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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Master-in-Equity

O. Davie Burgdorf, Master-in-Equity

Case No. 2007-CP-38-1424

John W. Williamson, III and Kathryn J. Williamson, ... Appellants

v.

The County of Orangeburg, ... Respondent

**RECORD ON APPEAL
VOLUME 2 OF 2**

August 27, 2009

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STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG C/A NO. 2007-CP-38-1424

JOHN W. WILLIAMSON, III and KATHRYN J. WILLIAMSON,

Plaintiffs,

vs.

THE COUNTY OF ORANGEBURG,

Defendant.

MASTER-IN-EQUITY HEARING
VOLUME III

BEFORE: O. DAVID BURGDORF, Judge.
DATE: October 23, 2008
TIME: 10:10 a.m.

LOCATION: Orangeburg County Courthouse
 190 Gibson Street, Room 305
 Orangeburg, SC

REPORTED BY: PATRICIA THOMPSON-MORRISON
 Registered Professional Reporter

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1 MR. de HOLCZER: If it please the Court,
2 your Honor, we call at this point Mr. Harold Young.

3 HAROLD M. YOUNG
4 being first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. de HOLCZER:

7 Q. Mr. Young, will you please for the benefit of
8 the Court give your title with Orangeburg County.

9 A. Deputy County Administrator of the Community
10 Development Division.

11 Q. Would you briefly state your responsibilities
12 in that capacity.

13 A. Basically everything that deals with
14 community development and land use, from planning,
15 land use, grants administration, unsafe demolition,
16 litter control, recreation, building inspection.
17 Everything that deals with land and community.

18 Q. Now, did you come to be involved with this
19 project, this acquisition of a landing on the South
20 Fork of the Edisto River?

21 A. Yes, sir.

22 Q. Did you have occasion to meet the plaintiffs
23 in conjunction with any investigation or study that
24 the county was making with regard to this matter?

25 A. The only time I met the Williamsons was that

1 meeting we had at the site, and I think myself,
2 Mr. Whalen, Mr. Clark, the Williamsons and yourself
3 and Mr. Morrison were all at that meeting.

4 Q. And that was in the summer of 2000 -- what
5 summer was that? Was that 2006?

6 A. I can't recall.

7 Q. That's all right. Let me ask you about that
8 meeting.

9 Do you recall ever speaking with the
10 Williamsons about that, about the boat landing, at
11 that meeting?

12 A. Like Mr. Whalen testified yesterday, it was
13 -- you know, we were doing things in group. I think
14 some of us were talking in different groups and
15 looking at different things and walking in different
16 places.

17 Q. But this was at the boat landing itself?

18 A. Yes.

19 Q. And do you recall speaking directly to the
20 Williamsons or Mr. Williamson?

21 A. Briefly introduced myself to Miss Williamson,
22 and Mr. Williamson and myself and Bill -- briefly
23 introduced myself to him. And then we were sitting
24 on the side and we had a sidebar conversation on the
25 side.

1 Q. Do you recall anything that Mr. Williamson
2 said to you about how this matter might end up being
3 resolved?

4 MR. MORRISON: Your Honor, if I may, there
5 has obviously been a lot of latitude about this, but
6 we are spending time now talking about negotiations.
7 That's exactly what this is. This was a meeting to
8 try to negotiate. The lawyers present; parties
9 present.

10 I don't know what this witness is going to
11 say because I didn't ask him about this in his
12 deposition because I had no notion we would be
13 talking about what did you say in this side bar with
14 certain people around when we were trying to
15 negotiate a resolution of this thing.

16 I just think that is inadmissible testimony,
17 and we've got to put an end at some point to all this
18 back and forth. It's not relevant to anything this
19 Court has got to decide.

20 MR. de HOLCZER: Your Honor, if I may,
21 actually under the eminent domain procedures act if a
22 landowner who does not participate in good faith in
23 challenging a condemnation action, the condemnor can
24 recover litigation expenses, reasonable litigation
25 expenses, and costs concerned with that.

1 So this goes to that particular point of
2 whether or not the landowners challenge of this
3 condemnation action was in good faith, and that's
4 exactly what I'm asking about, those statements, just
5 limited to one or two statements that the landowner
6 made in this case with regard to their good faith.

7 THE COURT: As long as it's limited to
8 that.

9 MR. de HOLCZER: It is, your Honor.

10 THE COURT: I agree with Mr. Morrison. We've
11 gone over a lot of territory about three or four
12 times. So we need -- I think I've got a good hold of
13 the facts so far, so we don't need to get too far
14 again into the same thing over and over and over.

15 MR. de HOLCZER: Absolutely, your Honor.

16 BY MR. de HOLCZER:

17 Q. Let me just ask you: Did Mr. Williamson say
18 anything about the length of time this might take to
19 resolve?

20 A. Yes, sir.

21 Q. What did he say?

22 A. We were basically talking about trying to
23 figure out -- and I think what Bill asked him was
24 what would it take to get this resolved, and he
25 mentioned that -- we started talking about different

1. things, and he was saying he was concerned about
2. safety and litter. And we were talking about fencing
3. the road and this stuff, and at some point he said:
4. Look. I got enough money to tie this thing up in
5. court. We need to work something out.

