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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
The Honorable R. Lawton McIntosh

Case No. 2022-CP-37-00447
Appellate Case No. 2025-000982

Frances J. Ratliff, Edward J. Ratliff, Jr., James L. Ratliff, Lucretia B. Morgan, Sherri Akers
Crisp, Amy Cawthon,

Appellants,

v.

Oconee County, Globe, A South Carolina Limited Partnership, Farnes, A South Carolina
Limited Partnership,

Respondents.

RECORD ON APPEAL
(VOLUME 2 of 4)

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I certify that this designation contains no matter which is irrelevant to this appeal.

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November 3, 2025

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1 A. Okay.

2 (Discussion held off the record.)

3 MR. PAAVOLA: Okay. Mr. Coley, I don't have any more
4 questions for you. I appreciate your time today.
5 Thank you.

6 MR. LOGAN: Have y'all got any questions you want to ask?

7 MR. BRANDT: What?

8 MR. LOGAN: Do y'all have any questions you want to ask?

9 MR. BRANDT: No.

10 MR. LOGAN: Okay. You're free.

11 - - -

12 WILLIAM KYLE REID, after having been
13 first duly sworn, was examined and testified
14 as follows:

15 - - -

16 EXAMINATION

17 BY MR. PAAVOLA:

18 Q. Mr. Reid, would you please state your full name for
19 the record?

20 A. William Kyle Reid.

21 Q. Mr. Reid, my name is David Paavola, and I'm an
22 attorney for the Ratliff family in this declaratory
23 judgment action.

24 Have you ever been deposed before?

25 A. No, sir.

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1 Do you understand that?

2 A. Yes, sir.

3 Q. We'll, again, continue to take breaks just as we
4 have been, so if you need a break, just let me
5 know, and I'm happy to take a break, so just let me
6 know if I'm running too long. That's fine.

7 If your counsel objects, you need to go ahead and
8 answer the question, unless he specifically
9 instructs you not to answer a question.

10 Do you understand that?

11 A. Yes, sir.

12 Q. And during the breaks, you're not permitted to talk
13 about the substance of your testimony with your
14 counsel.

15 Do you understand that?

16 A. Yes, sir.

17 Q. Okay. Are you currently employed with Oconee
18 County?

19 A. Yes, sir.

20 Q. And what is your job title?

21 A. Assistant director of Public Works.

22 Q. How long have you been the assistant director of
23 Public Works?

24 A. I believe since 2017. 2000 -- no, sorry. It's
25 2016. Sorry.

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1 Q. Okay. And just generally, what are your job duties
2 as the assistant director of Public Works for
3 Oconee County?

4 A. I run the road department and then help various
5 other departments with construction and
6 engineering-type questions or projects.

7 Q. Okay. Let's ask about those other departments
8 first. You mean help them -- just describe some of
9 the things you do to help other departments.

10 A. Generally, construction projects for county
11 facilities or other kinds of projects.

12 Q. And what does your help consist of?
13 Do you have a background in construction?

14 A. Construction and engineering.

15 Q. Okay. Let me ask you, do you hold any licenses in
16 the State of South Carolina?

17 A. No, sir.

18 Q. Okay. So you help with engineering, but it doesn't
19 sound like you're a licensed engineer.

20 A. No, sir, I'm not.

21 Q. Okay. Describe for me your -- you said you run the
22 road department. Describe for me what that
23 entails.

24 A. The day-to-day operation of the county Roads and
25 Bridges department, the maintenance of 660 miles of

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1 county roads. Roughly, approximate 660 miles.

2 Q. Okay. I'm just -- what are some typical types of
3 maintenance activities that you would be overseeing
4 or handling?

5 A. Vegetation removal along county right-of-ways and
6 easements, asphalt repair, paving, putting in
7 culvert pipe, ditching, gravel road maintenance,
8 signs, and construction projects, and reviewing
9 subdivision plans for -- to see that they meet the
10 county ordinances, and other duties.

11 Q. Okay. You talk about subdivision plans to meet
12 county ordinances.

13 Is that specific to the roadways, most plans?

14 A. Yes. Chapter 26 is generally what -- what I review
15 for.

16 Q. Okay. You have one -- and I'm characterizing. You
17 have one aspect of review, maybe not the whole
18 thing, but --

19 A. Yes. Just roadway -- roadway review and design,
20 drainage, things of that nature.

21 Q. All right. How long have you worked at Oconee
22 County?

23 A. 14 years.

24 Q. All right. So back to -- what is that -- 2000 --

25 A. '09.

1 A. Okay.

2 Q. I think we're --

3 A. Yeah.

4 Q. I'm more in the jury -- jury mode. We don't have a
5 jury here. All right.

6 You are familiar with the properties located at 565
7 Ellenburg, 585 Ellenburg, and 599 Ellenburg Road,
8 correct?

9 A. Generally, yes.

10 Q. Generally familiar with those. Okay.

11 Have you personally looked at the question of
12 whether Oconee County has a prescriptive easement
13 or any type of rights over the roadway in front of
14 585 Ellenburg and 599 Ellenburg Road?

15 A. Yes.

16 Q. Okay. And have you come to a conclusion on that
17 question?

18 A. Yes.

19 Q. And what is your conclusion?

20 MR. LOGAN: Object to the form.

21 EXAMINATION RESUMED

22 BY MR. PAAVOLA:

23 Q. You need to go ahead and answer unless he tells you
24 otherwise. He will tell you otherwise.

25 MR. LOGAN: Go ahead.

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1 THE DEPONENT: That we do have a prescriptive easement.

2 EXAMINATION RESUMED

3 BY MR. PAAVOLA:

4 Q. Okay. So the county has a prescriptive easement
5 over Ellenburg Road in front of 585 Ellenburg --

6 A. Yes.

7 Q. -- and 599 Ellenburg?

8 That was a --

9 A. I apologize. If you want to finish, I'll wait.

10 Q. I think you've answered my question, but -- so your
11 conclusion after looking -- you've looked at
12 documents, I suppose?

13 A. Yes.

14 Q. Okay. And your conclusion is the county has an
15 easement over the roadway in front of 585 Ellenburg
16 and 599 Ellenburg?

17 A. Yes.

18 Q. Okay. And so what is that -- what documents is
19 that based on?

20 A. Not documents. Not based on documents.

21 Q. Okay. So what is it based on?

22 A. The collective history of the road department.

23 Q. Okay. So when you say, collective history of the
24 road department, what do you mean by that?

25 A. Asking employees if they remember or recall doing

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1 maintenance at the specified area over the time
2 that they've been employed at the road department.

3 Q. Okay. And so you undertook to ask employees that
4 question, whether they've performed maintenance in
5 front of 585 or 599 Ellenburg Road?

6 A. Yes.

7 Q. Did you document your questions and responses you
8 got from certain employees?

9 A. I did not.

10 Q. Okay. So you've not summarized those responses.
11 Is that fair to say?

12 A. No, sir.

13 Q. Okay. So it's something that you just have in your
14 mind?

15 Do you recall which employees told you what?

16 A. I do not recall who told me what, not in my mind,
17 as far as their responses, just in my mind as far
18 as did they do maintenance.

19 Q. Okay. So let me ask you, who did you talk to and
20 ask that question of?

21 A. Larry Harden, who is the Roads manager, guys on the
22 mowing crew, and then my knowledge just as far as
23 knowing who was out there when we did other
24 projects or who we had out there doing other
25 projects, like striping, and then gentlemen that

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1 A. No, sir.

2 Q. Have you personally ever performed any maintenance
3 on Ellenburg Road?

4 A. Yes, sir.

5 Q. Okay. And what was that? What maintenance was
6 that?

7 A. I was on the road when we paved it back around
8 2012.

9 Q. Okay. You were on the crew that was helping to
10 pave it?

11 A. No, sir. I was out on the job.

12 Q. Okay. You were -- was your -- were you oversight
13 or managing the paving?

14 A. Yes.

15 Q. Well, tell me about that paving.
16 That was in 2012, on or about 2012?

17 A. Yes, sir.

18 Q. Okay. And what section of Ellenburg Road was the
19 paving taking place?

20 A. In front of the newer Crescent subdivision. I
21 can't remember the name of it.

22 Q. Okay. Did it --

23 A. Back to Knox Road.

24 Q. Okay. Did it reach 565 Ellenburg Road?

25 A. No, sir.

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1 Q. Okay. So then also by -- because of that, it would
2 have -- it wouldn't have reached 585 or 599
3 Ellenburg Road, right?

4 A. No.

5 Q. Okay. Do you remember how far it went down
6 Ellenburg Road, what the last address was?

7 A. It was -- it was right at the entrance of the --
8 the subdivision road on the right, Harbor -- I
9 can't recall.

10 Q. It looks like a Harbor Oaks subdivision or
11 something like that.

12 A. I can't recall exactly.

13 Q. All right. Is there a reason that the road wasn't
14 paved I'll say all the way to the end?

15 A. Yes.

16 Q. And why is that?

17 A. Vehicles parked out in the road.

18 Q. Okay. So you're saying from -- from the entrance
19 of that subdivision to the end of the road, there
20 were vehicles that were preventing you from paving
21 the rest of the roadway?

22 A. No, just -- just at the end.

23 Q. At the very --

24 A. Just at -- just in front of the 599, I believe,
25 address, the boat.

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1 Q. Okay. So there were boats parked there, so your
2 testimony today is that that prevented you from
3 paving the section of Ellenburg Road in front of
4 599? Is that what you're saying?

5 A. Yes.

6 Q. Okay. Any other reason?

7 A. The -- the area in front of the subdivision was the
8 worst part of the road.

9 Q. Did you pave in front of 585 Ellenburg Road?

10 A. No, sir.

11 Q. Okay. And why didn't you pave in front of 585
12 Ellenburg Road?

13 A. I was told by Mack Kelly, who was over the road
14 department at the time, to get that worst area in
15 front of the subdivision.

16 Q. Did he tell you specifically not to pave in front
17 of 585 Ellenburg Road?

18 A. Yes, sir.

19 Q. Okay. And what was his reason for telling you not
20 to pave there?

21 A. It had been an ongoing issue with having boats and
22 things in the road.

23 Q. In front of 585 Ellenburg Road?

24 A. Down in that general vicinity, 599, a little bit
25 back. I can't -- if you want to clarify where in

1 front of these addresses --

2 (Exhibit Number 20 marked for identification.)

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. We have some pictures. Okay. I'll hand you
6 Exhibit -- what has been marked as Exhibit 20.
7 That's your copy. You keep the one with the
8 sticker on it.

9 A. Okay.

10 Q. This is a document Bates stamped Oconee 60 through
11 66. This first page, which is Bates stamped Oconee
12 60 -- this is the first page of the document I
13 handed you. Page 1.

14 Do you recognize this as -- I mean, this is a --
15 kind of a mailbox stand -- maybe it's not a mailbox
16 stand, but 565, do you see that?

17 A. To the best of my -- what I recall, around the tree
18 line down toward John's Marine was where vehicles
19 were parked that day.

20 Q. Okay. So was the -- was the paving project just
21 one day?

22 A. No. The day that I called Mr. Kelly to ask him how
23 far he wanted us to go, which was before we started
24 digging out the patch and repaving the road.

25 Q. Okay. So you're -- what you're telling me is that

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1 from 565 Ellenburg Road all the way to the end,
2 your recollection is that there were boats or cars
3 parked from -- all the way to the end of Ellenburg
4 Road, which prevented the paving?

5 A. No.

6 Q. Okay. So that --

7 A. That was what -- the information I gave Mack and
8 Mack's response to me.

9 Q. He said what?

10 A. Get the worst area of the road.

11 Q. Okay. So did he tell you to stop at 565 Ellenburg
12 Road?

13 A. No, sir. He told me to get the worst area of the
14 road.

15 Q. Okay. You made the decision to stop at 565
16 Ellenburg Road?

17 A. I told him where the worst area was, and he said go
18 from there.

19 Q. Okay. So did you not pave all the way to the end
20 of Ellenburg Road because he directed you to get
21 the worst area or because of some other reason?

22 A. To not do the whole road because of the things
23 being in the road at the end, to go as far as I did
24 to get the worst area or as far as we could.

25 Q. Did you ever ask any landowners of 565 through 599

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1 Ellenburg Road whether or not they could move their
2 vehicles so you could conduct paving activities?

3 A. No, sir.

4 Q. Okay. Any other -- so that was one time in 2012
5 you were on the paving oversight -- oversight crew,
6 I guess, or manager, right?

7 A. Yes.

8 Q. Any other maintenance that you've been on
9 personally on Ellenburg Road since that time?

10 A. Not that I've been personally on the road.

11 Q. Okay. Or before that time.

12 Is that the only time you've ever helped conduct
13 maintenance on Ellenburg Road?

14 A. No, sir.

15 Q. Okay. What other time?

16 A. I was not there on Ellenburg Road. Dale Owens was
17 our inspector, and they were striping the road, and
18 she called me asking where we wanted to stop the
19 striping on Ellenburg Road.

20 Q. Okay. Dale is a female?

21 A. Yes.

22 Q. Okay. And do you remember about when that
23 conversation took place, about what year?

24 A. It's -- to the best of my recollection, it was --
25 it wasn't long after the road was paved. It seemed

1 like less than a year.

2 Q. Okay. So in the 2012-2013 time frame?

3 A. '13, yeah. 2013. Maybe 2014, but it didn't seem
4 that long.

5 Q. All right. And what did you tell Dale Owens about
6 where to stop the striping?

7 A. I was in my office, left, asked -- went and spoke
8 with Mack, told him it was the same scenario. He
9 just said stop as far as you can where they can
10 turn around and get back out.

11 Q. You said you told Mack it was the same scenario,
12 meaning what?

13 A. Vehicles at the end of the road.

14 Q. So there were motor vehicles in the middle of the
15 road?

16 A. Yes. Well, in the road. I don't know about
17 middle.

18 Q. Again, did you ever -- did you ask the landowner --
19 were you out there physically?

20 A. No, sir.

21 Q. So Dale was out there?

22 A. Yes, sir.

23 Q. Did anyone -- Dale or anyone else ask the
24 landowners whether they could move their vehicles
25 so that the striping could continue?

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1 A. Not to my knowledge.

2 Q. Looking at this image on Oconee 60 and just in your
3 own general knowledge, you -- would you agree that
4 the lane -- center line striping ends, you know,
5 around this area of 565 Ellenburg Road and does not
6 continue to the end?

7 A. I'm not sure what's adjacent, except for seeing the
8 mailbox there, so if that is the property of 566,
9 yes.

10 Q. I guess, generally, if I asked you, is there
11 certain line -- center line striping all the way to
12 the end of Ellenburg Road --

13 A. No, sir.

14 Q. Okay. You're aware that there's not striping
15 there?

16 A. If you want to pose it again, I won't --

17 Q. You -- your understanding, as you sit here today,
18 there is not center line striping all the way to
19 the end of Ellenburg Road, right?

20 A. No, sir.

21 MR. LOGAN: Would you clarify, what are you considering
22 the end of Ellenburg Road?

23 MR. PAAVOLA: End of the paved surface and all the way
24 down to John's Marine.

25 MR. LOGAN: Okay.

171

1 THE DEPONENT: There is not center line striping all the
2 way down.

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. Right. Okay. Any other maintenance activities
6 that you were involved in on Ellenburg Road outside
7 of the paving and the center line striping?

8 A. Yes, sir.

9 Q. Okay. What else?

10 A. More recently, since this has all came to be, we
11 had our mowing crew go down there to mow on their
12 route, and they were stopped, and I told them just
13 to -- to see if the road was -- if it was necessary
14 for the safety of the road, and they said it
15 wasn't, so I told them just to turn around and go
16 back out.

17 Q. Okay. And you are talking about after the -- after
18 the pendency of this lawsuit or the variance
19 application? That's what you're talking about?

20 A. Yes. Around June of this year.

21 Q. 2023?

22 A. Yes, sir.

23 Q. Any other maintenance activities that you have been
24 involved in with on Ellenburg Road in your -- while
25 you've worked for the county?

172

1 A. No, sir.

2 Q. Okay. We talked about Larry Harden, Bo Whitman.

3 Chris Mealer, he's listed here.

4 Did you ask him about any maintenance activities on
5 Ellenburg Road?

6 A. Yes.

7 Q. Okay. What did you ask Mr. Mealer?

8 Well, first, let me ask you what Mr. Mealer does
9 for the county.

10 A. Mowing crew.

11 Q. Okay. And what did you ask Mr. Mealer?

12 A. If he had mowed that section of road.

13 Q. All right. And what did he say?

14 A. Yes.

15 Q. And what section of road were you specifying?

16 A. The -- I apologize. 565 to 599.

17 Q. Okay. So you specifically asked Mr. Mealer, Mr.
18 Mealer, did you mow the area from 565 Ellenburg to
19 599 Ellenburg?

20 A. No.

21 Q. Okay.

22 A. Anytime I asked these questions, it was the end of
23 the road down to John's Marine.

24 Q. Okay. I mean, just generally, you always add --
25 you add that, too?

198

1 A. Yes.

2 Q. Okay. Does the county have any other pictures
3 other than these two of an "End of County
4 Maintenance" sign at this location?

5 A. Not to my knowledge.

6 Q. And was it the county's process or typical
7 policy -- process or policy to take pictures of the
8 signs that it installs?

9 A. No, sir.

10 Q. All right. So you don't have any earlier-dated
11 picture of an "End of County Maintenance" sign on
12 Ellenburg Road?

13 A. Not to my knowledge.

14 (Exhibit Number 23 marked for identification.)

15 EXAMINATION RESUMED

16 BY MR. PAAVOLA:

17 Q. All right. 23 -- Mr. Reid, I've handed you what
18 has been marked as Exhibit 23. This is the
19 county's responses to the plaintiffs' first set of
20 requests for admission.

21 Have you seen this document before?

22 A. Yes.

23 Q. Okay. The first question asks if the county does
24 not own the fee for the roadbed of Ellenburg Road.
25 It admits that. That's your understanding, right?

199

1 A. Yes.

2 Q. Okay. And, also, the second question asks whether
3 the county has any recorded easements, and the
4 county admits that it does not have any recorded
5 easements.

6 Is that your understanding today?

7 A. At 585 and 599, no.

8 Q. That's right. The 585 -- I'm sorry. You're right.
9 I'm shortcutting the question, but -- so is it your
10 understanding today that the county does not have
11 any recorded easements on Ellenburg Road in front
12 of 585 and 599 Ellenburg Road?

13 A. No, sir.

14 Q. All right. Question 3 asks about the county's
15 paving the roadway in front of 585 and 599, and the
16 county denies that -- that statement.
17 What records does the county have, if any, that it
18 has ever paved the roadway in front of 585 and 599
19 Ellenburg Road?

20 A. None to my knowledge.

21 Q. Okay. So there are no records showing that Oconee
22 County has paved in front of these two addresses;
23 is that right?

24 A. None to my knowledge.

25 Q. Do you -- does the county have any knowledge of the

201

1 Q. And what did he tell you?

2 A. He stated that he believed that the -- the county
3 had paved the roads, but he was not out there when
4 they did.

5 Q. Okay. Did you ask him how -- why he believed that?

6 A. That was just his memory of it.

7 Q. Okay. He was not out there when it was paved?

8 A. No, sir.

9 Q. Did you ask him if -- if the county paved the road,
10 why they didn't stripe all the way down to the end?

11 A. No, sir.

12 Q. Did he know that the center line striping was not
13 complete all the way down to 599?

14 A. He didn't recall or he didn't state either way.

15 Q. Okay. He was not on any kind of paving crew for
16 Ellenburg Road all the way to John's Marine; is
17 that right?

18 A. No, sir.

19 Q. Okay. Does the county have any other -- other than
20 Mr. Harden's statement, is there any other
21 discussions the county has had or documents that
22 would suggest that it has paved Ellenburg Road in
23 front of 585 or 599?

24 A. No, sir.

25 Q. Question 4, which I think may be -- you just

202

1 answered for me. It is admitted -- the county
2 admits it does not have any records of ever having
3 paved or patched the roadway in front of 585 and
4 599?

5 A. Correct.

6 Q. And question 5, the county was asked about
7 maintenance. I think we've covered the
8 maintenance, so I don't need to ask that again.
9 What -- question 6, it asks the county admit that
10 its agents have never striped the center line of
11 Ellenburg Road in front of 585 or 599 Ellenburg
12 Road.

13 Do you see that question?

14 A. Yes.

15 Q. The county denied that question.
16 Does the county have -- based on our conversation
17 earlier, I thought the county agreed that it had
18 not -- had not striped the center line all the way
19 down to John's Marine.

20 Is there a reason this question is denied?

21 A. Larry didn't recall if it had ever been striped.

22 Q. Okay. So Larry, he was the person that was asked
23 about this question?

24 A. Sorry. Larry Harden.

25 Q. Larry Harden was asked about this question

204

1 A. Yes.

2 Q. Okay. But he believes at some point there had been
3 striping of the center line?

4 A. That was his recollection.

5 Q. All right. Other than his recollection, anything
6 else he pointed to to support --

7 A. No.

8 Q. 7 asks about the "End of County Maintenance" sign,
9 its location around 575 Ellenburg Road. Have you
10 seen the affidavit from Ms. Laurie Ellenburg
11 Bright, which is Exhibit -- I think it's 16.
12 Exhibit 16. Please pull that out and let me know
13 when you get there.

14 A. Okay.

15 Q. You've seen this document before by Ms. Bright?

16 A. Yes.

17 Q. Okay. And are you aware she's stating that she
18 grew up or resided at 591 Ellenburg for proximately
19 40 years?

20 Paragraph 3, do you see that?

21 A. Yes.

22 Q. Okay. In paragraph 6, she says she recalled the
23 "End of County Maintenance" sign between 575
24 Ellenburg Road and 585 Ellenburg Road and drove
25 past it for years.

1 Do you see that?

2 A. Yes.

3 Q. Does the county have any documents to dispute her
4 testimony here that the "End of County Maintenance"
5 sign was actually located at 575 or 585 Ellenburg
6 Road?

7 A. Not to my knowledge.

8 Q. Okay. Did you ever talk to Ms. Bright?

9 A. I had heard this story, but I cannot recall who had
10 told me, but it was when I was out at Ellenburg
11 Road.

12 Q. You heard a story about, like --

13 A. The sign being at 575 and the cows drinking out of
14 it.

15 Q. Okay. The bathtub cattle waterer?

16 A. Yes.

17 Q. Okay. But you didn't -- have you spoken to Ms.
18 Bright before?

19 A. I do not recall speaking to Ms. Bright.

20 Q. All right. You didn't reach out to her as part of
21 this process for this -- for today, did you?

22 A. No, sir.

23 Q. Okay. Any reason to dispute Ms. Bright's testimony
24 here that the maintenance -- the sign was, at some
25 point, located at -- between 575 and 585?

1 A. No, sir.

2 Q. Back on the Request to Admit, which is Exhibit 23,
3 this is the -- we're back on this document, the
4 Request to Admit. Number 8 and 8.

5 So 8 asks about whether the South Carolina
6 Department of Transportation has provided the
7 county with any documentation that Ellenburg Road
8 was ever a state road.

9 Do you see that question?

10 A. Yes.

11 Q. Have you ever reached out to the State DOT about
12 this question of whether Ellenburg Road was ever in
13 the state system?

14 A. Yes.

15 Q. Okay. And so tell me about -- who did you talk to
16 at DOT?

17 A. Ms. Turner, and I forget her office.

18 Q. Okay. And what did you ask Ms. Turner?

19 A. If the state had any records regarding Ellenburg
20 Road.

21 Q. And what did she tell you?

22 A. That they had records showing that Ellenburg used
23 to be 201, S201, and they provided the records that
24 they -- they had for that, which was very sparse.

25 Q. Okay. And you -- and you have those records?

208

1 A. It shows 201 and what they did to S-201.

2 Q. What they did?

3 A. Where they -- the work performed on S-201.

4 Q. Okay. And is S-201 the same as Ellenburg Road?

5 A. That's what they told me.

6 Q. DOT told you that?

7 A. Yes.

8 Q. Okay. And that's reflected in the documents they
9 gave you; is that right?

10 A. Yes.

11 Q. Okay. Has that informed your understanding of
12 whether Ellenburg Road is part of the county system
13 now?

14 A. No.

15 Q. No. Okay.

16 Well, do you have an understanding of how the -- if
17 that was a state road at some point in time, how it
18 came to be from a state road system into a
19 prescriptive easement for Oconee County?

20 A. No.

21 Q. And you don't have any understanding of how that
22 would have happened?

23 A. No, sir.

24 Q. Okay. Did you look into that?

25 A. Yes.

1 Q. Okay. What did you find?

2 A. The DOT did not provide me with any -- that
3 information.

4 Q. Okay. Does Oconee County have any information
5 about how that came to be?

6 A. No -- or not to my knowledge.

7 Q. You looked for that?

8 A. Yes.

9 Q. Didn't find anything?

10 A. No, sir.

11 Q. And so I see this response references Exhibit 1 and
12 Exhibit 2, and Exhibit 1 is a deed from I think the
13 DOT to Duke Power, I believe.

14 Are you familiar with this exhibit, Exhibit 1?

15 A. Yes.

16 Q. Okay. So this lists a number of -- I think it -- I
17 believe it's a number of road that maybe the DOT
18 was turning over, I guess, to Duke Power maybe as
19 part of the lake, I guess. So I see on page 2 is
20 the number -- item number 12, and that is a --
21 that's listed as road S-201.

22 Is that the road you're describing?

23 A. That is the number that they told me Ellenburg Road
24 used to be.

25 Q. Okay. S --

222

1 BY MR. PAAVOLA:

2 Q. Okay. And the second request asks for -- the
3 second FOIA request asks for historical records
4 related to 565 Ellenburg Road to 599 Ellenburg
5 Road.

6 A. Yes.

7 Q. And for maintenance work requests, work orders, any
8 work performed.

9 Do you see that?

10 A. Yes.

11 Q. And did you provide the records that Oconee County
12 has?

13 A. Yes.

14 (Exhibit Number 27 marked for identification.)

15 EXAMINATION RESUMED

16 BY MR. PAAVOLA:

17 Q. I'm handing you what has been marked as Exhibit 27.
18 27 is Bates stamped with Oconee 445 to 448. Go
19 ahead and look at -- look through this document,
20 and let me know when you had a chance to look
21 through it.

22 A. Okay.

23 Q. Okay. So the first e-mail from Sheila O'Kelley to
24 yourself in January of 2022, do you see that
25 e-mail, the first page?

223

1 A. Yes.

2 Q. And she says attached is a FOIA request for
3 Ellenburg Road from James Ratliff, right?

4 A. Yes.

5 Q. And we just looked at that, didn't we?

6 A. Yes.

7 Q. It's not attached here, but I'll assume you have it
8 in your system somewhere.

9 A. Yes.

10 Q. Who is -- what does Sheila --

11 A. Office manager.

12 Q. Okay. On the next page, she e-mails you on
13 December 13th and indicates attached is a list of
14 work orders that I found for Ellenburg Road.
15 Did I read that correctly?

16 A. Yes.

17 Q. Okay. So then on those -- the last two pages just
18 appears to be what she attached to her e-mail.
19 Is that -- is that fair to say?

20 A. Yes.

21 Q. Okay. So she's found it looks like three work
22 orders?

23 A. One, two, three, four, five.

24 Q. Okay. Tell me how you're counting these. I don't
25 know if I'm miscounting them.

225

1 A. 2010, approximately.

2 Q. Okay. Does the county have any records earlier
3 than Cartegraph?

4 A. Yes, Access Database.

5 Q. Was that database searched for records on Ellenburg
6 Road as well?

7 A. Yes.

8 Q. And so I don't see any results in this e-mail to
9 you.

10 Does that mean there -- there were no results from
11 the Access Database? I've got some other work
12 orders here, perhaps, that will help you if you
13 don't recall.

14 A. No. I'm pretty sure more were provided.

15 Q. Okay. Any other systems other than what we just
16 talked about, Access Database being the oldest
17 system?

18 A. Access, Cartegraph, WebDPW, and then ArcGIS.

19 Q. Okay. Anything outside of those four?

20 A. No, sir.

21 Q. As far back as you --

22 A. As far as -- as far as our recollection of the work
23 order system.

24 Q. All right. In Cartegraph, we see -- this first one
25 says inspect road signs, right? That's 10064.

1 A. Yes.

2 Q. And that does -- that indicates Ellenburg Road,
3 right?

4 A. Yes.

5 Q. In 2013.

6 But it doesn't indicate where on Ellenburg Road,
7 does it?

8 A. No.

9 Q. So you said there were some signs moved and put up
10 and down on -- at the -- near John's Marine, but
11 this doesn't indicate whether that's -- these signs
12 were on John's Marine or the Knox Road side of it?

13 A. No, sir.

14 Q. Okay. Same with the next one, cut brush and vines.
15 It doesn't indicate where on Ellenburg Road that
16 work was taking place, does it?

17 A. No, sir.

18 Q. There's none in the WebDPW, and then there's three
19 -- what's this new system called?

20 A. ArcGIS.

21 Q. AreGIS?

22 A. Arc.

23 Q. Arc.

24 A. A-R-C-G-I-S.

25 Q. Okay. We've got this first. It says requested by

227

1 Doyle, issue with drainage.

2 This does not -- do you know where this location
3 is?

4 A. No, sir.

5 Q. Okay. I think I have another document that may
6 show us, so we'll wait on that.

7 But none of the three of these are -- are
8 indicated, at least, on this as being any -- being
9 565 Ellenburg Road to the end, are they?

10 A. Not on these specifically, no.

11 Q. Right. Okay. And then this -- the last page of
12 this document, Oconee 448, there's an asterisk that
13 says -- next to this -- I don't know if this last
14 work order has a number or not, but it says -- this
15 would be the closest work order toward the end of
16 the road.

17 Do you see that?

18 A. Yes.

19 Q. Whose indication is that?

20 A. By the dock that gets set on Ellenburg, but if it's
21 a general work order, like ditches getting filled
22 up or edges broke off, then they're going to try to
23 place that wherever -- where it's closest to the
24 point of it that it is, or if it's a -- if it's a
25 general problem along the whole road, they put it

228

1 at the beginning.

2 Q. Okay. But is this -- Ms. O'Kelley's notation, this
3 would be the closest work order --

4 A. Yes.

5 Q. -- toward the end of the road?

6 A. Yes.

7 Q. Okay. So the new system, ArcGIS, doesn't have any
8 work orders near 565 to 599 Ellenburg Road?

9 A. No.

10 Q. And then the second asterisk says, no signed work
11 orders for Ellenburg Road under the GIS work
12 orders.

13 What does that mean?

14 A. Under ArcGIS.

15 Q. Does this mean for sign maintenance?

16 A. There.

17 (Exhibit Number 28 marked for identification.)

18 EXAMINATION RESUMED

19 BY MR. PAAVOLA:

20 Q. I'm handing you Exhibit 28. It also appears to be
21 part of a FOIA response, and --

22 MR. LOGAN: 28?

23 MR. PAAVOLA: 28. It's right here.

24 MR. LOGAN: Where is 26 and 27?

25 MR. PAAVOLA: Did I skip? Did I skip 26?

229

EXAMINATION RESUMED

BY MR. PAAVOLA:

Q. Okay. So this Exhibit 28 -- this top e-mail -- it's a different -- I mean it's the same e-mail we sent -- looked at earlier, I think. Ms. O'Kelley is sending the FOIA request.

A. Uh-huh.

Q. Okay. But there are some different documents in this stack for whatever reason. The second e-mail is one we just looked at again. There's -- about five pages back, there's an e-mail from James Coley to yourself, and it asks about pulling maintenance records? Do you see that e-mail in December -- December 13, 2021?

A. Yes.

Q. Okay. Do you recall this -- a site meeting you had with Mr. Coley and Mr. Root?

A. Yes.

Q. And did you pull maintenance records, project design drawings, and other materials for this meeting?

A. Just maintenance records.

Q. Okay. Did you provide those records to Mr. Coley or anyone else?

230

1 A. We discussed them.

2 Q. Okay. Did you --

3 A. I don't know about -- I don't know that I gave him
4 a copy. I don't recall.

5 Q. Did you keep a copy?

6 A. Yes.

7 Q. Midway in the package, there's -- there's a big
8 color sheet that looks like it's possibly work
9 order systems.

10 Is this the ArcGIS system?

11 A. Yes.

12 Q. And this is the same work order description we saw
13 earlier --

14 A. Yes.

15 Q. -- but this is actually on the map, right?

16 A. Right.

17 Q. Okay. This shows it's not --

18 A. Before.

19 Q. Okay. This shows it's not -- does not -- this work
20 order, in particular, does not reach 565 Ellenburg,
21 right?

22 A. No, sir.

23 Q. Okay. And that's the same with the next two.

24 They're not -- they don't reach 565 Ellenburg? The
25 next one -- there's an overhead that appears to be

231

1 a map of John's Marine, and it --

2 A. The one from Doug Cooper is 565.

3 Q. This is the one that says request by Robbie
4 Hopkins?

5 A. Yes. No, no, no. Doug Cooper.

6 Q. Oh, you're going beyond me.

7 A. Sorry.

8 Q. Got it. Okay. I'll just go ahead and go there.
9 So that work order is from Doug Cooper.

10 It says a pothole in front of 166 Ellenburg?

11 A. Yes.

12 Q. Okay. And so that says 166 Ellenburg, and you're
13 saying that's -- that's incorrect?

14 A. Yes.

15 Q. That should be what?

16 A. 566.

17 Q. 566. Okay.

18 Which is on the other -- the south side of
19 Ellenburg Road; is that right?

20 A. Yes.

21 Q. Okay. That's the closest you have to 585 and 599,
22 right?

23 A. As far as the description is on that, yes, sir.

24 Q. If you go one page before that, there's a -- it
25 looks like an overhead GIS map of John's Marine.

234

1 Q. And I think maybe I've got -- they go back to a
2 different format, so let's just hold that.
3 I'll show you what I believe is a more complete
4 copy of that next. Okay? Let's look at that.

5 (Exhibit Numbers 29 and 30 marked for
6 identification.)

7 EXAMINATION RESUMED

8 BY MR. PAAVOLA:

9 Q. I'm handing you 29 and 30.

10 MR. LOGAN: This is two pages of 29?

11 MR. PAAVOLA: 29 is one page.

12 MR. LOGAN: 29 is one page.

13 MR. PAAVOLA: And 30 is two pages.

14 EXAMINATION RESUMED

15 BY MR. PAAVOLA:

16 Q. All right. 29 looks -- I think we just were maybe
17 looking at partial -- a partial section of this in
18 the previous exhibit, but it says Cartegraph System
19 at the top left.

20 Do you see that?

21 Let me know when you've had a chance to look it.

22 A. No, I'm good.

23 Q. Okay. This at the top left says Cartegraph System.
24 Is this --

25 A. Yes.

236

1 Q. Okay. And then whether it was completed or not, I
2 guess?

3 A. Yes.

4 Q. What's the transaction date versus the start date
5 estimated? Do you know?

6 A. The transaction date, I'm pretty sure, is -- to my
7 recollection, it's when it was put in.

8 Q. Okay. Is there more data in this system than
9 outside of these --

10 A. No. This is the entirety of the data in this
11 system.

12 Q. All right. So I'm looking at route.
13 It has Ellenburg Road in the route column, right?

14 A. Yes.

15 Q. And correct me if I'm wrong, but I'm not seeing
16 anywhere where it specifies a specific address on
17 Ellenburg Road for any of these work orders.

18 A. No. None of these do that I can see.

19 Q. So we're not able to tell, at least from this
20 spreadsheet, whether any of these activities were
21 -- were all the way down in front of 585 or 599
22 Ellenburg Road, are we?

23 A. No.

24 Q. And you said that there would be an indication that
25 signs were placed. I don't know. Maybe the second

237

1 activity, 11354, says replaced sign, and then look
2 for any other replaced signs. I see one.
3 Do you see any others? Let me know if you see any
4 others.

5 A. Yeah, that's fine. No, I don't see any.

6 Q. Okay. And then it says asset type. It says
7 nine-inch street sign.

8 Did that give you an indication of what type of
9 sign this was?

10 A. Yes, a street sign, the road name sign.

11 Q. Okay. So not -- not an "End of County Maintenance"
12 sign?

13 A. No.

14 Q. Any indication on here of replacement of an "End of
15 County Maintenance" sign?

16 A. Not that I see.

17 (Exhibit Number 30 marked for identification.)

18 EXAMINATION RESUMED

19 BY MR. PAAVOLA:

20 Q. All right. And then the next document, 30, this
21 two-page document does not have any label of what
22 -- what it is, so do you know -- recognize this
23 document?

24 A. Yes.

25 Q. And what is this document?

238

1 A. This is Access, I'm pretty sure.

2 Q. Okay. So you think this is the Access Database?

3 MR. LOGAN: This is the what database?

4 THE DEPONENT: Access Database.

5 MR. LOGAN: Okay.

6 EXAMINATION RESUMED

7 BY MR. PAAVOLA:

8 Q. That was the oldest database that you -- the county
9 has, right?

10 A. Yes.

11 Q. And there's no column heading in this document, but
12 do you know if there are column headings in the
13 Access Database?

14 A. Not to my knowledge.

15 Q. Okay. Is there any more -- is there any additional
16 data in the Access Database that's not on these --
17 this is a two-page --

18 A. Not to my knowledge.

19 Q. Okay. Is this really just one -- is this two
20 pages, or is it -- do these go together?

21 A. This is two.

22 Q. Two pages. All right.

23 The second column has what looks like 669 Ellenburg
24 Road.

25 Do you know what that -- what that -- what that's

239

1 -- that -- I'm not aware of a 669 Ellenburg.

2 Are you?

3 A. No.

4 Q. Okay. Do you know why that's put in there?

5 A. No, sir.

6 Q. About -- I don't know -- partway down the first
7 page, there's a number. It says 12461.

8 Do you see that? I imagine it's a work order
9 number, possibly.

10 Is that what that is, you think?

11 A. Yes.

12 Q. Okay. It does have Edward Ratliff on there.
13 Do you see that?

14 A. Yes.

15 Q. And it doesn't have a column heading, but we have a
16 December 2003. It was presumably a date.

17 A. Yes.

18 Q. This indicates a tree across blocking traffic. A
19 tree sticking out in the road some and will need to
20 be taken care of.

21 A. That's two.

22 Q. Okay. I'm sorry. The one for Edward Ratliff says,
23 tree across road blocking traffic?

24 A. Yes.

25 Q. Okay. It doesn't indicate where the tree was, does

240

1 it?

2 A. Okay.

3 Q. It could have been anywhere on Ellenburg Road?

4 A. Yes.

5 Q. Okay. And then there's a ticket, 19852, a couple
6 of rows below the Edward Ratliff, that says -- it
7 says 911 sign missing, right?

8 A. Street name sign.

9 Q. Street name sign?

10 A. Uh-huh.

11 Q. Okay. Are there any -- any work orders here that
12 relate to an "End of County Maintenance" sign being
13 replaced, repaired, or anything like that?

14 A. Just the 28424.

15 Q. Yeah. Okay. It says what? It says. Sign --
16 check the other end of street to see if sign needs
17 replacing?

18 A. Uh-huh.

19 Q. Okay. Do you know what kind of sign that was?

20 A. No. No. I can't say for certain.

21 Q. Right. It doesn't indicate what -- what type of
22 sign that was?

23 A. Uh-uh.

24 Q. All right. And then I see a couple of entries with
25 a Brian, I think, Mercedes at 565 Ellenburg Road

241

1 for, like -- the first page is one that -- the
2 second work order from the bottom for an apron
3 tie-in, and then on page 2, work order number
4 27274, Brian Marcedes, for possibly calling about
5 potholes or -- is that potholes or something else?
6 Do you know?

7 A. What it says is potholes that need patched, for
8 someone to give him a call about the road maybe
9 possibly overlayed.

10 Q. Okay. Any records that Oconee County ever patched
11 any of the roadway in front of 565 Ellenburg?

12 A. That -- that work order should have been the
13 potholes being done, and they should have been
14 5/1/08.

15 Q. So is there -- are there other documents that would
16 show the work was done and what happened with this
17 request that we haven't seen?

18 A. Not to my knowledge from back then.

19 Q. So no additional records, is that what you're
20 saying?

21 A. No.

22 Q. I'm sorry. I didn't hear you.

23 A. No, sir.

24 Q. Okay. And then there's work order 31194. Donnie
25 Moore, it says, replace a dead end sign with a no

242

1 out sign.

2 That's -- that doesn't relate to any kind of county
3 maintenance, does it?

4 A. No.

5 Q. That's something else. Okay.
6 Donnie Moore, is he an employee?

7 A. Yes, but he's not currently.

8 Q. Same with that next work order ending in 95 talking
9 about moving street signs, but that doesn't relate
10 to an "End of County Maintenance" sign, does it?

11 A. No.

12 Q. Mr. Reid, that is the extent of the work orders I
13 have seen and the documents that we have been
14 provided.

15 Do you have knowledge of any other documents
16 reflecting work orders on Ellenburg Road that we
17 haven't looked at?

18 A. No, sir.

19 Q. Okay. I'm getting close, just so you -- so you
20 know.

21 (Exhibit Number 31 marked for identification.)

22 EXAMINATION RESUMED

23 BY MR. PAAVOLA:

24 Q. Exhibit 31. I've handed you Exhibit 31, which is
25 Bates stamped Oconee 288 to 299. It is a letter

260

1 Q. Okay. Does that inform your position as to whether
2 Oconee County has a prescriptive easement in front
3 of 585 and 599 Ellenburg?

4 A. No.

5 Q. Okay. Does it inform it either way?

6 A. No.

7 Q. Does it matter to you?

8 A. No.

9 Q. Okay. If the state -- if it was not a state road,
10 would that matter to you?
11 Would that change your understanding of what type
12 of rights Oconee County has in front of my clients'
13 property?

14 A. No, sir.

15 Q. Okay. So what is the county's understanding of how
16 Ellenburg Road came to be part of the county road
17 system?

18 A. Maintenance over years is all we've got.

19 Q. Okay. Do you have any information on origin of the
20 beginning of the maintenance?

21 A. No, sir.

22 Q. How it came about?

23 A. No, sir. Just the gentlemen there doing the work.

24 Q. Does the county have -- like, Ellenburg Road, does
25 it have other -- are there other maps outside of

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1 the maps we've looked at today that indicate which
2 roads in the county are public or private?

3 A. Yes.

4 Q. Okay. Have we -- are there maps that we haven't
5 looked at today that have that information on it?

6 A. Yes.

7 Q. Okay. Where are those maps?

8 A. On the GIS site.

9 Q. Okay. Apart from GIS, are there -- are there
10 historical maps that would indicate --

11 A. Not to my knowledge.

12 Q. Okay. So then how --

13 A. Well --

14 Q. Okay. Go ahead.

15 A. Sorry. There's more DOT maps that we haven't
16 looked at today. There's -- I don't know what all
17 they are. I'm just told that there's more, but not
18 in our possession.

19 Q. Okay. Does the county have --

20 A. Oh, and I'm sorry. K maps. We haven't looked at K
21 maps.

22 Q. What are K maps?

23 A. The Lake Keowee project maps.

24 Q. Who has possession of those?

25 A. The GIS department.

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1 Q. Is it one map, or is it --

2 A. No, it's several tiled maps, but that's the basis
3 of the lake, of Lake Keowee.

4 Q. Are you familiar with those maps?

5 A. Yes.

6 Q. Is there any indication on any of those maps you're
7 aware of showing that Ellenburg Road, the section
8 from 585 to 599, is an Oconee County-maintained
9 section?

10 A. No.

11 Q. Nothing different than what we've seen today?

12 A. They are different. They're just -- there's no
13 indication of who maintains the road, if that's the
14 question.

15 Q. Okay. So I think I was asking you about whether
16 Oconee County has anything in its system that would
17 designate a private road versus a county road, and
18 you said yes, right, on GIS?

19 A. Yes, by color.

20 Q. What?

21 A. By color and road number.

22 Q. By color and -- does that -- is there an index or a
23 legend that tells you --

24 A. Yes.

25 Q. -- which color is which in GIS?

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMONS PLEAS
COUNTY OF OCONEE	)	
Frances J. Ratliff, Edward J. Ratliff, Jr.,	)	
James L. Ratliff, Lucretia B. Morgan,	)	DEFENDANTS,
Sherri Akers Crisp, Amy Cawthon,	)	GLOBE AND FARMES,
	)	NOTICE OF INTENDED USE
Plaintiffs,	)	<u>OF DEPOSITION AT TRIAL</u>
v.	)	
	)	Case No.: 2022-CP-37-00447
Oconee County, Globe, A South Carolina	)	
Limited Partnership, Farmes, A South	)	
Carolina Limited Partnership,	)	
	)	
Defendants.	)	
	)	

TO: DAVID L. PAAVOLA, ATTORNEY FOR PLAINTIFFS

Pursuant to the *South Carolina Rules of Civil Procedure*, the Defendants, Globe and Farmes, hereby serve notice that they intend to publish the following excerpt portions of deposition testimony at trial in the above matter:

30(B)(6) DEPOSITION OF OCONEE COUNTY – AUGUST 9, 2023
(TESTIMONY OF JAMES COLEY & KYLE REID)

James Coley:

Page 29, Line 23 – Page 30, Line 4
Page 41, Lines 3-11
Page 44, Lines 21-25
Page 59, Lines 9-19
Page 81, Lines 12-19
Page 114, Line 10 – Page 115, Line 24
Page 123, Line 18 – Page 124, Line 19
Page 126, Line 15 – Page 127, Line 7
Page 129, Line 5 – Page 131, Line 18
Page 123, Line 16 – Page 133, Line 16
Page 134, Line 21 – Page 135, Line 7

Kyle Reid:

Page 146, Line 21 – Page 147, Line 25
 Page 152, Line 11 – Page 157, Line 18
 Page 159, Line 7 – Page 162, Line 13
 Page 163, Line 2 – Page 166, Line 1
 Page 166, Line 20 – Page 167, Line 24
 Page 168, Line 12 – Page 170, Line 1
 Page 171, Line 5 – Page 174, Line 25
 Page 176, Line 4 – Page 180, Line 19
 Page 181, Line 16 – Page 185, Line 25
 Page 188, Line 13 – Page 189, Line 23
 Page 190, Line 2 – Page 192, Line 18
 Page 197, Line 5 – Page 198, Line 13
 Page 200, Line 4 – Page 201, Line 4
 Page 203, Line 5 – Page 204, Line 4
 Page 206, Line 15 – Page 207, Line 21
 Page 232, Line 5 – Page 236, Line 18
 Page 237, Line 25 – Page 240, Line 14
 Page 253, Line 7 – Page 262, Line 8
 Page 263, Line 15 – Page 265, Line 22
 Page 266, Line 25 – Page 267, Line 9

Exhibits:

Exhibits: 8, 11, 13, 14, 15, 17, 22, 28, 29, 30, 32, and 33

DEPOSITION OF MICHAEL HENDERSON – OCTOBER 30, 2023

Page 7, Line 13 – Page 10, Line 12
 Page 11, Lines 13-22
 Page 14, Line 8 – Page 16, Line 16
 Page 17, Line 10 – Page 18, Line 3
 Page 18, Line 16 – Page 19, Line 9
 Page 21, Line 9 – Page 23, Line 20
 Page 24, Lines 10-15
 Page 24, Line 24 – Page 26, Line 14
 Page 28, Line 11 – Page 29, Line 11
 Page 33, Lines 10-13
 Page 34, Line 19 – Page 35, Line 22
 Page 36, Line 13 – Page 38, Line 7
 Page 38, Line 19 – Page 38, Line 24
 Page 39, Lines 13-17
 Page 41, Lines 13-18
 Page 42, Line 16 – Page 45, Line 17
 Page 46, Line 3 – Page 47, Line 3
 Page 50, Line 10 – Page 51, Line 16

Page 53, Line 1 – Page 55, Line 6
Page 55, Line 22 – Page 57, Line 1
Page 58, Line 19 – Page 59, Line 17
Page 60, Lines 11-17
Page 61, Lines 2-22
Page 62, Lines 1-12
Page 63, Lines 7-25
Page 65, Line 8 – Page 70, Line 3
Page 71, Lines 9-14

Exhibits:

Exhibits 2, 3, 5, 6, 7
Defendants Exhibit 1

Respectfully submitted,

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***Attorneys for Defendants,
Globe and Farmes***

June 11, 2024
Walhalla, South Carolina

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1 talk a little slower, I would appreciate it, and a
2 little louder. Okay? Thank you.

3 MR. PAAVOLA: I've got a question pending. Could you
4 repeat it?

5 THE COURT REPORTER: Yes.

6 MR. PAAVOLA: Thanks.

7 (The question was read back by the reporter as
8 follows:

9 Q. Was there a particular reason you placed the signs
10 on the properties in this instance?)

11 THE DEPONENT: No.

12 MR. PAAVOLA: We'll mark these. Let's mark one of these
13 packets together. It's Exhibit 2.

14 (Exhibit Number 2 marked for identification.)

15 EXAMINATION RESUMED

16 BY MR. PAAVOLA:

17 Q. Okay. Mr. Coley, I'm going to hand you Exhibit 2.
18 It's a -- I'm handing a copy to your attorney as
19 well. It's a group of several documents.

20 MR. PAAVOLA: Here's another copy if you need it.

21 EXAMINATION RESUMED

22 BY MR. PAAVOLA:

23 Q. The top document of Exhibit 2 is a printout from
24 the Oconee County GIS.

25 Do you recognize this page generally?

1 A. It is not.

2 Q. Okay. Well, where is this from?

3 A. This is from qPublic, which is the assessor's
4 office mapping system, and not from GIS.

5 Q. Okay. So this -- but this comes from the Oconee
6 County website?

7 A. No.

8 Q. Okay. Do you recognize this document --

9 A. Yes.

10 Q. -- this image? Okay.
11 This is the tax assessor's office?

12 A. Yes.

13 Q. Okay. On the indicated parcel on the first map
14 page of this document, it lists the parcel ID as
15 150-00-01-103.

16 Do you see that, the parcel ID number?

17 A. That number you read is inconsistent with the
18 number listed.

19 Q. Okay. Why don't you read for me the parcel ID,
20 please?

21 A. 150-00-01-103.

22 Q. Okay. Does it have a property address listed as
23 well?

24 A. It does.

25 Q. Okay. And what is that address?

1 Q. Okay. Does Oconee County have any of its own
2 specific county requirements?

3 A. No. We do not set requirements for surveys. They
4 are set by the state.

5 Q. Okay. So a plat could list right-of-ways or
6 easements, but doesn't have to. Is that what your
7 understanding is?

8 So are you aware of, I guess, plats being filed in
9 Oconee County that don't list all of the
10 right-or-ways or easements that are on a property?

11 A. Correct.

12 Q. Okay. So is that just up to the surveyor's
13 discretion? Is that your understanding?

14 A. Typically, it is up to a deed or a title search to
15 show all easements, and a surveyor is going to show
16 what they can find in the field, and they will
17 typically have a disclaimer on their plat that's
18 being recorded explicitly stating that it doesn't
19 show all of those features.

20 Q. Are you aware of what the requirements were in
21 Oconee County for recording plats in 1974?

22 A. No.

23 Q. Does Oconee County have any documentation on or
24 around August of 1974 that it did have a
25 right-of-way along this road indicated on the plat?

1 Q. Okay. I mean, obviously, this is a smaller
2 property at this point in time. The date is 2005.
3 Do you see the date, March 9, 2005?

4 A. I do.

5 Q. Okay. And it's a smaller property now at this
6 point in time; is that right?

7 A. Yes.

8 Q. Okay. And I wanted to ask you about the -- so the
9 -- there is a -- I'm trying to see here.
10 It's kind of small, but is there a road indicated
11 on this plat?

12 A. Yes.

13 Q. Okay. And it's called Ellenburg Road, WA-42; is
14 that right?

15 A. Yes.

16 Q. Okay. Now, it has the indication -- it says, ditch
17 to ditch R/W, right?

18 A. Yes.

19 Q. And what does that mean?

20 A. Right-of-way.

21 Q. Okay. And so I guess you're saying that Oconee
22 County does not have a requirement to list these
23 words ditch-to-ditch right-of-way.

24 Is that what you're saying?

25 A. Correct.

1 Q. Right-of-way. Okay.

2 And do you have an understanding of where the road
3 is in relation to the property line?

4 A. It's not clear.

5 Q. Okay. Does Oconee County have a requirement to add
6 these words, subject to right-of-way public, to a
7 plat that has been recorded?

8 A. Yeah.

9 Q. Okay. So when this is added or placed on this
10 plat, that's solely the decision of the surveyor?

11 A. Yes.

12 Q. Okay. So in order to determine what the surveyor
13 based those words on, the surveyor has to be asked
14 that question; is that fair?

15 A. Yes.

16 Q. Does Oconee County ever direct a surveyor to add
17 right-of-way indications on any plats?

18 A. If it's a new subdivision or a new road, a new
19 public road.

20 Q. Okay. Do you recall ever having any conversations
21 with Mr. Michael Henderson about this plat?

22 A. I do not.

23 Q. Would this count as a new road or a new survey such
24 that the county might have required these words to
25 be added?

1 Q. Yeah.

2 A. Yeah.

3 Q. Okay. And so there's -- there's three properties
4 next to it. It's hard to read what they -- what
5 they say, but are you comfortable agreeing that
6 that's -- those are the 565 to 599 Ellenburg?

7 A. It seems very likely.

8 Q. Okay. It seems likely. It looks right. Okay.
9 Would you mind marking it with the flags for us so
10 later, when we're looking at it -- just somewhere
11 near there.

12 Now, I don't see any kind of road indicated on this
13 tax map to those properties. Do you?

14 A. I do not.

15 Q. Okay. Do you know when that community was created?

16 A. I do not.

17 Q. Okay. Do you have an understanding of if it was
18 before or after 1986?

19 A. It would be my understanding it was before 1986.

20 Q. Okay. Let me hand you the next map that we were
21 provided by your tax office, and if you don't mind,
22 let me just do this so we can keep them in order.
23 This map was provided by the county. It's a tax
24 map from 1988.

25 Do you see that in the bottom right corner?

1 MR. BRANDT: What number?

2 MR. LOGAN: 11.

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. -- from the date of November 19, 2021. It looks
6 like all of the e-mails are the same day between
7 yourself and Mr. Reid.

8 Do you see that?

9 A. I do.

10 Q. Let's see. At the very -- let's just turn to the
11 end. This document is Bates stamped Oconee 461 to
12 464.

13 The first e-mail starts on 463, and it's your
14 e-mail to Kyle Reid.

15 Do you see that?

16 A. I do.

17 Q. Okay. The subject is Arrowhead Point BZA Hearing
18 for Right-of-Way Reduction.

19 Do you see that?

20 A. Yes.

21 Q. Okay. And in this first sentence, you're asking
22 Mr. Reid -- it says, I wanted to ask if there were
23 any documents showing the end of Ellenburg Road.

24 The adjacent property owners believe the county
25 road ends at the double lines -- yellow lines and

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1 are saying an end of county maintenance sign used
2 to be there.

3 Did I read that correctly?

4 A. Yes.

5 Q. Okay. Did Mr. Reid ever provide any documents
6 related to this question that you asked him?

7 A. He provided a response in here, I believe.

8 Q. Okay. Any documents in that response?

9 A. Not that I'm aware of.

10 Q. Okay. Do you have an understanding about the
11 existence of an end of county maintenance sign at
12 any point along Ellenburg Road?

13 A. Can you ask it a different way? I'm not sure I
14 understand what you're asking.

15 Q. You were asking this question of Mr. Reid about --
16 you said the property owners are saying the end of
17 county -- an end of county maintenance sign used to
18 be there.

19 Did you ever reach an understanding of whether a
20 sign used to be at the location that you're
21 referencing here?

22 A. I believe in Mr. Reid's response that the yellow
23 line stops well before the end of the county
24 maintenance.

25 Q. Okay. You're looking at the next e-mail from Mr.

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1 county will need to clarify the confusion on the
2 ownership of Ellenburg Road to include prescriptive
3 easement status, county maintenance records,
4 history, and platting.

5 Did I read that correctly?

6 A. Yes.

7 Q. So the county had -- was undertaking the review of
8 these things after that -- the Board of Zoning
9 meeting on -- maybe it was December 1st.

10 Is that fair?

11 A. It would have been that Monday, whatever date that
12 was.

13 Q. Okay. Maybe it was the 29th.
14 And then on January 19th, your e-mail on the first
15 page Bates stamped Oconee 507, it provides an
16 update to your previous e-mail, correct?

17 A. Say that again. I was still --

18 Q. Yeah. The e-mail on January 19th to all of the
19 same individuals from yourself in the middle of the
20 page on --

21 A. There we go. Yeah.

22 Q. -- Oconee 507. In the second paragraph, you write,
23 in addition, the county has reviewed their position
24 and maintains that Oconee County does have a
25 prescriptive easement to the end of paving on

1 Ellenburg Road.

2 Did I read that correctly?

3 A. Yes.

4 Q. Okay. So what review did the county conduct
5 between December 1st and January 19th?

6 A. I don't know. I can't recall.

7 Q. Were you part of that review?

8 A. Potentially.

9 Q. Do you have any recollection sitting here today
10 whether you were part of that review?

11 A. I couldn't recall.

12 Q. Okay. You state that Oconee County maintains its
13 position that it has a prescriptive easement to the
14 end of paving on Ellenburg Road, right?

15 A. Yes.

16 Q. Okay. What is that statement based on?

17 A. I don't recall, but I would assume it would be
18 discussions with our county attorney and roads
19 department.

20 Q. And I don't want to ask you about what -- your
21 discussions with your counsel, but do you have any
22 documents that you know of that this statement was
23 based on?

24 A. I don't recall.

25 Q. Who at the county looked at this question? Was it

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(Exhibit Number 14 marked for identification.)

EXAMINATION RESUMED

BY MR. PAAVOLA:

Q. I've handed you what's been marked as Exhibit 14.
It's an e-mail chain between yourself and Mr. Jimmy Ratliff from March of 2022, and I'm speaking generally. I'm not going to go through every e-mail here, but generally, it's an e-mail chain between yourself and Mr. Ratliff.

I guess Mr. Andy Lee is on here as well, right?

A. Yes.

Q. Okay. And this is in the March of 2022 time frame?

A. The earliest in here says March 3rd and 9th and -- yeah.

Q. On the first page, it's Bates stamped Oconee 494.

Is that an e-mail you write to Mr. Ratliff?

A. Correct.

Q. And it says, the county position from the last meeting was our Roads and Bridges department believes they've maintained the entire road for more than 20 years. And I'm stopping the sentence -- the sentence goes on, but I'm just going to ask you about that part.

This determination that the Roads and Bridges department believes they've maintained the road for

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1 20 years, is that something you would have come to,
2 or Mr. Reid, or somebody else?

3 A. Mr. Reid or someone else.

4 Q. Okay. So you personally didn't look through
5 maintenance records of Ellenburg Road.

6 Is that fair to say?

7 A. That's fair to say.

8 Q. I'm going to show you this document. I don't think
9 I'm going to mark it as an exhibit. I was just
10 going to show you for information and question
11 purposes.

12 This is an e-mail from Mr. Andy Lee to yourself on
13 June 9, 2022.

14 Do you see that?

15 A. Yeah.

16 Q. And he asks you to give him a call as soon as
17 possible.

18 Do you see that?

19 A. I do.

20 Q. Do you recall calling Mr. Lee back after this
21 e-mail?

22 A. I don't recall.

23 Q. Okay. Do you have any idea what he was asking you
24 to call about?

25 A. No.

1 MR. PAAVOLA: I am, yes.

2 (Exhibit Number 15 marked for identification.)

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. This is Exhibit 15. It's Oconee 9, and this
6 document -- do you recognize this document?

