost 506, located 3 miles northwest of McCormick, McCormick County, South Carolina, and extending in a general northwesterly direction for a distance of 21.86 miles, more or less, and ending on Railroad Valuation Map V5/S-7, at Milepost 527.86, in Calhoun Falls, Abbeville County, South Carolina, at the intersection of said vacated right of way and the southern line of the former Seaboard Air Line Atlanta to Monroe right of way, being 100 feet in width; containing 194.3 acres, more or less, with vacated right of way listed herein being shown on Railroad Valuation Maps V5/1, 2, 3, 4, 5, 6, 7 and S-7, as stored and secured in the office of the Engineering Department of the Seaboard System Railroad, located at 500 Water Street, Jacksonville, Florida 32202.

TO HAVE AND TO HOLD all the estate, right, title, lien, interest and claim whatsoever of Grantor, either in law or equity, together with all and singular the appurtenances thereto belonging or in anywise appertaining, to the proper use, benefit and behoof of Grantee, its successors and assigns, forever.

The recitals of fact made hereinabove are to be taken only as recitals made by Grantor and not by Trustee.

The property hereinabove conveyed is subject to the lien of the

FILED
STATE OF SOUTH CAROLINA

This Instrument Prepared by
Attorney
500 Water Street, Jacksonville, Fla.

IN WITNESS WHEREOF Grantor and Trustee have caused these presents to be duly signed and sealed, the day and year first above written.

Signed, sealed and delivered
in the presence of:

George R Whitehead

Joyce F. Preslar

SEABOARD SYSTEM RAILROAD, INC.

By _____
Vice President

Attest _____
Assistant Secretary

Signed, sealed and delivered
in the presence of:

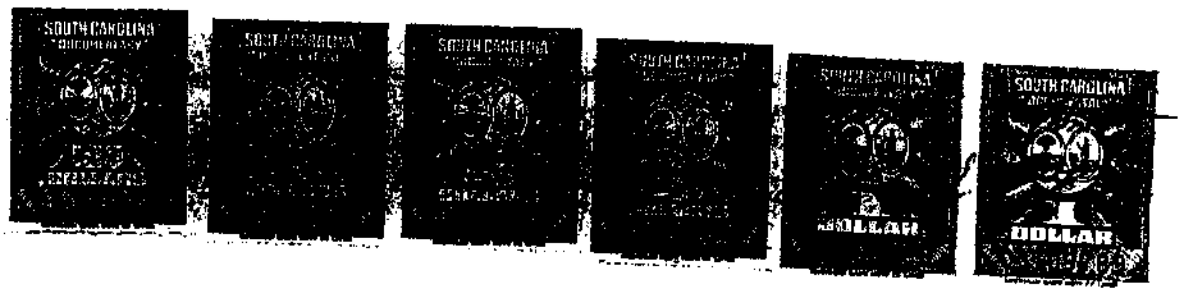
R. Lorenzen

J J Cashin

CHEMICAL BANK, as Corporate Trustee as aforesaid.

By _____

Attest _____



MCCORMICK COUNTY STAMP TAX
AMT. 48.25 Pd

146

1 Trail

Form [illegible]-S.C.

SOUTH CAROLINA FORM

STATE OF FLORIDA

COUNTY OF DUVAL

Personally appeared before me, a Notary Public in and for the State and County aforesaid, George R. Wurtele, who being duly sworn, says:—

That he saw the within named, J. T. Rice as Vice President of SEABOARD SYSTEM RAILROAD, INC., a corporation under and by virtue of the laws of the State of Virginia, and Robert J. Haulter as ~~Asst.~~ Secretary thereof, as the act and deed of said corporation, sign, affix thereto the seal of the said corporation and deliver the within instrument, and that he with Joyce F. Preslar witnessed the execution of the same.

George R Wurtele (L.S.)

Sworn and subscribed to before me this 16th day of June, A. D. 1983.

Brenda W. Rice
Notary Public.

Notary Public, State of Florida at Large
My commission expires Dec. 3, 1984

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SOUTH CAROLINA FORM

STATE OF NEW YORK

COUNTY OF NEW YORK

Personally appeared before me, a Notary Public in and for the State and County aforesaid, R. LORENZEN, who being duly sworn, says:-

That he saw the within named J. MURRAY as TRUST OFFICER of CHEMICAL BANK, a corporation under and by virtue of the laws of the State of New York, and C. G. MARTENS as ASSISTANT SECRETARY thereof, as the act and deed of said corporation, sign, affix thereto the seal of said corporation and deliver the within instrument, and that he with J. J. Cashin witnessed the execution of the same.

R Lorenzen (L.S.)

Sworn and subscribed to before me this 25th day of July, A. D., 1983.

Hugh J. McMenemy
Notary Public

HUGH J. McMENEMY
Notary Public, State of New York
No. 24-4736804
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1985

STATE OF SOUTH CAROLINA
COUNTY OF McCORMICK
filed for record OCT 31 1983
A. D. 19 at 11:30 o'clock A M
and duly recorded in Book 65
of Deeds page 18
Thomas B. Mason
Clerk of Court
Ex officio
R M C

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
Filed for record NOV 10 148
A. D. 19 at 9 o'clock A M

BOOK 243
PAGE 7
DATED 4-12-12
REC 4-12-12

STATE OF SOUTH CAROLINA)
) **QUITCLAIM DEED OF REAL PROPERTY**
COUNTY OF MCCORMICK)

THIS QUITCLAIM DEED, executed as of the 12th day of April, 2012 by the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina (hereinafter referred to as "Grantor"), to the Ninety-Six District Resource Conservation and Development Council, Incorporated, a South Carolina non-profit (hereinafter referred to as "Grantee"), whose mailing address is 115 Enterprise Court, A-3, Greenwood, SC 29649.

WITNESSETH:

IN CONSIDERATION of the sum of Ten Dollars ($10.00) the receipt and sufficiency of which is acknowledged by Grantor, Grantor has quit claimed, granted, bargained, sold and released, and by this Deed quitclaims, grants, bargains, sells and releases, to Grantee, its successors and assigns, all of its right, title and interest in and to the following real property:

All of that vacated railroad right of way, varying in width, along with numerous side parcels of land of various dimensions, beginning on Railroad Valuation Map V5/1, at milepost 506, located 3 miles northwest of McCormick, South Carolina and extending in a general northwesterly direction for 17 miles, more or less, passing through communities known as Bordeaux, Willington, and Mt. Carmel until it reaches the Abbeville County line, being shown on Railroad Valuation Maps V5/1, 2, 3, 4, 5, and 6, attached hereto as Exhibit A. Some of the property herein has McCormick county tax map numbers 098-00-00-028, 077-00-00-009, and 024-06-01-022.

This deed grant includes the following side parcels owned by Grantor in fee simple, but only to the extent such parcels are actually located within the bounds of McCormick County:

Ream-Patterson Siding site, measuring 135' x 800', and calculated to contain about 2.48 acre. (Abbeville County Deed Book 11, page 206)

Mount Carmel Depot property (with building), containing about 1 acre. (Abbeville County Deed Book 11, page 204)

BOOK 243 OF Deeds
PAGE 7
STATE TAX PAID 0
COUNTY TAX PAID 0

AUDITOR'S OFFICE McCORMICK CTY.
Recorded 4-17-12
Book 11, Page 267
Virginia H. Edmunds
Auditor / Deputy

Willington Depot site, containing about 1 acre. (Abbeville County Deed Book 11, page 205)
Site associated with trestle, near mile post 50 (AKH-510), composed of two 42' x 258' strips for a total of 0.5 acre. (Abbeville County Deed Book 29, page 460)
Borrow pit site near mile post 49 (AKH-509), composed of two 20' x 600' strips for a total 0.56 acre. (Abbeville County Deed Book 30, page 210)
Bordeaux Depot site, measuring 125' x 490' x 77' x 390', shown by plat to contain 0.77 acre. (Abbeville County Deed Book 35, page 122)
Section Houses/Water Tower site, measuring 260' x 169.61' calculated to contain 1.01 acres. (Abbeville County Deed Book 11, page 207)
Site near Petrigru Station east of mile post 46 (AKH-506), composed of two 17' x 700' strips for a total of 0.54 acre. (Abbeville County Deed Book 25, page 523)
Site near Petigru Station, west of mile post 46 (AKH-506), composed of a 17' x 1085' strip for a total of 0.42 acre. (Abbeville County Deed Book 25, page 523)
Site near mile post 46 (AKH-506, east and near Petigru siding, composed of two tracts (3.21 acres and 2.75 acres) for a total of 5.96 acres. (Abbeville County Deed Book 26, page 600)
TOGETHER with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto;

TO HAVE AND TO HOLD all and singular said property unto Grantee, its successors and assigns forever.
LESS property under Clark's Hill Lake now know as Lake Thurmond; see deed recorded in McCormick County in Deed Book 21 at Page 193.

Subject to matters that would be shown on a current survey of the property and all easements and restrictions of record, including but not limited to that certain Easement given by the Clarks Hill-Russell Authority of the State of South Carolina to the County of McCormick, South Carolina recorded in the Abbeville County Register of Deeds at Book 138, Page 511.

This is a portion of the property conveyed by Seaboard System Railroad, Inc. to Clarks Hill-Russell Authority of South Carolina now known as the SC Department of Commerce, Division of Savannah Valley Development by deed dated June 16, 1983 and recorded in McCormick County in Deed Book 65 at Page 18 on October 31, 1983.

THIS conveyance is made subject to all covenants, restrictions, easements, rights-of-way, and other matters of record, and such matters as would be shown by a current plat, affecting the within-described property.

[*signature page follows*]

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed as of the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

South Carolina Department of Commerce, Division of the Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina

Witness No. 1
Name: Karen B. Manning

By:
Name: James Christopher Huffman
Title: Chief Financial Officer

Witness No. 2
Name: Vicki S. Wooten

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, the undersigned notary public, hereby certify that James Christopher Huffman, as Chief Financial Officer of the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina, personally came before me this day and acknowledged the execution of the foregoing instrument as Grantor's act and deed.

WITNESS my hand and notarial stamp or seal, this 12th day of April, 2012.

Notary Public for State of South Carolina
My Commission Expires: My Commission Expires April 6, 2015
[AFFIX NOTARIAL SEAL OR STAMP]

Exhibit A

Railroad Valuation Maps

[follow on subsequent pages]

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. **I have read the information on this Affidavit and I understand such information.**
2. **The property is being transferred by the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina, to the Ninety-Six District Resource Conservation and Development Council, Incorporated, on April 12, 2012.**
3. **Check on of the following: The DEED is**

   (a)_____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
   (c) __X__ EXEMPT from the deed recording fee because the value of the realty, as defined in Section 12-24-30, is equal to or less than $100.

4. **As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:**
   Seller.

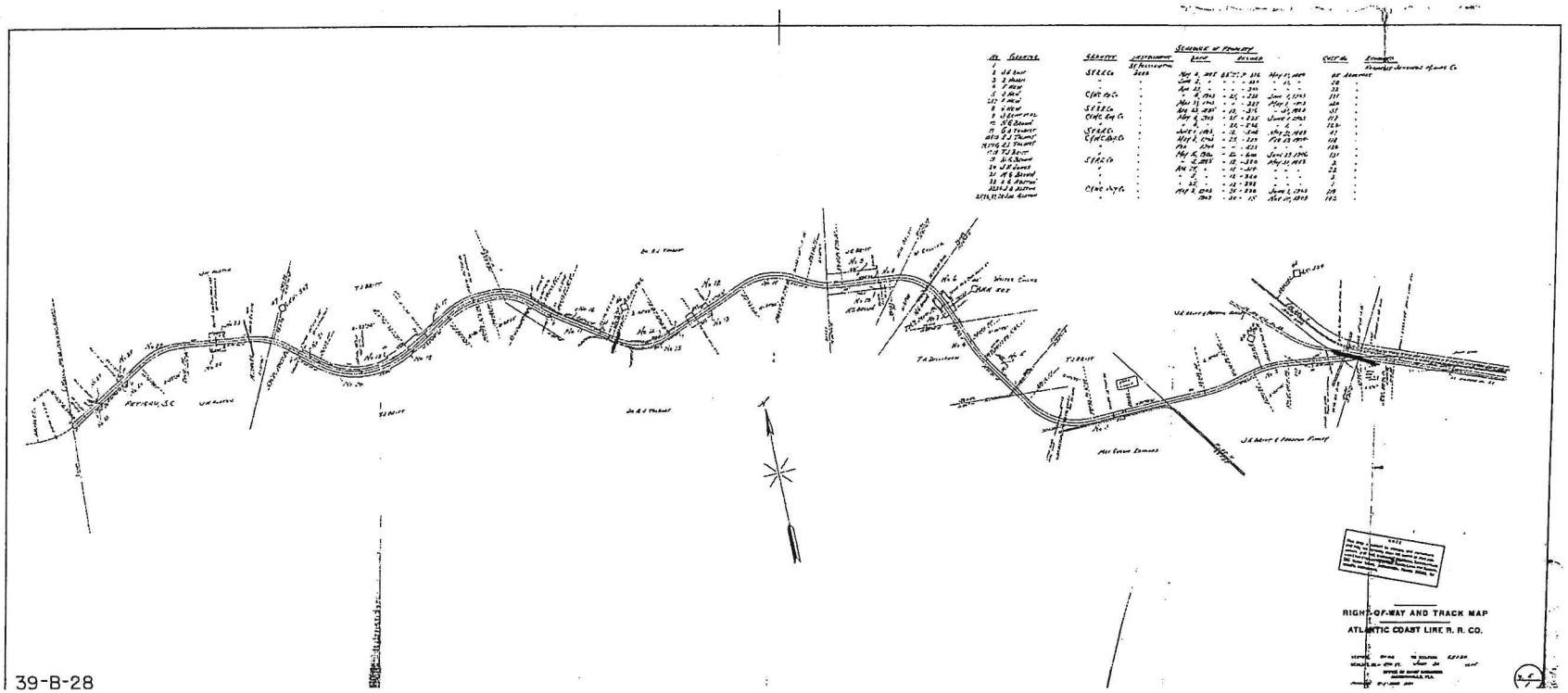
5. **I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.**

South Carolina Department of Commerce, Division of the Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina

By: _____
Name: James Christopher Huffman
Its: Chief Financial Officer

Sworn to before me this 12th day of April, 2012.

_____
Notary Public for South Carolina
My Commission Expires: My Commission Expires April 6, 2015



CSX RAILROAD MAP V5/S-1
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

EXHIBIT A

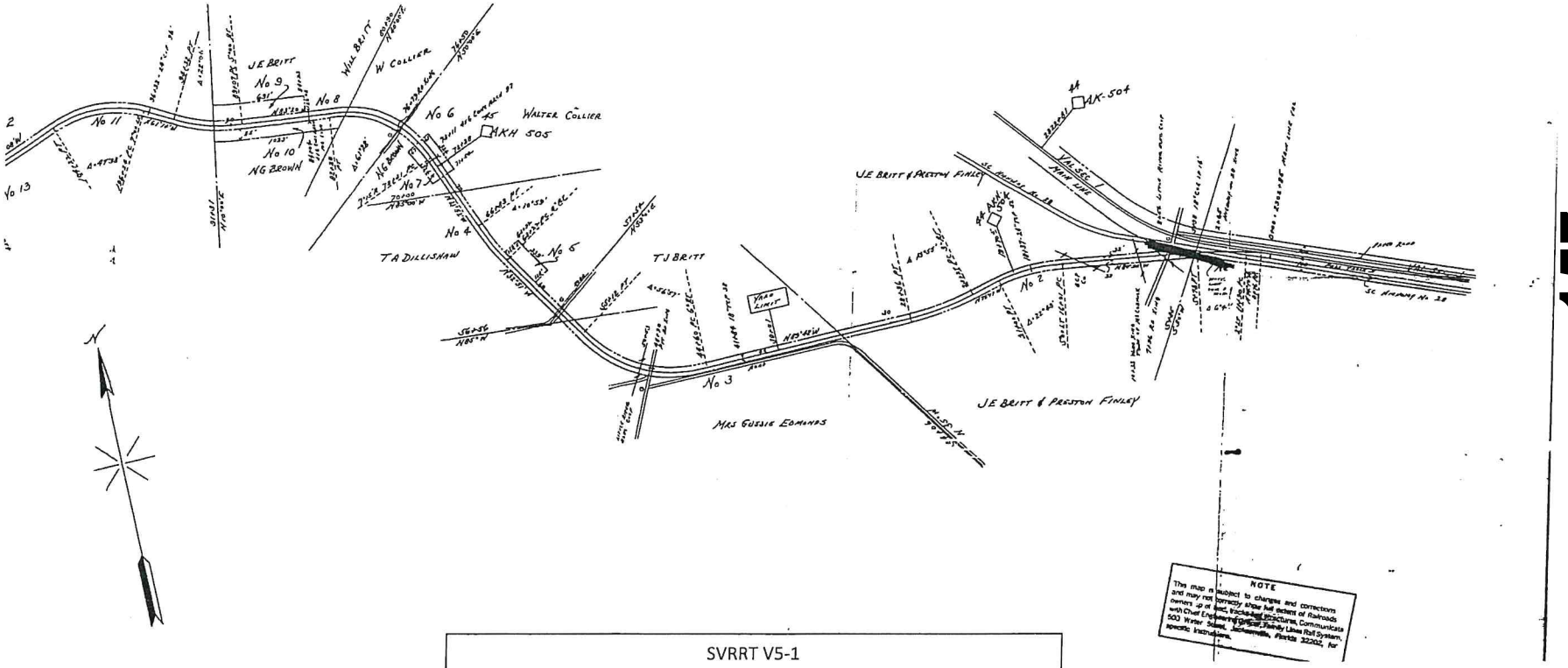
24 PAGES

SCHEDULE OF PROPERTY

No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD		CUST NO	REMARKS
1			BY PRESCRIPTION					FORMERLY JENNINGS MINING CO
2	J H BRITT	S V R R Co	DEED	MAY 4, 1885	DB "12" P 326	MAY 31, 1889	45	ABBEVILLE
3	Z HARRIS	"	"	JUNE 2, "	" " " 324	" 31, "	20	"
4	F NEW	"	"	APR 23, "	" " " 310	" " "	32	"
5	J NEW	C & W C Ry Co	"	" 4, 1903	" 25, " 228	JUNE 1, 1903	121	"
6&7	F NEW	"	"	MAR 31, 1903	" " " 227	MAY 1, 1903	120	"
8	J NEW	S V R R. Co	"	APR 23, 1885	" 12, " 316	" 31, 1889	31	"
9	J BRITT, ET AL	C & W C Rwy Co	"	MAY 4, 1903	" 25, " 225	JUNE 1, 1903	117	"
10	N G BROWN	"	"	" 4, "	" 25, " 226	" 1, "	122	"
11	G A TALBERT	S V R R Co	"	JUNE 1, 1885,	" 12 " 308	MAY 31, 1889	41	"
12&13	R J TALBERT	C & W C Rwy. Co	"	MAY 4, 1903	" 25, " 229	FEB 29, 1904	118	"
14,15&16	R J TALBERT	"	"	FEB 1904	" " 523	" " "	124	"
17,18	T J BRITT	"	"	MAY 16, 1906	" 26 " 600	JUNE 29 1906	131	"
19	N. G. BROWN	S V R R. Co	"	" 5, 1885	" 12, " 320	MAY 31, 1889	2	"
20	J H JONES	"	"	APR. 25, "	" 12 " 314	" " "	22	"
21	N G BROWN	"	"	" 5, "	" 12 " 320	" " "	2	"
22	L G AUSTON	"	"	" 25, "	" 12 " 298	" " "	1	"
23,24	J B ALSTON	C & W C Rwy Co	"	MAY 8, 1903	" 26 " 230	JUNE 1, 1903	119	"
25,26,27,28	JAS ALSTON	"	"	1909	" 30 " 15	NOV 10, 1909	142	"

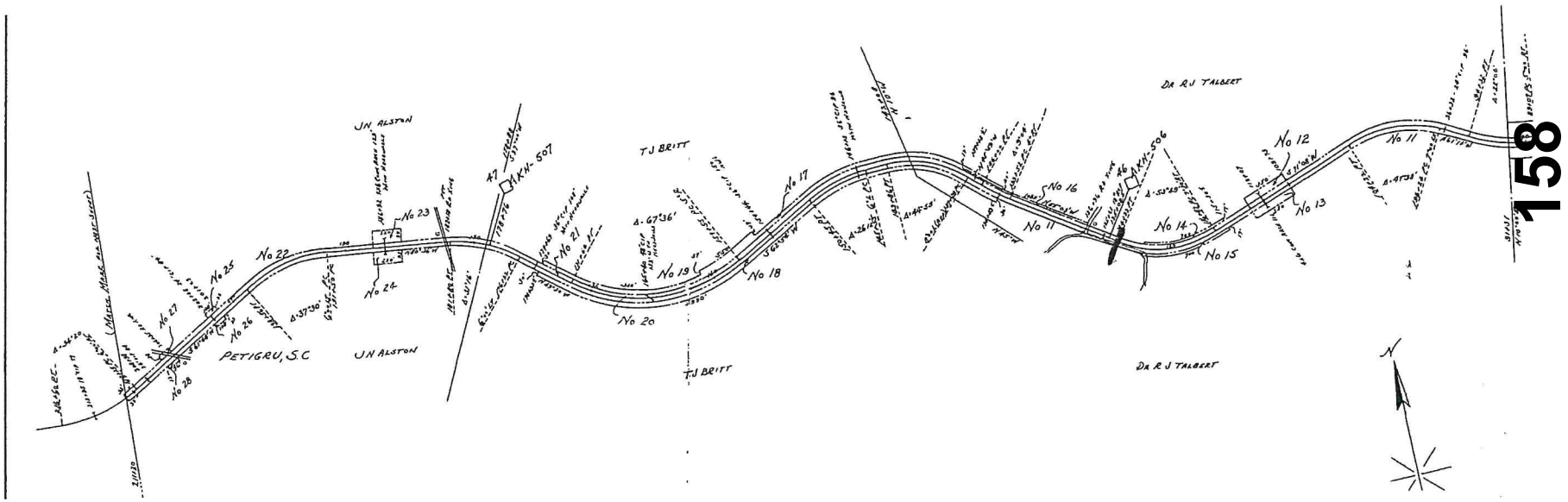
List of Properties
V5-1 MAP

156



SVRRT V5-1
EASTERN SIDE OF MAP

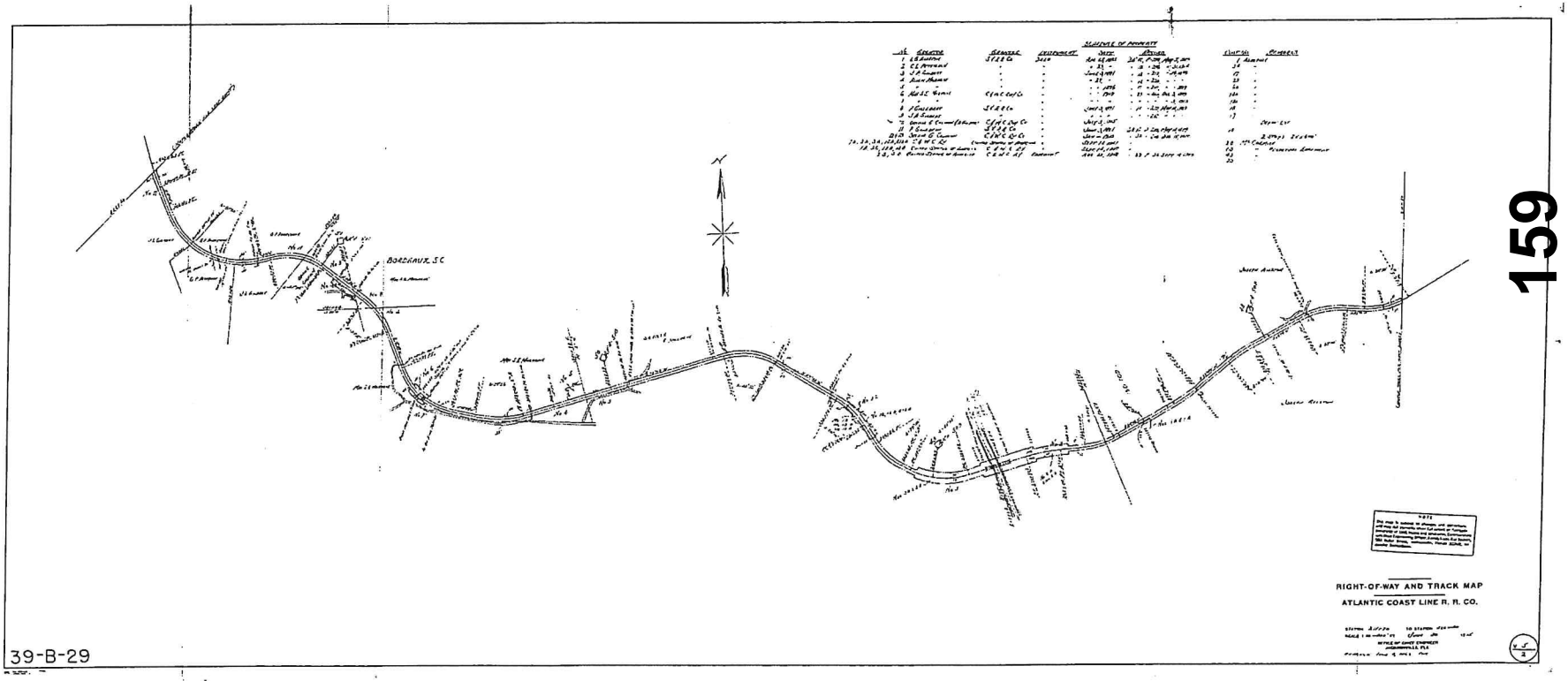
157



SVRRT V5-1
WESTERN SIDE OF MAP

EXHIBIT A

24 PAGES



159

CSX RAILROAD MAP V5/S-2
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

EXHIBIT A

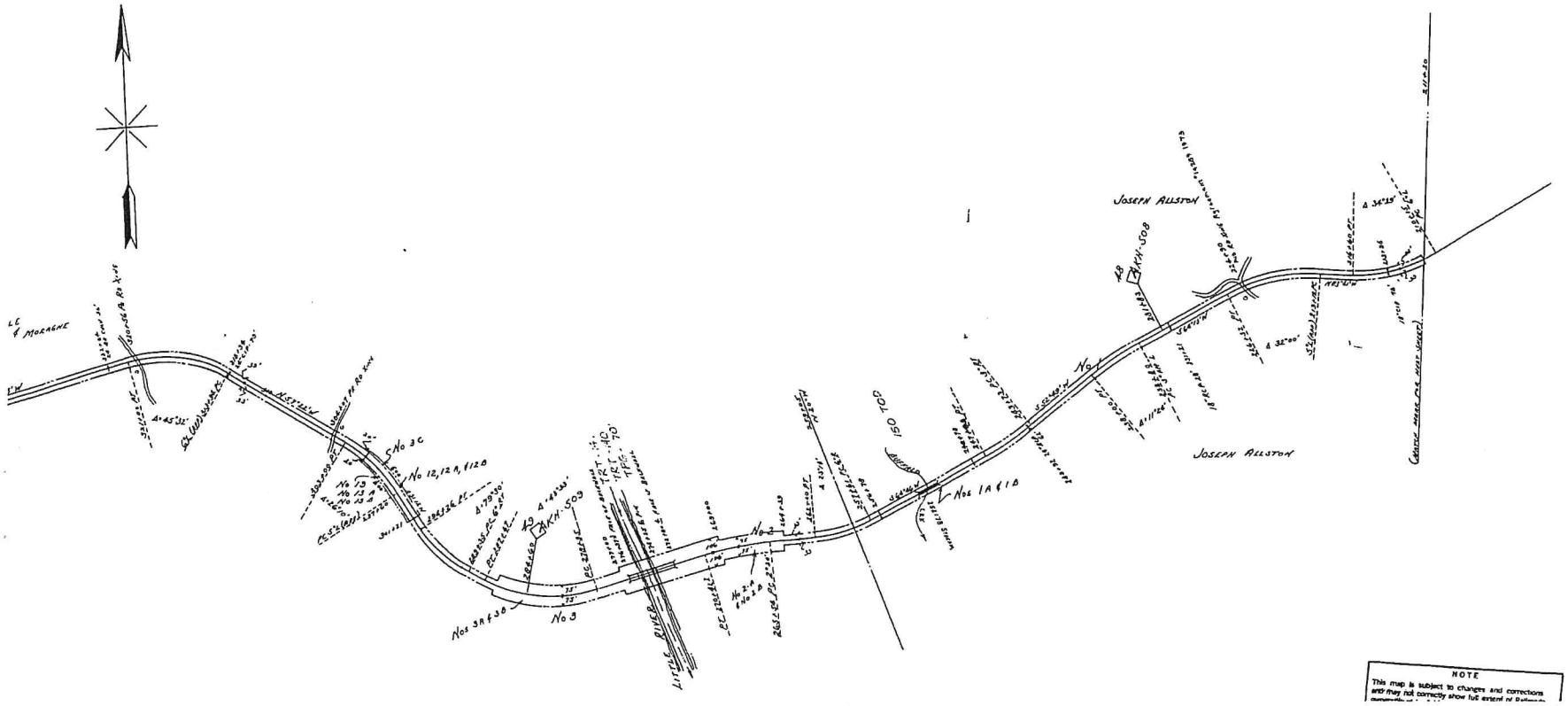
24 PAGES

SCHEDULE OF PROPERTY

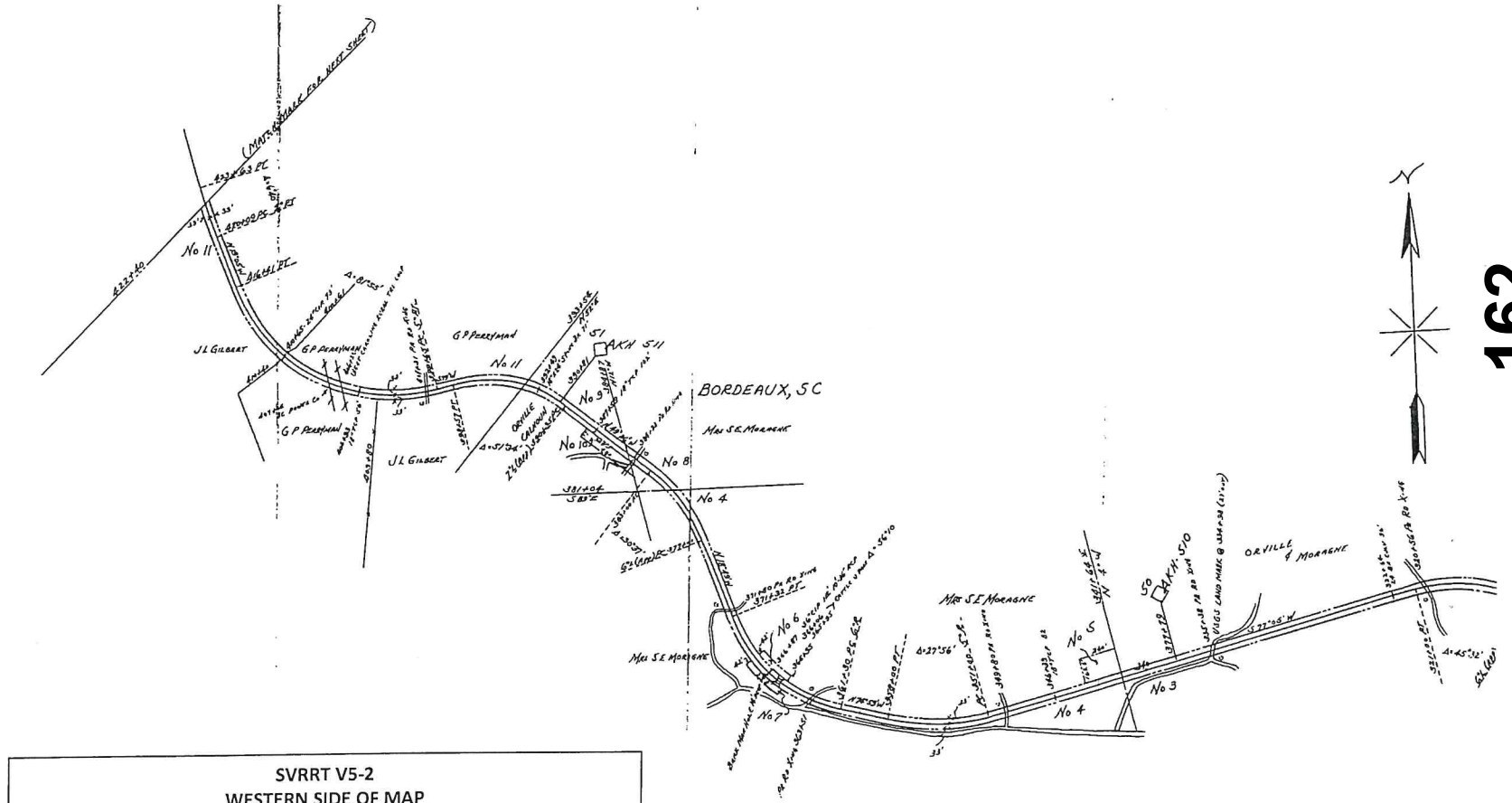
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1	L G ALLSTON	S.V.R.R Co	DEED	APR 25, 1885	DB 12, P 298, May 31, 1889	1	ABBEVILLE
2	C L PETTIGREW	"	"	" 23, "	" 12 " 296 " 31, 1914	34	"
3	J A GILBERT	"	"	JUNE 3, 1881	" 12 " 212, " 14, 1899	17	"
4	ALLEN MORAGNE	"	"	" 27, "	" 12 " 220, " " "	29	"
5	" "	"	"	" " 1886	" 11 " 207, " " 1889	60	"
6	MRS S.E MORAGNE	C & W C Ruy Co	"	" " 1909	" 29 " 460, Dec 3, 1909	140	"
7	" "	"	"	— — "	" " " " " 3, 1909	140	"
8	P GILLEBEAU	S V R R Co	"	JUNE 3, 1881	" 12 " 210, May 14, 1889	18	"
9	J A GILBERT	"	"	" " "	" " " 212 " " "	17	"
10	ORVILLE G CALHOUN & A GILBERT	C & W C Ruy Co	"	JULY 3, 1915			DEPOT LOT
11	P GILLEBEAU	S V R R Co	"	JUNE 3, 1881	DB 12 P 210, May 14, 1889	18	
12 & 13	ORVILLE G CALHOUN	C & W C Ry Co	"	JAN — 1910	" 30 " 210 AUG 15, 1910		2 STRIPS 20'x600'
1A, 2A, 3A, 12A, & 13A	C & W C RY	UNITED STATES OF AMERICA	"	SEPT 14, 1951	"	23	MC CORMICK
1B, 3C, 12B, 13B	UNITED STATES OF AMERICA	C & W C RY	"	SEPT. 14, 1951	"	23	" PERPETUAL EASEMENT
2B, 3B	UNITED STATES OF AMERICA	C & W C RY	EASEMENT	AUG 22, 1958	" 23 P 36, SEPT 18, 1958	43	"
						23	"