6. Q. Now, moving on from that, let me ask you if
7. you're aware of any annual meetings that the county
8. council or county administration involves itself in
9. on an annual basis?

10. A. Yes, sir. We have retreats with senior
11. management and staff.

12. Q. Now, in 2007 did the county council have that
13. retreat?

14. A. Yes, sir.

15. Q. And when was that retreat?

16. A. I can't recall the exact date, but it's
17. usually sometime in the middle part of the year.

18. Q. I'm sorry?

19. A. I said I can't recall the exact date, but I
20. know we have it every year. And this particular time
21. we held it at the Economic Development Commission
22. office.

23. Q. Do you know whether it's early in the year or
24. late in the year or sometime --

25. A. It's usually in the latter part of the year

1 most of the time, and then it just depends on what we
2 have going. And then sometimes we have two retreats,
3 and the second retreat is usually before the budget
4 time of the year. So I would say for this particular
5 meeting it was probably at the first part of the
6 year.

7 Q. And do you recall any of the topics discussed
8 at the 2007 county retreat?

9 A. Yes, sir. We talked about being accountable
10 for a lot of things in different divisions. We
11 talked about the budget situation, how budgets were
12 going to be tight. We talked about looking at
13 priorities for each individual. We talked about a
14 boat landing being a priority, and some of the other
15 aspects of what we had going on as county government.
16 Because we do have a lot going on.

17 Q. If you could be more specific, in what
18 respects was a boat landing a priority item for the
19 agenda or for the county development?

20 A. Basically talked about how -- what we had
21 seen so far with the individuals coming forward
22 wanting -- you know, the public per se wanting the
23 boat landing back open and how they came forward and
24 were giving concerns, and of course that was one of
25 the things that we looked at as far as the county was

1 concerned of how to the deal with that equitably.

2 Q. What specifically, if anything, became a
3 community goal with regard to the South Fork of the
4 Edisto River?

5 A. They wanted the Ness Landing back open.

6 Q. Was it specifically Ness Landing or was --

7 MR. MORRISON: Objection. Asked and
8 answered.

9 THE COURT: Sustain the objection.

10 Q. (Continued) What was the discussion
11 concerning the access to the South Fork of the
12 Edisto?

13 A. Well, basically everybody was concerned that
14 we were losing a second -- one of the two landings
15 that we had on the South Fork that was public and
16 just wanted some place to access the river, and that
17 was something that they wanted us to look at all
18 possibilities to see what we could come up with and
19 work towards that goal of getting a landing back
20 open.

21 Q. Did you also serve on the Boat Landing
22 Assessment Committee?

23 A. Yes, sir.

24 Q. And do you recall the meetings of the Boat
25 Landing Assessment Committee?

1 A. Yes, sir.

2 Q. In any of the Boat Landing Assessment
3 Committee meetings were you asked or did you see
4 anything which violated your personal or professional
5 standards, your ethical standards or your
6 professional standards as to how such a meeting
7 should be conducted or a committee should conduct its
8 business?

9 A. No, sir.

10 Q. Did you steer the committee in any way toward
11 a particular alternative?

12 A. No, sir.

13 Q. Did you see anyone on the committee steer the
14 committee toward choosing a particular alternative as
15 to a preferred alternative?

16 A. No, sir.

17 MR. de HOLCZER: No further questions, your
18 Honor.

19 CROSS-EXAMINATION

20 BY MR. MORRISON:

21 Q. Mr. Young, how are you today?

22 A. All right.

23 Q. This business about ethical standards with
24 respect to the Boat Landing Assessment Committee's
25 work, you've never been on any kind of committee like

1 this before, had you?

2 A. For a boat landing specifically or for like
3 community problems and stuff like that?

4 Q. Well, a boat landing committee.

5 A. I would have to say I did some work with one,
6 but not in Orangeburg County.

7 Q. When Mr. de Holczer asked you about ethical
8 standards for the Boat Landing Assessment Committee,
9 you don't know any place anybody can go look to see
10 about what ethical standards apply to an ad hoc
11 advisory committee like that, do you?

12 A. Well, basically I can go and -- my judgment
13 as a professional, if something doesn't feel ethical
14 or not, we had access to the county attorney. If we
15 felt like it was unethical we could ask. Nothing
16 made me want to ask whether something was ethical.

17 Q. Your personal ethics is what you're talking
18 about?

19 A. Uh-huh. And business ethics.

20 Q. You've got personal ethics for business and
21 your personal life?

22 A. Yes. Right. I was taught business ethics in
23 college in what to look for as far as business is
24 concerned.

25 Q. Were you aware when you served on the boat

1 landing committee -- I know you don't usually go to
2 council meetings, do you?