7 A. Say that again.

8 Q. Do you recognize this document?

9 A. Yes.

10 Q. Okay. It's labeled, Oconee County Board of Zoning
11 Appeals, but it says, Staff Opinion, right?

12 A. Yes.

13 Q. When it says, Staff Opinion, who is the staff?

14 A. That would be me.

15 Q. Okay. So this was something -- this is a document
16 that you drafted?

17 A. Yes.

18 Q. Did you have input on this document, or is this
19 something that you came up with yourself?

20 A. I probably had input.

21 Q. Do you recall who gave you input for this document?

22 A. Mr. Reid.

23 Q. Anyone else?

24 A. Not that I recall.

25 Q. In the third paragraph, you write, the applicant is

1 connecting to the existing Ellenburg Road, a county
2 road, with a new road to develop land past the end
3 of the existing road.

4 Did I read that correctly?

5 A. You did.

6 Q. Okay. And you've indicated here that Ellenburg
7 Road is a county road.

8 What is that based on?

9 A. County road maps.

10 Q. Okay. Are there county road maps that exist that
11 we have not looked at today?

12 A. Yes.

13 Q. Okay. And who maintains those maps?

14 A. They're in our GIS system.

15 Q. Okay. Are these -- so if I went on the GIS --
16 Oconee County's GIS system, are those the same maps
17 that you are saying are in your system?

18 A. Yes.

19 Q. Okay. So you don't have anything different than
20 what's online at GIS; is that right?

21 A. I couldn't speak for the entire roads department
22 about whether or not they have additional maps as
23 far as what I have access to --
24 publically-accessible maps in GIS.

25 Q. All right. So the roads department and Mr. Reid

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1 would -- if there is anything additional, he may or
2 may not know that question.

3 Is that fair?

4 A. That's fair.

5 Q. And how do you determine if something is a county
6 road based on the GIS?

7 A. It has a road search function with designations for
8 each road type.

9 Q. Okay. Who at the county designates the roads as
10 county-owned or maintained, or public, or any
11 designations? Who does that work?

12 A. Who enters it into the system or who --

13 Q. Yes.

14 A. Our GIS manager would enter a new road into the
15 system when it's put in.

16 Q. What about when it was first -- when it was first
17 created and first used by the county?

18 A. I couldn't answer that. I don't know.

19 Q. Okay. Who at the county -- well, who is the GIS
20 manager?

21 A. Nick Walton.

22 Q. Nick?

23 A. Nick Walton is the GIS manager.

24 Q. T-O-N, Walton?

25 A. I think that's right.

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1 Q. Okay. Do you know how long he's worked there?

2 A. Less than a year.

3 Q. Okay. Do you know of anyone that -- working in the
4 GIS department that's been there at least, you
5 know, back to 2010, I guess, when you saw the GIS
6 map?

7 A. No.

8 Q. If someone was going to create the GIS system and
9 designate certain roads as county versus state or
10 private, how would they have gone about doing that
11 when they initially started using the system? Do
12 you know?

13 A. I don't know.

14 Q. Who would know that answer?

15 A. I don't know.

16 Q. All right. But your statement here that it's a
17 county road is based on the GIS system; is that
18 right?

19 A. Yes.

20 Q. And then you -- the first bullet here under that
21 third paragraph says, currently the road
22 right-of-way is prescriptive and ends at the edge
23 of the pavement.

24 Did I read that correctly?

25 A. You did.

1 Q. And so what information would you have looked at to
2 make the statement that the right-of-way is
3 prescriptive?

4 A. I would have asked the question of the roads
5 department.

6 Q. Okay. And that -- was that Mr. Reid?

7 A. Yes.

8 Q. Do you recall Mr. Reid telling you that it's a
9 prescriptive easement?

10 A. Yes, to the best of my recollection.

11 Q. Do you recall what hearing this -- or what date
12 this was presented to the Board of Zoning Appeals?

13 A. The initial November hearing.

14 Q. Any change in staff opinion between then and when
15 it was April of 2022?

16 A. I don't believe so.

17 Q. Let me ask you this. Did you ever look at
18 affidavits of Laurie Ellenburg Bright or Jan
19 Ratliff in relation to the existence of a
20 prescriptive easement on Ellenburg Road?

21 A. I think I'm aware of them, but I don't know that I
22 have any direct recollection of them.

23 Q. Okay. Did you ever talk with Ms. Laurie Ellenburg
24 Bright about her affidavit?

25 A. I don't believe so.

1 Q. Did you ever speak with Ms. Jan Ratliff about her
2 affidavit?

3 A. I don't believe so.

4 (Exhibit Number 16 marked for identification.)

5 EXAMINATION RESUMED

6 BY MR. PAAVOLA:

7 Q. I've handed you Exhibit 16, which is identified as
8 or labeled as Affidavit of Laurie Ellenburg Bright.
9 Look at this document and let me know when you've
10 had a chance to flip it over.

11 A. Okay.

12 Q. In paragraph 6, Ms. Bright says that -- she writes
13 -- or it reads, I recall an "End of County
14 Maintenance" sign between 575 Ellenburg Road and
15 585 Ellenburg Road. I drove past this "End of
16 County Maintenance" sign for years. This "End of
17 County Maintenance" sign was located near a bathtub
18 that my grandfather used to water his cattle.
19 Did I read that correctly?

20 A. Yes.

21 Q. Does the county -- are you aware of any documents
22 of Oconee County of the existence of an "End of
23 County Maintenance" sign at or near 575 Ellenburg
24 or 585 Ellenburg?

25 A. I'm not the best person to answer that question.

1 Q. Okay. Who would be the person to answer that
2 question?

3 A. Kyle Reid.

4 Q. Okay. But you've not seen any documents related to
5 this "End of County Maintenance" sign; is that
6 correct?

7 A. That's correct.

8 (Exhibit Number 17 marked for identification.)

9 EXAMINATION RESUMED

10 BY MR. PAAVOLA:

11 Q. Okay. I'm going to hand you Exhibit 17. This is
12 an affidavit of Jan Ratliff.

13 Have you ever seen this document before?

14 A. I think I've seen this one.

15 Q. All right. And I'm going to -- for the record's
16 sake, I've got a two-page affidavit, and the
17 affidavit itself references an Exhibit A. I am
18 providing you with a document that is a portion of
19 the map that I believe is Exhibit A. I don't have
20 the records on the complete affidavit with the
21 attached exhibit, but I am handing you what I
22 believe is Exhibit A, just so the record is clear.

23 A. Okay.

24 Q. Does that make some sense?

25 Do you -- in Ms. Ratliff's affidavit, she talks

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1 Q. Okay. And just generally, what are your job duties
2 as the assistant director of Public Works for
3 Oconee County?

4 A. I run the road department and then help various
5 other departments with construction and
6 engineering-type questions or projects.

7 Q. Okay. Let's ask about those other departments
8 first. You mean help them -- just describe some of
9 the things you do to help other departments.

10 A. Generally, construction projects for county
11 facilities or other kinds of projects.

12 Q. And what does your help consist of?
13 Do you have a background in construction?

14 A. Construction and engineering.

15 Q. Okay. Let me ask you, do you hold any licenses in
16 the State of South Carolina?

17 A. No, sir.

18 Q. Okay. So you help with engineering, but it doesn't
19 sound like you're a licensed engineer.

20 A. No, sir, I'm not.

21 Q. Okay. Describe for me your -- you said you run the
22 road department. Describe for me what that
23 entails.

24 A. The day-to-day operation of the county Roads and
25 Bridges department, the maintenance of 660 miles of

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1 county roads. Roughly, approximate 660 miles.

2 Q. Okay. I'm just -- what are some typical types of
3 maintenance activities that you would be overseeing
4 or handling?

5 A. Vegetation removal along county right-of-ways and
6 easements, asphalt repair, paving, putting in
7 culvert pipe, ditching, gravel road maintenance,
8 signs, and construction projects, and reviewing
9 subdivision plans for -- to see that they meet the
10 county ordinances, and other duties.

11 Q. Okay. You talk about subdivision plans to meet
12 county ordinances.

13 Is that specific to the roadways, most plans?

14 A. Yes. Chapter 26 is generally what -- what I review
15 for.

16 Q. Okay. You have one -- and I'm characterizing. You
17 have one aspect of review, maybe not the whole
18 thing, but --

19 A. Yes. Just roadway -- roadway review and design,
20 drainage, things of that nature.

21 Q. All right. How long have you worked at Oconee
22 County?

23 A. 14 years.

24 Q. All right. So back to -- what is that -- 2000 --

25 A. '09.

1 A. Okay.

2 Q. I think we're --

3 A. Yeah.

4 Q. I'm more in the jury -- jury mode. We don't have a
5 jury here. All right.

6 You are familiar with the properties located at 565
7 Ellenburg, 585 Ellenburg, and 599 Ellenburg Road,
8 correct?

9 A. Generally, yes.

10 Q. Generally familiar with those. Okay.

11 Have you personally looked at the question of
12 whether Oconee County has a prescriptive easement
13 or any type of rights over the roadway in front of
14 585 Ellenburg and 599 Ellenburg Road?

15 A. Yes.

16 Q. Okay. And have you come to a conclusion on that
17 question?

18 A. Yes.

19 Q. And what is your conclusion?

20 MR. LOGAN: Object to the form.

21 EXAMINATION RESUMED

22 BY MR. PAAVOLA:

23 Q. You need to go ahead and answer unless he tells you
24 otherwise. He will tell you otherwise.

25 MR. LOGAN: Go ahead.

1 THE DEPONENT: That we do have a prescriptive easement.

2 EXAMINATION RESUMED

3 BY MR. PAAVOLA:

4 Q. Okay. So the county has a prescriptive easement
5 over Ellenburg Road in front of 585 Ellenburg --

6 A. Yes.

7 Q. -- and 599 Ellenburg?

8 That was a --

9 A. I apologize. If you want to finish, I'll wait.

10 Q. I think you've answered my question, but -- so your
11 conclusion after looking -- you've looked at
12 documents, I suppose?

13 A. Yes.

14 Q. Okay. And your conclusion is the county has an
15 easement over the roadway in front of 585 Ellenburg
16 and 599 Ellenburg?

17 A. Yes.

18 Q. Okay. And so what is that -- what documents is
19 that based on?

20 A. Not documents. Not based on documents.

21 Q. Okay. So what is it based on?

22 A. The collective history of the road department.

23 Q. Okay. So when you say, collective history of the
24 road department, what do you mean by that?

25 A. Asking employees if they remember or recall doing

1 maintenance at the specified area over the time
2 that they've been employed at the road department.

3 Q. Okay. And so you undertook to ask employees that
4 question, whether they've performed maintenance in
5 front of 585 or 599 Ellenburg Road?

6 A. Yes.

7 Q. Did you document your questions and responses you
8 got from certain employees?

9 A. I did not.

10 Q. Okay. So you've not summarized those responses.
11 Is that fair to say?

12 A. No, sir.

13 Q. Okay. So it's something that you just have in your
14 mind?

15 Do you recall which employees told you what?

16 A. I do not recall who told me what, not in my mind,
17 as far as their responses, just in my mind as far
18 as did they do maintenance.

19 Q. Okay. So let me ask you, who did you talk to and
20 ask that question of?

21 A. Larry Harden, who is the Roads manager, guys on the
22 mowing crew, and then my knowledge just as far as
23 knowing who was out there when we did other
24 projects or who we had out there doing other
25 projects, like striping, and then gentlemen that

1 were on-call, did on-call work over the time and
2 did ditching work.

3 Q. Okay. You mentioned Larry Harden.

4 So what question did you ask Larry Harden about
5 Ellenburg Road?

6 A. Did he recall maintaining in front of all the way
7 to the end where the "End of County Maintenance"
8 sign currently is on Ellenburg Road.

9 Q. Okay. And what did he tell you?

10 A. Yes.

11 Q. And other than simply saying the word "yes," did he
12 give you any specific examples?

13 A. He was on the mowing tractors when he started back
14 in 1989 with the county, and he remembers mowing
15 that road, and he has been in management for
16 approximately 25 years and remembers sending
17 various employees out to maintain that section of
18 the road.

19 Q. Okay. And did he have any documents of mowing or
20 maintaining that section of Ellenburg Road from 585
21 Ellenburg to the end?

22 A. Not that I recall.

23 Q. Okay. So what else do you recall him telling you
24 about maintaining that section of Ellenburg Road?

25 A. Nothing else except for that it has been maintained

1 the entire time he has been here -- or that he had
2 knowledge of it. He --

3 Q. You --

4 A. Sorry.

5 Q. You can finish.

6 A. Which is the entire time he's been here.

7 Q. Okay. Did he give any specific examples of dates
8 or times of this -- that maintenance?

9 A. No.

10 Q. Okay. Do they have -- does the mowing team keep
11 records of the dates and locations of their
12 activities?

13 A. Yes, sir.

14 Q. Okay. Are you able to provide those -- or maybe
15 are you -- have you provided those records to us in
16 this litigation? Do you know?

17 A. I -- I don't recall.

18 Q. Okay. But the mowing crew does have records of
19 what dates and what locations they're at; is that
20 right?

21 A. Yes.

22 Q. Okay. So if they were -- how specific are those
23 records? You know, do they list the specific
24 properties they mowed next to or just the general
25 road? Do you know?

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1 A. Road name.

2 Q. Road name. Okay.

3 And the date, and you can provide those to us,
4 those records?

5 A. Yes, sir.

6 Q. Okay. I ask that you would do that, provide them
7 to your counsel, and he can provide them to us.

8 Other than road name, because we know -- obviously,
9 we're -- we're disputing a section of Ellenburg
10 Road.

11 Anything more specific than road name and date?

12 A. No, sir.

13 Q. All right. Larry Harden, we talked about.

14 You talked about the mowing crew, but is that -- is
15 that someone separate from Larry Harden, or is that
16 just -- is that Larry?

17 A. Yes. It's Chris Mealer, Jimmy Jordan, Steve,
18 Bryant, Steve Herron, Larry Harden.

19 (Exhibit Number 19 marked for identification.)

20 EXAMINATION RESUMED

21 BY MR. PAAVOLA:

22 Q. Okay. Let me just hand you these. This is a set
23 of interrogatories that -- I've handed you Exhibit
24 19. These are the Oconee County responses to our
25 first set of interrogatories. If you want to turn

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1 A. And then on some of these employees that were here,
2 it was knowledge for Mr. Harden, like, they would
3 do both.

4 Q. Okay. So --

5 A. I did not speak with him.

6 Q. You did not speak with David Debose.

7 Did Mr. Harden speak to David Debose?

8 A. No. It was his knowledge -- to his knowledge.

9 Q. What, specifically, did he tell you about David
10 Debose?

11 A. I don't recall.

12 Q. Okay. Do you think he mentioned his name as being
13 -- as having performed maintenance activities at
14 the end of Ellenburg Road?

15 A. Someone he knew had done maintenance at the end of
16 the road.

17 Q. You said someone he knew. Someone who knew?
18 Someone Larry knew or David Debose knew?

19 A. Larry Harden knew.

20 Q. Okay. Did he specifically identify Mr. Debose?

21 A. Yes, sir.

22 Q. Okay. So did you ask Mr. Harden who performed
23 maintenance at the end of Ellenburg Road?

24 A. Yes, sir.

25 Q. Okay. And he identified Mr. Debose.

1 Who else did he identify?

2 A. I don't recall.

3 Q. Okay. But neither you -- and you are not aware
4 that Mr. Harden talked to Mr. Debose at some point,
5 right?

6 A. No, not to my knowledge.

7 Q. Okay. And then -- so Bo Whitman, did you talk to
8 Mr. Whitman about maintenance on Ellenburg Road?

9 A. Yes, sir.

10 Q. Okay. And what did you -- what was your
11 conversation with Mr. Whitman?

12 A. That he had cleaned up trees --

13 Q. Okay. Did you --

14 A. -- down that road. He was the arbor crew foreman.

15 Q. Arbor crew foreman?

16 A. Yes, sir.

17 Q. Okay. Did he -- does the arbor crew maintain
18 records of the dates and locations of where they're
19 operating?

20 A. Not that I know of, outside of work orders given to
21 them.

22 Q. Okay. So there would be -- is there an
23 understanding that there would be a work order
24 describing where they're supposed to be doing work
25 on any given day?

1 A. Yes, sir. Yes, sir, generally.

2 Q. Okay. So what was your -- what else did Mr.
3 Whitman tell you other than he had cleared trees on
4 Ellenburg Road?

5 A. That's all I recall.

6 Q. Okay. Did he say specifically he had cleared trees
7 in front of 585 and 599 Ellenburg Road?

8 A. I -- to my recollection, it was at the end of the
9 road. I don't believe we specifically spoke about
10 addresses.

11 Q. He used the words -- he used the words "end of the
12 road" or you used the words "end of the road"?

13 A. I believe we both did.

14 Q. Okay. You guys didn't discuss -- or did you
15 discuss any specific dates of maintenance?

16 A. No, sir.

17 Q. If they were clearing trees at the end of Ellenburg
18 Road, those would be reflected in the work orders.
19 Is that a fair -- fair to say?

20 A. They could.

21 Q. Okay. Is there a reason they wouldn't be?

22 A. Yes.

23 Q. Okay. What's that?

24 A. The best example I can give is inclement weather
25 when we're out -- snow or something like that and a

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1 tree falls, it's -- we write down that the road was
2 scraped or road was opened, but not necessarily
3 what all we did to get that road open.

4 Q. Okay. Aside from inclement weather -- and I guess
5 that's somewhat of an emergency tree removal,
6 possibly?

7 A. And on-call. Stuff like that. Yes, sir.

8 Q. On-call, meaning what?

9 A. After hours.

10 Q. That's typically for something more urgent, though,
11 right?

12 A. Yes. That's sending employees out outside of
13 regular work hours to open roads.

14 Q. Power lines are down or something?

15 A. Generally, they'd wait for --

16 Q. Not power lines.

17 A. Yeah. Wait for the power company to clear the
18 lines.

19 Q. Yeah, yeah, yeah.

20 A. Yes, sir. Yes, sir. Trees down is generally --

21 Q. Okay. Any other reason why work would not be
22 reflected in work orders other than the inclement
23 weather situation?

24 A. Lack of documenting, but other than that, no.

25 Q. Have you ever cleared trees on Ellenburg Road?

1 A. No, sir.

2 Q. Have you personally ever performed any maintenance
3 on Ellenburg Road?

4 A. Yes, sir.

5 Q. Okay. And what was that? What maintenance was
6 that?

7 A. I was on the road when we paved it back around
8 2012.

9 Q. Okay. You were on the crew that was helping to
10 pave it?

11 A. No, sir. I was out on the job.

12 Q. Okay. You were -- was your -- were you oversight
13 or managing the paving?

14 A. Yes.

15 Q. Well, tell me about that paving.
16 That was in 2012, on or about 2012?

17 A. Yes, sir.

18 Q. Okay. And what section of Ellenburg Road was the
19 paving taking place?

20 A. In front of the newer Crescent subdivision. I
21 can't remember the name of it.

22 Q. Okay. Did it --

23 A. Back to Knox Road.

24 Q. Okay. Did it reach 565 Ellenburg Road?

25 A. No, sir.

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1 Q. Okay. So then also by -- because of that, it would
2 have -- it wouldn't have reached 585 or 599
3 Ellenburg Road, right?

4 A. No.

5 Q. Okay. Do you remember how far it went down
6 Ellenburg Road, what the last address was?

7 A. It was -- it was right at the entrance of the --
8 the subdivision road on the right, Harbor -- I
9 can't recall.

10 Q. It looks like a Harbor Oaks subdivision or
11 something like that.

12 A. I can't recall exactly.

13 Q. All right. Is there a reason that the road wasn't
14 paved I'll say all the way to the end?

15 A. Yes.

16 Q. And why is that?

17 A. Vehicles parked out in the road.

18 Q. Okay. So you're saying from -- from the entrance
19 of that subdivision to the end of the road, there
20 were vehicles that were preventing you from paving
21 the rest of the roadway?

22 A. No, just -- just at the end.

23 Q. At the very --

24 A. Just at -- just in front of the 599, I believe,
25 address, the boat.

1 Q. Okay. So there were boats parked there, so your
2 testimony today is that that prevented you from
3 paving the section of Ellenburg Road in front of
4 599? Is that what you're saying?

5 A. Yes.

6 Q. Okay. Any other reason?

7 A. The -- the area in front of the subdivision was the
8 worst part of the road.

9 Q. Did you pave in front of 585 Ellenburg Road?

10 A. No, sir.

11 Q. Okay. And why didn't you pave in front of 585
12 Ellenburg Road?

13 A. I was told by Mack Kelly, who was over the road
14 department at the time, to get that worst area in
15 front of the subdivision.

16 Q. Did he tell you specifically not to pave in front
17 of 585 Ellenburg Road?

18 A. Yes, sir.

19 Q. Okay. And what was his reason for telling you not
20 to pave there?

21 A. It had been an ongoing issue with having boats and
22 things in the road.

23 Q. In front of 585 Ellenburg Road?

24 A. Down in that general vicinity, 599, a little bit
25 back. I can't -- if you want to clarify where in

1 front of these addresses --

2 (Exhibit Number 20 marked for identification.)

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. We have some pictures. Okay. I'll hand you
6 Exhibit -- what has been marked as Exhibit 20.
7 That's your copy. You keep the one with the
8 sticker on it.

9 A. Okay.

10 Q. This is a document Bates stamped Oconee 60 through
11 66. This first page, which is Bates stamped Oconee
12 60 -- this is the first page of the document I
13 handed you. Page 1.

14 Do you recognize this as -- I mean, this is a --
15 kind of a mailbox stand -- maybe it's not a mailbox
16 stand, but 565, do you see that?

17 A. To the best of my -- what I recall, around the tree
18 line down toward John's Marine was where vehicles
19 were parked that day.

20 Q. Okay. So was the -- was the paving project just
21 one day?

22 A. No. The day that I called Mr. Kelly to ask him how
23 far he wanted us to go, which was before we started
24 digging out the patch and repaving the road.

25 Q. Okay. So you're -- what you're telling me is that

1 from 565 Ellenburg Road all the way to the end,
2 your recollection is that there were boats or cars
3 parked from -- all the way to the end of Ellenburg
4 Road, which prevented the paving?

5 A. No.

6 Q. Okay. So that --

7 A. That was what -- the information I gave Mack and
8 Mack's response to me.

9 Q. He said what?

10 A. Get the worst area of the road.

11 Q. Okay. So did he tell you to stop at 565 Ellenburg
12 Road?

13 A. No, sir. He told me to get the worst area of the
14 road.

15 Q. Okay. You made the decision to stop at 565
16 Ellenburg Road?

17 A. I told him where the worst area was, and he said go
18 from there.

19 Q. Okay. So did you not pave all the way to the end
20 of Ellenburg Road because he directed you to get
21 the worst area or because of some other reason?

22 A. To not do the whole road because of the things
23 being in the road at the end, to go as far as I did
24 to get the worst area or as far as we could.

25 Q. Did you ever ask any landowners of 565 through 599

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1 Ellenburg Road whether or not they could move their
2 vehicles so you could conduct paving activities?

3 A. No, sir.

4 Q. Okay. Any other -- so that was one time in 2012
5 you were on the paving oversight -- oversight crew,
6 I guess, or manager, right?

7 A. Yes.

8 Q. Any other maintenance that you've been on
9 personally on Ellenburg Road since that time?

10 A. Not that I've been personally on the road.

11 Q. Okay. Or before that time.

12 Is that the only time you've ever helped conduct
13 maintenance on Ellenburg Road?

14 A. No, sir.

15 Q. Okay. What other time?

16 A. I was not there on Ellenburg Road. Dale Owens was
17 our inspector, and they were striping the road, and
18 she called me asking where we wanted to stop the
19 striping on Ellenburg Road.

20 Q. Okay. Dale is a female?

21 A. Yes.

22 Q. Okay. And do you remember about when that
23 conversation took place, about what year?

24 A. It's -- to the best of my recollection, it was --
25 it wasn't long after the road was paved. It seemed

1 like less than a year.

2 Q. Okay. So in the 2012-2013 time frame?

3 A. '13, yeah. 2013. Maybe 2014, but it didn't seem
4 that long.

5 Q. All right. And what did you tell Dale Owens about
6 where to stop the striping?

7 A. I was in my office, left, asked -- went and spoke
8 with Mack, told him it was the same scenario. He
9 just said stop as far as you can where they can
10 turn around and get back out.

11 Q. You said you told Mack it was the same scenario,
12 meaning what?

13 A. Vehicles at the end of the road.

14 Q. So there were motor vehicles in the middle of the
15 road?

16 A. Yes. Well, in the road. I don't know about
17 middle.

18 Q. Again, did you ever -- did you ask the landowner --
19 were you out there physically?

20 A. No, sir.

21 Q. So Dale was out there?

22 A. Yes, sir.

23 Q. Did anyone -- Dale or anyone else ask the
24 landowners whether they could move their vehicles
25 so that the striping could continue?

1 A. Not to my knowledge.

2 Q. Looking at this image on Oconee 60 and just in your
3 own general knowledge, you -- would you agree that
4 the lane -- center line striping ends, you know,
5 around this area of 565 Ellenburg Road and does not
6 continue to the end?

7 A. I'm not sure what's adjacent, except for seeing the
8 mailbox there, so if that is the property of 566,
9 yes.

10 Q. I guess, generally, if I asked you, is there
11 certain line -- center line striping all the way to
12 the end of Ellenburg Road --

13 A. No, sir.

14 Q. Okay. You're aware that there's not striping
15 there?

16 A. If you want to pose it again, I won't --

17 Q. You -- your understanding, as you sit here today,
18 there is not center line striping all the way to
19 the end of Ellenburg Road, right?

20 A. No, sir.

21 MR. LOGAN: Would you clarify, what are you considering
22 the end of Ellenburg Road?

23 MR. PAAVOLA: End of the paved surface and all the way
24 down to John's Marine.

25 MR. LOGAN: Okay.

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1 THE DEPONENT: There is not center line striping all the
2 way down.

3 EXAMINATION RESUMED

4 BY MR. PAAVOLA:

5 Q. Right. Okay. Any other maintenance activities
6 that you were involved in on Ellenburg Road outside
7 of the paving and the center line striping?

8 A. Yes, sir.

9 Q. Okay. What else?

10 A. More recently, since this has all came to be, we
11 had our mowing crew go down there to mow on their
12 route, and they were stopped, and I told them just
13 to -- to see if the road was -- if it was necessary
14 for the safety of the road, and they said it
15 wasn't, so I told them just to turn around and go
16 back out.

17 Q. Okay. And you are talking about after the -- after
18 the pendency of this lawsuit or the variance
19 application? That's what you're talking about?

20 A. Yes. Around June of this year.

21 Q. 2023?

22 A. Yes, sir.

23 Q. Any other maintenance activities that you have been
24 involved in with on Ellenburg Road in your -- while
25 you've worked for the county?

1 A. No, sir.

2 Q. Okay. We talked about Larry Harden, Bo Whitman.

3 Chris Mealer, he's listed here.

4 Did you ask him about any maintenance activities on

5 Ellenburg Road?

6 A. Yes.

7 Q. Okay. What did you ask Mr. Mealer?

8 Well, first, let me ask you what Mr. Mealer does

9 for the county.

10 A. Mowing crew.

11 Q. Okay. And what did you ask Mr. Mealer?

12 A. If he had mowed that section of road.

13 Q. All right. And what did he say?

14 A. Yes.

15 Q. And what section of road were you specifying?

16 A. The -- I apologize. 565 to 599.

17 Q. Okay. So you specifically asked Mr. Mealer, Mr.

18 Mealer, did you mow the area from 565 Ellenburg to

19 599 Ellenburg?

20 A. No.

21 Q. Okay.

22 A. Anytime I asked these questions, it was the end of

23 the road down to John's Marine.

24 Q. Okay. I mean, just generally, you always add --

25 you add that, too?

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1 A. Yes.

2 Q. You asked Chris Mealer if he mowed to the end of
3 the road down by John's Marine?

4 A. That's -- that's the landmark.

5 Q. Okay. And he said what?

6 A. Yes.

7 Q. Did he give you a specific date or time?

8 A. No, sir.

9 Q. Okay. Did you -- what else did you talk about?

10 What other discussions did you have?

11 A. He just said he had mowed it several times.

12 Q. Anything else?

13 A. That's it.

14 Q. What about Jimmy Jordan? Who is that?

15 A. Mowing crew.

16 Q. Okay. Did you have specific conversations with Mr.
17 Jimmy Jordan?

18 A. Yes.

19 Q. Okay. And what did you ask Mr. Jordan?

20 A. If he had mowed Ellenburg Road down to John's
21 Marine.

22 Q. And what did he say?

23 A. Yes.

24 Q. Okay. Did he give you any specific date or time?

25 A. No.

1 Q. Did he ever indicate anything about owners
2 preventing the mowing or asking him to leave?

3 A. No. Just times that boats were in the -- whenever
4 boats were in the road or in the way of them
5 mowing.

6 Q. Okay. Anything else Mr. Jordan told you about
7 this?

8 A. No, sir.

9 Q. What about Jonathan McMahan? What does Mr. McMahan
10 do?

11 A. Signs.

12 Q. Okay. And did you have any discussions with Mr.
13 McMahan about Ellenburg Road?

14 A. Yes.

15 Q. And what did you ask him?

16 A. If he had ever put up the sign -- the "End of
17 County Maintenance" sign at the end of Ellenburg
18 Road.

19 Q. Okay. And what did he say?

20 A. He said he had a few times.

21 Q. Okay. So he said he had put up an "End of County
22 Maintenance" sign at the end of Ellenburg Road?

23 A. Yes.

24 Q. In front of John's Marine?

25 A. Yes.

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1 if you see that there's not -- if the sign place is
2 not there, please let me know.

3 A. Yes.

4 Q. Okay. Did you ask Mr. McMahan if a sign had ever
5 been located near 575 Ellenburg Road?

6 A. Yes.

7 Q. Okay. And what did you ask him?

8 A. If he ever remembered the "End of County
9 Maintenance" sign being somewhere else.

10 Q. Okay. What did he say?

11 A. No.

12 Q. When did he start working for the county?

13 A. After 2009.

14 Q. When did he -- if you recall, when did he first
15 place a sign, "End of County Maintenance" sign, at
16 the end of Ellenburg Road?

17 A. I don't recall.

18 Q. Okay. You said he mentioned placing it several
19 times.

20 Is that what you said?

21 A. Yes.

22 Q. And why -- why several times?

23 A. Sign would get -- would be missing or knocked down.

24 Q. Okay. Do you have any knowledge of the sign -- you
25 started working with the county in 2009, right?

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1 A. Yes.

2 Q. Do you have any knowledge of the -- an "End of
3 County Maintenance" sign being located near 575 or
4 585 Ellenburg Road?

5 A. No, sir.

6 Q. Is there an "End of County Maintenance" sign at the
7 end of Ellenburg Road today?

8 A. Not that I recall today.

9 Q. Okay. Do you know why not?

10 A. Pending this action.

11 Q. So are you saying that it was taken down?

12 A. No, sir, we did not.

13 Q. Okay. So when did the sign no longer exist or
14 appear at the end of Ellenburg Road?

15 A. You're going to have to forgive me on the dates,
16 but I believe it was noticed by me whenever I went
17 out and met with Wesley White with Ridgewater in
18 the summer of -- summer of '22, I believe.

19 Q. Okay. As part of the -- is this part of the
20 variance application process?

21 MR. LOGAN: I didn't hear your question.

22 EXAMINATION RESUMED

23 BY MR. PAAVOLA:

24 Q. As part of the variance application process?

25 A. No.

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1 Q. Okay. Why did you visit the property with Wesley
2 White?

3 A. The issue with the right-of-way.

4 Q. What issue are you referring to?

5 A. The -- the property -- the property corner and the
6 core project boundary property being there --

7 Q. Okay. But that wasn't related to the request for a
8 variance?

9 A. It was -- it was prior to them requesting a
10 variance. I told them they would have to get a
11 variance.

12 Q. Okay. You were meeting with Mr. White about the
13 placement of a new road in that area?

14 A. That subdivision, the subdivision.

15 Q. Subdivision. Okay.

16 And you said that's the time you noticed there was
17 no sign there?

18 A. Yes.

19 Q. Okay. Jonathan McMahan, any other -- he does
20 signs, and any other discussions with him about
21 Ellenburg Road?

22 A. No, sir.

23 Q. What about Barry Smith?

24 A. He's sign shop, or was.

25 Q. Okay. Did you have discussions with Mr. Smith

1 about the signs?

2 A. Yes.

3 Q. Okay. What did you -- what were your discussions
4 with Mr. Smith?

5 A. That he had placed the "End of County Maintenance"
6 sign, and to my recollection, one or twice -- once
7 or twice was his answer.

8 Q. Okay. I thought you said Mr. McMahan placed the
9 sign. You're saying --

10 A. They both worked on the sign crew.

11 Q. Okay. So Mr. Smith placed the sign once or twice?

12 A. Yes.

13 Q. In what location?

14 A. At the "End of County Maintenance" sign in front of
15 John's Marine or at the "End of County Maintenance"
16 point at John's Marine.

17 Q. Okay. Did he indicate to you when that happened?

18 A. No, sir, not specifically.

19 Q. Okay. So he said one or two times, and McMahan
20 said one or two times as well?

21 A. A few times. A few times, I believe is what
22 Jonathan had told me.

23 Q. So if I'm adding that up, is that -- I mean, is it
24 -- you're saying two to four?

25 A. A handful.

1 Q. A handful of times the sign has been placed?

2 A. Didn't specify.

3 Q. But they've each said they each placed it a couple
4 of times; is that right?

5 A. No. What I remember Jonathan saying was a few, but
6 he did not specify how many. Barry specified once
7 or twice.

8 Q. Okay. I'm trying to ask you is that cumulative, or
9 are these the same -- same events we're talking
10 about? Do you know?

11 A. No, separate.

12 Q. Separate.

13 So if you add few to one or two, that's a handful,
14 possibly, of times?

15 A. Possibly.

16 Q. Well, the county's understanding is the sign has
17 been placed at the end of -- near John's Marine a
18 handful of times and it continually comes down?

19 A. Yes.

20 Q. Okay. Did the county ever take any action to ask
21 the landowners why the sign is no longer there?

22 A. Not to my knowledge.

23 Q. Okay. Does the county ever ask landowners about
24 those types of issues, such as, you know, why does
25 the sign keep coming down, why is there no sign?

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1 No?

2 A. Depending on the circumstance. Generally, only if
3 we know who took it down. We don't know who took
4 it down.

5 Q. Okay. There's only one landowner at the end of
6 Ellenburg Road, isn't there?

7 A. It doesn't always have to be the landowner, but we
8 -- we would generally only ask if we know, if
9 somebody saw them do it.

10 Q. All right. So in the records, you said you've --
11 in the records for the signs, I should see these
12 few -- handful or however many times of the sign
13 being replaced at the location of John's Marine,
14 right?

15 A. Yes.

16 Q. Okay. What about Steve Bryant? Who is Steve
17 Bryant?

18 A. He worked on the mowing crew.

19 Q. Okay. Did you have specific discussions with Mr.
20 Bryant?

21 A. Yes.

22 Q. And what did you discuss with him?

23 A. If he had done maintenance in front of -- on
24 Ellenburg Road down to John's Marine.

25 Q. And what did he say?

1 A. Yes.

2 Q. All right. What kind of maintenance did he
3 perform?

4 A. Mowing and slope mowing.

5 Q. Mowing and slope mowing.
6 What's the difference?

7 A. The mowing tractors have a side mower and a bush
8 hog, and they mow the shoulder and back slope of
9 the ditch. Slope mower is only a 22-foot bay and
10 mows higher.

11 Q. So you're saying he has taken both types of -- he
12 has done mowing and slope mowing all the way down
13 to John's Marine?

14 A. Yes.

15 Q. Okay. Again, I think you mentioned earlier there
16 are -- there are mowing records, right, so -- that
17 at least would indicate the dates and the road,
18 right?

19 A. Yes.

20 Q. It would not tell us how far down Ellenburg Road it
21 went, right?

22 A. No.

23 Q. Did Mr. Bryant ever mention not being able to mow
24 because of vehicles in the way?

25 A. He did not -- he did not mention it that I recall.

1 Q. Okay. Any other discussions you had with Mr.
2 Bryant?

3 A. No, sir.

4 Q. All of these discussions you had with these
5 individuals, is this in relation or about the time
6 of the variance request and --

7 A. No. This --

8 Q. No?

9 A. The -- after the question was posed who had -- who
10 had done work there.

11 Q. Question posed by --

12 A. By --

13 Q. In this by us in this litigation?

14 A. Yes.

15 Q. All right. Did you have any of these discussions
16 with any of these individuals as part of the
17 variance request process?

18 A. Just Larry.

19 Q. Okay. Next is Mack Kelly.
20 What role was Mack Kelly when he was employed by
21 Oconee County?

22 A. He was Public Works director county engineer.

23 Q. All right. So what -- did you ask him specific
24 questions about maintenance on Ellenburg Road?

25 A. Yes.

1 Q. What did you ask him?

2 A. If he knew about us maintaining the road all the
3 way down to John's Marine.

4 Q. Okay. What did he say?

5 A. He said he did.

6 Q. Okay. What else did he say?

7 A. That was it about the maintenance part of it.

8 Q. Okay. What else -- did he talk about any other
9 aspects of Ellenburg Road with you?

10 A. I asked him the question about the meeting.

11 Q. Are you referring to another question in this
12 document?

13 A. Yes.

14 Q. Is there another document you're looking for?

15 A. The meeting involving Jan Ratliff and Karen
16 Rasbornik.

17 Q. Okay. I think it's Exhibit 17. 17 should be in
18 your stack.

19 So Exhibit 17 is the Affidavit of Jan Ratliff,
20 right?

21 And -- okay. So paragraph 2 is when Ms. Ratliff
22 identifies meeting with Oconee County Roads and
23 Bridges employees Matt Kelley, Prince Brown, and
24 Larry Harden, right?

25 A. Uh-huh.

1 Q. And this says Matt Kelley, but perhaps that's
2 misspelled and that should be Mack Kelley.

3 Is it Matt or Mack?

4 A. Mack.

5 Q. Mack. All right.

6 So you asked him about this meeting?

7 A. Yes.

8 Q. And what do you recall him telling you?

9 A. He did not recall this meeting.

10 Q. Okay. Anything else?

11 A. That's it.

12 Q. Okay. Anything else you asked Mr. Kelley about his
13 maintenance activities on Ellenburg Road or
14 anything else?

15 A. No, sir.

16 Q. While we're on -- in paragraph 2 of Ms. Ratliff's
17 affidavit in Exhibit 17, did you ask Larry Harden
18 about this alleged meeting in paragraph 2?

19 A. Yes.

20 Q. And what did he say?

21 A. He did not recall.

22 Q. He did not recall having a meeting?

23 A. No, sir.

24 Q. Okay. About Price Brown?

25 A. He passed away.

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1 A. No, sir.

2 Q. Okay. He's listed on here because -- because why?
3 He potentially might have --

4 A. Because he directed Jonathan to replace -- to put
5 up the signs.

6 Q. Okay. But no one has talked to him specifically
7 about Ellenburg Road, have they?

8 A. No, sir.

9 Q. Any other people that relate to maintenance on
10 Ellenburg Road in front of 585 or 599 Ellenburg
11 Road that's not on this list?

12 A. Not to my knowledge.

13 Q. Okay. Let's talk about Exhibit 17 since we already
14 pulled it out, the Affidavit of Jan Ratliff.
15 Do you -- does the county have any -- paragraph 2
16 is where she recounts a meeting with Oconee County
17 employees.

18 Does the county have any records of this meeting?

19 A. Not to my knowledge.

20 Q. Okay. Was George -- George Prince Brown was an
21 employee of Oconee County at some point in time,
22 right?

23 A. Yes.

24 Q. In 2008? You weren't there.

25 Do you have any knowledge of that?

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1 A. Yeah, I don't recall when Prince came to work for
2 the county. It seems like it was before that, but
3 I don't recall.

4 Q. Was he there when you started?

5 A. Yes.

6 Q. Okay. Exhibit A, which is the map, the tax map,
7 has initials G -- it looks like it says GPB.

8 A. That would be Prince.

9 Q. Do you recognize that as his initials?

10 A. Yes.

11 Q. Okay. Have you ever seen this document -- outside
12 of this affidavit, have you ever seen this document
13 that's highlighted with his initials on it?

14 A. No. Well, yes. I'm sorry. Yes. Mr. Ratliff
15 brought it to my office whenever he picked up the
16 discovery.

17 Q. Okay. But the county doesn't -- does the county
18 have this -- a copy of this document in its own
19 files?

20 A. Not that I found in the right-of-way files.

21 Q. Did you look for it?

22 A. I didn't know it existed before Mr. Ratliff showed
23 me.

24 Q. Okay. As part of the variance process? That's
25 when you got it?

1 A. Yes.

2 Q. Okay. Do you have any knowledge of the county
3 maintenance ending at this location on Exhibit A,
4 which is 565 Ellenburg Road?

5 A. No.

6 Q. Were you an employee of the county in October of
7 2009?

8 A. Yes.

9 Q. Okay. And so you're not named in this affidavit as
10 having attended that meeting, right?

11 A. No.

12 Q. Okay. But you were working with the Roads and
13 Bridges Department?

14 A. Yes.

15 Q. Did you ever ask Larry Harden or any of these other
16 employees of that department whether county
17 maintenance had ever ended at 565 Ellenburg Road?

18 A. Yes.

19 Q. And who did you ask that question?

20 A. Larry.

21 Q. Anyone else?

22 A. Bo, Bo Whitman.

23 Q. Bo Whitman.

24 Anyone else?

25 A. No.

1 Q. What did Larry tell you about that when you asked
2 him that question?

3 A. He did not remember it ever ending anywhere but at
4 the end in front of John's Marine.

5 Q. Okay. What about Bo Whitman?

6 A. Always -- his -- his memory was that it always
7 ended at John's Marine.

8 Q. Did you ask either of these individuals if they
9 specifically remember it ending at -- ever ending
10 at 565 Ellenburg Road?

11 A. No, sir.

12 Q. Okay. In paragraph 8, Ms. Ratliff says that her
13 family has continuously maintained the paved
14 section or portion of Ellenburg Road to the east
15 endpoint -- I'm sorry -- to the east of the
16 endpoint of county maintenance.
17 Do you disagree with that statement?

18 A. I have no knowledge of it.

19 Q. Okay. So you don't know one way or the other
20 whether the Ratliff family has maintained the
21 section of Ellenburg Road in front of 585 and 599
22 Ellenburg Road?

23 A. No, sir, not -- not to my knowledge of me being at
24 the Road Department. No.

25 Q. You --

1 A. Before that, I do not know.

2 Q. Okay. Well, you don't -- do you have any knowledge
3 of whether they have or haven't performed
4 maintenance at any time?

5 A. No, sir.

6 Q. Okay. You don't -- you don't know whether -- one
7 way or the other, right?

8 A. No, sir.

9 Q. Okay. But I guess this last sentence, she says,
10 the county has not engaged in any maintenance of
11 the portion of Ellenburg Road in question.
12 Do you see that statement?

13 A. Yes, I do.

14 Q. Would you agree or disagree with that?

15 A. I would disagree with that.

16 Q. Okay. And then what's that based on?

17 A. Discussions with employees that do maintenance in
18 front of John's Marine.

19 Q. Let's get to the end of this right quick, and then
20 we'll take a break if you don't mind.

21 A. I'm good to keep going if you are.

22 Q. I think I'll need a break in a minute. Too much
23 water.

24 A. I'm sorry. Which -- which --

25 Q. Exhibit 15, so --

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1 This is two images that have been provided in this
2 -- I don't know if provided in this litigation, but
3 has been provided around either the variance
4 application or whatnot.

5 Do you recognize these two -- these two pictures?

6 A. Yes.

7 Q. Okay. At some point, you came into possession of
8 these, right?

9 You didn't pull this off of Google, did you,
10 yourself?

11 A. I pulled them off a map.

12 Q. Okay. And you think these --

13 A. I don't know if these are mine, but I have seen
14 them from --

15 Q. You've seen these?

16 A. -- The Microsoft --

17 Q. Okay. And so this -- I guess you can't read it,
18 but there appears to be a green possibly sign in
19 the -- next to some trees in the woods, right?

20 A. Yes.

21 Q. Is that the county -- is the county's position that
22 that is an "End of County Maintenance" sign?

23 A. Yes.

24 Q. And this image -- assuming that the image is
25 correct, at least, has a date of January of 2015?

1 A. Yes.

2 Q. Okay. Does the county have any other pictures
3 other than these two of an "End of County
4 Maintenance" sign at this location?

5 A. Not to my knowledge.

6 Q. And was it the county's process or typical
7 policy -- process or policy to take pictures of the
8 signs that it installs?

9 A. No, sir.

10 Q. All right. So you don't have any earlier-dated
11 picture of an "End of County Maintenance" sign on
12 Ellenburg Road?

13 A. Not to my knowledge.

14 (Exhibit Number 23 marked for identification.)

15 EXAMINATION RESUMED

16 BY MR. PAAVOLA:

17 Q. All right. 23 -- Mr. Reid, I've handed you what
18 has been marked as Exhibit 23. This is the
19 county's responses to the plaintiffs' first set of
20 requests for admission.

21 Have you seen this document before?

22 A. Yes.

23 Q. Okay. The first question asks if the county does
24 not own the fee for the roadbed of Ellenburg Road.
25 It admits that. That's your understanding, right?

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1 Ratliffs paving the roadway in front of 585 and 599
2 Ellenburg?

3 A. No.

4 Q. Okay. But it doesn't have -- the county doesn't
5 have any documents or evidence to dispute one way
6 or the other whether the Ratliffs actually paved
7 that roadway, does it?

8 A. Larry believes the county did it.

9 Q. Okay. Tell me about the discussion you had with
10 Larry. Is it Harden?

11 A. Harden, yes, sir.

12 Q. All right. Tell me about -- you asked him about
13 paving in front of those two addresses?

14 A. Yes.

15 Q. All right. What did you ask Mr. Harden?

16 A. I asked him if he knew about the county paving
17 Ellenburg Road at any time in the past.

18 Q. Okay. Was it specific to Ellenburg Road generally,
19 or was it specific to these two addresses?

20 A. Ellenburg Road generally.

21 Q. Okay. And what did he --

22 A. All the way to the end at John's Marine, so the
23 whole road.

24 Q. Okay. You specified the whole road?

25 A. Yes, sir.

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1 Q. And what did he tell you?

2 A. He stated that he believed that the -- the county
3 had paved the roads, but he was not out there when
4 they did.

5 Q. Okay. Did you ask him how -- why he believed that?

6 A. That was just his memory of it.

7 Q. Okay. He was not out there when it was paved?

8 A. No, sir.

9 Q. Did you ask him if -- if the county paved the road,
10 why they didn't stripe all the way down to the end?

11 A. No, sir.

12 Q. Did he know that the center line striping was not
13 complete all the way down to 599?

14 A. He didn't recall or he didn't state either way.

15 Q. Okay. He was not on any kind of paving crew for
16 Ellenburg Road all the way to John's Marine; is
17 that right?

18 A. No, sir.

19 Q. Okay. Does the county have any other -- other than
20 Mr. Harden's statement, is there any other
21 discussions the county has had or documents that
22 would suggest that it has paved Ellenburg Road in
23 front of 585 or 599?

24 A. No, sir.

25 Q. Question 4, which I think may be -- you just

1 specifically?

2 A. Yes.

3 Q. Okay. And so his response was he didn't recall?

4 A. He didn't recall.

5 Q. Okay. But the county doesn't have any records that
6 it ever striped the center line, does it?

7 A. No.

8 Q. And you don't have any -- you didn't speak to any
9 employees that said they either inspected or
10 actually did the work to stripe the center line of
11 Ellenburg Road down to --

12 A. No.

13 Q. -- 599, did you?

14 A. Sorry. No.

15 Q. Okay. So this is based -- your denial is based on
16 the fact that Larry was unsure?

17 A. He -- he believed the road had been striped, but he
18 did not remember -- he did not recall when.

19 Q. He believed that what -- he believed that what had
20 been striped?

21 A. Just -- I wouldn't be able to speak to that.

22 Q. Okay. Did he go out and look at it? Do you know?

23 A. Yes.

24 Q. Okay. So he knows that the road was not currently
25 striped?

1 A. Yes.

2 Q. Okay. But he believes at some point there had been
3 striping of the center line?

4 A. That was his recollection.

5 Q. All right. Other than his recollection, anything
6 else he pointed to to support --

7 A. No.

8 Q. 7 asks about the "End of County Maintenance" sign,
9 its location around 575 Ellenburg Road. Have you
10 seen the affidavit from Ms. Laurie Ellenburg
11 Bright, which is Exhibit -- I think it's 16.
12 Exhibit 16. Please pull that out and let me know
13 when you get there.

14 A. Okay.

15 Q. You've seen this document before by Ms. Bright?

16 A. Yes.

17 Q. Okay. And are you aware she's stating that she
18 grew up or resided at 591 Ellenburg for proximately
19 40 years?

20 Paragraph 3, do you see that?

21 A. Yes.

22 Q. Okay. In paragraph 6, she says she recalled the
23 "End of County Maintenance" sign between 575
24 Ellenburg Road and 585 Ellenburg Road and drove
25 past it for years.

1 A. No, sir.

2 Q. Back on the Request to Admit, which is Exhibit 23,
3 this is the -- we're back on this document, the
4 Request to Admit. Number 8 and 8.

5 So 8 asks about whether the South Carolina
6 Department of Transportation has provided the
7 county with any documentation that Ellenburg Road
8 was ever a state road.

9 Do you see that question?

10 A. Yes.

11 Q. Have you ever reached out to the State DOT about
12 this question of whether Ellenburg Road was ever in
13 the state system?

14 A. Yes.

15 Q. Okay. And so tell me about -- who did you talk to
16 at DOT?

17 A. Ms. Turner, and I forget her office.

18 Q. Okay. And what did you ask Ms. Turner?

19 A. If the state had any records regarding Ellenburg
20 Road.

21 Q. And what did she tell you?

22 A. That they had records showing that Ellenburg used
23 to be 201, S201, and they provided the records that
24 they -- they had for that, which was very sparse.

25 Q. Okay. And you -- and you have those records?

1 A. Yes.

2 Q. I don't believe I've seen those in this document
3 production. If you'd please provide those to your
4 counsel to produce to us.

5 MR. LOGAN: I gave you everything I've got.

6 MR. PAAVOLA: I haven't seen those.

7 EXAMINATION RESUMED

8 BY MR. PAAVOLA:

9 Q. So what -- what were the -- what was the result of
10 those records? What -- in your understanding, did
11 DOT say that Ellenburg Road had ever been a state
12 road?

13 A. Yes.

14 Q. Okay. They said it was -- it had been a state
15 road?

16 A. Yes.

17 Q. Okay. And it had been a state road, and, I guess,
18 did that stop at some point in time?

19 A. Yes.

20 Q. And when was that, from your understanding?

21 A. Nobody can tell me.

22 Q. No one can tell you. Okay.
23 So the documents that DOT provided you show that --
24 or reflect, in your understanding, that it was a
25 state road?

1 A. Yes.

2 Q. And are these your initials and the date on top of
3 that?

4 A. Yes.

5 Q. What was the purpose of this document?

6 A. To show the -- I believe the request asked for any
7 documentation showing any county maintenance, and
8 this was inputted into a GIS -- a GPS unit at -- on
9 July 26, 2012.

10 Q. All right. So somebody entered -- what was
11 inputted, this red X?

12 A. The dot on the -- taking a -- taking the GPS point.

13 Q. Okay. I don't see a dot. I see a red X.

14 Is that the same thing?

15 A. Yes.

16 Q. Okay. And so who entered that information?

17 A. I don't have that with me.

18 Q. Okay. Would it be somebody in the GIS department?

19 A. Yes. It would be a process between somebody.

20 Generally, it was Donnie Moore who was doing the
21 sign shop going out and taking shots of where the
22 "End of County Maintenance" signs were, and then
23 Lisa Simmering, who was in GIS, plus processing
24 that and putting it on the GIS system.

25 Q. Okay. Would there be documents supporting this

1 location of the -- a red X?

2 A. This is the document. This is the document. This
3 is her -- when she put it in.

4 Q. This is the document. Okay.

5 Is there any other supporting documents that exist
6 to support --

7 A. Not to my knowledge.

8 Q. Okay. Well, who would know that question more
9 specifically, if anybody else?

10 A. Lisa.

11 Q. And what is Lisa's last name?

12 A. Simmering.

13 Q. Is she still employed?

14 A. No, sir.

15 Q. Okay. On the last page of this exhibit, there is a
16 -- appears to be sort of a spreadsheet. Maybe,
17 perhaps, this is the Access Database that you're
18 referring to or --

19 A. Yes.

20 Q. You can tell me.

21 A. This is.

22 Q. Okay. It does say Cartegraph system at the top
23 left.

24 Is that -- is this from the Cartegraph system?

25 A. Oh, yeah. This is the Cartegraph.

1 Q. And I think maybe I've got -- they go back to a
2 different format, so let's just hold that.
3 I'll show you what I believe is a more complete
4 copy of that next. Okay? Let's look at that.

5 (Exhibit Numbers 29 and 30 marked for
6 identification.)

7 EXAMINATION RESUMED

8 BY MR. PAAVOLA:

9 Q. I'm handing you 29 and 30.

10 MR. LOGAN: This is two pages of 29?

11 MR. PAAVOLA: 29 is one page.

12 MR. LOGAN: 29 is one page.

13 MR. PAAVOLA: And 30 is two pages.

14 EXAMINATION RESUMED

15 BY MR. PAAVOLA:

16 Q. All right. 29 looks -- I think we just were maybe
17 looking at partial -- a partial section of this in
18 the previous exhibit, but it says Cartegraph System
19 at the top left.

20 Do you see that?

21 Let me know when you've had a chance to look it.

22 A. No, I'm good.

23 Q. Okay. This at the top left says Cartegraph System.

24 Is this --

25 A. Yes.

1 Q. This document came out of that system?

2 A. Yes.

3 Q. Okay. And it says Ellenburg Road at the top,
4 right?

5 A. Yes.

6 Q. Can you walk me through, just briefly, how to read
7 this document?

8 A. Yeah.

9 Q. Okay. Just column by column if you would.

10 A. Number is just the work order number. Activity,
11 there was set activities that you could pull down a
12 drop-down. Asset type, just saying that --
13 generally, that was just used by signs. Assigned
14 to would be the person that worked for the Road
15 Department. What department it would be, whether
16 it was Signs or Roads. It's just the division
17 between those two. And then who called it in or
18 the details --

19 Q. Details of who called it in?

20 A. Yeah. And then who entered it would be the person
21 in the office that entered it. And then what the
22 issue is is just a more general description, and
23 then it gets to the more general description -- or
24 more specific description on the next line, and
25 then the road, and then the dates.

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1 Q. Okay. And then whether it was completed or not, I
2 guess?

3 A. Yes.

4 Q. What's the transaction date versus the start date
5 estimated? Do you know?

6 A. The transaction date, I'm pretty sure, is -- to my
7 recollection, it's when it was put in.

8 Q. Okay. Is there more data in this system than
9 outside of these --

10 A. No. This is the entirety of the data in this
11 system.

12 Q. All right. So I'm looking at route.
13 It has Ellenburg Road in the route column, right?

14 A. Yes.

15 Q. And correct me if I'm wrong, but I'm not seeing
16 anywhere where it specifies a specific address on
17 Ellenburg Road for any of these work orders.

18 A. No. None of these do that I can see.

19 Q. So we're not able to tell, at least from this
20 spreadsheet, whether any of these activities were
21 -- were all the way down in front of 585 or 599
22 Ellenburg Road, are we?

23 A. No.

24 Q. And you said that there would be an indication that
25 signs were placed. I don't know. Maybe the second

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1 activity, 11354, says replaced sign, and then look
2 for any other replaced signs. I see one.
3 Do you see any others? Let me know if you see any
4 others.

5 A. Yeah, that's fine. No, I don't see any.

6 Q. Okay. And then it says asset type. It says
7 nine-inch street sign.

8 Did that give you an indication of what type of
9 sign this was?

10 A. Yes, a street sign, the road name sign.

11 Q. Okay. So not -- not an "End of County Maintenance"
12 sign?

13 A. No.

14 Q. Any indication on here of replacement of an "End of
15 County Maintenance" sign?

16 A. Not that I see.

17 (Exhibit Number 30 marked for identification.)

18 EXAMINATION RESUMED

19 BY MR. PAAVOLA:

20 Q. All right. And then the next document, 30, this
21 two-page document does not have any label of what
22 -- what it is, so do you know -- recognize this
23 document?

24 A. Yes.

25 Q. And what is this document?

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1 A. This is Access, I'm pretty sure.

2 Q. Okay. So you think this is the Access Database?

3 MR. LOGAN: This is the what database?

4 THE DEPONENT: Access Database.

5 MR. LOGAN: Okay.

6 EXAMINATION RESUMED

7 BY MR. PAAVOLA:

8 Q. That was the oldest database that you -- the county
9 has, right?

10 A. Yes.

11 Q. And there's no column heading in this document, but
12 do you know if there are column headings in the
13 Access Database?

14 A. Not to my knowledge.

15 Q. Okay. Is there any more -- is there any additional
16 data in the Access Database that's not on these --
17 this is a two-page --

18 A. Not to my knowledge.

19 Q. Okay. Is this really just one -- is this two
20 pages, or is it -- do these go together?

21 A. This is two.

22 Q. Two pages. All right.

23 The second column has what looks like 669 Ellenburg
24 Road.

25 Do you know what that -- what that -- what that's

1 -- that -- I'm not aware of a 669 Ellenburg.

2 Are you?

3 A. No.

4 Q. Okay. Do you know why that's put in there?

5 A. No, sir.

6 Q. About -- I don't know -- partway down the first
7 page, there's a number. It says 12461.

8 Do you see that? I imagine it's a work order
9 number, possibly.

10 Is that what that is, you think?

11 A. Yes.

12 Q. Okay. It does have Edward Ratliff on there.
13 Do you see that?

14 A. Yes.

15 Q. And it doesn't have a column heading, but we have a
16 December 2003. It was presumably a date.

17 A. Yes.

18 Q. This indicates a tree across blocking traffic. A
19 tree sticking out in the road some and will need to
20 be taken care of.

21 A. That's two.

22 Q. Okay. I'm sorry. The one for Edward Ratliff says,
23 tree across road blocking traffic?

24 A. Yes.

25 Q. Okay. It doesn't indicate where the tree was, does

240

1 it?

2 A. Okay.

3 Q. It could have been anywhere on Ellenburg Road?

4 A. Yes.

5 Q. Okay. And then there's a ticket, 19852, a couple
6 of rows below the Edward Ratliff, that says -- it
7 says 911 sign missing, right?

8 A. Street name sign.

9 Q. Street name sign?

10 A. Uh-huh.

11 Q. Okay. Are there any -- any work orders here that
12 relate to an "End of County Maintenance" sign being
13 replaced, repaired, or anything like that?

14 A. Just the 28424.

15 Q. Yeah. Okay. It says what? It says. Sign --
16 check the other end of street to see if sign needs
17 replacing?

18 A. Uh-huh.

19 Q. Okay. Do you know what kind of sign that was?

20 A. No. No. I can't say for certain.

21 Q. Right. It doesn't indicate what -- what type of
22 sign that was?

23 A. Uh-uh.

24 Q. All right. And then I see a couple of entries with
25 a Brian, I think, Mercedes at 565 Ellenburg Road

1 A. Yes, sir.

2 Q. This is a map --

3 MR. LOGAN: You go from 10 to 32?

4 MR. PAAVOLA: Yeah.

5 EXAMINATION RESUMED

6 BY MR. PAAVOLA:

7 Q. This is a map that's labeled Oconee County, South
8 Carolina -- it says 1957, but it also has a
9 handwritten indication of February 1, 1969, that
10 says revised.