List of Properties
V5-2 MAP

160



SVRRT V5-2
EASTERN SIDE OF MAP

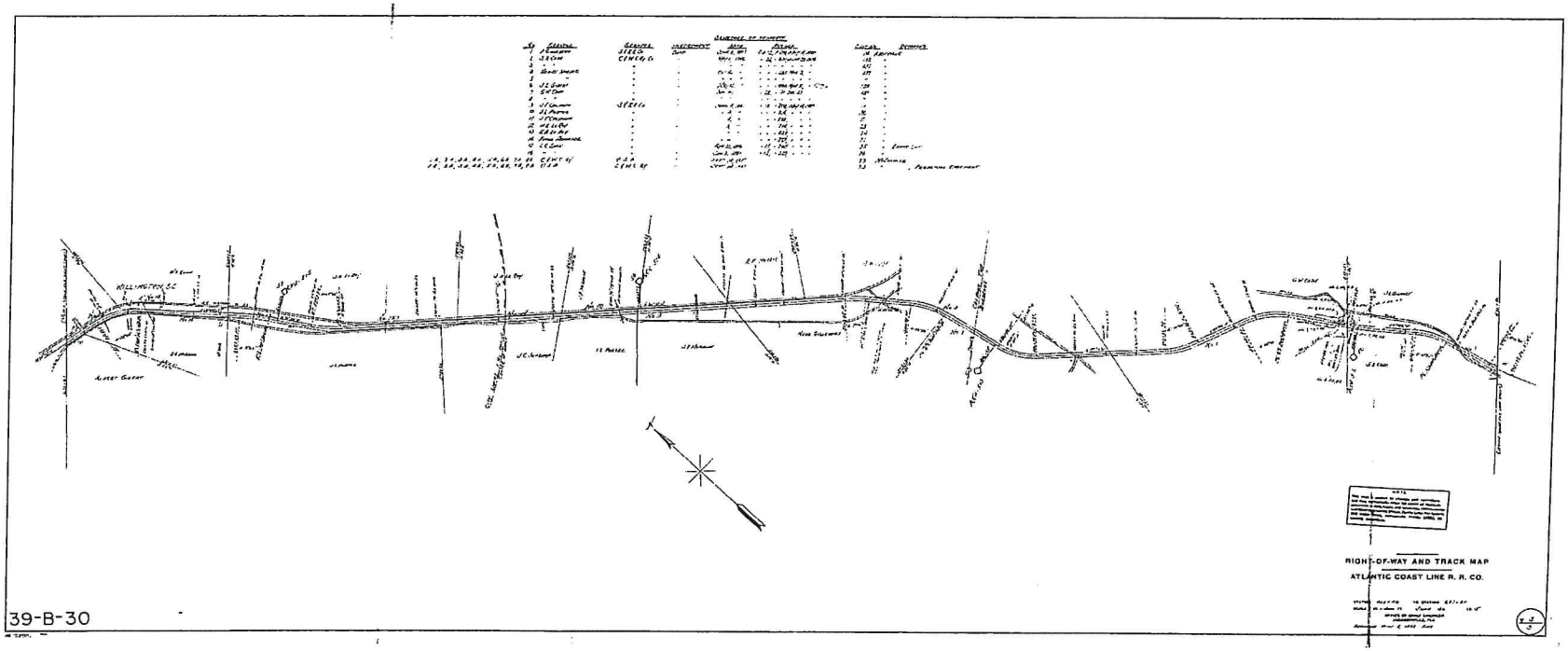


SVRRT V5-2
WESTERN SIDE OF MAP

162

EXHIBIT A

24 PAGES



CSX RAILROAD MAP V5/S-3
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

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EXHIBIT A

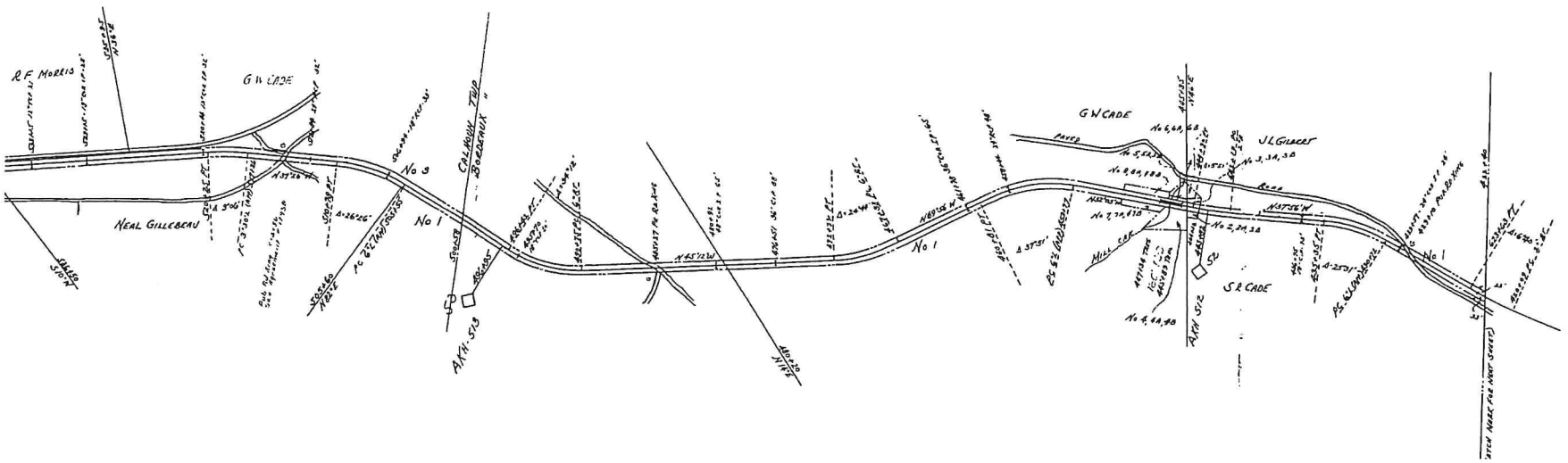
24 PAGES

SCHEDULE OF PROPERTY

No	Grantor	Grantee	Instrument	Date	Record	Cust No	Remarks
1	P Gillebeau	S V R R Co	Deed	June 3, 1881	D B 12, P 210, May 14, 1889	18	Abbeville
2	S R Cade	C & W C Ry Co	"	May 1, 1906	" 26, " 601, June 29, 1906	132	"
3	" "	"	"	" " "	" " " " " " "	132	"
4	Henry Harper	"	"	Oct 16 "	" " " 683, Mar 2, "	137	"
5	" "	"	"	" " "	" " " " " " "	"	"
6	J L Gibert	"	"	May 12, "	" " " ~~879~~, May 31, "	129	"
7	G W Cade	"	"	Nov 30 "	" 28, " 71, Dec 29, "	139	"
8	" "	"	"	" " "	" " " " " " "	"	"
9	J F Calhoun	S V R R Co	"	June 4, 1881	" 12 " 208, May 14, 1889	11	"
10	J L Porter	"	"	" 3, "	" " " 216, " " "	36	"
11	J F Calhoun	"	"	" 4, "	" " " 208, " " "	11	"
12	H E LeRoy	"	"	" 3, "	" " " 214, " " "	23	"
13	E B LeRoy	"	"	" " "	" " " 222, " " "	24	"
14	Peter Heminger	"	"	" " "	" " " 227, " " "	21	"
15	L C Link	"	"	Apr 22, 1886	" 11, " 205, " " "	25	" Depot Lot
16	" "	"	"	Jun 3, 1881	" 12, " 229, " " "	26	"
1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A	C & W C Ry	U S A	"	Sept 14, 1951		23	McCormick
1B, 2B, 3B, 4B, 5B, 6B, 7B, 8B	U S A	C & W C Ry	"	Sept 14, 1951		23	" , Perpetual Easement

164

List of Properties
V5-3 MAP

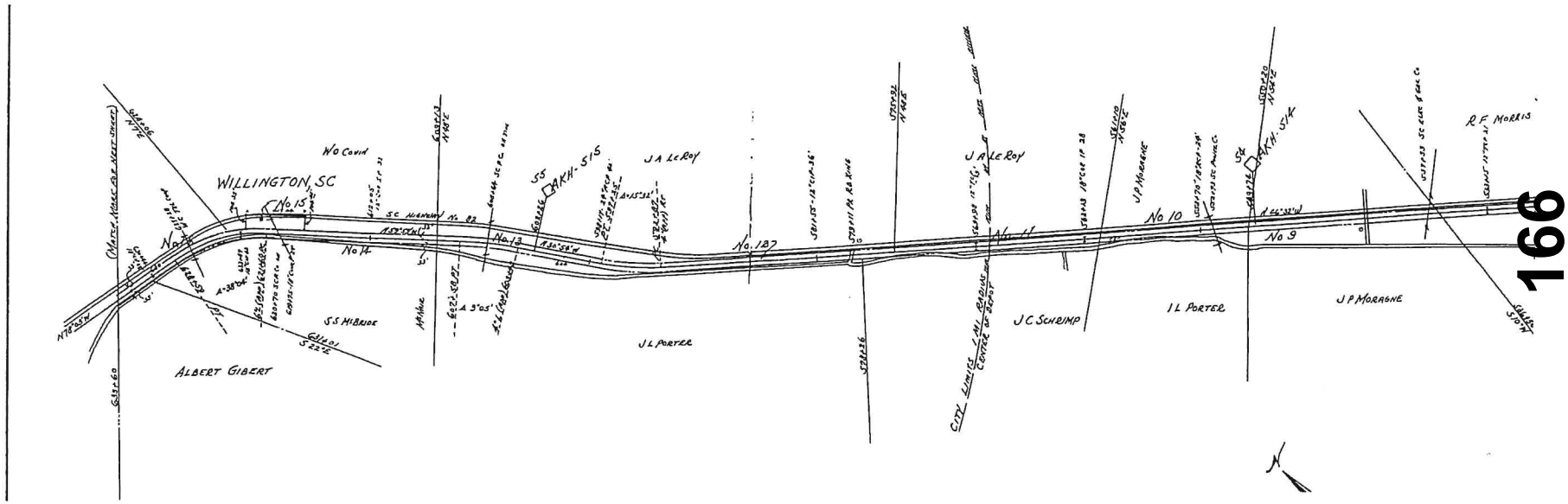


SVRRT V5-3
EASTERN SIDE OF MAP

EXHIBIT A

24 PAGES

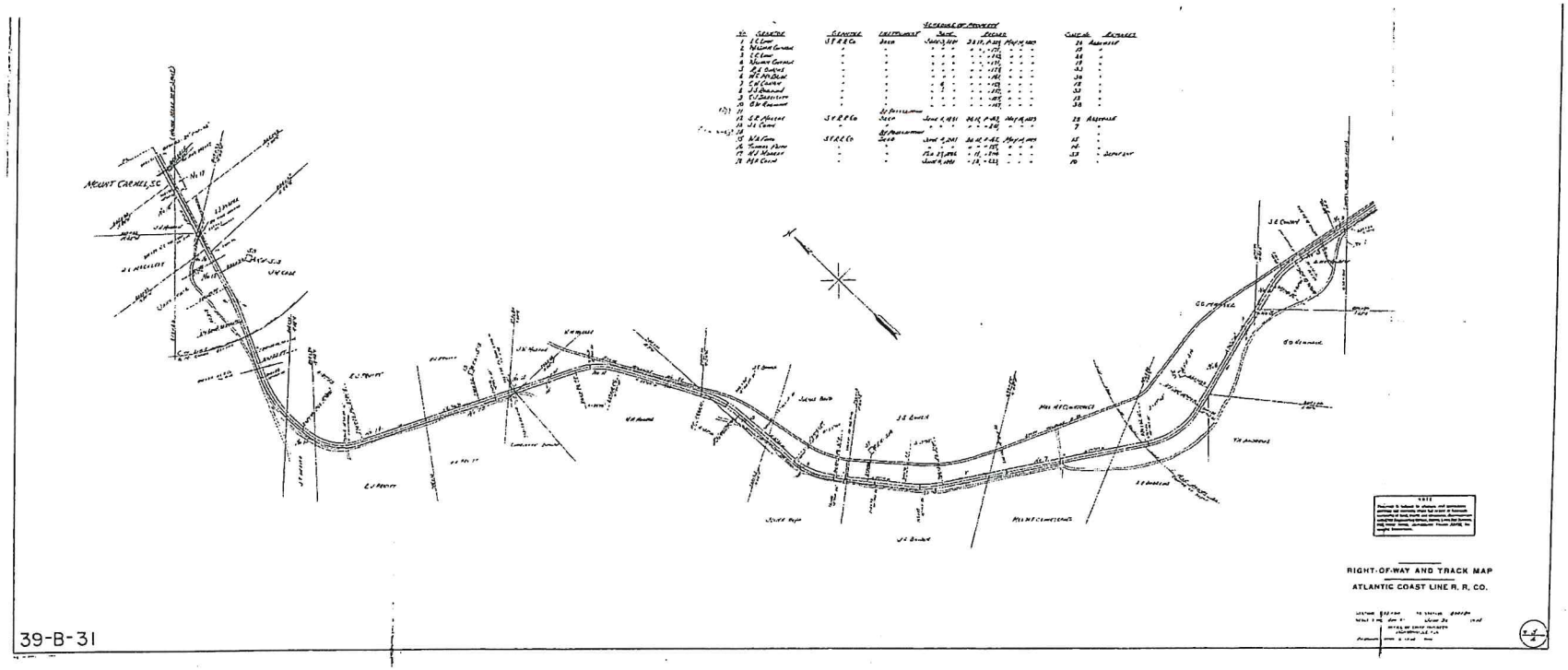
165



SVRRT V5-3
WESTERN SIDE OF MAP

EXHIBIT A

24 PAGES



CSX RAILROAD MAP V5/S-4
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

EXHIBIT A

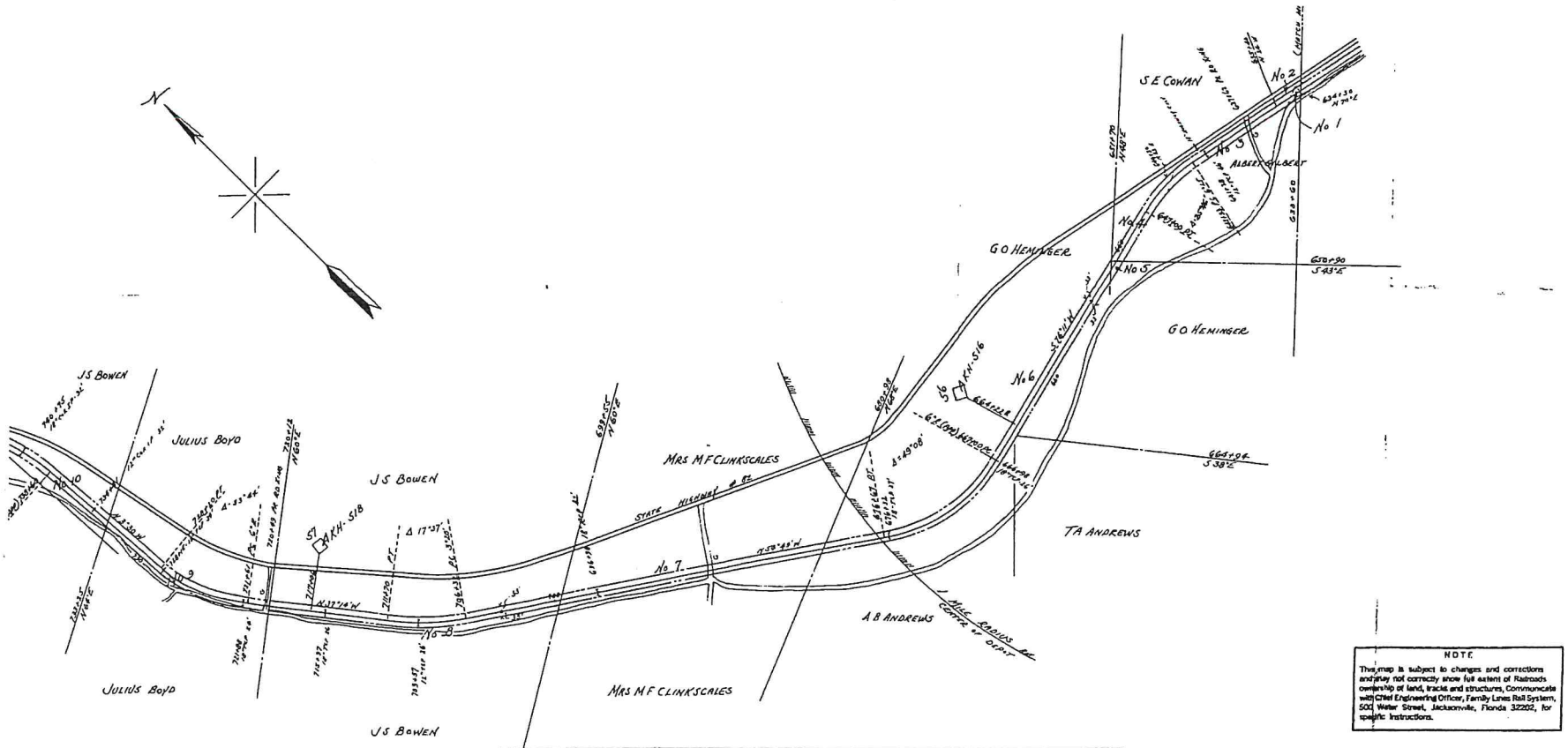
24 PAGES

SCHEDULE OF PROPERTY

No	Grantor	Grantee	Instrument	Date	Record	Cust. No	Remarks
1	L C Link	S V R R Co	Deed	June 3, 1881	DB 12, P-229, May 14, 1889	26	Abbeville
2	William Guthrie	"	"	" " "	" " , " 171, " " "	19	"
3	L C Link	"	"	" " "	" " , " 229, " " "	26	"
4	William Guthrie	"	"	" " "	" " , " 171, " " "	19	"
5	R L Owens	"	"	" " "	" " , " 179, " " "	33	"
6	W S Mc Bride	"	"	" " "	" " , " 161, " " "	30	"
7	C W Cowan	"	"	" 4, "	" " , " 153, " " "	12	"
8	J S Robinson	"	"	" " "	" " , " 157, " " "	39	"
9	C J Darricott	"	"	" " "	" " , " 155, " " "	13	"
10	G W Robinson	"	"	" " "	" " , " 167, " " "	38	"
(12)? 11			By Prescription				
12	S R Morrah	S V R R Co	Deed	June 4, 1881	DB 12, P-169, May 14, 1889	28	Abbeville
13	J L Covin	"	"	" " "	" " , " 241, " " "	7	"
(12 206)? 14			By Prescription				"
15	W A Frith	S V R R Co	Deed	June 4, 1881	DB 12, P-165, May 14, 1889	15	"
16	Thomas Frith	"	"	" " "	" " , " 151, " " "	14	"
17	N J Morrah	"	"	Feb. 27, 1886	" 11, " 204, " " "	59	" Depot Lot
18	M A Covin	"	"	June 4, 1881	" 12, " 223, " " "	10	"

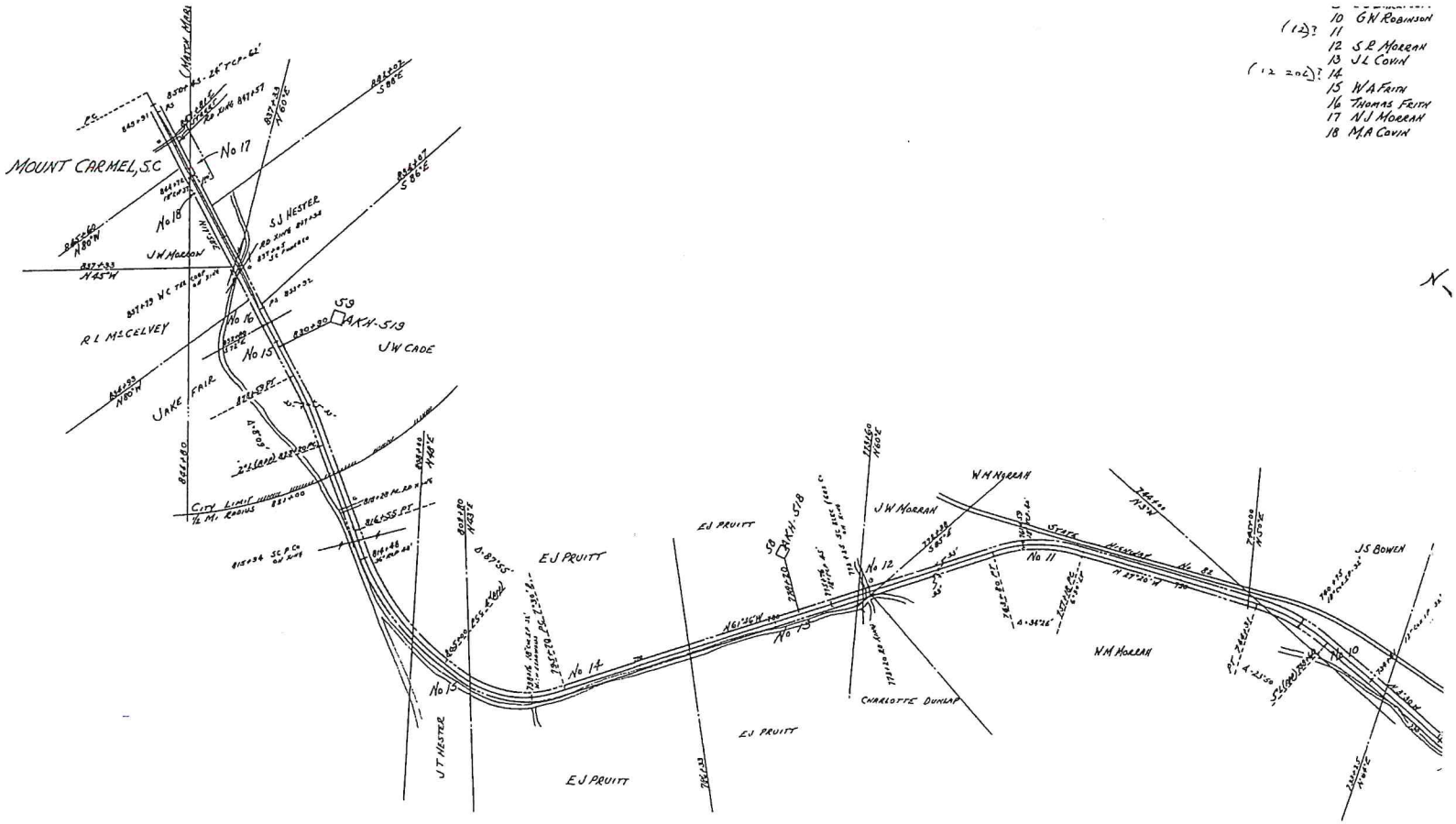
List of Properties
V5-4 MAP

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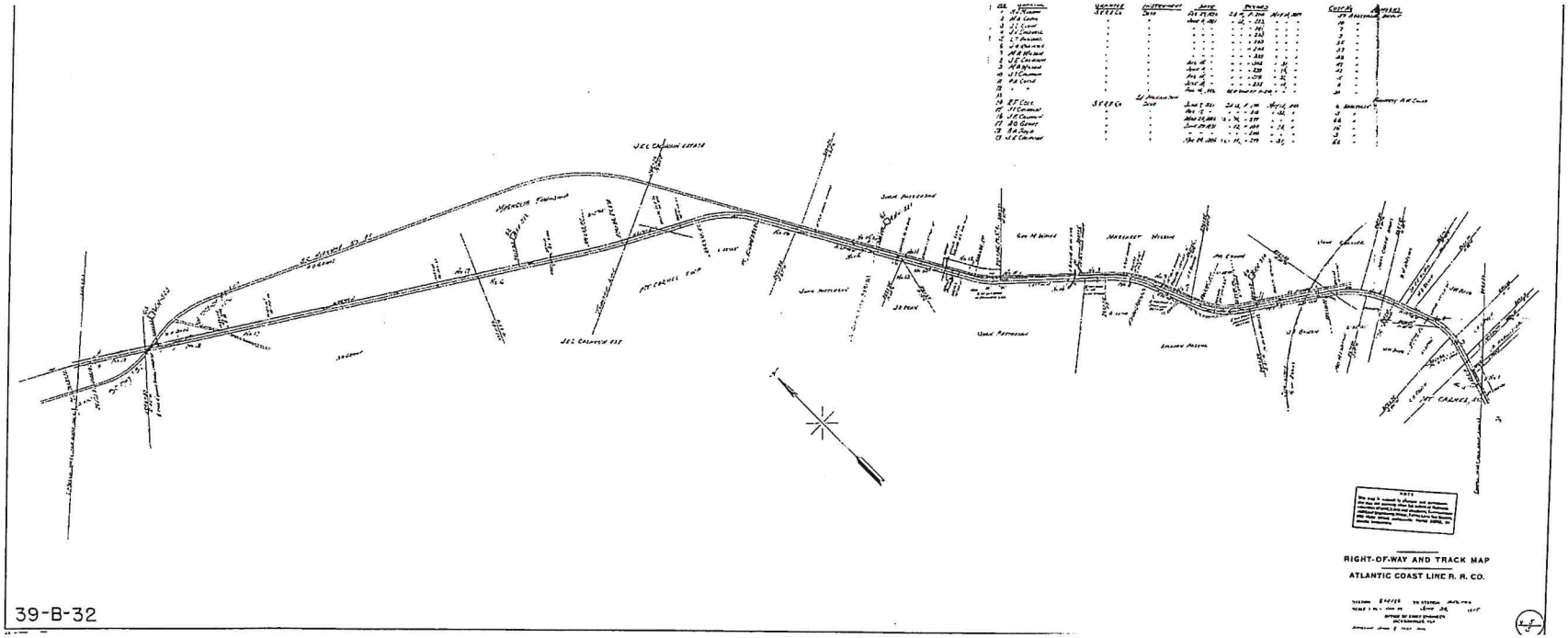
NOTE
This map is subject to changes and corrections and may not correctly show full extent of Railroads ownership of land, tracks and structures. Communicate with Chief Engineering Officer, Family Lines Rail System, 500 Water Street, Jacksonville, Florida 32202, for specific instructions.

SVRRT V5-4
EASTERN SIDE OF MAP



SVRRT V5-4
WESTERN SIDE OF MAP

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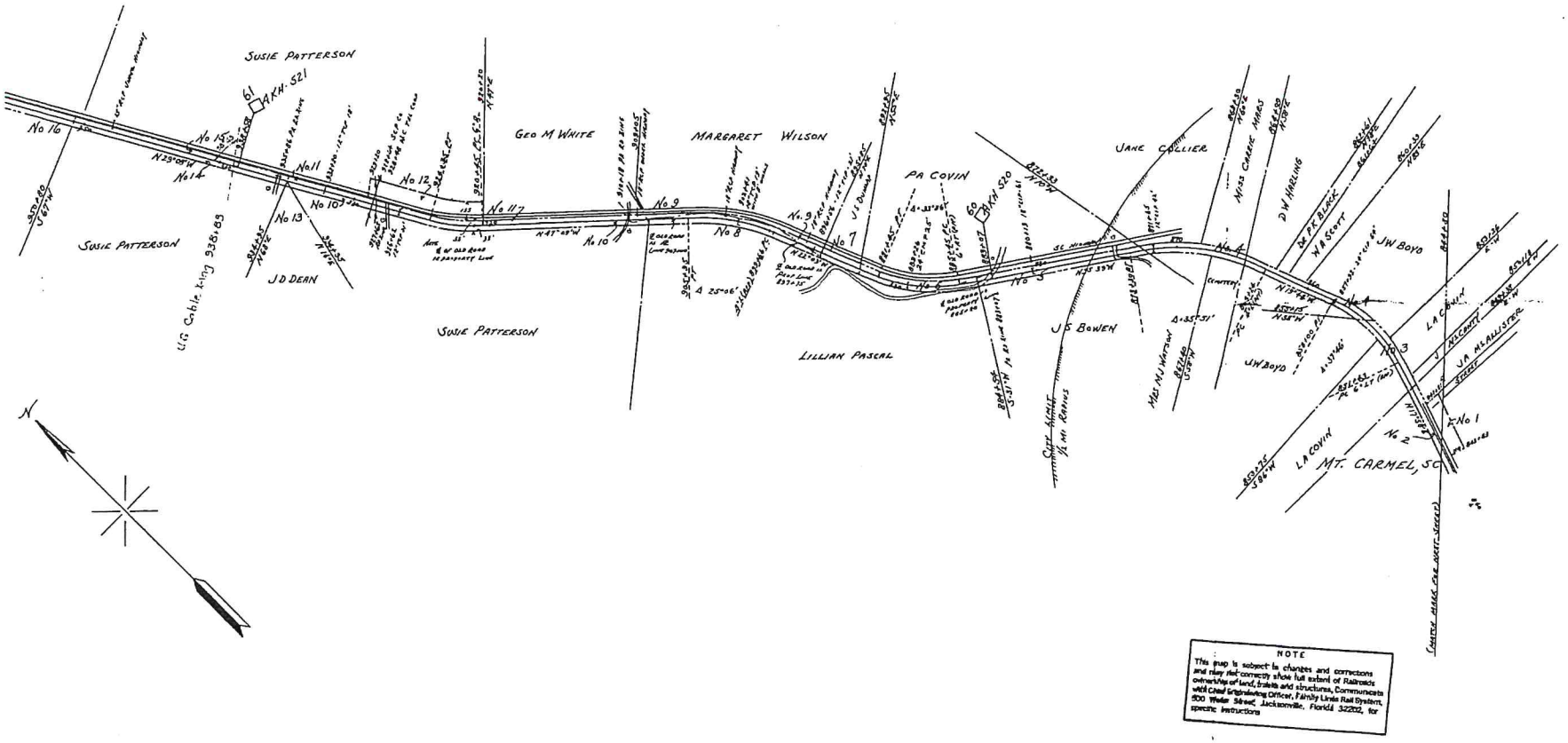


CSX RAILROAD MAP V5/S-5
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

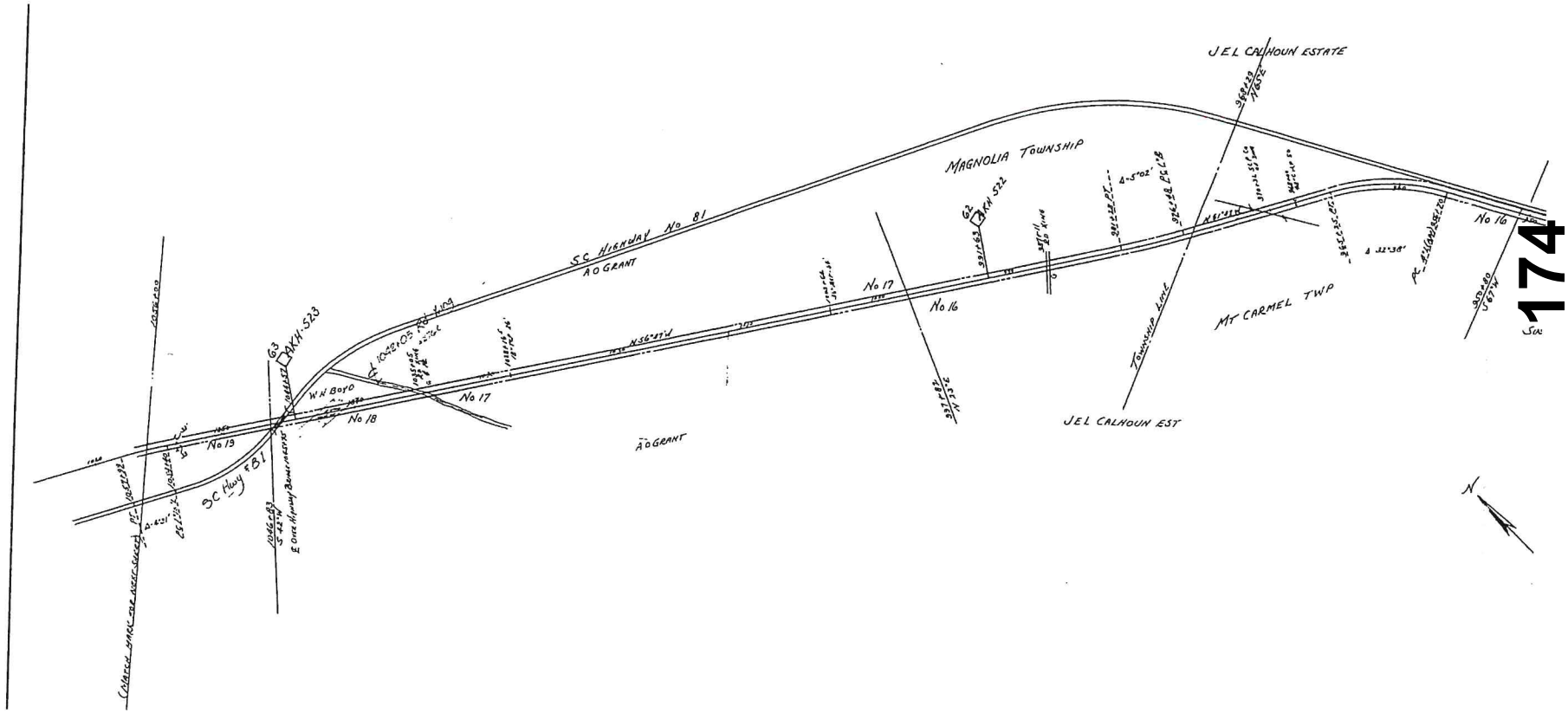
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1	N J Morrah	S V R R Co	Deed	Feb 27, 1886	D B 11, P- 204	May 14, 1889	59	Abbeville Depot
2	M A Covin	"	"	June 4, 1881	" 12, " 223,	" " "	10	"
3	J L Covin	"	"	" " "	" " " 241,	" " "	7	"
4	J E Caldwell	"	"	" " "	" " " 225	" " "	9	"
5	L T Paschal	"	"	" " "	" " " 243	" " "	35	"
6	J O Robinson	"	"	" " "	" " " 245	" " "	37	"
7	M A Wilson	"	"	" " "	" " " 239	" " "	42	"
8	J E Calhoun	"	"	Aug 16, "	" " " 302	" 31, "	47	"
9	M A Wilson	"	"	June 4, "	" " " 239	" 14, "	42	"
10	J I Calhoun	"	"	Aug 15, "	" " " 312	" 31, "	5	"
11	P A Covin	"	"	June 18, "	" " " 235	" 14, "	8	"
12	" "	"	"	Aug 16, 1886	Bk of Sales #11 P-206	" "	48	"
13			By Prescription					Formerly A W Coles
14	R F Cole	S V R R Co	Deed	June 7, 1881	D B 12, P 198	May 14, 1889	6	Abbeville
15	J I Calhoun	"	"	Aug 15, "	" " " 312	" 31, "	5	"
16	J E Calhoun	"	"	Mar 24, 1886	12 " 277	" " "	66	"
17	A O Grant	"	"	June 29, 1881	" 12, " 194	" 14, "	16	"
18	B A Boyd	"	"	" " "	" " " 200	" " "	3	"
19	J E Calhoun	"	"	Mar 24, 1886	12 " 277	" 31, "	66	"