3 A. Yes, I do.

4 Q. So you knew that council had two votes in
5 September and November of 2006?

6 You've been sitting in trial. You've heard
7 about them a dozen times --

8 A. Yes.

9 Q. -- about getting Ness Landing back. You knew
10 that?

11 A. Yes, sir.

12 Q. And you knew that the county attorney was
13 very involved with the BLAC process. She organized
14 things. She sent out emails on a regular basis to
15 everybody. She participated in all the meetings,
16 although she was supposedly a nonvoting member. You
17 knew that?

18 A. Well, I wasn't in on it from the very, very
19 beginning. I got brought into it. And the first
20 meeting I attended she was there, but under
21 advisement. In the end it was some emails that I was
22 privy to, but other than that we basically did all
23 the work. I thought her role was for legal counsel,
24 and that's it.

25 Q. When you say "we basically did all the work",

1 you had a heavy role in sending out and compiling the
2 public survey. That was mostly what your work was,
3 wasn't it?

4 A. Correct.

5 Q. And how did you get picked for the committee,
6 do you know?

7 A. I was asked to serve. I can't recall how,
8 but I just accepted it.

9 Q. Who is your boss?

10 A. Bill Clark.

11 Q. Did he ask you?

12 A. I can't recall.

13 Q. Do you know who picked Joe Sutcliffe to be
14 the citizen representative?

15 A. I can't recall.

16 Q. Did you know who Joe Sutcliffe was?

17 A. Vaguely. I met him at council meetings when
18 they had -- I think right after the gate was put up
19 they had a meeting, and a host of fishermen came to
20 the council meeting.

21 Q. 14 or 15 including Mr. Sutcliffe, and wanted
22 Ness Landing back open?

23 A. I can't agree to the number. I know it was a
24 good bit. It was more than usual for a council
25 meeting.

1 Q. Do you recall efforts being made before the
2 Cope Center public meeting to try to get as many
3 people there as possible?

4 A. Only through public hearing mail-outs and
5 posters in the newspaper.

6 Q. Do you recall that Joe Sutcliffe said he was
7 going to call some more people to try to get them
8 there?

9 A. No, sir.

10 Q. Do you recall Heywood Livingston asking you
11 to send out another batch of surveys to some more ZIP
12 codes?

13 A. I don't recall that. I know we talked about
14 places that fishermen buy bait and tackle and stuff
15 like that, and I think we talked about this in the
16 deposition. I think it was Rock's Pond. It's a bait
17 and tackle shop on 301, Sanders, and any place that
18 people might pick up some fishing tackle. We talked
19 about that.

20 Q. Well, Rock's -- I'm glad you brought that up.
21 Rock's is there right across Binnicker Bridge in
22 Bamberg County.

23 A. Uh-huh.

24 Q. And you posted a public notice in Bamberg
25 County Fishing Spot, didn't you?

1 A. I didn't post it. Somebody made mention --
2 one of the individuals -- we had all the information
3 in our office. One of the guys came in the office
4 and said: Do you mind if I take some flyers to
5 Rock's Pond? And I said yes, that's fine.

6 Q. And do you know any other fishing tackle shop
7 in Bamberg County that got flyers?

8 A. If they did, it was from people coming in and
9 asking for them.

10 Q. Do you know how close Rock's Fish & Tackle
11 Shop is to the entrance to Claude's Landing?

12 A. I can't say exactly, but it's not that far,
13 I wouldn't think.

14 Q. Do you know if Rock's is closer by driving --
15 and you may not know the area closest. But Finland
16 intersection, I guess, there on Highway 70. Do you
17 happen to know if it's a closer drive to Claude's
18 than it is to the Ness Landing from Rock's?

19 A. I'm pretty familiar with Rock's; but if
20 you're talking about that cross-road where the thing
21 is, I couldn't say for sure, but I would think it
22 would be closer.

23 Q. Are you aware of the efforts that were made
24 when the BLAC Committee was first coming together to
25 try to get other representative people on the

1 committee?

2 A. No, sir.

3 Q. Did you not hear about any efforts being made
4 to get some people from DNR, DOT, environmental
5 groups, a local doctor in town? Did you not hear any
6 of that?

7 A. No, sir. When I became part of the BLAC
8 Committee was right before the first meeting. And
9 what happened was during that same time we were
10 working on county-wide zoning, so I had my plate
11 extremely full. I wasn't going to public hearings
12 all across the county and stuff.

13 Q. Did you hear in meeting or phone conversation
14 where Mr. Berry Still was involved, the engineering
15 consultant to the committee -- did you hear him make
16 mention of this objective effort he was making or an
17 objective committee or anything like that?

18 A. Very rarely was in a situation with phone
19 calls with Berry Still. Most of the time I was in
20 contact with him was face-to-face during the
21 meetings. So I can't recall any phone calls like
22 that.

23 Q. The members of the BLAC Committee were you
24 and John McLauchlin and Earl Whalen and Joe
25 Sutcliffe, citizen representative.