11 Do you see that?

12 A. I do see that.

13 Q. Okay. And this one, in fact, has some highlighting
14 on it in purple and green.

15 Do you see that?

16 A. Yes.

17 Q. And so I'll represent you that the Department of
18 Transportation has highlighted this for us.

19 MR. BRANDT: What date?

20 MR. PAAVOLA: This is 1957, but it has a handwritten --

21 THE DEPONENT: '57.

22 MR. BRANDT: '57?

23 MR. PAAVOLA: It says February 1, 1969, in the box.

24 MR. BRANDT: What's the difference between that one and
25 the one we looked at before?

1 EXAMINATION RESUMED

2 BY MR. PAAVOLA:

3 Q. Mr. Reid, do you see the -- the purple highlighting
4 and the green highlighting?

5 A. Yes.

6 MR. LOGAN: Who did you say highlighted that?

7 MR. PAAVOLA: Yeah. This is how it was received from the
8 Department of Transportation.

9 MR. LOGAN: Received by you?

10 MR. BRANDT: Exhibit 10, is that the same map as Exhibit
11 10?

12 MR. PAAVOLA: I don't know.

13 MR. BRANDT: What?

14 MR. PAAVOLA: I don't know.

15 MR. BRANDT: You put it in here and it's a '57 --

16 MR. PAAVOLA: Larry, I don't have to answer questions
17 today.

18 MR. BRANDT: I'm just asking for clarification of what
19 you're showing me.

20 MR. PAAVOLA: They're two different documents.

21 MR. BRANDT: Okay. Is this different than 10?

22 MR. PAAVOLA: 32 is what I got from the Department of
23 Transportation, so that's all I can tell you. I
24 don't know.

25 EXAMINATION RESUMED

1 BY MR. PAAVOLA:

2 Q. They've highlighted State Highway 183 in purple.

3 Do you see that?

4 A. Yes.

5 Q. Okay. Is that your -- that is what presently is
6 today Knox Road?

7 A. The portion that's left, yes.

8 Q. Okay. Some portions no longer exist?

9 A. And Doug Hollow.

10 Q. I'm sorry. You were -- I interrupted you.

11 And what?

12 A. Doug Hollow.

13 Q. Doug Hollow. Okay.

14 And then the green section is highlighted, right?

15 A. Yes.

16 Q. Is that what your understanding of approximate
17 location of 565 and 599 Ellenburg is today?

18 A. My -- yes.

19 Q. This is before --

20 A. The entirety of the road.

21 Q. Sure. This is before the lake was created, right?

22 A. Yes.

23 Q. Okay. And from the legend, are you able to tell me
24 what type of road that -- that is indicating?

25 A. Which road?

1 Q. I'm sorry. Ellenburg Road, which -- it's not
2 written as Ellenburg Road, but the green
3 highlighted section, are you able to tell me what
4 type of roadway that is by -- from the map?

5 A. What it appears to be is bituminous low top.

6 Q. Okay. Which is what? Do you know?

7 A. I don't have a -- I know what bituminous means, but
8 I don't have an understanding -- I don't know what
9 their classifications are. Paved.

10 Q. All right. You're not sure exactly what that
11 means, right?

12 A. No.

13 Q. It's not -- as well as the map we were looking at
14 before, this map doesn't have a road system
15 indication on it, does it?

16 A. I'm unclear what you're asking me.

17 Q. Yeah. So the legend of the road systems starting
18 from interstate all the way down to federal
19 secondary system.

20 Do you see that?

21 A. Where -- are you --

22 Q. In the legend, there's a road system?

23 A. Yes.

24 Q. Okay. I don't see any of those symbols on the
25 green highlighted section.

1 Do you?

2 A. Not that I can see on the green highlighted
3 section, no.

4 (Exhibit Number 33 marked for identification.)

5 EXAMINATION RESUMED

6 BY MR. PAAVOLA:

7 Q. I'm going to show you the next document, Exhibit
8 33. This is the SCDOT map 1971.
9 Do you see that?

10 A. Yes.

11 Q. Have you seen this document before?

12 A. Yes.

13 Q. Okay. And is this a document that Oconee County
14 has in its possession?

15 A. No.

16 Q. Then how have you seen it?

17 A. Online.

18 Q. Okay. At the DOT site or where?

19 A. No. University of South Carolina.

20 Q. Okay. Now, is this before or after the lake is --
21 Lake Keowee was created?

22 A. It appears to be the lake is backing up.

23 Q. It appears to be -- you said the lake is backing
24 up? What do you mean by that? It appears to be --

25 A. I can't tell where -- what process it is --

1 Q. There is some of Lake Keowee indicated on this,
2 right?

3 A. Yes, sir.

4 Q. Again, there's a purple highlighting on this map
5 and a green highlighting.

6 Do you see those sections?

7 A. Yes.

8 Q. The purple and the -- and the purple is along a
9 road that is -- looks like it could be indicated a
10 state secondary road. It says 12.

11 Do you see that?

12 A. Yes.

13 Q. Is that what the -- do you understand that to be
14 Knox Road?

15 A. Yes.

16 Q. Okay. Is that what it's called today?

17 A. Yes.

18 Q. Number 12?

19 A. Uh-huh.

20 Q. Okay. It appears to have changed -- is it your
21 understanding that that changed -- the roadway
22 changed from 1969 to 1971, changed names?

23 A. Changed -- changed designations. I -- they
24 probably didn't have names back then.

25 Q. Changed designations. All right.

259

1 Again, the green highlighting, did you -- is it
2 your observation that that is at least somewhat in
3 the location of the present day Ellenburg Road?

4 A. Yes.

5 Q. Okay. No new designation on that section, is
6 there?

7 A. No.

8 Q. Okay. And it still has the -- in the legend what
9 appeared to be the bituminous low, right?

10 A. Yes.

11 Q. We're not able to see in this map -- at least at
12 the end of it, there's no distinctly Arrowhead
13 Point location.

14 Would you agree with me on that?

15 A. It's a general map.

16 Q. It doesn't have the nice arrow --

17 A. Again, I don't know what portion you are of the
18 lake backing up.

19 Q. It may not be the exact location of the Arrowhead
20 Point; is that fair?

21 A. Not that I can tell.

22 Q. Is it your understanding -- you testified that you
23 understood that Ellenburg Road used to be part of a
24 state road 201, right?

25 A. Per the SCDOT.

260

1 Q. Okay. Does that inform your position as to whether
2 Oconee County has a prescriptive easement in front
3 of 585 and 599 Ellenburg?

4 A. No.

5 Q. Okay. Does it inform it either way?

6 A. No.

7 Q. Does it matter to you?

8 A. No.

9 Q. Okay. If the state -- if it was not a state road,
10 would that matter to you?
11 Would that change your understanding of what type
12 of rights Oconee County has in front of my clients'
13 property?

14 A. No, sir.

15 Q. Okay. So what is the county's understanding of how
16 Ellenburg Road came to be part of the county road
17 system?

18 A. Maintenance over years is all we've got.

19 Q. Okay. Do you have any information on origin of the
20 beginning of the maintenance?

21 A. No, sir.

22 Q. How it came about?

23 A. No, sir. Just the gentlemen there doing the work.

24 Q. Does the county have -- like, Ellenburg Road, does
25 it have other -- are there other maps outside of

1 the maps we've looked at today that indicate which
2 roads in the county are public or private?

3 A. Yes.

4 Q. Okay. Have we -- are there maps that we haven't
5 looked at today that have that information on it?

6 A. Yes.

7 Q. Okay. Where are those maps?

8 A. On the GIS site.

9 Q. Okay. Apart from GIS, are there -- are there
10 historical maps that would indicate --

11 A. Not to my knowledge.

12 Q. Okay. So then how --

13 A. Well --

14 Q. Okay. Go ahead.

15 A. Sorry. There's more DOT maps that we haven't
16 looked at today. There's -- I don't know what all
17 they are. I'm just told that there's more, but not
18 in our possession.

19 Q. Okay. Does the county have --

20 A. Oh, and I'm sorry. K maps. We haven't looked at K
21 maps.

22 Q. What are K maps?

23 A. The Lake Keowee project maps.

24 Q. Who has possession of those?

25 A. The GIS department.

262

1 Q. How far back do they go?

2 A. They are what the basis of the boundary of the lake
3 was built on.

4 Q. Okay. So if we ask -- if we request copies of K
5 maps, how would I make that request?

6 A. It's on the website.

7 Q. It's on the website?

8 A. Yes.

9 MR. ROOT: Just for clarification, I e-mailed those to
10 you last week.

11 MR. LOGAN: I thought I had seen them.

12 MR. ROOT: You may have. I just wanted to supplement --

13 MR. LOGAN: Yeah. I said I thought I had seen them.
14 Yeah.

15 EXAMINATION RESUMED

16 BY MR. PAAVOLA:

17 Q. That's the full -- the full extent of the K maps?
18 Just tell me -- first, tell me where they are on --

19 A. GIS web maps is -- there's a -- there's a place
20 where you can click on web maps, and then you
21 scroll down, and there's some boxes that have
22 different kinds of maps, and it says Lake Keowee K
23 maps, I believe, in the heading.

24 Q. Do those go back to a certain date?

25 A. Those --

263

1 Q. Is it one map, or is it --

2 A. No, it's several tiled maps, but that's the basis
3 of the lake, of Lake Keowee.

4 Q. Are you familiar with those maps?

5 A. Yes.

6 Q. Is there any indication on any of those maps you're
7 aware of showing that Ellenburg Road, the section
8 from 585 to 599, is an Oconee County-maintained
9 section?

10 A. No.

11 Q. Nothing different than what we've seen today?

12 A. They are different. They're just -- there's no
13 indication of who maintains the road, if that's the
14 question.

15 Q. Okay. So I think I was asking you about whether
16 Oconee County has anything in its system that would
17 designate a private road versus a county road, and
18 you said yes, right, on GIS?

19 A. Yes, by color.

20 Q. What?

21 A. By color and road number.

22 Q. By color and -- does that -- is there an index or a
23 legend that tells you --

24 A. Yes.

25 Q. -- which color is which in GIS?

1 A. Yes.

2 Q. Do you know off the top of your head what color was
3 a private road?

4 A. Yellow.

5 Q. What color was a county road?

6 A. Magenta.

7 Q. At some point, those designations were input into
8 GIS system, right?

9 A. Yes.

10 Q. That was when you first started using it?

11 A. I wouldn't have no knowledge of that.

12 Q. Okay. Well, what would the information be based
13 on? Are there other maps that predate the GIS
14 system? I showed tax maps today, but what -- is
15 there a different map that the county has that
16 predates the GIS system?

17 A. Yes.

18 Q. Okay. And what are those called?

19 A. Road maps from previous years.

20 Q. The road maps are something different than tax
21 maps?

22 A. Yes. Tax maps means nothing to us.

23 Q. Okay. So if I request road maps in this case, you
24 can provide road maps to me?

25 A. Whatever we have, yes, sir.

265

1 Q. They haven't been produced to date, have they, that
2 you're aware of?

3 A. I don't recall.

4 MR. LOGAN: We'll check, and if we've got them, we'll
5 send them to you.

6 THE DEPONENT: I don't recall.

7 EXAMINATION RESUMED

8 BY MR. PAAVOLA:

9 Q. Do you know how far back those road maps go?

10 A. The only one I know of is a map that we have up on
11 our wall. I'm talking about, like, maps that are
12 just printed out over the years. We have one up on
13 our wall in the office from 1982.

14 Q. Okay. But you'll look, and you may or may not have
15 more maps than that one, right?

16 A. No. That's the only one I know of. I don't know
17 what else the county may have.

18 Q. So road maps -- the only road map that you're aware
19 of is the one on the wall from 1980?

20 A. Yeah.

21 Q. No other road maps?

22 A. No, not prior to GIS.

23 Q. Do you know what was used prior to 1982?

24 A. No.

25 Q. Okay. If we can get a copy of that, that would be

1 helpful. Okay.

2 If the county has never performed maintenance in
3 front of 585 and 599 Ellenburg Road, does the
4 county have any basis to say that it has an
5 easement there?

6 MR. LOGAN: I'm sorry. Is that a question?

7 MR. PAAVOLA: Yes.

8 MR. LOGAN: I understood about half of what you asked
9 him.

10 EXAMINATION RESUMED

11 BY MR. PAAVOLA:

12 Q. Did you understand the question?

13 MR. LOGAN: It doesn't matter whether he did. I didn't,
14 so I can make an objection if I need to.

15 MR. PAAVOLA: Okay. Can you read back that question,
16 please?

17 (Question was read back by the reporter as
18 follows:

19 Q. If the county has never performed maintenance in
20 front of 5 --)

21 MR. LOGAN: You didn't understand it either, did you?

22 THE COURT REPORTER: I have it. It's just freezing up.
23 (The question was read back by the reporter as
24 follows:

25 Q. If the county has never performed maintenance in

267

1 front of 585 and 599 Ellenburg Road, does the
2 county have any basis to say that it has an
3 easement there?)

4 MR. LOGAN: Object to the form.

5 You can answer if you can.

6 THE DEPONENT: Based on the historical knowledge and the
7 guys that actually did work in front of 585 and
8 599, we have performed maintenance, and we do have
9 the road by prescription.

10 EXAMINATION RESUMED

11 BY MR. PAAVOLA:

12 Q. Assuming that they're wrong and the routes are
13 correct that there is not any -- hasn't been any
14 maintenance performed there, there is no other
15 basis that the county has to suggest that's a
16 prescriptive easement, is there?

17 MR. LOGAN: Object to the form.

18 EXAMINATION RESUMED

19 BY MR. PAAVOLA:

20 Q. You can answer.

21 A. We are still looking into -- or gaining information
22 from the DOT.

23 Q. Okay. You're still asking for information from the
24 DOT?

25 A. Yes.

STATE OF SOUTH CAROLINA)
COUNTY OF OCONEE)
) IN THE COURT OF COMMON PLEAS
) FOR THE TENTH JUDICIAL CIRCUIT

Frances J. Ratliff, Edward J. Ratliff, Jr.,) Case No. 2022-CP-37-00447
James L. Ratliff, Lucretia B. Morgan,)
Sherri Akers Crisp, Amy Cawthon,)

Plaintiffs,)
v.) **PLAINTIFFS' NOTICE OF**
) **PUBLICATION OF THE OCTOBER 30,**
) **2023 DEPOSITION OF MICHAEL**
) **HENDERSON**

Oconee County, Globe, A South Carolina)
Limited Partnership, Farnes, A South)
Carolina Limited Partnership,)

Defendants.)

NOT

Plaintiffs hereby designate the following excerpts from the October 30, 2023 deposition of Michael Henderson, to be published for trial along with Exhibits 3, 4, 5:

BY MR. PAAVOLA:
(Henderson Dep. 4:15-17)

Q: Okay. Will you please state your full name for the record?

A: Michael L. Henderson.

(Henderson Dep. 5:12-15)

Q: You're under oath today, just as if you were sitting in a court of law. Do you understand that?

A: I understand that.

(Henderson Dep. 8:3-25)

Q: And did you provide documents in response to the subpoena?

A: I emailed them to you. Yes, sir.

Q: And this asks for your complete file in relation to the plat prepared as attached as exhibit one. Did you provide your complete file?

A: I did.

Q: And it asks the same, a complete file for the survey, a plat prepared as exhibit two. Did you also provide your complete file for that survey?

A: As far as I know, I did.

Q: And we also asked you to provide any records reflecting or supporting the existence of a public right-of-way along Ellenburg Road as reflected on the attached plats. Did you provide any documents related to that?

A: Other than what I sent you, no.

Q: I mean, did you provide all of the documents you had?

A: I provided all of the documents I had at that time.

(Henderson Dep. 9:18-10:8)

Deposition Exhibit 3

Q: Okay. I'm going to hand you what's been marked as Exhibit 3. If you'd please look through that stack of documents, and let me know when you've had a chance to review it. Have you had a chance to review that, Mr. Henderson?

...

A: I'm familiar with the document.

Q: Okay.

A: Yes, sir.

Q: And we have -- are these the files you prepared -- provided in response to the subpoena we had sent to you?

A: Yes, sir.

Q: Are there any other documents that I have not included in this stack that you've ---

A: Not that I have.

(Henderson Dep. 14:8-16:16)

Q: Look at Cornerstone 5, the fifth page ---

A: Okay.

Q: --- of your documents. Okay. You see this is -- at the bottom of this plat, there's an indication, it says, Ellenburg Road, WA-42, Subject to R/W, Public. Do you see that?

A: I do.

Q: Okay. And you added that indication onto this plat, right?

A: I did.

Q: So, tell me how you came to conclude that that indication should be added on this.

A: I looked at the County and State roads' numbers, South Carolina Department of DOT. It's online.

Q: And what did you see on DOT?

A: It's just a map of all of the counties. It's got the road numbers on it.

Q: Okay. Other than looking at the SCDOT website, did you look at any other documents?

A: Not to my knowledge. Not to figure out the road number. I mean, it has the name on it. It's on the County website.

Q: The name of the road is on the website?

A: That's correct.

Q: Okay. What about the notation that there's a public right-of-way along this section of Ellenburg Road in front of this property?

A: Well, I just said it was subject to a right-of- way, if there is one.

Q: Okay. Do you know if there is one, in fact?

A: No, I do not know that there's one.

Q: Okay.

A: I didn't see anything in their deed that specified that there was a right-of-way on the road.

Q: Okay. Did you see any documents indicating that there is a right-of-way in front of this property on Ellenburg Road?

A: Repeat that question?

Q: Did you see any documents indicating that there is a right-of-way on Ellenburg Road in front of this property?

A: Well, a right-of-way has to be in the deed, and I did not see anything in the deed.

Q: Okay. What caused you to add the language here that says it's subject to a right-of-way, public?

A: Because there's a road out there.

Q: Okay. And so there's a road out there, and because it's identified as -- has a County name to it, is that -- you concluded that there's a right-of-way that belongs to the County? Is that what happened?

A: Well, people are using it. I assume that there's a right-of-way there of some kind. But not necessarily a legal right-of-way, as far as defined as in a deed or easement papers that's recorded at the courthouse.

(Henderson 17:10-19:9)

All right. So as a surveyor, are there requirements that have to be met before you indicate on a plat that a right-of-way exists?

A: Well, a surveyor's obligation is to show what's there on the ground. If it's obvious -- it looks like there's a road there, you show that there's some right-of-way. That's all we do, is observe. We don't create or make any right-of-ways. That's all done by deeds and attorneys.

Q: Okay. So your writing that this portion of Ellenburg road is subject to a public right-of-way. Does that create a right-of-way?

A: Repeat.

Q: When you wrote that -- you wrote on this plat that it was subject to a right-of-way, public, correct?

A: Yes, because people public -- people were using the road. That's what I observed.

Q: Does your -- but does your writing that on the plat, does that make it a legal, official right-of-way?

A: No, absolutely not. All of that has to be transferred by a deed.

Q: On this plat dated November 23rd, 2020, there's an RW line running across the bottom of that property. Do you see that?

A: I see that.

Q: And RW, does that indicate a right-of-way?

A: Well, it's indication that there is a potential right-of-way there.

Q: Okay. And how did you determine that there's a potential right-of-way at that location across the front of the property?

A: Well, there was an iron pin that I found out there that is approximately that distance from the centerline of the road that someone set prior to me getting there.

Q: And what would an iron pin indicate to you as a surveyor?

A: Well, it's usually put on the other side of a ditch, especially on a road like that, which is commonly called a ditch to ditch right-of-way, since there's no public record of the right-of-way that I found. They just put a corner on the other side of the ditch, so that -- where they scrape it or the County maintains it, knocked it out. It has no meaning, per se. I mean, it could be at 33, or it could be at 50, it could be at ten.

(Henderson Dep. 20:15-22; 21:18-20; 22:1-23:20)

Deposition Exhibit 3, Page 2

Q: Mr. Henderson, I'd like to direct your attention to the second page of Exhibit 3, the second page, which is ---

A: Okay.

Q: --- Cornerstone 2. This was provided in your file. This is a plat prepared for Brian Marcedes. Do you see that at the top?

A: I do.

....

Q: This is for tax map number -- ends in 103; is that right?

A: That is correct.

....

103 is 565 Ellenburg Road, right?

A: Okay.

Q: Okay. Did you use this document in your plat for the Ratliffs, preparing your plat for the Ratliffs? Did you use this document?

A: I did and I showed it as a reference on my plat.

Q: Thank you. Tell me how you used this.

A: I used it to observe the property line between them to see if it was correctly between them --

Q: Okay.

A: --- to see if it matched up, if there's any question or differences.

Q: Okay. And this plat for Marcedes also is dated March 9th, 2005. Do you see that?

A: Okay.

Q: All right. It, on the bottom, lists Ellenburg Road, WA-42 and it says, Ditch to ditch right-of-way. Do you see that?

A: Okay.

Q: Okay. And did you do any investigation as to how that indication ended up on the plat for the Marcedes property?

A: I don't understand your question.

Q: On this Cornerstone 2 ---

A: Yeah.

Q: --- it says, Ditch to ditch right-of-way. It says, Ditch to ditch right-of-way, on the bottom there, does it not?

A: Okay.

Q: Okay.

A: So it does.

Q: Did you use that to determine that there was a right-of-way on Ellenburg Road in ---

A: No, sir.

Q: Okay.

A: I just observed that there was -- that people were using it. It was a paved road. It's got a County number on it. I didn't use it to determine if it had a right-of-way or not, because I don't know -- just like I said, a right-of-way is only given by a deed. Now, I did not find any deeds to anything -- to them concerning that road.

(Henderson Dep. 23:21-24:23)

Deposition Exhibit 3, Page 3

Q: The next page is Cornerstone 3.

A: Okay.

Q: And this is a plat dated August 20th, 1974. Do you see that?

A: I see that.

Q: Okay. Is this the property that you prepared a plat for that ended in tax map number 099?

A: It's a portion of it.

Q: In fact, it looks like the plat you prepared for the Ratliffs in 2020 -- I'm sorry. May be the wrong page here. Cornerstone 3. No, it is right. I just don't have the red on mine.

A: It is the property, yes, that we used as a reference for our property.

Q: Okay. And does this -- the plat -- the 1974 plat, does it indicate a road running along what's identified as the Morgan property?

A: It does.

Q: Okay.

A: Centerline road on the plat.

Q: Okay. And does that road have any indication of a right-of-way that you see?

A: Well, it doesn't specify anything about a right-of-way.

Q: Okay.

A: It shows basically that's the edge of the road. And being dashed may indicate that it was a dirt road.

(Henderson Dep. 24:24-25:11; 26:6-27:25)

Deposition Exhibit 3, Page 4

Q: The next page of your file, Cornerstone 4, is a plat prepared for Steve Kempinski and Janet Streeter-Kempinski. Do you ---

A: Okay.

Q: --- see that? And did you use this document to prepare the Ratliff plat?

A: I used it to check the boundary line. Yes, sir.

Q: And this is a plat of 565 Ellenburg, correct?

A tax map ending in 103?

A: Okay.

Q: Do you agree with that?

A: It's a portion of that 103.

...

Q: Right. The Kempinski plat we're looking at is from 1994, correct?

A: Okay.

Q: And it shows Ellenburg Road on that -- on this plat, doesn't it?

A: It does.

Q: And it says, Ditch to ditch right-of-way. Do you see that?

A: I see that.

Q: Do you have any idea what documents supported the labeling of this as a ditch to ditch right-of-way?

A: No, sir. I don't know that there's a ditch to ditch right-of-way on it, other than the observation.

Q: Okay. Did this -- on the Kempinski plat, the label of the ditch to ditch right-of-way, did that in any way cause you to label the Ratliff's plat as a ---

A: I did not label the plat ditch to ditch on my plat, because I did not have a document saying that, a legal document. Just because a plat says this, doesn't mean that there's a deed that gave them a right-of-way of ditch to ditch. It may be a prescriptive easement, but they may have to go to court to get that.

Q: Mr. Henderson, what do you understand to be a prescriptive easement? What do you understand a prescriptive easement to be?

A: A use.

Q: Did you say a use?

A: I did.

Q: Okay. Did you make any determination one way or the other whether the County has a prescriptive easement over the property that you platted in November 2020?

A: I'm not sure I understand the question.

Q: Have you made a determination whether Oconee County has a prescriptive easement in front of the Ratliff properties that you platted?

A: I didn't make a determination about anything. All I said is that there's a road there, and I didn't indicate that they had any rights at all. I mean, the deed is what gives you a right.

(Henderson 28:1-5, 28:16-30:14, 20-31:9)

Deposition Exhibit 3, Page 6, Page 8

Q: Let's look at the next plat you prepared, which was on Cornerstone -- and this is, I think, 6. Unfortunately, it's cut off.

A: Page six?

Q: Yes, please.

....

Q: Okay. This is a plat you prepared for James Ratliff and you dated it March 24th, 2021; is that correct?

A: That is correct.

Q: Okay. This plat also has a notation on the Ellenburg Road side. It says, Ellenburg Road, WA-42, subject to RW, public, correct?

A: That's correct.

Q: Okay. For this plat, did you see any written documents that would support the existence of a public right-of-way on this section of Ellenburg Road?

A: No.

Q: So why did you indicate on this plat that there was a public right-of-way on this section of Ellenburg Road?

A: Ask that question again.

Q: Why did you place a notation that this property was subject to a right-of-way, public along Ellenburg Road?

A: Because there was a road -- a paved road there.

Q: Anything else?

A: No, sir.

Q: This March '21 plat, it references plat book P39, page 61. Do you see that?

A: Yes, sir.

Q: So if we turn two pages over to Cornerstone 08, this is a plat that's recorded in P39, 61, right?

A: That's correct.

Q: Okay. You reference this plat as part of your work on the ---

A: I did.

Q: Is Ellenburg Road or a road shown on this 1974 plat?

A: It says centerline of the road, the property line, and it shows a dashed road, maybe indicating a dirt road.

Q: Okay. Is there any indication on this plat of a public right-of-way?

A: Of a what?

Q: Of a public right-of-way.

A: No, sir. Not -- it doesn't say public. It just says road. It shows a road there.

Q: In your understanding, if there was not a public right-of-way in 1974, and if there became a public right-of-way in 2021, what would have to happen for there to become a public right-of-way?

....

Q: Do you have ---

A: I'm not a lawyer.

Q: I understand you're not a lawyer. I'm asking you, in your experience as a surveyor, do you have any understanding of what would need to take place ---

A: I've already told you that for a right-of-way to exist, there has to be a deed to it. Somewhere along the line, somebody has to give that right-of-way to some other person to then have that right.

Q: And you've not seen any documents showing ---

A: I have not seen any documents. It has not shown up in any deeds that I have concerning that piece of property.

(Henderson 32:4-33:4)

Deposition Exhibit 4

Q: 4 is -- the top page of Exhibit 4, there's a document printout from qPublic for 585 Ellenburg Road. Do you see that?

A: Okay.

Q: Okay. And it has tax map 099. Do you see that?

A: All right.

Q: And the second page of Exhibit 4 is the plat that you prepared for the Ratliffs in ---

A: That's correct.

Q: --- November 23rd, 2020?

....

A: That's correct.

Q: Okay. And then the document after that is a plat from 1974 identified as in volume P-61, page 577. Do you see that?

A: That's correct.

Q: Okay. So my question for you on this property, do you know of any other documents between 1974 and 2021 that would indicate the creation or existence of a public right-of-way along Ellenburg Road in front of ---

A: No, sir.

Q: --- 585 Ellenburg Road?

A: No, sir.

(Henderson 33:5-23)

Deposition Exhibit 5

Q: Exhibit 5, if you would look at that, is for 599 Ellenburg Road. It's another document from qPublic on the first page. It has -- ends -- tax map that ends in 100. Do you see that?

A: I see that.

Q: Okay. And then the second page of Exhibit 5 is the plat you prepared for the Ratliffs in 2021, correct?

A: That's correct.

Q: And then the third page of Exhibit 5 is the reference plat from 1974 that was recorded in volume P-39, page 61. Do you see that?

A: That's correct.

Q: Okay. And then the same question for you on this property is, do you know of any documents between 1974 and 2021 that would indicate the creation of a public right-of-way along Ellenburg Road in front of 599 Ellenburg Road?

A: No, sir.

(Henderson Dep. 38:8-24)

Q: Do you -- as part of your process, do you tend to look at other plats that have been prepared near the property as part of your process?

A: Only those that -- for the first part, I was not establishing the road right-of-way or anything on my plat, because the filer goes to the centerline of the road. All I was doing a boundary survey. I wasn't asked to prepare a road right-of-way survey. I did not prepare a road right-of-way survey. I was not asked to indicate if there was a road right-of-way out there. All I was doing was supplying a as- built survey for the banks to show where the house was, and see if it was properly located, and if there was any encroachments for the survey. So, you asked me something that I wasn't asked to do.

(Henderson Dep. 51:17-52:16)

Examination by Mr. Logan

Q: Correct. I understand. I understand. So, since at least -- as far as these plats are concerned, since 1974, this has been shown as a WA-42 road ---

Q: --- is that correct?

A: Well, I don't know about how long the numbers have been in the system. They don't indicate a number on those plats.

Q: At least based on the plats that you have done.

A: It is on my plat.

Q: On your plats.

A: But as far as if it was a County road in '74, I have no knowledge.

Q: But we've looked at a plat in '74 that shows that same road.

A: Shows a road, yes.

Q: Yes, okay.

A: Whether it was a County road, I don't know. You know, what I'm saying is, I do not know if the County had designated it as a public road at that time or not.

Q: But you do know that plats, since 1974, have shown it with that designation?

A: Shown a road, yes.

(Henderson Dep. 58:19-60:10)

Q: Plat prepared for James Ratliff and Lucretia Morgan, November the 23rd of 2020.

A: Yeah, that's the plat I did.

Q: That's the plat you did. Yes, sir. Now, you show that there are pins on each side of the property that I believe your testimony was mark where the road crosses that property on either side. Is that right?

A: No, that's not what I said. I said that those pins were put usually as a reference to the centerline of the road, because the ones in the centerline of the road gets knocked out. It doesn't indicate a right-of-way. A right-of-way is only specified with a deed.

Q: And I'm not asking you that. What I'm asking you for is, what is the purpose of those two pins that are shown along the right-of-way that you have shown by a dash mark?

A: They are witness pins to the centerline of the road in case those pins in the centerline of the road get knocked out or covered up, and they're put in different intervals. You know, sometimes 15, sometimes 20, 30 foot, 50 feet. It just is a witness pin.

Q: And they are put in this case along the edge of the right-of-way; is that correct?

A: No, sir.

A: No, sir. There's no right-of-way -- there is no right-of-way, per se. That right-of-way is for the -- to indicate that there may be a possible right-of-way there.

Q: Okay.

A: A right-of-way is only transferred with a deed.

Q: Okay.

A: And the plats do not give title to anything.

Q: My question, did you put those pins there?

A: No, sir.

Q: So, those pins that you show on your plat of November of 2020 were already in place; is that right?

A: That is correct.

(Henderson Dep. 65:8-22)
Examination by Mr. Holliday

Q: Okay. When you put a road on a map, do you rely on what the County records say about whether that road is public or private or is that designation something that's important to you for you to put on a plat?

A: Well, it's important to know if it was a private road, you know, or not.

Q: If it was private, does the County have a designation for that?

A: On some private roads, yes. On some, they don't.

Q: How would the County designate a private road?

A: I think they've got a numbering system, but I don't know. It's not -- if they had a sign out there on the road, I don't know.

(Henderson 68:21-70:3)

Q: Okay. So that deed, Defendants' 1, says, 1.225 acres, more or less, as shown on a plat by Schumacher Engineering Services dated August 28th, 1974 and recorded in plat book P-39 at 61?

A: Yes, sir.

Q: And that's the same that Mr. Paavola gave you that came out of your file?

A: That is correct.

Q: And that shows a road, correct?

A: It indicates to me a dirt road.

Q: Okay. And that road -- it says, Centerline of road is the property line, correct?

A: That's what it says.

Q: Okay. But that road would have existed in 1974 to be on this plat. right?

A: That is correct.

Q: And so that would mean that that road existed in the '80s when Mr. Ratliff obtained that property, correct?

A: I assume.

Q: Okay. You've said it's a dirt road. What about the hash marks there indicate that to you?

A: Well, usually in general the drawing technology, a dash road indicates a dirt road, where the solid roads may indicate a paved road. But that's not true in all situations, but generally is the nomenclature of how they do things.

Q: Okay. But this could have been a paved road?

A: It could have been a paved road.

Respectfully submitted,

s/ David L. Paavola

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Mark A. Bible, Jr. (S.C. Bar No. 101624)

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Counsel for Plaintiffs

June 11, 2024
Columbia, SC

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF OCONEE) C/A #: 2022-CP-37-00447

Frances J. Ratliff, Edward J.
Ratliff, Jr., James L. Ratliff,
Lucretia B. Morgan, Sherri Akers
Crisp, Amy Cawthon,

Plaintiffs,

V.

Oconee County, Globe, A South
Carolina Limited Partnership,
Farmes, A South Carolina Limited
Partnership,

Defendants.

DEPOSITION OF
MICHAEL HENDERSON

* * * * *

Monday, October 30, 2023
9:20 a.m. - 10:56 a.m.

The deposition of Michael Henderson, taken on behalf of the Plaintiffs at the law offices of Derrick Ritter Williams & Morris, P.A., 107 N. Fairplay Street, Seneca, South Carolina, on the 30th day of October, 2023 before Nadine A. Garrett, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

R-000656

1 (Plaintiffs' Exhibit Numbers 1 through 3 were marked
2 prior to the deposition.)

3 MICHAEL HENDERSON, having been duly sworn, deposes
4 and testifies as follows:

5 MR. HENDERSON - EXAMINATION BY MR. PAAVOLA:

6 Q: Good morning, Mr. Henderson. My name is David
7 Paavola, and I represent the Ratliff family in
8 this case.

9 A: You'll have to speak up. I'm a little short of
10 hearing.

11 Q: Okay. My name is David Paavola, and I
12 represent the Ratliff family in this case. Is
13 that good volume-wise?

14 A: Okay.

15 Q: Okay. Will you please state your full name for
16 the record?

17 A: Michael L. Henderson.

18 Q: Mr. Henderson, have you ever been deposed
19 before? Have you been deposed before?

20 A: Well, I've had -- yes.

21 Q: Okay. So the rules require me to remind you of
22 kind of the procedure. This is a question-and-
23 answer session. You understand that, right?

24 A: I guess.

25 Q: Okay. I need you to verbalize your responses,



1 which you're already doing, rather than head
2 nods and head shakes, right? So, you verbalize
3 your responses, okay?

4 A: All right.

5 Q: All right. And also, which we're already
6 doing, but if you'll give me a chance to finish
7 my questions, I'll let you finish your answers.
8 We'll take turns, so the court reporter can
9 take down a transcript, okay? Do you
10 understand that?

11 A: Yes, sir.

12 Q: You're under oath today, just as if you were
13 sitting in a court of law. Do you understand
14 that?

15 A: I understand that.

16 Q: Okay. And if you have any confusion about a
17 question I ask, just, if you want to ask me to
18 clarify, I'm happy to do that, okay?

19 A: I'm certain I will.

20 Q: Okay. I don't think we'll be here particularly
21 long today, but if you need a break, just go
22 ahead and ask me, I'm happy to take a break.
23 And we'll take a break regularly anyway, but,
24 again, I don't think it'll be that long today.

25 Okay. The other attorneys sitting at the



1 that we requested. Do you see that?

2 A: I see that.

3 Q: And did you provide documents in response to
4 the subpoena?

5 A: I emailed them to you. Yes, sir.

6 Q: And this asks for your complete file in
7 relation to the plat prepared as attached as
8 exhibit one. Did you provide your complete
9 file?

10 A: I did.

11 Q: And it asks the same, a complete file for the
12 survey, a plat prepared as exhibit two. Did
13 you also provide your complete file for that
14 survey?

15 A: As far as I know, I did.

16 Q: And we also asked you to provide any records
17 reflecting or supporting the existence of a
18 public right-of-way along Ellenburg Road as
19 reflected on the attached plats. Did you
20 provide any documents related to that?

21 A: Other than what I sent you, no.

22 Q: I mean, did you provide all of the documents
23 you had?

24 A: I provided all of the documents I had at that
25 time.



1 Q: Okay.

2 A: Yes, sir.

3 Q: And then finally, we asked if you had any
4 communications with Oconee County or any other
5 person concerning the existence ---

6 A: No, I did not.

7 Q: Please let me finish my question. I know it
8 gets long.

9 I was asking about number four. We asked
10 you to provide any communications with Oconee
11 County and any other person concerning the
12 existence of a public right-of-way. And I
13 believe your answer was ...

14 A: No.

15 Q: Okay. You didn't have any other
16 communications?

17 A: No.

18 Q: Okay. I'm going to hand you what's been marked
19 as Exhibit 3. If you'd please look through
20 that stack of documents, and let me know when
21 you've had a chance to review it. Have you had
22 a chance to review that, Mr. Henderson?

23 (Plaintiffs' Exhibit Number 3 was introduced.)

24 A: I'm familiar with the document.

25 Q: Okay.



1 A: Yes, sir.

2 Q: And we have -- are these the files you prepared
3 -- provided in response to the subpoena we had
4 sent to you?

5 A: Yes, sir.

6 Q: Are there any other documents that I have not
7 included in this stack that you've ---

8 A: Not that I have.

9 Q: Okay. And we have taken what you provided to
10 us and we have placed a number on the bottom,
11 what we call a Bates stamp. And it's labeled
12 Cornerstone 1 through Cornerstone 11. I'll be
13 referring to those pages ---

14 A: Okay.

15 Q: --- throughout the deposition.

16 This first page, this is Bates stamped
17 Cornerstone 1. Can you please describe what
18 this document is reflecting?

19 A: I don't see any numbers on these. Maybe I'm
20 missing pages. It's taken somewhere, but I
21 don't see any numbers on there.

22 Q: Okay. The first page. Okay. Let me look and
23 see. It's right here. You see Cornerstone 1?
24 It'll be right in the middle of the page. Do
25 you see that?



1 see that?

2 A: I see that.

3 Q: Okay. Let me ask you to look at page
4 Cornerstone 05, which is the November of 2020
5 plat.

6 A: You'll have to look at me and speaking up,
7 rather than talking into the paper.

8 Q: Look at Cornerstone 5, the fifth page ---

9 A: Okay.

10 Q: --- of your documents. Okay. You see this is
11 -- at the bottom of this plat, there's an
12 indication, it says, Ellenburg Road, WA-42,
13 Subject to R/W, Public. Do you see that?

14 A: I do.

15 Q: Okay. And you added that indication onto this
16 plat, right?

17 A: I did.

18 Q: So, tell me how you came to conclude that that
19 indication should be added on this.

20 A: I looked at the County and State roads'
21 numbers, South Carolina Department of DOT.
22 It's online.

23 Q: And what did you see on DOT?

24 A: It's just a map of all of the counties. It's
25 got the road numbers on it.



- 1 Q: Okay. Other than looking at the SCDOT website,
2 did you look at any other documents?
- 3 A: Not to my knowledge. Not to figure out the
4 road number. I mean, it has the name on it.
5 It's on the County website.
- 6 Q: The name of the road is on the website?
- 7 A: That's correct.
- 8 Q: Okay. What about the notation that there's a
9 public right-of-way along this section of
10 Ellenburg Road in front of this property?
- 11 A: Well, I just said it was subject to a right-of-
12 way, if there is one.
- 13 Q: Okay. Do you know if there is one, in fact?
- 14 A: No, I do not know that there's one.
- 15 Q: Okay.
- 16 A: I didn't see anything in their deed that
17 specified that there was a right-of-way on the
18 road.
- 19 Q: Okay. Did you see any documents indicating
20 that there is a right-of-way in front of this
21 property on Ellenburg Road?
- 22 A: Repeat that question?
- 23 Q: Did you see any documents indicating that there
24 is a right-of-way on Ellenburg Road in front of
25 this property?



1 A: Well, a right-of-way has to be in the deed, and
2 I did not see anything in the deed.

3 Q: Okay. What caused you to add the language here
4 that says it's subject to a right-of-way,
5 public?

6 A: Because there's a road out there.

7 Q: Okay. And so there's a road out there, and
8 because it's identified as -- has a County name
9 to it, is that -- you concluded that there's a
10 right-of-way that belongs to the County? Is
11 that what happened?

12 A: Well, people are using it. I assume that
13 there's a right-of-way there of some kind. But
14 not necessarily a legal right-of-way, as far as
15 defined as in a deed or easement papers that's
16 recorded at the courthouse.

17 Q: Mr. Henderson, do you hold a license -- any
18 license in South Carolina?

19 A: I have a surveyor's license.

20 Q: Okay. And how long have you been a licensed
21 surveyor?

22 A: Since 1977, is when I took the test. I got my
23 license as soon as they mailed it to me,
24 probably early '78.

25 Q: And that license is current, right?



1 A: No.

2 Q: Okay. I'm sorry. As of the date of this plat,
3 November of '22 -- November of 2020, it was
4 current?

5 A: Repeat that question.

6 Q: I said, your license is current? Do you still
7 hold ---

8 A: Yes, sir.

9 Q: --- a license today?

10 All right. So as a surveyor, are there
11 requirements that have to be met before you
12 indicate on a plat that a right-of-way exists?

13 A: Well, a surveyor's obligation is to show what's
14 there on the ground. If it's obvious -- it
15 looks like there's a road there, you show that
16 there's some right-of-way. That's all we do,
17 is observe. We don't create or make any right-
18 of-ways. That's all done by deeds and
19 attorneys.

20 Q: Okay. So your writing that this portion of
21 Ellenburg road is subject to a public right-of-
22 way. Does that create a right-of-way?

23 A: Repeat.

24 Q: When you wrote that -- you wrote on this plat
25 that it was subject to a right-of-way, public,



1 correct?

2 A: Yes, because people public -- people were using
3 the road. That's what I observed.

4 Q: Does your -- but does your writing that on the
5 plat, does that make it a legal, official
6 right-of-way?

7 A: No, absolutely not. All of that has to be
8 transferred by a deed.

9 Q: On this plat dated November 23rd, 2020, there's
10 an RW line running across the bottom of that
11 property. Do you see that?

12 A: I see that.

13 Q: And RW, does that indicate a right-of-way?

14 A: Well, it's indication that there is a potential
15 right-of-way there.

16 Q: Okay. And how did you determine that there's
17 a potential right-of-way at that location
18 across the front of the property?

19 A: Well, there was an iron pin that I found out
20 there that is approximately that distance from
21 the centerline of the road that someone set
22 prior to me getting there.

23 Q: And what would an iron pin indicate to you as
24 a surveyor?

25 A: Well, it's usually put on the other side of a



1 ditch, especially on a road like that, which is
2 commonly called a ditch to ditch right-of-way,
3 since there's no public record of the right-of-
4 way that I found. They just put a corner on
5 the other side of the ditch, so that -- where
6 they scrape it or the County maintains it,
7 knocked it out. It has no meaning, per se. I
8 mean, it could be at 33, or it could be at 50,
9 it could be at ten.

10 Q: And where on the plat are you indicating that
11 pin is? Or have -- Sorry. Have you indicated
12 that location of that pin?

13 A: It says, iron rod found, pipe, there.

14 Q: And I'm sure it does. If you'll help me find
15 it.

16 A: Right there.

17 Q: Okay. Is it where it says, one and a half inch
18 I period pipe FD?

19 A: Yes, sir.

20 Q: Okay. So I is iron, FD is found?

21 A: That's correct.

22 Q: Okay. You also indicated -- it says, PWR. Is
23 that a power line?

24 A: That's correct.

25 Q: And was that something you observed, you know,



1 by standing there and you could see it visually
2 or was there a written document that reflects
3 a power line right-of-way?

4 A: Yeah, we visually saw the power line.

5 MR. LOGAN: What number is that?

6 MR. PAAVOLA: I think it's five, yeah.

7 MR. BRANDT: You've got the documents and I just
8 want to know which one. This one is the one
9 he's referring to, right? Does it have a
10 separate number on it?

11 MR. PAAVOLA: Yeah, it's Cornerstone 5. It's kind
12 of ---

13 MR. BRANDT: Cornerstone 5?

14 MR. PAAVOLA: Yeah.

15 Q: Mr. Henderson, I'd like to direct your
16 attention to the second page of Exhibit 3, the
17 second page, which is ---

18 A: Okay.

19 Q: --- Cornerstone 2. This was provided in your
20 file. This is a plat prepared for Brian
21 Marcedes. Do you see that at the top?

22 A: I do.

23 Q: Okay.

24 MR. LOGAN: Which one is this? I'm sorry.

25 MR. PAAVOLA: This is Cornerstone 2.



1 MR. LOGAN: Cornerstone 2.

2 MR. BRANDT: What was the name on that that you gave
3 him? Didn't you give somebody's name?

4 MR. PAAVOLA: I'm reading this -- yeah, page two.

5 MR. BRANDT: Yeah, well, tell me what's on it.

6 MR. PAAVOLA: Brian Mercedes. I can't keep
7 repeating all of my questions.

8 MR. BRANDT: Well ---

9 Q: Mr. Henderson, this was in your file. Did this
10 -- let me ask you: Did this have -- did you
11 use this document in preparing your plat for
12 the Ratliffs?

13 A: Yes, sir. The adjoining plat.

14 Q: This is for the property next door to the
15 Ratliff property, correct? And that's not
16 really clear.

17 A: That is correct.

18 Q: This is for tax map number -- ends in 103; is
19 that right?

20 A: That is correct.

21 Q: And 103 is the property that's on the Knox Road
22 side of Ellenburg Road from the Ratliffs'
23 property, correct?

24 A: Please talk to me rather than the paper, so I
25 can understand what you're saying.



1 Q: Got it. 103 is 565 Ellenburg Road, right?

2 A: Okay.

3 Q: Okay. Did you use this document in your plat
4 for the Ratliffs, preparing your plat for the
5 Ratliffs? Did you use this document?

6 A: I did and I showed it as a reference on my
7 plat.

8 Q: Thank you. Tell me how you used this.

9 A: I used it to observe the property line between
10 them to see if it was correctly between them --
11 -

12 Q: Okay.

13 A: --- to see if it matched up, if there's any
14 question or differences.

15 Q: Okay. And this plat for Marcedes also is dated
16 March 9th, 2005. Do you see that?

17 A: Okay.

18 Q: All right. It, on the bottom, lists Ellenburg
19 Road, WA-42 and it says, Ditch to ditch right-
20 of-way. Do you see that?

21 A: Okay.

22 Q: Okay. And did you do any investigation as to
23 how that indication ended up on the plat for
24 the Marcedes property?

25 A: I don't understand your question.



1 Q: On this Cornerstone 2 ---

2 A: Yeah.

3 Q: --- it says, Ditch to ditch right-of-way. It
4 says, Ditch to ditch right-of-way, on the
5 bottom there, does it not?

6 A: Okay.

7 Q: Okay.

8 A: So it does.

9 Q: Did you use that to determine that there was a
10 right-of-way on Ellenburg Road in ---

11 A: No, sir.

12 Q: Okay.

13 A: I just observed that there was -- that people
14 were using it. It was a paved road. It's got
15 a County number on it. I didn't use it to
16 determine if it had a right-of-way or not,
17 because I don't know -- just like I said, a
18 right-of-way is only given by a deed. Now, I
19 did not find any deeds to anything -- to them
20 concerning that road.

21 Q: The next page is Cornerstone 3.

22 A: Okay.

23 Q: And this is a plat dated August 20th, 1974. Do
24 you see that?

25 A: I see that.



1 Q: Okay. Is this the property that you prepared
2 a plat for that ended in tax map number 099?

3 A: It's a portion of it.

4 Q: In fact, it looks like the plat you prepared
5 for the Ratliffs in 2020 -- I'm sorry. May be
6 the wrong page here. Cornerstone 3. No, it is
7 right. I just don't have the red on mine.

8 A: It is the property, yes, that we used as a
9 reference for our property.

10 Q: Okay. And does this -- the plat -- the 1974
11 plat, does it indicate a road running along
12 what's identified as the Morgan property?

13 A: It does.

14 Q: Okay.

15 A: Centerline road on the plat.

16 Q: Okay. And does that road have any indication
17 of a right-of-way that you see?

18 A: Well, it doesn't specify anything about a
19 right-of-way.

20 Q: Okay.

21 A: It shows basically that's the edge of the road.
22 And being dashed may indicate that it was a
23 dirt road.

24 Q: The next page of your file, Cornerstone 4, is
25 a plat prepared for Steve Kempinski and Janet



1 Streeter-Kempinski. Do you ---

2 A: Okay.

3 Q: --- see that? And did you use this document to
4 prepare the Ratliff plat?

5 A: I used it to check the boundary line. Yes,
6 sir.

7 Q: And this is a plat of 565 Ellenburg, correct?
8 A tax map ending in 103?

9 A: Okay.

10 Q: Do you agree with that?

11 A: It's a portion of that 103.

12 Q: Okay. It's kind of hard to see, but in the
13 reference, it says, Tax Map Number, and it ends
14 in 103, right?

15 A: I had it referenced on the side of my plat as
16 I used this plat as a reference.

17 Q: Okay. Right. On the Ratliff plat from 2020,
18 you reference plat book B58, page five,
19 correct?

20 A: Also, I referenced this plat, too. That's how
21 they divided up that property. This plat has
22 been divided up. And so I used it as a
23 reference.

24 Q: I see. Yeah, you're referencing plat book
25 A296, page ten?



1 A: Yes.

2 Q: Which is the Kempinski plat?

3 A: That's what ---

4 Q: Okay.

5 A: I see that right here.

6 Q: Right. The Kempinski plat we're looking at is
7 from 1994, correct?

8 A: Okay.

9 Q: And it shows Ellenburg Road on that -- on this
10 plat, doesn't it?

11 A: It does.

12 Q: And it says, Ditch to ditch right-of-way. Do
13 you see that?

14 A: I see that.

15 Q: Do you have any idea what documents supported
16 the labeling of this as a ditch to ditch right-
17 of-way?

18 A: No, sir. I don't know that there's a ditch to
19 ditch right-of-way on it, other than the
20 observation.

21 Q: Okay. Did this -- on the Kempinski plat, the
22 label of the ditch to ditch right-of-way, did
23 that in any way cause you to label the
24 Ratliff's plat as a ---

25 A: I did not label the plat ditch to ditch on my



1 plat, because I did not have a document saying
2 that, a legal document. Just because a plat
3 says this, doesn't mean that there's a deed
4 that gave them a right-of-way of ditch to
5 ditch. It may be a prescriptive easement, but
6 they may have to go to court to get that.

7 Q: Mr. Henderson, what do you understand to be a
8 prescriptive easement? What do you understand
9 a prescriptive easement to be?

10 A: A use.

11 Q: Did you say a use?

12 A: I did.

13 Q: Okay. Did you make any determination one way
14 or the other whether the County has a
15 prescriptive easement over the property that
16 you platted in November 2020?

17 A: I'm not sure I understand the question.

18 Q: Have you made a determination whether Oconee
19 County has a prescriptive easement in front of
20 the Ratliff properties that you platted?

21 A: I didn't make a determination about anything.
22 All I said is that there's a road there, and I
23 didn't indicate that they had any rights at
24 all. I mean, the deed is what gives you a
25 right.



1 Q: Let's look at the next plat you prepared, which
2 was on Cornerstone -- and this is, I think, 6.
3 Unfortunately, it's cut off.

4 A: Page six?

5 Q: Yes, please.

6 MR. LOGAN: What does it look like for me? Because
7 I don't have a number on it.

8 MR. PAAVOLA: I mean, it's before seven.

9 A: I'm not sure I have six, but I've got three,
10 four ---

11 Q: It's the second plat you prepared for the
12 Ratliffs in 2021.

13 A: Okay. Okay.

14 Q: Yeah, it's cut off in the ---

15 A: All right. I'm looking at it.

16 Q: Okay. This is a plat you prepared for James
17 Ratliff and you dated it March 24th, 2021; is
18 that correct?

19 A: That is correct.

20 Q: Okay. This plat also has a notation on the
21 Ellenburg Road side. It says, Ellenburg Road,
22 WA-42, subject to RW, public, correct?

23 A: That's correct.

24 Q: Okay. For this plat, did you see any written
25 documents that would support the existence of



1 a public right-of-way on this section of
2 Ellenburg Road?

3 A: No.

4 Q: So why did you indicate on this plat that there
5 was a public right-of-way on this section of
6 Ellenburg Road?

7 A: Ask that question again.

8 Q: Why did you place a notation that this property
9 was subject to a right-of-way, public along
10 Ellenburg Road?

11 A: Because there was a road -- a paved road there.

12 Q: Anything else?

13 A: No, sir.

14 Q: This March '21 plat, it references plat book
15 P39, page 61. Do you see that?

16 A: Yes, sir.

17 Q: So if we turn two pages over to Cornerstone 08,
18 this is a plat that's recorded in P39, 61,
19 right?

20 A: That's correct.

21 Q: Okay. You reference this plat as part of your
22 work on the ---

23 A: I did.

24 Q: Is Ellenburg Road or a road shown on this 1974
25 plat?



1 A: It says centerline of the road, the property
2 line, and it shows a dashed road, maybe
3 indicating a dirt road.

4 Q: Okay. Is there any indication on this plat of
5 a public right-of-way?

6 A: Of a what?

7 Q: Of a public right-of-way.

8 A: No, sir. Not -- it doesn't say public. It
9 just says road. It shows a road there.

10 Q: In your understanding, if there was not a
11 public right-of-way in 1974, and if there
12 became a public right-of-way in 2021, what
13 would have to happen for there to become a
14 public right-of-way?

15 MR. BRANDT: I'm going to object to the form of that
16 question. I think he's not a lawyer.

17 Q: You can answer it.

18 THE WITNESS: Thank you.

19 MR. LOGAN: Same objection.

20 Q: Do you have ---

21 A: I'm not a lawyer.

22 Q: I understand you're not a lawyer. I'm asking
23 you, in your experience as a surveyor, do you
24 have any understanding of what would need to
25 take place ---



1 A: I've already told you that for a right-of-way
2 to exist, there has to be a deed to it.
3 Somewhere along the line, somebody has to give
4 that right-of-way to some other person to then
5 have that right.

6 Q: And you've not seen any documents showing ---

7 A: I have not seen any documents. It has not
8 shown up in any deeds that I have concerning
9 that piece of property.

10 MR. PAAVOLA: Okay. I believe that's 4.

11 COURT REPORTER: Yes, sir.

12 MR. LOGAN: Are you through with Exhibit 2?

13 MR. PAAVOLA: Let me just mark this for you. Here's
14 Four and Five.

15 (Plaintiffs' Exhibit Numbers 4 and 5 were marked for
16 identification purposes.)

17 MR. LOGAN: Did you hear my question? Are you
18 through with Exhibit ---

19 MR. PAAVOLA: I don't know. I may use it later. I
20 don't know what you're asking me, Jim.

21 Q: Mr. Henderson, I'm going to hand you what's
22 been marked as Exhibits 4 and 5. Let's look at
23 Exhibit 4 first. On 4 ---

24 MR. LOGAN: Which is 4, please, so I can see ---

25 MR. PAAVOLA: I'm sorry. 4 is ---



1 MR. LOGAN: --- what you're looking at.

2 MR. PAAVOLA: --- 585 Ellenburg. 585 Ellenburg.

3 MR. LOGAN: 585 Ellenburg.

4 Q: 4 is -- the top page of Exhibit 4, there's a
5 document printout from qPublic for 585
6 Ellenburg Road. Do you see that?

7 A: Okay.

8 Q: Okay. And it has tax map 099. Do you see
9 that?

10 A: All right.

11 Q: And the second page of Exhibit 4 is the plat
12 that you prepared for the Ratliffs in ---

13 A: That's correct.

14 Q: --- November 23rd, 2020?

15 A: Excuse me.

16 Q: You're okay.

17 A: That's correct.

18 Q: Okay. And then the document after that is a
19 plat from 1974 identified as in volume P-61,
20 page 577. Do you see that?

21 A: That's correct.

22 Q: Okay. So my question for you on this property,
23 do you know of any other documents between 1974
24 and 2021 that would indicate the creation or
25 existence of a public right-of-way along



1 Ellenburg Road in front of ---

2 A: No, sir.

3 Q: --- 585 Ellenburg Road?

4 A: No, sir.

5 Q: Exhibit 5, if you would look at that, is for
6 599 Ellenburg Road. It's another document from
7 qPublic on the first page. It has -- ends --
8 tax map that ends in 100. Do you see that?

9 A: I see that.

10 Q: Okay. And then the second page of Exhibit 5 is
11 the plat you prepared for the Ratliffs in 2021,
12 correct?

13 A: That's correct.

14 Q: And then the third page of Exhibit 5 is the
15 reference plat from 1974 that was recorded in
16 volume P-39, page 61. Do you see that?

17 A: That's correct.

18 Q: Okay. And then the same question for you on
19 this property is, do you know of any documents
20 between 1974 and 2021 that would indicate the
21 creation of a public right-of-way along
22 Ellenburg Road in front of 599 Ellenburg Road?

23 A: No, sir.

24 MR. PAAVOLA: Where are we at now? 6.

25 (Plaintiffs' Exhibit Number 6 was marked for



1 scale.

2 Q: This is not something you used to prepare your
3 plats, was it?

4 A: Well, usually when we prepare our plats, we go
5 by what's out there on the ground and the
6 number that's on the ground on that road is WA-
7 42.

8 Q: Do you -- as part of your process, do you tend
9 to look at other plats that have been prepared
10 near the property as part of your process?

11 A: Only those that -- for the first part, I was
12 not establishing the road right-of-way or
13 anything on my plat, because the filer goes to
14 the centerline of the road. All I was doing a
15 boundary survey. I wasn't asked to prepare a
16 road right-of-way survey. I did not prepare a
17 road right-of-way survey. I was not asked to
18 indicate if there was a road right-of-way out
19 there. All I was doing was supplying a as-
20 built survey for the banks to show where the
21 house was, and see if it was properly located,
22 and if there was any encroachments for the
23 survey. So, you asked me something that I
24 wasn't asked to do.

25 Q: I understand. Mr. Henderson, do you have any



1 It looks like this.

2 A: It doesn't have a number on it, but, yeah, I
3 assume that that's the plat that -- or the ---

4 Q: And it's taken in November of 2020; is that
5 correct?

6 A: Yes, sir. That is my plat.

7 Q: That is your plat. And on that plat, you
8 continue with designating Ellenburg Road as WA-
9 42 as the previous plats have done; is that
10 correct?

11 **MR. PAAVOLA:** Object to form.

12 A: That's ---

13 Q: Sir?

14 A: That is correct in the sense that I knew that
15 that was -- I mean, that road number was 42 and
16 there's a road out there.

17 Q: Correct. I understand. I understand. So,
18 since at least -- as far as these plats are
19 concerned, since 1974, this has been shown as
20 a WA-42 road ---

21 **MR. PAAVOLA:** Object to the form.

22 Q: --- is that correct?

23 A: Well, I don't know about how long the numbers
24 have been in the system. They don't indicate
25 a number on those plats.



1 Q: At least based on the plats that you have done.

2 A: It is on my plat.

3 Q: On your plats.

4 A: But as far as if it was a County road in '74,
5 I have no knowledge.

6 Q: But we've looked at a plat in '74 that shows
7 that same road.

8 A: Shows a road, yes.

9 Q: Yes, okay.

10 A: Whether it was a County road, I don't know.
11 You know, what I'm saying is, I do not know if
12 the County had designated it as a public road
13 at that time or not.

14 Q: But you do know that plats, since 1974, have
15 shown it with that designation?

16 A: Shown a road, yes.

17 MR. PAAVOLA: Object to the form.

18 Q: Have shown it with that designation?

19 MR. PAAVOLA: Object to the form.

20 A: Well, I don't know when the designation was
21 indicated. In '74, the plat doesn't indicate
22 there's a number on it.

23 Q: Okay. In ---

24 A: The one in '94 ---

25 Q: --- 1974 ---



1 A: No, sir.

2 Q: Okay. Okay. And then if you will look at the
3 plat for James and -- James Ratliff and
4 Lucretia Morgan that's also a part of that
5 exhibit.