List of Properties
V5-5 MAP

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SVRRT V5-5
EASTERN SIDE OF MAP

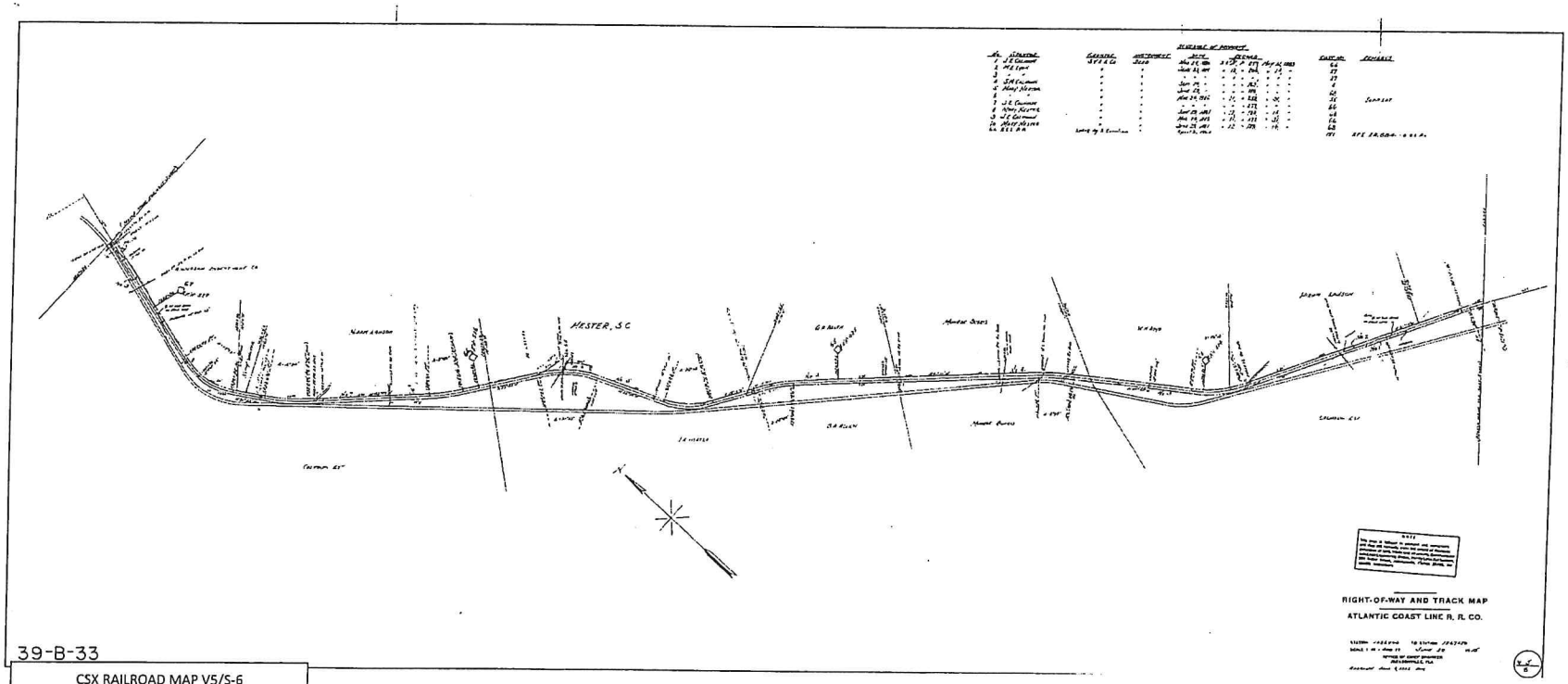


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EXHIBIT A

SVRRT V5-5
WESTERN SIDE OF MAP

24 PAGES



39-B-33

CSX RAILROAD MAP V5/S-6
Original MAP Stored at:
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Seaboard System Railroad
CSX
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Jacksonville, FL 33258

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EXHIBIT A

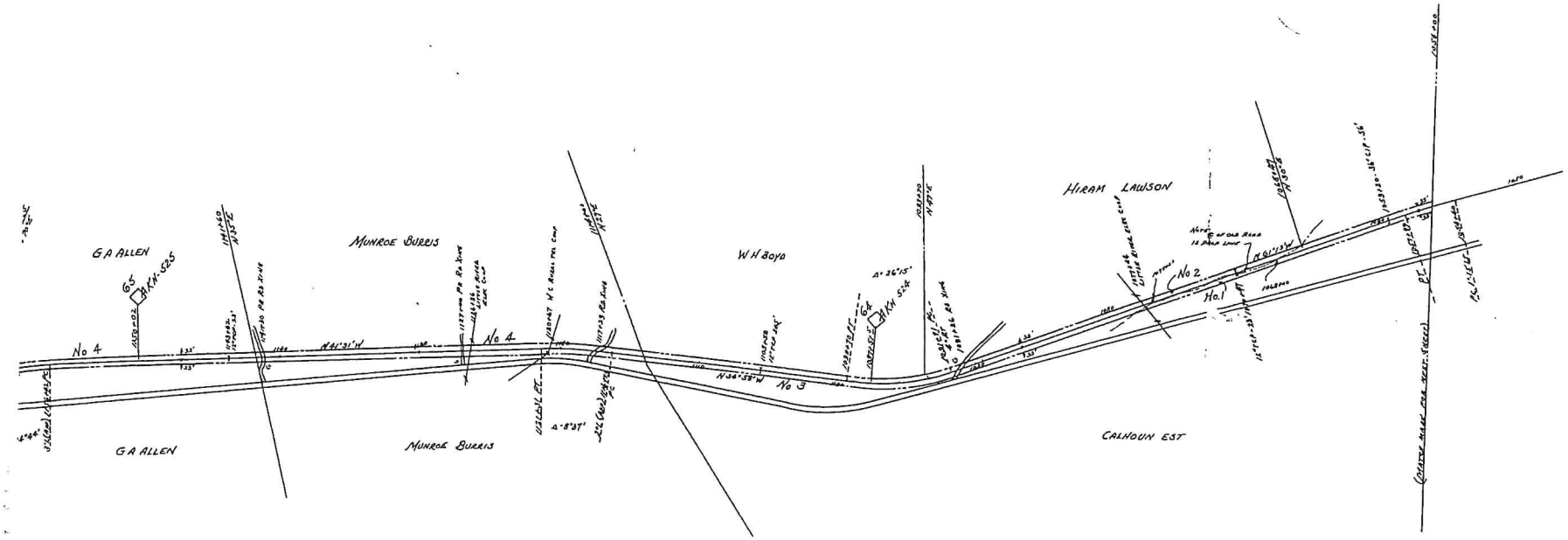
24 PAGES

SCHEDULE OF PROPERTY

No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUST NO	REMARKS
1	J E CALHOUN	S V R R Co	DEED	MAR 24, 1886	D B XX, P-277, MAY 31, 1889	66	
2	M E LYON	"	"	JUNE 29, 1881	" 12, " 204, " 14, "	27	
3	" "	"	"	" " "	" " " " " "	27	
4	S.M CALHOUN	"	"	SEPT 24, "	" " " 163, " " "	4	
5	MARY HESTER	"	"	JUNE 29, "	" " " 188, " " "	68	
6	" "	"	"	MAR 24, 1886	" 11, " 258, " 31, "	55	DEPOT LOT
7	J E CALHOUN	"	"	" " "	" " " 277, " " "	66	
8	MARY HESTER	"	"	JUNE 29, 1881	" 12, " 188, " 14, "	68	
9	J E CALHOUN	"	"	MAR 24, 1886	" 11, " 277, " 31, "	66	
10	MARY HESTER	"	"	JUNE 29, 1881	" 12 " 188, " 14, "	68	
6A	A C L R R	STATE Of S Carolina	"	April 3, 1964		151	AFE 28,884 - 0.05 Ac

List of Properties
V5-6 MAP

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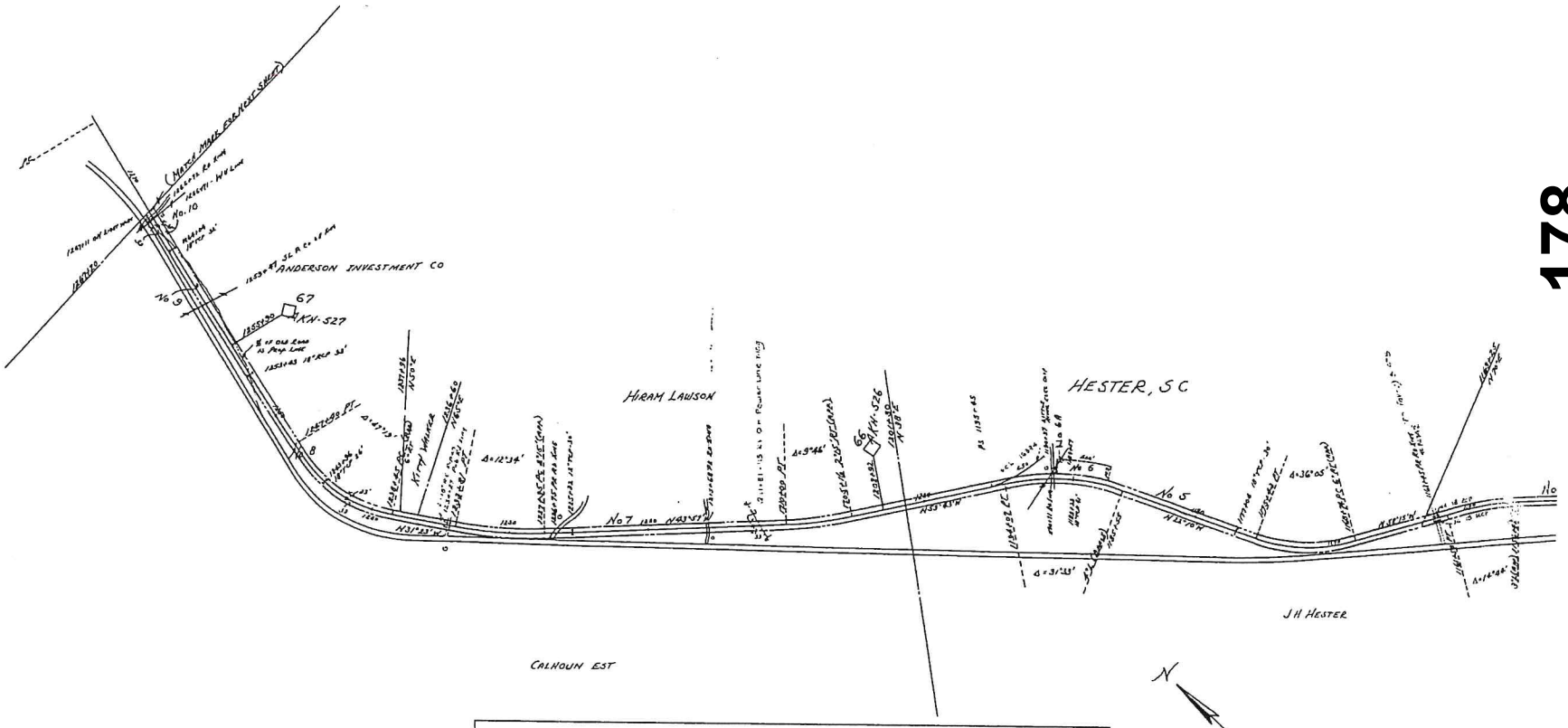


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SVRRT V5-6
EASTERN SIDE OF MAP

EXHIBIT A

24 PAGES



SVRRT V5-6
WESTERN SIDE OF MAP

EXHIBIT A

24 PAGES

FILED
STATE OF SOUTH CAROLINA

BOOK 244
PAGE 57
DATED 6-28-12
REC: 6-28-12

STATE OF SOUTH CAROLINA)
) **QUITCLAIM**
) **DEED OF REAL PROPERTY**
COUNTY OF MCCORMICK)

THIS QUITCLAIM DEED, executed as of the 28th day of June, 2012 by the Ninety-Six District Resource Conservation and Development Council, Incorporated, a South Carolina non-profit (hereinafter referred to as "Grantor"), whose address is 115 Enterprise Court, A-3, Greenwood, SC 29648, to the Savannah Valley Trails, Incorporated, a South Carolina non-profit (hereinafter referred to as "Grantee"), whose mailing address is 11 Overlook Point, McCormick, SC 29835

WITNESSETH:

IN CONSIDERATION of the sum of Ten Dollars ($10.00) the receipt and sufficiency of which is acknowledged by Grantor, Grantor has quit claimed, granted, bargained, sold and released, and by this Deed quitclaims, grants, bargains, sells and releases, to Grantee, its successors and assigns, all of its right, title and interest in and to the following real property:

All of that vacated railroad right of way, varying in width, along with numerous side parcels of land of various dimensions, beginning on Railroad Valuation Map V5/1, at milepost 506, located 3 miles northwest of McCormick, South Carolina and extending in a general northwesterly direction for 17 miles, more or less, passing through communities known as Bordeaux, Willington, and Mt. Carmel until it reaches the Abbeville County line, being shown on Railroad Valuation Maps V5/1, 2, 3, 4, 5, and 6, attached hereto as Exhibit A. Some of the property herein has McCormick county tax map numbers [redacted], and [redacted].

BOOK 244 OF Deeds
PAGE 57
STATE TAX PAID 0
COUNTY TAX PAID 0

AUDITOR'S OFFICE McCORMICK CTY.
Recorded 7-2-2012
In Book 11, Page 277
Auditor / Deputy

EXHIBIT 10

This deed grant includes the following side parcels owned by Grantor in fee simple, but only to the extent such parcels are actually located within the bounds of McCormick County:

Ream-Patterson Siding site, measuring 135' x 800', and containing about 2.48 acre. (Abbeville County Deed Book 11, page 206)

Mount Carmel Depot property (with building), containing about 1 acre. (Abbeville County Deed Book 11, page 204)

Willington Depot site, containing about 1 acre. (Abbeville County Deed Book 11, page 205)

Site associated with trestle, near mile post 50 (AKA-510), composed of two 42' x 258' strips for a total of 0.5 acre. (Abbeville County Deed Book 29, page 460)

Borrow pit site near mile post 49 (AKA-509), composed of two 20' x 600' strips for a total 0.56 acre. (Abbeville County Deed Book 30, page 210)

Bordeaux Depot site, measuring 125' x 490' x77' x 390', shown by plat to contain 0.77 acre. (Abbeville County Deed Book 35, page 122)

Section Houses/Water Tower site, measuring 260' x 169.61' calculated to contain 1.01 acres. (Abbeville County Deed Book 11, page 207)

Site near Petigru Station east of mile post 46 (AKA-506), composed of two 17' x 700' strips for a total of 0.54 acre. (Abbeville County Deed Book 25, page 523)

Site near Petigru Station, west of mile post 46 (AKA-506), composed of of a 17' x 1085' strips for a total of 0.42 acre. (Abbeville County Deed Book 25, page 523)

Site near mile post 46 (AKA-506), east and near Petigru siding, composed of two tracts (3.21 acres and 2.75 acres) for a total of 5.96 acres. (Abbeville County Deed Book 26, page 600)

TOGETHER with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto;

TO HAVE AND TO HOLD all and singular said property unto Grantee, its successors and assigns forever.

LESS property under Clark's Hill Lake now know as Lake Thurmond; see deed recorded in McCormick County in Deed Book 21 at Page 193.

Subject to matters that would be shown on a current survey of the property and all easements and restrictions of record, including but not limited to that certain Easement given by the Clarks Hill-Russell Authority of the State of South Carolina to the County of McCormick, South Carolina recorded in the Abbeville County Register of Deeds at Book 138, Page 511.

This is a portion of the property conveyed by Seaboard System Railroad, Inc. to Clarks Hill-Russell Authority of South Carolina now known as the SC Department of Commerce, Division of Savannah Valley Development by deed dated June 16, 1983 and recorded in McCormick County in Deed Book 65 at Page 18 on October 31, 1983.

THIS conveyance is made subject to all covenants, restrictions, easements, rights-of-way, and other matters of record, and such matters as would be shown by a current plat, affecting the within-described property.

[signature page follows]

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed as of the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

Amber R Parnell
Witness No. 1
Name: Amber R. Parnell

Eva Steen
Witness No. 2
Name: Eva Steen

Ninety-Six District Resource, Conservation, and Development, Council, Incorporated

By: Brenda Galloway
Name: Brenda Galloway
Title: Chairman

STATE OF SOUTH CAROLINA)
)
COUNTY OF Greenwood **)**

I, the undersigned notary public, hereby certify that Brenda Galloway, as Chairman of the Ninety-Six District Resource, Conservation and Development Council, Incorporated, personally came before me this day and acknowledged the execution of the foregoing instrument as Grantor's act and deed.

WITNESS my hand and notarial stamp or seal, this 28th **day of** June **, 2012.**

Janie Williams
NOTARY PUBLIC for State of South Carolina
My Commission Expires: 03/08/2014
[AFFIX NOTARIAL SEAL OR STAMP]

Exhibit A

Railroad Valuation Maps

[follow on subsequent pages]

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF Greenwood)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. **I have read the information on this Affidavit and I understand such information.**
2. **The property is being transferred by the Ninety-Six District Resource, Conservation, and Development Council, Incorporated to the Savannah Valley Trails, Incorporated on June 28, 2012.**
3. **Check on of the following: The DEED is**

   (a)_____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
   (b) _____subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
   (c) __X__ EXEMPT from the deed recording fee because the value of the realty, as defined in Section 12-24-30, is equal to or less than $100.

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as:
Seller.

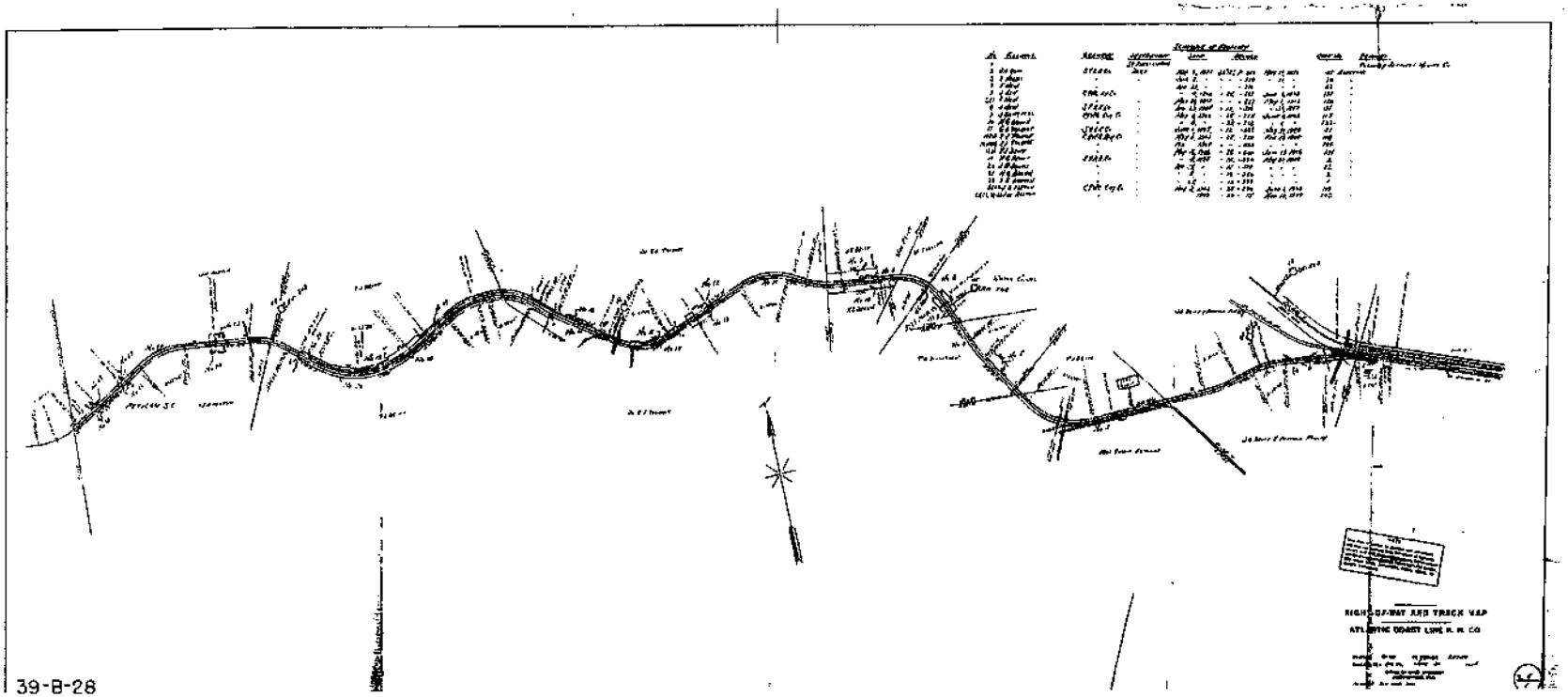
5 I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Ninety-Six Resource, Conservation, and Development Council, Incorporated

By: Brenda Galloway
Name: Brenda Galloway
ITS: Chairman

Sworn to before me this 28th day of June, 2012.
Janie Willis Bon
Notary Public for South Carolina
My Commission Expires: 03/08/2014

EXHIBIT A (24PAGES)



CSX RAILROAD MAP VS/S-1
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

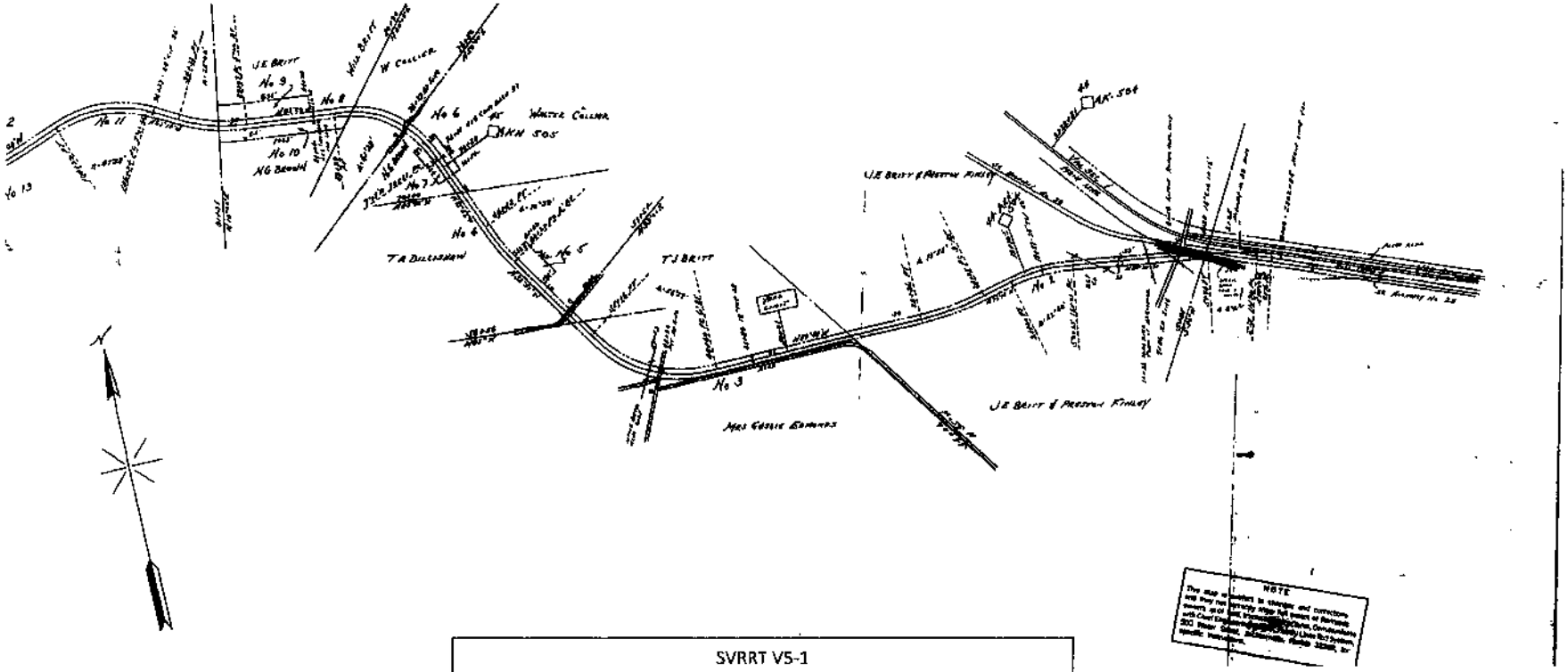
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SCHEDULE OF PROPERTY

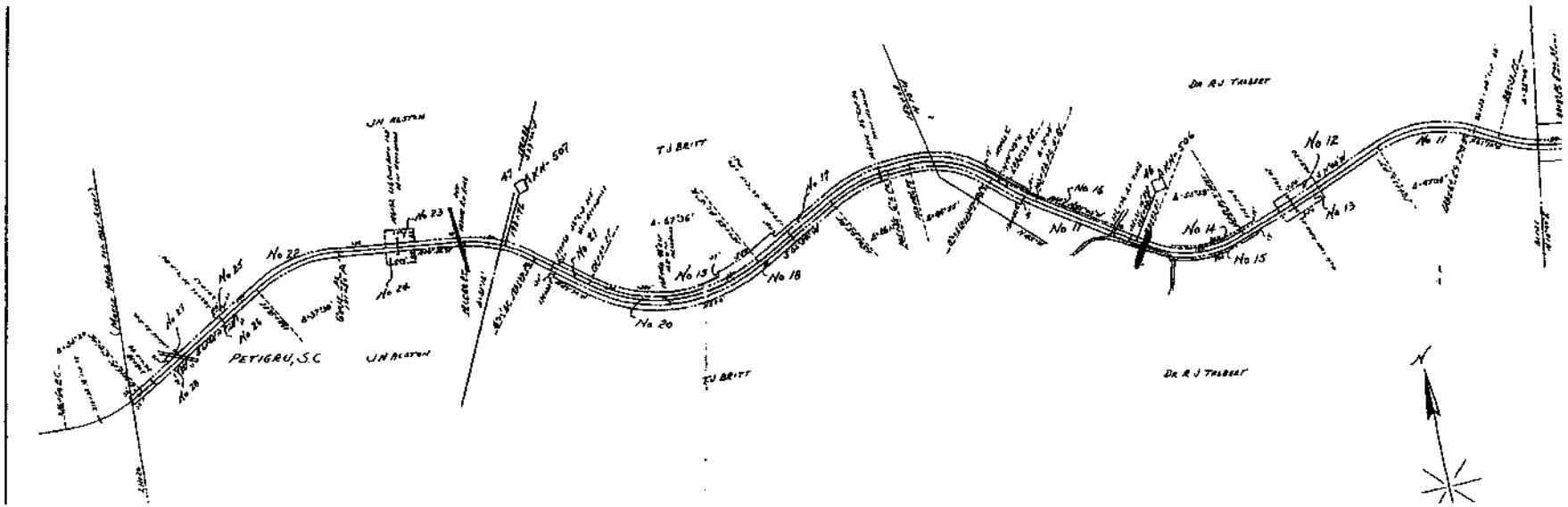
No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD		COST NO	REMARKS
1			BY PRESCRIPTION					FORMERLY JENNINGS MINING CO
2	J H BRITT	S V R R Co	DEED	MAY 4, 1885	DB "12" P 326	MAY 31, 1889	45	ABBEVILLE
3	Z HARRIS	"	"	JUNE 2, "	" " " 324	" 31, "	20	"
4	F NEW	"	"	APR 23, "	" " " 310	" " "	32	"
5	J NEW	C & W C Ry Co	"	" 9, 1903	" 25 " 228	JUNE 1, 1903	121	"
6 & 7	F NEW	"	"	MAR 31, 1903	" " " 227	MAY 1, 1903	120	"
8	J NEW	S V R R Co	"	APR 23, 1885	" 12 " 316	" 31, 1889	31	"
9	J BRITT, ET AL	C & W C Ry Co	"	MAY 4, 1903	" 25 " 225	JUNE 1, 1903	117	"
10	N G BROWN	"	"	" 4, "	" 25 " 226	" 1, "	122	"
11	G A TALBERT	S V R R Co	"	JUNE 1, 1885	" 12 " 308	MAY 31, 1889	41	"
12 & 13	R J TALBERT	C & W C Ry Co	"	MAY 4, 1903	" 25 " 229	FEB 29, 1904	118	"
14, 15 & 16	R J TALBERT	"	"	FEB 1904	" " " 523	" " "	124	"
17, 18	T J BRITT	"	"	MAY 15, 1906	" 26 " 600	JUNE 29 1906	131	"
19	N G BROWN	S V R R Co	"	" 5, 1885	" 12 " 320	MAY 31, 1889	2	"
20	J H JONES	"	"	APR. 25 "	" 12 " 314	" " "	22	"
21	N G BROWN	"	"	" 5, "	" 12 " 320	" " "	2	"
22	L G ALSTON	"	"	" 25, "	" 12 " 298	" " "	1	"
23, 24	J B ALSTON	C & W C Ry Co	"	MAY 8, 1903	" 25 " 230	JUNE 1, 1903	119	"
25, 26, 27, 28	JAS ALSTON	"	"	1909	" 30 " 15	NOV 10, 1909	142	"

List of Properties
V5-1 MAP

EXHIBIT A (24PAGES)

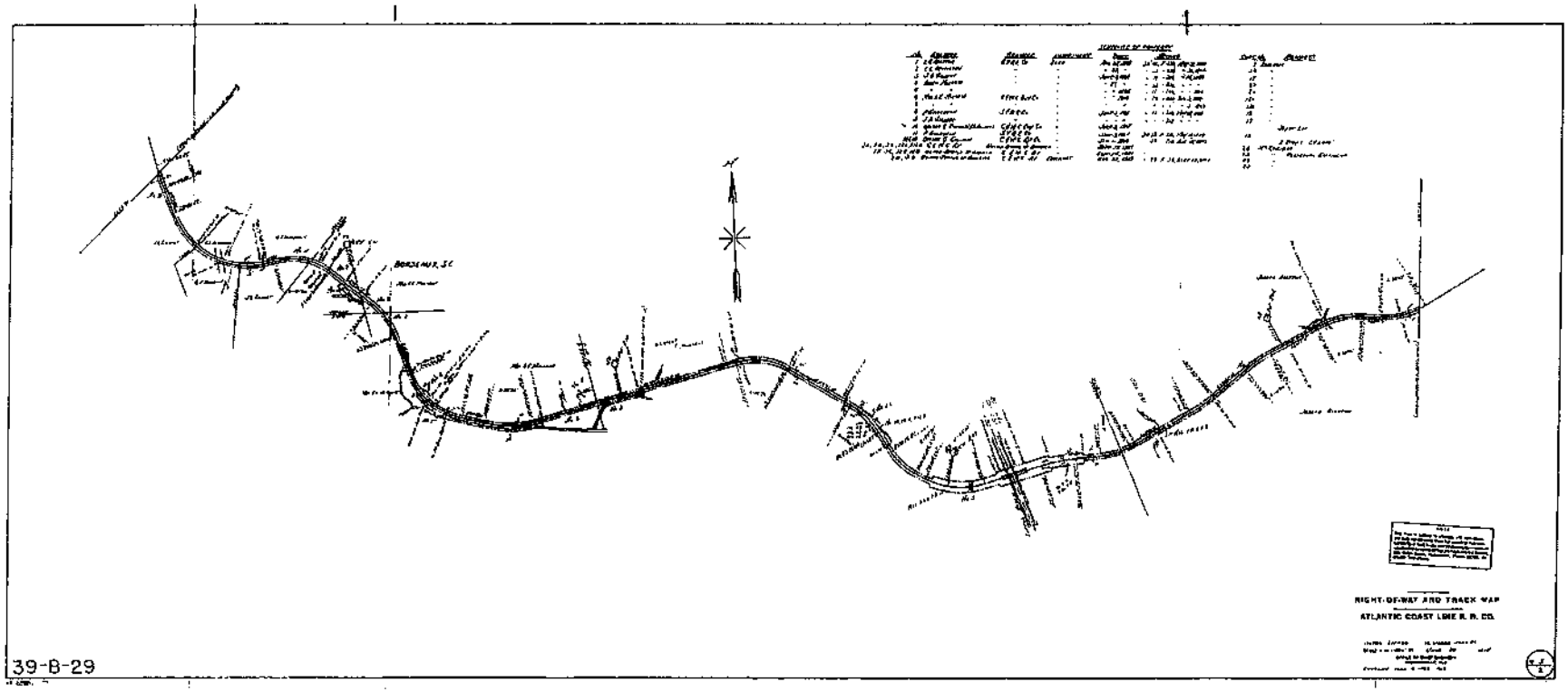


SVRRT V5-1
EASTERN SIDE OF MAP



SVRRT V5-1
WESTERN SIDE OF MAP

EXHIBIT A (24PAGES)



CSX RAILROAD MAP V5/S-2
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

189

5

SCHEDULE OF PROPERTY

No	Grantor	Grantee	Instrument	Date	Record	Cost No	Remarks
1	L G Allston	S V R R Co	Deed	Apr 25, 1885	DB 12, P 298, May 31, 1889	1	Abbeville
2	C L Pettigrew	"	"	" 23, "	" 12 " 296 " 31, 1914	34	"
3	J A Gilbert	"	"	June 3, 1881	" 12 " 212, " 14, 1889	17	"
4	Allen Morrane	"	"	" 27, "	" 12 " 220, " " "	29	"
5	" "	"	"	" " 1886	" 11 " 207, " " 1889	60	"
6	Mrs S E Morrane	C & W C Ruy Co	"	" " 1909	" 29 " 440 Dec 3, 1909	140	"
7	" "	"	"	" " "	" " " " 3, 1909	180	"
8	P Gillebeau	S V R R Co	"	June 3, 1881	" 12 " 210 May 14, 1889	18	"
9	J A Gilbert	"	"	" " "	" " " 212 " " "	17	"
10	Orville G Calhoun & A Gilbert	C & W C Ruy Co	"	July 3, 1945			Depot Lot
11	P Gillebeau	S V R R Co	"	June 3, 1881	DB 12 P 210, May 14, 1889	18	
12 & 13	Orville G Calhoun	C & W C Ry Co	"	Jan -- 1910	" 30 " 210 Aug 15, 1910		2 Strips 20' x 600'
1A, 2A, 3A, 12A, 13A	C & W C Ry	United States of America	"	Sept 14, 1951	"	28	Mrs Cormick
1B, 3C, 12B, 13B	United States of America	C & W C Ry	"	Sept 14, 1951	"	23	" Perpetual Easement
2B, 3B	United States of America	C & W C Ry	Easement	Aug 22, 1958	" 23 P 36, Sept 18, 1958	43	"
						23	"