1 A. Yes, sir.

2 Q. And the three of you county employees all
3 work directly for Bill Clark?

4 A. Yes, sir.

5 Q. And you knew Mr. Sutcliffe strongly favored
6 reopening Ness Landing because you had seen him and
7 heard him at the council meeting in the fall of '06
8 with the people there with him as a leader speaking
9 for them, didn't you?

10 A. He was there in -- yes. He was one of the
11 people that wanted to see it back open.

12 Q. As a matter of business ethics, did you ever
13 raise a point with anybody on the BLAC Committee:
14 Shouldn't we have some non-Orangeburg County
15 employees on here or some environmental
16 representatives or some DNR representatives or some
17 DOT representatives or some Friends of the Edisto
18 representatives or some the neighborhood people from
19 the landing -- any of that.

20 Did you ever question the makeup of the
21 committee itself?

22 A. No, sir. Because we had an outside engineer
23 that brought expertise, openness to the situation.

24 Also, from that standpoint we weighed a lot
25 of our information on public opinion, and we had a

1 public hearing to all citizens of Orangeburg County.

2 Q. I know about the public hearing.

3 Now, it might have been open to all citizens
4 of Orangeburg County, but you didn't send mail-outs
5 to all citizens?

6 A. No, but we had published it in the county
7 newspaper, and it's also used by residents in other
8 counties as well.

9 Q. But the mail-outs focused on Norway and Cope
10 area?

11 A. The mail-outs that we had to find as part of
12 the study area, yes.

13 Q. By the time the mail-out occurred for the
14 Cope public meeting had y'all defined -- had the
15 committee or Mr. Still already made that corridor
16 study area, which you call a study area? I call it a
17 corridor. Is that what you're talking about?

18 A. Well, I think what we did was focus on the
19 South Fork and basically drew matrixes around that to
20 see how far a person would be willing to drive to
21 fish. And with gas prices and this economy and
22 stuff, that is a factor.

23 Q. Y'all found out after the surveys and the
24 public meeting Mr. Still did -- he came up with that
25 average of 18 miles people were willing to travel to

1 fish, didn't they? That was after the meeting.

2 A. Well, yes, but that was something that was
3 discussed all throughout. People -- everybody would
4 tell you when you're going fishing or going some
5 place, you always want to go close to home.

6 Q. Sure.

7 Do you consider it -- well, when the Cope
8 meeting happened were y'all still studying the whole
9 South Fork Edisto, or had you reduced the study area
10 through this matrix process or otherwise?

11 A. I can't recall, but I know we had four --
12 maybe four or five sites that we had mapped at that
13 meeting so people could kind of look at it. But we
14 did also have the entire county map for the South
15 Fork, and during that process we were asking people
16 maybe we missed something or do you know of any other
17 spots or locations along the river. So it was very,
18 very open.

19 Q. Well, do y'all try to think of spots
20 yourselves? I mean, did you consider this area
21 between Hog Pen Landing down to Norway, this
22 relatively big area?

23 A. Yes. I would say it was included.

24 Q. I mean, Old Tyler's Landing is right here on
25 321, isn't it?

1 A. Yes, sir.

2 Q. And that got eliminated by whatever process
3 the engineer did?

4 A. Yes. At some point through the process we
5 put together a matrix of whatever, and at some point
6 it got eliminated.

7 MR. de HOLCZER: Your Honor, if I may, could
8 I have a look at the exhibit he's just showing to us?
9 This is the first I've seen it.

10 MR. MORRISON: It's just a demonstrative
11 exhibit.

12 BY MR. MORRISON:

13 Q. Mr. Young, do you know how Mr. Still reduced
14 the scope of study area of the South Fork Edisto down
15 to his corridor, which was approximately a ten-mile
16 area?

17 A. Not really. Because at that point we were
18 relying on his expertise as an engineer and what he
19 brought to the table. Basically he had sound
20 principles that he was using and everything else, so
21 I had no reason to question that.

22 Q. Do you know who gave him his sound
23 principles, his criteria he used?

24 A. No, sir.

25 Q. And how many of the surveys got misplaced?

1 39 were the results that came back.

2 A. I can't recall the exact number. I know we
3 had some situations where all the committee members
4 were in different locations, and in going back and
5 forth through mailings and the county mailing system
6 some did get misplaced.

7 Q. You don't even remember how many it was?

8 A. I don't want to testify under oath to the
9 exact number if I don't recall.

10 Q. I appreciate that.

11 A. I don't want to perjure myself.

12 Q. Do you happen to know the population --
13 Branchville is in Orangeburg County, isn't it?

14 A. Yes, sir.

15 Q. Do you happen to know the population of
16 Branchville is more than twice as big as that of
17 Norway and Cope?

18 A. Yes, sir.

19 Q. Was there any study or effort about serving
20 the Branchville population with this process this
21 committee was going through?