6 A: What number is that?

7 Q: Well, it's Exhibit 3, but it's one of the
8 documents behind that's been -- it's part of
9 Exhibit 3. It's the one that looks like this.

10 A: That's my plat?

11 MR. BRANDT: Is there a number on the bottom of
12 that, Jimmy?

13 MR. LOGAN: Well, it's got a ---

14 MR. BRANDT: Bates number?

15 MR. LOGAN: A Bates number? No. Let's see. This
16 is part of Bates number -- I mean Number 3,
17 Exhibit Three.

18 MR. BRANDT: Okay.

19 Q: Plat prepared for James Ratliff and Lucretia
20 Morgan, November the 23rd of 2020.

21 A: Yeah, that's the plat I did.

22 Q: That's the plat you did. Yes, sir. Now, you
23 show that there are pins on each side of the
24 property that I believe your testimony was mark
25 where the road crosses that property on either



1 side. Is that right?

2 A: No, that's not what I said. I said that those
3 pins were put usually as a reference to the
4 centerline of the road, because the ones in the
5 centerline of the road gets knocked out. It
6 doesn't indicate a right-of-way. A right-of-
7 way is only specified with a deed.

8 Q: And I'm not asking you that. What I'm asking
9 you for is, what is the purpose of those two
10 pins that are shown along the right-of-way that
11 you have shown by a dash mark?

12 A: They are witness pins to the centerline of the
13 road in case those pins in the centerline of
14 the road get knocked out or covered up, and
15 they're put in different intervals. You know,
16 sometimes 15, sometimes 20, 30 foot, 50 feet.
17 It just is a witness pin.

18 Q: And they are put in this case along the edge of
19 the right-of-way; is that correct?

20 A: No, sir.

21 **MR. PAAVOLA:** Object to the form.

22 A: No, sir. There's no right-of-way -- there is
23 no right-of-way, per se. That right-of-way is
24 for the -- to indicate that there may be a
25 possible right-of-way there.



1 Q: Okay.

2 A: A right-of-way is only transferred with a deed.

3 Q: Okay.

4 A: And the plats do not give title to anything.

5 Q: My question, did you put those pins there?

6 A: No, sir.

7 Q: So, those pins that you show on your plat of
8 November of 2020 were already in place; is that
9 right?

10 A: That is correct.

11 Q: Okay. Did you actually locate the pins that
12 were in the center of the road?

13 A: Well, I set one mag nail in the centerline of
14 the road. I found a mag nail in the centerline
15 of the road, I set a mag nail in the centerline
16 of the road, and I found a railroad spike in
17 the centerline of the road.

18 Q: Okay. So, let's focus on what is marked on
19 here in a dash line, the right-of-way line,
20 okay?

21 A: Okay.

22 Q: So, you found the pin on the -- if I'm looking
23 at the plat, on the right side of the property
24 line for -- that coincides with the point where
25 you show a right-of-way?



1 coordinates, but do you have any way of saying
2 where that would have been, if you look at
3 Exhibit 7, which is the road map before the
4 lake was filled in?

5 **(Plaintiffs' Exhibit Number 7 was referenced.)**

6 A: No, sir. Not without taking it and overlaying
7 it over something.

8 Q: Okay. When you put a road on a map, do you
9 rely on what the County records say about
10 whether that road is public or private or is
11 that designation something that's important to
12 you for you to put on a plat?

13 A: Well, it's important to know if it was a
14 private road, you know, or not.

15 Q: If it was private, does the County have a
16 designation for that?

17 A: On some private roads, yes. On some, they
18 don't.

19 Q: How would the County designate a private road?

20 A: I think they've got a numbering system, but I
21 don't know. It's not -- if they had a sign out
22 there on the road, I don't know.

23 Q: Would it have a prefix similar to WA-42? Would
24 it say P or would it have some designation that
25 says -- designates that as a private road where



1 a lot of things that ---

2 Q: Well, what is ---

3 A: --- are hard to find.

4 Q: What is the plat reference in this deed? If
5 we're looking for a plat reference in this
6 deed, how are we describing this property in
7 Defendants' 1?

8 A: It says, P39 at 61.

9 Q: Okay. Can you look at the third page of
10 Exhibit 5 that ---

11 A: Yes.

12 Q: --- Mr. Paavola gave you?

13 **(Plaintiffs' Exhibit Number 5 was referenced.)**

14 A: Yeah, that's a plat by states Schumacher.

15 Q: Is that the same plat, the P39 at 61?

16 A: I'm assuming it is. Sometimes, they have
17 separate plats on different -- just two plats
18 on the same page.

19 Q: But that deed ---

20 A: But that's what is on this plat, yes.

21 Q: Okay. So that deed, Defendants' 1, says, 1.225
22 acres, more or less, as shown on a plat by
23 Schumacher Engineering Services dated August
24 28th, 1974 and recorded in plat book P-39 at
25 61?



1 A: Yes, sir.

2 Q: And that's the same that Mr. Paavola gave you
3 that came out of your file?

4 A: That is correct.

5 Q: And that shows a road, correct?

6 A: It indicates to me a dirt road.

7 Q: Okay. And that road -- it says, Centerline of
8 road is the property line, correct?

9 A: That's what it says.

10 Q: Okay. But that road would have existed in 1974
11 to be on this plat. right?

12 A: That is correct.

13 Q: And so that would mean that that road existed
14 in the '80s when Mr. Ratliff obtained that
15 property, correct?

16 **MR. PAAVOLA:** Object to the form.

17 A: I assume.

18 Q: Okay. You've said it's a dirt road. What
19 about the hash marks there indicate that to
20 you?

21 A: Well, usually in general the drawing
22 technology, a dash road indicates a dirt road,
23 where the solid roads may indicate a paved
24 road. But that's not true in all situations,
25 but generally is the nomenclature of how they



1 do things.

2 Q: Okay. But this could have been a paved road?

3 A: It could have been a paved road.

4 Q: Okay. If Ellenburg wasn't a public road,
5 wouldn't there have to be some sort of easement
6 or right-of-way from adjoining property owners
7 to allow the Ratliffs to get to their property?

8 MR. PAAVOLA: Object to the form.

9 A: Well, not necessarily.

10 Q: How so?

11 A: Well, people use other people's property all
12 the time to access their property. They may
13 not have an easement or a right to it.

14 Q: So, you're saying that either there would have
15 to be an easement or they would be trespassing,
16 if Ellenburg is not a public road?

17 MR. PAAVOLA: Object to the form.

18 A: Well, I'm not saying that they're trespassing.
19 I don't know. I mean, they may have got
20 permission from the people. You can't -- just
21 because it's not on record, just because
22 they're using something, doesn't mean that
23 anything -- what you're asking the question.

24 Q: So, I think that takes us back to where we were
25 talking earlier when you were talking about



STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMONS PLEAS
COUNTY OF OCONEE	)	
Frances J. Ratliff, Edward J. Ratliff, Jr.,	)	
James L. Ratliff, Lucretia B. Morgan,	)	DEFENDANTS,
Sherri Akers Crisp, Amy Cawthon,	)	GLOBE AND FARMES,
	)	NOTICE OF INTENDED USE
Plaintiffs,	)	<u>OF DEPOSITION AT TRIAL</u>
v.	)	
	)	Case No.: 2022-CP-37-00447
Oconee County, Globe, A South Carolina	)	
Limited Partnership, Farmes, A South	)	
Carolina Limited Partnership,	)	
	)	
Defendants.	)	
	)	

TO: DAVID L. PAAVOLA, ATTORNEY FOR PLAINTIFFS

Pursuant to the *South Carolina Rules of Civil Procedure*, the Defendants, Globe and Farmes, hereby serve notice that they intend to publish the following excerpt portions of deposition testimony at trial in the above matter:

30(B)(6) DEPOSITION OF OCONEE COUNTY – AUGUST 9, 2023
(TESTIMONY OF JAMES COLEY & KYLE REID)

James Coley:

Page 29, Line 23 – Page 30, Line 4
Page 41, Lines 3-11
Page 44, Lines 21-25
Page 59, Lines 9-19
Page 81, Lines 12-19
Page 114, Line 10 – Page 115, Line 24
Page 123, Line 18 – Page 124, Line 19
Page 126, Line 15 – Page 127, Line 7
Page 129, Line 5 – Page 131, Line 18
Page 123, Line 16 – Page 133, Line 16
Page 134, Line 21 – Page 135, Line 7

Kyle Reid:

Page 146, Line 21 – Page 147, Line 25
 Page 152, Line 11 – Page 157, Line 18
 Page 159, Line 7 – Page 162, Line 13
 Page 163, Line 2 – Page 166, Line 1
 Page 166, Line 20 – Page 167, Line 24
 Page 168, Line 12 – Page 170, Line 1
 Page 171, Line 5 – Page 174, Line 25
 Page 176, Line 4 – Page 180, Line 19
 Page 181, Line 16 – Page 185, Line 25
 Page 188, Line 13 – Page 189, Line 23
 Page 190, Line 2 – Page 192, Line 18
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 Page 206, Line 15 – Page 207, Line 21
 Page 232, Line 5 – Page 236, Line 18
 Page 237, Line 25 – Page 240, Line 14
 Page 253, Line 7 – Page 262, Line 8
 Page 263, Line 15 – Page 265, Line 22
 Page 266, Line 25 – Page 267, Line 9

Exhibits:

Exhibits: 8, 11, 13, 14, 15, 17, 22, 28, 29, 30, 32, and 33

DEPOSITION OF MICHAEL HENDERSON – OCTOBER 30, 2023

Page 7, Line 13 – Page 10, Line 12
 Page 11, Lines 13-22
 Page 14, Line 8 – Page 16, Line 16
 Page 17, Line 10 – Page 18, Line 3
 Page 18, Line 16 – Page 19, Line 9
 Page 21, Line 9 – Page 23, Line 20
 Page 24, Lines 10-15
 Page 24, Line 24 – Page 26, Line 14
 Page 28, Line 11 – Page 29, Line 11
 Page 33, Lines 10-13
 Page 34, Line 19 – Page 35, Line 22
 Page 36, Line 13 – Page 38, Line 7
 Page 38, Line 19 – Page 38, Line 24
 Page 39, Lines 13-17
 Page 41, Lines 13-18
 Page 42, Line 16 – Page 45, Line 17
 Page 46, Line 3 – Page 47, Line 3
 Page 50, Line 10 – Page 51, Line 16

Page 53, Line 1 – Page 55, Line 6
Page 55, Line 22 – Page 57, Line 1
Page 58, Line 19 – Page 59, Line 17
Page 60, Lines 11-17
Page 61, Lines 2-22
Page 62, Lines 1-12
Page 63, Lines 7-25
Page 65, Line 8 – Page 70, Line 3
Page 71, Lines 9-14

Exhibits:

Exhibits 2, 3, 5, 6, 7
Defendants Exhibit 1

Respectfully submitted,

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***Attorneys for Defendants,
Globe and Farmes***

June 11, 2024
Walhalla, South Carolina

1 A: Well, the owners of the property on the other
2 side of Mr. Ratliff's property.

3 Q: Okay. The arrowhead shaped point property?

4 A: Okay, sir. I don't know what ---

5 Q: I mean, is that the property you're referring
6 to?

7 A: I don't know the name of it.

8 Q: Oh, no. I'm ---

9 A: I'm just saying, the property past Mr.
10 Ratliff's property, I don't know who owns it.
11 I don't know anything about it. Nobody's
12 discussed anything with me about it.

13 Q: You prepared some surveys for the Ratliff
14 family at some point in time in the past,
15 correct?

16 A: I did.

17 Q: Okay. That's primarily what I'm here to ask
18 you about today. I'm going to hand you Exhibit
19 -- what's been marked as Exhibit 2. Exhibit 2
20 is a subpoena that we sent to you back in March
21 of 2023. Do you recognize this document?

22 (Plaintiffs' Exhibit Number 2 was introduced.)

23 A: Yes, sir.

24 Q: Okay. And on the -- there's an Exhibit A about
25 three pages in. It has a list of documents



1 that we requested. Do you see that?

2 A: I see that.

3 Q: And did you provide documents in response to
4 the subpoena?

5 A: I emailed them to you. Yes, sir.

6 Q: And this asks for your complete file in
7 relation to the plat prepared as attached as
8 exhibit one. Did you provide your complete
9 file?

10 A: I did.

11 Q: And it asks the same, a complete file for the
12 survey, a plat prepared as exhibit two. Did
13 you also provide your complete file for that
14 survey?

15 A: As far as I know, I did.

16 Q: And we also asked you to provide any records
17 reflecting or supporting the existence of a
18 public right-of-way along Ellenburg Road as
19 reflected on the attached plats. Did you
20 provide any documents related to that?

21 A: Other than what I sent you, no.

22 Q: I mean, did you provide all of the documents
23 you had?

24 A: I provided all of the documents I had at that
25 time.



1 Q: Okay.

2 A: Yes, sir.

3 Q: And then finally, we asked if you had any
4 communications with Oconee County or any other
5 person concerning the existence ---

6 A: No, I did not.

7 Q: Please let me finish my question. I know it
8 gets long.

9 I was asking about number four. We asked
10 you to provide any communications with Oconee
11 County and any other person concerning the
12 existence of a public right-of-way. And I
13 believe your answer was ...

14 A: No.

15 Q: Okay. You didn't have any other
16 communications?

17 A: No.

18 Q: Okay. I'm going to hand you what's been marked
19 as Exhibit 3. If you'd please look through
20 that stack of documents, and let me know when
21 you've had a chance to review it. Have you had
22 a chance to review that, Mr. Henderson?

23 (Plaintiffs' Exhibit Number 3 was introduced.)

24 A: I'm familiar with the document.

25 Q: Okay.



1 A: Yes, sir.

2 Q: And we have -- are these the files you prepared
3 -- provided in response to the subpoena we had
4 sent to you?

5 A: Yes, sir.

6 Q: Are there any other documents that I have not
7 included in this stack that you've ---

8 A: Not that I have.

9 Q: Okay. And we have taken what you provided to
10 us and we have placed a number on the bottom,
11 what we call a Bates stamp. And it's labeled
12 Cornerstone 1 through Cornerstone 11. I'll be
13 referring to those pages ---

14 A: Okay.

15 Q: --- throughout the deposition.

16 This first page, this is Bates stamped
17 Cornerstone 1. Can you please describe what
18 this document is reflecting?

19 A: I don't see any numbers on these. Maybe I'm
20 missing pages. It's taken somewhere, but I
21 don't see any numbers on there.

22 Q: Okay. The first page. Okay. Let me look and
23 see. It's right here. You see Cornerstone 1?
24 It'll be right in the middle of the page. Do
25 you see that?



1 A: All right. Okay.

2 Q: Okay. All right.

3 A: It's the tax map.

4 Q: Okay.

5 A: A copy of the current tax map at the time I did
6 the survey from the website. The writing on it
7 is the adjoining property owners and deed
8 references.

9 Q: Let me ask you to also go back to Exhibit 2,
10 which was the subpoena for your documents.
11 This way, we can look at the plats ---

12 A: Okay.

13 Q: --- you prepared. There were two plats you
14 prepared, right?

15 A: At separate times. Yes, sir.

16 Q: Yeah, at separate times. So, let's look at the
17 first one you prepared. I think it's exhibit
18 two to the subpoena. If you would open that
19 up, please.

20 This is a plat you prepared, correct, as
21 of -- dated November 23rd of 2020?

22 A: I did.

23 Q: Okay. And this is for what would be known as
24 585 Ellenburg; is that right?

25 A: For who?



1 see that?

2 A: I see that.

3 Q: Okay. Let me ask you to look at page
4 Cornerstone 05, which is the November of 2020
5 plat.

6 A: You'll have to look at me and speaking up,
7 rather than talking into the paper.

8 Q: Look at Cornerstone 5, the fifth page ---

9 A: Okay.

10 Q: --- of your documents. Okay. You see this is
11 -- at the bottom of this plat, there's an
12 indication, it says, Ellenburg Road, WA-42,
13 Subject to R/W, Public. Do you see that?

14 A: I do.

15 Q: Okay. And you added that indication onto this
16 plat, right?

17 A: I did.

18 Q: So, tell me how you came to conclude that that
19 indication should be added on this.

20 A: I looked at the County and State roads'
21 numbers, South Carolina Department of DOT.
22 It's online.

23 Q: And what did you see on DOT?

24 A: It's just a map of all of the counties. It's
25 got the road numbers on it.



1 Q: Okay. Other than looking at the SCDOT website,
2 did you look at any other documents?

3 A: Not to my knowledge. Not to figure out the
4 road number. I mean, it has the name on it.
5 It's on the County website.

6 Q: The name of the road is on the website?

7 A: That's correct.

8 Q: Okay. What about the notation that there's a
9 public right-of-way along this section of
10 Ellenburg Road in front of this property?

11 A: Well, I just said it was subject to a right-of-
12 way, if there is one.

13 Q: Okay. Do you know if there is one, in fact?

14 A: No, I do not know that there's one.

15 Q: Okay.

16 A: I didn't see anything in their deed that
17 specified that there was a right-of-way on the
18 road.

19 Q: Okay. Did you see any documents indicating
20 that there is a right-of-way in front of this
21 property on Ellenburg Road?

22 A: Repeat that question?

23 Q: Did you see any documents indicating that there
24 is a right-of-way on Ellenburg Road in front of
25 this property?



1 A: Well, a right-of-way has to be in the deed, and
2 I did not see anything in the deed.

3 Q: Okay. What caused you to add the language here
4 that says it's subject to a right-of-way,
5 public?

6 A: Because there's a road out there.

7 Q: Okay. And so there's a road out there, and
8 because it's identified as -- has a County name
9 to it, is that -- you concluded that there's a
10 right-of-way that belongs to the County? Is
11 that what happened?

12 A: Well, people are using it. I assume that
13 there's a right-of-way there of some kind. But
14 not necessarily a legal right-of-way, as far as
15 defined as in a deed or easement papers that's
16 recorded at the courthouse.

17 Q: Mr. Henderson, do you hold a license -- any
18 license in South Carolina?

19 A: I have a surveyor's license.

20 Q: Okay. And how long have you been a licensed
21 surveyor?

22 A: Since 1977, is when I took the test. I got my
23 license as soon as they mailed it to me,
24 probably early '78.

25 Q: And that license is current, right?



1 A: No.

2 Q: Okay. I'm sorry. As of the date of this plat,
3 November of '22 -- November of 2020, it was
4 current?

5 A: Repeat that question.

6 Q: I said, your license is current? Do you still
7 hold ---

8 A: Yes, sir.

9 Q: --- a license today?

10 All right. So as a surveyor, are there
11 requirements that have to be met before you
12 indicate on a plat that a right-of-way exists?

13 A: Well, a surveyor's obligation is to show what's
14 there on the ground. If it's obvious -- it
15 looks like there's a road there, you show that
16 there's some right-of-way. That's all we do,
17 is observe. We don't create or make any right-
18 of-ways. That's all done by deeds and
19 attorneys.

20 Q: Okay. So your writing that this portion of
21 Ellenburg road is subject to a public right-of-
22 way. Does that create a right-of-way?

23 A: Repeat.

24 Q: When you wrote that -- you wrote on this plat
25 that it was subject to a right-of-way, public,



1 correct?

2 A: Yes, because people public -- people were using
3 the road. That's what I observed.

4 Q: Does your -- but does your writing that on the
5 plat, does that make it a legal, official
6 right-of-way?

7 A: No, absolutely not. All of that has to be
8 transferred by a deed.

9 Q: On this plat dated November 23rd, 2020, there's
10 an RW line running across the bottom of that
11 property. Do you see that?

12 A: I see that.

13 Q: And RW, does that indicate a right-of-way?

14 A: Well, it's indication that there is a potential
15 right-of-way there.

16 Q: Okay. And how did you determine that there's
17 a potential right-of-way at that location
18 across the front of the property?

19 A: Well, there was an iron pin that I found out
20 there that is approximately that distance from
21 the centerline of the road that someone set
22 prior to me getting there.

23 Q: And what would an iron pin indicate to you as
24 a surveyor?

25 A: Well, it's usually put on the other side of a



1 ditch, especially on a road like that, which is
2 commonly called a ditch to ditch right-of-way,
3 since there's no public record of the right-of-
4 way that I found. They just put a corner on
5 the other side of the ditch, so that -- where
6 they scrape it or the County maintains it,
7 knocked it out. It has no meaning, per se. I
8 mean, it could be at 33, or it could be at 50,
9 it could be at ten.

10 Q: And where on the plat are you indicating that
11 pin is? Or have -- Sorry. Have you indicated
12 that location of that pin?

13 A: It says, iron rod found, pipe, there.

14 Q: And I'm sure it does. If you'll help me find
15 it.

16 A: Right there.

17 Q: Okay. Is it where it says, one and a half inch
18 I period pipe FD?

19 A: Yes, sir.

20 Q: Okay. So I is iron, FD is found?

21 A: That's correct.

22 Q: Okay. You also indicated -- it says, PWR. Is
23 that a power line?

24 A: That's correct.

25 Q: And was that something you observed, you know,



1 MR. LOGAN: Cornerstone 2.

2 MR. BRANDT: What was the name on that that you gave
3 him? Didn't you give somebody's name?

4 MR. PAAVOLA: I'm reading this -- yeah, page two.

5 MR. BRANDT: Yeah, well, tell me what's on it.

6 MR. PAAVOLA: Brian Mercedes. I can't keep
7 repeating all of my questions.

8 MR. BRANDT: Well ---

9 Q: Mr. Henderson, this was in your file. Did this
10 -- let me ask you: Did this have -- did you
11 use this document in preparing your plat for
12 the Ratliffs?

13 A: Yes, sir. The adjoining plat.

14 Q: This is for the property next door to the
15 Ratliff property, correct? And that's not
16 really clear.

17 A: That is correct.

18 Q: This is for tax map number -- ends in 103; is
19 that right?

20 A: That is correct.

21 Q: And 103 is the property that's on the Knox Road
22 side of Ellenburg Road from the Ratliffs'
23 property, correct?

24 A: Please talk to me rather than the paper, so I
25 can understand what you're saying.



1 Q: Got it. 103 is 565 Ellenburg Road, right?

2 A: Okay.

3 Q: Okay. Did you use this document in your plat
4 for the Ratliffs, preparing your plat for the
5 Ratliffs? Did you use this document?

6 A: I did and I showed it as a reference on my
7 plat.

8 Q: Thank you. Tell me how you used this.

9 A: I used it to observe the property line between
10 them to see if it was correctly between them --
11 -

12 Q: Okay.

13 A: --- to see if it matched up, if there's any
14 question or differences.

15 Q: Okay. And this plat for Marcedes also is dated
16 March 9th, 2005. Do you see that?

17 A: Okay.

18 Q: All right. It, on the bottom, lists Ellenburg
19 Road, WA-42 and it says, Ditch to ditch right-
20 of-way. Do you see that?

21 A: Okay.

22 Q: Okay. And did you do any investigation as to
23 how that indication ended up on the plat for
24 the Marcedes property?

25 A: I don't understand your question.



1 Q: On this Cornerstone 2 ---

2 A: Yeah.

3 Q: --- it says, Ditch to ditch right-of-way. It
4 says, Ditch to ditch right-of-way, on the
5 bottom there, does it not?

6 A: Okay.

7 Q: Okay.

8 A: So it does.

9 Q: Did you use that to determine that there was a
10 right-of-way on Ellenburg Road in ---

11 A: No, sir.

12 Q: Okay.

13 A: I just observed that there was -- that people
14 were using it. It was a paved road. It's got
15 a County number on it. I didn't use it to
16 determine if it had a right-of-way or not,
17 because I don't know -- just like I said, a
18 right-of-way is only given by a deed. Now, I
19 did not find any deeds to anything -- to them
20 concerning that road.

21 Q: The next page is Cornerstone 3.

22 A: Okay.

23 Q: And this is a plat dated August 20th, 1974. Do
24 you see that?

25 A: I see that.



1 Q: Okay. Is this the property that you prepared
2 a plat for that ended in tax map number 099?

3 A: It's a portion of it.

4 Q: In fact, it looks like the plat you prepared
5 for the Ratliffs in 2020 -- I'm sorry. May be
6 the wrong page here. Cornerstone 3. No, it is
7 right. I just don't have the red on mine.

8 A: It is the property, yes, that we used as a
9 reference for our property.

10 Q: Okay. And does this -- the plat -- the 1974
11 plat, does it indicate a road running along
12 what's identified as the Morgan property?

13 A: It does.

14 Q: Okay.

15 A: Centerline road on the plat.

16 Q: Okay. And does that road have any indication
17 of a right-of-way that you see?

18 A: Well, it doesn't specify anything about a
19 right-of-way.

20 Q: Okay.

21 A: It shows basically that's the edge of the road.
22 And being dashed may indicate that it was a
23 dirt road.

24 Q: The next page of your file, Cornerstone 4, is
25 a plat prepared for Steve Kempinski and Janet



1 Streeter-Kempinski. Do you ---

2 A: Okay.

3 Q: --- see that? And did you use this document to
4 prepare the Ratliff plat?

5 A: I used it to check the boundary line. Yes,
6 sir.

7 Q: And this is a plat of 565 Ellenburg, correct?
8 A tax map ending in 103?

9 A: Okay.

10 Q: Do you agree with that?

11 A: It's a portion of that 103.

12 Q: Okay. It's kind of hard to see, but in the
13 reference, it says, Tax Map Number, and it ends
14 in 103, right?

15 A: I had it referenced on the side of my plat as
16 I used this plat as a reference.

17 Q: Okay. Right. On the Ratliff plat from 2020,
18 you reference plat book B58, page five,
19 correct?

20 A: Also, I referenced this plat, too. That's how
21 they divided up that property. This plat has
22 been divided up. And so I used it as a
23 reference.

24 Q: I see. Yeah, you're referencing plat book
25 A296, page ten?



1 A: Yes.

2 Q: Which is the Kempinski plat?

3 A: That's what - - -

4 Q: Okay.

5 A: I see that right here.

6 Q: Right. The Kempinski plat we're looking at is
7 from 1994, correct?

8 A: Okay.

9 Q: And it shows Ellenburg Road on that - - on this
10 plat, doesn't it?

11 A: It does.

12 Q: And it says, Ditch to ditch right-of-way. Do
13 you see that?

14 A: I see that.

15 Q: Do you have any idea what documents supported
16 the labeling of this as a ditch to ditch right-
17 of-way?

18 A: No, sir. I don't know that there's a ditch to
19 ditch right-of-way on it, other than the
20 observation.

21 Q: Okay. Did this - - on the Kempinski plat, the
22 label of the ditch to ditch right-of-way, did
23 that in any way cause you to label the
24 Ratliff's plat as a - - -

25 A: I did not label the plat ditch to ditch on my



1 Q: Let's look at the next plat you prepared, which
2 was on Cornerstone -- and this is, I think, 6.
3 Unfortunately, it's cut off.

4 A: Page six?

5 Q: Yes, please.

6 MR. LOGAN: What does it look like for me? Because
7 I don't have a number on it.

8 MR. PAAVOLA: I mean, it's before seven.

9 A: I'm not sure I have six, but I've got three,
10 four ---

11 Q: It's the second plat you prepared for the
12 Ratliffs in 2021.

13 A: Okay. Okay.

14 Q: Yeah, it's cut off in the ---

15 A: All right. I'm looking at it.

16 Q: Okay. This is a plat you prepared for James
17 Ratliff and you dated it March 24th, 2021; is
18 that correct?

19 A: That is correct.

20 Q: Okay. This plat also has a notation on the
21 Ellenburg Road side. It says, Ellenburg Road,
22 WA-42, subject to RW, public, correct?

23 A: That's correct.

24 Q: Okay. For this plat, did you see any written
25 documents that would support the existence of



1 a public right-of-way on this section of
2 Ellenburg Road?

3 A: No.

4 Q: So why did you indicate on this plat that there
5 was a public right-of-way on this section of
6 Ellenburg Road?

7 A: Ask that question again.

8 Q: Why did you place a notation that this property
9 was subject to a right-of-way, public along
10 Ellenburg Road?

11 A: Because there was a road -- a paved road there.

12 Q: Anything else?

13 A: No, sir.

14 Q: This March '21 plat, it references plat book
15 P39, page 61. Do you see that?

16 A: Yes, sir.

17 Q: So if we turn two pages over to Cornerstone 08,
18 this is a plat that's recorded in P39, 61,
19 right?

20 A: That's correct.

21 Q: Okay. You reference this plat as part of your
22 work on the ---

23 A: I did.

24 Q: Is Ellenburg Road or a road shown on this 1974
25 plat?



1 Ellenburg Road in front of ---

2 A: No, sir.

3 Q: --- 585 Ellenburg Road?

4 A: No, sir.

5 Q: Exhibit 5, if you would look at that, is for
6 599 Ellenburg Road. It's another document from
7 qPublic on the first page. It has -- ends --
8 tax map that ends in 100. Do you see that?

9 A: I see that.

10 Q: Okay. And then the second page of Exhibit 5 is
11 the plat you prepared for the Ratliffs in 2021,
12 correct?

13 A: That's correct.

14 Q: And then the third page of Exhibit 5 is the
15 reference plat from 1974 that was recorded in
16 volume P-39, page 61. Do you see that?

17 A: That's correct.

18 Q: Okay. And then the same question for you on
19 this property is, do you know of any documents
20 between 1974 and 2021 that would indicate the
21 creation of a public right-of-way along
22 Ellenburg Road in front of 599 Ellenburg Road?

23 A: No, sir.

24 MR. PAAVOLA: Where are we at now? 6.

25 (Plaintiffs' Exhibit Number 6 was marked for



1 identification purposes.)

2 Q: Mr. Henderson, I'll hand you what's been marked
3 as Exhibit 6. This is an email I'm showing you
4 Bates stamped Ratliff 453 to 456.

5 A: Okay.

6 Q: And it is an email exchange between Jimmy
7 Ratliff and I believe this is yourself. Is
8 that correct? Is this your email address,
9 CSI1977MLH at Gmail?

10 A: CSI is my address, email address.

11 Q: Do you recognize this email?

12 A: I have seen it before, yes, sir.

13 Q: On the second page, which is Bates labeled 454,
14 there's an email to you on the second page.

15 A: Okay.

16 Q: And the second paragraph of that first email --
17 -

18 A: Okay.

19 Q: --- it's asking you about the note stating,
20 Ellenburg Road right-of-way -- subject to
21 public right-of-way, correct? Do you see that
22 question to you?

23 A: Yes, sir.

24 Q: And then on the first page, you respond to that
25 email, don't you, on the first page here on



1 August 16th of 2022?

2 A: Okay.

3 Q: And you noted here that -- concerning their
4 question about the label on the road, Ellenburg
5 Road is a long-standing road that, at one time,
6 looped around back over High Falls Road before
7 Lake Keowee was created. Do you see that?

8 A: I do.

9 Q: And what is your knowledge about the history or
10 what roads existed before the lake was created?

11 A: Well, my knowledge is that it was a dirt road
12 that went over to High Falls when High Falls
13 was there, because when I was a little boy, we
14 went over there swimming. But other than that,
15 I mean, it was just a farmer's market road that
16 went through the farms that had, you know,
17 people lived on it. There wasn't that many
18 houses over there, the best I remember, but ...

19 Q: So, it sounds like you have a recollection of
20 traveling on that road when you were a boy?

21 A: No, not necessarily that road, but the other
22 end of it.

23 Q: Okay. All right.

24 A: It was just a dirt road. I mean, it's been a
25 dirt road.



1 Q: Okay. Do you have any knowledge of whether
2 that was ever a state road at any point in
3 time?

4 A: No, sir.

5 Q: No, it wasn't or, no, you don't have knowledge
6 that was not ---

7 A: I have no knowledge. I have no knowledge that
8 it was or was not.

9 (Plaintiffs' Exhibit Number 7 was marked for
10 identification purposes.)

11 Q: Exhibit 7 -- Mr. Henderson, I'll hand you
12 Exhibit 7. And on the second page of Exhibit
13 7, it's a -- this is a map from the DOT from
14 1957 that I, on the first page, have taken an
15 excerpt from. So ---

16 A: Okay.

17 Q: --- the full map is on page two, but you can't
18 -- it's hardly -- so small to read, so ---

19 A: All right.

20 Q: --- I've just blown up a section around
21 Ellenburg -- currently Ellenburg Road for us to
22 look at on the first page.

23 A: Okay.

24 Q: Have you ever seen a map -- this section of
25 Oconee County roads depicted on this map



1 before?

2 A: I have seen that map before, yes, sir, or
3 something similar to it.

4 Q: Yeah, okay. And is this what you're referring
5 to in your email, which was the road that
6 looped around near High Falls, I guess, Church?

7 MR. BRANDT: Which one are you talking about? The
8 one that's highlighted?

9 A: I don't know what you're talking about.

10 Q: Okay. Do you see ---

11 A: The one that's highlighted is 183.

12 Q: Okay. The pink highlights?

13 A: Pink highlight. Yes, sir.

14 Q: And then is the current Ellenburg Road
15 indicated on this map at all? Are you able to
16 identify if Ellenburg Road is on this map?

17 A: Have I ever identified ---

18 Q: Can you find Ellenburg Road on this map?

19 A: Ellenburg Road?

20 Q: Yeah.

21 A: I don't believe it exists on this road, to be
22 honest with you.

23 Q: Okay.

24 A: But I couldn't swear to it without overlaying
25 it on something else, because it's not to



1 scale.

2 Q: This is not something you used to prepare your
3 plats, was it?

4 A: Well, usually when we prepare our plats, we go
5 by what's out there on the ground and the
6 number that's on the ground on that road is WA-
7 42.

8 Q: Do you -- as part of your process, do you tend
9 to look at other plats that have been prepared
10 near the property as part of your process?

11 A: Only those that -- for the first part, I was
12 not establishing the road right-of-way or
13 anything on my plat, because the filer goes to
14 the centerline of the road. All I was doing a
15 boundary survey. I wasn't asked to prepare a
16 road right-of-way survey. I did not prepare a
17 road right-of-way survey. I was not asked to
18 indicate if there was a road right-of-way out
19 there. All I was doing was supplying a as-
20 built survey for the banks to show where the
21 house was, and see if it was properly located,
22 and if there was any encroachments for the
23 survey. So, you asked me something that I
24 wasn't asked to do.

25 Q: I understand. Mr. Henderson, do you have any



1 knowledge of Oconee County's maintenance of
2 Ellenburg Road?

3 A: Have any knowledge of what?

4 Q: Oconee County's maintenance of Ellenburg Road.

5 A: Maintenance? No, sir. If it's not in public
6 records that I can find online or up there at
7 the court, grantee-grantor, I don't have any
8 knowledge of it.

9 Q: Okay. And you've -- have you ever seen the
10 County actively maintain any section of
11 Ellenburg Road in your life?

12 A: I don't understand the question.

13 Q: Yeah. Have you ever been out on Ellenburg Road
14 the same time the County is out doing any
15 maintenance on it?

16 A: Once or twice, but not -- generally, I don't
17 ever see the County doing anything.

18 Q: Do you have any knowledge of an end of county
19 maintenance sign located along Ellenburg Road
20 at any point?

21 A: No, sir, I do not remember that. If there was
22 one out there, I do not remember it ---

23 Q: Okay.

24 A: --- seeing it.

25 MR. PAAVOLA: Let me just take a quick break. We



1 A: I have no idea.

2 Q: Okay. Do you know why your acreage says 2.71
3 and the previous plat said 2.765?

4 A: I have no idea.

5 Q: Okay. Did you calculate the 2.71 acres?

6 A: I did.

7 Q: Okay.

8 A: With what I measured. That's what I measured.

9 Q: Okay.

10 A: They may have measured it differently and they
11 used the tape, which makes the distances
12 different.

13 Q: Okay. The 2.71, does it subtract an indicated
14 right-of-way from the subject property away
15 from it? Do you know?

16 A: It doesn't say that.

17 Q: Okay. You would have indicated if it did that?

18 A: Not necessarily.

19 Q: Okay. It sounds like, to get that -- to
20 determine the accurate -- the acreage, someone
21 would have to go out and measure it again to
22 determine if it was 2.765 or 2.71?

23 A: All I can tell you is, 2.71 is what I measured,
24 based on my instruments today. They didn't
25 have the instruments today that they had back



1 then when they did that survey.

2 Q: The 1974 survey?

3 A: (Nods head affirmatively).

4 Q: Mr. Henderson, I don't have any other questions
5 for you. These other attorneys may have
6 questions for you. I don't have any more
7 questions for you.

8 MR. LOGAN: Do you want me to go?

9 MR. HENDERSON - EXAMINATION BY MR. LOGAN:

10 Q: I'm Jim Logan. I'm Jim Logan, and I represent
11 Oconee County in this lawsuit that has been
12 filed by the Ratliffs.

13 A: Okay.

14 Q: All right. Nice to meet you, sir.

15 A: All right.

16 Q: I appreciate you being here. Would you get
17 Exhibit 6 in front of you, please, sir? It's
18 the one that has this dark ---

19 A: Okay.

20 Q: --- spot. You've got it? And about the middle
21 of the page there, if you'll follow along where
22 I'm going to read, okay?

23 A: Okay.

24 Q: On Tuesday, August 16, 2022, 3:16 p.m., Michael
25 Henderson at that email address wrote. And you



1 were responding to Mr. Jimmy Ratliff by email;
2 is that correct?

3 A: That's correct.

4 Q: And you were responding to a question that has
5 been -- that was raised to you by Ms. Morgan on
6 the page before that or after that; is that
7 correct?

8 A: That is correct.

9 Q: All right. And she was questioning you as to
10 why, on the plat that was discussed, you said,
11 Ellenburg Road, W-42, subject to right-of-way,
12 public.

13 A: Yeah.

14 Q: Is that correct? All right. And your
15 response, and if you'll follow along, please,
16 Concerning your question about the label on the
17 road. Ellenburg Road is a long-standing road
18 that at one time looped around back over to
19 High Falls Road before Lake Keowee was created.
20 And that's what you told her in that sentence;
21 is that correct?

22 A: That's correct.

23 Q: Okay. And that is still correct today, is it
24 not?

25 MR. PAAVOLA: Object to form.



1 A: As far as I know.

2 Q: Okay. Your next sentence says, Since Ellenburg
3 has a County designated number, it is a public
4 road. And what was that county designated
5 number that you referred to and that is shown
6 on several plats that you have talked about?

7 A: WA-42.

8 Q: And what does the WA stand for?

9 A: Wagener Township.

10 Q: What?

11 A: Wagener Township.

12 Q: Okay. Forty-two, right?

13 A: That's correct.

14 Q: So it has a county-designated number on that
15 road; is that correct?

16 A: That's correct.

17 Q: Okay. And you say, because it has a designated
18 number, it is a public road. Is that your
19 understanding?

20 A: That's my understanding.

21 Q: Okay. And is that -- when a surveyor sees a
22 number on a road such as this, is that a
23 notification to the surveyor that that road is
24 a public road?

25 A: Yes, sir.



1 Q: Okay. And would that be a notification to a
2 property owner, who adjoins that road, that it
3 would be a public road?

4 A: I can't answer that.

5 Q: Okay. All right. But to you, it's a
6 designation for a public road in Oconee County?

7 A: That's correct.

8 Q: Okay. And that goes back to the time when the
9 State owned the road, and then they gave it to
10 the County, and the County assigned a number to
11 it, correct?

12 MR. PAAVOLA: Object to form.

13 A: I have no knowledge of that.

14 Q: Okay. But what you have knowledge of, is that
15 it was a County road at the time these surveys
16 were done?

17 A: That's correct.

18 Q: Okay. And you furnished them, surveys going
19 all the way back to 1974 that showed this
20 right-of-way with that number ---

21 MR. PAAVOLA: Object to form.

22 Q: --- correct?

23 A: I'm not sure who you're talking about I
24 furnished that ---

25 Q: The Ratliffs.



1 A: No, sir. I didn't furnish them anything, other
2 than my plat.

3 Q: Okay. And your plats that you furnished them
4 showed this as Ellenburg Road, WA-42, public
5 road?

6 A: That's correct.

7 Q: That is correct. And each plat that you made
8 for them for this property showed that
9 designation, correct?

10 A: That's correct.

11 Q: All right. Did you receive any push back or
12 further questions from the Ratliffs when you
13 responded to this email on August -- I mean, on
14 August the 16th, 2022?

15 A: I don't remember, sir.

16 Q: Okay. All right. Did you receive any
17 communications from any member of the Ratliff
18 family, other than Jimmy or Ms. Morgan,
19 regarding your reference to High Falls -- I
20 mean, Ellenburg Road as being a public road
21 with a number?

22 A: Not that I can remember.

23 Q: Okay. All right. To your knowledge, they did
24 not call you or challenge your statement
25 regarding Ellenburg Road being a public road;



1 is that correct?

2 A: Not to my knowledge did they ever contact me
3 again.

4 Q: All right. Well, what is furnished -- been
5 furnished to me indicates that that was the
6 last time you spoke with them by email, unless
7 we haven't received some additional
8 information.

9 A: I could not tell you that.

10 Q: Okay. All right. And I don't know what number
11 this is, but it is a -- let's see. We've got
12 a bunch of plats floating around. So let me --
13 okay. All right. And on the -- if you will
14 look at Exhibit 3 that you should have in front
15 of you. It has several documents attached to
16 it. It's the one that has the first page that
17 looks like this.

18 (Plaintiffs' Exhibit Number 3 was referenced.)

19 A: Yeah.

20 Q: There you go.

21 A: Okay.

22 Q: All right. If you'll look on the second page.
23 And this deals with a survey done March the 9th
24 of 2005.

25 A: Okay.



1 was that plat done by you?

2 A: '94? I don't have one done in '94 that ---

3 Q: Okay.

4 A: --- was done by me.

5 Q: This is the one that has 04 at the bottom of
6 it.

7 A: Okay. That's by Mr. Byrd.

8 Q: Mr. Byrd. Okay.

9 A: Yes, sir.

10 Q: And looking at that plat, that's the one that
11 you had access to when you were preparing your
12 survey; is that correct?

13 A: That is correct.

14 Q: Okay. And Mr. Byrd shows Ellenburg Road, WA-
15 42, on his plat; is that correct?

16 A: That's correct.

17 Q: Okay. And this is part of the history that you
18 were talking about when you wrote and responded
19 to Ms. Morgan about this particular road; is
20 that correct?

21 A: That is correct.

22 MR. PAAVOLA: Object to form.

23 Q: All right. All right. Now, the plat for Mr.
24 and Ms. Ratliff that is the next page to that
25 exhibit, that is your plat; is that correct?



1 It looks like this.

2 A: It doesn't have a number on it, but, yeah, I
3 assume that that's the plat that -- or the ---

4 Q: And it's taken in November of 2020; is that
5 correct?

6 A: Yes, sir. That is my plat.

7 Q: That is your plat. And on that plat, you
8 continue with designating Ellenburg Road as WA-
9 42 as the previous plats have done; is that
10 correct?

11 MR. PAAVOLA: Object to form.

12 A: That's ---

13 Q: Sir?

14 A: That is correct in the sense that I knew that
15 that was -- I mean, that road number was 42 and
16 there's a road out there.

17 Q: Correct. I understand. I understand. So,
18 since at least -- as far as these plats are
19 concerned, since 1974, this has been shown as
20 a WA-42 road ---

21 MR. PAAVOLA: Object to the form.

22 Q: --- is that correct?

23 A: Well, I don't know about how long the numbers
24 have been in the system. They don't indicate
25 a number on those plats.



1 A: The one in '94 indicates there's a number on
2 it.

3 Q: Yes, sir. In '94.

4 A: Yeah, but ---

5 Q: And also, the one in '74 is showing the same
6 road; is that correct?

7 A: Yeah, it's the same road. Yes, sir.

8 Q: All right. Thank you. Also, toward the back
9 of that exhibit, the last -- it carries a 009
10 designation. If you would look at that same
11 exhibit. Flip it over a few pages.

12 A: Ask me that question again.

13 Q: Well, I wanted you to get this plat in front of
14 you. It has a 009 number on it.

15 MR. LOGAN: Larry, if you'll -- it's in the same
16 exhibit. If you'll show him the one I'm on.

17 MR. HOLLIDAY: Third to last page.

18 THE WITNESS: Okay. All right.

19 MR. BRANDT: Is that 009?

20 THE WITNESS: Yeah, okay. Okay.

21 Q: Did that come from your file?

22 A: Yes, sir.

23 Q: Okay. And what is that? It's a copy of
24 something ---

25 A: That's a copy of a property east of Mr.



1 Ratliff's property and south from the property
2 across the road, on the other side of the road.

3 Q: And where did you get this from?

4 A: From the County records.

5 Q: From the County records?

6 A: Yeah. It's indicated on my plat where it's
7 recorded at.

8 Q: Okay. And is that Ellenburg Road that's shown
9 on that plat as a road?

10 MR. PAAVOLA: Object to the form.

11 A: It indicates that there's a road there. I
12 don't know. I don't have the rest of the plat
13 to indicate whether it has a name on it or not.

14 Q: But this is something you would have gotten as
15 part of ---

16 A: Yes, sir.

17 Q: --- your research; is that ---

18 A: Yes, sir.

19 Q: --- right? Sir? Did you hear my question? I
20 said, this plat would have been something
21 apparently that you got as part of the research
22 that ---

23 A: Yes, sir.

24 Q: --- you did in preparing your plats?

25 A: Yes, sir.



1 Q: Okay. And information that you relied upon?

2 A: Well, I used it to indicate -- what I was
3 looking for was what the boundary was, whether
4 it was the same place as Mr. Ratliff's property
5 went to the centerline of the road or whether
6 it had some other indication. That's what ---

7 Q: I got you.

8 A: --- I was comparing -- the reason I got it.

9 Q: I got you. All right. And let's look at ---

10 MR. LOGAN: Larry, pass down those exhibits to
11 me, please. I'm not sure I've got
12 everything.

13 MR. BRANDT: These? Is this what you want?

14 MR. LOGAN: No, I've got ---

15 MR. BRANDT: Huh?

16 MR. LOGAN: Just pass them all down to me, if
17 you would. Just let me look through them.
18 Thank you. Pass that back down. That's
19 the one I want. Yes, sir.

20 MR. BRANDT: This one right here?

21 MR. LOGAN: Yeah.

22 MR. BRANDT: He wants to ask you about this one.

23 Q: All right. You were asked about an exhibit,
24 which is Exhibit 3, the first page of that
25 exhibit.



1 A: Okay.

2 Q: And I gather this is a document that was in
3 your file. Is that correct?

4 A: That is correct.

5 Q: Okay. And where did you get this document
6 from?

7 A: This is a screen printout of the County's
8 website.

9 Q: Okay. And what is shown in a yellow type
10 highlight on that document?

11 A: Nothing on my plat.

12 Q: Sir?

13 A: There's nothing in yellow here.

14 Q: Well, if you'll look down here, the -- it looks
15 like a road.

16 A: Okay.

17 Q: Is that showing a road?

18 A: It appears to show a road.

19 Q: Okay. And does that road extend past the
20 Ratliff property?

21 A: On this map, it would indicate it ---

22 Q: Okay.

23 A: --- extends past the Ratliff property.

24 Q: And you got this from the County; is that
25 correct?



1 A: It's a screenshot of their website.

2 Q: Of their website. All right. All right. Look
3 at number four in that same exhibit.

4 A: Okay.

5 Q: And there is a 20 foot area that's shown as an
6 access easement.

7 A: Okay.

8 Q: And that runs apparently from the centerline of
9 Ellenburg Road to tract B and tract A; is that
10 correct?

11 A: Appears to be.

12 Q: Okay. Did you prepare this plat?

13 A: No, sir.

14 Q: Okay. Do you have any information as to how
15 this came about?

16 A: I have no idea.

17 Q: Okay. All right.

18 A: That's Mr. Byrd.

19 Q: Sir?

20 A: Mr. Jerry Byrd prepared that plat.

21 Q: Okay. I see that. Well, I was just asking if
22 you had any knowledge about that.

23 A: No, sir. I have no knowledge of that.

24 Q: Okay. So, you don't know why that was prepared
25 or anything of that nature?



1 A: No, sir.

2 Q: Okay. Okay. And then if you will look at the
3 plat for James and -- James Ratliff and
4 Lucretia Morgan that's also a part of that
5 exhibit.

6 A: What number is that?

7 Q: Well, it's Exhibit 3, but it's one of the
8 documents behind that's been -- it's part of
9 Exhibit 3. It's the one that looks like this.

10 A: That's my plat?

11 MR. BRANDT: Is there a number on the bottom of
12 that, Jimmy?

13 MR. LOGAN: Well, it's got a ---

14 MR. BRANDT: Bates number?

15 MR. LOGAN: A Bates number? No. Let's see. This
16 is part of Bates number -- I mean Number 3,
17 Exhibit Three.

18 MR. BRANDT: Okay.

19 Q: Plat prepared for James Ratliff and Lucretia
20 Morgan, November the 23rd of 2020.

21 A: Yeah, that's the plat I did.

22 Q: That's the plat you did. Yes, sir. Now, you
23 show that there are pins on each side of the
24 property that I believe your testimony was mark
25 where the road crosses that property on either



1 side. Is that right?

2 A: No, that's not what I said. I said that those
3 pins were put usually as a reference to the
4 centerline of the road, because the ones in the
5 centerline of the road gets knocked out. It
6 doesn't indicate a right-of-way. A right-of-
7 way is only specified with a deed.

8 Q: And I'm not asking you that. What I'm asking
9 you for is, what is the purpose of those two
10 pins that are shown along the right-of-way that
11 you have shown by a dash mark?

12 A: They are witness pins to the centerline of the
13 road in case those pins in the centerline of
14 the road get knocked out or covered up, and
15 they're put in different intervals. You know,
16 sometimes 15, sometimes 20, 30 foot, 50 feet.
17 It just is a witness pin.

18 Q: And they are put in this case along the edge of
19 the right-of-way; is that correct?

20 A: No, sir.

21 MR. PAAVOLA: Object to the form.

22 A: No, sir. There's no right-of-way -- there is
23 no right-of-way, per se. That right-of-way is
24 for the -- to indicate that there may be a
25 possible right-of-way there.



1 Q: Okay.

2 A: A right-of-way is only transferred with a deed.

3 Q: Okay.

4 A: And the plats do not give title to anything.

5 Q: My question, did you put those pins there?

6 A: No, sir.

7 Q: So, those pins that you show on your plat of
8 November of 2020 were already in place; is that
9 right?

10 A: That is correct.

11 Q: Okay. Did you actually locate the pins that
12 were in the center of the road?

13 A: Well, I set one mag nail in the centerline of
14 the road. I found a mag nail in the centerline
15 of the road, I set a mag nail in the centerline
16 of the road, and I found a railroad spike in
17 the centerline of the road.

18 Q: Okay. So, let's focus on what is marked on
19 here in a dash line, the right-of-way line,
20 okay?

21 A: Okay.

22 Q: So, you found the pin on the -- if I'm looking
23 at the plat, on the right side of the property
24 line for -- that coincides with the point where
25 you show a right-of-way?



- 1 A: I don't understand the question.
- 2 Q: All right. You've got a pin that says one and
- 3 a half iron pipe. Is that rod?
- 4 A: Iron pipe found, FD.
- 5 Q: Found, FD. And you found that at that location
- 6 where you say 24.06 feet, correct?
- 7 A: That's correct.
- 8 Q: What is it 24.06 feet from?
- 9 A: The centerline of the road or from the ---
- 10 Q: Okay.
- 11 A: --- nail cap that I set in the centerline of
- 12 the road.
- 13 Q: So, you have a pin in the centerline of the
- 14 road and you have a pin 24.06 feet back from
- 15 that centerline, correct?
- 16 A: That's -- well, there's one out there.
- 17 Q: And you found that?
- 18 A: And I found that.
- 19 Q: You didn't place it, but you found it?
- 20 A: I found it.
- 21 Q: You don't know how long it's been there?
- 22 A: No, sir.
- 23 Q: Could you tell by the condition of it how long
- 24 it's been there? Okay.
- 25 A: No, sir.



1 Q: Now, let's move to the left side. And you
2 found a pin or a spike, a railroad spike, in
3 the centerline of the road; is that right?

4 A: That's correct.

5 Q: And going back up from that, you also found a
6 pin along what you show as the right-of-way
7 line; is that correct?

8 A: Not quite. But, anyway, It's shown at 24.1
9 foot.

10 Q: Okay. So, it's 24.1 foot back from the
11 centerline of the road; is that correct?

12 A: That's correct.

13 Q: Okay. All right. All right. These gentlemen
14 have probably got some questions for you. I
15 may have some more when they get through, but
16 thank you so much for your testimony.

17 A: You're quite welcome.

18 MR. HOLLIDAY: Do you have any?

19 MR. BRANDT: I've got one, but we both can't do it.

20 MR. HOLLIDAY: Okay. Tell me what your question is.

21 MR. HENDERSON - EXAMINATION BY MR. HOLLIDAY:

22 Q: Mr. Henderson, I'm Andrew Holliday. I
23 represent Globe and Farnes. We're the property
24 owners at the end of the road that, as Mr.
25 Paavola said, is shaped kind of like an



1 arrowhead. Have you prepared a handful of
2 plats for the Ratliff Family?

3 A: The only ones I remember are these two.

4 Q: Okay. But you ---

5 A: I mean, I've got probably 20,000 plats on file.
6 I couldn't tell you.

7 Q: But you've at least prepared these two plats
8 for the Ratliff family?

9 A: That is correct.

10 Q: Aside from that email that we went over a
11 little while ago with Mr. Logan and Mr. Paavola
12 before him, have you received any sort of push-
13 back from the Ratliff family about the fact
14 that both of those plats indicate that it's a
15 public road?

16 MR. PAAVOLA: Object to form.

17 A: Not to my knowledge. I haven't had any
18 conversations or any communication since that
19 email that I remember.

20 Q: Are you familiar with the road abandonment
21 process in the State of South Carolina?

22 A: No, sir.

23 Q: Okay. But are you aware of the Ratliffs ever
24 initiating a road abandonment?

25 A: No, sir.



1 coordinates, but do you have any way of saying
2 where that would have been, if you look at
3 Exhibit 7, which is the road map before the
4 lake was filled in?

5 (Plaintiffs' Exhibit Number 7 was referenced.)

6 A: No, sir. Not without taking it and overlaying
7 it over something.

8 Q: Okay. When you put a road on a map, do you
9 rely on what the County records say about
10 whether that road is public or private or is
11 that designation something that's important to
12 you for you to put on a plat?

13 A: Well, it's important to know if it was a
14 private road, you know, or not.

15 Q: If it was private, does the County have a
16 designation for that?

17 A: On some private roads, yes. On some, they
18 don't.

19 Q: How would the County designate a private road?

20 A: I think they've got a numbering system, but I
21 don't know. It's not -- if they had a sign out
22 there on the road, I don't know.

23 Q: Would it have a prefix similar to WA-42? Would
24 it say P or would it have some designation that
25 says -- designates that as a private road where



1 it would say P-42 instead of WA-42?

2 A: I have no knowledge of that.

3 Q: Okay. In your experience, when the property
4 line is the centerline of a road, does that
5 tell you that there is some sort of easement or
6 right-of-way to gain access?

7 A: It only tells me that there's a road there.

8 Q: So, you wouldn't assume that there has to be
9 some sort of right-of-way or easement, even
10 though you've got two property owners owning
11 some portion of that road?

12 A: Well, all I can do is show what I observe out
13 there on the ground. If there's a road there,
14 I show it. If there's something in the deed
15 that indicates there's a right-of-way or
16 something like that, I'll indicate that. But
17 that's why I put, Subject to the right-of-way.

18 Q: Certainly. Certainly. When you're preparing
19 a plat, how far back do you go in a chain of
20 title to figure out if there is a right-of-way
21 or an easement in a deed?

22 A: I'm not a title search person and I'm not a
23 lawyer, so I don't do title searches. My plat
24 indicates that I don't do that.

25 Q: Okay. So you wouldn't have done any research



1 back into the chain of title; is that correct?

2 A: Normally, that is correct. I don't do that, a
3 title search for the property.

4 Q: Okay. I'm going to show you Defendants' 1 and
5 that third real paragraph is highlighted for
6 you. Can you read that and tell me what that
7 means?

8 (Defendant's Exhibit Number 1 was marked for
9 identification purposes.)

10 A: You really want to know?

11 Q: Yes, sir.

12 A: Well, that's a catch-all for attorneys to
13 eliminate any liability they have if they miss
14 something.

15 Q: Okay. But does it say that the conveyance is
16 made subject to easements or right-of-ways for
17 roadways or utilities conveyed by the grantors
18 or as may appear of public record or upon the
19 ground?

20 A: What's your question?

21 Q: Is that what it says, is that it's subject to
22 right-of-ways that may appear on the ground?

23 A: Yeah.

24 Q: Okay.

25 A: It may be hidden somewhere. You know, there's



1 a lot of things that ---

2 Q: Well, what is ---

3 A: --- are hard to find.

4 Q: What is the plat reference in this deed? If
5 we're looking for a plat reference in this
6 deed, how are we describing this property in
7 Defendants' 1?

8 A: It says, P39 at 61.

9 Q: Okay. Can you look at the third page of
10 Exhibit 5 that ---

11 A: Yes.

12 Q: --- Mr. Paavola gave you?

13 (Plaintiffs' Exhibit Number 5 was referenced.)

14 A: Yeah, that's a plat by states Schumacher.

15 Q: Is that the same plat, the P39 at 61?

16 A: I'm assuming it is. Sometimes, they have
17 separate plats on different -- just two plats
18 on the same page.

19 Q: But that deed ---

20 A: But that's what is on this plat, yes.

21 Q: Okay. So that deed, Defendants' 1, says, 1.225
22 acres, more or less, as shown on a plat by
23 Schumacher Engineering Services dated August
24 28th, 1974 and recorded in plat book P-39 at
25 61?



1 A: Yes, sir.

2 Q: And that's the same that Mr. Paavola gave you
3 that came out of your file?

4 A: That is correct.

5 Q: And that shows a road, correct?

6 A: It indicates to me a dirt road.

7 Q: Okay. And that road -- it says, Centerline of
8 road is the property line, correct?

9 A: That's what it says.

10 Q: Okay. But that road would have existed in 1974
11 to be on this plat. right?

12 A: That is correct.

13 Q: And so that would mean that that road existed
14 in the '80s when Mr. Ratliff obtained that
15 property, correct?

16 MR. PAAVOLA: Object to the form.

17 A: I assume.

18 Q: Okay. You've said it's a dirt road. What
19 about the hash marks there indicate that to
20 you?

21 A: Well, usually in general the drawing
22 technology, a dash road indicates a dirt road,
23 where the solid roads may indicate a paved
24 road. But that's not true in all situations,
25 but generally is the nomenclature of how they



1 do things.

2 Q: Okay. But this could have been a paved road?

3 A: It could have been a paved road.

4 Q: Okay. If Ellenburg wasn't a public road,
5 wouldn't there have to be some sort of easement
6 or right-of-way from adjoining property owners
7 to allow the Ratliffs to get to their property?

8 MR. PAAVOLA: Object to the form.

9 A: Well, not necessarily.

10 Q: How so?

11 A: Well, people use other people's property all
12 the time to access their property. They may
13 not have an easement or a right to it.

14 Q: So, you're saying that either there would have
15 to be an easement or they would be trespassing,
16 if Ellenburg is not a public road?

17 MR. PAAVOLA: Object to the form.

18 A: Well, I'm not saying that they're trespassing.
19 I don't know. I mean, they may have got
20 permission from the people. You can't -- just
21 because it's not on record, just because
22 they're using something, doesn't mean that
23 anything -- what you're asking the question.

24 Q: So, I think that takes us back to where we were
25 talking earlier when you were talking about



1 prescriptive easements. and you said you got
2 them by use; is that correct?