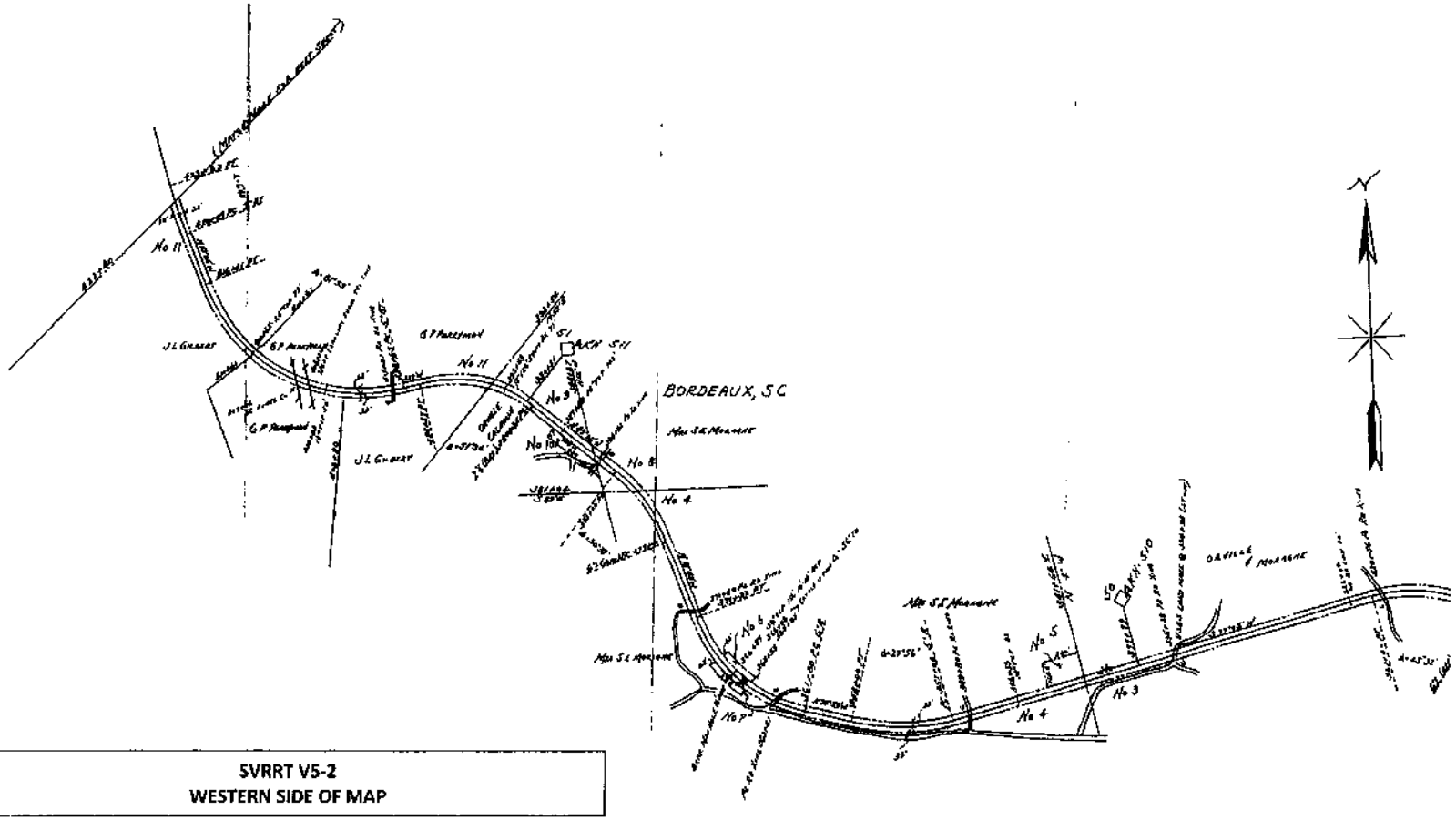
List of Properties
V5-2 MAP

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EXHIBIT A (24PAGES)

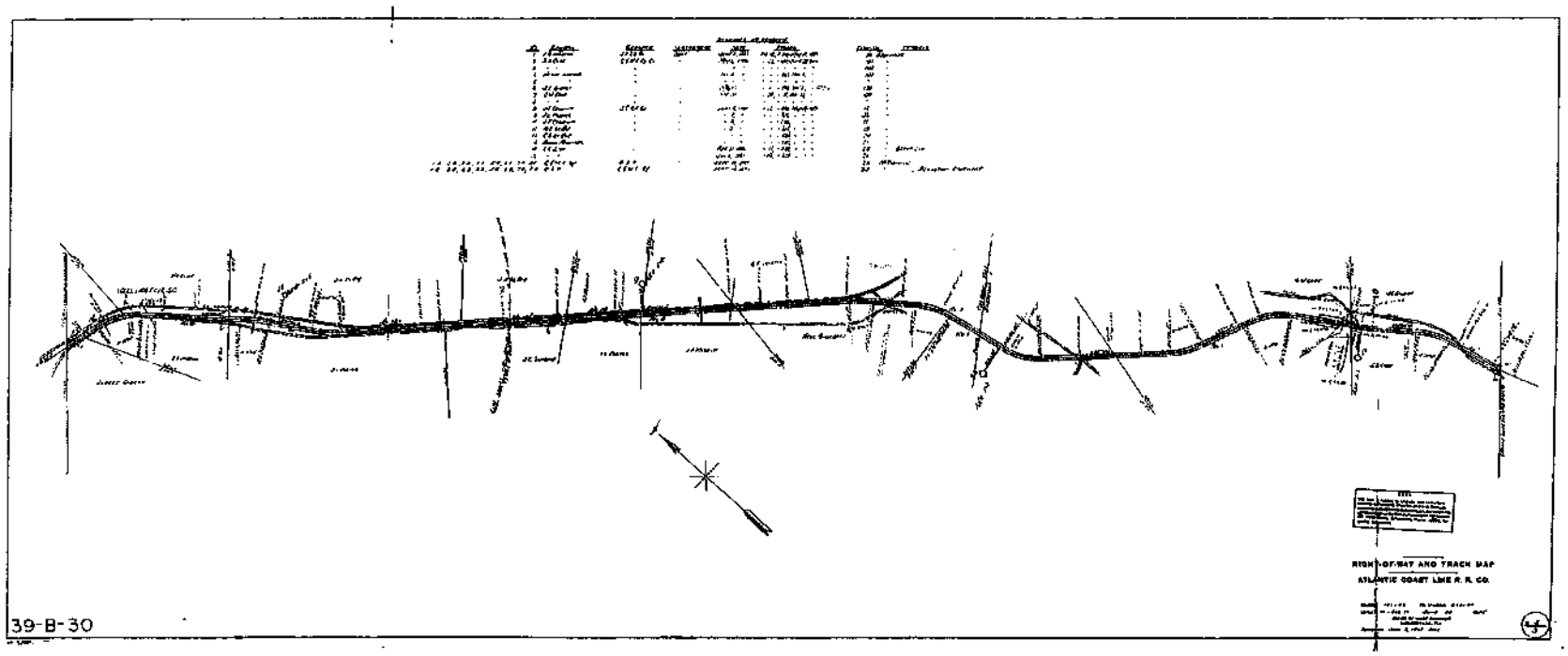


SVRRT V5-2
EASTERN SIDE OF MAP



SVRRT V5-2
WESTERN SIDE OF MAP

EXHIBIT A (24PAGES)



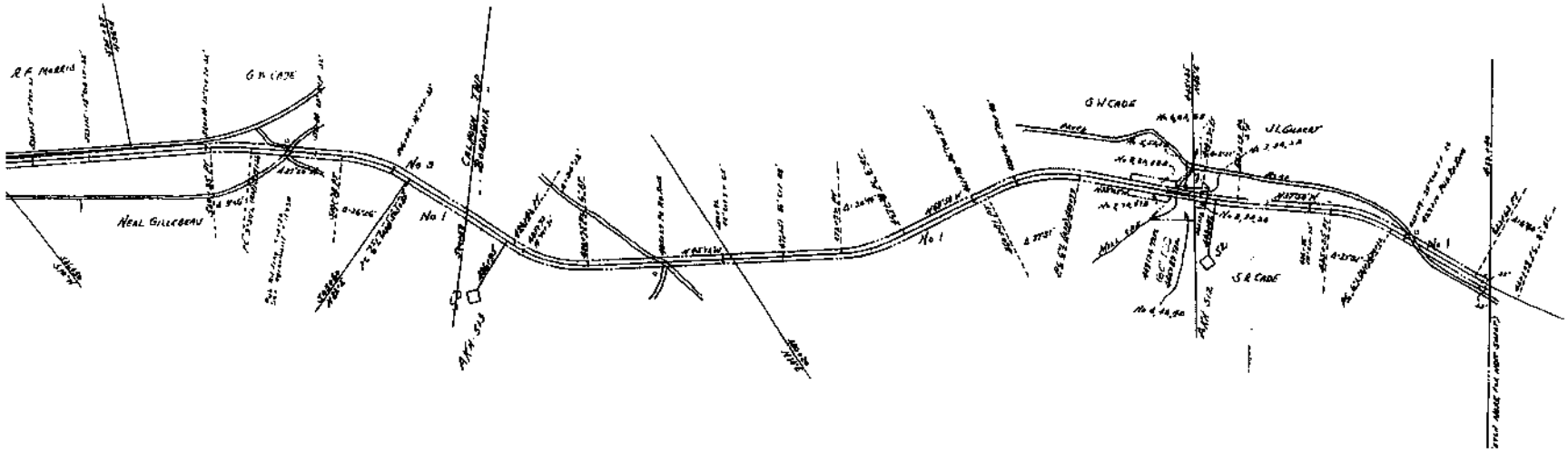
CSX RAILROAD MAP V5/S-3
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

SCHEDULE OF PROPERTY

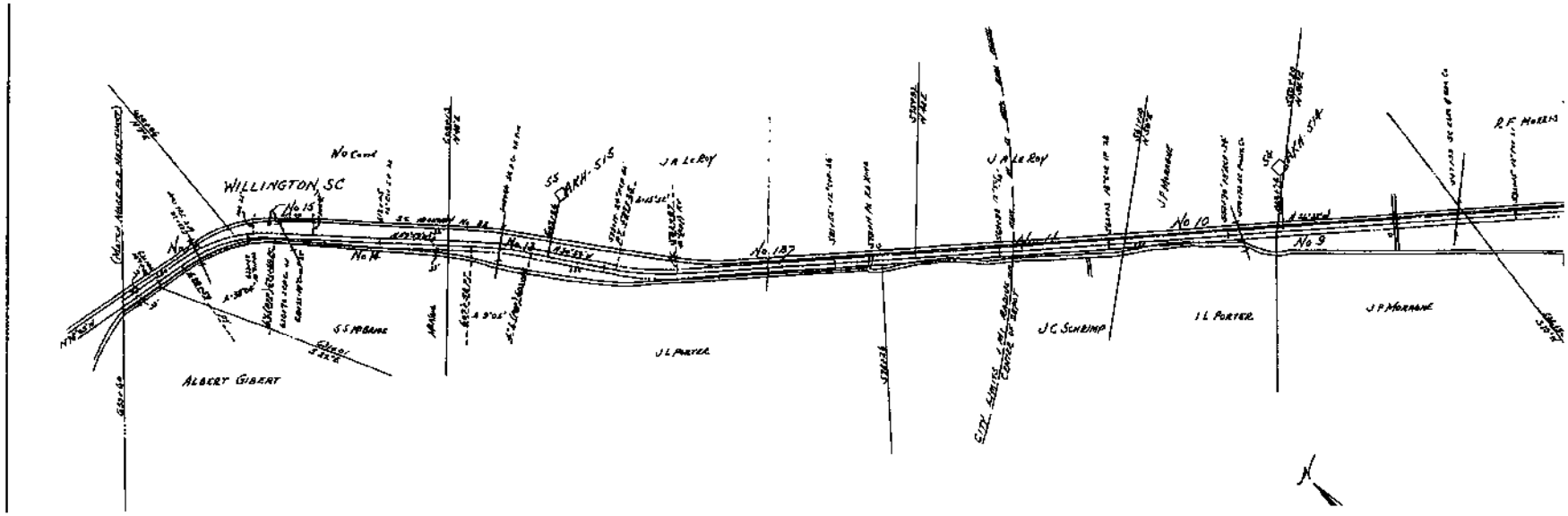
No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUST. No	REMARKS
1	P GILLESPIE	S V R.R Co	DEED	JUNE 3, 1881	DB 12, P 210, MAY 14, 1889	18	ABBEVILLE
2	S R CADE	C & W C Ry Co	"	MAY 1, 1906	" 26, " 601, JUNE 29, 1906	132	"
3	" "	"	"	" " "	" " " " " " "	132	"
4	HENRY HARPER	"	"	OCT 16 "	" " " 683, MAR 2, "	137	"
5	" "	"	"	" " "	" " " " " " "	"	"
6	J L GILBERT	"	"	MAY 12, "	" " " 848, MAY 31, "	129	"
7	G W CADE	"	"	NOV 30, "	" 28, " 71, DEC 29, "	139	"
8	" "	"	"	" " "	" " " " " "	"	"
9	J F CALHOUN	S V R.R Co	"	JUNE 4, 1881	" 12, " 208, MAY 14, 1889	11	"
10	J L PORTER	"	"	" 3, "	" " " 216, " " "	36	"
11	J F CALHOUN	"	"	" 4, "	" " " 208, " " "	11	"
12	H E LEROY	"	"	" 3, "	" " " 214, " " "	23	"
13	E B LE ROY	"	"	" " "	" " " 222, " " "	24	"
14	PETER HENNINGER	"	"	" " "	" " " 227, " " "	21	"
15	L C LINK	"	"	APR 22, 1886	" 11, " 205, " " "	25	" DEPOT LOT
16	" "	"	"	JUN 3, 1881	" 12, " 229, " " "	26	"
1A, 2A, 3A, 4A, 5A, 6A, 7A, 8A	C & W C RY	U S A	"	SEPT 14, 1951		23	MCCORMICK
1B, 2B, 3B, 4B, 5B, 6B, 7B, 8B	U S A	C & W C RY	"	SEPT 14, 1951		23	" , PERPETUAL EASEMENT

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List of Properties
V5-3 MAP

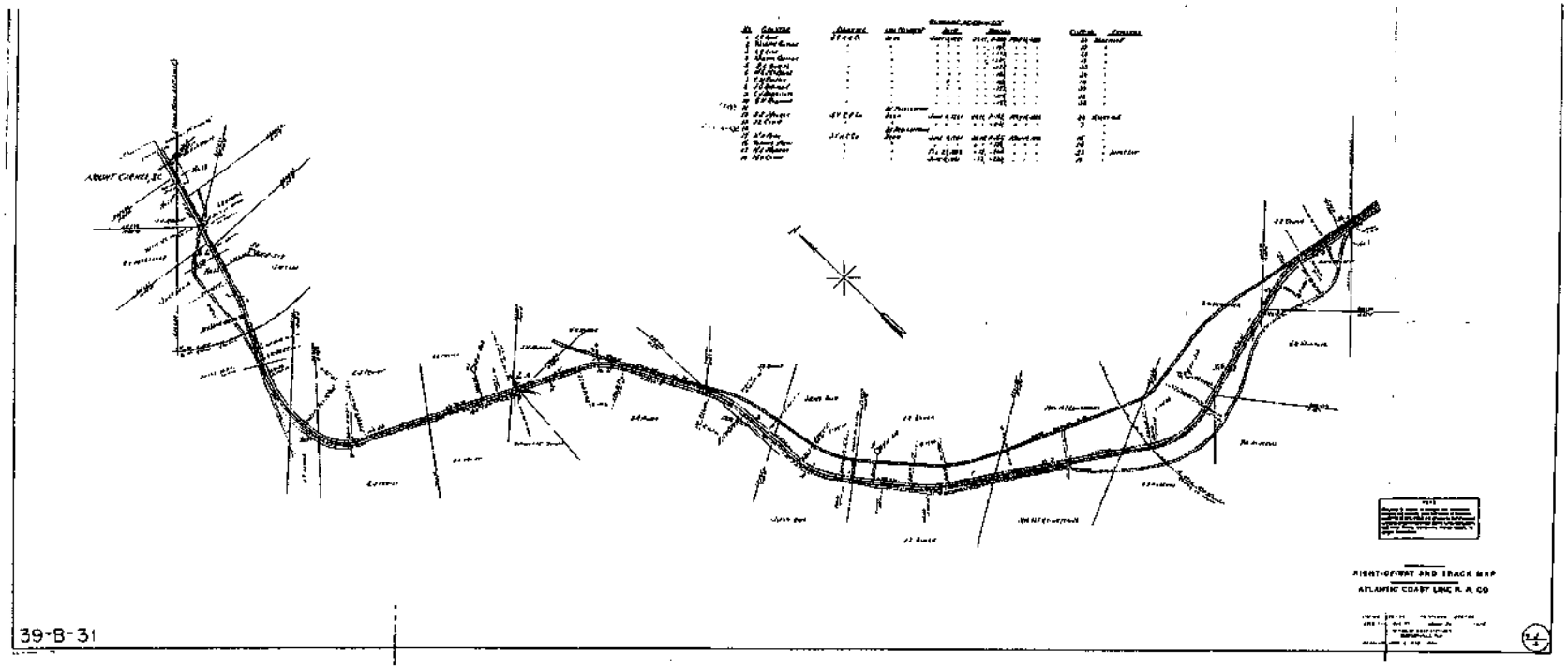


SVRRT V5-3
EASTERN SIDE OF MAP



5VRRT V5-3
WESTERN SIDE OF MAP

EXHIBIT A (24PAGES)



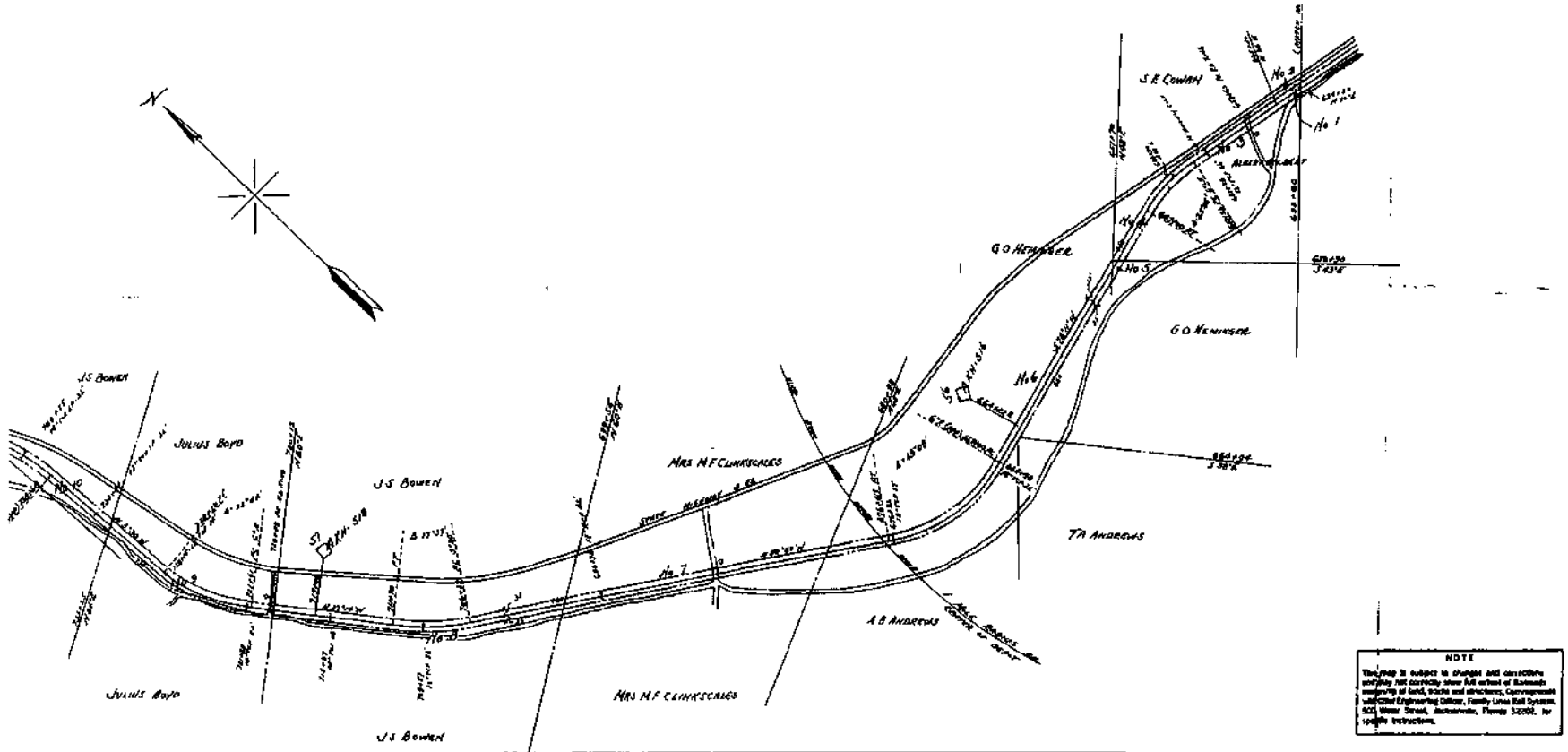
CSX RAILROAD MAP V5/5-4
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

SCHEDULE OF PROPERTY

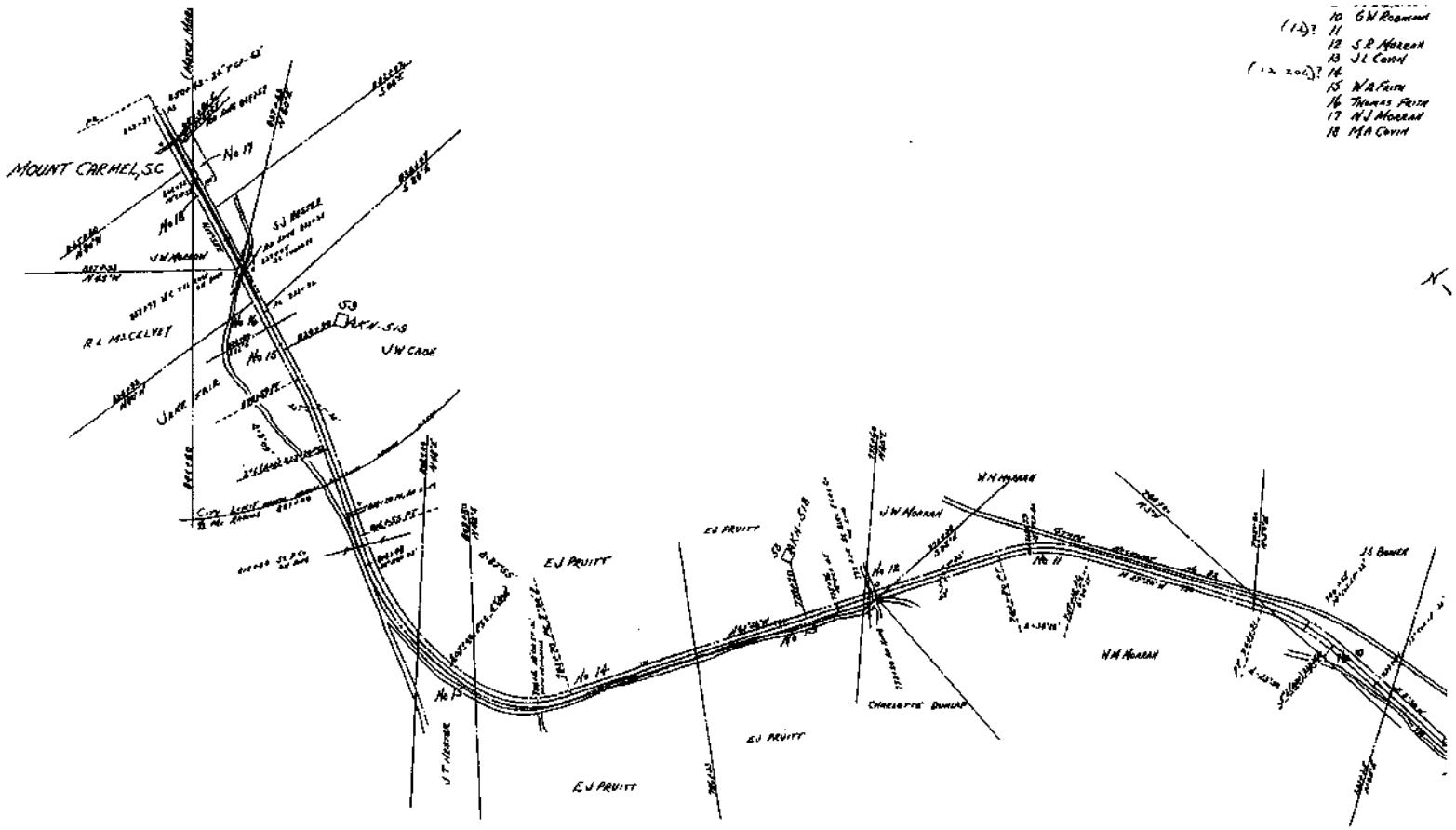
No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUST. NO.	REMARKS
1	L C Link	S V R R Co	Deed	June 9, 1881	D B 12, P-223, May 14, 1889	26	Abbeville
2	William Guthrie	"	"	" " "	" ", " 171, " " "	19	"
3	L C Link	"	"	" " "	" ", " 223, " " "	26	"
4	William Guthrie	"	"	" " "	" ", " 171, " " "	19	"
5	R L Owens	"	"	" " "	" " " 173, " " "	33	"
6	W S McBride	"	"	" " "	" " " 161, " " "	30	"
7	C W Cowan	"	"	" 4, "	" " " 153, " " "	12	"
8	J S Robinson	"	"	" " "	" " " 157, " " "	39	"
9	C J Darricott	"	"	" " "	" " " 155, " " "	13	"
10	G N Robinson	"	"	" " "	" " " 167, " " "	38	"
(12)? 11			By Prescription				
12	S R Morran	S V R R Co	Deed	June 4, 1881	D B 12, P-169, May 14, 1889	28	Abbeville
13	J L Covin	"	"	" " "	" " " 241, " " "	7	"
(12 204)? 14			By Prescription				"
15	W A Frith	S V R R Co	Deed	June 4, 1881	D B 12, P-165, May 14, 1889	15	"
16	Thomas Frith	"	"	" " "	" " " 151, " " "	14	"
17	N J Morran	"	"	Feb 27, 1886	" 11, " 204 " " "	59	" Depot Lot
18	M A Covin	"	"	June 4, 1881	" 12, " 223, " " "	10	"

List of Properties
V5-4 MAP

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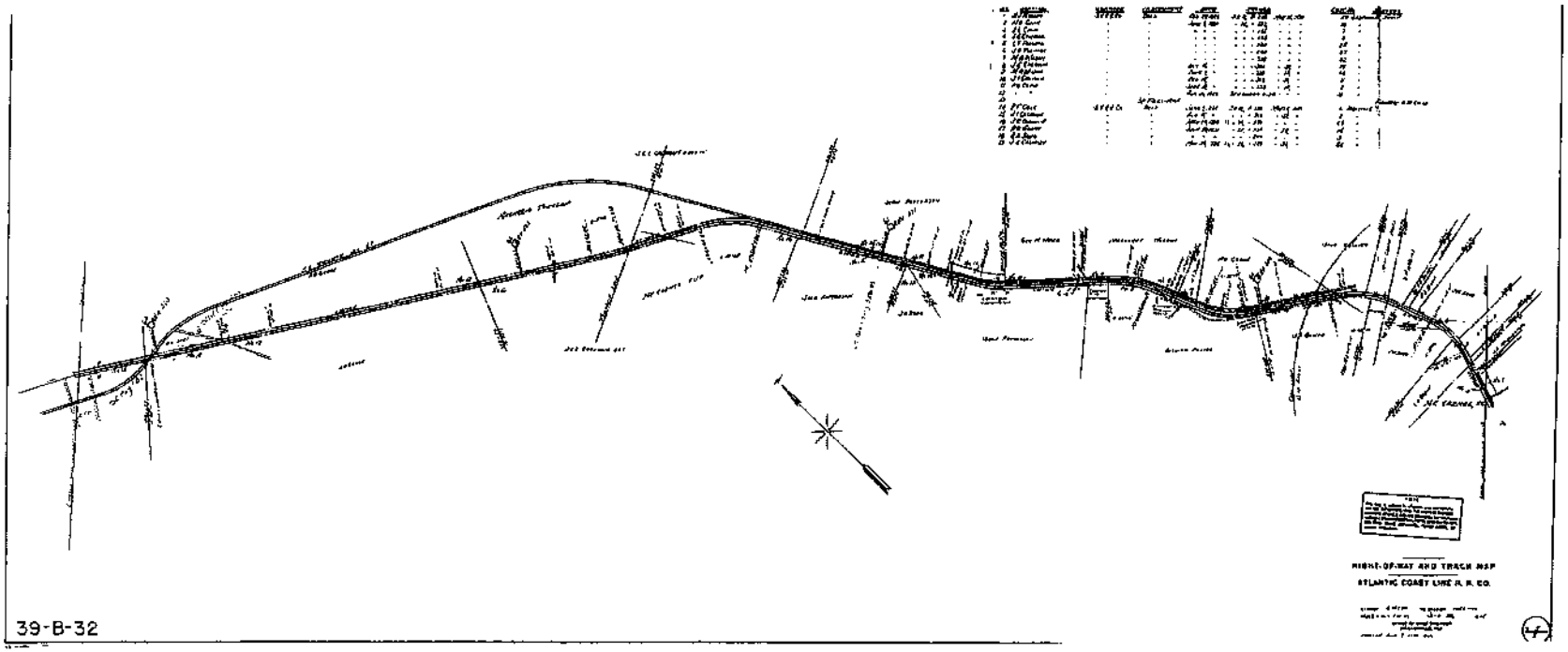


SVRRT V5-4
EASTERN SIDE OF MAP



SVRRT V5-4
WESTERN SIDE OF MAP

EXHIBIT A (24PAGES)



CSX RAILROAD MAP V5/5-5
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

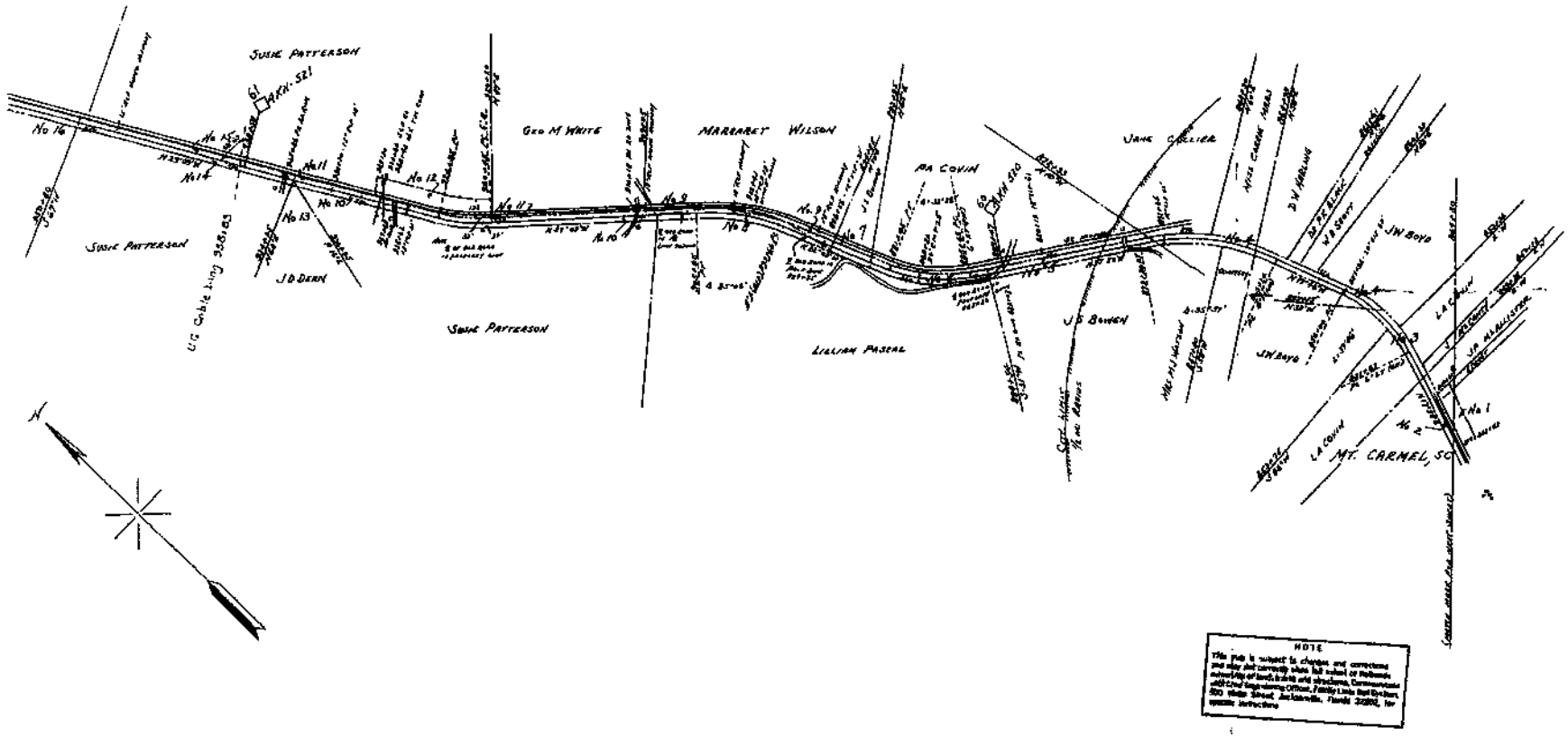
201

EXHIBIT A (24PAGES)