22 A. We did mention Branchville and Rowesville
23 sometime during the study. However, when we looked
24 at what we were looking at and at the public hearings
25 and stuff that we were talking to individuals, a lot

1 of the fishermen were talking about the fishing spot
2 on the South Fork was just -- it was better fishing.
3 And we heard untold stories about the amount of fish
4 that people were catching and the types of fish and
5 stuff like that. So the South Fork seemed to have
6 better fishing up on that area.

7 Q. The corridor they remembered when they were
8 young, when the river had lots of fishing.

9 A. This seemed more recent.

10 MR. MORRISON: Thank you, Mr. Young. That's
11 all I have for you.

12 MR. de HOLCZER: Your Honor, just a few
13 followups.

14 REDIRECT EXAMINATION

15 BY MR. de HOLCZER:

16 Q. Mr. Young, did Mr. Clark give you any
17 direction on the BLAC Committee as to how you were to
18 vote or conduct your business or your participation
19 in the committee?

20 A. No.

21 Q. You said you served on other community
22 development committees?

23 A. Yes, sir.

24 Q. Could you give us a list of some of those.
25 Don't go into too many details, but just give us the

1 names; and if the name doesn't tell us what it is,
2 then maybe tell us what it did.

3 A. In reference to the community development
4 type stuff, the zoning was a big issue of this
5 magnitude. We had worked on the restoration
6 committee. We did some stuff with the town of
7 Springfield on some stuff.

8 Q. When say "restoration" --

9 A. Being as grants administration, we work on
10 grants on different projects a lot of times, and all
11 of those require us by law to have public hearings
12 and be open to the public. So going into a situation
13 with my experience of being a grants administrator
14 and a community developer, we have to always go into
15 a situation with a blank page because we don't know
16 what we're going to do when we start doing citizen
17 input. So we have to have a blank page and be able
18 to deal with situations as they arise.

19 Q. In your experience on those kind of
20 committees and those kind of community development
21 committees, do people sometimes come in with an idea
22 of -- do people come in with preconceived ideas?

23 A. Oh, yes. All the time.

24 Q. Does that necessarily determine the direction
25 or not of where the committee's decision making is?

1 A. No. We do what is right, what is best for
2 the citizens of Orangeburg County.

3 Q. With regard to the public hearing, did you
4 attend the public hearing?

5 A. Yes, I did.

6 Q. Do you recall about how many people attended
7 the public hearing?

8 A. There was a lot of people in and out.
9 I can't guarantee the number, but I know it was up
10 towards 50 something. I can't guarantee the exact
11 number.

12 MR. de HOLCZER: Nothing further, your Honor.

13 RECROSS-EXAMINATION

14 BY MR. MORRISON:

15 Q. Mr. Young, just a couple of followups.

16 Did you compile or collate the results of
17 either the mail-out survey or what was written down
18 at the public hearing?

19 MR. de HOLCZER: Your Honor, my objection is
20 that is not relevant to what I addressed in my
21 redirect.

22 THE COURT: Is the question what was wrong
23 with the form?

24 MR. MORRISON: I'm happy to withdraw it.
25 I've got plenty of witnesses on this.

1 Q. (Continued) Mr. Young, how many people do
2 you guarantee, as you say, were in attendance at the
3 meeting?

4 A. I didn't say "guarantee". I said it was --
5 coming through the public hearing, I would say in my
6 personal opinion it was up towards to 50.

7 Q. Around 50?

8 A. I would say coming through the facility
9 asking questions. Some people came there and didn't
10 realize what it was. They asked questions and left
11 for some reason. We had staff there from the school
12 that was there in the afternoon. They asked
13 questions, but they wasn't really there for it. So I
14 can't say exact total, but I would say in dealing
15 with people, I thought I dealt with somewhere close
16 to 50 people.

17 Q. Did you keep the sign-in sheet? Was that
18 part of your job?

19 A. No, sir.

20 Q. Have you seen it before?

21 A. Possibly. I probably signed it during that
22 process, but not kept up with it.

23 Q. Do you know that 26 people signed it?

24 A. No, I don't.

25 Q. One of them was Earl Whalen. One of them was

1 Jimmy Sutcliffe. So if you exclude BLAC Committee
2 members you're down to 24.

3 A. Uh-huh.

4 Q. That's the sign-up sheet, 26 people.

5 A. Uh-huh.

6 Q. Do you have any reason to think this is some
7 grossly inaccurate sign-up sheet or people just
8 scared to sign their names or --

9 A. Some people did.

10 Q. I don't doubt some people might not sign, but
11 did y'all have a sign-in sheet by the front door and
12 try to get people to sign?

13 A. Uh-huh. But like I said, in my calculations
14 -- I dealt with people that were in the building as
15 well. There were staff people from the Cope
16 Development Center and there were other people who --
17 if you have any experience with a public hearing,
18 you're going to know other things are going on in the
19 building and some people come to the wrong place and
20 say: Okay. What is this? You explain what this is
21 about, and they say: Okay. This is the boat
22 landing. They say: Okay. Thank you. Then they
23 leave.