3 A: That's correct. Usually.

4 Q: So, in that scenario where the Ratliffs were
5 using other people's property, are you saying
6 that would give them a prescriptive easement?

7 MR. PAAVOLA: Object to form.

8 A: Perhaps, if they went to court.

9 Q: Okay. And what if the public was using
10 Ellenburg Road? Would that have given the
11 County a prescriptive easement?

12 MR. PAAVOLA: Object to form.

13 A: Probably. But they'd still have to go to
14 court, I would think.

15 MR. HOLLIDAY: Okay. I don't believe I have
16 anything else.

17 MR. LOGAN: Larry, do you got anything?

18 MR. BRANDT: I'm good.

19 MR. HOLLIDAY: All right.

20 MR. HENDERSON - RE-EXAMINATION BY MR. PAAVOLA:

21 Q: Just briefly, Mr. Henderson. Do you have
22 knowledge of whether the County owns the land
23 under the roadway in front of 585 and 599
24 Ellenburg Road?

25 A: Their deed indicates that they do not.



Case No.: 2022CP3700447

Defendants.

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1 PROCEEDINGS

2 THE COURT: All right. Mr. Paavola, anything
3 from the Plaintiff before we get started?

4 MR. PAAVOLA: Your Honor, you had just
5 mentioned that we put on the record our motion to
6 amend, motion to disqualify that we had in the office
7 last week.

8 THE COURT: Right, the motion to disqualify
9 is denied.

10 MR. PAAVOLA: Right.

11 THE COURT: And the motion to amend is denied
12 as well. And it is based on lateness of the hour. The
13 same as to the County's motion to amend. It is just
14 time to get this case started. Is there any issue of
15 sequestration?

16 MR. PAAVOLA: We don't have one.

17 MR. HOLLIDAY: We were going to request that
18 all non-party witnesses be sequestered. Which would
19 include Andy Lee, Bruce Hadley, Gary Taylor, Michael
20 Grant, Robbie Hopkins, Ronnie Morgan, Laurie Ellenburg
21 Bright, Diane Harris and Warren Harris. I think that
22 is all non-party witnesses.

23 MR. PAAVOLA: Did you mention --

24 MR. HOLLIDAY: Oh, I did not. Also Alayna
25 Kalashnikova from the South Carolina Department of

1 Transportation.

2 MR. PAAVOLA: And Karen.

3 MR. HOLLIDAY: Oh, yeah, and Karen Rasbornik.

4 THE COURT: Okay. Anyone who is a witness in
5 this, other than the named parties, we are going to ask
6 that you stay in the lobby until you are asked to come
7 in and testify. Madam -- where is our bailiff? Can
8 you show them where to go?

9 MR. PAAVOLA: Our expert is here.

10 THE COURT: I would think that the expert
11 would be okay. Do you have a problem with the expert
12 staying in, Mr. Logan or Mr. Holliday?

13 MR. HOLLIDAY: I am sorry, Your Honor?

14 THE COURT: Do you have any objection to
15 their expert staying in and listening to the testimony?

16 MR. HOLLIDAY: No, Your Honor.

17 THE COURT: Okay.

18 MR. HOLLIDAY: Also just kind of one kind of
19 housekeeping matter, our client is a limited -- or two
20 limited partnerships, but we would ask that the general
21 partner of those two limited partnerships, Mr. Hamrick,
22 be allowed to stay in, because he's effectively a
23 party.

24 THE COURT: Absolutely, sure. Anybody
25 else -- do you have anybody that the lawyers see that

1 you know that is going to be testifying?

2 MR. HOLLIDAY: I don't know everybody here,
3 Your Honor, just for the record. I recognize most of
4 the Plaintiffs, and I think that they have got some
5 associated family members, but those aren't identified
6 as witnesses. I don't know everybody else.

7 THE COURT: Okay. And if they are not
8 testifying, that is fine. But, you know, what is going
9 to happen, potentially, is during the course of the
10 trial they may walk in. So if you see somebody that
11 you know is going to be testifying enter the courtroom,
12 just stop and make sure that we keep everybody
13 sequestered. Okay?

14 MR. HOLLIDAY: I don't know what any of these
15 witnesses look like: Hadley, Taylor, Grant, Hopkins,
16 Morgan.

17 THE COURT: Hold on. Turn around and
18 announce them slowly and loudly so people can hear
19 their names.

20 MR. HOLLIDAY: Bruce Hadley. Gary Taylor.
21 Michael Grant. Robbie Hopkins. Ronnie Morgan. Laurie
22 Ellenburg Bright. Dianne Harris. Warren Harris.
23 Okay. So, it appears that we only have one.

24 THE COURT: I saw you raise -- if you don't
25 mind, would you go to the lobby until you are asked to

1 come testify, please sir?

2 MR. HOLLIDAY: And then Andy and Karen.

3 THE COURT: And for the record, if somebody
4 stays in here, they are not going to be allowed to
5 testify.

6 MR. HOLLIDAY: I understand that.

7 THE COURT: Just make sure that you take
8 periodic time to check in the gallery.

9 MR. PAAVOLA: We have filed a motion in
10 limine asking the Court to visit the property, and I
11 think that both parties have joined in that.

12 THE COURT: State that again, please.

13 MR. PAAVOLA: We filed a motion in limine to
14 request the Court to visit the property.

15 THE COURT: I may or may not. Let me just
16 see how that goes. I know that Mr. Holliday said that
17 he joins that motion. Let me just see how it goes. I
18 don't have a problem doing it, and if it becomes
19 necessary I will. If not, I won't.

20 MR. HOLLIDAY: I don't know that it is
21 necessary, but we have no objection to it I guess is
22 our position. There is also another motion in limine
23 that -- and maybe it was mistakenly worded. But it
24 sought to exclude the defendants from testifying about
25 the location of this sign. So you are aware that Mr.

1 Logan --

2 THE COURT: I'll not rule on that. You will
3 have to object at the time. I just can't rule on it
4 without hearing the evidence. When you hear that
5 testimony, you stand up and raise an objection.

6 MR. HOLLIDAY: Okay, so you are not --

7 THE COURT: I am not going to grant a motion
8 in limine now until I hear the information. Then I
9 will have to rule on it based on admissibility. Okay?

10 MR. HOLLIDAY: Well, it is like the absence
11 of information. It is an admission to a portion of
12 paragraph ten of the complaint that the County says was
13 in error. That is what his -- that is what the
14 County's amended answer was about, and that is what --
15 that is directly related to the motion in limine to
16 exclude testimony about the location of the sign. The
17 motion in limine says, all defendants. I understand if
18 you are not going to grant the County's motion to
19 amend.

20 THE COURT: I'm not.

21 MR. HOLLIDAY: But we, our clients, should
22 not be precluded from testifying about the location of
23 the sign, because our answer answered it correctly.

24 THE COURT: Mr. Holliday, I'm not ruling on
25 any of that. And you just present your evidence and if

1 somebody objects I will rule on the objection. I said
2 I am not doing it in limine at this point.

3 MR. HOLLIDAY: Thank you, Your Honor.

4 THE COURT: Now, Mr. Holliday, from your
5 perspective, have y'all marked the exhibits? Can y'all
6 stipulate to the exhibits?

7 MR. HOLLIDAY: I believe that y'all have that
8 book, correct? Y'all have our Exhibit 1 and we have --
9 so we stipulated as to the admission of all publicly
10 recorded documents.

11 MR. PAAVOLA: Yes, we have a summary. That
12 is all -- that is with all the recorded documents.

13 MR. HOLLIDAY: Yes, deeds and plats.

14 THE COURT: Let's do this, take a minute and
15 I am going to step out and let y'all look at all of the
16 exhibits and see which ones y'all can agree upon and
17 which ones you can't and let's put them on the record.
18 Okay?

19 MR. PAAVOLA: Yes, sir.

20 THE COURT: And if you would, send word back.
21 And before I go out, Mr. Logan, anything from the
22 County's perspective for me to put on the record?

23 MR. LOGAN: Other than what I filed and what
24 you have ruled on, I want to make sure that those are
25 preserved for the record in the event that we have to

1 challenge those at a later date.

2 THE COURT: I know that you are not afraid of
3 challenges.

4 MR. LOGAN: I have been that route before,
5 Your Honor.

6 THE COURT: I know that. Very good. Just
7 send word back if you would.

8 (Brief recess.)

9 THE COURT: Do you want to put on the record
10 the exhibits that are stipulated to from your
11 perspective, for your side?

12 MR. PAAVOLA: Yes, sir. We have a binder
13 that has documents 1 through 82 in it.

14 THE COURT: One through 82?

15 MR. PAAVOLA: Yes, and I'll read the ones
16 that they don't stipulate to.

17 MR. HOLLIDAY: That is an easier way of doing
18 it, Your Honor.

19 MR. PAAVOLA: Twenty-eight, 35, 36, 38, 39,
20 45, 46, 47, 59, 60, 63. And then we additionally have
21 three loose documents that are 83, 84, and 85.

22 THE COURT: The numbers that you just read
23 off, are they Plaintiffs' exhibits or Defendants'
24 exhibits?

25 MR. PAAVOLA: They are all Plaintiffs'

1 exhibits, Your Honor.

2 (Whereupon, Plaintiffs' Exhibit No(s). 1-10
3 marked for identification and received in evidence.)

4 (Whereupon, Plaintiffs' Exhibit No(s). 11-15
5 marked for identification and received in evidence.)

6 (Whereupon, Plaintiffs' Exhibit No(s). 16-20
7 marked for identification and received in evidence.)

8 (Whereupon, Plaintiffs' Exhibit No(s). 21-24
9 marked for identification and received in evidence.)

10 (Whereupon, Plaintiffs' Exhibit No(s). 25-27
11 marked for identification and received in evidence.)

12 (Whereupon, Plaintiffs' Exhibit No(s). 29-34
13 marked for identification and received in evidence.)

14 (Whereupon, Plaintiffs' Exhibit No(s). 37
15 marked for identification and received in evidence.)

16 (Whereupon, Plaintiffs' Exhibit No(s). 40-44
17 marked for identification and received in evidence.)

18 (Whereupon, Plaintiffs' Exhibit No(s). 48
19 marked for identification and received in evidence.)

20 (Whereupon, Plaintiffs' Exhibit No(s). 49-58
21 marked for identification and received in evidence.)

22 (Whereupon, Plaintiffs' Exhibit No(s). 61
23 marked for identification and received in evidence.)

24 (Whereupon, Plaintiffs' Exhibit No(s). 62
25 marked for identification and received in evidence.)

1 *(Whereupon, Plaintiffs' Exhibit No(s). 63-82*
2 *marked for identification and received in evidence.)*

3 *(Whereupon, Plaintiffs' Exhibit No(s). 83*
4 *marked for identification and received in evidence.)*

5 THE COURT: All right. Mr. Holliday, do you
6 agree that those are admissible without objection?

7 MR. HOLLIDAY: No, Your Honor, the inverse.
8 I agree that everything but those are admissible.

9 MR. PAAVOLA: I read out the documents that
10 they do not agree to. So everything else but what I
11 read out.

12 THE COURT: Okay. I misunderstood. Mr.
13 Logan, you are in agreement with that?

14 MR. LOGAN: I am, Your Honor.

15 THE COURT: From the defense perspective, Mr.
16 Holliday.

17 MR. HOLLIDAY: No, Your Honor, except we
18 haven't had a chance to get all of our depositions that
19 we are using to read into the record marked as exhibits
20 yet.

21 THE COURT: Should have done it before today.
22 We are getting started.

23 MR. HOLLIDAY: That is fine.

24 THE COURT: Call your first witness.

25 MR. PAAVOLA: The defense exhibits, they have

1 an exhibit binder of documents and we don't stipulate
2 to the summary page that they have in there.

3 THE COURT: Sir?

4 MR. PAAVOLA: The defense, their exhibits,
5 they have a binder, we don't stipulate to the summary
6 page that they have in there, but everything else we
7 stipulate to.

8 THE COURT: Mr. Holliday, he says that he
9 stipulates to all of your exhibits except for the
10 summary.

11 MR. HOLLIDAY: We have discussed that, Your
12 Honor.

13 THE COURT: Then put those on the record for
14 me, please?

15 MR. HOLLIDAY: I am sorry?

16 THE COURT: Put them on the record, please.

17 MR. HOLLIDAY: All right. They are 1.1, 1.2,
18 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, and 1.10, 1.11,
19 1.12, 1.13, 1.14, 1.15, 1.16, 1.17, 1.18, 1.19, 1.20,
20 1.21, 1.22, 1.23, 1.24, 1.25, 1.26, 1.27, 1.28, 1.29,
21 1.30, 1.31, 1.32 --

22 THE COURT: Hang on. Are you going to do one
23 through something?

24 MR. HOLLIDAY: One through 34 and some have A
25 and B designations. I have not gotten to that yet.

1 THE COURT: Are they admitted? Everybody
2 stipulated to their admissibility?

3 MR. HOLLIDAY: I believe so.

4 MR. PAAVOLA: Yes, sir, I don't know what the
5 summary is marked but that is the only one that we
6 object to.

7 THE COURT: Okay.

8 MR. HOLLIDAY: The summary is marked Exhibit
9 1.

10 THE COURT: And all exhibits other than the
11 summary are stipulated to and admissible?

12 MR. BIBLE: Yes, Your Honor.

13 THE COURT: All right, very good. Are you
14 ready to proceed, Mr. Paavola?

15 MR. PAAVOLA: Yes, sir.

16 *(Whereupon, Defendants' Exhibit No(s). 1.2A&B*
17 *marked for identification and received in evidence.)*

18 *(Whereupon, Defendants' Exhibit No(s).*
19 *1.13A-1.14A marked for identification and received in*
20 *evidence.)*

21 *(Whereupon, Defendants' Exhibit No(s). 1.5A&B*
22 *marked for identification and received in evidence.)*

23 *(Whereupon, Defendants' Exhibit No(s).*
24 *1.6A-1.10A marked for identification and received in*
25 *evidence.)*

1 *(Whereupon, Defendants' Exhibit No(s).*
2 *1.11A&B-1.13A&B marked for identification and received*
3 *in evidence.)*

4 *(Whereupon, Defendants' Exhibit No(s).*
5 *1.14A-1.15A marked for identification and received in*
6 *evidence.)*

7 *(Whereupon, Defendants' Exhibit No(s).*
8 *1.16A&B-1.34A&B marked for identification and received*
9 *in evidence.)*

10 THE COURT: Excuse me, I overlooked Mr.
11 Logan. Do you have any other exhibits?

12 MR. LOGAN: No, I agree with what he said,
13 those exhibits that he's indicated.

14 THE COURT: All right. Thank you.
15 Call your first witness.

16 MR. PAAVOLA: Your Honor, may I do a brief
17 opening, or do you want to just go right into it?

18 THE COURT: If you want to, that will be fine
19 with me.

20 MR. PAAVOLA: Yes, sir. May it please the
21 Court, Your Honor, David Paavola and Mark Bible on
22 behalf of the Plaintiffs. The question for the Court
23 in this case is can the County claim that a road is in
24 its inventory when the County doesn't own the road, the
25 County doesn't maintain the road, and for decades the

1 County posted a sign informing the public that it
2 doesn't maintain the road. And where private land
3 owners paved the section of the road for the past 40
4 years and have owned the road, paid taxes on the road
5 and maintained the road. And we submit that the answer
6 is no, Your Honor.

7 This case concerns a section of Ellenburg
8 Road that dead ends at the Plaintiffs' property. And
9 to orient the Court, I just present demonstrative one.

10 THE COURT: What exhibit is this?

11 MR. PAAVOLA: It is demonstrative 1, Your
12 Honor.

13 THE COURT: Sir?

14 MR. PAAVOLA: Demonstrative 1. It is not an
15 exhibit, just for demonstration purposes. It is to
16 orient the Court. We have got, this is Knox Road, also
17 known as South Carolina 12. And then you have
18 Ellenburg Road running off of it. And it dead ends at
19 the point.

20 When you look at demonstrative 2, this is a
21 blow-up section of the map. And you can see that
22 Ellenburg Road dead ends and there is a -- four tax map
23 parcels on the north side of Ellenburg Road. And all
24 of these properties were at one time owned by TB
25 Ellenburg before Lake Keowee was created.

1 The properties that we are concerned about
2 today are tax map ending in -- are 585 Ellenburg ending
3 in tax map 99. And 599 Ellenburg. And then tax map
4 100. There is also homes here. This is 591 Ellenburg
5 Road as well. For convenience sake, I'll refer to the
6 whole parcel today as 585 Ellenburg so that we are on
7 the same page.

8 And the County contends that as a
9 prescriptive easement over our client's property along
10 the road, along Ellenburg Road. The County admits that
11 it doesn't own the road, it does not have any recorded
12 easements on that section of road, and has no records
13 of ever having patched or paved the road in front of
14 those properties.

15 John's Marine Service is at the end of the
16 road. And it has been in service since about 1982, for
17 40 or more years. And the Court will hear from members
18 of the Ratliff and Ellenburg families that grew up on
19 these properties, lived there for decades, work there
20 today, and actually maintained the road and the sides
21 of the road for decades.

22 The Court will also hear testimony about the
23 end of County maintenance sign that was located west,
24 and west would be this direction, of 585 Knox Road for
25 decades before it unexplainably disappeared. Patrons

1 of John's Marine Service will also testify to the
2 presence of the sign. And the Court will hear about a
3 meeting from 2009 from the County and some members of
4 the Ratliff family where the County indicated where
5 maintenance ends, back at 565 Ellenburg Road. The
6 Court will also hear testimony about the most recent
7 paving of Ellenburg Road by the County where it ended
8 at 565 Ellenburg Road, so about there. And it didn't
9 go to the end of the road.

10 The County tax maps between the 1980s and
11 2008 show Ellenburg Road and they show it clearly
12 ending at the western edge of 565 Ellenburg, right
13 here. The historic plats and deeds and change of title
14 for my clients' properties show a road exists, but it
15 don't designate it as public.

16 And for the Court's benefit as well, I'm
17 blowing up what is an excerpt of the DOT map of Ocone
18 County from 1969, before the lake was created. It
19 was -- you can see a Loop Road, the highlights are from
20 the DOT, but the green is where the present day
21 Ellenburg Road is. And Loop Road that goes around here
22 up to the High Falls Church area.

23 Because the County has contended that this
24 graying Ellenburg Road was a historic state road, we
25 will call the Department of Transportation to testify

1 about Highway 201. It actually went west of 45, not
2 south. And the Court will hear from the DOT, that this
3 Loop Road was never a state road and neither is the
4 green portion.

5 So, can the County claim that a road in its
6 inventory that it doesn't own, doesn't maintain, and
7 historically has disclaimed responsibility for? We
8 believe the answer is no and the Court should determine
9 that Oconee County has no rights to infringe on my
10 client's property. Thank you, sir.

11 THE COURT: All right. Mr. Holliday.

12 MR. HOLLIDAY: Yes, Your Honor. Very
13 briefly. This is a declaratory judgment seeking a
14 ruling from this Court that there is no prescriptive
15 easement. What has been ignored by the Plaintiffs'
16 counsel from the beginning, and from even prior to this
17 case, from the Board of Zoning Appeals herein, which we
18 will hear some testimony about, is that it ignores the
19 law of dedication. So, a public road can be dedicated
20 to public use without a deed. And it can be supported
21 by other evidence.

22 However, there are deeds and plats in the
23 record that we have stipulated to that showed that this
24 was either a public road, a County road. One calls it
25 a blacktop road that leads to 201. One calls it South

1 Carolina 61. So, it ignores the fact that this road
2 has been dedicated to public use. Not only that, it
3 has been --

4 THE COURT: Does that road show up on a plat
5 somewhere?

6 MR. HOLLIDAY: It does, Your Honor.

7 THE COURT: The section that is under
8 dispute?

9 MR. HOLLIDAY: Yes, Your Honor.

10 THE COURT: All right.

11 MR. HOLLIDAY: Numerous. And all the plats
12 from the surrounding property, north and -- northeast
13 and southwest indicate that this is a public road
14 identified as Ellenburg Road, WA-42. The County
15 identifies it as WA-42. The County has testified in its
16 deposition, which we will read in at some point, that
17 they have performed maintenance on it, they have cut
18 the grass, cleared trees. They have paved sections of
19 it, sections closest to 599 Ellenburg that they have
20 not paved recently and that they do not have records
21 of.

22 But they have accepted the public dedication.
23 That offer has been made and it has been accepted by
24 the County for decades, since -- all the way back to
25 the '40s. So, since before the lake was created, that

1 road did lead through some farmland from old 183 which
2 was relocated when the lake was created, and is now
3 known as Knox Road, or S 12, and it led from old 183
4 north to 201.

5 The DOT originally told the County and us
6 that they believed that it was part of 201. They have
7 subsequently said that they believe that they are in
8 error. We have a plat that calls it State Road 61,
9 which the DOT has said is in error, it is not in their
10 records. But they also have acknowledged that they
11 don't have all of the records. The County has
12 acknowledged that they don't have all of the records
13 back from the '40s, '50s, '60s and '70s.

14 Notwithstanding that the Plaintiffs have also
15 ignored the abandonment statute. 57-9-10 et seq was
16 enacted in 1962, before the creation of the lake. And
17 so that says that there is a series of steps that have
18 to go through for any portion of public road to be
19 abandoned. None of those steps have been filed. There
20 is nothing on record. There is no public notice.
21 There was no notice to my clients. There was no notice
22 to my clients' predecessors in interest. There is no
23 -- there is nothing filed in the registrar of deeds
24 office indicating that it is closed. There is no court
25 case indicating that this section of road has been

1 closed.

2 The Plaintiffs completely ignore the road
3 closure statute in that a public road has to be closed
4 through a specific series of steps outlined in 57-9-10.
5 On top of that they claim that the County, through an
6 employee and in a -- and on a tax map, not even a road
7 map, on a tax map, has said that the end of County
8 maintenance stops at a certain point. Even if that is
9 true, that County employee didn't have authority to
10 abandon a public road without complying with all of the
11 steps of 57-9-10.

12 As I said, there is multiple deeds and plats
13 that we will go through with the parties that have
14 already been entered into evidence that show that this
15 is a public road, a County road, a blacktop road, an
16 unnamed paved road. And further it indicates that it
17 was paved before the Ratliffs ever owned it, multiple
18 deeds and plats do. The DOT records do. And yet the
19 Ratliffs are claiming that they paved it in the mid
20 '80s. It is just not supported by any hard, physical
21 evidence.

22 And lastly, Ellenburg Road has been
23 identified as L900 by the DOT. So Ms. Kalashnikova
24 will testify, as she did in her deposition, that the
25 entirety of this road is a public road.

1 THE COURT: Thank you, sir. Mr. Logan.

2 MR. LOGAN: I'll adopt Mr. Andrew -- Mr.

3 Holliday's presentation on behalf of the County.

4 THE COURT: Thank you, sir.

5 Okay. Mr. Paavola, call your first witness.

6 MR. PAAVOLA: Yes, Your Honor. The

7 Plaintiffs call James L. Ratliff.

8 MR. HOLLIDAY: Jimmy?

9 MR. PAAVOLA: Yeah, Jimmy.

10 Thereupon,

11 JAMES L. RATLIFF

12 was called as a witness, having been first duly sworn,

13 was examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MR. PAAVOLA

16 Q. Good morning, Mr. Ratliff.

17 A. Good morning.

18 Q. Will you please state your name for the record?

19 A. I am James L. Ratliff.

20 Q. And how old are you?

21 A. I am 44.

22 Q. Okay. Are you currently engaged?

23 A. Yes.

24 Q. Who are you engaged to?

25 A. Laurie Lucretia Morgan.

1 Q. Do you have children?

2 A. Yes.

3 Q. And how old are they?

4 A. Twenty-four year old and a 21 year old.

5 Q. And what do they do?

6 A. Cameron works for me. And Colby is in the Army.

7 Q. And which one is the 24 year old?

8 A. Cameron.

9 Q. He is the one that works with you?

10 A. Yes.

11 Q. So what year were you born?

12 A. 1980.

13 Q. And where were you born?

14 A. Oconee County Memorial.

15 Q. Did you graduate high school?

16 A. Yes.

17 Q. Where did you graduate from?

18 A. Walhalla High School.

19 Q. What year?

20 A. Ninety-nine.

21 Q. And where do you currently live?

22 A. 585 Ellenburg.

23 Q. How long have you lived at that address?

24 A. I guess three years.

25 Q. Where did you live before three years ago?

1 A. 547 Knox Road.

2 Q. Approximately how long did you live there?

3 A. I guess 20.

4 Q. Are you currently employed?

5 A. I run John's Marine Service.

6 Q. What does John's Marine Service do?

7 A. We do boat repair.

8 Q. Is that a business that your dad owned before you?

9 A. Yes.

10 Q. When did you begin working for him?

11 A. When I was in high school.

12 Q. Have you ever had any other jobs outside of John's

13 Marine?

14 A. Yes.

15 Q. And what was that?

16 A. I worked at Paesano's.

17 Q. When did you work there?

18 A. I was probably in middle school.

19 Q. You worked your entire adult life after high

20 school with John's Marine?

21 A. Yes.

22 Q. And today, you are the owner of John's Marine?

23 A. Yes.

24 Q. At some point you took over the business, is that

25 right?

1 A. Yeah, when my daddy got sick.

2 Q. What was the state of the business when you took
3 it over?

4 A. It was in the negative.

5 Q. Were you able to bring it to the positive?

6 A. Yes, I borrowed some money from one of my
7 customers.

8 Q. Were you able to pay that money back?

9 A. Yes.

10 Q. Have you -- approximately what year was it when
11 you started taking over the business from your father?

12 A. I'm not real good with dates. I was in my 20s.
13 My early 20s I guess.

14 Q. For a period of time, your father, was he sick
15 while you were taking over the business, the transition?

16 A. Yes.

17 Q. I want to show you what has been -- what we have
18 introduced as demonstrative 2 on the screen.

19 THE COURT: If you will refer to it by
20 exhibit number, please, sir.

21 MR. PAAVOLA: Your Honor, this is just a
22 demonstrative, Plaintiffs' demonstrative two.

23 THE COURT: Any objection, Mr. Holliday, or
24 Logan?

25 MR. HOLLIDAY: No, sir.

1 MR. LOGAN: None.

2 THE COURT: All right.

3 BY MR. PAAVOLA

4 Q. Mr. Ratliff, you own property on Ellenburg Road?

5 A. Yes.

6 Q. I'm showing what has -- we have identified as
7 Plaintiffs' demonstrative 2, and if I may --

8 MR. PAAVOLA: Your Honor, may I approach the
9 witness with this?

10 THE COURT: Yes, sir.

11 BY MR. PAAVOLA

12 Q. If you would, Mr. Ratliff, point the laser
13 pointer. There are four tax properties here listed on this
14 demonstrative, and you have an ownership interest in some of
15 them; is that right?

16 A. In a couple, yes.

17 Q. Okay. So can you identify for the Court which
18 property you have property interest in?

19 A. This one, that one, and this one.

20 Q. Okay. This top one is referred to sometimes as
21 575 Ellenburg Road; is that right?

22 A. Yes.

23 Q. 575 right there. Okay. And this middle one, is
24 it referred to as 585, I have been referring to it as 585?

25 A. Yeah.

1 Q. Okay. Maybe which home do you live on? Do you
2 live at the home on the back of the property?

3 A. Right there.

4 Q. Okay. This is 591, right?

5 A. Yes.

6 Q. Okay. The 591 and 585 addresses are all the same
7 tax map parcel, right?

8 A. I believe so.

9 Q. They are all in this blue section?

10 A. Yes.

11 Q. And then you said you have an interest in 599
12 Ellenburg Road as well, right?

13 A. Yes.

14 Q. You own that with who?

15 A. My mom and brothers and sisters.

16 Q. Okay. Do you recall about how long you have owned
17 575 Ellenburg Road?

18 A. I would say four years maybe, five years,
19 something like that.

20 Q. Do you remember how that came about?

21 A. When I was little -- I told them if they ever
22 sold, I would love to try to buy it.

23 Q. And you own that property on your own or with
24 somebody else?

25 A. With Lucretia.

1 Q. What about 585 and 591 Ellenburg Road, do you know
2 how long approximately you have owned that property?

3 A. It's been less -- it was three years maybe.

4 Q. And do you own that by yourself or with somebody
5 else?

6 A. With Lucretia.

7 Q. How did that come about just generally?

8 A. It was the same. I told her when I was a little
9 kid if she ever wanted to sell that, I wouldn't haggle, if I
10 could buy it I would.

11 Q. Do you remember who you bought it from?

12 A. Rhonda Ellenburg.

13 Q. And approximately when did you buy it?

14 A. Two or three years ago.

15 Q. If you will turn to tab 19 in the binder, the
16 binder in front of you. Yes. And this has also been marked
17 as Plaintiffs' Exhibit 19. Stipulated in evidence.

18 A. This one?

19 Q. Yes. Let me know when you get there.

20 A. Okay.

21 Q. Do you recognize this document? Or the first page
22 of this document?

23 A. Yes.

24 Q. This is a deed from Rhonda Ellenburg to yourself
25 and Ms. Morgan, correct?

1 A. Yes.

2 Q. And on the screen I have highlighted, it is 2.71
3 acres; is that -- which property is this for, do you know?

4 THE COURT: Which exhibit number is this?

5 MR. PAAVOLA: This is 19.

6 THE COURT: Nineteen?

7 BY MR. PAAVOLA

8 Q. This is 585 and 591 Ellenburg Road, right?

9 A. Yes.

10 Q. And if you turn to the second page, it has a date
11 on there when it was signed. Does it indicate when the
12 document was signed?

13 A. Yes.

14 Q. What year was that?

15 A. The 3rd of December.

16 Q. Is that '20?

17 A. I right -- I don't see the date on it.

18 Q. If you would look at -- did you have a plat
19 prepared as part of -- was there a plat prepared as part of
20 the purchase of that property from Rhonda Ellenburg?

21 A. I think that the bank made us do that.

22 Q. Okay. Did you have any involvement in the
23 recording of that plat?

24 A. No.

25 Q. If you would turn to Exhibit 20 in the binder; do

1 you recognize this document?

2 A. Yes.

3 Q. This is a plat to Mr. Henderson for your purchase
4 of 585 Ellenburg Road, right?

5 A. Yes.

6 Q. Okay. And just going to focus in on the bottom,
7 the bottom of this document, it has -- Michael Henderson has
8 signed it, right? You see that on the left side?

9 A. Uh-huh. (Indicating affirmatively.)

10 Q. And then it is -- the bottom left, right by the
11 Bates stamp, it says, aerial parcel 2.71 acres; do you see
12 that?

13 A. On the bottom?

14 Q. Yes. I have highlighted it on the screen for your
15 convenience.

16 A. Where? Yes, I see that.

17 Q. And date of the plat would be November 23rd, 2020?

18 A. Yes.

19 Q. You see this notation on the plat, it says
20 Ellenburg Road, WA-42 right-of-way public; do you see that
21 notation?

22 A. Yes.

23 Q. Okay. Did you recognize that notation at the time
24 you bought 585 Ellenburg?

25 A. I never looked at it.

1 Q. You had not looked at the plat when you bought it?

2 A. No, I didn't.

3 Q. And also, so RW and a line that runs across the
4 bottom of the property; do you see that?

5 A. Yes.

6 Q. If you didn't look at the plat you did not look at
7 that line as well, right?

8 A. Yeah, I didn't never -- I knew where the pins
9 were. I mean, I grew up there so I never really looked at
10 it.

11 Q. When you bought 585 Ellenburg Road, did you intend
12 to dedicate this portion of the property to Oconee County?

13 A. No.

14 Q. Do you believe that there is a public right-of-way
15 that runs right along the bottom of this portion of 585
16 Ellenburg?

17 A. Say that again, I am sorry.

18 Q. Do you believe that there is a public right-of-way
19 right along the bottom section of 585 Ellenburg?

20 A. No.

21 Q. If you will, turn to tab 17 -- 16, I am sorry, in
22 your binder and stipulated into evidence.

23 A. Okay.

24 Q. Do you recognize this document?

25 A. Yes.

1 Q. Okay. And in the middle of the document it has,
2 it says the name, R. Ellenburg, and it is 2.76 acres; do you
3 see that?

4 A. Yes.

5 Q. Is this the -- a prior plat for the property that
6 you purchased from Ms. Morgan known as 585 Ellenburg?

7 A. This would be Rhonda's I think.

8 Q. This is the property that you purchased from
9 Rhonda Ellenburg?

10 A. Yes, I think so, yes.

11 Q. Okay. And on the screen I have highlighted for
12 your convenience, but there is a date of the plat. Do you
13 see the date? What is that date?

14 A. Yes, I see it.

15 Q. What date was that?

16 A. The 28th of August of '04.

17 Q. Okay. And along the bottom of that plat, is there
18 an indication of a road there?

19 A. There is dotted lines, yes.

20 Q. And does the word "road" appear there; do you see
21 it, this area?

22 A. I don't see it where it says road.

23 Q. Okay. I'll draw your attention to the screen
24 behind you.

25 A. Oh, yes, okay, I see it up on top, yes, "road," I

1 see it.

2 Q. Okay. Is there any indication on this document,
3 Exhibit 16, of a public right-of-way that you see?

4 A. No.

5 Q. So is there indication on your 2020 plat of 585
6 Ellenburg a change from this 1974 plat?

7 A. I'm not sure how.

8 Q. Is there a change?

9 A. Yes.

10 Q. Was that change disclosed to you in closing by
11 anyone?

12 A. No.

13 Q. I would like to give the Court a view -- turn to
14 tab 49, Exhibit 49, stipulated into evidence. You can look
15 at the screens or the binder, whatever is easier for you.
16 That exhibit is marked as 49 in front of you, is it not?

17 A. Yes.

18 Q. Okay. All right. Mr. Ratliff, I would just like
19 to walk the Court through this series of photographs and you
20 can tell us what you see. So what does this -- what are we
21 seeing in this first image? In fact, just tell us where we
22 are in the world.

23 A. That is 565 Ellenburg Road.

24 Q. What road are we on?

25 A. Ellenburg Road.

1 Q. Okay. This is the road in question, right?

2 A. Yes.

3 Q. You identified -- you are sitting and looking at
4 565 on the left?

5 A. Yes, that's correct.

6 Q. And what do you observe about the pavement in this
7 location?

8 A. That is where they stopped paving, the County,
9 when they repaved the road.

10 Q. Do you recall when that was?

11 A. Maybe ten years ago. I'm not good with dates.

12 Q. There is a second photo in the exhibit. What does
13 it depict?

14 A. That is 565 also.

15 Q. Is there any difference in the center lane
16 striping in that location?

17 A. Yes.

18 Q. And what do you observe?

19 A. That is where they didn't stripe it all the way.
20 It looks like they went too far one time and then they
21 stopped the second time right there where the pavement
22 changes.

23 Q. This next photo on the screen, in this exhibit
24 that we are describing now, which way is it facing, facing
25 John's Marine Service or facing Knox Road?

1 A. Knox Road towards Harbor Road.

2 Q. And we see that same, not a mailbox, but address
3 post on the right side there, right?

4 A. Yes, that's correct.

5 Q. Are you able to see a difference in the pavement
6 quality between before 565 and after?

7 A. Yes.

8 Q. In photo four of this exhibit, which way are we
9 now moving, towards Knox Road or away from Knox Road?

10 A. Towards John's Marine.

11 Q. All right. And we see a mailbox on the right
12 side, what address is that?

13 A. That is 582.

14 Q. What is your understanding about who maintains the
15 sides of the road in this location?

16 A. We have.

17 Q. When you say "we", who do you mean "we"?

18 A. My daddy and sisters and brothers, when we all
19 grew up. And old man Ellenburg, he maintained that part,
20 that was where he moved from on the left side.

21 Q. The left side was property belonging to Mr.
22 Ellenburg?

23 A. Yes. And he had cows on the other side, so they
24 mowed it. The cows ate all of the grass.

25 Q. All right. Photo five, which direction are we

1 moving here?

2 A. Towards the shop.

3 Q. Does the road curve here, up in the distance?

4 A. What do you mean?

5 Q. Does it curve to the left way past it?

6 A. Well, where daddy paved with it with more on our
7 side.

8 Q. And we see boats at the end of the road, is that
9 right, we see boats there?

10 A. Yes.

11 Q. Is that typical for John's Marine Service's
12 operation?

13 A. Usually there's more.

14 Q. And this is -- the next photograph, Page 6 of the
15 exhibit, which way are we moving towards here?

16 A. Towards John's Marine Service.

17 Q. And what do you notice on the road if anything?

18 A. That is where the line stops.

19 Q. The center lines, the center striping lines?

20 A. Yes.

21 Q. And who maintains the sides of the road in this
22 area?

23 A. We maintain both sides of the road on down through
24 there.

25 Q. And who maintains the travel surface?

1 A. We did.

2 Q. Are you able to see any work that you prepared,
3 not prepared but done on the road in this image?

4 A. Yes, I did the left side. I put all of the gravel
5 and stuff in.

6 Q. Okay. And are you identifying next to this pipe
7 here?

8 A. Yes.

9 Q. And is this gravel?

10 A. Yes, that's correct.

11 Q. In this photo, photo seven, which way are we
12 facing now, towards the marine or towards --

13 A. Towards Harbor Road.

14 Q. This, you see the end of the stripes here in this
15 image?

16 A. Yes.

17 Q. And then in photo eight of this exhibit, which way
18 are we looking towards in this picture?

19 A. Toward John's Marine.

20 Q. And we see grass on the right side. And who
21 maintains the grass and the weeds on the right side?

22 A. We do, we cut it.

23 Q. What about on the left side; there is no grass on
24 the left side?

25 A. Yes, there is no grass on the left side. That

1 used to be just pine needles on that side.

2 Q. This image is just moving us, again, closer to the
3 boot shop, right?

4 A. Yes.

5 Q. I see a mailbox on the right, whose mailbox is
6 that?

7 A. That is mama's.

8 Q. How long has that been there?

9 A. Ever since I can remember.

10 Q. Okay. This next image is Page 10, and again we
11 are closer to the marine shop, right?

12 A. Yes.

13 Q. And who maintains all of the grass and road
14 surface that we see here?

15 A. We cut it.

16 Q. Okay. And in photo 11 now, where are we at in
17 this picture in relationship to your property?

18 A. At the corner pin.

19 Q. And which way are we facing?

20 A. Towards Harbor Road.

21 Q. Is this the typical view of how the road looks on
22 both of these properties?

23 A. Yes.

24 Q. And this is the last image in this exhibit; which
25 way are we moving now?

1 A. Towards Harbor Road.

2 Q. Mr. Ratliff, you said that you were born in 1980,
3 I believe, correct?

4 A. Yes.

5 Q. So where did you grow up?

6 A. I grew up at the boat shop.

7 Q. Okay. And how long did you live in that house
8 near the boat shop?

9 A. Until I was 18.

10 Q. And you mentioned earlier that right after high
11 school you began working for your dad, right?

12 A. Yes.

13 Q. So have you been down at 599 nearly everyday of
14 your adult life?

15 A. Yes, until today.

16 Q. So what -- tell me about, what do you remember
17 what Ellenburg Road -- what today's modern Ellenburg Road
18 was like when you were a kid, the section of road in front
19 of your parents' house?

20 A. It was real rough, it looked like a gravel road
21 with like how they used to pour oil on it.

22 Q. And what in your mind sticks out about recalling
23 that?

24 A. Because you couldn't skateboard or roller skate or
25 you couldn't really do nothing on it. It was hard to play

1 basketball.

2 Q. And do you recall a time that the road was paved,
3 the road in front of your parents' property?

4 A. I'm not sure when it was, but I do remember it
5 getting paved, yes.

6 Q. And what about your memory, what sticks out for
7 you that makes you remember that it was paved?

8 A. Well, when I would ride bicycles on it I wouldn't
9 have to worry about sliding.

10 Q. Do you know who John Hamrick is?

11 A. Yes.

12 Q. And do you know his connection today to the Globe
13 and Farmes, the Defendant, in this case?

14 A. Yes.

15 Q. And what is that?

16 A. Sir?

17 Q. What is his connection to that entity?

18 A. He owns it.

19 Q. Have you ever had any interactions with Mr.
20 Hamrick?

21 A. Yes, he would try to come and buy it from daddy
22 when I was young.

23 Q. Buy what from your dad?

24 A. He tried to get the shop out of there.

25 Q. Tried to buy the property from your dad?

1 A. Yes, or he said, Well, we can trade or we will get
2 you a different place on the lake.

3 Q. Come by the property multiple times in an attempt
4 to buy the property?

5 A. Yes, especially when daddy was sick.

6 Q. Okay. Tell me about that; how did that happen?

7 A. I would be working and he would show up with his
8 glasses that were broken and he would be up there and I
9 would run up there and be like, What are you doing.

10 Q. Did he ever attempt to get your dad to sign
11 anything?

12 A. I think so, yes.

13 Q. Did Mr. Hamrick ever say anything about relocating
14 your family off of the property?

15 A. Yes, he said that we could -- well, he said, go
16 and look and see. And we would be like, well, we will trade
17 for Mosquito Pointe or Stamp Creek landing, or name all of
18 these different places and he would say, Well, we can't do
19 that.

20 Q. Did your family ever find a suitable place to
21 relocate?

22 A. No.

23 Q. If you would, turn to tab 55 in your binder and
24 I'll also put this image on the screen. The screen, in the
25 binder, tell us what -- Exhibit 55 is admitted into

1 evidence; what does this picture depict?

2 A. That was the shop when I was a kid.

3 Q. Do you have an approximate time frame of this
4 photo?

5 A. I would say probably -- I remember getting in that
6 houseboat, so I would say I had to be at least seven or
7 eight.

8 Q. Do you know if this was before or after the road
9 was improved to your recollection?

10 A. That was before.

11 Q. And we see boats all over the sides; is that
12 right?

13 A. All over. Yeah, the boats were everywhere.

14 Q. I was going to show you, turn to Exhibit 52 or
15 look on the screen just to get an idea of the -- what is
16 depicted in this photograph?

17 A. That is the shop.

18 Q. Is this -- do you know what year this was?

19 A. I would say 2000 something.

20 Q. It is a more modern photograph of the shop, right?

21 A. Yes.

22 Q. Of the site. And Exhibit 53, tab 53, what is this
23 a picture of?

24 A. That is the shop also.

25 THE COURT: That is what, I'm sorry?

1 A. That is the -- John's Marine Service.

2 Q. Is this a more modern day photograph?

3 A. Yes, that is more modern than the other one, yes.

4 Q. Is this typically what the shop looks like on a
5 workday for you?

6 A. Yes.

7 Q. Exhibit 54, can you identify what this photograph
8 is?

9 A. That is in front of the shop where the pinch point
10 is.

11 Q. And you are looking out which way?

12 A. Looking out of my bay door.

13 Q. And we can see boats across the road, right?

14 A. Yes.

15 Q. And this is fairly typical what it looks like for
16 John's Marine Service on a workday?

17 A. Yes.

18 Q. This Exhibit 56 is a series of Google Earth
19 images. You may not be able to read that, but at the top
20 left it says, March 2004. Do you see that date?

21 A. Yes, March 2004.

22 THE COURT: What exhibit number is that?

23 MR. PAAVOLA: Exhibit 56.

24 THE COURT: Seventy-six.

25 MR. PAAVOLA: Fifty-six, I am sorry, Your

1 Honor.

2 Q. Yes, that is March 2004?

3 A. Yes.

4 Q. And just asking, this would be a typical -- what
5 the marine shop looked like in March of 2004, boats on all
6 sides?

7 A. Yes, boats everywhere, yes.

8 Q. Okay. The next Google Earth image in this exhibit
9 has a Google date of --

10 MR. HOLLIDAY: Your Honor, in, the interest
11 of efficiency, I am just not sure what the relevance is
12 about boats or -- I mean, this is about whether the
13 County has prescriptive easement and whether it is a
14 public road.

15 THE COURT: What is your response?

16 MR. PAAVOLA: My response is, this depicts
17 how the family has used the property for 40 years.
18 That all goes to whether the County has gone down and
19 maintained the road. It explains why the County never
20 goes down there or maintains the road, it is how we use
21 it.

22 THE COURT: Overruled.

23 BY MR. PAAVOLA

24 Q. Mr. Ratliff, this Google image data is April of
25 2014; do you see that?

1 A. Yes.

2 Q. Is this a typical image for John's Marine at that
3 time of year?

4 A. Yes, it is.

5 Q. And next photograph in this Exhibit 56 has a date
6 of October 2015; do you see that?

7 A. Yes.

8 Q. And you see boats all over the property; is that
9 typical for that time of year?

10 A. It is, yes.

11 Q. And then after a couple of years, this is March of
12 2017; do you see that?

13 A. Yes.

14 Q. Again, you see boats on the property; is that
15 fairly typical?

16 A. Yes, it is.

17 Q. Now, this is a Goggle Earth image from April of
18 2018; do you see that?

19 A. Yes.

20 Q. And does that fairly depict the property and
21 particularly the boats around the property?

22 A. Yes, it does.

23 Q. We will present -- Exhibit 58 is a Google Earth
24 image, and it has a date on the second page of 1994. I want
25 to know from you, does this accurately depict the property

1 on or around 1994?

2 A. Yes. You can see where there is no trees and the
3 home -- Mr. Ellenburg put his garden and stuff over there.

4 Q. It has a zoom-in photo, so you are saying there
5 are no trees, and where are you indicating?

6 A. Across from the shop, yes, there is no trees.

7 Q. This area here?

8 A. Yes, all of that, yes, there was no trees
9 anywhere. You could see all the way to the lake.

10 Q. That is the current property that is owned by
11 Globe and Farmes, right?

12 A. Yes.

13 Q. Do you have a recollection of John's Marine using
14 some of that property for boat parking?

15 A. Yes, daddy would park over there.

16 Q. You mentioned Mr. Ellenburg, did he use part of
17 that property as well?

18 A. Eventually he did, yes. They put a fence up so
19 daddy couldn't park all the way over.

20 Q. Mr. Ratliff, do you recall seeing County signs on
21 Ellenburg Road?

22 A. Yes.

23 Q. And what signs do you recall seeing?

24 A. The end of County maintenance sign.

25 Q. And where was that located when you saw it?

1 A. It was all the way up where the pavement changed
2 up in that area.

3 Q. If I could direct your attention to Exhibit 83.

4 A. You took 83 out. You said 83?

5 MR. HOLLIDAY: What is 83?

6 THE COURT: That is admitted into evidence?

7 MR. HOLLIDAY: No, Your Honor, I don't know
8 what it is.

9 THE COURT: Show him 83.

10 MR. HOLLIDAY: Yes, yes, we did, sorry.

11 THE COURT: All right. That is admitted?

12 MR. HOLLIDAY: It is, Your Honor, yes. Thank
13 you.

14 THE COURT: Thank you.

15 BY MR. PAAVOLA

16 Q. And Mr. Ratliff, on this Exhibit 83, are you able
17 to take the pointer and at this point in time identify for
18 the Court where you believe the County sign was located?

19 A. Let me see if it works. It was around in this
20 area right in here somewhere.

21 Q. Okay. And, for the record, let the record reflect
22 that the witness is pointing to what is currently known as
23 566 Ellenburg; is that correct, Mr. Ratliff?

24 A. Yes, it was, yes. It is hard to tell because all
25 of the houses. It used to be all trees. But it was -- it

1 was definitely up here where the pavement changes.

2 Q. Okay. That was before 585 Ellenburg Road, isn't
3 it?

4 A. Yes.

5 Q. And is it before the marine shop?

6 A. Yes.

7 MR. PAAVOLA: Your Honor, if I might, we
8 would ask the witness just to mark on the copy of 83
9 with a pen where you remember the sign being at. If I
10 may approach?

11 THE COURT: All right, sir.

12 BY MR. PAAVOLA

13 Q. Mr. Ratliff, if you would take a Sharpie and mark
14 on that copy of 83 where you believe -- just put a circle
15 indicating where you believe the sign was.

16 MR. PAAVOLA: And, Your Honor, we would move
17 that into evidence as 83A.

18 THE COURT: Any objection?

19 MR. HOLLIDAY: Without objection.

20 THE COURT: Admitted.

21 Any objection, Mr. Logan?

22 MR. LOGAN: No, sir.

23 THE COURT: If I overlook you, I'm sorry.

24 MR. LOGAN: I'll holler.

25 *(Whereupon, Plaintiffs' Exhibit No(s). 83A)*

1 *marked for identification and received in evidence.)*

2 BY MR. PAAVOLA

3 Q. Mr. Ratliff, tell me what do you recall about that
4 sign?

5 A. I believe that it was black and white.

6 Q. And what did it say if you recall?

7 A. End of County maintenance.

8 Q. And how far back do you recall seeing that?

9 A. For as long as I can remember.

10 Q. Ever seen it as a child or a young man?

11 A. Yes.

12 Q. Is that sign still there today?

13 A. No.

14 Q. Do you recall when it came down?

15 A. Not sure the exact time that it disappeared.

16 Q. Have you ever seen another end of County
17 maintenance sign on Ellenburg?

18 A. Yes.

19 Q. And approximately when was that?

20 A. I don't remember the date.

21 Q. Where did you see it?

22 A. It was at the end of the road.

23 Q. End of the road near John's Marine?

24 A. Yes.

25 Q. And approximately how long -- is it there today?

1 A. No.

2 Q. Approximately how long was that sign at that
3 location?

4 A. Not very long.

5 Q. Did you have any discussions with County employees
6 about that sign?

7 A. Yeah.

8 Q. What were the discussions? Who did you talk to?

9 A. I'm not sure what the guy's name was.

10 Q. And what discussions did you have?

11 A. He come out to put the sign up and he said that it
12 didn't make any sense.

13 Q. What didn't make sense?

14 MR. HOLLIDAY: Objection.

15 THE COURT: Sustained.

16 Q. What was your understanding of what --

17 A. He said --

18 MR. HOLLIDAY: Objection.

19 THE COURT: Just one second. Don't answer
20 that question. And strike it from the record, Madam
21 Court Reporter. What is the response to the objection,
22 Mr. Paavola?

23 MR. PAAVOLA: I'll rephrase my question, Your
24 Honor.

25 THE COURT: Sir?

1 MR. PAAVOLA: I will rephrase my question.

2 THE COURT: Thank you.

3 BY MR. PAAVOLA

4 Q. Mr. Ratliff, did you have discussions with a
5 County employee about a sign at the end of Ellenburg Road?

6 A. Yes.

7 Q. After those conversations, did the County place
8 the sign at that location?

9 A. No.

10 Q. And what was your understanding of why he didn't
11 place the sign?

12 MR. HOLLIDAY: I am going to object.

13 THE WITNESS: Because he didn't know --

14 MR. LOGAN: Objection.

15 THE COURT: Sir, when he objects, stop.

16 MR. LOGAN: He hasn't identified who with the
17 County he had a conversation with, or, you know, when
18 it was or anything of this nature, or who all was
19 there.

20 THE COURT: Your response, sir?

21 MR. PAAVOLA: I asked him if he had
22 conversations with a County employee and he didn't know
23 the person's name. It is not unusual for a County
24 employee --

25 THE COURT: Sustain the objection.

1 BY MR. PAAVOLA

2 Q. Approximately how long -- you saw the sign at the
3 end of the road at one point in time; is that right?

4 A. Yes.

5 Q. Approximately how long was it there for?

6 A. Maybe a couple of weeks, a month. I'm not real
7 sure. I'm not good with dates.

8 Q. It is not there today, is it?

9 A. No.

10 Q. If you will turn to Exhibit 50 in your binder, and
11 I'll also place this Exhibit 50 on the screen. What does
12 this photograph depict?

13 A. That is my son and mom.

14 Q. Okay. Do you have an idea approximately the age
15 of your son in this photograph?

16 A. He looks pretty young. I would say he is probably
17 12.

18 Q. And which son is that?

19 A. Cameron.

20 Q. And Cameron is 24 today, right?

21 A. Yes.

22 Q. So approximately 12 years ago?

23 A. I would say yes.

24 Q. 2012 time frame?

25 A. (Nods in the affirmative).

1 Q. Is there an indication of any sign in this
2 photograph?

3 A. No.

4 Q. When you were still living at home, before you
5 graduated high school, who do you recall maintaining the
6 roadway in front of your parents' property?

7 A. Daddy.

8 Q. What about the sides of the road?

9 A. Us kids, we did it if there was any weeding that
10 had to be done.

11 Q. And was that the same way all the way through high
12 school?

13 A. Yes.

14 Q. And once you moved out of the house but still
15 working there, who maintained the roadway in front of your
16 parents' property?

17 A. I did. I was there everyday.

18 Q. What kind of activities did you do to undertake --
19 what kind of maintenance did you do?

20 A. I would gravel. I would fix the road if it needed
21 to be fixed or whatever.

22 Q. Okay. If you will turn to Exhibit 57 which has
23 been admitted into evidence. And I will put the picture on
24 the screen up here. It is in evidence. Tell us what is in
25 this first photo, please?

1 A. That is mama's driveway.

2 Q. Is that an area that you took care of?

3 A. Yes.

4 Q. In this photograph it looks like it needs repair
5 to the road; is that right?

6 A. Yes.

7 Q. The second photograph, what is this photograph of?

8 A. That is on the Globe and Farnes' side.

9 Q. Has there been gravel added there?

10 A. Yes, I put gravel there.

11 Q. And you did that, right?

12 A. Yes, because it was a mudhole.

13 Q. Is that an area that you use for your business,
14 John's Marine?

15 A. Yes.

16 Q. Okay. If you will turn to Exhibit 61 and look
17 through the exhibit and let me know when you have had a
18 chance to look through it.

19 A. Okay.

20 Q. On that, from the first page, that is a check;
21 right?

22 A. Yes.

23 Q. Okay. Do you recognize this check?

24 A. Yes, to White's Culvert, yes.

25 Q. What was that for?

1 A. That was for the drain pipe.

2 Q. Is that something that you got installed on
3 Ellenburg Road?

4 A. Yes.

5 Q. And the date of that expense?

6 A. 3-31 of '08.

7 Q. Second page. What is the second page?

8 A. That is Woody and Sons.

9 Q. Okay. And what is Woody and Sons?

10 A. I don't see it on here, but he brought me a bunch
11 of gravel, a dump truckload of gravel.

12 MR. LOGAN: I don't see it on the screen.

13 THE COURT: It is not on the screen. Do you
14 have the folder? It is right behind 61, number two.

15 BY MR. PAAVOLA

16 Q. The second page of 61 is a check to Woody and
17 Sons; is that correct?

18 A. Yes.

19 Q. What was that for?

20 A. Gravel.

21 Q. And that was what year?

22 A. '08.

23 Q. And how did you use that gravel?

24 A. I'm sure that I put it around the -- on the sides
25 of the road and around the shop.

1 Q. The next page of Exhibit 61, what is that next
2 page, Bates stamp 168 for the record?

3 A. That was Cutting Edge Concrete.

4 Q. Okay. And that was for -- how much money was that
5 for?

6 A. \$9,800.

7 Q. What did you do with that -- with Cutting Edge
8 Concrete?

9 A. That was for seventy yards of the broom finished,
10 the ramp, and the parking area in front of the shop.

11 Q. And the next page -- what is the next page?

12 A. That is where I paid him, the check.

13 Q. The check was for the same invoice?

14 A. Yes, that was for --

15 Q. And the next page, Ratliff 170, what is this
16 document?

17 A. That is the Oconee County rock quarry.

18 Q. Okay. What were you purchasing rock for?

19 A. I have a dump trailer and I would just get rock to
20 fix the road.

21 Q. Okay. And the next two pages of this exhibit also
22 are related to rock quarry, correct?

23 A. Yes.

24 Q. Also for rocks for the road?

25 A. Yes.

1 Q. Okay. Mr. Ratliff, have you ever seen anyone from
2 the County perform maintenance in front of 585 and 599
3 Ellenburg Road?

4 A. The only time that I even seen them come is when
5 Arrowhead Point started, they would try to mow the grass.
6 And I would turn them around. I have never seen anyone
7 before.

8 Q. What year was that?

9 A. Three years ago when they started I guess.

10 Q. When you say "they started," what do you mean?

11 A. When they went to get the variance for the
12 Arrowhead Point project.

13 Q. You say that you turned them away from mowing your
14 area?

15 A. Yes. They would come down several times a month
16 to try to mow it. And I have never seen them mow before.

17 Q. Mr. Ratliff, do you notice when people drive down
18 your section of Ellenburg Road?

19 A. Yes.

20 Q. Is it part of your business to notice when
21 customers come and drop boats off?

22 A. Yes.

23 Q. Would you notice if someone from the County came
24 in and performed maintenance in front of 585 or 599
25 Ellenburg Road?

1 A. Absolutely.

2 MR. PAAVOLA: No further questions, Your
3 Honor. Please answer any questions Mr. Holliday may
4 have.

5 THE COURT: Cross examination, Mr. Holliday.

6 MR. HOLLIDAY: I haven't taken a look at
7 83-1, which I believe is what Mr. Ratliff personally
8 drew on. Is that -- that is this document? Okay.

9 CROSS EXAMINATION

10 BY MR. HOLLIDAY

11 Q. And so you put a black dot in between this
12 circular driveway here at 566, correct?

13 A. Yes, it is close -- it is hard to know exactly
14 where the sign was since the trees are gone, but it is in
15 that general area.

16 Q. It is in that general area, okay.

17 A. What I would say, within a hundred feet, maybe up
18 through there.

19 Q. It wouldn't have been down at 582?

20 A. I don't remember it down that far.

21 Q. It couldn't have been down at 585?

22 A. No.

23 Q. And it wouldn't have come to the property line of
24 599?

25 A. No.

1 Q. So you are absolutely certain that it is within a
2 hundred feet of inside this circular driveway here at 566?

3 A. Somewhere up near there.

4 Q. I don't know if -- that we -- this hasn't been
5 marked as 83.1. This copy with his handwriting on wasn't.

6 MR. HOLLIDAY: But the copy that I was
7 looking at wasn't marked. Which is the original.

8 MR. PAAVOLA: That is 83A.

9 MR. HOLLIDAY: Oh, 83A. I got the impression
10 that it had been moved in too.

11 THE COURT: Yes, sir.

12 MR. HOLLIDAY: But the copy that I was
13 looking at wasn't marked.

14 THE COURT: Madam Court Reporter, has it been
15 marked and admitted?

16 THE COURT REPORTER: It was admitted, and it
17 has a sticker placed on it now.

18 MR. HOLLIDAY: Thank you.

19 BY MR. HOLLIDAY

20 Q. When was that black and white sign on the
21 property?

22 A. My whole life.

23 Q. Okay. But it was never located on your property?

24 A. No.

25 Q. Okay. Did it appear to look something similar to

1 this?

2 A. I guess something kind of like that.

3 Q. Is this --

4 A. I can't remember if the sign was black with white
5 writing or if it was white with black writing.

6 Q. So it may have been a black sign with white
7 writing?

8 A. Maybe. I mean it could -- I mean, one or the
9 other. It might have been a white sign -- I --

10 Q. So can you tell me if this was substantially
11 similar to the sign that you saw on the side of Ellenburg
12 Road at 566?

13 A. Something like that, yes.

14 Q. Okay. And you recognize it?

15 A. Uh-huh. (Indicating affirmatively.)

16 Q. Okay. I would move to introduce that as
17 Plaintiffs' -- or Defense 2 as being substantially similar
18 to the sign that he's now verified was there.

19 MR. PAAVOLA: We object, Your Honor. There
20 is no foundation laid for this single page of a scan.
21 We have no idea if that is what it looked like.