No	Grantor	Grantee	Instrument	Date	Record		Cust No		Remarks
1	N J Morran	S V R R Co	Deed	Feb 27, 1886	D B 11, P. 204	May 14, 1889	53	Abbeville	Depot
2	M A Covin	"	"	June 4, 1881	" 12, " 223,	" " "	10	"	
3	J L Covin	"	"	" " "	" " " 241,	" " "	7	"	
4	J E Caldwell	"	"	" " "	" " " 225	" " "	9	"	
5	L T Paschal	"	"	" " "	" " " 243	" " "	35	"	
6	J O Robinson	"	"	" " "	" " " 245	" " "	37	"	
7	M A Wilson	"	"	" " "	" " " 239	" " "	42	"	
8	J E Calhoun	"	"	Aug 16, "	" " " 302	" 31, "	47	"	
9	M A Wilson	"	"	June 4, "	" " " 239	" 14, "	42	"	
10	J I Calhoun	"	"	Aug 15, "	" " " 312	" 31, "	5	"	
11	P A Covin	"	"	June 18, "	" " " 235	" 14, "	8	"	
12	" "	"	"	Aug 16, 1886	Bk of Sales #11 P-206	" " "	48	"	
13			By Prescription						Formerly A W Coles
14	R F Cole	S V R R Co	Deed	June 7, 1881	D B 12, P 138	May 14, 1889	6	Abbeville	
15	J I Calhoun	"	"	Aug 15, "	" " " 312	" 31, "	5	"	
16	J E Calhoun	"	"	Mar 24, 1886	12 " 11 " 277	" " "	66	"	
17	A O Grant	"	"	June 29, 1881	" 12, " 194	" 14, "	16	"	
18	B A Boyd	"	"	" " "	" " " 200	" " "	3	"	
19	J E Calhoun	"	"	Mar 24, 1886	12 " 11 " 277	" 31, "	66	"	

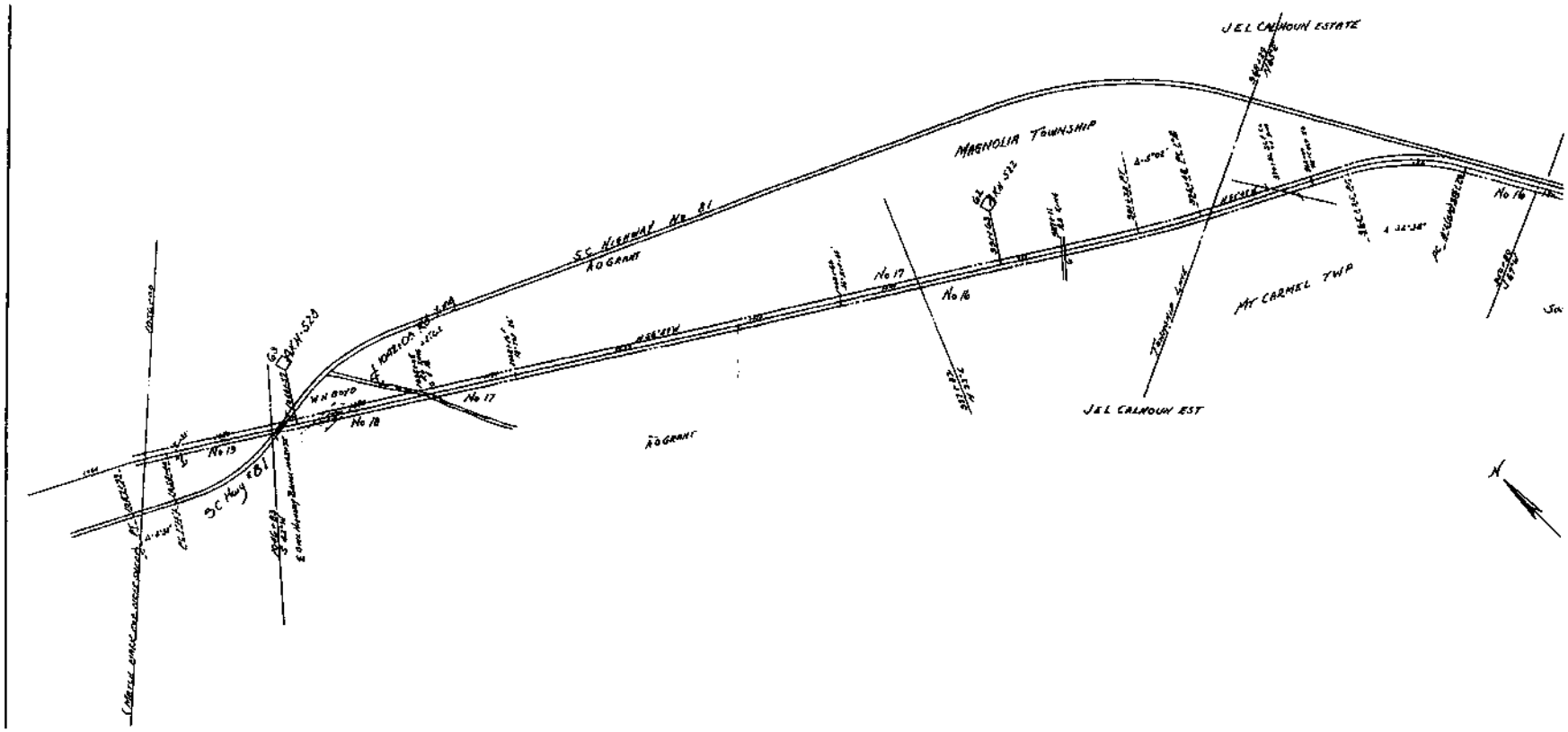
List of Properties
V5-5 MAP

202



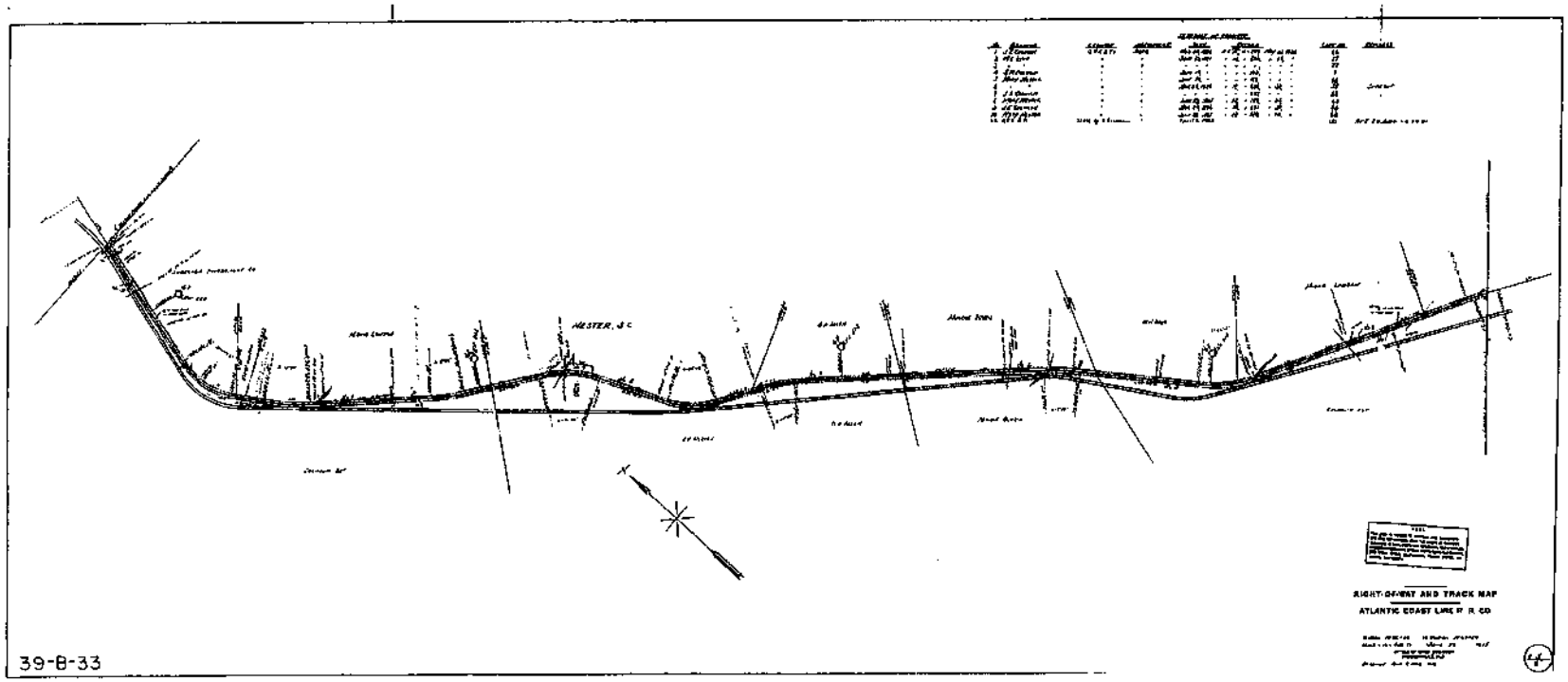
SVRRT V5-5
EASTERN SIDE OF MAP

EXHIBIT A (24PAGES)



SVRRT V5-S
WESTERN SIDE OF MAP

EXHIBIT A (24PAGES)



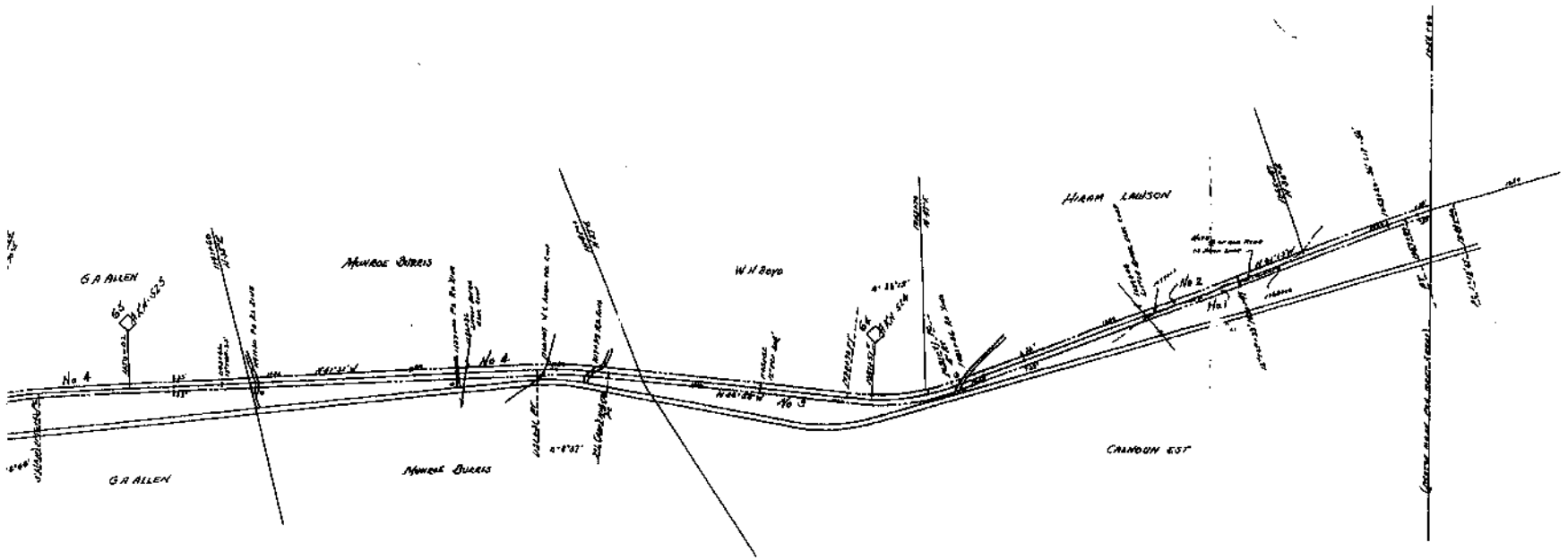
CSX RAILROAD MAP V5/S-6
Original MAP Stored at:
The Offices of the Engineering Department
Seaboard System Railroad
CSX
500 Water Street
Jacksonville, FL 33258

SCHEDULE OF PROPERTY

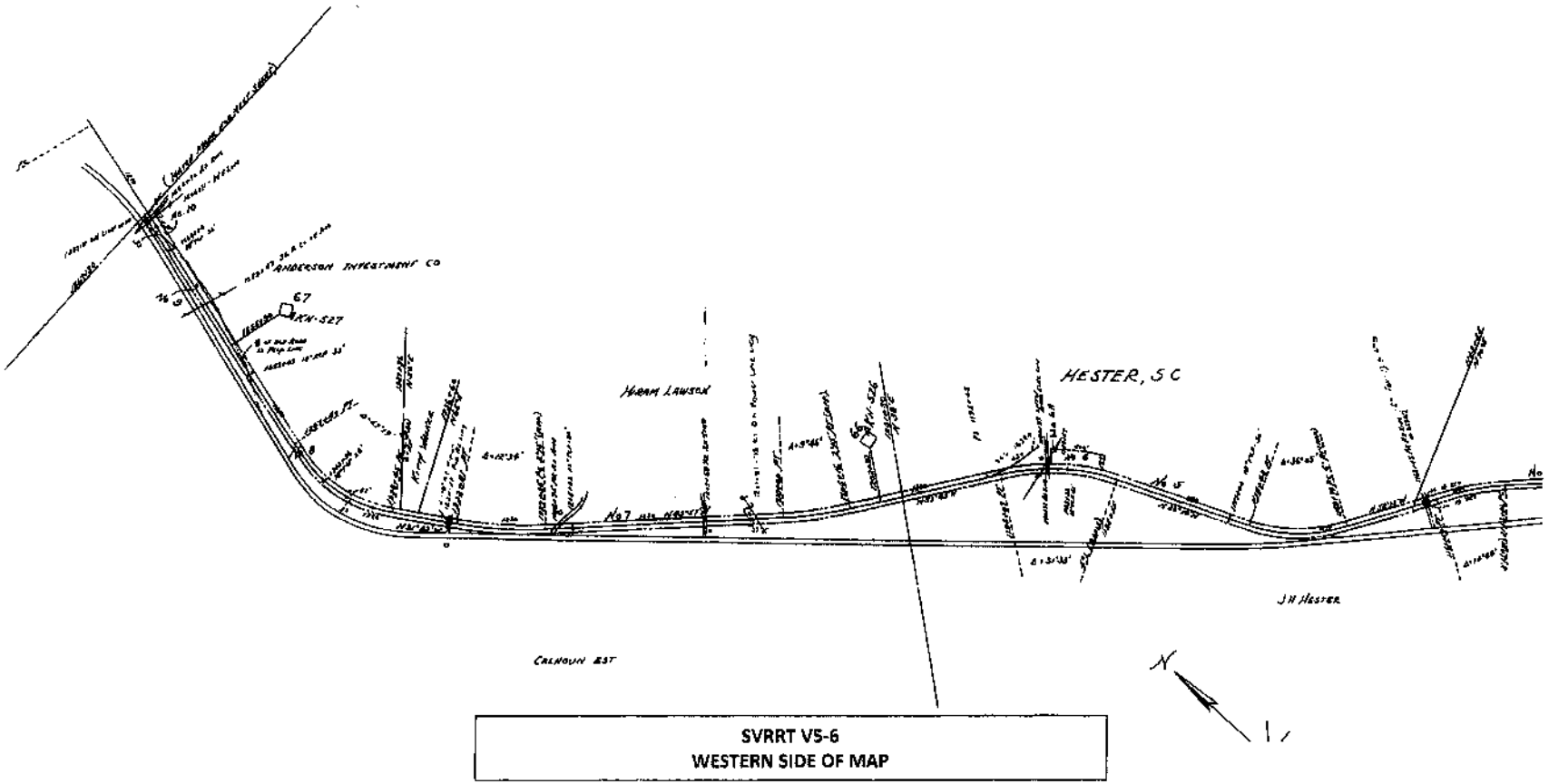
No	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD	CUST NO	REMARKS
1	J E CALHOUN	S V R R Co	DEED	MAR 24, 1886	D B 28, P-277, MAY 31, 1889	66	
2	M E LYON	"	"	JUNE 23, 1881	" 12, " 204, " 14, "	27	
3	" "	"	"	" " "	" " " " " "	27	
4	S M CALHOUN	"	"	SEPT 24, "	" " " 163, " " "	4	
5	MARY HESTER	"	"	JUNE 23, "	" " " 188, " " "	68	
6	" "	"	"	MAR 24, 1886	" 11, " 258, " 31, "	55	DEPOT LOT
7	J E CALHOUN	"	"	" " "	" " " 277, " " "	66	
8	MARY HESTER	"	"	JUNE 23, 1881	" 12, " 188, " 14, "	68	
9	J E CALHOUN	"	"	MAR 24, 1886	" 11, " 277, " 31, "	66	
10	MARY HESTER	"	"	JUNE 23, 1881	" 12 " 188, " 14, "	68	
6A	A C L R R	STATE OF S Carolina	"	April 3, 1964		151	RFE 29,384 - 0.05 Ac

List of Properties
V5-6 MAP

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SVRRT V5-6
EASTERN SIDE OF MAP



SVRRT V5-6
WESTERN SIDE OF MAP

STATE OF SOUTH CAROLINA)
)
COUNTY OF ABBEVILLE)

QUITCLAIM
DEED OF REAL PROPERTY

THIS QUITCLAIM DEED, executed as of the 12th day of April, 2012 by the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina (hereinafter referred to as "Grantor"), to the Town of Calhoun Falls, a political subdivision of the State of South Carolina (hereinafter referred to as "Grantee"), whose mailing address is 401 North Washington Street, Calhoun Falls, SC 29628.

WITNESSETH:

IN CONSIDERATION of the sum of Ten Dollars ($10.00) the receipt and sufficiency of which is acknowledged by Grantor, Grantor has quitclaimed, granted, bargained, sold and released, and by this Deed quitclaims, grants, bargains, sells and releases, to Grantee, its successors and assigns, all of its right, title and interest in and to the following real property:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

THIS conveyance is made subject to all covenants, restrictions, easements, rights-of-way, and other matters of record, and such matters as would be shown by a current plat, affecting the within-described property.

TOGETHER with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto;

TO HAVE AND TO HOLD all and singular said property unto Grantee, its successors and assigns forever.

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

2012 APR 12 PM 1 52

RECORDED-BOOK 292
OF Deeds PAGE 852
EMILY Y MCMAHAN
CLERK OF COURT

IN WITNESS WHEREOF, Grantor has caused this Quitclaim Deed to be executed as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

Witness No. 1
Name: Karen B. Manning

Witness No. 2
Name: Vicky S. Wooten

South Carolina Department of Commerce, Division of the Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina

By:
Name: James Christopher Huffman
Title: Chief Financial Officer

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, the undersigned notary public, hereby certify that James Christopher Huffman, as Chief Financial Officer of the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina, personally came before me this day and acknowledged the execution of the foregoing instrument as Grantor's act and deed.

WITNESS my hand and notarial stamp or seal, this 12th day of April, 2012.

Notary Public for State of South Carolina
My Commission Expires: My Commission Expires April 8, 2015.
[AFFIX NOTARIAL SEAL OR STAMP]

EXHIBIT A

All of that vacated railroad right of way, varying in width, along with numerous side parcels of land of various dimensions, beginning on Railroad Valuation Map V5/S-7, at Milepost 527.86 in Calhoun Falls at the intersection of said vacated right of way and the southern line of the CSX 100 foot railroad right of way line (Atlanta to Monroe), thence following with the vacated right of way in a southwestern direction running for the most part parallel to and north and east of the SC Hwy 81 until said right of way reaches the McCormick County line, being shown on Railroad Valuation Map V5/S-7, V5/7, and V5/6. This deed includes the following side parcels owned by Grantor in fee simple, but only to the extent such parcels are actually located within the bounds of Abbeville County:

Hester Depot site, measuring 109' x 400', and containing about 1 acre. (Abbeville County Deed Book 11, page 258).

Less 0.155 acres conveyed to South Carolina Department of transportation by Deed Book 249 at Page 408 and corrected by Deed Book 250 at Page 422 filed May 18, 2005.

Subject to matters that would be shown on a current survey of the property and all easements and restrictions of record, including but not limited to the following: (i) that certain Easement Grant given by the Clarks Hill Russell Authority of the State of South Carolina the Town of Calhoun Falls recorded in the Abbeville County Register of Deeds at Book 140, page 539; (ii) that certain Easement given by the Clarks Hill-Russell Authority of the State of South Carolina to the County of McCormick, South Carolina recorded in the Abbeville County Register of Deeds at Book 138, page 511; (iii) that certain agreement by and between the Charleston & Western Carolina Railway Company and the Town of Calhoun Falls recorded in the Abbeville County Register of Deeds at Misc. Book 5, page 204.

This is a portion of the property conveyed by Seaboard System Railroad, Inc. to Clarks Hill-Russell Authority of South Carolina, now known as the South Carolina Department of Commerce, Division of Savannah Valley Development, by deed dated June 16, 1983 and recorded in Abbeville County in Deed Book 138 at Page 835 on November 10, 1983.

B55

STATE OF SOUTH CAROLINA)
) AFFIDAVIT
COUNTY OF RICHLAND)

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.

2. The property is being transferred by the South Carolina Department of Commerce, Division of Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina, to the Town of Calhoun Falls, a political subdivision of the State of South Carolina, on April 12, 2012.

3. Check on of the following: The DEED is

(a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.

(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.

(c) __X__ EXEMPT from the deed recording fee because the realty is being transferred to a political subdivision of the State of South Carolina.

4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Seller.

5. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

South Carolina Department of Commerce, Division of the Savannah Valley Development, as successor in interest to the Clarks Hill-Russell Authority of South Carolina

By: _____
Name: James Christopher Huffman
Its: Chief Financial Officer

Sworn to before me this 12th day of April, 2012.

_____
Notary Public for South Carolina
My Commission Expires: My Commission Expires April 6, 2015

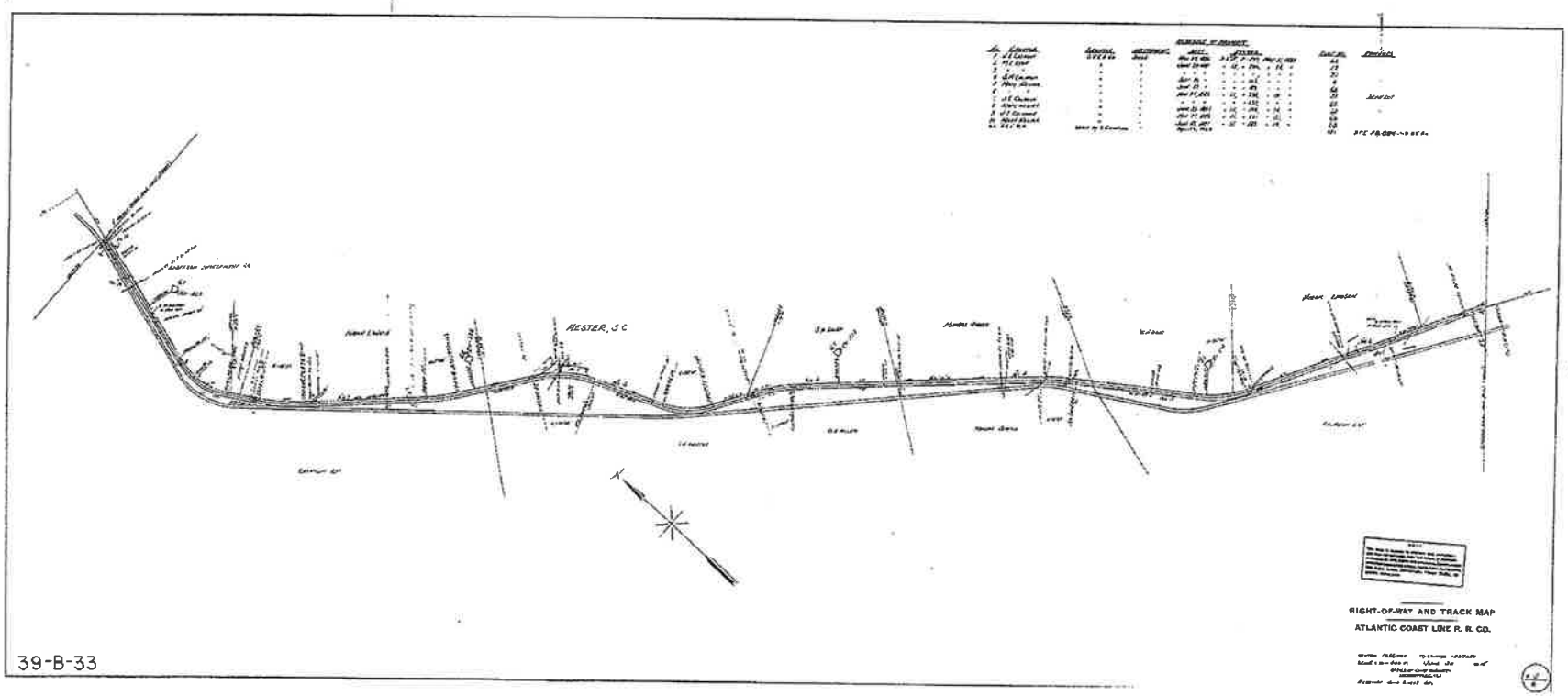


Exhibit A

9 PAGES

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SCHEDULE OF PROPERTY

No	Grantor	Grantee	Instrument	Date	Record	Cust No	Remarks
1	J E Calhoun	S V R R Co	Deed	Mar 24, 1886	D B "X", P-277, May 31, 1889	66	
2	M E Lyon	"	"	June 29, 1881	" 12, " 204, " 14, "	27	
3	" "	"	"	" " "	" " " " " "	27	
4	S M Calhoun	"	"	Sept 24, "	" " " 163, " " "	4	
5	Mary Hester	"	"	June 29, "	" " " 188, " " "	68	
6	" "	"	"	Mar 24, 1886	" 11, " 258, " 31, "	55	Depot Lot
7	J E Calhoun	"	"	" " "	" " " 277, " " "	66	
8	Mary Hester	"	"	June 29, 1881	" 12, " 188, " 14, "	68	
9	J E Calhoun	"	"	Mar 24, 1886	" 11, " 277, " 31, "	66	
10	Mary Hester	"	"	June 29, 1881	" 12 " 188, " 14, "	68	
6A	A C L R R	State of S Carolina	"	April 3, 1964		151	RFE 28,884-0 05 Ac

214

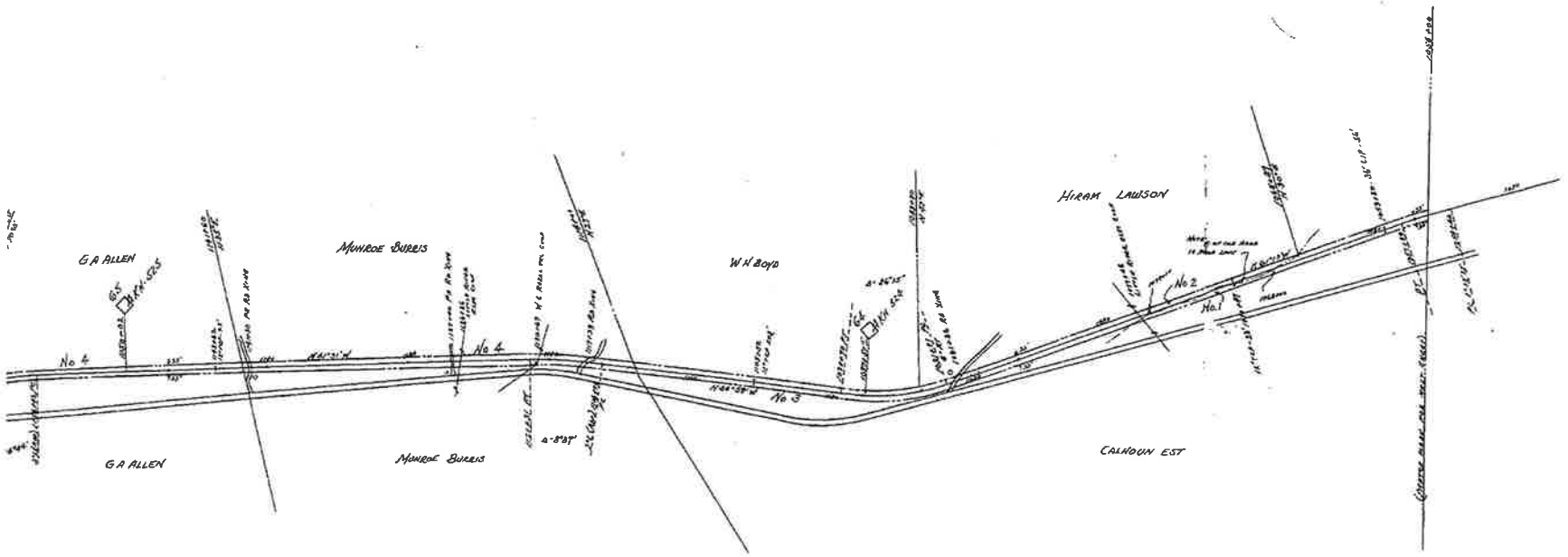


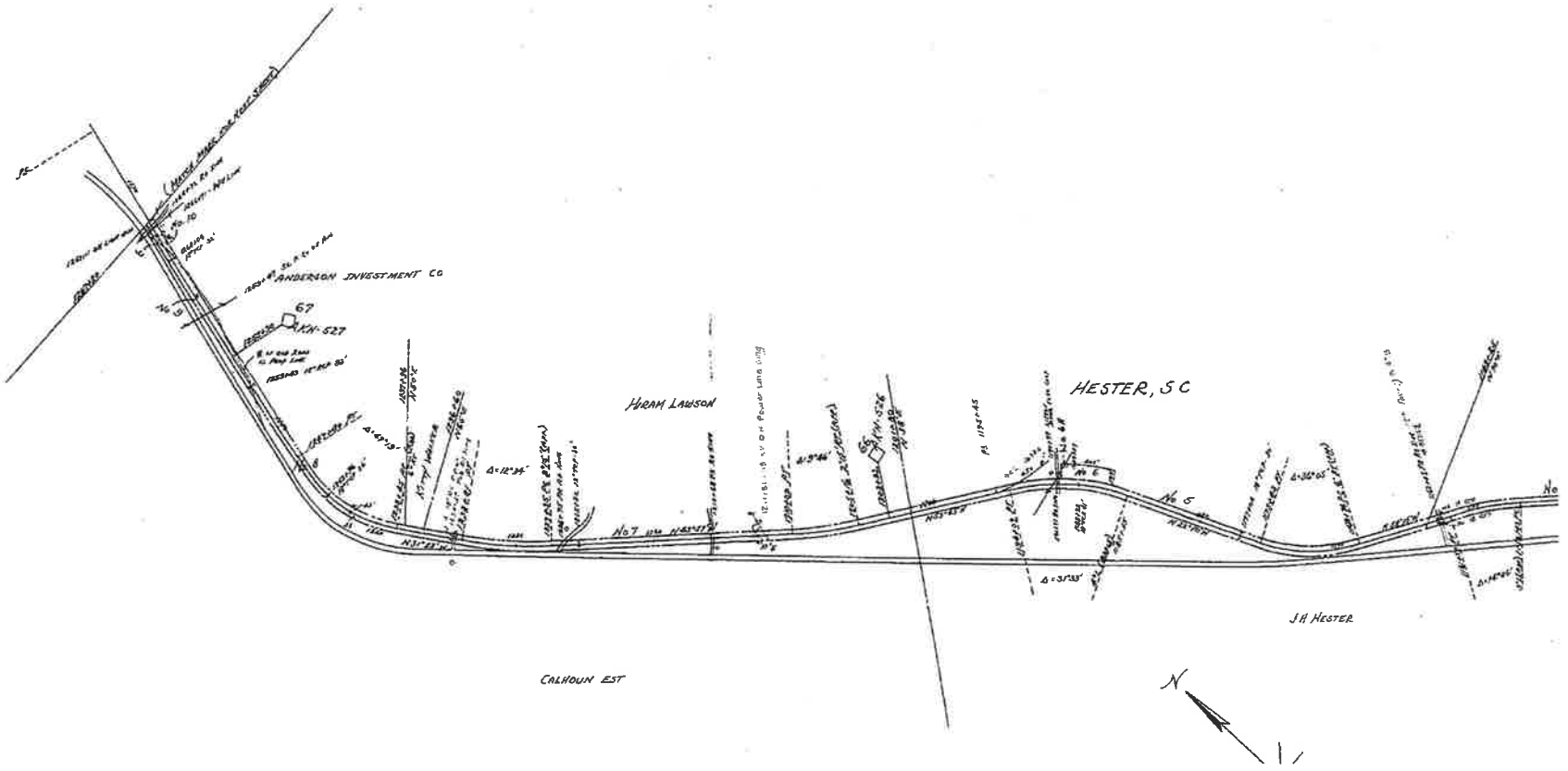
Exhibit A

9 PAGES

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859

4

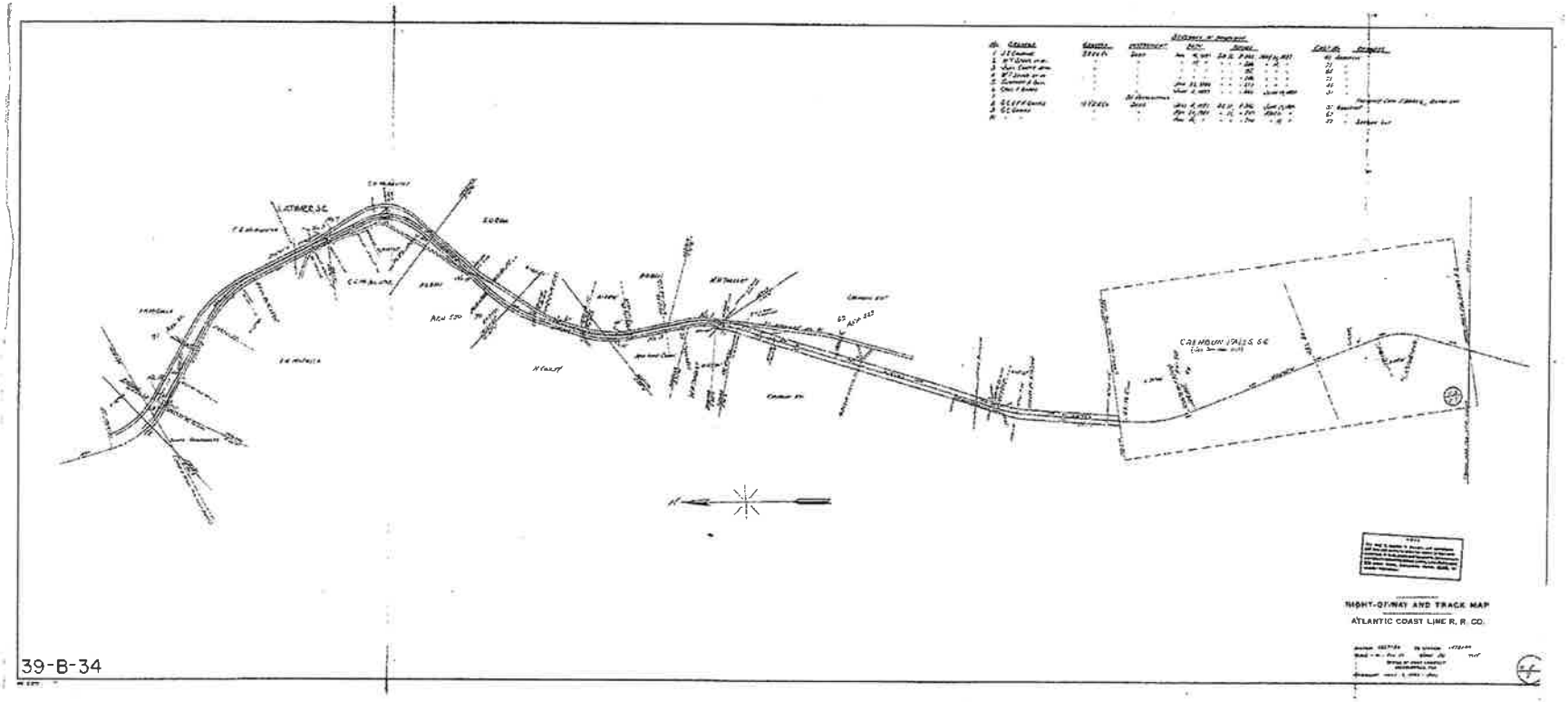


216

Exhibit A

9 PAGES

8600


LATIMER SC
CARHOUN SPASS SC
39-B-34
RIGHT-OF-WAY AND TRACK MAP
ATLANTIC COAST LINE R. R. CO.