24 MR. MORRISON: Thank you, Mr. Young.

25 MR. de HOLCZER: No further questions, your

1 Honor.

2 THE COURT: You can step down.

3 MR. de HOLCZER: May this witness be excused?

4 MR. MORRISON: No objection, your Honor.

5 MR. de HOLCZER: Your Honor, at this time I
6 would like to call Mr. Berry Still.

7 BERRY STILL

8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. de HOLCZER:

11 Q: Mr. Still, would you please give the Court
12 the benefit of where you're employed.

13 A: I'm employed with RPM Engineers.

14 Q: And could you give the Court the benefit of
15 your employment history. Start with your educational
16 history.

17 A: I graduated in 1990 with a Bachelor of
18 Science in civil engineering from Clemson University.
19 Since then I'm a professional licensed engineer with
20 the state of South Carolina. Obviously going through
21 the professional development group, the training that
22 you go through every year to keep that license.

23 Q: And you're a licensed professional engineer?

24 A: Yes, sir.

25 Q: Any other licenses other than a driver's

1 license?

2 A. That's it.

3 Q. Mr. Still, could you give the Court the
4 benefit of your employment history.

5 A. Before I basically went with RPM Engineers,
6 which I've been with them for the last two years,
7 I worked 15 years with the State of South Carolina
8 Department of Transportation. In that I worked in
9 various different things. I did construction.

10 I also did maintenance in Richland County. Then
11 for eight years I was in a position -- what they
12 call a program manager.

13 What that entailed is -- you hear a lot
14 about the 1 cent sales tax and bonding program. I
15 think Orangeburg has one themselves. And it was a
16 position in Horry County that was created that I
17 took over where we looked over 18 projects
18 totaling at \$1.1 billion, and in that I basically
19 was responsible for the management from the
20 inception of the project through the environmental
21 process, through the design process and into
22 construction, and even to keep the financial
23 aspects of the program throughout.

24 After that, after those eight years --
25 and obviously it was on the coast, so I learned a

1 lot of the environmental processes. Each one of
2 those had to go through environmental
3 documentation.

4 Then basically based off that
5 experience in Horry County I went to head up the
6 Department of Transportation's environment division
7 where basically I oversaw our environment division
8 that was responsible for ensuring environment
9 compliance issues and documentation and following
10 all the NEPA processes, which is the National
11 Environmental Policy Act, and that they were
12 followed so that we could basically enact our \$400
13 million a year construction program.

14 Q. Could you please describe what the NEPA
15 process is.

16 A. The NEPA process came along in the '70s.
17 Basically what it is, when there is federal funds
18 involved it describes a set procedure, a process of
19 how you go about basically ensuring that preferred
20 alignments or whatnot or alternatives are studied in
21 an open forum or basically reviewed in an unbiased
22 way. And then basically once a preferred site --
23 location, roadway or whatnot -- is picked, it's going
24 through those processes of looking at design
25 criteria, looking at study areas and those things,

1 and it comes into a process of how you actually --
2 it's a guideline of how you actually pick preferred
3 alignments.

4 It's also used in railroads. It's used for
5 airports. Anything that has to do with federal funds
6 or whatnot. It's how I became familiar with it, the
7 NEPA process.

8 Q. Have you ever testified as an expert witness
9 in the courts of South Carolina?

10 A. Yes, I have.

11 Q. And about how many times? If you recall.

12 A. 10 to 20 maybe.

13 Q. And was that always for the Department of
14 Transportation, or did you do it for any other
15 entities?

16 A. Pretty much all of it were the Department of
17 Transportation.

18 Q. And do you have a particular field of
19 engineering that you work in?

20 A. I work in transportation engineering.

21 Q. Is that a branch of civil engineering?

22 A. It's a branch of civil engineering, yes.

23 Q. Mr. Still, how did you come to be involved in
24 this particular matter?

25 A. I received a phone call from yourself roughly

1 the latter part of December basically saying that
2 there was -- you were facilitating or you were
3 basically talking to two other firms to facilitate a
4 proposal and bid to look at studying -- providing a
5 study to look at potential opening for a new landing
6 along the South Edisto.

7 At that time we went over -- you updated me
8 on what was going on, that there was a landing that
9 was closed at Ness Bridge that facilitated this
10 study, that it was being taken away and basically
11 that they wanted to open it back up or some portion
12 of some site back-up so that the South Edisto could
13 be used.

14 Q. Now, did you ultimately submit a proposal to
15 Orangeburg County?

16 A. Yes, I did.

17 Q. And Orangeburg County accepted that proposal?

18 A. Yes, they did.

19 Q. Once they had accepted your proposal what was
20 your next activity?

21 A. Once we got a contract -- I believe it was
22 around early January. I think the 11th of January or
23 whatnot -- is that immediately you gave me who the
24 contact people were, which were John McLauchlin and
25 Miss Haydel. I basically set up a conference call

1 shortly after that to discuss my outline of how we
2 were going to go through the process, the NEPA
3 process, is basically what it was, a shortened
4 version of that.