22 THE COURT: Any objection?

23 MR. LOGAN: No, Your Honor, I think that it
24 ought to be admitted.

25 THE COURT: It is admitted.

1 *(Whereupon, Defendants' Exhibit No(s). 2*
2 *marked for identification and received in evidence.)*

3 BY MR. HOLLIDAY

4 Q. Did I understand your testimony earlier that you
5 were born in 1980; is that correct?

6 A. Yes.

7 Q. Do you know when your parents purchased this
8 property?

9 A. I think 1980.

10 Q. Could it have been in 1981?

11 A. Maybe.

12 Q. Okay. When your father paved this road, how old
13 were you?

14 A. I was just a young kid.

15 Q. In years?

16 A. I'm not sure.

17 Q. Were you five?

18 A. Maybe.

19 Q. Were you four?

20 A. Could have been.

21 Q. So you have no idea approximately what age you
22 were?

23 A. I'm not good with dates, I'm sorry.

24 Q. Could you have been 15?

25 A. I don't think that I would have been 15.

1 Q. Okay. Do you recall in your deposition saying
2 that you were three or four years old?

3 A. I'm not sure what I said.

4 Q. Would you like me to show you your deposition?
5 Because we have got a number of these. You don't recall
6 that?

7 A. I could have said three or four.

8 Q. I'm sorry?

9 A. I could have said three or four, I guess.

10 Q. So you would have been three or four when the road
11 was paved?

12 A. I'm not sure.

13 Q. Okay. That is your original deposition. Can you
14 go to Page 88, please?

15 A. Okay.

16 Q. You are at Page 88? Can you please read line 8
17 through 12?

18 A. I am not a very good reader. Are you trying to
19 make -- embarrass me?

20 Q. Are you saying that you are incapable of reading
21 lines 8 through 12?

22 THE COURT: Read it, counsel.

23 BY MR. HOLLIDAY

24 Q. This is your answer to my question about whether
25 your father told you that he paved it. And you say, "He

1 didn't come by and say, hey, I'm paving this road right now
2 or, I mean, you know what I'm saying. I was just a kid.
3 You don't go to your son and say, I'm paving the little --
4 the road to your little three year old, you know what I
5 mean. Or four years old, however I was back then."

6 Is that accurate?

7 A. I didn't know how old I was. It doesn't say there
8 either.

9 Q. If you were three or four years old, what year
10 would that have been?

11 A. I was born in '80, so three or four.

12 Q. So 1983 or 1984? And that is when you believe
13 that the road was paved?

14 A. It was some -- I was just a kid. I don't exactly
15 know the exact date.

16 Q. Were you opposed to the development with Board of
17 Zoning Appeals?

18 MR. PAAVOLA: Objection, Your Honor. The
19 Board of Zoning Appeals is not an issue in this case.
20 Whatever position he's taking is not an issue. Also,
21 it exceeds the scope of direct examination, Your Honor.

22 THE COURT: Overruled. Go ahead.

23 BY MR. HOLLIDAY

24 Q. Were you opposed to the Board of Zoning Appeals'
25 variance requested by the defendants?

1 A. What do you mean?

2 Q. Did you support their request for a variance, or
3 were you opposed to it?

4 MR. PAAVOLA: Objection, Your Honor, that
5 mischaracterizes who actually made the variance
6 request. Neither defendants were on the variance
7 request.

8 THE COURT: What is your response?

9 MR. HOLLIDAY: It was made at their behalf by
10 their engineer.

11 THE COURT: Overruled.

12 MR. PAAVOLA: Your Honor, I believe it was
13 made by somebody -- on the developer's behalf not --
14 BY MR. HOLLIDAY

15 Q. Do you recall the question?

16 A. No, I don't.

17 Q. Were you opposed to the variance request sought by
18 the defendants and/or their agents for the development of
19 Arrowhead Point?

20 A. What do you mean exactly?

21 Q. Did you support the development of Arrowhead
22 Point?

23 A. No.

24 Q. So you were opposed to the variance request?

25 A. From the 19 homes?

1 Q. Correct.

2 A. Yes, I didn't want the 19 homes.

3 Q. All right. And so what is this lawsuit about, in
4 your own words?

5 A. For me to continue to run John's Marine Service
6 like we have for over 40 years.

7 Q. Okay. Do you recall what you said that this
8 lawsuit was about in your deposition?

9 A. What do you mean?

10 Q. Do you recall saying that you wanted to limit the
11 development to three homes and that is what this lawsuit was
12 about?

13 A. That is what he bought it for.

14 Q. I'm sorry, I do not understand.

15 A. When he bought it he got a super good deal because
16 it was only for three homes.

17 Q. Okay. Do you have any evidence of that?

18 A. How, how can you buy 15 acres for 1.2 million?

19 Q. Do you know what year he bought it?

20 A. '08, maybe '09.

21 Q. Was there anything else going on in the world of
22 real estate that would have resulted in getting a good deal
23 on real estate in 2008?

24 MR. PAAVOLA: Objection, Your Honor. He is
25 not an expert on the value of real estate in 2008.

1 MR. HOLLIDAY: I think that everyone is aware
2 of the great financial crisis and how real estate
3 prices crashed, which perfectly explains why this,
4 quote, unquote, great deal was had.

5 MR. PAAVOLA: Your Honor, it calls for
6 speculation. He has no expertise.

7 THE COURT: Lay a foundation. I'll sustain
8 the objection.

9 BY MR. HOLLIDAY

10 Q. Are you aware of the great financial crisis of
11 2008 regarding any sort of grief in the real estate markets?

12 A. I believe that he bought it before that.

13 Q. You believe that he bought it before 2008?

14 A. Because one of my neighbors was mad because he
15 said that was going to be a flood plane and then John
16 Hamrick bought it.

17 Q. You said that it was going to be a flood plane?

18 A. Yes, that is what they told him.

19 Q. Is this property above the 800 line of Lake
20 Keowee?

21 A. He paid \$500,000 or \$600,000 for his lot across
22 the cove.

23 Q. Is this property above the 800 line of Lake
24 Keowee?

25 A. Yes.

1 Q. Is this property above the 810 line of Lake
2 Keowee?

3 A. I'm not sure.

4 Q. Are you aware that anything above 810 Duke can't
5 flood to?

6 A. Well, that would be all the way across the road.

7 Q. Okay. Can I direct you to page 117 of your
8 deposition?

9 MR. PAAVOLA: Your Honor, I'm going to
10 object. I'm not sure where Mr. Holliday is going. But
11 he can't just skip around deposition testimony bringing
12 up questions and answers without laying a foundation.
13 Mr. Holliday needs to lay a foundation that Mr. Ratliff
14 has testified inconsistent to something in his
15 deposition, he can't just skip around the deposition
16 and ask questions. That is not appropriate testifying.

17 THE COURT: Sustained.

18 MR. HOLLIDAY: This goes back to the 19
19 homes, Your Honor. I am sorry, I got side tracked.

20 THE COURT: You need to lay a foundation
21 consistent with Rule 613.

22 MR. HOLLIDAY: Certainly.

23 BY MR. HOLLIDAY

24 Q. Back to your opposition to the Board of Zoning
25 Appeals. You stated that you are opposed to variance

1 requests, correct?

2 A. Does that mean that I'm against it?

3 Q. Do you understand my question?

4 A. No.

5 Q. You don't understand what the word oppose means?

6 A. Are you trying to embarrass me?

7 Q. I'm asking you if you are understanding my
8 questions.

9 A. I'm not.

10 Q. Okay. Are you against the development of 19
11 homes?

12 A. Yes.

13 Q. Okay. And I think you previously testified today
14 when I started asking this line of questions, that this
15 lawsuit is about the road; is that correct?

16 A. Yes.

17 Q. Okay. In your deposition, at line 17 -- or page
18 117, page 117, lines 7 through 16, I ask you, what are you
19 seeking to have --

20 MR. PAAVOLA: Your Honor, I'll object. I'm
21 not sure that there is a question pending. Mr.
22 Holliday needs to ask a question and when Mr. Ratliff
23 answers, if it is inconsistent he can bring up the
24 deposition. Otherwise, he can't just read questions
25 and answers into the record.

1 MR. HOLLIDAY: I already did. The
2 inconsistent testimony is that he has filed this
3 lawsuit with regards to the road, and that is not what
4 he testified to in his deposition. I have two
5 different spots in his deposition where he has
6 different testimony.

7 THE COURT: You need to make your questions
8 consistent with the evidentiary rule 613. It needs to
9 be consistent with that.

10 BY MR. HOLLIDAY

11 Q. What was your previous testimony today that you
12 filed this lawsuit with regards to the County not having a
13 prescriptive easement?

14 A. What do you mean? I'm not sure what you mean.

15 Q. Was your prior testimony today that this lawsuit
16 is regarding the road and the road only?

17 A. I'm saying that they don't have a right-of-way
18 across my property.

19 Q. Okay. Do you recall testifying differently at
20 your deposition?

21 A. I don't recall.

22 Q. Page 117, line 7, I asked you, "What are you
23 seeking to have happen in this lawsuit?"

24 And you replied, "To do what they bought it for."

25 And I said, "I don't understand what you mean."

1 Can you explain?"

2 And you said, "To do -- I mean, they can put three
3 homes on it like when he bought it. When John Hamrick
4 bought it it was only for three homes. So he can put three
5 homes in and still make a lot of money."

6 And I said, "So, the goal of your lawsuit is
7 what?"

8 And you said, "Not to have -- not seeing homes --
9 I don't recall what that is -- and 200 cars plus a day."

10 Do you recall saying that in your deposition?

11 A. Yes, it would impact my shop.

12 Q. So is this lawsuit about restricting the
13 development of the Defendants' property?

14 A. Well, I would say that if he doesn't have a
15 right-of-way then he can't put 19 homes in.

16 Q. Are you saying that he doesn't have access to his
17 property?

18 A. No, he has access for three homes. He can put a
19 private drive down like it is or we wouldn't be here.

20 Q. Can I direct you to Page 188 where you answered
21 very similarly.

22 MR. PAAVOLA: Your Honor, I'll object to
23 that. If he answered similarly, that is not the basis
24 of using deposition testimony under the rule.

25 THE COURT: Overruled.

1 BY MR. HOLLIDAY

2 Q. And I said, "if you have a magic wand and you
3 control the direction of the Court and what happens in this
4 case, what is the outcome that you would like?"

5 And you answered, "For him to use it like he
6 bought it when he bought it."

7 And I said, "Who?"

8 And you said, "John Hamrick."

9 And I said, "Okay."

10 And you said, "For him to put three homes on it
11 like he bought it for."

12 So is it your position today that what you want
13 this Court to do is restrict the development to three homes?

14 A. I would like him to do what the regulations were
15 when he bought it. I don't want it to hugely impact my shop
16 with a bunch of traffic. And there is just not enough room
17 in there.

18 Q. Okay. What is your relationship with John
19 Hamrick?

20 A. What do you mean?

21 Q. Are you friends?

22 A. Yeah, I have worked on his boat before.

23 Q. Okay. You talk frequently?

24 A. Yeah, we are nice to each other. I mean, we are
25 not mean or nothing.

1 Q. How frequently do you think he would pop by the
2 shop and talk to you?

3 A. Well, he offered me the property one time and then
4 he never came back to me.

5 Q. Did that upset you?

6 A. No, I mean it is his property. He can -- I mean,
7 he can do what he wants, you know.

8 Q. And Andy Lee worked for John for a number of
9 years, is that your understanding?

10 A. Yes.

11 Q. And did Andy Lee take over his real estate firm
12 when he retired?

13 A. I think so.

14 Q. And you were friendly with Andy also; is that
15 correct?

16 A. Yes, he was a good -- he was an okay customer.

17 Q. Would he ever pop by unrelated to having a boat
18 fixed?

19 A. He would stop by sometimes.

20 Q. Did you -- did you ever tell anyone that Andy and
21 John were trying to take part of your land?

22 A. I don't think so.

23 Q. I'm showing you a document that you produced in
24 discovery. It says, Ratliff 322. Do you see that second
25 highlighted section right there?

1 A. Yes.

2 Q. All right. What is this letter?

3 A. That was to Codner.

4 Q. Who is Codner?

5 A. The chairman of the BZA.

6 Q. So this is a letter that you wrote to the chairman
7 of the Board of Zoning Appeals in the variance case?

8 A. Yes. I had help with it, yes.

9 Q. Who helped you write it?

10 A. I think that my girlfriend helped me write it.

11 Q. Is your girlfriend the same person as your
12 fiancée?

13 A. Yes.

14 Q. Okay. You never know. Does that second
15 highlighted portion, does it say -- can you read that for
16 me?

17 A. Well, where it says that this property is -- they
18 are trying to put -- take part of my property.

19 Q. What specifically do you say in your letter to the
20 BZA?

21 A. For the deeded right-of-way.

22 Q. Is that what that highlighted section says?

23 A. I think so.

24 Q. So it wouldn't say, He is proposing to take part
25 of my property for his much needed County right-of-way?

1 A. Yes.

2 Q. Did I accurately read that?

3 A. I think so.

4 Q. And this first highlighted section, does that say,
5 My family and I are in opposition --

6 MR. PAAVOLA: This document hasn't been
7 admitted in evidence and he is showing it to him and it
8 has not been admitted into evidence.

9 MR. HOLLIDAY: I would move to introduce this
10 as Defendants' 3.

11 THE COURT: You can ask him about it first,
12 go ahead.

13 MR. HOLLIDAY: Okay.

14 BY MR. HOLLIDAY

15 Q. Does this first highlighted section say, My family
16 and I are in opposition to the development of the proposed
17 19 home subdivision as presented on sketch prepared by
18 Ridgewater Engineering and Survey?

19 A. Yes.

20 Q. Okay.

21 MR. HOLLIDAY: I would move to introduce this
22 as Defendants' 3.

23 THE COURT: Subject to objections, it is
24 admitted. What number is that?

25 THE COURT REPORTER: It is Defendants'

1 Exhibit 3, Your Honor.

2 THE COURT: Defendants' Exhibit 3.

3 BY MR. HOLLIDAY

4 Q. I am going to show you the second and third page
5 of your letter to Jim Codner as well as a separate exhibit.
6 Well, actually let me backtrack and just put the whole
7 letter in as Exhibit 3.

8 THE COURT: Have him identify it.

9 MR. HOLLIDAY: Yes.

10 BY MR. HOLLIDAY

11 Q. These three additional pages, do they appear to be
12 the rest of the letter to Mr. Codner?

13 A. I guess.

14 Q. And is this your signature on the fourth page?

15 A. It looks like it, yes.

16 Q. Okay.

17 MR. HOLLIDAY: I would move to introduce the
18 entirety of Exhibit 3, which is Bates stamped Ratliff
19 322 through 325 as Defendants' 3.

20 THE COURT: Any other objections, Mr.
21 Paavola?

22 MR. PAAVOLA: No, Your Honor.

23 THE COURT: Admitted.

24 *(Whereupon, Defendants' Exhibit No(s). 3*
25 *marked for identification and received in evidence.)*

1 BY MR. HOLLIDAY

2 Q. On the bottom of the second page of your letter,
3 can you read what this highlighted section says?

4 A. County maintenance on Ellenburg Road.

5 Q. Okay. Then we go to page three, and that sentence
6 continues?

7 A. Has been established at 585 Ellenburg property
8 from 599 Ellenburg Road.

9 Q. And then what is that last two words there on the
10 next line?

11 A. Not sure what that --

12 Q. Does it potentially say, For decades?

13 A. Yes.

14 Q. Okay. So the entirety of this sentence says,
15 County maintenance on Ellenburg Road has been established at
16 585 Ellenburg, adjacent property up the road from 599
17 Ellenburg Road for decades; is that accurate?

18 A. What do you mean?

19 Q. Did I accurately read you your own words?

20 MR. PAAVOLA: Your Honor, could I have a copy
21 of this?

22 MR. HOLLIDAY: You produced it to me.

23 THE COURT: Don't do that. What is your
24 objection?

25 MR. PAAVOLA: My objection is I don't have

1 this document that he's showing him. And it is not on
2 the screen.

3 THE COURT: Show it to him.

4 BY MR. HOLLIDAY

5 Q. To resume, the bottom of the 323 says, County
6 maintenance on Ellenburg Road, and then it continues to 324,
7 has been established at 585 Ellenburg, adjacent property up
8 the road from 599 Ellenburg Road for decades; did I read
9 that correctly?

10 A. I must have got messed -- I must have got my
11 addresses messed up.

12 Q. Why are you saying that you got your addresses
13 messed up?

14 A. I can point to you on the map where the
15 maintenance stopped.

16 Q. You testified earlier that it was at 566.

17 A. I can point you on the map where I think that it
18 was.

19 Q. I thought that you also testified that you lived
20 on this road nearly your entire life?

21 A. Yes.

22 Q. So you know this road like the back of your hand,
23 right?

24 A. I don't know all of the addresses.

25 Q. You live on a road without knowing the addresses?

1 A. Do you know all of the addresses on your road?

2 Q. Uh-huh. So what you told the Board of Zoning
3 Appeals is that end of County maintenance for decades had
4 gone to 585; is that correct?

5 A. I must have messed up on it. I'm not good with
6 numbers and dates. I think that we talked about that.

7 Q. You talked earlier about the Henderson plat; do
8 you recall that?

9 A. Yes.

10 Q. And that plat was from 2020; is that correct?

11 A. Yes.

12 Q. And that plat was done as part of a closing,
13 right?

14 A. Yes.

15 Q. And your bank told you that you had to get a
16 survey; is that what your testimony was?

17 A. Yes.

18 Q. Did you happen to purchase title insurance with
19 regards to that closing?

20 A. I think that I did with your office.

21 Q. Okay. As a part of your motion to disqualify me,
22 did you file as an exhibit your owner's policy?

23 MR. PAAVOLA: Objection, Your Honor, he's
24 testifying directly.

25 THE COURT: You have got to speak up, Mr.

1 Paavola.

2 MR. PAAVOLA: Mr. Holliday is testifying
3 directly -- he can't characterizes his questions and
4 refer to old motions.

5 THE COURT: Overruled.

6 MR. HOLLIDAY: I asked a question, does this
7 appear to be --

8 THE COURT: Go ahead.

9 MR. HOLLIDAY: Thank you, Your Honor.

10 BY MR. HOLLIDAY

11 Q. Does this appear to be your owner's policy?

12 A. I'm not sure.

13 Q. You don't know if this schedule that you attached
14 as Exhibit 3 to your affidavit and that Lucretia attached as
15 Exhibit 6 to her affidavit, you don't know if this is an
16 accurate document?

17 A. She does most of my -- helps me with the
18 paperwork. So if you don't read it to me, I'm not sure.
19 Okay?

20 Q. Okay.

21 A. We talked about this. I think that you are trying
22 to embarrass me in front of all of these people.

23 Q. I'm just trying to understand why there are so
24 many inconsistencies in your story. Do you see number six
25 on this document?

1 A. Yes.

2 Q. Okay. Does number six indicate that you purchased
3 this property, which is 585 Ellenburg, correct?

4 A. I guess.

5 Q. You don't know the address of the property that
6 you purchased in '20?

7 A. I don't see it on here, sir. Would you point it
8 out?

9 Q. Did you purchase any other property in 2020?

10 A. I'm not sure of the dates because I bought several
11 properties. I'm not sure of the dates on every one of them.

12 Q. So you are not sure whether this is an accurate
13 owner's policy?

14 A. I'm not even sure what this is.

15 Q. Do you want to read it to me?

16 A. Yes.

17 Q. Okay. And explain it to me, and then I'll
18 understand it.

19 A. Okay. Does it seem to indicate as an exception
20 from coverage that this policy doesn't ensure against loss
21 or damage that arise by reason of, and number six says, an
22 easement and right-of-way for Ellenburg Road as shown on a
23 new plat's report.

24 Q. Now, why would you put that on here? Did you put
25 that on there? I hadn't seen this document until you

1 produced it and put it as part of the record in this case.

2 A. I haven't seen it either.

3 Q. Okay. Then you can't admit it.

4 A. We trusted your law firm to protect us when we
5 bought the property.

6 Q. You have never seen this document before?

7 A. There were so many papers in there. Y'all didn't
8 show us anything. You didn't tell us that the right-of-way
9 changed from the old plat to the new plat. We just sat in
10 there and y'all closed with us and didn't explain
11 everything. Y'all didn't explain anything. You didn't say
12 that there was a right-of-way or anything.

13 Q. Is your testimony that you have never seen this?

14 A. I probably saw it from across the table. But you
15 didn't explain it to me when we were over there in your
16 office.

17 Q. Was I in the room with you when we closed?

18 A. I don't think that you were in there.

19 Q. Do you recognize these photographs?

20 MR. PAAVOLA: Your Honor, can he show us what
21 he's showing the witness?

22 MR. HOLLIDAY: So, Ratliff's 30 and 31.

23 THE WITNESS: I do. That is my truck, and
24 that is the front of the shop.

25

1 BY MR. HOLLIDAY

2 Q. Does it depict anything else?

3 A. Where I fixed the road on the side across -- on
4 the Globe and Farmes' side.

5 Q. Does this picture that is marked as Exhibit 2 to
6 your deposition, and the one that was the second page of
7 Exhibit 2 to your deposition, does it seem to indicate
8 anything -- any sign to you?

9 A. There is a sign there.

10 Q. Okay. What color is that sign?

11 A. I can't really tell. I can't really tell.

12 Q. You can't tell me what color that sign is?

13 A. Not really.

14 Q. But you would admit that this is an accurate
15 photograph, right?

16 A. Yes, because the water comes all the way up to the
17 sign almost, whatever, but I'm not sure what kind of sign it
18 is.

19 Q. And you testified earlier that the County did
20 place a sign all the way at the end of the pavement,
21 correct?

22 A. There was a sign down there briefly.

23 Q. And this photograph is a picture of that sign?

24 A. I'm not sure about that.

25 Q. What else could this sign at the end of the

1 pavement be, other than a County sign?

2 A. If it was clearer I could probably tell.

3 Q. Okay.

4 MR. HOLLIDAY: I would move to introduce this
5 as Defendants' Exhibit 4.

6 THE COURT: Any objection?

7 MR. PAAVOLA: No, Your Honor.

8 THE COURT: You said no, Mr. Paavola?

9 MR. PAAVOLA: No.

10 THE COURT: Okay. Admitted.

11 *(Whereupon, Defendants' Exhibit No(s). 4*

12 *marked for identification and received in evidence.)*

13 BY MR. HOLLIDAY

14 Q. Does this sign appear to be substantially the same
15 as the one in this photo?

16 A. No, sir.

17 Q. No?

18 A. No, because this has got a bunch of stuff grewed
19 all the way around it. And that is taken somewhere else.

20 Q. I'm not saying that it isn't.

21 A. Oh, okay.

22 Q. I'm saying, is the sign substantially similar?

23 A. I can't tell. This looks a little bit wider down
24 here. It looks different to me.

25 Q. But you saw a sign very similar to this sign as

1 documented in Defendants' 4 near your property?

2 A. It could have been like that. I mean, I don't
3 know exactly what it looked like.

4 Q. Okay. But you do recall seeing --

5 A. I don't know if all of the County signs are the
6 same, if all of those are all the same or if they are
7 different sizes or if they are bigger or smaller. I mean, I
8 don't know. I'm not a sign expert.

9 Q. I understand that. But I'm asking you if it is
10 the same sign. I am not asking you if it is at the same
11 location.

12 A. Same answer, I don't know.

13 Q. You don't know if these two are the same sign?

14 MR. PAAVOLA: Your Honor, objection. Asked
15 and answered multiple times.

16 THE COURT: Sustained.

17 BY MR. HOLLIDAY

18 Q. Does this appear to be a very similar photo as
19 Defendants' 4?

20 A. As this one?

21 Q. Correct. That is Defendants' 4 that you have in
22 your hand.

23 A. That might be the same, yes.

24 Q. Okay.

25 MR. HOLLIDAY: I would move to introduce that

1 as Defendants' 5.

2 THE COURT: Any objection?

3 MR. PAAVOLA: No objection.

4 THE COURT: Admitted.

5 *(Whereupon, Defendants' Exhibit No(s). 5*
6 *marked for identification and received in evidence.)*

7 THE WITNESS: I can tell you the color of
8 that one, but not this one. The color is different.

9 BY MR. HOLLIDAY

10 Q. You can tell me the color in Defendants' 5?

11 A. That it is a green sign, but you can't tell on
12 these others what color it is.

13 Q. You can't tell the color in Defendants' 4?

14 A. Can you?

15 THE COURT: Mr. Ratliff, you need to not ask
16 questions.

17 THE WITNESS: I am sorry.

18 THE COURT: That is all right.

19 BY MR. HOLLIDAY

20 Q. Okay. Well now that you can identify the color on
21 Defendants' 5, does that appear to be the same color on this
22 sign right here?

23 A. Yes.

24 Q. Okay. Does it appear to have the same lettering
25 color?

1 A. Yes, I guess.

2 Q. Does it appear to have the same words on it?

3 A. I can't tell you that. It is too blurry. I mean,
4 you can't even see it. Are you serious? You can't tell me
5 what that says.

6 Q. Can you tell me how many words appear to be on
7 that sign?

8 A. I can't tell you.

9 Q. Can you tell me how many words are on this sign?

10 A. Four.

11 Q. Okay.

12 MR. HOLLIDAY: I would move to introduce this
13 as Defendants' Exhibit 6.

14 THE COURT: Any objection?

15 MR. PAAVOLA: Yes, we object to that coming
16 into evidence. You can use it as a demonstrative, but
17 it has not been established that that was the sign that
18 was at the location at the end of the road at 585.

19 THE COURT: What is the objection?

20 MR. PAAVOLA: Mr. Holliday has not laid a
21 foundation that that sign was the sign at the end of
22 the road at 585.

23 THE COURT: I sustain the objection.

24 You can't publish it until it's been
25 admitted. That is No. 5?

1 MR. HOLLIDAY: No.

2 THE COURT: Which number is that?

3 MR. HOLLIDAY: That was the one that is
4 subject to the objection. That is 5.

5 THE COURT: Okay.

6 BY MR. HOLLIDAY

7 Q. So, Mr. Ratliff, you can't tell how many words are
8 on that sign?

9 MR. PAAVOLA: Objection, Your Honor, asked
10 and answered multiple times.

11 THE COURT: Overruled.

12 MR. HOLLIDAY: Did you say overruled?

13 THE COURT: Yes, sir. You can answer.

14 THE WITNESS: I see some white spots, but I
15 don't know how many words it is.

16 BY MR. HOLLIDAY

17 Q. And that sign doesn't appear to be this one? It
18 don't appear to be the same sign?

19 A. I couldn't tell you that.

20 Q. Okay. Just for clarification, you did say that
21 white truck is your truck?

22 A. Yes.

23 Q. Okay. What happened to that sign?

24 A. I'm not sure.

25 Q. Why did you take that sign down?

1 A. I never touched the sign.

2 Q. Was that sign located on your property?

3 A. No.

4 Q. Whose property was that sign located on?

5 A. It would -- there was one briefly across the
6 street.

7 Q. Whose property was the end of County --

8 A. I think that it would be on John Hamrick's.

9 Q. Thank you.

10 THE COURT: What was the answer? I missed
11 that.

12 BY MR. HOLLIDAY

13 Q. He said John Hamrick's. And that is otherwise
14 known as the Defendant, Globe and Farmes; is that correct?

15 A. Yes.

16 Q. Is it fair to say that you didn't like that sign
17 being there?

18 A. No. I mean, I didn't have nothing to do with the
19 sign.

20 Q. So you didn't care whether it was there or not?

21 A. I never touched it or --

22 Q. Would your mom have cared?

23 A. I do not guess so.

24 Q. Say again.

25 A. I mean, the sign was gone and then it got moved

1 down to the end. And then it was gone. So the sign used to
2 be up the street.

3 Q. At 585?

4 A. Up where I marked. Up where the trees were. It
5 is hard to tell now because of the trees. There was no --
6 it was just all trees all the way up to the top.

7 Q. Where was the prior sign, was it at 585 or 566?

8 A. Where the pavement changed.

9 Q. Which address is that?

10 MR. PAAVOLA: Your Honor, if he can refer him
11 to the exhibit.

12 A. Yes, or I could point at it.

13 Q. Could you have made an error on Plaintiffs' 83A?
14 Nope that is just regular 83. This is 83A.

15 A. It was in that general area right there, yes.

16 Q. So you stand by 83A is accurate?

17 A. Yep.

18 Q. Okay. Do you know who used to own all of this
19 property?

20 MR. PAAVOLA: Objection, Your Honor,
21 confusing, the particular property he's asking about.

22 THE COURT: Overruled. Go ahead.

23 BY MR. HOLLIDAY

24 Q. Do you know who used to own a lot of these
25 properties?

1 A. There were owned by T B Ellenburg.

2 Q. T B Ellenburg. Is that maybe why it's named
3 Ellenburg Road?

4 A. Yes.

5 Q. Do you know who would have named it Ellenburg
6 Road?

7 A. I would think T B Ellenburg. He was the old man
8 that lived there.

9 Q. Do you happen to know where Mr. Ellenburg acquired
10 this property from?

11 A. No.

12 Q. Okay. I'm showing you Defendants' 1.2A. And this
13 is a deed from Mr. Younce to Mr. Larkin Mayfield for 34.56
14 acres in the Keowee district. Does this seem to indicate
15 that it is related to property situate, lying, and being on
16 the public road leading from Highway 183 at Knox's Store to
17 High Falls, Keowee District, Oconee County?

18 MR. PAAVOLA: Objection, Your Honor. There
19 is no foundation laid that this witness has ever seen
20 this document.

21 THE COURT: Wasn't this already admitted into
22 evidence?

23 MR. HOLLIDAY: Yes.

24 THE COURT: Overruled.

25 MR. PAAVOLA: But he also needs personal

1 knowledge about the --

2 THE COURT: Overruled.

3 MR. HOLLIDAY: Thank you, Your Honor.

4 BY MR. HOLLIDAY

5 Q. Does it indicate that there's a public road
6 running through this property?

7 A. I am not sure what you mean.

8 Q. Do you see the word "public" anywhere on the
9 screen?

10 MR. PAAVOLA: Your Honor, Mr. Ratliff has
11 already identified he has difficulty reading it, if Mr.
12 Holliday may point it out to speed things along.

13 THE COURT: Okay. Hang on. You have to
14 speak up when you look down. That mike doesn't --

15 MR. PAAVOLA: Doesn't do it, okay.

16 THE COURT: I am sorry.

17 MR. PAAVOLA: Okay.

18 THE COURT: What was your objection?

19 MR. PAAVOLA: Mr. Ratliff has already
20 indicated his difficulty reading, and if Mr. Holliday
21 could clarify where he's pointing to or direct him
22 somehow, that may speed things up.

23 THE COURT: Get him to identify the language
24 that you are looking at.

25 BY MR. HOLLIDAY

1 Q. What is that word?

2 A. Public.

3 Q. Okay. What is the next word?

4 A. Road.

5 Q. Uh-huh. Do you happen to see this plat that shows
6 a fork right here, and another road leading off this way,
7 and another road leading off this way?

8 A. I'm not sure where those are.

9 Q. You are not sure where those are?

10 A. No.

11 Q. So you wouldn't have any idea where this fork is?

12 A. No.

13 Q. And you wouldn't have any idea where this bridge
14 is?

15 A. No.

16 Q. Okay.

17 A. Is that under water? I mean, I don't know where
18 that is. I'm not sure. The only bridge I know of or I have
19 ever heard of is up by Logan Hill. So that might be up by
20 Logan Hill Road or something.

21 THE COURT: What exhibit number was that?

22 MR. HOLLIDAY: I am sorry, Your Honor, I
23 believe that was 1.2B. Yes, it is.

24 THE COURT: Please identify the exhibit.

25 MR. HOLLIDAY: Yes, Your Honor.

1 BY MR. HOLLIDAY

2 Q. This is a deed identified as 1.3 from 1947 from
3 Mr. Younce to Mr. Kelley. What is that word, Mr. Ratliff?

4 A. Public.

5 Q. Uh-huh. And does it continue on to say, Road
6 leading from Knox's Store to High Falls?

7 A. I guess, yes.

8 Q. And do you see this deed where Mr. Younce deeds
9 property to T B Ellenburg?

10 THE COURT: What is the exhibit number?

11 MR. HOLLIDAY: Sorry, Your Honor, 1.4.

12 BY MR. HOLLIDAY

13 Q. Do you see that, Mr. Ratliff?

14 A. Yes.

15 Q. Okay. Do you see this deed from Mr. Mayfield to
16 Mr. Sloan, 1.5A? Can you see that, Mr. Ratliff?

17 A. I guess that is what it is.

18 Q. Okay. And does this also indicate that this land
19 is located on a public road leading from Highway 183 at
20 Knox's store to High Falls?

21 A. Yes.

22 Q. Can you see this deed, Mr. Ratliff?

23 A. Barely.

24 THE COURT: Mr. Holliday, would you please
25 give us the exhibit number?

1 MR. HOLLIDAY: I am sorry, Your Honor. 1.6.

2 BY MR. HOLLIDAY

3 Q. Can you see this word in Exhibit 1.6?

4 A. I'm not even sure what that says. You can't
5 hardly make it out.

6 Q. So that doesn't say, County road?

7 A. Yeah, it looks like County road, yes.

8 Q. Okay. So that says, Bounded on the north by lands
9 of T B Ellenburg and on the west by County road.

10 Now I'm showing you 1.7, which is a deed in
11 between a Mr. Dodgin and Mr. Ellenburg for one acre more or
12 less, lying and being in Keowee school district, bounded on
13 the south by lands of Gene Kelly, to the east and north by
14 lands of T B Ellenburg, and on the west by a County road,
15 and fronting 210 feet. Do you see that?

16 A. Yes.

17 Q. Okay. Do you have any idea what they are calling
18 a County road in these deeds?

19 MR. PAAVOLA: Your Honor, we object to this
20 line of questioning. It exceeds the scope of direct
21 examination. We didn't look at any of these deeds of
22 Mr. Ratliff.

23 We object, it exceeds the scope of direct.
24 We didn't look at any of these deeds he's describing.

25 THE COURT: Overruled.

1 BY MR. HOLLIDAY

2 Q. We are looking at 1.8 now. And this is a deed
3 from T B Ellenburg. Let me see if I can -- is there a way
4 to focus this better? It is not super clear. I can see it
5 fine here. Is there like a focus button or just the zoom?

6 THE CLERK: It is automatic focus.

7 MR. HOLLIDAY: Okay.

8 BY MR. HOLLIDAY

9 Q. And 1.8 is a deed from T B Ellenburg to Helen and
10 James Pinion. And that is for one acre, situated and lying
11 and being in a Keowee school district lying on the west side
12 of a public road. 1.8 seems to indicate that there's a
13 public road somewhere in here; is that correct?

14 A. It could be under water.

15 Q. Okay. You think this Pinion tract is under water?

16 A. I don't, I don't know where any of those tracts
17 are.

18 Q. Okay. So even though T B owned a lot of this,
19 when the lake was formed is there somebody that came in and
20 bought up a bunch of land, some entity?

21 A. I guess Crescent.

22 Q. Okay. Was Crescent also at times known as South
23 Carolina Land and Timber?

24 A. I guess.

25 Q. Have you heard the name Crescent Land and Timber?

1 A. Yes.

2 Q. Okay. Are those all subsidiaries of Duke?

3 A. Yes.

4 MR. PAAVOLA: Objection, Your Honor. They
5 have not laid a foundation that Mr. Ratliff has any
6 idea who are the subsidiaries or legal entities of --

7 THE COURT: Overruled.

8 MR. HOLLIDAY: It is common knowledge in
9 Oconee County.

10 THE COURT: Overruled.

11 BY MR. HOLLIDAY

12 Q. We are now looking at 1.9. And does this indicate
13 that that land line of Mayfield being four-tenths of a mile
14 past the intersection of Highway 183 and the aforementioned
15 unnamed paved road. Said intersection being 3.8 miles north
16 of the intersection of 183 and 130. Do you think that that
17 would be near Ellenburg Road?

18 MR. PAAVOLA: Objection, Your Honor. Mr.
19 Holliday hasn't laid a foundation of this witness ever
20 seeing this document or knowing anything about it.

21 THE COURT: Overruled.

22 BY MR. HOLLIDAY

23 Q. Does this appear to be a deed in between T B
24 Ellenburg and Jerry and Fay Ellenburg?

25 A. I wouldn't be sure.

1 Q. Can you see the word T B Ellenburg right there?

2 A. Yeah.

3 Q. And you previously indicated that he owned most of
4 the property down Ellenburg Road?

5 A. I'm not sure how much.

6 Q. But it said that this property was bounded on the
7 south side of an unnamed paved road. And that is a property
8 boundary. It would have been a paved road when this deed
9 was executed in 1963; is that correct?

10 A. I guess. I mean, I wasn't informed. I mean --

11 MR. PAAVOLA: Your Honor, we will object
12 again, calls for speculation and conclusions that Mr.
13 Ratliff is not qualified to draw.

14 THE COURT: Overruled.

15 MR. HOLLIDAY: This is really blurry.

16 BY MR. HOLLIDAY

17 Q. Mr. Ratliff, can you see these letters right here?
18 It is pretty bad, so I don't know if you can. Let me show
19 you in person.

20 THE COURT: What is your exhibit number?

21 MR. HOLLIDAY: 1.11B. Sorry, Your Honor.

22 THE WITNESS: I can't even see that.

23 BY MR. HOLLIDAY

24 Q. So you can't tell what that says?

25 A. No.

1 Q. Okay. But does 1.11B appear to be a deed of the T
2 B Ellenburg property or a plat of the T B Ellenburg
3 property?

4 A. I guess.

5 Q. Okay. And does this appear to show a road along
6 this boundary?

7 MR. PAAVOLA: Objection, Your Honor. Again,
8 Mr. Ratliff has not been qualified to testify about
9 plats and what they show and don't show, and exceeds
10 the scope of direct, and lack of foundation that he's
11 qualified to testify.

12 THE COURT: He has free range on cross
13 examination. But he says that he doesn't know, so I'll
14 sustain it on that basis.

15 BY MR. HOLLIDAY

16 Q. We are looking at Defendants' 1.12A. And I
17 believe that you previously testified that South Carolina
18 Land and Timber is a subsidiary of Duke; is that accurate?

19 A. I guess.

20 Q. And this is a deed from the Sloans to South
21 Carolina Land and Timber; is that correct?

22 A. I guess so.

23 Q. Okay. And does this appear to be thirty-four and
24 56 one-hundredths of an acre being located on the public
25 road leading from 183 at Knox's store to High Falls?

1 A. I guess that is what it says.

2 Q. Okay. Now we are looking at 1.12B. Do these
3 lines appear to indicate a road?

4 A. I'm not sure.

5 Q. But does this parcel at 1.12B appear to be the
6 same parcel size as the one indicated in 1.12A? Is that
7 correct?

8 A. Yes.

9 Q. Does 1.13A appear to be a deed from T B Ellenburg
10 to Crescent Land and Timber?

11 A. I see T B, but I don't see Crescent.

12 Q. Crescent Land and Timber, you see it right there?

13 A. Yes.

14 Q. And does it say that this property line begins at
15 the intersection of the center line of South Carolina Road
16 Number S37-201 and the southeasterly edge of a bridge and
17 then runs that bearing at 248.6 feet; is that accurate?

18 A. That is what it says.

19 Q. Okay. So if we were to look at the plat for that,
20 which is 1.13B, can you identify what portion of this land
21 you presently own?

22 A. No.

23 Q. Okay. So do you own this area right here?

24 A. I have no idea. That is not even cut up. I don't
25 know.

1 Q. Okay. So you would deny that 599 Ellenburg is
2 located right here?

3 MR. PAAVOLA: Objection, Your Honor, he says
4 that he doesn't know.

5 THE COURT: I sustain that objection.

6 MR. HOLLIDAY: And 585 Ellenburg, you don't
7 know if that is located right here?

8 MR. PAAVOLA: Same, objection, Your Honor.

9 THE WITNESS: I don't know where it is.

10 BY MR. HOLLIDAY

11 Q. You don't know anything about this plat?

12 A. I have never even seen that plat in my whole life.

13 Q. Okay. We are looking at 1.15, which appears to be
14 a deed by Eugene Kelly to Crescent Land and Timber. Does
15 this appear to indicate that it is also located on a public
16 road?

17 A. It says, Public road.

18 Q. Do you recall earlier we were talking about 1.18,
19 the deed to Helen Pinion from Mr. Ellenburg?

20 A. Which one is that?

21 Q. It is this one which seems to indicate that this
22 property is on the east side of a public road. So this is
23 1.8 -- yep, 1.8, and now we are looking at 1.16. Does this
24 appear to be a deed from Ms. Pinion to Crescent Land and
25 Timber?

1 A. I guess that is a deed to them. I mean, I'm not
2 sure where that is at or whatever.

3 Q. But you see that word "public road" on 1.16A?

4 A. It says, Public road.

5 Q. Okay. And that identifies a plat for us, so if we
6 go to 1.16B you see this property here where it says James
7 Pinion?

8 A. Yep.

9 Q. Okay. And does this appear to be a road?

10 A. I'm not sure what that is.

11 Q. Okay. Skipping ahead a couple of decades. This
12 is a 122, a deed from Esther Morgan to Steve and Janet
13 Kempinski. Do you know who the Kempinskis are?

14 A. Yes.

15 Q. Okay. What address on Ellenburg Road did they
16 live at?

17 A. I will have to look at the map. It is one of our
18 addresses. It is one of our properties.

19 Q. It is one of the ones that you own presently?

20 A. Uh-huh. (Indicating affirmatively.)

21 Q. Okay. So if we are looking at 83 --

22 A. It would be 575.

23 Q. So, the Kempinskis owned 575?

24 A. Yes.

25 Q. Okay. And you personally knew them?

1 A. Yes.

2 Q. Okay. And did you buy the property from them?

3 A. Yes.

4 Q. Okay. And do you see this deed here from when
5 they -- from when they purchased it in '94? You see this
6 deed that is Exhibit 1.22A, it references a plat A296/10.
7 Do you see that?

8 A. Uh-huh. (Indicating affirmatively.)

9 Q. So if we go to look at that plat, which is 1.22
10 Bravo, do you see Ellenburg Road WA-42 ditch to ditch
11 right-of-way right there on the plat?

12 A. Yes.

13 Q. Okay. So when you bought 575, you would agree
14 that the right-of-way came down at least until 575; right?

15 MR. PAAVOLA: Objection, Your Honor. He's
16 not testified to anything about right-of-way or
17 knowledge of right-of-way when he purchased 575.

18 THE COURT: Overruled.

19 BY MR. HOLLIDAY

20 Q. The Kempinskis, who are your predecessor in
21 interest at 575 right here, on their deed in -- or on their
22 plat in 1994, which is in the record at 1.22 Bravo, it seems
23 to indicate Ellenburg Road WA-42 ditch to ditch
24 right-of-way; you agree that you see that?

25 A. It looks like it stops up there to me.

1 Q. Okay. So it doesn't --

2 A. It looks like it doesn't keep going.

3 Q. Okay. So can you indicate to me where, where it
4 stops?

5 A. It looks like right there in the middle from what
6 I can see.

7 Q. So right here in the middle where it says WA-42?

8 A. Right in there, yeah.

9 Q. What on here indicates to you that this public
10 right-of-way ends right there in the middle?

11 A. Well I really can't see it that good.

12 Q. Would you like to look at it in person? This is a
13 lot clearer, this is just not the greatest, no offense.

14 A. It looks like the dotted line stops. I mean, I
15 don't even know, I'm not a map --

16 MR. PAAVOLA: We object to this line of
17 questioning.

18 THE COURT: Stop answering while someone is
19 objecting, please, Mr. Ratliff.

20 THE WITNESS: Sorry.

21 MR. PAAVOLA: We object to this line of
22 questioning. Mr. Ratliff has not established that Mr.
23 Ratliff has any basis to make determinations where a
24 public right-of-way is or is not located on a plat.

25 THE COURT: Overruled. It is in evidence.

1 Go ahead.

2 BY MR. HOLLIDAY

3 Q. What indication on 1.22 Bravo says to you --

4 A. Right there. The dotted line, it stops right
5 there I guess.

6 Q. Is there an indication that says, Private road
7 past this point?

8 A. No, it doesn't look like anything.

9 Q. Is there a line that says, End public maintenance?

10 A. No but there should have been probably.

11 Q. Is there a line that says, End of right-of-way?

12 A. There probably should have been one.

13 Q. Is there a line that says, Private driveway past
14 this point?

15 A. There used to be a sign up there.

16 Q. Where was that sign?

17 A. It was up here on this right here. Remember where
18 I showed you right there. That would have been up here
19 somewhere.

20 Q. So the end of County maintenance sign, pursuant to
21 your testimony with 83A, is south and east -- south and west
22 of where this indicates in 1994 there was a public
23 right-of-way?

24 A. The sign used to be right here, so that would be
25 up a little bit I would imagine.

1 Q. Right, but that is -- the sign of where the end of
2 County maintenance is on 83A, which you have said is at 566?

3 A. Somewhere around in there.

4 Q. Okay. That is towards Knox Road. And this is
5 farther down, if we are looking at 1.22 Bravo, in 1994?

6 A. I think that you are confused. This was all one
7 piece right here. That is one piece see. It is right here
8 where I put it. It is exactly -- I mean, I don't understand
9 it. It is right there pretty much where I showed you.

10 Q. So you are saying that the end of County
11 maintenance sign is approximately where the WA is on 1.22?

12 A. Where the dotted line stops right there.

13 Q. What dotted line?

14 A. I guess those are dotted lines right there.

15 Q. But that doesn't say 00.40 miles plus and minus to
16 S37605?

17 A. It don't have dashes in there.

18 Q. Do you see dashes?

19 A. I thought that I saw dashes.

20 Q. Where are the dashes?

21 A. There is a dash there.

22 Q. So there is a dash between WA and 42?

23 THE COURT: Stop. Don't talk over him and he
24 is not going to talk over you. The court reporter
25 can't get this down.

1 THE WITNESS: Sorry. Your Honor.

2 BY MR. HOLLIDAY

3 Q. All right. Explain to me where the dashes are.

4 MR. PAAVOLA: Your Honor, can Mr. Holliday
5 move back to the Elmo? I'm not sure what he's showing
6 Mr. Ratliff. He is not asking to approach the witness
7 and he is in his face. I feel like that --

8 THE COURT: He can stand right there and show
9 him the exhibit. Give him space there.

10 BY MR. HOLLIDAY

11 Q. Can you show me where the dashes are on 1.22 Bravo
12 that indicate end of County maintenance?

13 A. I thought that those were dashes.

14 Q. You are saying that you were incorrect?

15 A. If you had a bigger thing where we could actually
16 see what you are talking about instead of trying to trick
17 me.

18 Q. So what you think were dashes says 00.40 miles?

19 A. That is what it looked like.

20 Q. Plus or minus 2S37605?

21 A. Yes, that is about where the sign was, that is
22 where I marked it on this exhibit, on 83A.

23 Q. Okay. So you think on this, on 1.22 Bravo, you
24 think end of maintenance sign was somewhere around this WA?

25 A. Or about somewhere like that, yeah.

1 Q. Even show it seems to indicate that it continues
2 past?

3 A. Well, there's a road that continues past, but not
4 saying that there is a right-of-way on it.

5 Q. Okay. Do you know who Brian Marcedes is?

6 A. Yes.

7 Q. Do you know where he owns property on Ellenburg
8 Road?

9 A. This piece right here.

10 Q. He owns 565?

11 A. Yes.

12 Q. Does he still own 565?

13 A. No.

14 Q. Do you know who owns 565 now?

15 A. I think Brunzlick.

16 Q. Okay. We are looking at 1.26A. When the Marcedes
17 purchased this in 2005, they indicate the plat on 1.26A at
18 B58/5. So if we look at 1.26B, does that seem to indicate
19 Ellenburg Road WA-42 ditch to ditch right-of-way?

20 MR. PAAVOLA: Your Honor, I am not trying to
21 interrupt the examination but we were not provided a
22 copy of their exhibits. They had one copy. I would
23 request that they use the Elmo so we can see what they
24 are showing the witness on the screen.

25 MR. HOLLIDAY: They did review it, presumably

1 before they stipulated.

2 THE COURT: It is in evidence. Do you have
3 extra copies for them to look at?

4 MR. HOLLIDAY: I do not, Your Honor. I
5 literally only brought one binder. But this is it.
6 Ellenburg Road WA-42.

7 THE COURT: Listen, those exhibits that are
8 admitted into evidence say what they say. I can read
9 them and I'm familiar with public plats and deeds, so
10 you don't need to go over so much.

11 MR. HOLLIDAY: Okay. I have got more
12 questions, so I'll move on.

13 THE COURT: Yes, sir.

14 BY MR. HOLLIDAY

15 Q. Are you aware of any document that calls any
16 portion of Ellenburg Road a private road?

17 A. I guess mama's plat.

18 Q. I am sorry?

19 A. I guess mama's plat. It just says, Road. It
20 doesn't say public or anything.

21 Q. Does your mother's plat, which I believe is P3961,
22 which was commissioned by the Beardens, and that is -- let's
23 see. So your mother's plat would otherwise be known as the
24 plat from when they purchased in 1981; is that correct?

25 A. I guess.

1 Q. Could it be any other plat?

2 A. I would have to see what it looked like.

3 Q. Okay.

4 A. I don't even know what the plat looks like.

5 Q. Okay. So we are looking at Defendants' 1.2 Alpha
6 which appears to indicate Jennings Dewey Burton, and Nancy
7 Bearden Burton, formerly known as Nancy Bearden, convey to
8 Nancy Edward J. Ratliff and Francis J. Ratliff. Are those
9 your parents?

10 A. Yes.

11 Q. Okay. And that seems to indicate on 1.20 Alpha
12 that the properties described in P39 at Page 61. So if we
13 go to that plat, which is 1.20 Bravo, the Bearden plat,
14 where is it indicated on 1.20 Bravo, which I believe is your
15 mother's plat, that -- actually, first of all, is this your
16 mother's plat? Is this what you were talking about with
17 your mother's plat?

18 A. Yes.

19 Q. Okay. Where does it say "private"?

20 A. Where does it say "public"?

21 Q. That is not the question that I asked you. I
22 said, Are you aware of any document that says any portion of
23 Ellenburg Road is a private road?

24 A. It doesn't say anything.

25 Q. The word "private" never appears on this document?

1 A. No.

2 Q. Does the word "private driveway" appear on any
3 documents with regards to Ellenburg Road that you are aware
4 of?

5 A. I'm not sure.

6 Q. So you are not aware of any documents that
7 identify any portion of Ellenburg Road as a private
8 driveway; is that correct?

9 A. I'm not sure.

10 Q. Are you not sure of the question or --

11 A. There would be a document out there.

12 Q. That is not what I asked you. I said, Are you
13 aware of a document that lists it as private?

14 A. No.

15 Q. Thank you. Are you familiar with the intersection
16 of your property with Globe and Farmes' property?

17 A. What do you mean?

18 Q. Are you familiar with the intersection of your
19 property and Globe and Farms' property; do you know where
20 they join?

21 A. I can show you up here on this map, or on this.

22 Q. Let me show you 1.29 Bravo. If we are looking at
23 1.29 Bravo, does this seem to indicate that the road, more
24 or less the center line, is the dividing part of your
25 property and Globe and Farmes' property?

1 A. It looks like mine has got more on it, of the
2 road.

3 Q. Yeah, but --

4 A. My side of the road has got a lot more road than
5 his.

6 Q. Yeah, but you would agree --

7 A. It looks like the lane changed. It changes before
8 it gets down to the end.

9 Q. Help me understand that.

10 A. The road just looks different.

11 Q. Okay. How so?

12 A. It just looks different.

13 Q. So 1.29 Bravo looks different than what?

14 A. Than this way up here. The road looks different
15 there than the rest of the way. That is the County
16 maintenance sign, where it was. The road looks different.
17 Do you know what I mean?

18 Q. No, I do not. Does 1.29 Bravo seem to indicate
19 that Ellenburg Road is a public road with a maintenance
20 right-of-way?

21 A. I'm not sure.

22 Q. Okay. Do you see any indication on 1.29 Bravo
23 that any portion of this road is private?

24 A. It looks different down at the end down here. I'm
25 not sure. It doesn't say private.

1 Q. What do you mean when you say that it looks
2 different?

3 A. Because the road is all on our property down there
4 near the end, most of it.

5 Q. When you say the road is all on your property, are
6 any of the pins between your property and Globe and Farmes'
7 property placed anywhere other than in asphalt?

8 A. No.

9 Q. So all of the pins dividing your property and
10 Globe's property are in asphalt?

11 A. Yes, I guess.

12 Q. Okay. Along Ellenburg Road?

13 A. I would say.

14 Q. Okay. So down here, along Ellenburg Road, all of
15 the pins in asphalt?

16 A. Yes.

17 Q. Okay. So this finger here, you see where that
18 sticks out to the south and west, where -- do you see where
19 that connects to your property?

20 A. Yes.

21 Q. That was formerly Terry Ellenburg's?

22 A. Yes.

23 Q. Okay. And so that property comes, comes back a
24 ways; is that accurate?

25 A. What do you mean?

1 Q. It comes -- it extends farther than where your
2 shop is at 599?

3 A. I'm not sure what you mean. Is it wider here than
4 it is here? Yes.

5 Q. Okay.

6 A. Is that what you mean?

7 Q. Yes. So it's wider closer to 582?

8 A. Yes.

9 Q. Okay. And that finger comes back south and west?

10 A. Yes.

11 Q. Are you familiar with Globe and Farmes' and Mr.
12 Lee's plans as to how they are going to develop this and
13 where they are going to put the road?

14 A. I'm not sure what you mean.

15 MR. PAAVOLA: Objection, Your Honor.

16 THE COURT: Hang on. Stop. When there is an
17 objection, Mr. Ratliff, please stop.

18 MR. PAAVOLA: Exceeds the scope of direct.
19 And other plans are not in evidence. He hasn't
20 established any link that he knows to this case.

21 THE COURT: Ask if he knows or if he doesn't.
22 Okay. Ask the question.

23 BY MR. HOLLIDAY

24 Q. All right. Are you familiar with the development
25 plans that have been proposed and submitted to the Board of

1 Zoning Appeals with regards to Arrowhead Point?

2 A. I have seen a bunch of different ones and they are
3 all inconsistent.

4 Q. Okay. Are you familiar with where Globe and
5 Farmes' wants to place the road?

6 A. Like I said, it changes so much that every time
7 they say something it is different, and different again, and
8 different again. So I have no idea what their plans are,
9 no.

10 Q. Do you know if their plans have changed since the
11 Board of Zoning Appeals?

12 A. They have changed several times. They have had
13 hundreds of different people out there and different
14 surveyors, a lot of different surveyors, four or five
15 surveyors. Everything changes. Everybody's stuff is
16 different. So I don't know what to believe.

17 Q. I'm now showing you 1.33 Bravo, which is the
18 Henderson plat for 585, does indicate Ellenburg Road
19 continues past your property at 585?

20 A. That is what it looks like.

21 Q. And I believe your testimony earlier was that that
22 was in error?

23 A. Yes.

24 Q. And that was something that Mr. Henderson did
25 without your knowledge or consent?

1 A. Yes.

2 Q. Okay. Did that, did that frustrate you and
3 Lucretia?

4 A. I never looked at it.

5 Q. Okay.

6 A. Because I knew where the pins were. I didn't know
7 -- I didn't ever see this until the Arrowhead Point stuff
8 started and then when y'all started using it against us,
9 your office.

10 Q. So did you, did you happen to see it prior to your
11 deposition?

12 A. Yes, because I saw this when the Arrowhead Point
13 stuff started when BZA, you know, when y'all started using
14 this against us.

15 Q. Okay. How do you mean "use it against you"?

16 A. Because you kept calling this up and we didn't. I
17 never really looked at the plat.

18 Q. Did it say a plat prepared for James Ratliff and
19 Lucretia Morgan?

20 A. It does.

21 Q. And you paid Mr. Henderson?

22 A. Yes.

23 Q. And you selected Mr. Henderson?

24 A. We asked him about that and he said that he just
25 thought that there was a right-of-way. He didn't -- you

1 can't put a right-of-way on somebody's property, okay.

2 Q. Regardless, this is a recorded plat that you paid
3 for that indicates there is a right-of-way at 585?

4 A. I didn't want to record it. I think that your
5 office recorded it for us.

6 Q. You don't think that a lender would have mandated
7 that?

8 A. It was Community First, which John Hamrick, I
9 didn't know that he was on the Board of Directors. He knew
10 my whole banking information the whole time.

11 Q. So you think John Hamrick conspired with the Board
12 of Directors of Community First to force you to record this
13 plat as a condition of receiving a mortgage from them?

14 A. I'm not saying that he did, but I don't know.

15 Q. Did the bank require you to get a survey?

16 A. Yes.

17 Q. Did anybody else require you to get a survey?

18 A. Not that I know of.

19 Q. Okay. And so after being upset with Mr. Henderson
20 for creating this plat for you in 2020, did you ever use Mr.
21 Henderson's services again?

22 MR. PAAVOLA: Objection, Your Honor.

23 Mischaracterizing the witness' testimony about being
24 upset with Mr. Henderson.

25 THE COURT: Say your objection again, please,

1 Mr. Paavola.

2 MR. PAAVOLA: It mischaracterizes the
3 witness' testimony about -- characterizes Mr. Ratliff
4 saying that he was upset with Mr. Henderson. That is
5 not what Mr. Ratliff said. It mischaracterizes his
6 testimony.

7 THE COURT: Rephrase.

8 BY MR. HOLLIDAY

9 Q. Do you believe that Mr. Henderson made an error in
10 this 2020 plat; is that correct?

11 A. Yes.

12 Q. Would you use somebody again after they made a
13 mistake of that magnitude?

14 A. I did use him again because I didn't know that he
15 had made the first error.

16 Q. So you used him again in 2020; is that correct?

17 A. Yes.

18 Q. Okay. What did you use him for in 2020 or 2021?

19 THE COURT: What is the relevance of that?

20 MR. HOLLIDAY: There's another plat from 2021
21 that is on 599 Ellenburg that indicates that Ellenburg
22 Road is subject to the prescriptive easement the entire
23 length.

24 THE COURT: And, again, if it is in the
25 record and it has been admitted, I can read these

1 plats, if you will point it out to me.

2 MR. HOLLIDAY: I have just got to find it,
3 Your Honor. It is part of what we have stipulated to
4 for the Plaintiff, so it is in the record.

5 MR. PAAVOLA: I don't believe this -- it is
6 not recorded so I don't believe that it is stipulated
7 to.

8 MR. HOLLIDAY: We stipulated to it as part of
9 the Plaintiffs' exhibits.

10 THE COURT: It is in evidence?

11 MR. HOLLIDAY: Yes, I have just got to find
12 it.

13 MR. PAAVOLA: I don't believe that it is.

14 MR. HOLLIDAY: There you go. It is
15 Plaintiffs' Exhibit 65 Page 6. And as I recall,
16 Plaintiffs' Exhibit 65 in its entirety was admitted.
17 Can we please check that?

18 MR. PAAVOLA: I don't disagree.

19 THE COURT: It is admitted, go ahead. I keep
20 telling you, Mr. Holliday, you don't need to question
21 if it is in the record. I can see it.

22 MR. HOLLIDAY: I'll try to let this be the
23 last one.

24 THE COURT: All right, sir.

25

1 BY MR. HOLLIDAY

2 Q. Is this Mr. Henderson's 2021 plat?

3 A. Yes.

4 Q. And you, at the time, were attempting to subdivide
5 599 Ellenburg into lot A and lot B?

6 A. We were thinking about it.

7 Q. And lot B is where the shop is; is that correct?

8 A. Yes.

9 Q. Okay. Do you see there at the end on the, I guess
10 western most side, where it says mag nail found?

11 A. Yes.

12 Q. Okay. And you see how this indicates Ellenburg
13 Road WA-42 subject to right-of-way public?

14 A. Yes.

15 Q. Okay. And that is on Plaintiffs' Exhibit 65.
16 Okay.

17 A. And the line, the right-of-way stops right there
18 at mama's driveway.

19 Q. I thought that you said that the right-of-way
20 stops at 566?

21 A. Well, it does but he messed up on this too.

22 Q. You just said that the right-of-way stops at
23 mama's driveway. Doesn't your mama live at 599?

24 A. This is where he messed up, it is what I was
25 talking about. Don't be trying to twist it around.

1 MR. HOLLIDAY: No, no, you just said -- is
2 there any chance you could read that back, what he
3 testified to as to where it stops at, where it is.