217

Exhibit A

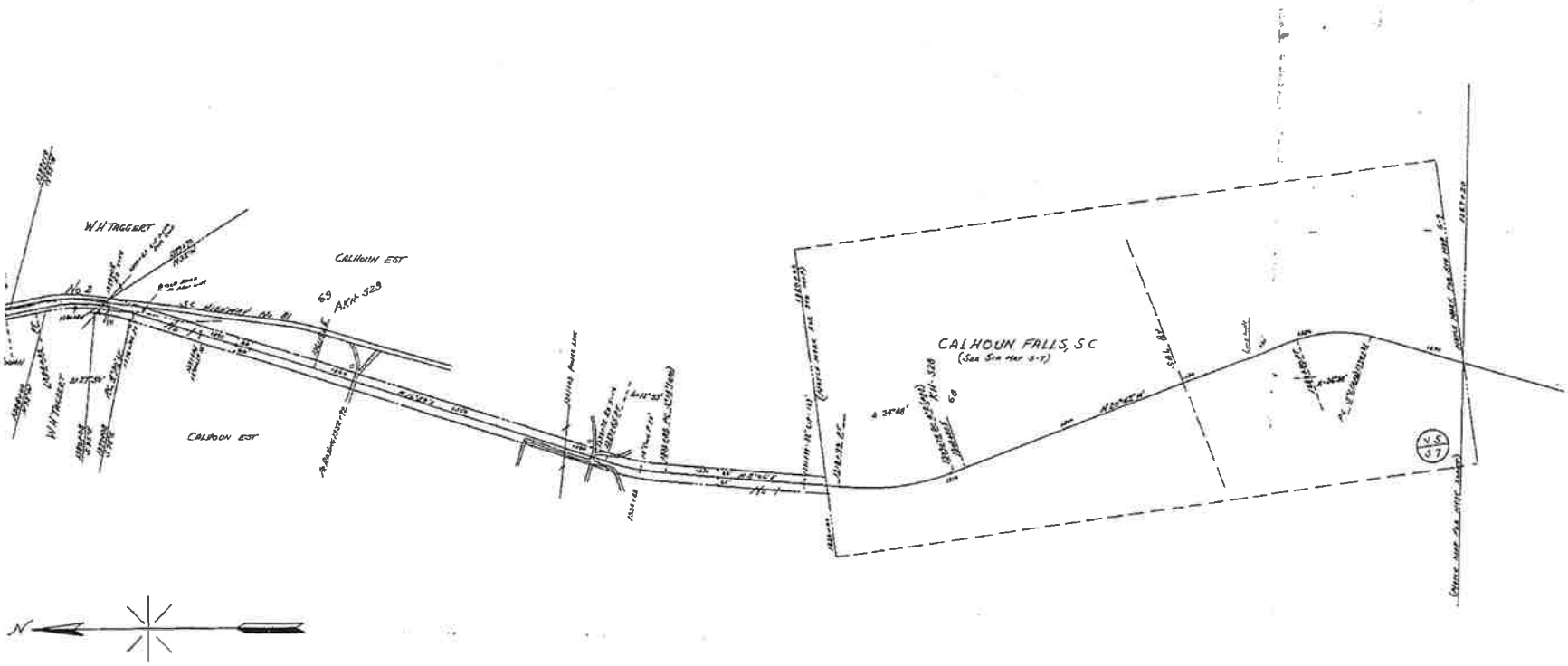
6

218

SCHEDULE OF PROPERTY

No.	GRANTOR	GRANTEE	INSTRUMENT	DATE	RECORD		CUST No	REMARKS
1	J E CALHOUN	SVRR Co	DEED	AUG 16, 1881	DB 12, P 302,	MAY 31, 1889	47	ABBEVILLE
2	W T SPEED ET AL	"	"	" 15, "	" " " 206	" 14, "	79	"
3	JOHN COWAN ET AL	"	"	" " "	" " " 192	" " "	65	"
4	W T SPEED ET AL	"	"	" " "	" " " 206	" " "	79	"
5	ELIZABETH A BELL	"	"	JAN. 22, 1886	" " " 237	" " "	44	"
6	CHAS F BAKER	"	"	JUNE 4, 1889	" " " 346	JUNE 17, 1889	51	"
7			BY PRESCRIPTION					FORMERLY CHAS F. BAKER, DEPOT LOT
8	G C & F H GRAVES	SVRR Co	DEED	JUNE 4, 1889	DB 12, P-346	JUNE 17, 1889	51	ABBEVILLE
9	G C GRAVES	"	"	MAR 24, 1886	" 11, " 269	MAY 31, "	62	"
10	" "	"	"	AUG 16, "	" " " 208	" 14, "	52	" SECTION LOT

9 PAGES



NOTE
This map is subject to changes and corrections and does not correctly show full extent or rights of ownership of land, lakes and structures. Communicate with Chief Engineering Officer, Tenn-Tom Lines Port System, 300 Water Street, Jacksonville, Florida 32202, for specific instructions.

RIGHT-OF-WAY AND TRACK MAP

Exhibit A

9 PAGES

803

8

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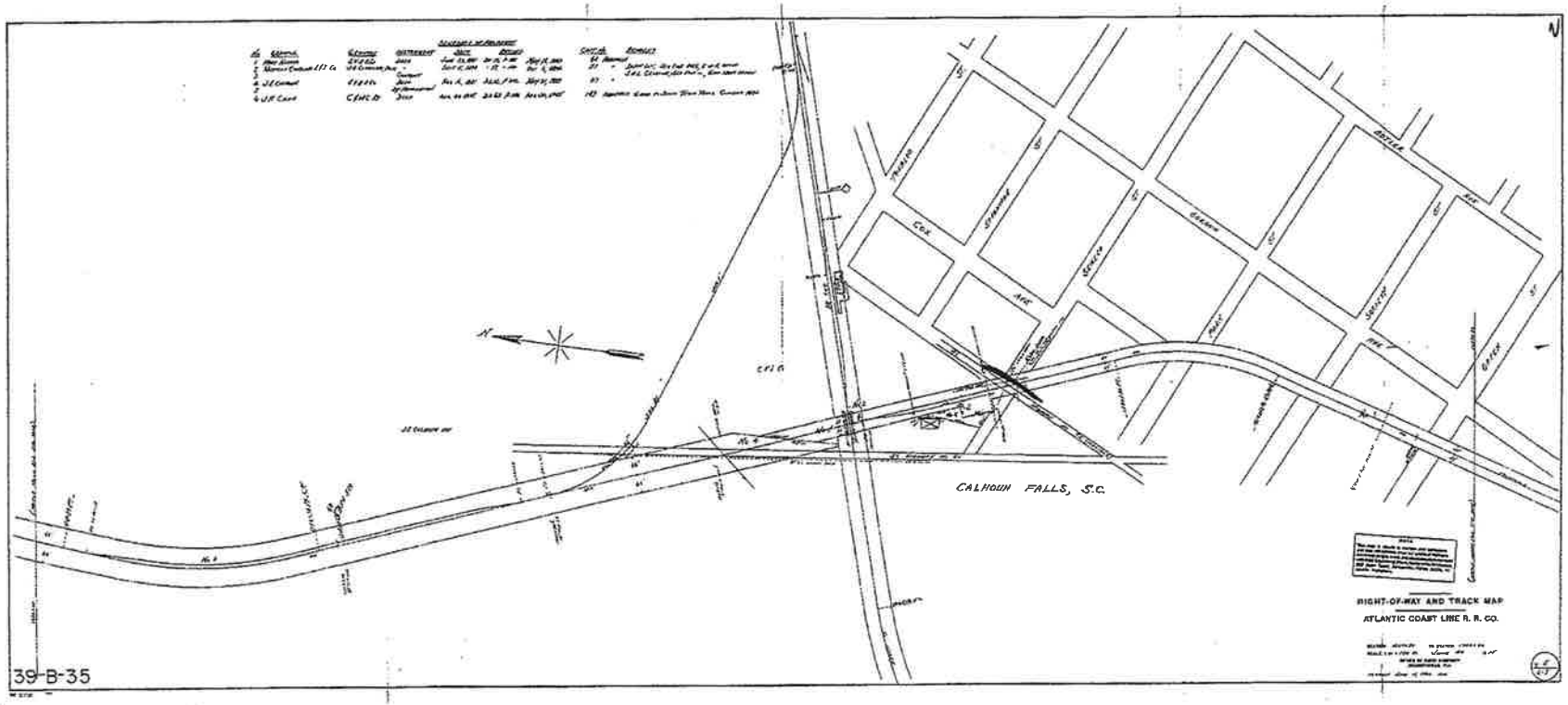


Exhibit A

9 PAGES

9

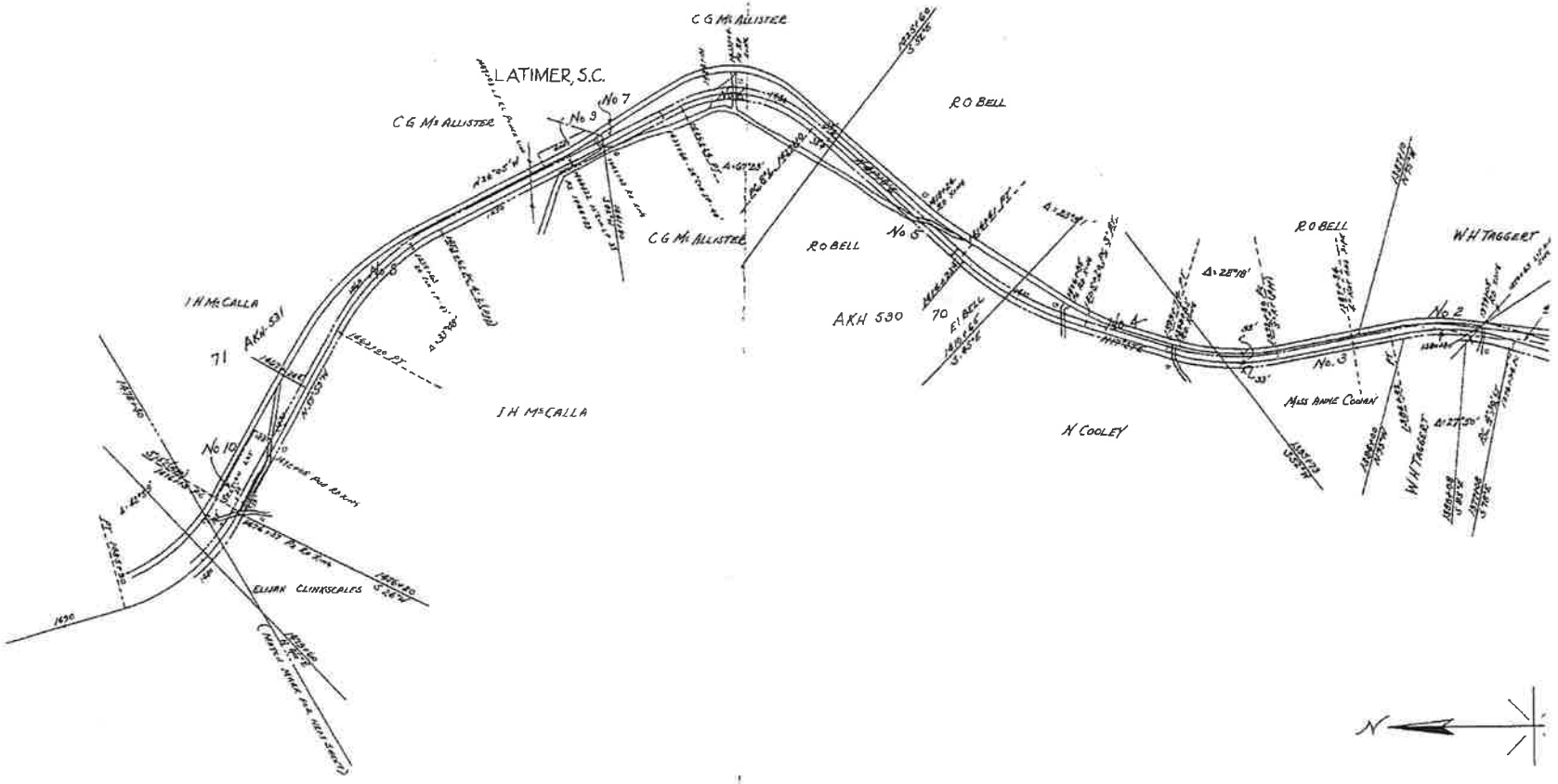


Exhibit A

9 PAGES

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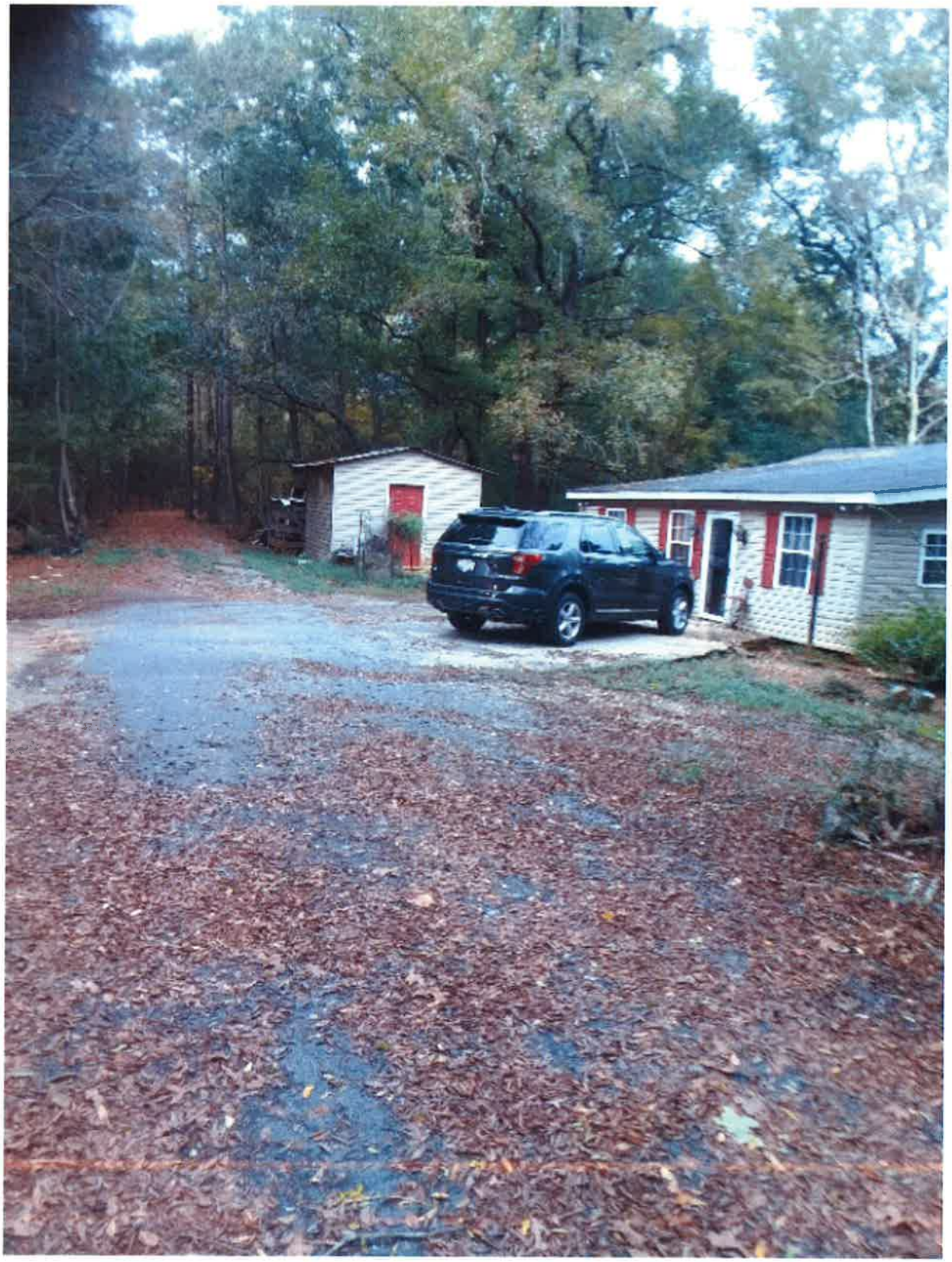


EXHIBIT 12

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	163-00-00-018
Tax District	01
Description1	
Description2	FORMER CSX RAIL
Legal Description	-
Town Code / Neighborhood	-/-
Approximate Acres	25.2 Acres
Record Type	-
Property Address	
Fire District	Monterey Fire Dist (09)

Owners

TOWN OF CALHOUN FALLS
401 WASHINGTON ST N
CALHOUN FALLS SC 29628

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
292/852	/	04/12/2012	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
04/12/2012	$0	292 / 852	/			N	Other	

Building Info

Main Building
SqFt 1st Floor 0
SqFt 2nd Floor 0
SqFt Garage 0

Map



No data available for the following modules: Valuation.

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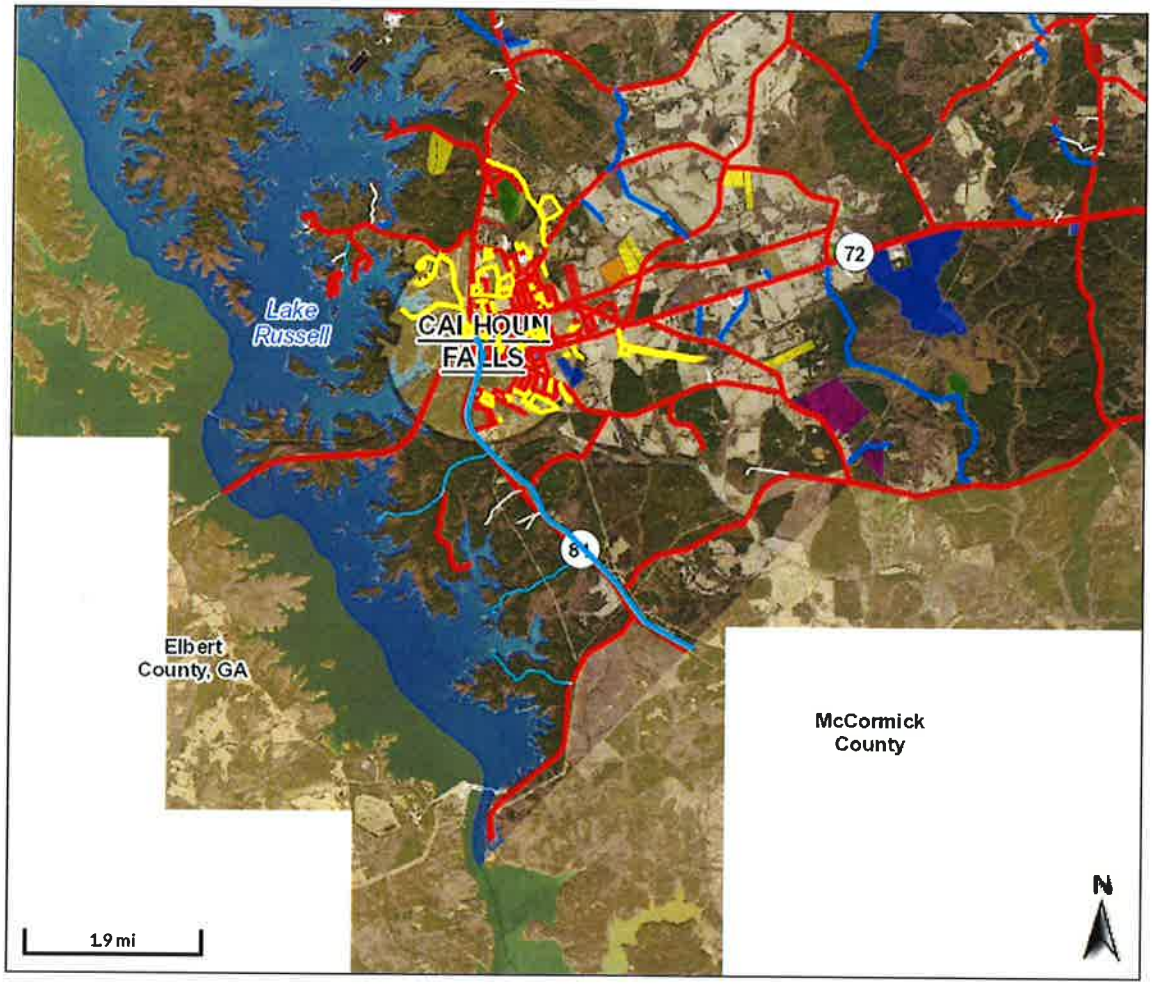
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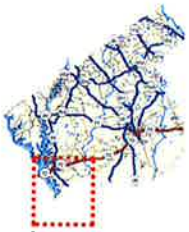
Version 2.3.3

EXHIBIT 13-A

qPublic.net™ Abbeville County, SC



Overview



Legend

Yearly Sales
- 2014
- 2015
- 2016
- 2017
- 2018
- 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits

Road Centerlines
- <all other values>
- City
- County
- Federal/ Forestry
- Private
- State/ DOT

Adjoining Counties

Parcel ID	163-00-00-018	**Alternate ID**	163-00-00-018	**Owner Address**	TOWN OF CALHOUN FALLS
Sec/Twp/Rng	n/a	**Class**	n/a		401 WASHINGTON ST N
Property Address		**Approximate Acres**	25.2		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	n/a				

(Note: Not to be used on legal documents)

Date created: 9/6/2019
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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	174-00-00-021
Tax District	01
Description1	1-4W-181R
Description2	HWY 81 S
Legal Description	-
Town Code / Neighborhood	-/Agriculture 6-51 Acres
Approximate Acres	7 Acres
Record Type	Agriculture
Property Address	HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

MYERS ANNIE H
13 ANGEL LN
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$28,000
Improvement Market Value	$0
Total Market Value	$28,000
Taxable Value	$987
Total Assessed Value	$40

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
184/359	34/250	01/27/1994	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
01/27/1994	$0	184 / 359	34 / 250					

Building Info

Main Building
SqFt 1st Floor 0
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R		-	43613

Map



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Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-021	**Alternate ID**	174-00-00-021	**Owner Address**	MYERS ANNIE H
Sec/Twp/Rng	n/a	**Class**	n/a		13 ANGEL LN
Property Address	HWY 81 S	**Approximate Acres**	7		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	1-4W-181R				
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EXHIBIT 13-A

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Summary

Parcel ID	174-00-00-005
Tax District	01
Description1	1-4W-161L
Description2	
Legal Description	OFF HWY 81
Town Code / Neighborhood	-/Residential >51 Acres
Approximate Acres	56 Acres
Record Type	Residential and Agriculture
Property Address	13 ANGEL LN
Fire District	Monterey Fire Dist (09)

Owners

MYERS ANNIE LOUISE
13 ANGEL LN
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$115,000
Improvement Market Value	$143,600
Total Market Value	$258,600
Taxable Value	$73,040
Total Assessed Value	$2,920

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
94/456	32/152	05/31/1958	WILLIS EUGENIA ODESSA HODGES
90//598	32/152	06/15/1957	HILLEY BEATRICE A ET AL

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
05/31/1958	$0	94 / 456	32 / 152	WILLIS EUGENIA ODESSA HODGES				

Building Info

Main Building
SqFt 1st Floor 2660
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1964	2660	36540
R		-	43607

Map



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Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Site Address
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-005	**Alternate ID**	174-00-00-005	**Owner Address**	MYERS ANNIE LOUISE
Sec/Twp/Rng	n/a	**Class**	n/a		13 ANGEL LN
Property Address	13 ANGEL LN	**Approximate Acres**	56		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	1-4W-161L				
	(Note: Not to be used on legal documents)				

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Summary

Parcel ID	174-00-00-024
Tax District	01
Description1	PARENT 174-00-00-020
Description2	CF
Legal Description	TRACT 1
Town Code / Neighborhood	-/Residential 1-5 Acres
Approximate Acres	1.7 Acres
Record Type	Residential
Property Address	HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

NOBLES BILLY & ELAINE
17 ANGEL LN
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$6,800
Improvement Market Value	$0
Total Market Value	$6,800
Taxable Value	$6,800
Total Assessed Value	$410

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
274/516	66/83	10/23/2008	HOZEY JUDY DALE ET AL
273/ 125	66/83	08/18/2008	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
10/23/2008	$0	274 / 516	66 / 83	HOZEY JUDY DALE ET AL		N	Other	

Building Info

Main Building
SqFt 1st Floor 0
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R		-	36396

Map



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EXHIBIT 13-A

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Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-024	**Alternate ID**	174-00-00-024	**Owner Address**	NOBLES BILLY & ELAINE
Sec/Twp/Rng	n/a	**Class**	n/a		17 ANGEL LN
Property Address	HWY 81 S	**Approximate Acres**	1.7		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	PARENT 174-00-00-020 (Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	174-00-00-022
Tax District	01
Description1	5-4W-162L
Description2	143 ANGEL LANE
Legal Description	-
Town Code / Neighborhood	-/Residential 1-5 Acres
Approximate Acres	0.65 Acres
Record Type	Residential
Property Address	143 ANGEL LN
Fire District	Monterey Fire Dist (09)

Owners

WILLIS JAMES L
143 ANGEL LN
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$3,500
Improvement Market Value	$105,500
Total Market Value	$109,000
Taxable Value	$109,000
Total Assessed Value	$4,360

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
203/299	44/60	12/03/1997	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
12/03/1997	$0	203 / 299	44 / 60					

Building Info

Main Building
SqFt 1st Floor 1740
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1996	1740	36354

Map



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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC



Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Site Address
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-022	**Alternate ID**	174-00-00-022	**Owner Address**	WILLIS JAMES L
Sec/Twp/Rng	n/a	**Class**	n/a		143 ANGEL LN
Property Address	143 ANGEL LN	**Approximate Acres**	0.65		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	5-4W-162L				
	(Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	174-00-00-003
Tax District	01
Description1	7-4W-182R
Description2	HIGHWAY 81
Legal Description	PB 18/107; PLAT 51-58
Town Code / Neighborhood	-/Residential >51 Acres
Approximate Acres	58 Acres
Record Type	Residential and Agriculture
Property Address	1340 HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

MASON JAMES A & LUCILLE M
1340 HWY 81 S
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$119,000
Improvement Market Value	$9,800
Total Market Value	$128,800
Taxable Value	$26,635
Total Assessed Value	$1,360

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
205/123	32/13	04/02/1998	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
04/02/1998	$0	205 / 123	32 / 13					

Building Info

Main Building
SqFt 1st Floor 832
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1906	832	36358
R		-	43605

Map



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qPublic.net™ Abbeville County, SC



Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-003	**Alternate ID**	174-00-00-003	**Owner Address**	MASON JAMES A & LUCILLE M
Sec/Twp/Rng	n/a	**Class**	n/a		1340 HWY 81 S
Property Address	1340 HWY 81 S	**Approximate Acres**	58		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	7-4W-182R				
	(Note: Not to be used on legal documents)				

Date created: 9/6/2019
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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	174-00-00-004
Tax District	01
Description1	9-4W-182R
Description2	
Legal Description	-
Town Code / Neighborhood	-/Residential >51 Acres
Approximate Acres	80 Acres
Record Type	Residential and Agriculture
Property Address	1340 HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

MASON JAMES A & LUCILLE M
1340 HWY 81 S
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$163,000
Improvement Market Value	$298,300
Total Market Value	$461,300
Taxable Value	$316,001
Total Assessed Value	$12,640

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
205/127	51/58	04/02/1998	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
04/02/1998	$0	205 / 127	51 / 58					

Building Info

Main Building
SqFt 1st Floor 3653
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	2000	3653	36356
R		-	43606

Map

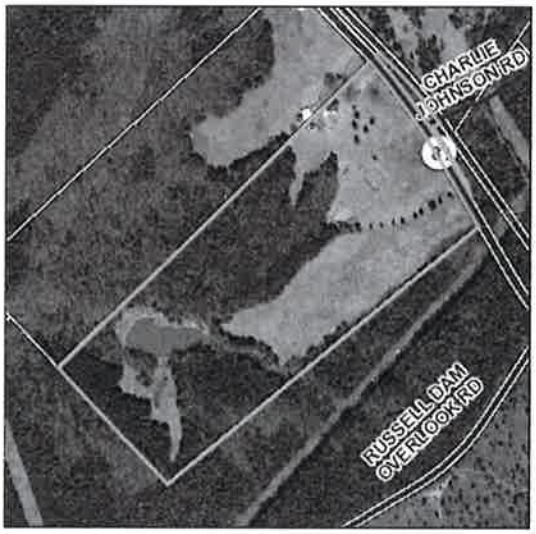


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EXHIBIT 13-A

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Overview



Legend

- Parcel Numbers
- Parcel
- Yearly Sales
  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-004	**Alternate ID**	174-00-00-004	**Owner Address**	MASON JAMES A & LUCILLE M
Sec/Twp/Rng	n/a	**Class**	n/a		1340 HWY 81 S
Property Address	1340 HWY 81 S	**Approximate Acres**	80		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	9-4W-182R				
	(Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	174-00-00-011
Tax District	01
Description1	3-4W-182R
Description2	CF
Legal Description	SEE ALSO DB 304-353;
Town Code / Neighborhood	-/Residential >51 Acres
Approximate Acres	127 Acres
Record Type	Residential and Agriculture
Property Address	1337 HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

ATKINSON SARAH B L.E.
1337 HWY 81 S
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$257,000
Improvement Market Value	$97,900
Total Market Value	$354,900
Taxable Value	$128,268
Total Assessed Value	$5,140

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
135/632	N/A/000	12/23/1982	ATKINSON W D & SARAH B

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
12/23/1982	$0	135 / 632	N/A / 000	ATKINSON W D & SARAH B				

Building Info

Main Building
SqFt 1st Floor 2016
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1965	2016	36703
R		-	43610

Map



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Version 2.3.3

EXHIBIT 13-A

qPublic.net™ Abbeville County, SC



Overview



Legend

- Parcel Numbers
- Parcel
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  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	174-00-00-011	**Alternate ID**	174-00-00-011	**Owner Address**	ATKINSON SARAH B L.E.
Sec/Twp/Rng	n/a	**Class**	n/a		1337 HWY 81 S
Property Address	1337 HWY 81 S	**Approximate Acres**	127		CALHOUN FALLS SC 29628
District	01				
Brief Tax Description	3-4W-182R				
	(Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	163-07-01-018
Tax District	03
Description1	C-3-65L
Description2	
Legal Description	-
Town Code / Neighborhood	Calhoon Falls/-
Approximate Acres	0.55 Acres
Record Type	Residential
Property Address	313 CALHOUN SHORES PKY S
Fire District	Calhoun Falls Fire Dist (12)

Owners

SMITH WILLIE CLYDE
313 HIGHWAY 81 SOUTH
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$1,500
Improvement Market Value	$14,300
Total Market Value	$15,800
Taxable Value	$15,800
Total Assessed Value	$630

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
103/124	/	07/11/1964	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
07/11/1964	$0	103 / 124	/					

Building Info

Main Building
SqFt 1st Floor 1294
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1960	1294	36906

Map

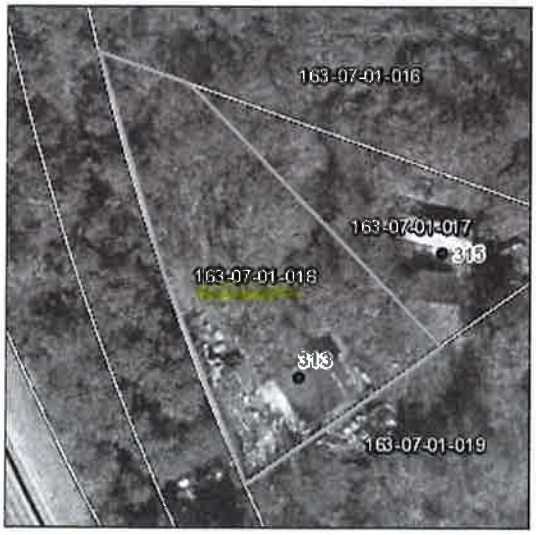


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Overview



Legend

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  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	163-07-01-018	**Alternate ID**	163-07-01-018	**Owner Address**	SMITH WILLIE CLYDE
Sec/Twp/Rng	n/a	**Class**	n/a		313 HIGHWAY 81 SOUTH
Property Address	313 CALHOUN SHORES PKY S	**Approximate Acres**	0.55		CALHOUN FALLS SC 29628
District	03				
Brief Tax Description	C-3-65L (Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	163-00-00-004
Tax District	01
Description1	1-4W-183L
Description2	
Legal Description	SEE ALSO DB 280/101&105
Town Code / Neighborhood	-/Residential >51 Acres
Approximate Acres	196 Acres
Record Type	Residential and Agriculture
Property Address	417 HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

SAWNEY CREEK FARMS LLC
109 HILLCREST AVE
CLEMSON SC 29631

Valuation

Land Market Value	$395,000
Improvement Market Value	$95,800
Total Market Value	$490,800
Taxable Value	$122,600
Total Assessed Value	$6,920

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
280/123	N/A/000	10/28/2009	PETTIGREW GAINES C ESTATE
121/ 208	N/A/000	08/08/1977	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
10/28/2009	$0	280 / 123	N/A / 000	PETTIGREW GAINES C ESTATE		N	Family	

Building Info

Main Building
SqFt 1st Floor 2529
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1925	2529	36528
R		-	44202