5 And basically at that time we talked about --
6 I have the meeting minutes. I don't want to go
7 through all of them. We talked about the steering
8 committee. We talked about giving different entities
9 -- who could be on it or whatnot. We talked about --
10 I was very upfront with the situation. I knew that
11 the landing was the issue, Ness Landing. I knew
12 basically there was condemnation about wanting to go
13 to Ness Landing or whatnot.

14 So in that meeting basically talking to both
15 of them I said: We're going to go through this
16 process. There is no preconceived notion of where
17 this goes. It's going to have to be what the data
18 shows. I'm smart enough to know that if you're going
19 to write -- I've been in enough of them where when
20 you go and pick a situation, it could go to court.
21 So I need to be on the stand and say honestly that
22 basically it was based -- this selection was based
23 off the data.

24 So I was very up front with them about we
25 need to make sure that this is an unbiased -- it is

1 the data speaks for the selection type process. And
2 they both agreed to that and they understood that.

3 And then we also talked about getting the
4 group together so we could actually begin the process
5 of really defining the purpose and need, defining the
6 study area, and then defining what is the criteria
7 that we're going to look at to come up with what the
8 selected alternative is. And then we ended up
9 deciding to -- I think the conversation was about two
10 hours. So we went over a lot. But I believe that's
11 when we set the meeting for the 29th to have -- we
12 were going to both go our separate ways trying to
13 find committee members or whatnot. It's in my
14 meeting minutes where we listed a bunch of -- they
15 were going to get some people from the county. They
16 mentioned -- Miss Haydel mentioned a person who was a
17 -- a doctor. She was going to talk to him. She was
18 going to try to talk to the Friends of the Edisto.
19 I believe.

20 I had some people that I dealt with
21 based off my prior environmental experience with
22 DOT, people with -- I knew people with DNR.
23 I talked to those guys. We talked about bringing
24 the DOT in because of the different aspects of
25 tying into state roads and those type things.

1 I can't remember if I was going to look for that or
2 if Mr. McLauchlin was going to look for that. But
3 then we kind of went our separate ways, and then we
4 were going to try to shoot for a meeting on the
5 29th.

6 Q. Were you ultimately able to recruit anybody
7 from DNR?

8 A. No. I called DNR, talked to a Mr. Venson,
9 I believe, and also spoke to his supervisor, which
10 I don't remember exactly what his name was. But
11 they talked, and they just weren't interested in
12 being an ad hoc committee. They knew about the
13 boat landing closure.

14 MR. MORRISON: Objection to any hearsay. If
15 they weren't willing to be on the committee, I don't
16 think we ought to hear what the whole conversation
17 was.

18 MR. de HOLCZER: Your Honor, at this time let
19 me step back and say I'm offering Mr. Still as an
20 expert witness in transportation and environmental
21 and engineering studies for the purpose of this
22 hearing.

23 THE COURT: Mr. Morrison?

24 MR. MORRISON: Are you offering him now?

25 MR. de HOLCZER: Yes. I'm offering him now.

1 MR. MORRISON: We would stipulate to his
2 qualifications as a professional engineer with the
3 focus in the area he's described. I haven't heard
4 much about environmental qualifications,
5 environmental degrees. Maybe it just got by me, but
6 he's not an environmentalist or -- I know he works
7 with site selection.

8 Environmental is one of several criteria, so
9 I don't know what kind of expert you're talking about
10 exactly. But we certainly acknowledge Mr. Still as
11 an expert professional engineer with the experience
12 he's described and a man capable and qualified to
13 write the report that he wrote in this case. I don't
14 want him going beyond that.

15 MR. de HOLCZER: Your Honor, if I may, I'll
16 develop his environmental credentials a little
17 further.

18 BY MR. de HOLCZER:

19 Q. Let me ask you about your knowledge about
20 environmental issues and engineering.

21 First of all, what familiarity must a civil
22 engineer or professional engineer have with
23 environmental issues in South Carolina?

24 A. Basically environmental engineering is --
25 civic engineering is a pretty broad scope or whatnot.

1 We work with materials. Obviously environmental is a
2 portion of that. You know, most of my experience is
3 basically gained from working on the coast. Each one
4 of the projects I've done on the coast had to go
5 through an environmental document process, which is
6 what we did..

7 I'm not going to go out and be a delineator
8 of wetlands. I'm just not associated with -- that's
9 not my expertise, but I have the ability to know what
10 a wetland is. I also have the ability to know the
11 environmental process that we followed, which was
12 that NEPA process in which we went through to define
13 criteria. We went through basically a public open
14 process in which to come up with research data, which
15 we did, grab the data and then basically used that
16 data to come up with that evaluation.