4 THE COURT: Reask the question. Do not read
5 it back, Madam Court Reporter.

6 BY MR. HOLLIDAY

7 Q. So does the right-of-way stop at your mother's
8 driveway?

9 A. On this plat that he messed up it shows it. Where
10 he messed up it shows it stopping at the driveway.

11 Q. Okay. What indicates that on Plaintiffs' 65 here?
12 What indicates that it stops?

13 A. He messed up both plats.

14 Q. I'm asking you, what, in writing on this plat
15 prepared by Mr. Henderson in 2021, what indicates that the
16 right-of-way stops?

17 A. Well, the dash lines stop right there. If the
18 right-of-way went all that way it would go all the way down
19 past the end and it would say it on it.

20 Q. So you are saying that the dash lines go all the
21 way to 599?

22 A. The dash lines don't go all the way down, they
23 stopped is what I'm saying, where he messed up on the plat.

24 Q. Are you aware of any surveys to either 599 or 585
25 Ellenburg in between 1974 and 2020 for 585 and 2021 for 598?

1 A. Say that again.

2 Q. Are you aware of any surveys in between 1974 and
3 2020 on any of this property at Ellenburg Road?

4 A. Just the one -- this one and the other one that we
5 had that were messed up.

6 Q. Okay. That is what I'm asking you. In between
7 the two messed up Henderson plats, in your word, and the one
8 that we looked at earlier for your mother in 1974 which is
9 identified as the Bearden plat, is there any survey that you
10 are aware of that happened in between there?

11 A. I don't believe, I don't recall.

12 Q. Do you know anybody in your family that could shed
13 more light on that?

14 A. I'm not sure.

15 Q. Okay. But to the best of your knowledge, no
16 surveys between '74 and 2020?

17 A. Yes.

18 Q. Okay. Are you aware of whether a prior road,
19 prior to the creation of the lake, continued through the
20 roadbed down into what is now the lake?

21 A. Yes, there's that old brick bed.

22 Q. Did it create a fork at the end of what is
23 currently the pavement at Globe and Farmes' property?

24 A. I have never seen a fork.

25 Q. Have you seen a map that indicated that there was

1 a fork there?

2 A. No, not really.

3 Q. So you would have no knowledge of that?

4 A. I was not even born back then.

5 Q. Did the County ever provide you with a GPS point
6 of where the end of County maintenance is?

7 A. Not me, but my mom, I saw the thing.

8 Q. Okay. So you would have never seen this before?

9 A. You showed it to me I think when I was getting
10 deposited or something.

11 Q. Okay. And you had never seen it prior to the
12 deposition?

13 A. (Nods in the negative.)

14 Q. But you think that your mom had seen this?

15 A. No. I thought that you were talking about where
16 the County marked it. When the end of County maintenance
17 was up where the pavement changed.

18 Q. Got you. When you showed your repair receipts
19 earlier with regards to the road, I didn't see any for
20 asphalt. Was that accurate?

21 A. Yes.

22 Q. So you have never paid for any asphalt on the
23 road?

24 A. I did, yes.

25 Q. You did pay for asphalt?

1 A. I traded some guy some tires.

2 Q. Okay.

3 A. For a patch down at the bottom.

4 Q. Where did he perform this patch?

5 A. Across the road on the Globe and Farmes' side.

6 Q. So this gentleman would have put a patch on the
7 road on my clients' property?

8 A. Yes. I had already graveled it, and then he --
9 because it was a mudhole. And then we just fixed it where
10 it was messed up, including the old asphalt.

11 Q. Did you personally do that work?

12 A. No.

13 Q. So you have personally never done any kind of
14 asphalt work?

15 A. Yes, I have. I have done some asphalt work.

16 Q. Okay. What was that? I thought that you said the
17 only one was the guy that you --

18 A. Me and Dean had done some asphalt work too.

19 Q. And who is Dean?

20 A. Dean Logan. It got stuck in his trailer. I
21 remember that we couldn't get it out after it hardened.

22 Q. Do you recall testifying differently in your
23 deposition?

24 A. I don't recall.

25 Q. So you personally have done asphalt work out

1 there?

2 A. Yes, patch. Yeah, patching.

3 Q. If you wouldn't mind, would you go to Page 98 of
4 your deposition, at line nine, Page 98, I asked you, "What
5 maintenance work have you performed on the paved portion of
6 Ellenburg Road?"

7 And you said, "I just fixed potholes and stuff."

8 And I said, "Okay. And would you have ever
9 covered that in asphalt, or potholes would have just been
10 filled with gravel?"

11 And you said, "Covered it with asphalt."

12 And I said, or I asked, "So you personally have
13 covered it with asphalt?"

14 And you said, "No, another guy did it."

15 And I said, "Okay. What was that person's name?"

16 And you said, "Not sure."

17 And I asked, "Do you know what his company name
18 was?"

19 And you said, "I don't."

20 And I asked, "Do you know when he did the work?"

21 And you said, "It has been several years ago."

22 And then I said, "How long is several years? Are
23 we talking three, five, ten?"

24 And you said, "Maybe three. Five or three, three
25 to five years."

1 So is it your testimony today, different from your
2 deposition, that you individually have done con-- asphalt
3 work on the road?

4 A. I have done asphalt work. And I forgot about when
5 Dean helped me patch holes too.

6 Q. You don't have any receipts for any asphalt work?

7 A. I might. I mean, he has passed away, but I might
8 be able to get -- he paid for the asphalt, Dean did.

9 Q. Have you, have you produced any receipts for the
10 asphalt?

11 A. No.

12 Q. Of the, let's see, I believe that it is exhibit,
13 Plaintiffs' Exhibit 61, which show checks and receipts for
14 repairs. Number one lists, White Culvert for a pipe drain.
15 What was that for?

16 A. That was to put on each side of the driveway.

17 Q. Each side of whose driveway?

18 A. My mom's driveway. It was to connect to the old
19 pipe that is in front of the shop all the way down.

20 Q. Is that on your property?

21 A. Yes.

22 Q. And that serves your mother's driveway?

23 A. We put it in because the ambulance run off when
24 daddy had a heart attack and got stuck, so I didn't want it
25 to happen again.

1 Q. Just to clarify from earlier, because Larry wants
2 me to, you said all of the property that is dividing you and
3 the Globe property are in the asphalt more or less in the
4 middle of the road? And I'm not going to argue about
5 whether it is 60 percent on your property or 50 percent on
6 your property, I am just saying all of the property pins are
7 in the asphalt in Ellenburg Road somewhere?

8 A. Yes.

9 Q. The second page of 61 -- I don't know if you have
10 got your binder in front of you -- seems to indicate that
11 you bought \$250 worth of gravel; is that correct?

12 A. Yes.

13 Q. Is that gravel in the paved portion of the road?

14 A. That one, I mean, I would buy gravel and spread it
15 as I needed it. So, I mean, I can't tell you where every
16 scoop of gravel went, no.

17 Q. Is it within the paved portion of the road?

18 A. I'm sure maybe. What do you mean "within the
19 paved portion"?

20 Q. Did you incorporate that gravel into the pavement
21 somehow where the paved road exists?

22 A. Did I mix it in the asphalt, is that what you are
23 saying? I'm not sure what you mean.

24 Q. Sure.

25 A. No, I didn't mix any in the asphalt.

1 Q. Okay. So is any of this gravel within the
2 confines of the pavement on this road?

3 A. I would put it on the edges of the road.

4 Q. Okay. The 70 yards of concrete, which is the next
5 page, is any of that within the paved portion of this road?

6 A. It butts up against it.

7 Q. None of the concrete is in the paved portion of
8 the road. The check for \$47.36 to Oconee County quarry for
9 rock, is any of that within the paved portion of the road?

10 A. Again, I would fill little holes that are along
11 the side, or maybe go around the shop with it in my parking
12 area. I mean, I put gravel everywhere.

13 Q. Is any of the gravel or any of the rock that you
14 purchased within the paved portion of the road?

15 A. It is on the edges.

16 Q. So it is all along the edges of the road?

17 A. Most of it, yes.

18 Q. Okay. Would you be familiar with the condition of
19 the road in 2008? Did you frequently go along Ellenburg
20 Road?

21 A. I was down there everyday unless I was on
22 vacation.

23 Q. Okay. And would you recognize -- would you
24 recognize photos of Ellenburg Road from 2008?

25 A. I wouldn't be able to tell you if it was 2008 or

1 2010 or --

2 Q. So you are saying that you wouldn't be able to
3 recognize what it looked like in approximately 2008?

4 A. I could give you probably an estimated date.

5 Q. Okay. What I'm showing you is Exhibit 16 from
6 your deposition. And the original is here. So if we are
7 looking at the original number 16. You can look at that.
8 Does -- look through that and tell me if the original number
9 16 to your deposition, if that appears to be how the road
10 looked in 2008?

11 A. It just looks muddy.

12 Q. So the road looks muddy?

13 A. Yeah.

14 Q. Can you tell by looking through these photos if
15 Harbor Oaks has been constructed yet?

16 A. Yes.

17 Q. Harbor Oaks is the subdivision that John and Andy
18 developed just up the road from you?

19 A. Yes.

20 Q. Does it appear that there has been any fresh
21 paving on this section of Ellenburg Road?

22 A. It doesn't look like it.

23 Q. The road looks muddy?

24 A. Yeah, it just looks muddy.

25 Q. Does it look cracked up?

1 A. Yes, cracked, like the whole road looked. I mean,
2 the road was cracked all the way down in front of my shop.

3 Q. All right. So you would agree that Exhibit 16 to
4 your deposition is an accurate representation of how the
5 road looked in 2008?

6 A. Up there at the top, yes.

7 Q. And what about farther down, if we go to the last
8 page of this Exhibit 16 to your deposition.

9 A. That is different eras, that is when that was all
10 grew up on the other side.

11 Q. Okay. So the second to last page of Exhibit 16,
12 you are saying that that wasn't taken at the same time as
13 these were?

14 A. It doesn't appear.

15 Q. Okay. Can you tell where these images are from?

16 A. It looks like Google Earth.

17 Q. Okay.

18 A. Those lines on the road, I always wondered why the
19 lines on our road, Harbor Oaks and Knox Landing are
20 different on Google Earth. But if you go off of those
21 roads, they are all perfect. So somebody has messed with
22 the Google Earth thing I believe.

23 Q. But you would agree that these photos accurately
24 represent --

25 A. But they were not all taken at the same time.

1 Q. Do you think Google maps sent a car out at
2 multiple different times --

3 A. Yes.

4 Q. -- and labeled them all 2008?

5 A. I'm not sure about that. But they are all
6 different though.

7 Q. Okay.

8 A. Something with Google is weird with that part.

9 Q. Okay. So you are saying that these are not
10 accurate representations of what the road looked like in
11 2008?

12 A. Well, they are different era from what I would
13 say.

14 Q. Okay. Do you recall at your deposition testifying
15 differently?

16 A. Unless you tricked me or something.

17 THE COURT: How much longer do you have?

18 MR. HOLLIDAY: Probably at least another 30
19 minutes.

20 THE COURT: All right. Let's break for
21 lunch, okay. Mr. Ratliff, you can stand down. You
22 can't speak with anyone including your attorneys or
23 anyone else about your testimony during lunch.

24 THE WITNESS: I can't talk to them?

25 THE COURT: You can talk to them. You just

1 don't talk to them about your testimony.

2 THE WITNESS: All right, sir.

3 THE COURT: All right. Let's come back at
4 2:15. Anything before we break, Mr. Paavola?

5 MR. PAAVOLA: No, Your Honor.

6 THE COURT: Mr. Holliday?

7 MR. HOLLIDAY: No, Your Honor.

8 MR. LOGAN: No, Your Honor.

9 THE COURT: Mr. Logan, thank you. See you
10 all at 2:15.

11 (Lunch recess.)

12 THE COURT: Mr. Holliday.

13 CROSS EXAMINATION CONTINUED

14 BY MR. HOLLIDAY

15 Q. Mr. Ratliff, would you go to the Plaintiffs' 10,
16 please?

17 A. I have two books up here. This book?

18 Q. That is your deposition.

19 A. This binder here?

20 Q. Black binder, I think. Go to the second page of
21 Plaintiffs' 10. Are you there?

22 A. Yes.

23 Q. Can you identify your property on Plaintiffs' 10?

24 A. Which property?

25 Q. 599.

1 A. I don't see exactly the shape of it, no.

2 Q. Do you see where it says "T B Ellenburg"?

3 A. Yes.

4 Q. And then directly under that, it says maybe, Rod,
5 R-O-D; do you see that?

6 A. Yes.

7 Q. Is it possible that where that is located is 599
8 Ellenburg?

9 A. Maybe, yes.

10 Q. Do you see a road coming in from the left side of
11 the page that forks just past where it says, Rod?

12 A. Not clearly.

13 Q. Do you see a road that goes off to the top of the
14 page and one that goes off to the right of the page?

15 A. I see one that goes off to the right.

16 Q. Okay. Do you see one that goes -- you don't see
17 the one that goes to the upper left-hand side of the page?

18 A. Not clearly.

19 Q. Okay. Do you see above K574 where it says, Nail
20 and cap south end of bridge?

21 A. No.

22 Q. You don't see that on the second page of
23 Plaintiffs' 10?

24 A. Yes, I do see it.

25 Q. Okay. Do you believe that there would be a bridge

1 there without a road?

2 A. No.

3 Q. No. So, if there is a bridge there, there's
4 probably a road there?

5 A. Yes.

6 Q. Okay. Can you now flip to Exhibit 31, Plaintiffs'
7 Exhibit 31? Can you go to the third page of Plaintiffs' 31?
8 Are you there?

9 A. Yes.

10 Q. Do you see what the Department of Transportation
11 has highlighted in green?

12 A. Yes.

13 Q. Do you believe that the section highlighted in
14 green is Ellenburg Road?

15 A. I'm not sure.

16 Q. Is there a particular reason that you are not
17 sure?

18 A. Well, it doesn't have anything wrote on it.

19 Q. So it doesn't identify it as WA-42?

20 A. I don't see that.

21 Q. Do you see a 61 down below it?

22 A. Yes.

23 Q. Let me backtrack. Let's go to the second page of
24 31. Do you see in the middle of that page where it says,
25 Road types?

1 A. Yes.

2 Q. Can you identify by looking at the second page of
3 Plaintiffs' Exhibit 31 and the third page what the green
4 highlighted section road type is?

5 A. Yes.

6 Q. What type is it?

7 A. Bituminous.

8 Q. It says, Bituminous load type; is that correct?

9 A. Yes.

10 Q. Okay. On the second page of Plaintiffs' 31, does
11 that have an indication of a private road?

12 A. I don't see it.

13 Q. Okay. So above bituminous is improved, correct?

14 A. Yes.

15 Q. And above improved is graded and drained, correct?

16 A. Yes.

17 Q. And above graded and drained is unimproved; is
18 that correct?

19 A. Yes.

20 Q. And above unimproved is primitive; is that
21 correct?

22 A. Yes.

23 Q. And above primitive, what is the next road type up
24 there?

25 A. Private.

1 Q. So private is identified on DOT's map legend
2 Plaintiffs' 31, correct? Is that correct?

3 A. I guess if you are talking about this one, the
4 next page.

5 Q. Yeah, so if you go to Page 3 of Plaintiffs' 31, do
6 you see any private roads on this DOT map?

7 A. Yes.

8 Q. Where -- where was a private road on Page 3 of
9 Plaintiffs' 31?

10 A. Right here on the left, right here.

11 Q. On the left? Perhaps you can show me exactly
12 where you are talking about. Where was the private road?

13 A. Right here.

14 Q. Okay. And that is all the way on the left side of
15 the page above route 40, what would you say, a good 6 inches
16 away from the green highlighted section?

17 A. Yes.

18 Q. Okay. If you go back to Page 2, are you sure
19 that's a private road?

20 A. Well maybe not.

21 Q. Is it possible that that is a primitive road and
22 not a private road based on DOT's markings on the second
23 page of 31?

24 A. Yes.

25 Q. So it is a primitive road not a private road?

1 MR. PAAVOLA: Objection. Mr. Holliday has
2 not laid a foundation of knowledge of Mr. Ratliff what
3 the DOT is marking on these maps. The DOT is here and
4 they can testify about the maps and there's no
5 foundation that Mr. Ratliff has a personal knowledge of
6 what the maps say.

7 MR. HOLLIDAY: They are in evidence.

8 MR. PAAVOLA: It doesn't matter. That
9 doesn't mean that he has personal knowledge or ever
10 seen it or can interpret it.

11 THE COURT: Overruled. He can look at the
12 map and tell him whether he knows it or not. Go ahead.

13 MR. HOLLIDAY: Thank you, Your Honor.

14 BY MR. HOLLIDAY

15 Q. Back to my prior question. Do you see any private
16 roads on Page 3 of Exhibit -- Plaintiffs' Exhibit 31?

17 A. There's possible there would be one.

18 Q. But you don't see one indicated?

19 A. I guess if I studied it long enough I might see
20 one.

21 Q. Okay. So when did Ellenburg Road become private?

22 A. I don't know.

23 Q. Did you ever file an action with this Court to
24 close any portion of Ellenburg Road?

25 A. No.

1 Q. Are you aware of anybody in your family filing
2 with this Court to close any portion of Ellenburg Road?

3 A. I am not sure.

4 Q. Is it possible that they could have filed that and
5 you not have been aware of it?

6 A. I guess there's a possibility.

7 Q. Are you aware of any evidence that shows that
8 anybody has ever filed any abandonment action for any
9 portion of Ellenburg Road?

10 A. I'm not sure what you mean.

11 Q. Are you aware if anyone has ever filed an
12 abandonment action with this Court for any portion of
13 Ellenburg Road?

14 A. No.

15 Q. You are not aware of that?

16 A. I mean I . . .

17 Q. If you look at Plaintiffs' 68, can you pull that
18 up? Oops that is wrong. Oh, yeah, it is right. Page 10 of
19 Plaintiffs' 68. That is it.

20 THE COURT: Is that Bates stamped 0070 --
21 00070?

22 MR. HOLLIDAY: Sixty-nine, sorry, Your Honor.
23 I got my -- maybe it is page nine.

24 THE COURT: Okay.

25 BY MR. HOLLIDAY

1 Q. Do you know what that document is?

2 A. No.

3 Q. Does it seem to indicate that the County placed a
4 GPS point at an end of County maintenance sign in 2012 on
5 Globe's property?

6 MR. PAAVOLA: Objection, Your Honor, Mr.
7 Ratliff just testified that he didn't know what that
8 document is.

9 THE COURT: Excuse me?

10 MR. PAAVOLA: He just testified that he
11 doesn't know what that document is.

12 THE COURT: Ask the question again.

13 BY MR. HOLLIDAY

14 Q. Does it indicate that in 2012 that Oconee County
15 took a GPS position placement on Globe's property?

16 MR. PAAVOLA: Same objection.

17 THE COURT: It is his document, he admitted
18 it into evidence, so I am going to let him explain it.

19 MR. HOLLIDAY: No, he admitted it into
20 evidence.

21 THE COURT: Mr. Holliday, I'm well aware of
22 that.

23 MR. HOLLIDAY: Sorry, I misunderstood you.

24 BY MR. HOLLIDAY

25 Q. Does it indicate that Oconee County placed a GPS

1 position for an end of County maintenance sign in 2012 on
2 Globe and Farmes' property?

3 A. Yes, you showed me this when you deposed me. That
4 was the first time I saw it, sir.

5 Q. Okay. So you saw that during your deposition?

6 A. Yes.

7 Q. Okay. And does the position shown on Ratliff
8 00069, does that appear to be the same position in
9 Defendants' 5?

10 A. This is off in the woods, so, no.

11 Q. Okay. Is it a similar position?

12 A. It might be close.

13 Q. Okay. So it is close. And that indicates that in
14 2012, on July 26th, the County put an end of County
15 maintenance GPS pin there?

16 MR. PAAVOLA: Objection, Your Honor, Mr.

17 Ratliff doesn't have knowledge of what the document
18 says. He's already testified to that.

19 THE COURT: Overruled.

20 BY MR. HOLLIDAY

21 Q. Can you go to Plaintiffs' 64? Are you there?

22 A. Yes.

23 Q. Is this an email from August 16th, 2022 in between
24 you and Michael Henderson, your surveyor?

25 A. This is an email.

1 Q. I'm sorry?

2 A. It is an email.

3 Q. And it is between you and Michael Henderson?

4 A. I have never emailed in my whole life.

5 Q. So your email address is not Jimmy Ratliff 1980,
6 the year of your birth, at gmail.com?

7 A. It is.

8 Q. You have an email address but you have never
9 emailed?

10 A. That is correct.

11 Q. Okay. So who would have sent this email on your
12 behalf presumably in between you and Mr. Henderson?

13 A. My fiancée.

14 Q. Okay. Does Mr. Henderson seem to indicate in
15 Plaintiff's 64 that Ellenburg Road is a longstanding road
16 that at one time looped around back over to High Falls
17 before Lake Keowee was created?

18 A. If that is what it says, yes.

19 Q. After looking at Plaintiffs' 10, does that seem to
20 agree with him?

21 A. I'm not sure what you mean.

22 Q. Well, if you look at Plaintiffs' 10, does that
23 seem to indicate that there was a loop to Ellenburg Road
24 that looped over to High Falls?

25 A. Which document is that?

1 Q. That is Exhibit 10. Do you see a loop on
2 Exhibit 10?

3 A. You will have to show me what you are talking
4 about. Are you talking about this, go to number ten in this
5 book?

6 Q. Yes, the first page of plaintiffs --

7 A. I'm on ten, and it is this map right here. It has
8 got a square in it. I can't really tell what roads or what.
9 I don't know what you mean.

10 Q. Okay. Well, let's go to the third page of
11 Exhibit 31.

12 A. Okay.

13 Q. Do you see a loop on the third page of Exhibit 31
14 coming off of Ellenburg Road as described by Michael
15 Henderson?

16 A. I'm not sure where he's talking about.

17 Q. Do you see High Falls?

18 A. I do see High Falls.

19 Q. Okay. Do you see a loop in between the green
20 highlighted section and High Falls?

21 A. Yes.

22 Q. Okay. Michael Henderson says that Ellenburg Road
23 is a longstanding road that at one time looped back around
24 over to High Falls before Lake Keowee was created. Does
25 that appear accurate? Does his assertion appear accurate

1 when looking at the third page of Exhibit 31?

2 A. I don't know if you would call it a loop, but I
3 see a road that does go to High Falls.

4 Q. Okay. Does Ellenburg Road have a County
5 designated number?

6 A. What do you mean?

7 Q. On the green road sign at the top of the hill at
8 the intersection of Knox Road that says Ellenburg Road, that
9 sign exists; correct?

10 A. Yes.

11 Q. Is there a number on that sign that is designated
12 to Oconee County?

13 A. I'm not sure.

14 Q. You have no idea if WA-42 is Ellenburg Road, road
15 sign number?

16 A. I'm not sure what the numbers are.

17 Q. Okay. So if we go to Plaintiffs' 68, do these
18 documents in Plaintiffs' 68 look familiar to you?

19 A. What do you want to know?

20 Q. Do these documents in Plaintiffs' 68 look familiar
21 to you?

22 A. I really don't really look at documents much.

23 Q. So you would not have submitted a FOIA to Oconee
24 County that they responded to on or about January 5th of
25 2022?

1 A. I probably had help with it.

2 Q. So somebody submitted a FOIA upon your request?

3 A. Yes, I probably had help getting it. Remember, I
4 don't read very good.

5 Q. But does the first page say, Attached is FOIA
6 request for Ellenburg Road WA-42 from James Ratliff?

7 A. It says, Sheila O'Kelley; is that what you are
8 talking about?

9 Q. Does the email say, Attached is the FOIA request
10 for Ellenburg Road WA-42, James Ratliff?

11 A. I don't see it.

12 Q. Do you see the words WA-42 anywhere on the first
13 page designation? Do you see the designation WA-42 anywhere
14 on the first page?

15 A. Yes.

16 Q. Okay. If we get to the body of the FOIA request
17 on the third page, do you see WA-42 on this page at all?

18 A. Yes.

19 Q. And that indicates that Oconee County had done
20 some maintenance on Ellenburg Road?

21 A. Yes.

22 Q. Go to the next page, do you see an indication
23 WA-42 anywhere on that page?

24 A. Yes.

25 Q. Does that indicate that Oconee County had done

1 maintenance on Ellenburg Road?

2 A. Yes.

3 Q. Keep going a couple more pages to Ratliff 67.

4 Does this show work by Oconee County on Ellenburg Road?

5 A. Ratliff, what was it again?

6 Q. 67?

7 A. Yes.

8 Q. So that shows Oconee County did work. What about
9 on 68, Ratliff 068?

10 A. Yes.

11 Q. What about on Ratliff 70?

12 A. That -- is that Knox Road?

13 Q. You don't recognize where the green dot is on
14 Ratliff 770?

15 A. I see the green dot, yeah. Yeah.

16 Q. Is that Ellenburg Road?

17 A. It is.

18 Q. Is that green dot closer to your home than you
19 indicated the alleged prior end of County maintenance sign
20 was?

21 A. I don't see my home on that page.

22 Q. Do you see your shop in the top right corner?

23 A. No. Oh, yeah, I see it. Okay, I'm sorry.

24 Q. Okay. Is that green dot closer to your shop than
25 what you indicated earlier on 83A?

1 A. That is close to where the end of County
2 maintenance sign was.

3 Q. I thought where you indicated on 83A was in
4 between that circular driveway that serves 566 Ellenburg
5 Road. Would you like to look at it?

6 A. I said that it was close.

7 Q. It is closer to your home than where you indicated
8 the end of County maintenance was; is that correct?

9 A. I said within that general area.

10 Q. Okay. Does that indicate that they took care of a
11 pothole in 2021?

12 A. They must have.

13 Q. Okay. Go to Plaintiffs' 69. Does this include
14 Oconee County maintenance records on Ellenburg Road?

15 A. I would say yes.

16 Q. Can you say that again?

17 A. I see 42, AW (SIC) 42 on Ellenburg Road.

18 Q. And that indicates that the County did work on
19 Ellenburg Road?

20 A. They have done some work, yes.

21 Q. What about on Plaintiffs' 70, does that indicate
22 that the County has done some work on Ellenburg Road?

23 A. Yes.

24 Q. So if the County road didn't reach your property
25 line at 599 and there is no County road below 566, in

1 between 566 and your shop, how did you get through from 599
2 to 566 without an easement from the owners of 585 or 575?

3 MR. PAAVOLA: Objection, Your Honor, calls
4 for a legal conclusion.

5 THE COURT: Overruled. Go ahead.

6 A. It is a private driveway. That -- that is what I
7 was always told, but they shared the private driveway.

8 Q. So it is a shared private driveway between 566 and
9 599?

10 A. From what I understood it stopped where old man
11 Ellenburg owned, because there was nothing else there.
12 Because he owned everything from there down.

13 Q. Would you agree that it is clear that the only
14 sign for the end of County maintenance is at the end of the
15 pavement at Globe and Farmes' property below your shop?

16 A. No.

17 Q. Could you have perhaps testified differently in
18 your deposition?

19 A. The sign was moved, I do know that. This sign was
20 up the street, and then it was moved to the end of the
21 street, and then it was gone, and then nobody knew where to
22 put it back.

23 Q. That is not my question. It is clear that the
24 only sign for the end of County maintenance is at the end of
25 the pavement at Globe and Farmes' property below your shop,

1 right?

2 A. No, there's no sign.

3 Q. There is no sign where it's shown in Defendants',
4 I think, 4 and 5, that green sign?

5 A. Yes, there was a sign there.

6 Q. Okay.

7 A. And there was a sign up the street also.

8 Q. Do you have a photo of the black and white one?

9 A. No, sir. But there is one somewhere.

10 Q. Can you turn to Page 178 of your deposition?

11 A. Okay.

12 Q. Do you see line 19 where I say, "But it is clear
13 that the only sign for the end of County maintenance is at
14 the end of the pavement at Globe and Farmes' property below
15 your shop, right?"

16 And then, on line 24, you say, "I'm not sure."

17 So are you sure that there are two signs now,
18 because you weren't at your deposition.

19 A. Yes, I'm sure that there was not a sign -- you
20 probably tricked me to saying was that the only sign at the
21 end of the road and it confused me. There was two signs.
22 One was moved and it was moved down to the other end and
23 then it was gone.

24 Q. But at your deposition, you weren't sure if the
25 green sign at the end of the road shown in Defendants' 5 was

1 the only sign?

2 A. I wasn't sure that that was the end of County
3 maintenance sign, I believe is what I told you.

4 MR. HOLLIDAY: No further questions, Your
5 Honor.

6 THE COURT: Redirect?

7 MR. PAAVOLA: Yes, Your Honor, just briefly.

8 REDIRECT EXAMINATION

9 BY MR. PAAVOLA

10 Q. All right. Mr. Ratliff, you were asked about how
11 old you were when the section of the road was paved in front
12 of your parents' property; do you remember that?

13 A. Yes.

14 Q. Do you have any recollection as a child of what
15 you might have been -- you know, you would have been playing
16 in the road to help you recollect how old you were?

17 A. I would play with matchbox cars and, like I said,
18 we would -- you couldn't skate on it or skateboard or
19 nothing.

20 Q. Do you have any idea about how old you were when
21 that took place?

22 A. I can't remember.

23 Q. You were asked about a letter -- I guess
24 Defendants' Exhibit 3. If you could get that letter out,
25 letter from the Board of Zoning Appeals. And that is Bates

1 stamped Ratliff 322, I believe; is that it?

2 A. Yes.

3 Q. Okay. And in this, in the middle of this letter
4 and it is on the screen behind you and on the screen next to
5 me, the section is highlighted. There is a sentence in
6 there that reads, John Hamrick approached my father multiple
7 times attempting to negotiate with him to sell his property.
8 Did I read that correctly?

9 A. Yes.

10 Q. And that is what you testified to earlier?

11 A. Yes.

12 Q. Okay. On the next page there is these -- let's
13 see here. On the bottom you were asked about this response,
14 I believe. The question to you said, Are the circumstances
15 affecting the property the result of the actions by
16 (inaudible) owner? And you were asked to read that
17 response. And in the second sentence of that response is,
18 it says, County maintenance on Ellenburg Road, right, you
19 see that?

20 A. Yes.

21 Q. And that continues on the next page. Is that
22 correct? Do you see that?

23 A. Yes.

24 Q. And on the top of the next page read this
25 response, it says, sir, Has been established at 585

1 Ellenburg adjacent property up the road from 599 Ellenburg
2 Road for decades.

3 Do you remember reading that earlier?

4 A. Yes.

5 Q. Okay. And the second sentence it says, continues.
6 And you weren't asked about this sentence, but continues,
7 John's Marine has owned and maintained the property between
8 585 Ellenburg and the unaddressed parcel described as
9 Arrowhead Point since the shop was built in 1982 as a
10 private road.

11 Do I read that correctly?

12 A. Yes.

13 Q. And that has been your testimony today, hasn't it?

14 A. Yes.

15 Q. You were shown a number of deeds and plats by
16 Defense counsel; do you recall being shown those?

17 A. Some of them.

18 Q. I mean, you recall today you were shown a bunch of
19 deeds and plats?

20 A. Yes.

21 Q. And you have never read or seen any of those
22 before today, have you?

23 A. No.

24 Q. You have no personal knowledge about those
25 documents, do you?

1 A. No.

2 Q. In Plaintiffs' Exhibit 65 Michael Henderson --

3 THE COURT: What number?

4 MR. PAAVOLA: Plaintiffs' 65, Page 6.

5 BY MR. PAAVOLA

6 Q. This is the 2021 survey that Mr. Henderson
7 prepared for you that you disagreed with; is that right?

8 A. Yes.

9 Q. Was this deed ever recorded?

10 A. No.

11 Q. It is not a public record, is it?

12 A. No.

13 Q. Oconee County informed the Board of Zoning Appeals
14 that they have prescriptive easement over 585 and 599
15 Ellenburg Road, didn't they?

16 MR. HOLLIDAY: Objection.

17 THE COURT: Overruled.

18 BY MR. PAAVOLA

19 Q. Do you want me to repeat that?

20 A. Please.

21 Q. Because Oconee County informed the Board of Zoning
22 Appeals that they had prescriptive easement over 585 and 599
23 Ellenburg Road, didn't they?

24 A. I believe so, yes.

25 Q. Before that time Oconee County had never taken a

1 position with your family before that they had an easement
2 over your property, had they?

3 A. That's correct.

4 Q. You are here to let the Court decide that
5 question, right?

6 A. Yes.

7 Q. You were shown Plaintiffs' Exhibit 68, page nine
8 of that exhibit. And do you see a green dot at the top of
9 the page?

10 A. Yes.

11 Q. That does not reach -- does that reach 585?

12 A. No.

13 Q. You were also shown Page 11 of the same document.
14 And you see a green dot on that page?

15 A. Yes.

16 Q. Does that reach 585 Ellenburg?

17 A. No.

18 Q. Mr. Ratliff, has the County ever performed
19 maintenance on the road in front of 585 or 599 Ellenburg
20 Road?

21 A. No.

22 Q. Mr. Ratliff, during your lifetime has there ever
23 been any need to travel across Ellenburg Road towards High
24 Falls Church?

25 A. No.

1 Q. You can't do that, can you, today?

2 A. That road don't exist.

3 Q. Since when?

4 A. I guess for 50 years.

5 Q. At least since the lake was created?

6 A. Yes, however long the lake has been there.

7 MR. PAAVOLA: Thank you. Your Honor, no
8 further questions.

9 THE COURT: You may step down.

10 MR. LOGAN: Wait.

11 THE COURT: Sorry. Mr. Logan, I have done it
12 to you again, I apologize.

13 MR. LOGAN: I just have two or three.

14 THE COURT: Have at it. I'm sorry.

15 MR. LOGAN: No problem, I'm hiding over here
16 in this corner.

17 CROSS EXAMINATION

18 BY MR. LOGAN

19 Q. If you would turn to, I believe that these are
20 your trial exhibits, to number 61, and then to the third
21 page of number 61. Do you have that in front of you?

22 A. Yes.

23 Q. The other checks in that 61 are for pipe drain,
24 and a -- I can't make that one out for \$270 and some other
25 small amounts. The biggest one is for \$9800; do you see

1 that?

2 A. Yes.

3 Q. Now it says on there, 70 yards of broom finished
4 and it says, Ramp and parking area. Did I read that
5 correctly?

6 A. Yes.

7 Q. And that ramp is a ramp that goes -- it is
8 entirely on your -- where the shop is located, it goes down
9 to the water; is that right?

10 A. Yes.

11 Q. Okay. And the parking area is the parking area
12 for your shop; is that correct?

13 A. In front of the shop.

14 Q. In front of the shop. And it has nothing to do
15 with the road that we are here today to talk about; is that
16 right?

17 A. It butts up against the road.

18 Q. It comes up against the road?

19 A. Yes, it comes up against the road.

20 Q. Okay. But it has nothing to do with work done on
21 the road, correct?

22 A. Well, yes.

23 Q. Well the ramp certainly doesn't, does it?

24 A. No.

25 Q. Okay. And the concrete says, Parking area. Your

1 parking area doesn't come into the road, does it, it just
2 comes up to the road; is that right?

3 A. Up to the road, yes.

4 Q. All right. Now, let me also ask you to turn to --
5 I don't know how to get this straight.

6 THE COURT: What number is that, Mr. Logan?

7 MR. LOGAN: It is behind 49 I think.

8 BY MR. LOGAN

9 Q. And I just want to ask you about some pictures in
10 here. If you will turn to the fourth picture. It looks
11 like that. Do you see that?

12 A. Yes.

13 Q. You see the sign for 582. You see a white sign on
14 the other side and I think that that sign reads something
15 like private property or something to that effect?

16 A. It says, Private drive.

17 Q. Private drive, okay. And the striping appears to
18 go down to a certain spot, which is very close to your shop;
19 is that right?

20 A. No.

21 Q. How far is it from your shop?

22 A. I would have to measure it. I would say 500 yards
23 or 500 feet, or 100 or 200 yards.

24 Q. Well, let's look at the next picture then and see
25 if that helps. It looks like where the striping ends right

1 there where that private drive sign is, and then I can
2 clearly see your boats which are in front of your shop and
3 your truck which is actually on the other side, right next
4 to that stone or rock mailbox?

5 A. Okay.

6 Q. Do you see that?

7 A. Yes.

8 Q. Okay. So it looks pretty close to me, but -- and
9 then the next page is even a little closer to where the end
10 of the striping lays.

11 All right. So now let's look at some other
12 pictures. Let's look at 55, picture behind tab 55. Do you
13 see that?

14 A. Yes.

15 Q. Okay. And that private drive, is that the drive
16 shown up there where my finger is pointing? You see the
17 private drive up there?

18 A. What do you mean?

19 Q. Is that the private drive?

20 A. No.

21 Q. For the sign?

22 A. No.

23 Q. Okay. Where is the private drive for the sign for
24 the private drive?

25 A. No, it would be -- that sign is way on up the

1 road.

2 Q. Is it past those two boats?

3 A. That is mama's driveway.

4 Q. Okay. That is your mama's driveway?

5 A. Yes.

6 Q. Okay. Is it past those two boats that are there?

7 A. Yes.

8 Q. Okay. So is it a fairly common practice, you have
9 certainly got a very established and well-run business, and
10 I assume that you do a lot of work for people and have a lot
11 of boats that are in that area; is that right?

12 A. Yes.

13 Q. Okay. And that picture shows where you disperse
14 the boats either before or after you work on them; is that
15 correct?

16 A. Yes.

17 Q. So you are basically using that area for your own
18 private business as opposed to recognizing that as a public
19 road; is that correct? And you have been doing that for a
20 good while, haven't you?

21 A. For forty plus years.

22 Q. Forty plus years, that is right. And then look at
23 page 56, that is another picture of how you use this
24 property that you claim is not a public road, you have got
25 boats lined up all over the drive -- all over the asphalt

1 drive going down to the end of it past your shop; is that
2 correct?

3 A. Yes.

4 Q. And that is typical of how you use that property;
5 is that right?

6 A. Yes.

7 Q. Now, with your use like that, would you agree that
8 it would be very difficult for Oconee County to pave and
9 stripe that road if you have got it full of boats all of the
10 time?

11 A. No.

12 Q. It wouldn't?

13 A. Would they tell you to move your car if it was in
14 the road when they are paving? Yes, they would.

15 Q. The boats?

16 A. They would tell you to move anything that is in
17 the road.

18 Q. Okay. So, did you ever -- if they stopped there
19 at where they did because you had all of those boats and all
20 of those cars using the road as your own private road, did
21 you ever call them to come back and say, I'll move these
22 cars and boats out of the way and you can pave it and stripe
23 it?

24 A. No, because it was a private drive. It wasn't --
25 they stopped paving way up the street, like three or four

1 times, that distance that you are showing on this picture.

2 Q. Well, you said that they paved all the way where
3 it was striped?

4 A. No, they didn't. They striped past -- they made
5 the striping over where they -- they made a mistake when
6 they striped and they striped on down the road farther.

7 Q. Oh, they made a mistake when they striped it down
8 to what is shown on the pictures, right?

9 A. When they were running their striping, yes.

10 Q. I understand now. Hold on just a second.

11 Did you testify earlier today that you had chased
12 some of the maintenance workers away from time to time?

13 A. That was only after Arrowhead Point, they tried to
14 get the variance. They had never come to mow or anything
15 and they all of a sudden just tried to start mowing it and I
16 would turn them around and I was like, There is nothing to
17 mow down here. There was nothing to mow down there anyway.

18 Q. You told them that there was nothing to mow down
19 there, is that right?

20 A. Yes.

21 Q. So you prohibited them from coming on a public
22 road down to your property to perform their work?

23 A. I would turn them around. They have never been
24 there for 40 years, why come now.

25 Q. Well, I think that we have got records that

1 indicate that they have been all over that road for the last
2 number of years.

3 A. Not to the end.

4 MR. PAAVOLA: That is all I have got.

5 No further questions, Your Honor.

6 THE COURT: Thank you, sir. You may step
7 down.

8 THE WITNESS: Thank you.

9 THE COURT: Your next witness, please, sir.

10 MR. PAAVOLA: Your Honor, one brief
11 housekeeping matter. We have got, for the deposition
12 designations that we need to know how Your Honor would
13 like those for the record. We can read them in. We
14 can also file them. Again, we are prepared to read
15 them in if you want us to read them in.

16 THE COURT: It seems to me, just give them to
17 me and let me read them. That would make more sense
18 than you taking up time.

19 MR. PAAVOLA: We will get into the record
20 with the court reporter the transcripts.

21 THE COURT: Have you given her a printout of
22 the designations according to the rule?

23 MR. PAAVOLA: We have not given her. We have
24 filed them. I can give them to her tomorrow.

25 THE COURT: Okay. If you will just make it

1 available and we will put it in the record so she will
2 know. And make that a part of the Court's record.

3 Mr. Holliday, any objection to, first, me
4 reading the designated transcripts? And do you have
5 designations as well?

6 MR. HOLLIDAY: I would much prefer to not
7 read them.

8 THE COURT: Good.

9 MR. HOLLIDAY: Our designations have been
10 electronically filed, but we also have hard copies here
11 as well.

12 THE COURT: All right. Any problem with
13 making, both sides, those designations part of the
14 record?

15 *(Whereupon, Court's Exhibit No(s). 1 marked*
16 *for identification and received in evidence.)*

17 MR. PAAVOLA: I do have one objection to
18 their -- objection to their testimony, a designation
19 that they have.

20 THE COURT: Okay. Well, let's bring that up
21 later. Let's get your next witness up, if you don't
22 mind, unless this is going to be your next witness.

23 MR. PAAVOLA: We call the Department of
24 Transportation.

25 THE COURT: Thank you, sir.

1 Thereupon,

2 YELENA KALASHNIKOVA

3 was called as a witness, having been first duly sworn,

4 was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. PAAVOLA

7 Q. Ms. Kalashnikova, will you state your full name
8 for the record?

9 A. Yelena Kalashnikova.

10 Q. Are you currently employed?

11 A. Yes.

12 Q. And where are you employed?

13 A. South Carolina Department of Transportation.

14 Q. How long have you worked for the Department of
15 Transportation?

16 A. Altogether, over 14 years.

17 Q. What is your current position?

18 A. Director of roads and bridges surfaces.

19 Q. Generally, what do your job duties entail?

20 A. I am sorry?

21 Q. Generally, what do your job duties entail?

22 A. So I'm overseeing road and bridge services, road
23 inventory, traffic data counts, and pavement management.
24 Basically we are collecting all kinds of data that is
25 related to the routes that are maintained by the State of

1 South Carolina.

2 Q. How long have you been a director of that
3 department?

4 A. About a month shy of two years.

5 Q. What did you do prior to that?

6 A. I was a manager of GIS office.

7 Q. How long were you in the GIS department?

8 A. With the break from 2001 to 2006, and then from
9 2012 to 2022.

10 Q. How does a road get into the State's road system?

11 A. So there were several statewide additions to the
12 route system. Beltline is one of those. There may be
13 requests. Roads can be built by South Carolina DOT. So
14 there is all kinds of different ways.

15 Q. And just generally, how do roads get removed from
16 the State?

17 A. Again, it can be requested by either another local
18 government entity like the City or County, or it can be
19 requested by a private entity, private company. A lot of
20 times it is -- it is requested through working with the
21 district office of South Carolina DOT. Then the request
22 comes to my office and the right-of-way office and we will
23 review. And we don't have -- if we don't have any
24 objections, we may transfer the route to the requester.

25 Q. Okay. Does DOT keep written records of additions

1 and removals to the State road system?

2 A. Correct.

3 Q. A lot of people use Google Earth, Bing maps, Apple
4 maps or other maps; are those roads on those systems always
5 accurate in depicting State roads?

6 A. No.

7 Q. Who is the ultimate authority in determining
8 whether a road is or is not a State road?

9 A. South Carolina DOT in this case.

10 Q. And you are here to testify on behalf of the South
11 Carolina DOT today?

12 A. I am.

13 Q. We are here today about Ellenburg Road in Oconee
14 County; are you familiar with an area of Ellenburg Road?

15 A. Because of this case, yes, I am.

16 Q. And I'll show you on the screen demonstrative one.
17 Orient us -- does this look familiar with the area of
18 Ellenburg Road and Knox Road, State Highway 12, coming down
19 this way?

20 A. Yes.

21 Q. And Ellenburg Road you see coming off of Knox
22 Road, correct?

23 A. (Nods in the affirmative).

24 Q. And in demonstrative two, this is a closer-up
25 picture of the area in question in this lawsuit. Have you

1 looked at this section of Ellenburg Road as part of your --
2 this case and this lawsuit?

3 A. Yes, I looked at the entire road.

4 THE COURT: Would you speak closer to the
5 microphone, please, ma'am?

6 THE WITNESS: Yes, yes, I looked at the
7 entire route.

8 BY MR. PAAVOLA

9 Q. All right. If you would go to tab 31 in the black
10 binder, that is Plaintiffs' Exhibit 31. It's already been
11 stipulated into evidence. And are you able to -- I'll zoom
12 it. If you can read the date of this map exhibit for us.
13 Are you able to tell us what date this map is?

14 A. The map itself is dated 1957, and then revised
15 February 1st, 1969.

16 Q. Okay. Is that before or after Lake Keowee was
17 created, do you know?

18 A. That was shortly before, my understanding.

19 Q. Do you have knowledge of approximately when Lake
20 Keowee was created?

21 A. The end of '60s, the beginning of '70s.

22 Q. If you turn to -- this is the same exhibit. Page
23 three of the same exhibit in your binder. If you would like
24 to turn there, page three. This is an excerpt of this 1970
25 map. Do you recognize that?

1 A. I do.

2 Q. Okay. Now looking at this exhibit, are you able
3 to tell me -- able to identify where the subject road is on
4 this page?

5 A. It is highlighted in green.

6 Q. Okay. Is that something that DOT did before
7 providing this document to the parties?

8 A. You mean highlighting it?

9 Q. Yes.

10 A. I am not sure, possibly.

11 Q. All right. We also see, after the green area,
12 there is a loop after the green area; do you see that?

13 A. I do.

14 Q. We also see State highway -- I am sorry, we see
15 201; do you see 201?

16 A. I do.

17 Q. What does 201 indicate to you?

18 A. 201 means that it is a State maintained secondary
19 route.

20 Q. And at the intersection right where High Falls
21 Church is indicated on this map with 201, the intersection
22 with 201; do you see that intersection?

23 A. I do.

24 Q. Which way does 201 head? One heads east towards
25 45 and one road heads, let's say, south towards the loop.

1 A. So, the portion that goes east towards 45 toward
2 South Carolina, secondary route 45, is the continuation of
3 secondary 201.

4 Q. Okay. And there is a laser pointer in front of
5 you, I believe. Do you see that?

6 A. Yes.

7 Q. Indicate for the Court -- I think that you have to
8 use this screen, if you can.

9 A. Okay. So, it is from 92 all the way to 45.

10 Q. Okay. So east to west it connects 92 to 45?

11 A. Correct.

12 Q. So highway 201 does not go south of the loop?

13 A. It does not.

14 Q. The green section indicated on this map, is that
15 Highway 201?

16 A. No, it is not.

17 Q. There's also a State Highway 183 on this map; is
18 that correct?

19 A. South Carolina 183, yes.

20 Q. And is that indicated on this excerpt in any
21 particular fashion?

22 A. With the triangular shield and the number, that
23 means that it is South Carolina 183. It means that it is a
24 State maintained route.

25 Q. And is that road, is 183 highlighted with purple

1 across it?

2 A. It is.

3 Q. And we also see -- do you see a 61 on the map?

4 A. I do.

5 Q. Can you point that out for the Court on the
6 screen? And there is a 61 and there's an arrow there, do
7 you see that? There's an arrow right here?

8 A. Yes.

9 Q. What is that arrow pointing to?

10 A. This points to the location of secondary 61
11 connector.

12 Q. What was that connector for?

13 A. It is a connector between secondary 61 and South
14 Carolina 183.

15 Q. Okay. We see a road in this area here, is that
16 the area that you are describing?

17 A. Yes.

18 Q. Does the connector extend any farther between 61
19 and 183?

20 A. It does not.

21 Q. Where does Highway 61 end if you can tell on this
22 map?

23 A. The northern part ends at 183, South Carolina 183.

24 Q. Can you indicate that to the Court on the screen?

25 A. Yes. Right here.

1 Q. And southern part, we are not able to see it on
2 this map?

3 A. And southern part ends at secondary 16 which
4 starts over here.

5 Q. All right. If you would turn to Exhibit 8 in the
6 binder, and let me know when you get there. Do you
7 recognize Exhibit 8?

8 A. I believe I saw it.

9 Q. That is a quit claim deed, right?

10 A. Yes.

11 Q. And on the top of it. I have blown up the section
12 for your convenience on the first page, this is a quit claim
13 deed from the South Carolina State Highway Department; do
14 you see that?

15 A. Yes.

16 Q. I have also highlighted it.

17 THE COURT REPORTER: I think that you are on
18 seven.

19 A. Oh, I am sorry, yes, I do.

20 Q. Now quit claim deed from the South Carolina
21 Highway Department, right?

22 A. Yes.

23 Q. Are you able to read for us the highlighted
24 paragraph that is indented?

25 A. The State Highway Department may abandon such

1 State highways or sections thereof in the locality of the
2 Keowee Toxaway project, which is in its discretion, may be
3 rendered unserviceable I believe by the construction and
4 operation of the Keowee Toxaway project.

5 Q. Okay. Do you have an understanding that this
6 document is a quit claim deed for roads that are being
7 inundated by the Lake Keowee project?

8 A. I do.

9 Q. Okay. And if you will look at the second page.
10 Some of the highways that we just looked at on the previous
11 Lake Keowee map are indicated right here, highlighted for
12 your convenience on the screen behind you?

13 A. Uh-huh. (Indicating affirmatively.)

14 Q. Is it a highway -- State Highway 61 notated here?

15 A. It is.

16 Q. Okay. And what portion of Highway 61 is?

17 A. From highway maintenance approximately one mile
18 northeast of secondary 16 northerly to highway maintenance
19 approximately 0.3 miles south of South Carolina 183.

20 Q. And then a portion of State's 201 is also deeded
21 away, correct?

22 A. It is.

23 Q. And then at the bottom, State Highway 183, also
24 portions of that are deeded away, correct?

25 A. State highway what?

1 Q. 183.

2 A. Yes.

3 Q. Okay. Are you able to -- having just looked at
4 it, I don't know if you are able to tell us if you remember
5 from what we just read, what part of 201 is being inundated
6 away?

7 A. This portion.

8 Q. And the same thing for Highway 61 showing this?

9 A. (Pointing.)

10 Q. Then Highway 183.

11 A. I believe over here.

12 Q. If you will turn to Exhibit 32 in your binder.
13 Are you able to tell us, this is a map of the DOT system,
14 Ocone County?

15 A. Yes.

16 Q. Are you able to tell us what the date of this map
17 is? I will pull it up on the screen for you.

18 A. It is 1971.

19 Q. Okay. And if you could zoom in to the top, yes.
20 So it's updated -- it was updated January 1, 1973?

21 A. Okay.

22 Q. And if we turn to Page 3 in this document, Exhibit
23 32, again this is an excerpt of the area in question. And
24 does this show the areas of State Highway 201 that are no
25 longer there?

1 A. It does.

2 Q. Can you circle that for the Court, Highway 201?

3 A. Right here.

4 Q. Okay. And then, is there a remnant of what would
5 have been the loop that we looked at near the church, is
6 that still on this map?

7 A. A little bit of this road.

8 Q. Running south?

9 A. Uh-huh. (Indicating affirmatively.)

10 Q. Is there any notation of that being a State road?

11 A. No, it's not, not at this point.

12 Q. Okay. And then, same as State secondary, State
13 Highway 61, can you indicate which portion of 61 is no
14 longer there?

15 A. This portion.

16 Q. Okay. And is the connector on this -- is there a
17 61 connector on this map anymore?

18 A. It is not.

19 Q. Okay. And, again, now we see State Highway, used
20 to be 183, is now what?

21 A. Secondary 12.

22 Q. What section of 12 was given away to the lake?

23 A. Well, the 12 was not. When the lake was put in
24 the portion of South Carolina 183 that was lost to the lake,
25 it is this one before it became relocated.

1 Q. And are you able to identify today what we know as
2 Ellenburg Road on this map of 1971?

3 A. I think it is this one possibly.

4 Q. Does that road have any indication of it being a
5 State road?

6 A. It does not.

7 THE COURT: What was your question?

8 MR. PAAVOLA: Does that road have any
9 indication of it being a State road?

10 THE COURT: Say it again.

11 MR. PAAVOLA: Does that road have any
12 indication as a State road?

13 THE COURT: Thank you. I'm sorry.

14 BY MR. PAAVOLA

15 Q. Exhibit 33 is -- is that a map from the DOT
16 system, Exhibit 33?

17 A. Yes.

18 Q. What is the date of that map?

19 A. 2023.

20 Q. Okay. Is that a current map for the most part?

21 A. The most current one.

22 Q. All right. And just to look at the area in
23 question, the current map, Page 2 of Exhibit 33 we have
24 blown up the area in question; is Highway 201 on this map
25 today?

1 A. Yes, it is.

2 Q. Will you indicate that for the Court?

3 A. (Pointing.)

4 Q. All right. And --

5 A. And this portion, and this was the former 201.

6 Q. Okay. Do we see a 574 on the map today?

7 A. Correct.

8 Q. That was not on the 1971 map before the lake was
9 flooded, was it?

10 A. The road was there, but it was not at that time on
11 the State system.

12 Q. Are you able to identify where we are today, which
13 is Ellenburg Road?

14 A. I think it is this one.

15 Q. Okay. If you will turn to Exhibit 34 in your
16 binder. Do you recognize this document?

17 A. Yes.

18 Q. And what is this document?

19 A. This was the document of adding roads to the State
20 system.

21 Q. Let me ask you about the maps. Are there source
22 documents for creation of the maps?

23 A. The posting advices are the sources for creating
24 maps.

25 Q. So if you were going to ask a question about

1 whether a road existed in the system or not, where would you
2 go to find that answer?

3 A. Well to begin with, we will do a quick look at the
4 maps. But in more detail than first source would be
5 something like the posting advice like you see here.

6 Q. This posting advice is the date on the top of it?

7 A. Yes.

8 Q. And what is that date?

9 A. March 5, 1951, with the effective date of
10 September 21.

11 Q. What is the difference between those two dates, if
12 you know?

13 A. Well, a lot of times it takes a little bit of time
14 between taking the route into the system. For example, the
15 commission needs to approve it. And then after the
16 commission approves it, it needs to be processed and
17 actually put into this system.

18 Q. Okay. If you turn to Page 2 of this document, do
19 you see a note for State Highway 201?

20 A. I do.

21 Q. I will pull up that screen for you. Can you
22 describe how 201 is described in this mileage inventory
23 document?

24 A. From road 92 to road 45 near Pickens County line.

25 Q. That is, as you testified to earlier, connects 92

1 to 45 east to west?

2 A. Correct.

3 Q. Turn to Page 5 of that same exhibit. This is
4 another document that is called -- additions to the State
5 highway system; is that right?

6 A. Five?

7 Q. Page 5 of Exhibit 34.

8 A. Oh, Page 5 of Exhibit 34?

9 Q. Yes.

10 A. Okay.

11 Q. This is another document giving the system showing
12 how roads were added in 1950; is that correct?

13 A. Correct.

14 Q. And that connects Highway 92 to Highway 45?

15 A. Correct.

16 Q. Turn to the page -- Exhibit 38 in your binder.
17 What is this document, do you know?

18 A. This is, again, additions to the system.
19 Sometimes we use the same document to renumber the routes
20 that are already in existence.

21 Q. And does this document reflect an addition of
22 Highway 574?

23 A. It does.

24 Q. And I have blown up the first page of this exhibit
25 on the screen. What does it say about the addition of 574?

1 A. That it begins at secondary 201 and goes to County
2 recreation center for four-tenths of a mile. And that it is
3 also unimproved route, meaning that it is not paved.

4 Q. When was this highway added to the system?

5 A. Yes.

6 Q. Yes, when?

7 A. So, based on this PA date, August 8th, 1973.

8 Q. You say PA, what does that stand for?

9 A. Posting advice.

10 Q. Okay. Turn to Page 3 of Exhibit 38. Can you
11 describe this document for the Court?

12 A. Yes.

13 Q. What is it?

14 A. That is a declaration of the addition.

15 Q. Okay. A declaration just stating that Highway 574
16 is now added to the State system?

17 A. Correct.

18 Q. And it is dated 1972?

19 A. Correct.

20 MR. PAAVOLA: Your Honor, at this time we
21 move to admit Exhibit 38 into evidence.

22 THE COURT: Any objections?

23 MR. HOLLIDAY: No, Your Honor.

24 THE COURT: That is the May 21st, 1971 -- no,
25 '72. Is that Bates number 129?

1 MR. PAAVOLA: Yes, Your Honor, the document
2 is Bates stamped SCDOT 127 to 129.

3 THE COURT: Okay, sir. Admitted.

4 *(Whereupon, Plaintiff's Exhibit No(s). 38*
5 *marked for identification and received in evidence.)*

6 BY MR. PAAVOLA

7 Q. Okay. If you will turn to Exhibit 45 on the
8 monitor. Do you recognize that document?

9 A. I do.

10 Q. What is that document?

11 A. That is, again, a posting advice.

12 Q. A document kept in DOT's records?

13 A. Yes.

14 Q. Okay. And on Page 1, I'll highlight some of it.
15 And is this -- what is the date of this posting advice?

16 A. October 1, 1947.

17 Q. What is the posting advice telling us about
18 Highway 61?

19 A. That we are correcting -- there was a correction
20 to the record, road 61 from road 16 to route 183, surface
21 type rural, unimproved earth. And previous inventory said
22 that it was 1.55 miles and the present inventory corrects
23 that it is actually two miles long. So we are adding
24 another 45/100ths of a mile to the system.

25 Q. This is the full length of Highway 16?

1 A. Sixty-one.

2 Q. Sorry, 61.

3 A. Yes.

4 Q. The second entry says what about Highway 61?

5 A. The second one states that route 61 spur is coming
6 from road 61, secondary 61, to route 183. And, again,
7 surface type rural unimproved.

8 Q. And earlier that is when you pointed out the
9 connector, again, of Highway 61 ended at 183; is that
10 correct?

11 A. Correct.

12 Q. That is described in the same manner?

13 A. It does.

14 MR. PAAVOLA: Your Honor, at this time we
15 move to admit Plaintiffs' Exhibit 45 into evidence.

16 THE COURT: Any objection?

17 MR. HOLLIDAY: None, Your Honor.

18 THE COURT: Mr. Logan?

19 MR. LOGAN: No, sir.

20 THE COURT: Admitted.

21 *(Whereupon, Plaintiffs' Exhibit No(s). 45*
22 *marked for identification and received in evidence.)*

23 BY MR. PAAVOLA

24 Q. If you will turn to Exhibit 47 in your binder, do
25 you recognize this document?

1 A. I do.

2 Q. What is it?

3 A. Again, it is a posting advice. And in this case
4 it indicates the removal of the road or portion of the road.

5 Q. And here what is being removed?

6 A. Secondary 61 connector.

7 Q. We saw in the map before Keowee, we saw a
8 connector there, right?

9 A. We did.

10 Q. And I believe in the 1971 map thereafter Lake
11 Keowee was created and we saw the connector was no longer on
12 the map?