Map



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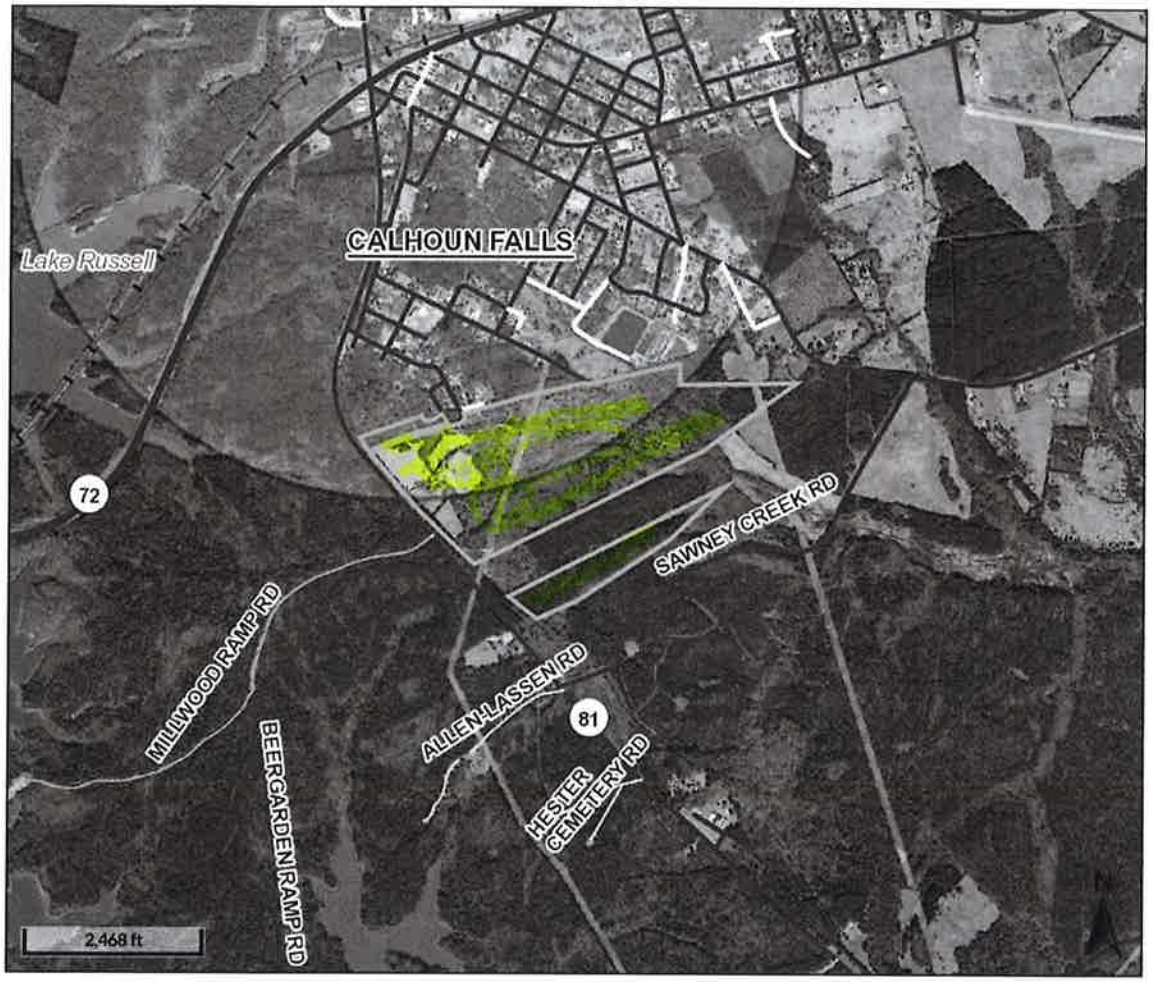
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EXHIBIT 13-A

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Overview



Legend

- Parcel
- Yearly Sales
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  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	163-00-00-004	**Alternate ID**	163-00-00-004	**Owner Address**	SAWNEY CREEK FARMS LLC
Sec/Twp/Rng	n/a	**Class**	n/a		109 HILLCREST AVE
Property Address	417 HWY 81 S	**Approximate Acres**	196		CLEMSON SC 29631
District	01				
Brief Tax Description	1-4W-183L				
	(Note: Not to be used on legal documents)				

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Overview



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  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Site Address
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	163-00-00-004	**Alternate ID**	163-00-00-004	**Owner Address**	SAWNEY CREEK FARMS LLC
Sec/Twp/Rng	n/a	**Class**	n/a		109 HILLCREST AVE
Property Address	417 HWY 81 S	**Approximate Acres**	196		CLEMSON SC 29631
District	01				
Brief Tax Description	1-4W-183L				
	(Note: Not to be used on legal documents)				

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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	154-13-02-006
Tax District	03
Description1	K-25-66L
Description2	
Legal Description	SHERARD PARK LOT 4
Town Code / Neighborhood	Calhoon Falls/-
Approximate Acres	0.8 Acres
Record Type	Residential
Property Address	102 SHERARD ST
Fire District	Calhoun Falls Fire Dist (12)

Owners

BROADWELL CLYDE H JR
102 SHERARD ST
CALHOUN FALLS SC 29628

Valuation

Land Market Value	$4,000
Improvement Market Value	$68,700
Total Market Value	$72,700
Taxable Value	$72,700
Total Assessed Value	$2,910

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
167/272	10/222	06/22/1990	

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
06/22/1990	$0	167 / 272	10 / 222					

Building Info

Main Building
SqFt 1st Floor 0
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R	1963	1275	37277

Map



EXHIBIT 13-A

qPublic.net™ Abbeville County, SC



Overview



Legend

- Parcel Numbers
- Parcel
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  - 2014
  - 2015
  - 2016
  - 2017
  - 2018
  - 2019
- LakeRussell
- Lake Secession
- Railroad
- Site Address
- Corp Limits
- Road Centerlines
  - <all other values>
  - City
  - County
  - Federal/ Forestry
  - Private
  - State/ DOT
- Adjoining Counties

Parcel ID	154-13-02-006	**Alternate ID**	154-13-02-006	**Owner Address**	BROADWELL CLYDE H JR
Sec/Twp/Rng	n/a	**Class**	n/a		102 SHERARD ST
Property Address	102 SHERARD ST	**Approximate Acres**	0.8		CALHOUN FALLS SC 29628
District	03				
Brief Tax Description	K-25-66L				

(Note: Not to be used on legal documents)

Date created: 9/11/2019
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EXHIBIT 13-A

qPublic.net™ Abbeville County, SC

Summary

Parcel ID	163-00-00-006
Tax District	01
Description1	2-4W-183L
Description2	
Legal Description	ALSO DB 280/99,109,115,119OFF HWY 81 S
Town Code / Neighborhood	-/Agriculture 6-51 Acres
Approximate Acres	47 Acres
Record Type	Agriculture
Property Address	HWY 81 S
Fire District	Monterey Fire Dist (09)

Owners

SAWNEY CREEK FARMS LLC
109 HILLCREST AVE
CLEMSON SC 29631

Valuation

Land Market Value	$117,500
Improvement Market Value	$0
Total Market Value	$117,500
Taxable Value	$5,532
Total Assessed Value	$220

Recorders Index

Deed Book/Page	Plat Book/Page	Deed Ref. Date	Previous Owner
280/123	52/116	10/28/2009	PETTIGREW GAINES C & JEANETTE
0220/0487	52/116	11/20/2000	JACKSON ZELLA C

Sales

Sale Date	Consideration	Deed Book/Page	Plat Book/Page	Seller Name	Buyer Name	True Sale	True Sale Code	Sale Reason
10/28/2009	$0	280 / 123	52 / 116	PETTIGREW GAINES C & JEANETTE		N	Family	

Building Info

Main Building
SqFt 1st Floor 0
SqFt 2nd Floor 0
SqFt Garage 0

Res/Comm/Ag	Year Built	Total Sq Ft	Sequence
R		-	36696

Map



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Overview



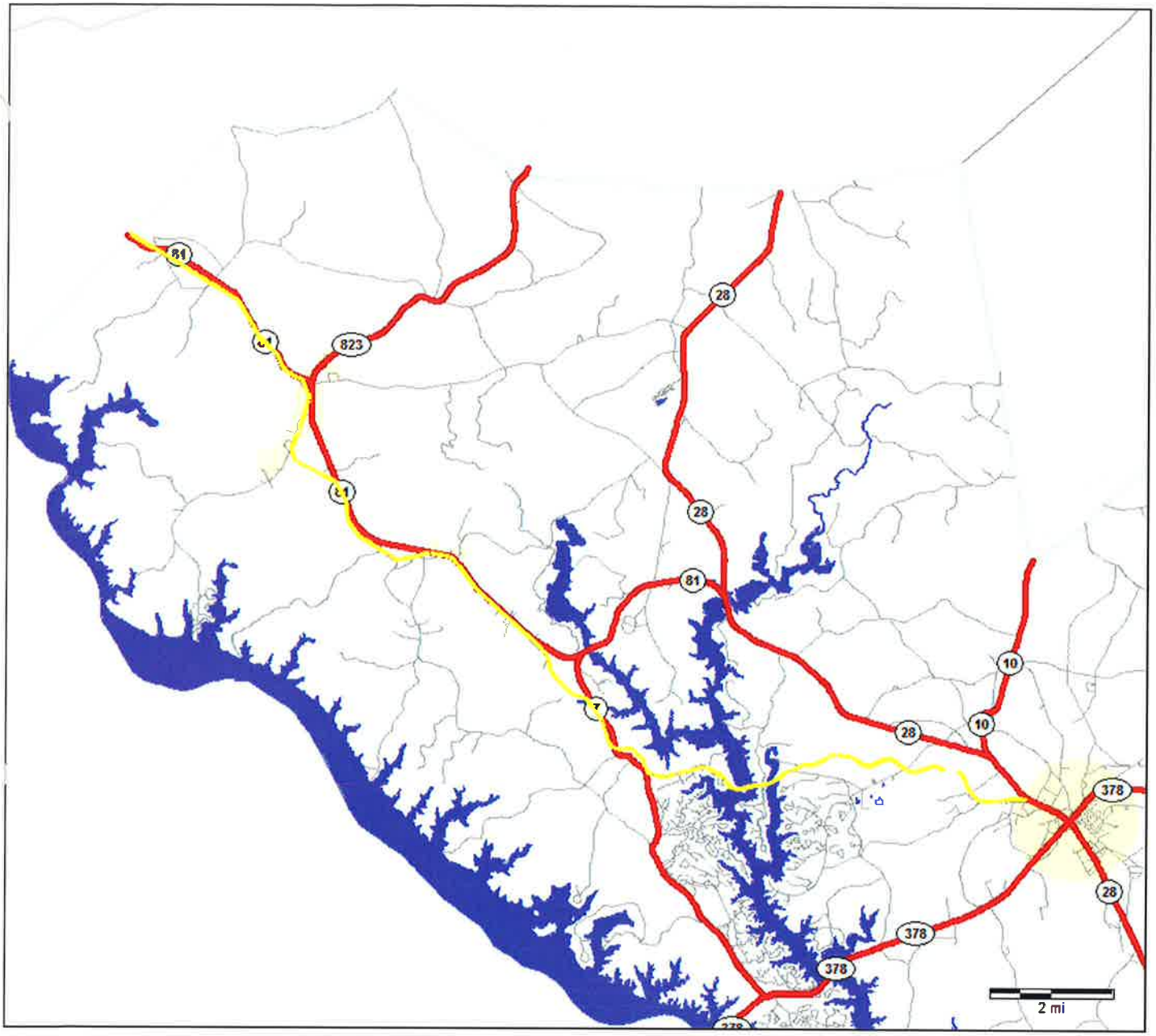
Legend

- Parcel Numbers
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- Yearly Sales
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  - 2016
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  - 2018
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- LakeRussell
- Lake Secession
- Railroad
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  - Federal/Forestry
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- Adjoining Counties

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098-00-00-028.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	098-00-00-028.
Owner Name	SAVANNAH VALLEY TRAILS INC

EXHIBIT 13-B

Mailing Address1	C/O BRADLEY ALLEN-TREASURER
Mailing Address2	PO BOX 556
Mailing Address3	MCCORMICK S C
Mailing ZipCode	29835
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	189.07
Deed Book	244
Deed Page	57
Plat Book	
Plat Page	
Description Location	ABANDON RIGHT-OF-WAY
Description Location2	
Sale Price	$10.00
Sale Date	2012/06/28

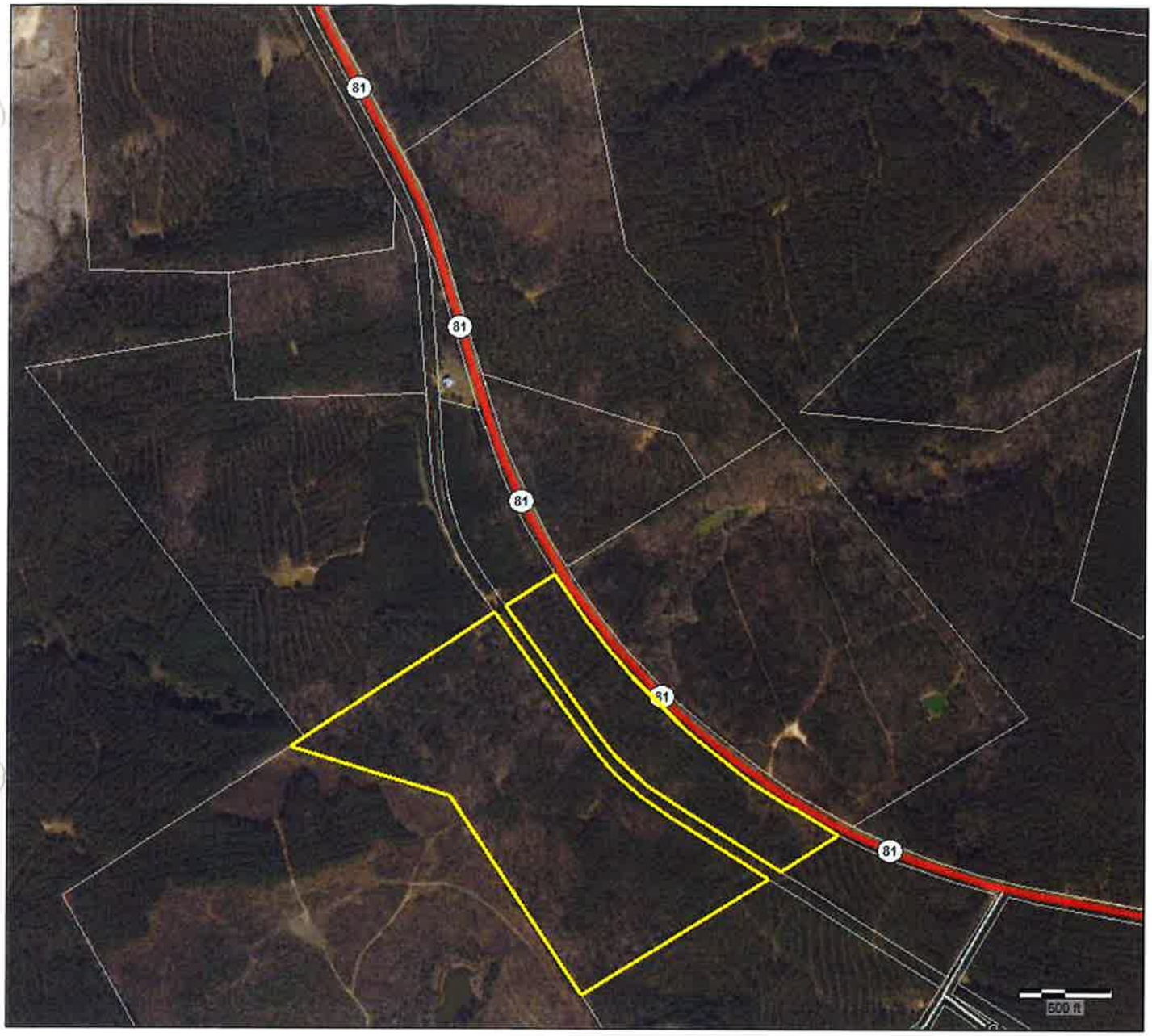
Assessment Information

Building Market Appraisal	0
Land Market Appraisal	0
Total Market Appraisal	0
Total Number Acres	189.07
Total Number Buldings	0
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B



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034-00-00-014.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	034-00-00-014.
Owner Name	TUBERVILLE JAMES ALLEN

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	816 HILLSIDE DRIVE
Mailing Address3	NORTH AUGUSTA SC
Mailing ZipCode	29841
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	65.90
Deed Book	185
Deed Page	78
Plat Book	
Plat Page	
Description Location	WEST OF SC HWY 81
Description Location2	
Sale Price	$1.00
Sale Date	2004/07/06

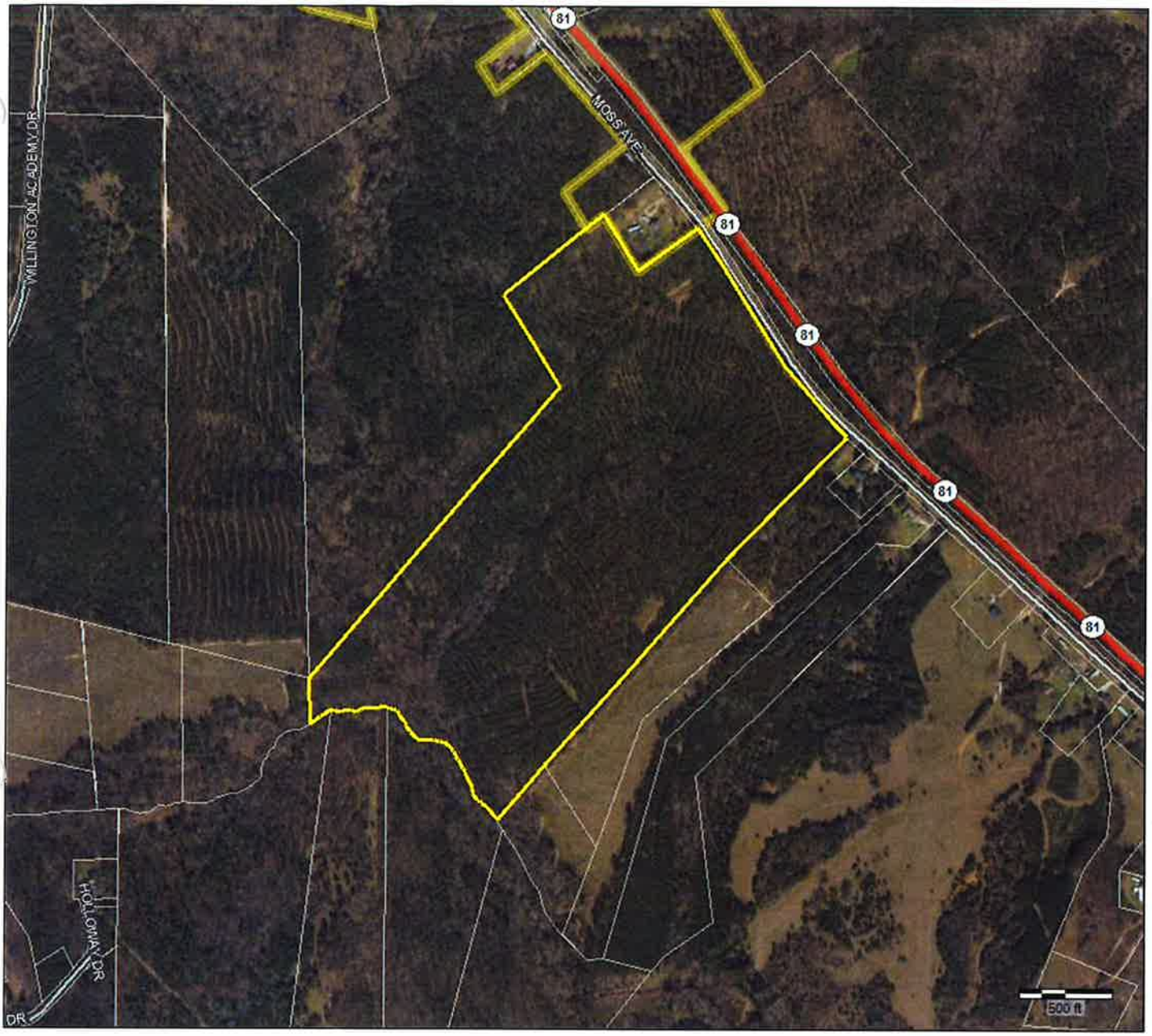
Assessment Information

Building Market Appraisal	0
Land Market Appraisal	0
Total Market Appraisal	105440
Total Number Acres	65.90
Total Number Buldings	0
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B



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045-00-00-012.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	045-00-00-012.
Owner Name	BURTON DEAN

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	214 AMETHYST WAY
Mailing Address3	SENECA SC
Mailing ZipCode	29672
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	100.01
Deed Book	250
Deed Page	72
Plat Book	11
Plat Page	82
Description Location	HWY 135
Description Location2	
Sale Price	$160,006.00
Sale Date	2013/08/12

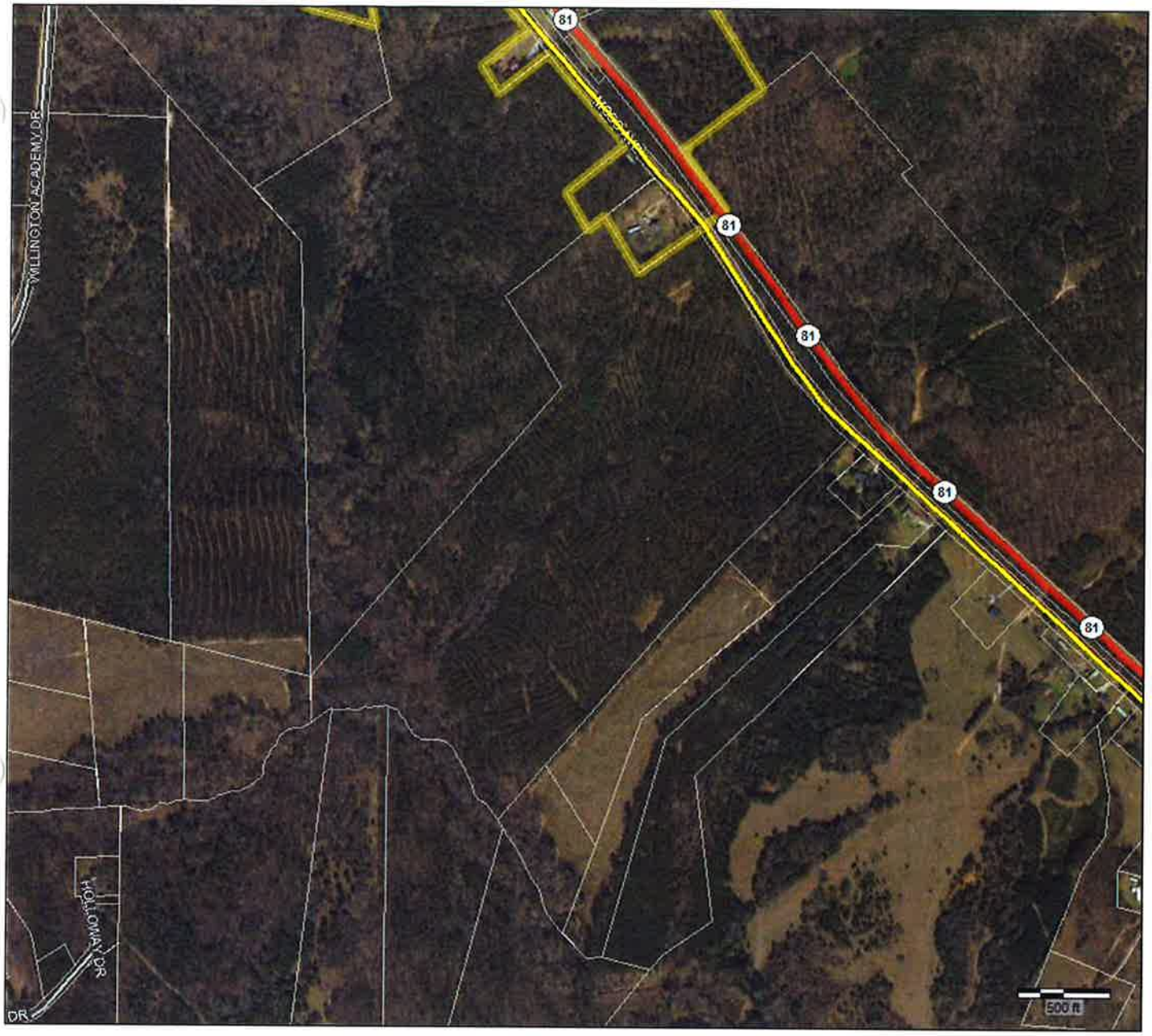
Assessment Information

Building Market Appraisal	0
Land Market Appraisal	0
Total Market Appraisal	160016
Total Number Acres	100.01
Total Number Buldings	0
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B

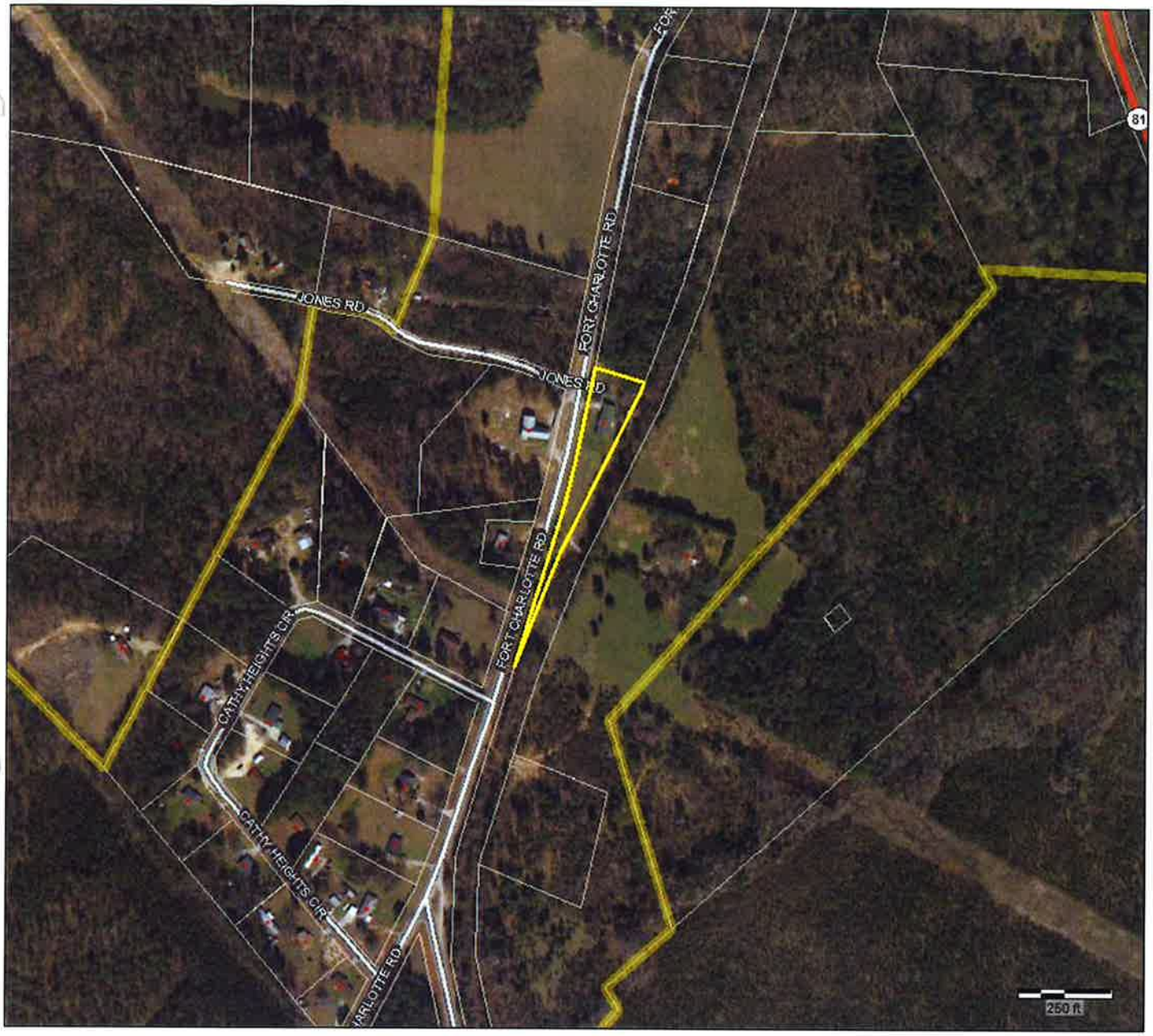


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Road Name	MOSS AVE
City	MCCORMICK
Surface Type	SURFACE

45065roads.tml

EXHIBIT 13-B



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025-02-01-022.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	025-02-01-022.
Owner Name	NEW ROBERT W & MINNIE O

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	PO BOX 176
Mailing Address3	MT CARMEL SC
Mailing ZipCode	29840
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	0.00
Deed Book	43
Deed Page	15
Plat Book	
Plat Page	
Description Location	HWY 91
Description Location2	1.25 ACRES
Sale Price	$0.00
Sale Date	1900/01/01

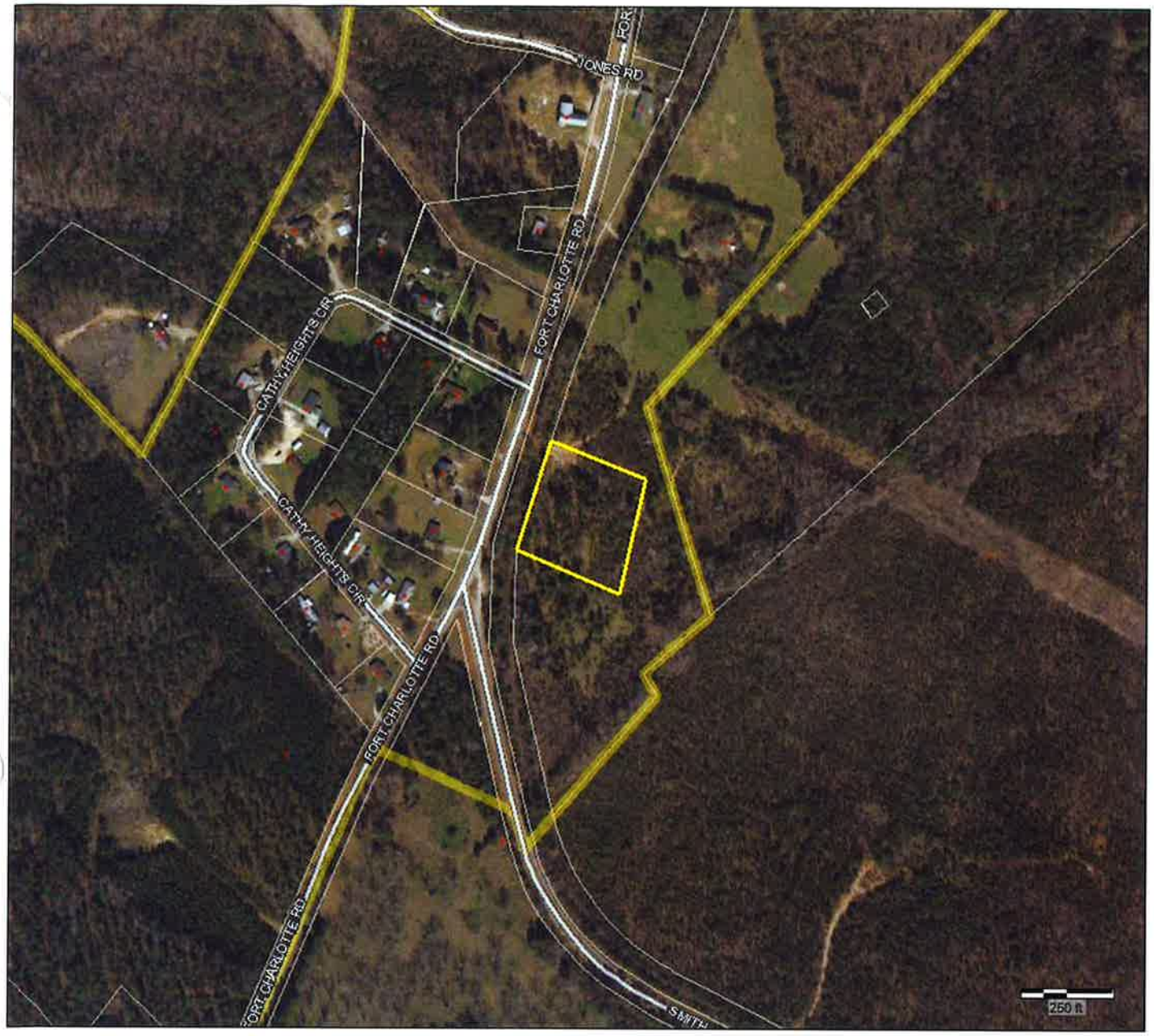
Assessment Information

Building Market Appraisal	79570
Land Market Appraisal	0
Total Market Appraisal	84570
Total Number Acres	0.00
Total Number Buldings	1
Total Number Lots	1

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	420
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	2057
Square Foot First Floor	2057
Square Foot Second Floor	0
Year Built	1977
Workmanship	

EXHIBIT 13-B



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025-02-01-026.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	025-02-01-026.
Owner Name	NEW ROBERT W & MINNIE O

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	PO BOX 176
Mailing Address3	MT CARMEL SC
Mailing ZipCode	29840
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	2.06
Deed Book	41
Deed Page	63
Plat Book	
Plat Page	
Description Location	HWY 91
Description Location2	
Sale Price	$0.00
Sale Date	1900/01/01

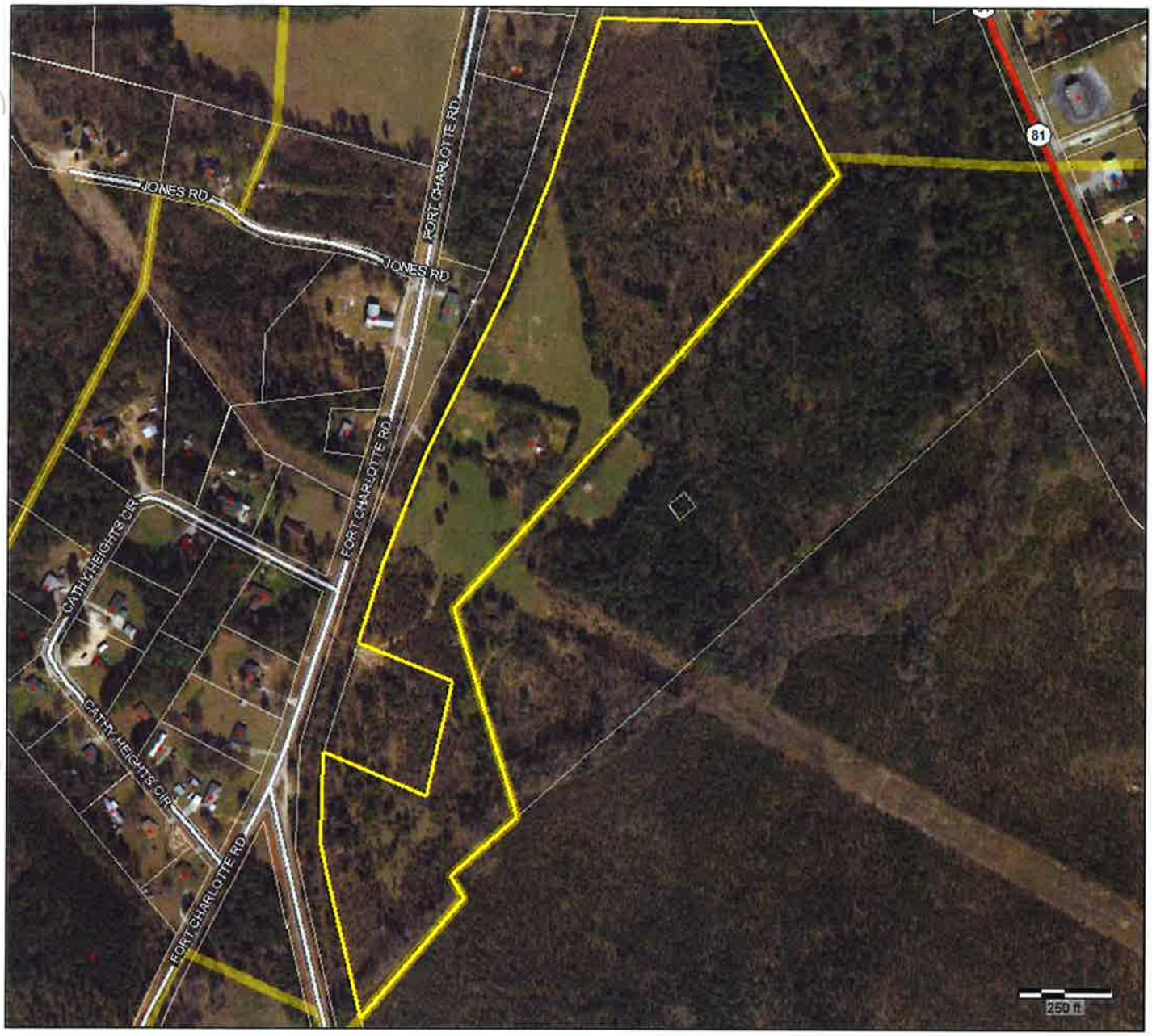
Assessment Information

Building Market Appraisal	0
Land Market Appraisal	0
Total Market Appraisal	6180
Total Number Acres	2.06
Total Number Buldings	0
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B



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024-06-01-031.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	024-06-01-031.
Owner Name	NEW MINNIE O

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	PO BOX 176
Mailing Address3	MT CARMEL SC
Mailing ZipCode	29840
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	34.50
Deed Book	153
Deed Page	79
Plat Book	
Plat Page	
Description Location	HWY 91
Description Location2	
Sale Price	$5.00
Sale Date	2000/10/03

Assessment Information

Building Market Appraisal	0
Land Market Appraisal	2500
Total Market Appraisal	79800
Total Number Acres	34.50
Total Number Buldings	0
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B



Type notes here	Printed 09/06/2019	The purpose of this map is to display the geographic location of a variety of data sources frequently updated from local government and other agencies. Neither WTH Technology nor the agencies providing this data make any warranty concerning its accuracy or merchantability. And no part of it should be used as a legal description or document.

056-00-00-008.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	056-00-00-008.
Owner Name	ANDERS WALTER L & MARY C

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	703 CHESTNUT RIDGE RD
Mailing Address3	MARIETTA SC
Mailing ZipCode	29661
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	1.61
Deed Book	232
Deed Page	120
Plat Book	20
Plat Page	262
Description Location	HWY 196 WILLINGTON
Description Location2	
Sale Price	$10.00
Sale Date	2010/08/20

Assessment Information

Building Market Appraisal	20000
Land Market Appraisal	5600
Total Market Appraisal	25600
Total Number Acres	1.61
Total Number Buldings	3
Total Number Lots	0

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	0
Square Foot First Floor	0
Square Foot Second Floor	0
Year Built	0
Workmanship	

EXHIBIT 13-B



Type notes here	Printed 09/06/2019	The purpose of this map is to display the geographic location of a variety of data sources frequently updated from local government and other agencies. Neither WTH Technology nor the agencies providing this data make any warranty concerning its accuracy or merchantability. And no part of it should be used as a legal description or document.

056-00-00-011.

General
Assessment
Structure

Owner and General Parcel Information

Property Card	Show Property Card
Map Number	056-00-00-011.
Owner Name	MARTIN HOMER

EXHIBIT 13-B

Mailing Address1	
Mailing Address2	170 MOSS AVENUE
Mailing Address3	MCCORMICK, SC
Mailing ZipCode	29835
Physical Address	0
Legal Description1	
Legal Description2	
Total Acreage	0.00
Deed Book	319
Deed Page	15
Plat Book	8
Plat Page	157
Description Location	HWY 196
Description Location2	1.64 ACRES
Sale Price	$0.00
Sale Date	2019/07/16

Assessment Information

Building Market Appraisal	57150
Land Market Appraisal	0
Total Market Appraisal	62850
Total Number Acres	0.00
Total Number Buldings	1
Total Number Lots	1

Structure Information

Number Of Baths	0.00
Number Of Bedrooms	0
Number Of Stories	0.00
Square Foot Basement	0
Square Foot Carport	0
Square Foot Garage	0
Square Foot Storage	0
Square Foot Total	1708
Square Foot First Floor	1708
Square Foot Second Floor	0
Year Built	1987
Workmanship	

EXHIBIT 13-B

STATE OF SOUTH CAROLINA **COUNTY OF ABBEVILLE**	)	**IN THE COURT OF COMMON PLEAS** **EIGHTH JUDICIAL CIRCUIT** **CIVIL ACTION NO. 2018-CP-01-00094**
Annie L. Myers, Billy R. Nobles, M. Elaine Nobles, James Lewis Willis, James and Lucille Mason, Joann Atkinson, Willie Clyde Smith, Clyde H. Broadwell, Jr., and Stephen Pettigrew of Sawney Creek Farm, LLC, **Plaintiffs,** **vs.** **Town of Calhoun Falls,** **Defendant.**	)	**DEFENDANTS' POST HEARING BRIEF**
James Tuberville, Dean Burton, Robert W. and Minnie O. New, Walter L. Anders, and Mary and Homer Martin, **Plaintiffs,** **vs.** **Savannah Valley Trails, Inc.,** **Defendant.**	)	**CIVIL ACTION NO.: 2018-CP-01-00250**

INTRODUCTION

Defendant Savannah Valley Trails, Inc. is the record owner of a strip of land approximately seventeen miles in length running from the Town of McCormick to the Abbeville County, South Carolina line. Defendant Town of Calhoun Falls is the record owner of a strip of land approximately three miles in length adjoining the strip of land owned by SVT and running from the McCormick County and Abbeville County border to the Town of Calhoun Falls.

The strips of land owned by the Defendants were previously a portion of railroad property which was originally owned by Savannah Valley Railroad Company and known as the Savannah Valley Railroad. Seaboard Coast Line Railroad Company was the successor in interest to Savannah Valley Railroad. Seaboard System Railroad, Inc. is the successor in interest to Seaboard Coast Line Railroad Company. Seaboard System Railroad, Inc. conveyed its interest in the railroad corridor lying from the Town of McCormick to the Town of Calhoun Falls to the State of South Carolina, through the division Clarks Hill-Russell Authority (predecessor to the South Carolina State Department of Commerce Division of Savannah Valley Development) in 1983. The South Carolina Department of Commerce Division of Savannah Valley Development conveyed that portion of rail corridor lying in McCormick County to the Ninety-Six District Resource Conservation and Development Council, which in turn conveyed its interest to Savannah Valley Trails, Inc. in 2012.

Savannah Valley Trails, Inc. is a non-profit corporation organized and existing under the laws of the State of South Carolina, the sole purpose of which is to hold title to the real property conveyed to it to groom, maintain and improve the former railroad bed for interim use as a recreational trail, subject to the revitalization of the railroad bed for future rail use.

The Town of Calhoun Falls is a political subdivision of the State of South Carolina and County of Abbeville. The Town of Calhoun Falls accepted title to the real property a portion of which is the subject of this action for the purpose to groom, maintain and improve the former railroad bed for interim use as a recreational trail, subject to the revitalization of the railroad bed for future rail use.

Plaintiffs are the purported owners of certain parcels of real property adjoining segments of the property of either SVT or the Town at intervals. Certain Plaintiffs filed a declaratory judgment action against Defendant Savannah Valley Trails, Inc. in 2016, alleging that the strips of land owned by SVT were abandoned by Seaboard Coast Line Railroad Company prior to February 25, 1980, and that the segments of rail line adjoining the properties now owned by Plaintiffs reverted to the respective Plaintiffs or their predecessors in interest. In 2018, the remaining Plaintiffs filed a parallel cause of action against the Town. The cases were consolidated for hearing and disposition.

FACTS

The parties have submitted Joint Stipulated Facts to the Court which are part of the record before the Court and incorporated herein by reference as if incorporated herein verbatim.

ARGUMENT

Plaintiffs have styled the cause of action as a declaratory judgment action, raising as its sole argument abandonment. A declaratory judgment action is legal or equitable in nature based upon the underlying issue. Lowcountry Open Land Trust v. State (S.C. App. 2001) 347 S.C. 96, 552 S.E.2d 778. A determination of title is legal in nature. A determination of the scope or extent of an easement is a question of equity, the existence of an easement is a factual question in an action at law. Slear v. Hanna, 329 S.C. 407, 496 S.E.2d 633 (1998); Smith v. Commissioners of Public Works, 312 S.C. 460, 441 S.E.2d 331 (Ct. App. 1994). The termination of an easement by abandonment is a factual question in an action at law. Eldridge v. City of Greenwood, 331 S.C. 398, 503 S.E.2d 191 (1998) (citing Southern Ry. V. Howell, 89 S.C. 391, 71 S.E. 972 (1911). The issues before the Court are in the nature of an action to determine title or quiet title.

Determination of Title

Plaintiffs bear the burden of proof to establish unencumbered title to the real property which is the subject of this action. Plaintiffs central argument is abandonment of right of way, ignoring the establishment of title to subject property. The Joint Stipulated Facts before the Court submit that SVT and the Town are the record owners of the real property which is the subject of this action, having obtained the real property under color of title originating from the Sate Deed (as defined in the Joint Stipulated Facts). Defendants and their predecessors in title have been the record owners of the real property which is the subject of this action for more than 36 years. By Joint Stipulated Facts, Legal Title is vested in Defendants. The party establishing legal title is presumed to be in possession thereof and any other party's occupation is subordinate unless adverse possession is established by clear and convincing evidence. Plaintiffs have submitted no evidence to overcome the statutory presumption of superiority of legal title to the subject property in Defendants. As Defendants established through Joint Stipulated Facts legal title under color of title originating from the State Deed, the only requirement of actual possession necessary to establish adverse possession under color of title in favor of Defendants is a writing describing the entire area claimed; possession of any part of this area then operates as a possession of the whole. Moreover, color of title can

derive from a defective deed or a quitclaim deed even though the grantor was without interest or title in the property conveyed. See Graniteville Co. v. Williams, 39 S.E.2d 202.

Abandonment

As an alternative argument to a determination of title in favor of Defendants, the Joint Stipulated Facts demonstrate at a minimum that a right of way in favor of Defendants exists. Plaintiffs would additionally bear the burden of proof of termination of easement through abandonment. Plaintiffs fail to meet the burden of proof on this issue.

Through the Joint Stipulated Facts, the parties stipulate that the Interstate Commerce Commission reviewed an application for abandonment of track from Seaboard Coast Line Railroad. By panel decision issued November 21, 1978, the Interstate Commerce Commission issued a decision noting that Seaboard Coast Line Railroad Company filed an application seeking authorization to abandon a portion of line running from railroad mile post AKH 503.63 near McCormick, SC, to mile post AKH 527.86 near Calhoun Falls, SC. The application was initially filed under the "summary" procedures of the applicable regulations, but pleadings in opposition to the application were filed by 12 parties, including representatives of McCormick County, South Carolina. The applicant was required to file the remainder of the information to be submitted under the long form application process. The applicant noted, upon approval for abandonment, that it would leave in place a segment of track from mile post AKH 503.63 to AKH 506 to store equipment. McCormick County contended that in order not to jeopardize industrial development that Seaboard Coast Line should be required to leave the right of way intact for a period of five years, with either the track being maintained for such period or in the alternative the track being pulled up, but the underlying right of way retained for the five year period. The decision of the panel specifically conditioned approval of abandonment upon the applicant not disposing of the right of way without first permitting governmental agencies the right to negotiate for the acquisition of the property for public use. Under the regulations promulgated under the Railroad Revitalization and Regulatory Reform Act, the ICC could not order the applicant to retain the right of way beyond 180 days from final approval of a certificate of abandonment, but the purpose of such conditional approval was to encourage each rail carrier to seek alternatives to complete abandonment and prevent reversion under state law.

On March 2, 1979, the ICC issued a Certificate and Decision permitting abandonment approval upon the condition that the applicant shall not sell, lease, exchange, or otherwise dispose of the right of way underlying the track, including all bridges and all culverts on the line for a period of 120 days from the service date of the certificate and decision to permit any state or local government to negotiate the acquisition of all or any portion of the property for public use.

The ICC noted in its certificate and decision that if the authority granted were exercised, applicant should have submitted two copies of the journal entries showing the retirement of the line from service, and further should have advised the commission in writing, immediately after abandonment of the track, of the date on which the abandonment actually took place.

If the authority granted in the certificate and decision was not exercised within one year from its effective date, it was of no further force and effect and jurisdiction would remain under the Surface Transportation Board as the successor in interest to the Interstate Commerce Commission.

Seaboard Coast Line Railroad Company issued a letter dated February 25, 1980 to the ICC referring to the Certificate and Decision and noted that the "track" was abandoned as of February 25, 1980.

Plaintiffs claim of abandonment based upon the foregoing is not proof by clear and convincing evidence based upon the following:

3. Subject Matter Jurisdiction. Plaintiffs have presented no evidence that Seaboard Coast Line Railroad Company complied with the second ordering paragraph of the Certificate and Decision dated March 2, 1979, in that there are no records on file with the ICC evidencing submission of journal entries showing the retirement of the line from service. Further, there is no final order of the ICC recognizing Seaboard Coast Line Railroad Company's compliance with the Second ordering paragraph, or acknowledging the railroad's compliance in accordance with its letter. As such, the presumption must follow that the Certificate and Decision of the Interstate Commerce Commission expired upon its own terms, not releasing its exclusive and

plenary jurisdiction over the matter and denying subject matter jurisdiction to state courts of the State of South Carolina. See Eldridge v. City of Greenwood, 331 S.C. 398, 503 S.E.2d 191 (1998).

2. Factual Determination. Assuming the finality of the Certificate and Decision of the Interstate Commerce Commission for the sake of argument, which would be based upon facts not in evidence, the question of abandonment would become a question of fact based upon the intent of the railroad as demonstrated through its actions. See Lorick & Lowrance, Inc. v. Southern Ry. Co., 87 S.C. 71, 68 S.E. 931 (1910). State law generally governs the disposition of reversionary interests, subject of course to the ICC's "exclusive and plenary" jurisdiction to regulate abandonments. Chicago & North Western Transp. Co. v. Kalo Brick & Tile Co., 450 U.S. 311, 321 (1981), and to impose conditions affecting postabandonment use of the property. *See* Hayfield Northern R. Co. v. Chicago & North Western Transp. Co., 467 U.S. 622, 633 (1984). The burden of proving the abandonment of railroad rights of way rests upon the party claiming that abandonment has occurred. State Ex Rel Dept. Of Transp. V. Penn Central Corp., 445 A. 2d 939 (Del. Super. Ct. 1982). The abandonment of a railroad easement must be proven by clear and convincing evidence. Jordan v. Stallings, 911 S.W.2d 653 (Mo. Ct. App. S.D. 1995). The intent to abandon and the actions to evidence the intent must be proven by clear and convincing evidence. St. Louis –San Francisco R. Co. v. Relland, 43 S.W.2d 1034, 328 Mo. 1154. Mere nonuse of an easement created by express grant, does not amount to abandonment of the easement. Walker v. Guignard, 359 S.E.2d 528 (Ct. App. 1987). Application from a regulatory agency itself is a factor but in and of itself is not abandonment. Cheer v. Commonwealth, 47 Ry. Co. 195 (1959). The removal of tracks and the acquisition of an abandonment certificate from a regulatory board does not give rise to abandonment. Lacy v. East Broad Top R.R. & Coal Co., 77 A.2d 706 (PA. Sup. Ct. 1951). In the case of Smith et al. v. Palmetto Conservation Foundation, CA No. 8:03-1587-20 (S.C. Dist. 2004), the United States District Court District Of South Carolina Anderson/Greenwood Division addressed a similar abandonment issue wherein the STB (successor to ICC) similarly imposed a 180 day restriction on the disposition of the right of way while the railroad negotiated an interim use agreement, finding that abandonment is not automatic at the end of the 180 day period, but rather the certificate of abandonment is automatic (assuming compliance with the STB Certificate), which simply gives the railroad permission to abandon.

3. Application of Eldridge. Plaintiffs cite that the case at hand is addressed under rulings held in Eldridge v. City of Greenwood, 300 S.C. 369, 388 S.E.2d 247 (1989) ("Eldridge I") and Eldridge v. City of Greenwood, 331 S.C. 398, 503 S.E.2d 191 (1998) ("Eldridge II"). The Eldridge I case correctly recognized that the question of whether a right of way has been abandoned is a question of fact. The Court in Eldridge I also cited the case of Raleigh, C. & S. Ry. Co. v. McGuire, 171 N.C. 277, 280, 88 S.E. 337, 339 (1916) as establishing the doctrine of abandonment as it relates to railroads as follows:

> It includes both the intention to abandon and the external act by which such intention is carried into effect. There must be concurrence of the intention with the actual relinquishment of the property. It is well settled that to constitute an abandonment or renunciation of a claim to property there must be acts and conduct, positive, unequivocal and inconsistent with claims of title.

In Eldridge I, the Court remanded the case to be heard on the question of fact as to abandonment. It recited that an intent to abandon has been found in cases from other states from the removal of tracks and the conveyance of the right of way by the railroad to another for purposes other than a railroad. 95 A.L.R. 2d 468, 498 (1964). The Court in Eldridge I could easily have determined that the removal of tracks was sufficient intent of abandonment, but it did not do so. Eldridge II was the appeal of the factual determination upon remand of the case from Eldridge I. In Eldridge II, the Court cited Birt v. STB, 90 F.3d 580, 586 (D.C. Cir. 1996) for the proposition that "The STB merely approves an abandonment as within the public convenience and necessity; but the STB's issuance of approval does not in and of itself consummate an abandonment."

Upon remand, the trial judge determined that the railroad abandoned the rail corridor through removal of its tracks and conveyance of its easement to the City, County and Highway Department for other purposes. Upon appeal in Eldridge II, the standard of review was noted to be a review for errors of law and factual findings only for evidence which reasonably supports the Court's findings. The easement in question in that case had been conveyed by the railroad to the City, County and Highway Department for usage as a roadway and related right of way. The Court found that public railroads and public highways were insufficiently analogous to be considered essentially the same

use for purposes of an easement and affirmed the lower Court's ruling. Notably, the Court in Eldridge II discussed interim trail use and the Federal Government's policy of establishing interim trail use as a mere discontinuance of rail service as opposed to abandonment, citing the Presault case, but the Court pointed out that it could not reach any issue of interim use because those facts were not before the Court. The Court in Eldridge was very clear that the decision should be based upon the individual facts of the case, and noted the standard of review in rendering its decision. However, if a standard could be interpreted from Eldridge I and II, the conveyance of a right of way for purposes clearly other than railroad purposes might be the standard. It was not removal of the tracks. It was not application to the regulatory agency. Eldridge is instructive as to the application of the standard of review and the jurisdictional issues, but the facts of the Eldridge cases do not align with the case at hand.

In the case before the Court, Plaintiffs have only submitted evidence of the February 25, 1980 letter citing removal of and abandonment of the "track" as evidence of abandonment. The question of fact to be determined is that assuming Seaboard Coast Line Railroad Company did have authority to abandon under the Certificate and Decision of the ICC, which again assumes facts not in evidence, what actions did Seaboard Coast Line take subsequent to the Certificate and Decision and were those actions consistent with continued ownership of the right of way or consistent with abandonment.

Plaintiff has cited no evidence of action by Seaboard Coast Line Railroad inconsistent with ownership of the right of way or consistent with abandonment. The stipulated facts support that the rail corridor remained separately assessed from the plaintiffs' tax parcels during this period. There is no evidence that the railroad contacted County offices to remove the right of way from its tax roll or add such property to the property of adjoining landowners. There is no evidence that the Plaintiffs sought to include the portions of the subject property adjoining theirs to their own tax parcels. There is no evidence that the railroad attempted to convey to any party for any other purpose the subject property, or to disclaim the property. Likewise, there is no evidence that the Plaintiffs sought to claim the property from the railroad. The stipulated facts further show that the right of way for the rail corridor was under mortgage to Chemical Bank from 1971 until 1983. The transaction between Seaboard System Railroad, Inc. and the State of South Carolina, through the Clarks Hill-Russell Authority, was consistent with Seaboard's continued claim of ownership of the right of way. The

transaction was for significant consideration as detailed in Joint Stipulated Fact 11. The transaction was funded with funds obtained by the State of South Carolina from the Federal Rail Bank, the sole purpose of which was to fund the acquisition of rail line upon which rail service had been discontinued to ensure its preservation for future rail use. The acquisition of the right of way for the rail corridor by the State of South Carolina with Rail Bank funds was consistent with continued use thereof for railroad purposes. This is very distinct from the Eldridge case, where the right of way was conveyed to a public entity for a completely different purpose. The stipulated facts support that the defendants and predecessor state agencies have continued to maintain and groom the right of way for future railroad purposes, and interim trail use, both consistent with the right of way and inconsistent with abandonment. Interim trail use recognized as not affecting abandonment under numerous cases, federal laws, regulations, and even in the Eldridge decision cited by Plaintiffs.

LACHES

Finally, Plaintiffs are barred from recovery based upon the equitable doctrine of laches. The doctrine of laches is defined as neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence, to do what in law should have been done. Under the doctrine, if a party knowing his rights does not seasonably assert them, by by unreasonable delay causes his adversary to incur expenses or enter into obligations or otherwise detrimentally change his position, then equity will ordinarily refuse to enforce those rights. See Robinson et al. v. Estate of Harris et al., 388 S.C. 630, 698 S.E. 2d 222 (2010). In the Robinson case, the Court held that claimants of real property in an action to quiet title 39 years after a conveyance and subsequent quiet title action was barred by the doctrine of laches. The party seeking to establish laches must show: (1) a delay, (2) that was unreasonable under the circumstances, and (3) prejudice. Hallums v. Hallums, 296 S.C. 195, 198, 371 S.E. 2d 525, 527(1988).

The stipulated facts evidence that the Defendants and their predecessor in title, the State of South Carolina, have held record title through a deed recorded in the public records of Abbeville County and McCormick County in 1983. Further, Plaintiffs have had record notice that the railroad corridor has been segregated from their respective parcels beginning in 1976. According to the stipulated facts, the railroad corridor has been segregated on the tax maps and separately assessed continuously. When the State of South Carolina obtained the rail corridor by quitclaim conveyance in 1983, the subject property continued to be separately accounted for by the respective County

assessors, but no tax was assessed by virtue of ownership of the public body. As in Robinson, the Plaintiffs in the instant case had recognition that the tracks had been removed since February 25, 1980. The record before the Court has no evidence that any Plaintiff took action to assert any possessory ownership claim to Seaboard Coast Line Railroad, the State of South Carolina, the Town of Calhoun Falls, or Savannah Valley Trails, Inc. until 2014. As stipulated, the State of South Carolina, the Town of Calhoun Falls, and Savannah Valley Trails obtained funds and expended grant funds to groom, maintain and improve the railroad corridor. The delay in Plaintiffs action was unreasonable, being 33 years from the recording of title from Seaboard Coast Line Railroad and thirty-six years from the purported acts through which Plaintiffs now claim abandonment of the right of way. Defendants would be prejudiced in that each has obtained grant funds to improve the railroad corridor for which each could be liable, and the State of South Carolina obtained funds from the Federal Rail Bank for the acquisition of the railroad corridor, which funding is limited to the acquisition of rights of way out of service to preserve such corridors for future rail use. The very purpose for which the organization Savannah Valley Trails, Inc. was organized and obtained tax exempt status would be frustrated if an adverse ruling were obtained by Plaintiffs after the unreasonable delay in assertion of rights.

WHEREFORE, Defendants pray as follows:

a. That the Court issue its Order quieting title to the subject property in Defendants Savannah Valley Trails, Inc. and The Town of Calhoun Falls consistent with the legal descriptions in their respective chains of title.
b. That the Court issue its Order determining the relative rights of the parties to this action.
c. Such other further relief that the Court deems just and reasonable.

McDONALD PATRICK POSTON
HEMPHILL & ROPER, LLC

By: _____

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Attorneys for Defendant

January 21, 2020
Greenwood, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

FILED
MAR 2 9 2004
LARRY W. PROPES, CLERK
U. S. DISTRICT COURT

H.J. Smith, George Michael Pinner, Betsy W. Homesley, Jillete Mayer, James E. Mayer, and Charles A. Mayer,

Plaintiffs,

vs.

Palmetto Conservation Foundation,

Defendant.

CA No. 8:03-1587-20

ORDER

ENTERED
MAR 29 2004

This matter is before the court on Palmetto Conservation Foundation's ("PCF") motion for summary judgment. After review, the court grants PCF's motion.

I. Factual and Procedural Background

The property in question is an eleven-mile section of a railway corridor located in Newberry County. (Def.'s Mem. Supp. Mot. Dismiss, Ex. A (quitclaim deed); Ex. 1 (Driggers Aff.) ¶ 2.) Between 1847 and 1948, the Greenville and Columbia Railroad Company and the Southern Railway Company obtained rights-of-way from landowners and Norfolk Southern became the successor-in-interest to these rights-of-way. (Id. Ex. 1 (Driggers Aff.) ¶ 3.)

In January 1995, Norfolk Southern filed a notice with the Surface Transportation Board ("STB") seeking an exemption from federal laws governing the abandonment of the eleven-mile corridor, and on March 1, 1995, the exemption became effective. (Id. ¶¶ 4-5.) The plaintiffs in this case have interests in parcels of land that are located within this eleven-mile corridor. (Compl. ¶ 3.)

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In January and February of 1995, The Newberry County Soil and Water Conservation District of the State of South Carolina ("District") and the Newberry County Council ("Council") filed petitions with the STB requesting a Public Use Condition and a Notice of Interim Trail Use ("NITU") pursuant to section 8(d) of the National Trails Systems Act[1] and 49 C.F.R. § 1152.29.[2] (Def.'s Mem. Supp. Mot. Dismiss Ex. A (quitclaim deed); Ex. 1 (Driggers Aff.) ¶ 6.) Norfolk Southern expressed an interest in negotiating with the District and Council. (Id. Ex.1 (Driggers Aff.) ¶ 7.)

On March 1, 1995, the STB issued its decision and a NITU allowing the District and Council 180 days to negotiate interim trail use with Norfolk Southern. (Id. ¶ 8; Ex. C; Pl.'s Resp. Def.'s Mot. Dismiss Ex. B.) On August 1, 1995, PCF filed its own request for a NITU and joined in the negotiations with the District and Council, and on August 30, 1995, STB extended the negotiation period to February 24, 1996. (Def.'s Mem. Supp. Mot. Dismiss Ex. 1 (Driggers Aff.) ¶¶ 9, 10; Ex. C; Pl.'s Resp. Def.'s Mot. Dismiss Ex. B.) The negotiation period was further extended until it ended on February 18, 1997. (Def.'s Mem. Supp. Mot. Dismiss Ex. C.) Nevertheless, on May 10, 1999, PCF filed another request for a NITU as negotiations with Norfolk Southern were ongoing. (Id.) The negotiation period was eventually extended to

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[1] "[16 U.S.C. § 1247] authorize[s] the [STB] to preserve for possible future railroad use rights-of-way not currently in service and to allow interim use of the land as recreational trails." Preseault v. Interstate Commerce Comm'n, 494 U.S. 1, 6 (1990). "[S]uch interim use shall not be treated, for purposes of any law or rule of law, as an abandonment of the use of such rights-of-way for railroad purposes." 16 U.S.C. § 1247(d).

[2] This section outlines the procedure for a government or qualified private organization in "acquiring or using a right-of-way of a rail line proposed to be abandoned for interim trail use and rail banking pursuant to 16 U.S.C. § 1247(d)." 49 C.F.R. § 1152.29(a).

November 15, 1999. (Id. Ex.1 (Driggers Aff.) ¶ 10; Ex. C.) During this entire period, Norfolk Southern maintained its right-of-way and never proceeded with abandonment. (Id. Ex. C.)

On August 31, 1999, Norfolk Southern executed a "Contract of Bargain Sale and Donation" ("Contract") which transferred its interest in the eleven-mile corridor to PCF by quitclaim deed ("Deed") for the purposes of interim trail use. (Id. ¶ 11; Ex. D.) The Deed was executed on November 10, 1999, and duly recorded on January 20, 2000. (Def.'s Mem. Supp. Mot. Dismiss Ex.1 (Driggers Aff.) ¶ 11; Ex. A.) The Deed and the Contract were made pursuant to 16 U.S.C. § 1247(d) and the STB's NITU order. (Id. Ex. A; Ex. D.)

II. DISCUSSION OF THE LAW

A. Summary Judgment Standard

Summary judgment is appropriate only "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c). Rule 56(c) mandates entry of summary judgment "against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case." Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986).

In deciding whether there is a genuine issue of material fact, the evidence of the non-moving party is to be believed and all justifiable inferences must be drawn in his favor. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255 (1986). However, "[o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." Id. at 248.

B. National Trails Systems Act

Under the National Trails Systems Act, "a railroad wishing to cease operations along a particular route may negotiate with a State, municipality, or private group that is prepared to assume financial and managerial responsibility for the right-of-way." Preseault, 494 U.S. at 6-7. The railroad rights-of-way are converted to recreational trails, while maintaining the "national policy to preserve established railroad rights-of-way for future reactivation of rail service, to protect rail transportation corridors, and to encourage energy efficient transportation use." 16 U.S.C. § 1247(d). The National Trails Systems Act gives the STB the authority to issue a NITU which permits the railroad and the entity to negotiate the interim trail use agreement. "If the parties reach [an] agreement, the land may be transferred to the trail operator for interim trail use, subject to [STB]-imposed terms and conditions." Preseault 494 U.S. at 7. With an agreement, the rail line is not abandoned, but merely discontinued, meaning the railroad can "cease operating a line for an indefinite period while preserving the rail corridor for possible reactivation of service in the future." Id. at 5 n.3. "[I]f no agreement is reached, the railroad may abandon the line entirely and liquidate its interest." Id. at 7.

C. Interim Trail Use Agreement

First, the plaintiffs challenge whether the Contract and Deed constitute an interim trail use agreement under 16 U.S.C. § 1247(d). Specifically, the plaintiffs argue that the Contract and Deed were not an interim trail use agreement and because no interim agreement was reached, the railroad abandoned the rail line, triggering the plaintiffs' interests in the land. However, PCF argues that the Contract and Deed did constitute an interim trail use agreement. The court agrees. First, the express terms of the Contract and Deed indicate that the parties intended them to be an

interim trail use agreement. The Contract states, "the Seller/Donor shall convey and donate the Premises to Purchaser/Donee by quitclaim deed of bargain sale and donation, under Section 8(d) of the National Trails Acts, 16 U.S.C. § 1247(d)." (Def.'s Mem. Supp. Mot. Dismiss Ex. D (Contract) ¶ 4.) The Deed also incorporates the National Trails Systems Act. (See Id. Ex. A (Deed) at 1.)

However, the plaintiffs argue that because the Contract and Deed do not fully comply with the statute's requirements, they cannot constitute an interim trail use agreement. Specifically, the plaintiffs argue the statute requires any "donation, transfer, lease, [or] sale" that is not subject to "restoration or reconstruction for railroad purposes" to be treated as an "abandonment of the use of such rights-of-way for railroad purposes." 16 U.S.C. § 1247(d). The plaintiffs argue that the Contract and Deed fail to indicate that the interim use is subject to restoration for railroad purposes. Moreover, they argue that the language in the Deed would prevent any restoration of railway use on the land.

The court disagrees. The possibility of restoration of rail service is the essence of any agreement made subsequent to the issuance of a NITU and need not be expressly indicated. Until Norfolk Southern consummates abandonment of the railway, the STB retains jurisdiction over the railway. See Preseault, 494 U.S. at 5 n.3 (holding that once a carrier abandons a rail line, STB jurisdiction terminates and the line is no longer part of the national transportation system). If the railroad consents to a NITU order and does not consummate abandonment, the STB retains jurisdiction over the right-of-way for reactivation purposes. The March 1995 NITU Order clearly states "[i]nterim trail use/rail banking is subject to the future restoration of rail service." (Pl.'s Resp. Def.'s Mot. Dismiss Ex. B. ¶ 5.) The failure of Norfolk Southern to

specifically state in the Contact and Deed that the use is subject to reactivation is of no consequence. Without an abandonment by Norfolk Southern, the STB retained jurisdiction and its March 1995 NITU Order which stated the trail use was subject to reactivation controlled the property transfer.

Therefore, no genuine issue of material fact remains as to whether the Contract and Deed constitute an interim use agreement. The Contract and the Deed expressly incorporate and are consistent with the statute, and these instruments' failure to expressly specify that the use is subject to reactivation is of no consequence. Because the court interprets the Contract and Deed as an interim use agreement, the court grants PCF's motion for summary judgment on this issue.

D. Abandonment

Next, the plaintiffs argue that Norfolk Southern completely abandoned the railway, triggering their reversionary interests in the property. Specifically, the plaintiffs argue that failure to reach an interim use agreement in the initial 180 days after the March 1995 NITU Order resulted in automatic abandonment. See Preseault, 494 U.S. at 7 n.5 ("If [no interim use agreement is reached during the 180-day period] the CITU or NITU automatically converts into an effective certificate or notice of abandonment."). However, PCF, in its motion for summary judgment, argues that abandonment is not automatic at the end of the 180-day period, but rather the *certificate* of abandonment is automatic, which only gives the railroad permission to abandon. The March 1995 NITU Order states, "If no agreement is reached by the 180th day, NS *may* fully abandon the line." (Pl.'s Resp. Def.'s Mot. Dismiss Ex. B. ¶ 7.) PCF further argues that even if a certificate of abandonment automatically issued giving Norfolk Southern the authority or permission to abandon, Norfolk Southern never consummated an abandonment. The court agrees.

Because the plaintiffs have presented no evidence that Norfolk Southern ever consummated an abandonment of the railway, the court grants PCF's motion for summary judgment on this issue.

Therefore, it is

ORDERED that PCF's motion for summary judgment is granted.

IT IS SO ORDERED.

Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
March 29, 2004

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Certificate of Counsel

The undersigned hereby certifies that the Amended Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

December 16, 2020

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