13 A. Correct.

14 Q. What is the date of this one?

15 A. The posting advice was dated December 5, 1973.

16 Q. This is a document kept in the normal course of
17 DOT's operation as an agency?

18 A. I believe so.

19 MR. PAAVOLA: Your Honor, at this time we
20 would move to admit Plaintiffs' Exhibit 47 into
21 evidence.

22 THE COURT: Any objections?

23 MR. HOLLIDAY: No, Your Honor.

24 THE COURT: Admitted.

25 *(Whereupon, Plaintiffs' Exhibit No(s). 47*

1 *marked for identification and received in evidence.)*

2 BY MR. PAAVOLA

3 Q. How does DOT get information on roads that are
4 non-State roads?

5 A. It depends on what year we are talking about.

6 Q. Okay. Do you know back in, let's say Exhibit 31,
7 Page 3 of Exhibit 31, the pre-Lake Keowee map, do you have
8 any idea how DOT gained their information about non-State
9 roads for maps such as this?

10 A. Well, the DOT was still mostly interested in the
11 routes that were State maintained. And I believe they used
12 to have people actually riding the State routes indicating
13 any route that actually connects to the State route and
14 trying to identify those routes as well just for the, you
15 know, identification purposes.

16 Q. Does DOT keep track of every County road in the
17 state?

18 A. We do not. We try to collect and inventory since
19 a recent map 21 requirement from Federal government, SCDOT
20 is required to report all public routes to the best of our
21 knowledge. And currently we try to keep a track of those
22 routes, but the only way we can do it is if the County
23 submits their GIS line work to us. And then we assign those
24 routes specific number that indicates that those are not
25 State maintained roads, but they are open to public. But,

1 again, we rely on the County to provide that information.
2 And sometimes they provide fairly precise information.
3 Sometimes it may be dated.

4 Q. Is it fair to say that DOT does not track all
5 private roads in its system?

6 A. No, it doesn't. We do not track private roads.

7 MR. PAAVOLA: That is all of the questions
8 that I have for you, ma'am. Please answer any
9 questions that the other attorneys have.

10 THE COURT: Cross examination.

11 MR. HOLLIDAY: Thank you very much for being
12 here today.

13 CROSS EXAMINATION

14 BY MR. HOLLIDAY

15 Q. Did I understand you correctly a second ago to say
16 that you have some sort of obligation to the Federal
17 government to report the public routes to them?

18 A. Well, they ask us to report all public routes that
19 are open to regular driver.

20 Q. In your research in this case, do you know if the
21 South Carolina Department of Transportation has told the
22 Federal government that Ellenburg Road in its entirety is a
23 public route?

24 A. Since the requirement is just a very recent
25 requirement, the Federal government will always get back to

1 South Carolina DOT as the source information. So they do
2 not. I am sorry, I may not be answering your question.

3 Q. Not a problem. Let me rephrase it. Has the South
4 Carolina Department of Transportation told the Federal
5 government that Ellenburg Road is a public route?

6 A. I cannot tell you whether we did or not.

7 Q. How does the South Carolina DOT -- I think that I
8 remember during your deposition you said something along the
9 lines of, we are numbers people, we are not names people?

10 A. Correct.

11 Q. Is that a correct approximation?

12 A. Correct.

13 Q. What is South Carolina DOT's designation for
14 Ellenburg Road that you found in your records?

15 A. Right now we have it as L dash possibly. I'm not
16 sure if we have given it a number or not. If the County
17 submitted it to us as a public road, then we gave it a
18 number. If it was identified as a private, we did not.

19 Q. If you could go to Plaintiffs' 48, please, and go
20 to the third page. Do you know what this is?

21 A. Sir, you are talking about 00003, or the whole
22 thing?

23 Q. Correct. Well, yeah. Tell me what the whole
24 thing is.

25 A. So this is the notes, just like I previously

1 indicated, that we would either ride the road or
2 schematically sketch out the road that the State maintained.
3 So this is the note for South Carolina 188, previously named
4 as 188. And this is basically showing all of the
5 intersections with routes that were coming off of that
6 route.

7 Q. Okay. So if we go to the fourth page, does that
8 indicate that when you searched Ellenburg Road a local road
9 came up in the DOT's records?

10 A. Correct.

11 Q. And is a local road a public road?

12 A. Yes. Until there is a review and we indicate that
13 it is not, that it may be a private road. Like I mentioned,
14 we do take what the County gives us. But if it comes up in
15 the research that somebody says that there was a gate or it
16 is identified as a private, we will go and correct the
17 record.

18 Q. Are you aware of any correction made to L900?

19 A. I am not.

20 Q. Okay. So L900 is Ellenburg Road; is that correct?

21 A. I am not ready to tell you that it is correct. I
22 cannot recall.

23 Q. The fifth page of Exhibit 48.

24 A. Uh-huh. (Indicating affirmatively.)

25 Q. So Ellenburg Road is now L900?

1 A. That is correct.

2 Q. And L900 is a public road?

3 A. Correct.

4 Q. Do you know if the Department of Transportation
5 has been contacted about correcting that at any point in
6 time? Did you find any records when you were searching your
7 records?

8 A. I did not.

9 Q. When you are looking at that page, does -- is that
10 kind of purplish line, is that all of L900?

11 A. I believe so.

12 Q. And that seems to go to the narrowest point on
13 that peninsula, correct?

14 A. Yes.

15 Q. Okay. Trying to do these in order. If we can go
16 back to Plaintiffs' 8. When you go to about the bottom
17 third of the page, does it indicate on the first page of
18 Plaintiffs' 8 that this deed only applies to those
19 rights-of-way lying within the high water mark of Lake
20 Keowee and which are to be inundated by the grantee?

21 A. Sorry, where are you?

22 Q. I'm at the bottom third, kind of the tightest
23 paragraph at the bottom third of the page of Plaintiffs' 8,
24 otherwise identified as Ratliff 174. And the property that
25 is deeded to Duke by the highway department, is all of those

1 pieces, particles, strips of land and rights-of-way lying
2 within the high water mark of Lake Keowee and Jocassee
3 forming State highways and portions thereof which are to be
4 inundated by the grantee in said lakes. Do you see that?

5 A. Yes.

6 Q. Okay. Since L900 was not inundated by Lake
7 Keowee, you would agree that L900 was not inundated by Lake
8 Keowee; is that correct? Is L900 presently under water?

9 A. It is not.

10 Q. So you would agree that it was not inundated by
11 Lake Keowee?

12 A. Correct.

13 Q. So does Plaintiffs' 8 affect any portion of
14 Ellenburg Road?

15 A. No, because first of all it was not inundated,
16 because it was not a State highway.

17 Q. Okay. Are you aware of a plat that called it a
18 State highway?

19 A. I am not.

20 Q. What I'm showing you is Defendants' 1.16 Alpha.
21 Can you read the legal description for me starting with
22 "beginning"?

23 A. Beginning at a nail and cap in the center of the
24 State road at the northern most corner of this lot and then
25 S30 08 E220P2 and item --

1 Q. That is fine.

2 A. Okay.

3 Q. So this is a deed from James and Helen Pinion to
4 Crescent Land and Timber, right?

5 A. I guess. I'm not a legal person. I believe you.

6 Q. If we come and look at 1.16 Bravo, can you see
7 what this road appears to be indicated on in this plat? Can
8 you read what that says, where it starts with SC?

9 A. SC road number secondary 37-61.

10 Q. Okay. And can you read what this says on the
11 left-hand side of the page?

12 A. It says, South Carolina Highway Number 183.

13 Q. Can you read what this says on the right side?

14 A. To High Falls Church.

15 Q. Does that indicate that there is a road there,
16 regardless of whether it is a State road or not?

17 A. Honestly I don't -- I guess.

18 Q. Okay. Is it possible that the Department of
19 Transportation does not have all of the records with regards
20 to this matter and that some have been lost in time?

21 A. I am only here to testify to the facts. I am
22 not -- I cannot speculate of what may or may not have been
23 lost.

24 Q. Okay. If we go to Plaintiffs' 31 and we look and
25 compare the second page with the legend to the third page,

1 what kind of road type does the green highlighted section
2 appear to be in this 1969 plat or map?

3 A. I guess it's bituminous load type.

4 Q. And that is some form of paved; is that accurate?

5 A. Yes.

6 Q. Does any portion of the green highlighted section
7 on Page 3 of Plaintiffs' 31 appear to be marked as a private
8 road?

9 A. No, it does not.

10 Q. If we go to number 32, Plaintiffs' 32, which is
11 the 1971 map, and you look at Ellenburg Road on this map,
12 does Ellenburg Road on the third page of 32 appear to also
13 be a bituminous load type road?

14 A. Yes.

15 Q. Does any portion of Ellenburg Road on the third
16 page of Plaintiffs' 32 appear to be a private road?

17 A. No.

18 Q. If we go to Plaintiffs' 33, which appears to be an
19 August 2023 map, can you locate Ellenburg Road on the second
20 page of Plaintiffs' 33?

21 A. Yes.

22 Q. Any portion of it appear to be private on the
23 second page of Plaintiffs' 33?

24 A. No.

25 Q. If we go to Plaintiffs' 37, is this excerpt --

1 this is something you prepared, or your office prepared?

2 A. Yes.

3 Q. This excerpt is a 1951 map; is that correct?

4 A. The file is 1951. I don't know if it is the
5 original 1951, or if it was updated in 1951.

6 Q. Okay. And do you see Ellenburg Road and the loop
7 in between -- south of 201 on this map?

8 A. I do.

9 Q. What kind of road type does this appear to be in
10 roughly 1951?

11 A. Well, I see the symbols changed for all of the
12 route, so I would need to see the legend to identify it.
13 Because as you see 201 also looks like unpaved.

14 Q. Like it hasn't been unpaved?

15 A. Right. But 201 was paved so --

16 Q. Do you know when 201 was paved?

17 A. I do not.

18 Q. Okay. Go to Plaintiffs' 38. Is there anything
19 contained in Plaintiffs' 38 that informs your decision one
20 way or the other about whether Ellenburg Road is a public
21 road?

22 A. No.

23 Q. If we go to Plaintiffs' 40, can you tell me what
24 year this map is?

25 A. Again, the file is 1974 which may indicate that

1 either the original map was 1974 or the update was in 1974.

2 Q. Can you find Ellenburg Road on this 1974 map,
3 whether it is original or updated? Can you find Ellenburg
4 Road?

5 A. I believe so.

6 Q. Okay. Where was it located in relation to the
7 yellow dot at 574?

8 A. South across from the lake.

9 Q. Okay. And does Ellenburg Road appear to be a
10 paved road in this '74 map?

11 A. It does.

12 Q. Does it at any point appear to be a private road?

13 A. No.

14 Q. We go to Plaintiffs' 41. Does this show the
15 relocation of 183 for the creation of Lake Keowee?

16 A. Yes, the proposed location.

17 Q. So, the blue and red sections of Plaintiffs' 41
18 are the new 183, and the green is the old 183?

19 A. Correct.

20 Q. Can you find Ellenburg Road on this map?

21 A. Yes.

22 Q. Does Ellenburg Road appear to be a paved road on
23 Plaintiffs' 41?

24 A. Yes.

25 Q. Does any portion of Ellenburg Road appear to be a

1 private road on Plaintiffs' 41?

2 A. It doesn't seem that way.

3 Q. If we go to Plaintiffs' 42, can you identify
4 Ellenburg Road on the first and second page of Plaintiffs'
5 42?

6 A. Yes.

7 Q. On either the first or second page of Plaintiffs'
8 42, does any portion of Ellenburg Road appear to be a
9 private road?

10 THE COURT: What was your question?

11 BY MR. HOLLIDAY

12 Q. On the first and second page of Plaintiffs' 42,
13 does any portion of Ellenburg Road appear to be a private
14 road?

15 THE COURT: Thank you.

16 A. No.

17 Q. Thank you. If you go to Plaintiffs' 45. Is there
18 anything in Plaintiffs' 45 that informs your decision as to
19 whether Ellenburg Road is a public road one way or the
20 other?

21 A. That it is a public road?

22 Q. Correct. Does Plaintiffs' 45 help you determine
23 one way or the other? How is Plaintiffs' 45 useful to you
24 in understanding whether Ellenburg Road is a public road or
25 not?

1 A. It does not.

2 Q. Okay. And the same question with regards to
3 Plaintiffs' 47. How is Plaintiffs' 47 helpful to you in
4 determining whether Ellenburg Road is a public road or not?

5 A. It does not.

6 Q. Are you familiar with what happens if the DOT were
7 to abandon a road? If the DOT says, We don't want this road
8 anymore, does that road revert to the County or
9 municipality, or does it revert to the landowners?

10 A. It should revert to County.

11 Q. Are you familiar with the road abandonment process
12 through the courts?

13 A. It is called court ordered closure rather than
14 abandonment.

15 Q. Okay. Court ordered closure. Is that process
16 required to close a public road in South Carolina?

17 A. If somebody wants the road closed, they need to
18 submit the request for the road closure, and if we don't
19 object they go to court and the process begins.

20 Q. And ultimately that results in a court order; is
21 that correct?

22 A. Correct.

23 Q. Are you aware of any court order that has ever
24 been entered with regards to Ellenburg Road, any portion of
25 it being closed?

1 A. I wouldn't be able to because it was not on a
2 State route. We would only have court ordered closures for
3 routes that are on State routes.

4 Q. But that court ordered closure is required to
5 close a public road?

6 A. Again, if that public road is on the County system
7 or on the City system, SCDOT does not see that court order.
8 Only State maintained roads.

9 Q. But assuming that you had a State route, the only
10 way that the State could close a road would be to go through
11 that process?

12 A. Correct.

13 Q. And the same would be true if the County wanted to
14 close a road, you just would not have the records from the
15 County of that road closure?

16 A. I do not know what kind of process the County road
17 closure entails.

18 MR. HOLLIDAY: Thank you very much, Ms.

19 Kalashnikova.

20 THE COURT: Mr. Logan?

21 MR. LOGAN: No questions.

22 THE COURT: All right, sir. Redirect?

23 MR. PAAVOLA: Okay. Briefly, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. PAAVOLA

1 Q. Ms. Kalashnikova, the local -- the data on local
2 roads, whether a road was local or not State maintained,
3 that comes from the counties themselves, doesn't it?

4 A. For the most part, yes.

5 Q. And DOT is not making a determination on a
6 non-State road, whether it is public or private; is it?

7 A. No, it is not. We do not.

8 Q. And you looked at Plaintiffs' 48, and on Page 5 of
9 Plaintiffs' 48 is the DOT screen shot in DOT's system, is it
10 not?

11 A. Yes.

12 Q. Page 5 of Tab 48.

13 A. Yes.

14 Q. And you mentioned in the DOT system Ellenburg Road
15 is known as L900, correct?

16 A. Correct.

17 Q. Where did that number come from?

18 A. We just randomly assign the numbers.

19 Q. And you also mentioned in your testimony that if
20 something changes and someone's road is deemed local and is
21 later revealed not to be local, that you can make changes;
22 is that right?

23 A. If we ever hear about it, yes.

24 Q. So if this case turns out and the Court determines
25 that this section of Ellenburg Road that my client owns is

1 not a public road, DOT could change that in their system?

2 A. If DOT is notified, yes.

3 Q. Notified?

4 A. Yes.

5 Q. Is a private plat something that can put a road
6 into the DOT State system?

7 A. No.

8 Q. Now you were asked -- you were asked about
9 Plaintiffs' Exhibit 45 and 47, and I will bring up 45 for
10 your recollection. Plaintiffs' 45 and 47 relate to State
11 Highway 61, correct?

12 A. Correct, 61 and 61 connection.

13 Q. You testified earlier that 61 did not continue
14 past State Highway 183?

15 A. Correct. According to our records it does not.

16 Q. Ellenburg Road was not State Highway 61?

17 A. It was not.

18 Q. So that does inform your opinion, does it not, of
19 this plat that is supposedly on Ellenburg Road that says
20 that -- it is hard to read, but it says, S61 I believe that
21 is 61. Do you see that?

22 A. Yes, this is not the document that we would go by.

23 Q. An indication to this plat would be in error?

24 A. I believe so.

25 Q. And the DOT is not able to make characterizations

1 or make determinations about who is maintaining a non-State
2 road, is it?

3 A. That is correct. We just know that the route is a
4 public route, which means that it is open for travelers and
5 that it is not maintained by the State. Whether it is
6 maintained by the City or County, we don't know.

7 Q. Ellenburg Road in this instance, DOT does not know
8 whether the Ratliffs maintain their section of the road or
9 the County does?

10 A. Correct.

11 Q. And you are also not able to comment as to the
12 quality of the pavement in front of the Ratliff property?

13 A. Correct.

14 Q. So when you were shown a number of maps and you
15 were stating paved or unimproved, you were relying on the
16 legend from the map; is that right?

17 A. Correct.

18 Q. You are not making an independent recollection of
19 what is actually on the ground, right?

20 A. That is correct.

21 Q. And that is the same on Plaintiffs' 31, and I'll
22 go to Page 3. You were asked -- you've looked at a number
23 of maps for the State Department of Transportation, correct?

24 A. Yes.

25 Q. And you were asked if Ellenburg Road was a public

1 road, weren't you?

2 A. Yes.

3 Q. And you were basing your answer to that on the
4 legend; is that correct?

5 A. Am I -- well, I was asked whether it indicates
6 whether it is a private road or a public road, and I said I
7 don't -- I just know that it is not State maintained.

8 Q. Okay. You are not able to tell whether it is
9 County or private road?

10 A. I cannot.

11 Q. Is that the same for all of the maps that we have
12 looked at today?

13 A. Yes.

14 Q. And if the legend in some of these maps say that a
15 road is bituminous low tide, you are not -- the DOT is not
16 able to determine who actually paved that road, are they?

17 A. No.

18 MR. PAAVOLA: No further questions, Your
19 Honor.

20 THE COURT: May this witness be excused?

21 MR. HOLLIDAY: Yes, Your Honor.

22 THE COURT: Thank you, ma'am. You are
23 excused. Let's take about a ten-minute break and come
24 back.

25 MR. PAAVOLA: Okay. Your Honor, we ask Ms.

1 Kalashnikova be released in total. We don't intend to
2 recall her.

3 THE COURT: Yes, that is what I just did.

4 (Brief recess.)

5 THE COURT: Call your next witness.

6 MR. BIBLE: Thank you, Your Honor. May it
7 please the Court. I call at this time Dianne Harris.
8 D-I-A-N-N-E, and that is how to spell that.

9 Thereupon,

10 DIANNE HARRIS

11 was called as a witness, having been first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BIBLE

15 Q. Ms. Harris, how are you doing today?

16 A. Very well, thank you.

17 Q. Ms. Harris, would you state your full name for the
18 record?

19 A. Dianne Cobb Harris.

20 Q. Ms. Harris, are you familiar with Ellenburg Road?

21 A. Yes, I am.

22 Q. How have you become familiar with Ellenburg Road?

23 A. In July of 2014 we purchased a property in Harbor
24 Oaks, which was 24, 24A. Our 24A property is on Ellenburg
25 Road.

1 Q. Does the 24A property that you own have an
2 address?

3 A. Yes, it is 582 Ellenburg.

4 Q. Okay. And you said that was in 2014?

5 A. Yes.

6 Q. Did you have any property near Ellenburg Road
7 prior to the 2014 purchase?

8 A. No, I did not.

9 Q. Are you familiar with the Ratliff family?

10 A. Yes, I am.

11 Q. How have you become familiar with the Ratliff
12 family?

13 A. Once we started clearing the property we went
14 around and introduced ourselves to the various neighbors,
15 and the Ratliffs being virtually right next door, we talked
16 to them first.

17 Q. When you talk about clearing the property, are you
18 referring to 582 Ellenburg?

19 A. Yes, I am. 582, when we purchased it, appeared to
20 have been a dumping ground for a lot of large debris.

21 Q. Can you give the Court a little bit more context
22 of what you are talking about, dumping ground?

23 A. Appliances. A huge metal bathtub. I think that
24 it was iron. The metal supports for a mobile home. Just an
25 awful lot of junk.

1 Q. Was any of that junk -- can you give the Court
2 some context as to where that junk was in relation to the
3 edge of the Ellenburg Road pavement?

4 A. Yes, it was between the road and about 15 feet
5 into the property. It didn't go down towards the lake, it
6 was the upper part of the property.

7 Q. Was any of that debris in contact with Ellenburg
8 Road?

9 A. The bathtub was, I would say, maybe a foot from
10 the road.

11 Q. What about the vegetation along the edge of the
12 road, as you recall it, was it grown up?

13 A. Oh, it was -- okay, my husband took me out to look
14 at this property that he wanted to buy. And I actually
15 thought that he was out of his mind. Walking it, all I saw
16 was a lot of work. High weeds, pickers, all of this debris.
17 It was a nightmare to tell you the truth. And I thought,
18 how are we going to get this done. We did.

19 Q. When you first observed this property, was it in a
20 condition that would indicate to you that it had been
21 maintained?

22 A. Not at all. It was actually a little scary.

23 Q. Let me pull up demonstrative one for me please.
24 All right. Can you -- actually, pull up demonstrative two.
25 Ms. Harris, this is what we have marked for identification

1 purposes as demonstrative number two. You have a laser
2 pointer if you feel comfortable using it.

3 A. Oh, is this it?

4 Q. Yes, ma'am, if you feel comfortable using it.

5 A. Okay.

6 Q. It might be helpful. We will try to do this. If
7 you press this top button and point it at that screen over
8 there where I direct you, that would be helpful. Thank you.

9 A. Not at anybody's eyes.

10 Q. Yes, especially mine, although I might need it.
11 Are you familiar with a business called John's Marine?

12 A. Yes.

13 Q. Okay. Is the location of John's Marine located --
14 identified on this map?

15 A. Yes.

16 Q. Can you point to that using the laser pointer?
17 All right, there we go.

18 All right. There is a big white, square building
19 over there?

20 A. Yes, that one, that is the shop.

21 Q. That is John's Marine?

22 A. Yes.

23 Q. All right. In relation to John's Marine, where is
24 582 located?

25 A. Let me get back down here. Right here.

1 Q. Okay. And 582 -- and it looks like there is a
2 dock protruding from that piece of property?

3 A. Yes, that is my dock.

4 Q. Okay. Did that dock pre-exist your ownership of
5 that property?

6 A. Oh, no.

7 Q. So after acquiring the property, am I to
8 understand that you and your husband cleaned it up and also
9 installed a dock?

10 A. Yes, we cleaned the property. We built a pier,
11 anyway, in front of the dock. You can see that there's a
12 brown section that is a little bit different from the trees,
13 that is our pier.

14 Q. Right about there?

15 A. Yes.

16 Q. Okay.

17 A. And we built the pier, and once the pier was
18 finished we were able to install the dock.

19 Q. Okay. Do you recall roughly what year that might
20 have been?

21 A. Yes, it was 2014 in August.

22 Q. Okay. And the dock, do you use that to store any
23 recreational vehicles such as boats?

24 A. Yes.

25 Q. Where does the boat that you own get maintained?

1 A. At John's Marine Service. It is a brand new boat,
2 but since we have had that dock we have probably had eight
3 or nine boats that we have used John's Marine on numerous
4 occasions for different and various things. Fortunately,
5 because this one is brand new -- but I do have something
6 that I need done to it, and as soon as this is over Jimmy
7 will have time to do it and I will be able to get it done.

8 Q. All right. Good. Okay. You said that you had
9 many boats before your current one?

10 A. Yes.

11 Q. Okay. Have you consistently maintained a boat
12 with John's Marine since acquiring this property in 2014?

13 A. He is the only one that we have ever used besides
14 my husband.

15 Q. Did you frequent John's Marine prior to taking
16 ownership of 582 or your lot in Harbor Oaks?

17 A. Yes, one time. We lived in South Oak Point and we
18 had an elderly neighbor who had a pontoon boat that he
19 needed towed up to John's Marine and we did that for him.

20 Q. When did you, to the best of your recollection,
21 first start occupying your home within Harbor Oaks?

22 A. August 3rd, 2015 -- I may have the date when we
23 bought the property year wrong. We have been in our house
24 ten years so . . .

25 Q. Okay. So, roughly 2014?

1 A. Yeah.

2 Q. All right. I'll come over here and I am going to
3 point to the screen.

4 A. Okay.

5 Q. Can you confirm whether or not this section of
6 pavement that turns in here, is that the entryway into
7 Harbor Oaks?

8 A. Yes.

9 Q. Okay. So you live within Harbor Oaks subdivision
10 proper off of Ellenburg Road?

11 A. Yes. Yes.

12 Q. Okay. And you have lived there for ten years?

13 A. Yes.

14 Q. Okay. How often over that ten-year period would
15 you say that you would frequent your property, 582?

16 A. In the beginning, every day. Because it was a
17 monumental task to clean that property. And we were retired
18 and seniors, so it took us longer than it would have had we
19 acquired it 20 years earlier. So we were there virtually
20 every day working on it because we wanted to get the
21 property cleaned so we could get the pier built to get the
22 dock to put our boat there and start using it. That was our
23 primary goal.

24 Q. Okay. How about beyond 582, would you ever take
25 occasion to walk or drive down?

1 A. Everyday. At that point I liked -- and I would
2 walk from our property, and I would walk down to Jim's.
3 Denise (phonetic) and I would talk to Jan. I walked up
4 through the peninsula because it was, it was a nice walk, it
5 was very pretty. Virtually everyday I would walk down
6 there.

7 When we were building the house, I would take
8 baked goods to my cleaning crew or my building crew. And I
9 always included a little extra and I would drop it off at
10 Jimmy's because he was always so kind to us and helpful.

11 Q. All right. I want to draw your attention, there
12 is a black binder in front of you. I think that it is the
13 one that you have right there.

14 A. Yeah.

15 Q. If you could turn to tab 49.

16 A. Yes.

17 Q. All right. You see a packet of photographs that
18 have already been introduced into evidence as Plaintiffs'
19 Exhibit No. 49?

20 A. Uh-huh. (Indicating affirmatively.)

21 Q. I'll skip around just a little bit. So, if you
22 don't mind, ma'am, if you will turn to the fourth page and
23 you will see a mailbox front and center. And I want you to
24 identify that mailbox.

25 A. Yes, that is my mailbox that I have there

1 purposely for 911. We do not receive mail there at that
2 mailbox, because I told the post office that it is there for
3 911 instead of mail.

4 Q. Yes, ma'am. And that is the mailbox to 582
5 Ellenburg Road, right?

6 A. Yes.

7 Q. All right. And if we were to keep on traveling
8 down that pathway straightforward --

9 A. Uh-huh. (Indicating affirmatively.)

10 Q. -- what is -- what is farther down the road?

11 A. On the right-hand side is my parking area.

12 Q. Okay.

13 A. And then the woods area on the right-hand side.
14 And then John's Marine is on the left-hand side.

15 Q. Okay. There's a couple of addresses between there
16 and John's Marine, right?

17 A. Yes.

18 Q. Okay. All right, ma'am, flip to the first page of
19 Exhibit 49. In fact, actually I'll give you a better
20 depiction, maybe the second page of 49 will be better.

21 MR. LOGAN: Forty-nine?

22 MR. PAAVOLA: Yes, sir.

23 THE WITNESS: Yes.

24 BY MR. BIBLE

25 Q. Are you familiar with this location?

1 A. Absolutely.

2 Q. Okay. What is this?

3 A. When we purchased the property, that 565 was
4 strange. Somebody owned it that came everyday, drove down
5 the path, came out and picked up the mail that was in that
6 mailbox and left. Years. In and out. Never talked to
7 them, never saw who they are. And then across the street is
8 Doug and Jo Cooper's home.

9 Q. Okay. When you say across the street you are
10 talking about --

11 A. The driveway.

12 Q. -- the concrete pass-through driveway is?

13 A. Uh-huh. (Indicating affirmatively.)

14 Q. Okay. Do you notice anything about this
15 photograph and the pavement?

16 A. Yeah, the yellow line stops there. That is where
17 when -- after we had acquired our property the County came
18 in and they repaved Ellenburg Road to that point and
19 stopped. I was like, Hey, what is going on? And they were
20 like, Yeah, we are done.

21 Q. Did you talk to any County personnel about it?

22 A. Yeah, I did.

23 Q. What was generally -- what did you talk about?

24 A. That was --

25 MR. LOGAN: Objection.

1 MR. HOLLIDAY: Objection.

2 MR. BIBLE: I didn't ask what he said, I
3 asked what she talked about.

4 THE WITNESS: I talked about --

5 THE COURT: Just one moment. No, don't.
6 What was the question?

7 MR. BIBLE: I asked her what was talked
8 about. I didn't ask her what anybody specifically
9 said, but what she talked about.

10 THE WITNESS: We talked about the paving.

11 THE COURT: No, do not answer the question,
12 ma'am. Please do not answer the question.

13 THE WITNESS: Oh, okay.

14 THE COURT: When somebody objects, you need
15 to stop, okay.

16 Mr. Holliday, what is your response to him
17 saying I am just asking what the topic was, not what
18 they said.

19 MR. HOLLIDAY: I had a feeling that the
20 response was going to be hearsay, Your Honor.

21 THE COURT: If it is, it will be stricken.

22 MR. HOLLIDAY: "He told me."

23 THE COURT: I am going to overrule your
24 objection, go ahead.

25 MR. PAAVOLA: Okay.

1 BY MR. BIBLE

2 Q. Don't tell me what somebody told you. Just
3 generally the topic of discussion you had with who you
4 believed to be a County personnel.

5 A. My question, basically, was were they done.

6 Q. And --

7 A. And it appeared they were because they left.

8 Q. And was this conversation had during the time in
9 which you understood the County was paving the road?

10 A. Yes.

11 Q. Do you recall roughly what year that might have
12 been?

13 A. Not really. But I would say around 2016,
14 somewhere in there.

15 Q. All right. When is the last time you frequented
16 582?

17 A. Yesterday.

18 Q. From the last time where you saw a pavement crew
19 paving the road, til yesterday, have you seen any County
20 personnel paving any section of Ellenburg Road up near 582?

21 A. No.

22 Q. How about County lawn, edge of pavement
23 maintenance personnel maintaining vegetation, so to speak?

24 A. No.

25 Q. In the entire time that you have owned 582, have

1 you personally observed any County maintenance personnel
2 performing any road maintenance?

3 A. No.

4 Q. Any edge of pavement maintenance such as the
5 vegetation?

6 A. No.

7 Q. The condition of the property at the time that you
8 purchased it, was it indicative to you that that property
9 had been, at least the edge of the pavement, maintained by
10 the County?

11 A. No.

12 Q. All right. Ms. Harris, are you familiar with any
13 road signs posted on Ellenburg Road near or around your
14 property?

15 A. Yes.

16 Q. Tell me about that road sign.

17 A. When we first purchased the property, and for
18 several years after, there was a sign that said, County
19 maintenance ends here, which I was very glad kind of to see
20 because it told me that this was not a road that was going
21 to be widely used by traffic. And I was concerned because I
22 had, at that time, a lot of small people in my life. I am
23 not as concerned now, but it was kind of comforting to know
24 that we had a big investment in that property. We had boats
25 that were worth a lot of money, and the idea that people

1 would be going up and down the road was a concern that, you
2 know, it wouldn't be safe. But seeing that there and
3 working there for several years and not seeing any traffic
4 other than what went in to John's Marine and the one vehicle
5 that went to 565, and the Ellenburg family, there were truly
6 no other cars on that road at that time. It was very
7 peaceful and it was very quite.

8 Q. Once you got beyond the Cooper's property that is
9 depicted here on the right-hand side of the photograph,
10 really was there any public need to go farther down the road
11 other than to visit a personal address or go to John's
12 Marine?

13 A. No, none at all. In fact, the Cooper home is
14 rather new. So for several years, like I said, there was
15 nothing from 565 on down. We very rarely even got lookie
16 loos in there because the road ended. You could see that
17 there was nothing there and people just went into Harbor
18 Oaks and came out and didn't come down that part of the
19 road.

20 Q. Okay.

21 MR. BIBLE: May I approach, Your Honor?

22 THE COURT: Yes, sir.

23 MR. BIBLE: Thank you.

24 BY MR. BIBLE

25 Q. Ms. Harris, I am going to show you and Andrew and

1 Larry, this is the overhead imagery. This is 83.

2 MR. HOLLIDAY: Yes, so this will be 83 Bravo.

3 MR. PAAVOLA: B, that is right.

4 THE COURT: Don't publish it until it has
5 been admitted.

6 BY MR. BIBLE

7 Q. Ms. Harris, I am going to present to you an image.
8 It is not going to be published up there until it is
9 entered. I am going to hand it to you in paper. There
10 should have been a Sharpie sitting up here somewhere. And
11 you indicated that you observed some sort of road sign
12 indicating end of County maintenance?

13 A. Yes.

14 Q. Could you do me a favor and in brackets indicate
15 the area roughly that you recall having observed that sign?

16 A. Okay. (Witness complies.)

17 Q. All right. Thank you, ma'am.

18 A. I have something to add to that.

19 Q. Yes, ma'am?

20 A. There actually were two signs.

21 Q. Okay.

22 A. There was one hanging --

23 THE COURT: Do me a favor, have you admitted
24 that in evidence?

25 MR. BIBLE: Not yet, Your Honor.

1 THE COURT: Do not publish it until it is in
2 evidence.

3 MR. BIBLE: My apologies. At this time, I
4 move to enter it as 83B.

5 THE COURT: Thank you. Any objections?

6 MR. HOLLIDAY: Can I take a quick look?

7 THE COURT: Yes. Any objection?

8 MR. HOLLIDAY: No, Your Honor.

9 THE COURT: Thank you.

10 MR. BIBLE: Sorry about that, Your Honor.

11 THE COURT: That is all right.

12 *(Whereupon, Plaintiffs' Exhibit No(s). 83B*
13 *marked for identification and received in evidence.)*

14 BY MR. BIBLE

15 Q. All right. You were explaining, yes, ma'am?

16 A. Where I put those brackets, there was actually
17 another sign. There were two signs. There was one up in
18 the trees, I don't recall what it was, and then there was
19 one that said that the County maintenance ends here.

20 Q. Okay.

21 A. I don't know if that is important, but it is
22 something that we did recall after discussing it.

23 Q. Okay. And, Ms. Harris, on this map or on this
24 overhead image, you put two black marks; is that right?

25 A. Yes.

1 Q. Okay. That is just roughly a range or area where
2 you last recall having seen that sign?

3 A. To the best of my recollection.

4 Q. In other words, it could have been a little bit to
5 the left of that, it could have been to the right of that?

6 A. Correct.

7 Q. All right. When was the last time that you recall
8 having seen that sign?

9 A. I believe that it was right around the time that
10 they paved the road.

11 Q. Okay. And does that sign still sit there today to
12 your knowledge?

13 A. No, it does not. It disappeared.

14 Q. Do you have any knowledge of why it disappeared?

15 A. No, I do not.

16 Q. Despite the disappearance of that sign, have you
17 observed any County maintenance being performed beyond where
18 that sign was posted?

19 A. No.

20 Q. Okay. To your knowledge, Ms. Harris, have you
21 observed yourself any County personnel maintaining any
22 portion of Ellenburg Road from 565 Ellenburg up to where you
23 saw the sign?

24 A. No, none at all.

25 Q. And this is over the period of approximately ten

1 years?

2 A. That is correct. The only time, and it wasn't the
3 County, if a tree came down usually the fire department came
4 out or the neighbors cut it up and removed it from Ellenburg
5 Road from where our subdivision begins and down.

6 Q. Yes, ma'am. Has, to your knowledge, your property
7 located at 582 Ellenburg Road, benefited from any County
8 performed maintenance on the road?

9 A. No, it has not.

10 Q. Since you have owned the property, has that
11 section of road continued to deteriorate?

12 A. Yes.

13 Q. Do you have any knowledge whether or not your
14 property boundary extends to roughly the center line of
15 Ellenburg Road?

16 A. Yes, it does.

17 Q. Beyond the location of your mailbox, which we
18 looked at in photographs, was it your belief that heading
19 towards John's Marine on Ellenburg Road, that that section
20 was a public thoroughfare?

21 A. Not at all.

22 Q. Was it your belief that it was private?

23 A. It gave every appearance of being private.

24 MR. LOGAN: Objection. I don't believe that
25 she's qualified.

1 THE COURT: I sustain your objection.

2 MR. BIBLE: Ms. Harris, I appreciate your
3 time. That is all of the questions that I have.
4 Please allow opposing counsel to ask you a few
5 questions, okay.

6 CROSS EXAMINATION

7 BY MR. HOLLIDAY

8 Q. Good afternoon, Ms. Harris. My name is Andrew
9 Holliday. I'm hoping that you can show me, or if you
10 recognize where in these images you would recognize maybe
11 Harbor Oaks, is that -- do you recognize where that first
12 page is?

13 A. Yes.

14 Q. All right. Can you describe that?

15 A. It is the front entrance of Harbor Oaks on the
16 right-hand side. And it is the common ground for lots one,
17 two, three, and four for their dock lots on the left-hand
18 side.

19 Q. Okay, wonderful. And I have got these kind of in
20 a slide show of sorts to take you towards John's Marine.

21 A. Uh-huh. (Indicating affirmatively.)

22 MR. BIBLE: Andrew, do you mind if I see what
23 you are presenting?

24 MR. HOLLIDAY: Yes.

25 MR. BIBLE: Thank you.

1 MR. HOLLIDAY: I believe that this is an
2 exhibit to Jimmy's deposition. I want to say that this
3 was 16.

4 MR. BIBLE: All right, fair enough.

5 BY MR. HOLLIDAY

6 Q. Sorry. So we were on the second page here.

7 A. Uh-huh. (Indicating affirmatively.)

8 Q. And what is this showing us as we kind of
9 progress?

10 A. The same thing, but closer. The entrance to --
11 this is actually a -- it is the entrance to Harbor Oaks.

12 Q. Okay. And what about the next page, do you
13 recognize where that is?

14 A. The entrance to Harbor Oaks and the common
15 grounds.

16 Q. Okay. What about the next page?

17 A. This appears to be the Cooper's.

18 Q. Okay. And what about the next page?

19 A. Oh, that is my property.

20 Q. I was going to say, is that starting to look
21 familiar?

22 A. Yeah.

23 Q. Pretty overgrown?

24 A. You see it too, huh?

25 Q. I do, I do. Okay. And what about the next page?

1 A. You don't have the cool picture with the -- oh,
2 maybe you do. All right, yes?

3 Q. Okay. The next page?

4 A. That is the house that sold shortly after we
5 bought. And this is us right there.

6 Q. Okay. What about the next page as we get closer
7 to your property?

8 A. Yep, still.

9 Q. Does that look substantially similar to when you
10 moved out there or when you started to clear 582?

11 A. Yes, it looks a little cleaner.

12 Q. Now?

13 A. Oh, yeah, this is way cleaner than when we took it
14 over.

15 Q. Got you, okay.

16 A. Again, that would be our property.

17 Q. Okay. We are still getting closer to John's
18 Marine?

19 A. Yes.

20 Q. Okay.

21 A. That looks more like it, what it --

22 Q. More like your property?

23 A. Yes, this, yeah, that is what it looks like.

24 Q. Okay. So we are at -- are we at the third to the
25 last page? I want to know where we are.

1 A. Fourth to the last page.

2 Q. Okay. And then the third to the last?

3 A. That is the Ellenburg home.

4 Q. Okay. Where in relation to this wheel that we see
5 on the third to the last page was this bathtub and pile of
6 junk?

7 A. I actually have a picture of that if I could -- up
8 in here.

9 Q. So it was somewhere across the road from that
10 wheel?

11 A. Yeah, it was across the road. And it wasn't far
12 from that post. It would have been like in this area here.

13 Q. Okay.

14 A. There is actually a picture of it on Google maps
15 and some of the debris, but yes.

16 Q. Okay.

17 MR. HOLLIDAY: I would move to introduce this
18 as Defendants' 6.

19 THE COURT: Any objection?

20 MR. BIBLE: No, Your Honor.

21 THE COURT: Admitted.

22 *(Whereupon, Defendants' Exhibit No(s). 6*
23 *marked for identification and received in evidence.)*

24 BY MR. HOLLIDAY

25 Q. Okay. In looking -- in comparing Defendants' 6 to

1 in Plaintiffs' 49, these images of the road, can you tell,
2 you know, how recently they are in comparison with the
3 other, just in the brightness of the lane striping and
4 condition of the asphalt; does that look like -- does
5 Defendants' 6 look like a pretty battered road?

6 A. Yes.

7 Q. Do you see any paint markings on that road?

8 A. Yes.

9 Q. As you scroll down later into Defendants' 6, you
10 continue to see paint markings on the road?

11 A. They don't match up, but yes.

12 Q. Okay.

13 A. These were taken after a storm went through and
14 there was a lot of mud runoff.

15 Q. Can you tell me -- and I'll give you some time to
16 look through it because I know it is a bunch of pages, which
17 page this tub and junk that was along the edge of the road,
18 just so we know specifically what page it was. I'm just
19 asking you to try to pick --

20 A. I understand what you are saying. What is
21 frustrating to me is I didn't bring my own picture of it.

22 Q. Have you had a chance to figure out what page you
23 were closest to; is it somewhere near the wheel?

24 A. No.

25 Q. No?

1 A. No.

2 Q. Okay. What page are we on, did you happen to
3 count?

4 A. Page nine.

5 Q. Okay. And so the tub is somewhere?

6 A. Somewhere in this vicinity.

7 Q. To the right, okay.

8 A. See, the problem here is you have got pictures
9 from 2006, 2021, and 2024, which gives -- the road has
10 changed with, you know, the --

11 Q. I'm glad you said that. Because I have got a
12 different set of pictures to show you.

13 A. Okay.

14 Q. Do you recognize the road in this document?

15 A. Yes. It is the entrance to Harbor Oaks.

16 Q. Okay. And does that appear to be relatively fresh
17 asphalt?

18 A. Yes.

19 Q. Okay. And what about as we progress farther down
20 the road, do you continue to recognize all of these
21 photographs? It should be simple, it is a collage all the
22 way to John's Marine.

23 MR. HOLLIDAY: I am sorry, it is Exhibit 17
24 to Jimmy's deposition.

25 MR. BIBLE: Thank you.

1 THE WITNESS: All right. And that is one of
2 my boat.

3 BY MR. HOLLIDAY

4 Q. So that covered boat that appears on the gravel on
5 the right-hand side that is at 582?

6 A. That is correct. That would be one of mine. Oh,
7 okay, this is a really old picture because this was before
8 we moved -- the mailbox used to be here.

9 Q. Okay.

10 A. It was part of the Ellenburg's, they no longer use
11 that post and they said that we could use it. So I put our
12 mailbox there for 911.

13 Q. Okay.

14 A. After we owned the property for a while, we have
15 moved it over to here.

16 Q. Okay. So you have moved the mailbox to the Knox
17 Road side of your gravel paved area, or your graveled area?

18 A. No, no, this is Ellenburg Road.

19 Q. To the Knox Road side and not the Jimmy side?

20 A. Yes.

21 Q. Not the John's Marine side?

22 A. Oh, yeah.

23 Q. That is what I was trying to say, yes.

24 A. We moved it.

25 Q. Closer to Knox Road; is that correct?

1 A. Yes, that's correct.

2 Q. If this is an older picture, can you tell me when
3 this would have taken, or when you believe you may have
4 moved that mailbox?

5 A. Uh-huh. (Indicating affirmatively.) That is the
6 "Mariah".

7 Q. Yeah, that is what -- do you recognize when you
8 may have owned that boat? I know you said that you have
9 owned like eight in the past ten years but --

10 A. Yeah. I used to change boats like some people
11 change shoes. This was early on.

12 Q. Could this have been approximately 2015?

13 A. It could be. I can't say definitively because my
14 memory is -- I see the birdbath.

15 Q. The birdbath on your property?

16 A. No, that was on Jimmy's property.

17 Q. The birdbath on the right-hand side of the road is
18 on Jimmy's property?

19 A. I do believe. I think that is what it is. I
20 could be wrong.

21 Q. Okay. And so do all of these photos accurately
22 reflect Ellenburg Road in approximately 2015?

23 A. I would say yes.

24 Q. Okay. Thank you.

25 MR. HOLLIDAY: I move to introduce this as

1 Defendants' Exhibit 7.

2 THE COURT: Any objections?

3 MR. BIBLE: No objection, Your Honor.

4 THE COURT: Admitted.

5 *(Whereupon, Defendants' Exhibit No(s). 7*
6 *marked for identification and received in evidence.)*

7 BY MR. HOLLIDAY

8 Q. In looking at Defendants' 7, do you happen to see
9 an end of County maintenance sign in any of those documents?

10 A. Is this just -- is this the one that you just
11 handed me?

12 Q. Yes, it is.

13 A. It is the one that we just looked at?

14 Q. Yes, in approximately 2015.

15 A. Yes, I saw it was moved to the end of the road.

16 Q. You saw that the end of County maintenance sign
17 was moved to the end of the road. Where is that indicated
18 in Defendants' Exhibit 7?

19 A. The last page.

20 Q. And what does the last page indicate? Like what
21 sort of sign do you see?

22 A. The same one that I was always seeing.

23 Q. Is it green?

24 A. Yes, and white.

25 Q. And it has white lettering?

1 A. Uh-huh. (Indicating affirmatively.)

2 Q. Do you know what the white lettering said?

3 A. End of County maintenance.

4 Q. Okay.

5 A. But it moved from up near my property to the end
6 of the road.

7 Q. So you are saying that the sign that you
8 indicated -- I am sorry, where was 82 Bravo?

9 A. Uh-huh. (Indicating affirmatively.)

10 Q. You are saying that this sign that was up at 585
11 that you put at 83 Bravo, it was a green sign? Is that a
12 yes?

13 A. Let me quantify that. It was either a green and
14 white sign or a black and white sign.

15 Q. Does this appear to be that sign?

16 A. It sure does.

17 Q. Okay.

18 A. That appears to be a brand new sign.

19 Q. Right, I am not representing that this is the same
20 sign.

21 A. I am saying, yeah. The sign that was by our
22 property was a very old end of County maintenance sign.

23 Q. Okay. But this sign --

24 A. And I cannot swear that it was green and white or
25 black and white, you would have to give me, you know, some

1 time.

2 Q. Not a problem, I understand. But you recognize
3 this sign?

4 A. Oh, absolutely.

5 Q. Okay.

6 MR. HOLLIDAY: I would mark this as
7 Defendants' 8.

8 THE COURT: Any objection?

9 MR. BIBLE: If all it is being introduced is
10 as the demonstrative of a similar sign but not being
11 introduced into evidence as the sign or as a
12 representation that the sign, the subject sign,
13 actually said exactly what this document says, then I
14 have no objection.

15 MR. HOLLIDAY: She just said that this was
16 the sign. I mean, it was not the the sign, but she
17 just said this is what the sign said.

18 BY MR. HOLLIDAY

19 Q. This is what the sign said, correct?

20 A. To the best of my knowledge.

21 Q. Okay.

22 THE COURT: I am going to allow it in with
23 the idea that it is not the actual sign that was there
24 but it is what she said, the same or similar sign.

25 MR. HOLLIDAY: Okay. Thank you, Your Honor.

1 *(Whereupon, Defendants' Exhibit No(s). 8*
2 *marked for identification and received in evidence.)*

3 BY MR. HOLLIDAY

4 Q. So you don't have a clear recollection of what
5 sign was up here at 585 that you marked on 83 Bravo; is that
6 correct?

7 A. That is correct.

8 Q. You said there were two signs and one was hanging
9 from the tree. Can you tell me what the one hanging in the
10 tree looked like?

11 A. No, I just remember that there was another sign
12 there. But I do remember the one that was on the metal
13 post. In fact, my whole family remembers it and has
14 commented on it.

15 Q. Okay. Did you -- okay, I'm showing you Exhibit 2.
16 Did you ever see this sign or a sign similar to this?

17 A. I may have. Like I said, I don't have a clear
18 picture of exactly what the sign color and what was -- I do
19 remember what it said.

20 Q. Okay. And what did it say?

21 A. End of County maintenance.

22 Q. Okay. And that was located at 585 on the left
23 side of the road as you are going to John's Marine?

24 A. To the best of my memory, yes.

25 Q. Okay. It wouldn't have been on the right side of

1 the road?

2 A. Was there a question?

3 Q. It wasn't on the right side of the road, correct?

4 A. To the best of my memory.

5 Q. Okay. Do you know who placed any of these signs?

6 A. No, sir. They were probably placed before I came
7 to live in South Carolina.

8 Q. Okay. When did you begin living in South
9 Carolina?

10 A. July 2001.

11 Q. Okay. Do you believe those signs have been in
12 place for 23 years?

13 A. It was an old sign. It had shown rust wear. It
14 was there for a long time. It didn't just appear.

15 Q. Your property is on the right side of the road,
16 correct?

17 A. Going towards Jimmy's, yes.

18 Q. Going towards Jimmy's. And the bathtub that you,
19 and the junk that you cleaned up, that bathtub, do you know
20 if that was ever used for watering cattle?

21 A. No, I do not.

22 Q. Okay. But there was a tub very close to the road
23 on the right side of the road heading towards Jimmy's?

24 A. Yes, there was.

25 Q. Okay. I think that you said earlier that you

1 never saw County personnel performing work on Ellenburg
2 Road; is that correct?

3 A. That is correct. I never have.

4 Q. But you were aware that the County paved Ellenburg
5 Road somewhere around 2016, based on your earlier testimony?

6 A. Oh, yes, I thought that you meant -- I did say
7 that. Yes, I did see them paving around 2015, 2016.

8 Q. And --

9 A. But other than that, I have never seen anybody
10 from the County out there.

11 Q. When you walked to 582, do you have a typical time
12 of day that you do that?

13 A. No.

14 Q. So any given time during the day you could be out
15 walking back and forth?

16 A. Numerous times during the day.

17 Q. Okay.

18 A. Morning, afternoon, evening.

19 Q. Is it an accurate assessment to say that you are
20 very good friends with Jimmy?

21 A. No, we are acquaintances.

22 Q. You pop by frequently to talk to him?

23 A. To say hello or to see how everyone is doing, if
24 they, you know, are well.

25 Q. Have you -- you have taken him cookies; is that

1 correct?

2 A. I do all of my neighbors.

3 Q. Okay. Have you given him anything else?

4 A. No.

5 Q. Are you aware of Harbor Oaks' Homeowners
6 Association?

7 A. Yes.

8 Q. Are you affiliated with that in any way, shape, or
9 form?

10 A. No, I'm not.

11 Q. Okay. Are you aware -- and that is where you
12 live, correct?

13 A. Yes.

14 Q. Are you aware of them, the association, giving any
15 money to Jimmy?

16 A. No, I am not.

17 Q. And you have not given Jimmy any money or lent him
18 any money?

19 A. No.

20 Q. Are you aware if your gravel driveway accessing
21 Ellenburg Road is wholly on your property?

22 A. Yes.

23 Q. So it is not possible that part of that encroaches
24 on the Globe and Farmes' property? Is it possible that part
25 of your gravel driveway encroaches onto Globe and Farmes'

1 property?

2 MR. BIBLE: Objection, Your Honor, call for
3 speculation.

4 THE COURT: Sustain your objection.

5 BY MR. HOLLIDAY

6 Q. You have never been made aware of an encroachment
7 on --

8 A. No.

9 Q. Okay. Would you like the road paved to 582?

10 A. No.

11 MR. HOLLIDAY: Jim.

12 THE COURT: Mr. Logan?

13 MR. LOGAN: No, Your Honor, I am sorry.

14 THE COURT: Redirect?

15 MR. BIBLE: No further questions, Your Honor.
16 I ask that she be excused.

17 THE COURT: She can be excused. Thank you,
18 ma'am.

19 All right. We are going to stop for the day.
20 9:30 in the morning. I have a couple of hearings to do
21 before that, but 9:30 we will begin. I want everyone
22 here and running. Everyone in my chambers.

23 (Proceedings adjourned for the day.)

24 * * *

25 6-13-2024 PROCEEDINGS

1 THE COURT: Mr. Paavola, before we get
2 started, anything from the Plaintiff?

3 MR. PAAVOLA: Just, Your Honor, we thought we
4 might take care of the deposition designations and get
5 those into the record.

6 THE COURT: Did y'all write those down on
7 paper?

8 MR. PAAVOLA: We filed them. We both printed
9 out copies of the transcripts.

10 THE COURT: If you will pass those
11 designations and the depositions to me. I'll read them
12 when I have an opportunity.

13 MR. PAAVOLA: The only -- I would say the
14 only objections to their designations for the County's
15 deposition, Mr. Reid in his deposition for the County
16 testifies to a bunch of conversations he has with other
17 parties and we object to those coming in as hearsay.

18 THE COURT: Hang on. Do you have -- to let
19 me just get the deposition so I can look at it.

20 THE CLERK: These are the exhibits?

21 MR. HOLLIDAY: Yes, those are the exhibits to
22 the County's deposition.

23 THE COURT: All right. What am I looking at?

24 MR. HOLLIDAY: I don't know specifically what
25 he's talking about. But my position would be that --

1 THE COURT: Hang on. Let me look at it
2 before you argue so I can at least have a better feel
3 for it.

4 MR. PAAVOLA: Do you have their designations,
5 Your Honor?

6 THE COURT: I think I do.

7 MR. PAAVOLA: Okay. They have designated for
8 instance --

9 THE COURT: I'm looking at the deposition of
10 James Coley and William Reid. Would that be it?

11 MR. PAAVOLA: Yes.

12 THE COURT: Okay. Where in the deposition
13 are we looking at, what page?

14 MR. PAAVOLA: Starting at Page 154.

15 THE COURT: One fifty-four. What lines?

16 MR. PAAVOLA: I am looking at lines 3 to 12.
17 And this is just background.

18 THE COURT: And so you undertook to ask the
19 parties that question, whether they performed
20 maintenance.

21 MR. PAAVOLA: That is just background for the
22 Court. And then to understand that then -- for
23 multiple pages there is discussions that he talked --
24 Mr. Reid relates conversations he had with other
25 persons in multiple pages of the deposition so --

1 THE COURT: Well, you need to give them to
2 me.

3 MR. PAAVOLA: Well, I have marked -- it would
4 be 157.

5 THE COURT: 154 line 3 through what?

6 MR. PAAVOLA: I am sorry, Your Honor, I'm not
7 -- 154 line 21. Your Honor, what I did was I
8 highlighted sections of their designations of pages
9 that the range of pages that have been identified as
10 having hearsay. I can do a better job, however, of
11 getting the specific page numbers.

12 THE COURT: Basically what you are objecting
13 to is questions about what the employees told their
14 supervisor?

15 MR. PAAVOLA: I think that he is a supervisor
16 and he said, I went and spoke to my friend Larry
17 Sherman and Larry Sherman told me this about the road
18 or maintenance. So I would object to him --

19 THE COURT: Testimony about what he was told?

20 MR. PAAVOLA: Yes, sir, that is right. And
21 for a number of County witnesses.

22 THE COURT: Why would that not be hearsay?

23 MR. HOLLIDAY: Because this was noticed as a
24 30(b)(6) deposition of the County.

25 THE COURT: So you have an evidentiary rule

1 that tells you that a 30(b)(6) gets away from the
2 evidentiary rules?

3 MR. HOLLIDAY: My understanding of 30(b)(6)
4 is that it allows the person so designated to testify
5 as matters known or reasonably available to the
6 organization.

7 THE COURT: Okay. I don't disagree with
8 that, but that doesn't mean that you don't have to
9 comply with the rules of evidence; right?

10 MR. HOLLIDAY: I mean, we would have to bring
11 in a dozen witnesses. I mean, we are relying on what
12 the roads and bridges department and their records and
13 the conversations with their employees are. So, I
14 mean, if --

15 THE COURT: Do you have any authority for
16 that proposition for me?

17 MR. HOLLIDAY: On specifically, on whether a
18 30(b)(6) allows --

19 THE COURT: Testify as to what other people
20 in the organization said. It seems to me it is classic
21 hearsay unless there is someone that might have some
22 kind of other exception of the hearsay rules.

23 MR. HOLLIDAY: I haven't done any research
24 because this is the first time this morning that this
25 has been raised so . . .

1 THE COURT: I'll give you an opportunity to
2 do that, okay. I will put that under abeyance. My
3 thought is that it is hearsay, but I'll give you an
4 opportunity to argue against it.

5 MR. PAAVOLA: Over the break I will do the --
6 I will be more specific in my page and lines.

7 THE COURT: I can't hear you.

8 MR. PAAVOLA: On the break I can be more
9 specific as to page and line.

10 THE COURT: Okay.

11 MR. PAAVOLA: Would that be helpful? I mean
12 I highlighted, again, their --

13 THE COURT: If you will give me all of the
14 page and lines that you are asking that I exclude and
15 just to help me get through it a little bit easier.

16 MR. PAAVOLA: Yes, Your Honor.

17 THE COURT: Thank you.

18 Mr. Paavola, anything else?

19 MR. PAAVOLA: No, Your Honor.

20 THE COURT: Mr. Holliday?

21 MR. HOLLIDAY: The only thing that I am going
22 to ask is just that we make sure that all of the
23 sequestered witnesses are re-sequestered.

24 THE COURT: I am sorry?

25 MR. HOLLIDAY: I said before we get going my

1 only request is that all of the sequestered witnesses
2 be re-sequestered.

3 THE COURT: Well, y'all take a look out there
4 in the gallery and make sure who doesn't need to be in
5 here is out.

6 MR. HOLLIDAY: Bruce Hadley, Gary Taylor,
7 Michael Grant, Robbie Hopkins, Ronnie Morgan, Laurie
8 Ellenburg Bright, Warren Harris.

9 THE COURT: Mr. Paavola, have you guys looked
10 to make sure that y'all have everybody out?

11 MR. PAAVOLA: Yes, Your Honor.

12 THE COURT: Obviously if they are in here
13 they won't be able to testify. So make sure that we
14 don't let that happen.

15 All right. Call your next witness, please,
16 sir.

17 MR. PAAVOLA: The Plaintiffs call Elliotte
18 Quinn.

19 Thereupon,

20 ELLIOTTE QUINN
21 was called as a witness, having been first duly sworn,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. PAAVOLA

25 Q. Good morning, Mr. Quinn.

1 A. Good morning.

2 Q. State your full name for the record.

3 A. Frederick Elliotte Quinn.

4 Q. And, Mr. Quinn, how old are you?

5 A. I am 64.

6 Q. Where did you grow up?

7 A. Columbia, South Carolina.

8 Q. Did you go to school in Columbia?

9 A. I did, I went to A.C. Flora High School and on to
10 Erskine College. And from there went to Midlands Technical
11 College and got a degree in civil engineering with a
12 surveying option.

13 Q. Tell me what you did at Erskine College?

14 A. Had a good time mostly, but I was studying to be a
15 history major, but that wasn't going to do much for me in
16 life, get me very far in life.

17 Q. And then did you go to Midlands Technical College?

18 A. Correct.

19 Q. And then what degree -- did you earn a degree
20 there?

21 A. I did.

22 Q. What degree did you earn?

23 A. Associate in Applied Science in Civil Engineering
24 Technology with a surveying option.

25 Q. And did you go to work in surveying at that time?

1 A. Yes, I worked for a surveyor during my schooling
2 at Midlands Tech. And following graduation I started with
3 Davis Corp (phonetic) Engineers in Charleston, South
4 Carolina.

5 Q. At some point in time did you undertake a process
6 to become licensed or registered in surveying?

7 A. Yes, I did.

8 Q. Okay. And when did you do that?

9 A. I became registered in South Carolina in 1985.

10 Q. What is that, is that a certain name or
11 designation title?

12 A. Registered professional land surveyor.

13 Q. And how do you qualify as a registered
14 professional land surveyor?

15 A. At the time that I set for the exam it was a
16 two-year degree and four years progressively responsible
17 experience. And then two exams, two eight-hour exams, one
18 national. The first being a national exam, and then half of
19 the second one being a national exam. And then the second
20 half being a state-specific exam.

21 Q. Are you licensed in any other states?

22 A. Yes, I'm also licensed in North Carolina and
23 Georgia.

24 Q. And when did you earn your license in those
25 states?