17 I'm very, very familiar with that. In fact,
18 that's why I basically became the head of the
19 environmental department of DOT. We would literally
20 do 50 of those documents. There were probably more
21 that I was responsible for. I reviewed all of those
22 documents.

23 MR. MORRISON: We stipulate to the witness's
24 expertise in knowing the environmental permitting
25 process and his familiarity with it as a road

1 building and a site selection civil engineer. That's
2 what he does. He's a road and site guy, by his own
3 testimony. He knows the NEPA process. It includes
4 familiarity with basic environmental requirements.
5 We don't have any problem with that.

6 BY MR. de HOLCZER:

7 Q. Let me just ask you as a civil engineer do
8 you have to be aware of construction design issues or
9 engineering design issues insofar as they impact
10 environmental situations or environmental
11 restrictions on engineering?

12 A. Sure. I have to be involved -- you know, the
13 document that basically I wrote was much more than
14 just environmental. It was basically about safety,
15 which those were things that I've been trained in,
16 the things that I've worked in as far as site
17 assessments with site distance type issues, knowing
18 what basically -- certain obstacles towards safe
19 driving or those type things. I obviously do
20 understand it.

21 I do cost estimates. I understand materials.
22 I understand traffic as far as accessibility to
23 certain areas, traffic generators. I do understand
24 what ADT's are and how to gather that information.
25 ADT's are average daily traffic. Obviously I can go

1 and see that I've got 2,900 cars a day here. That's
2 more cars than I've got here. So obviously that
3 generates more people.

4 So the NEPA process, as I said earlier, is
5 not just basically -- you should be able to use that
6 process to pick anything. The NEPA process and the
7 procedures we use doesn't say: Okay. You do this
8 for roadway.

9 My background has been in transportation.
10 There is no doubt about it. But that process is the
11 same process that is used for an airport terminal.
12 It's the same process you use to go and select an
13 airport terminal site; selecting a railroad site and
14 any site that has federal dollars in it, and that's
15 what I'm familiar with, and I used that type system
16 to look at this site.

17 Q. Has your work satisfied federal requirements
18 for environmental studies?

19 A. Yes.

20 Q. In the past I'm talking about now.

21 A. Yes.

22 Q. And you're familiar with the federal
23 standards?

24 A. Yes.

25 Q. And has your work satisfied South Carolina

1 standards?

2 A. Yes. I signed off on many documents.

3 MR. de HOLCZER: Your Honor, we would renew
4 our offer of Mr. Still as an engineering expert with
5 regard to site design, site selection and
6 environmental considerations.

7 MR. MORRISON: And I don't mean to split
8 hairs, but the last series of questions was: Do your
9 studies and this study pass federal environmental
10 requirements?

11 I mean, I want a clear record. This man is
12 not and doesn't purport to be an environmental
13 scientist or specialist in environmental engineering.
14 What he does is he maintains enough familiarity with
15 environmental standards, state, federal and local,
16 where he's working or makes himself familiar so he at
17 least makes sure any project he's in does not run
18 afoul with those. But Mr. de Holczer seems to be
19 persisting in trying to expand his environmental
20 expertise. I don't know why, but I just -- if we can
21 get straight on this -- I'm fine with this issue, but
22 I cannot stipulate to that point.

23 THE COURT: Let's just see --

24 MR. de HOLCZER: Your Honor, I'm not certain
25 what the objection is or what --

1 MR. MORRISON: What is he an expert in?

2 MR. de HOLCZER: I offered him as an expert
3 in civil engineering, transportation engineering,
4 site selection, site design and environmental
5 considerations concerned with all of the above.
6 That's how I offered him.

7 MR. MORRISON: No objection.

8 MR. de HOLCZER: Has your Honor made a ruling
9 on that?

10 THE COURT: Yes. He's qualified.

11 BY MR. de HOLCZER:

12 Q. Now, Mr. Still, let me ask you to go back to
13 this particular project and if you would talk about
14 or explain what your -- so far you've covered a
15 meeting with -- was it Mr. McLauchlin and
16 Miss Haydel?

17 A. Yes, sir.

18 Q. Now, what did you do personally to develop
19 this project?

20 I believe you had started on that. You had
21 testified that you discussed it with DNR folks. Did
22 you proceed further from there?

23 You weren't able to get a DNR person onboard;
24 is that correct?

25 A. Correct.

1 Q. You had some discussions with DNR. Just
2 briefly what kind of investigatory work did you do
3 with regard to DNR type issues or DNR interests in
4 the project?

5 A. Well, I talked to Mr. Vinson, who was very
6 helpful in getting criteria for selecting boat
7 ramping. He gave me a SOBA handbook on basically how
8 they basically maintain, look, build, whatever as far
9 as boat ramps. I asked him questions about -- and
10 this was an ongoing process, too.

11 Q. What is SOBA?

12 A. SOBA is the State Organization For Boating
13 Access. It's just a handbook basically and
14 guidelines that show a lot of engineering drawings of
15 how to build ramp structures, what they should look
16 like. It just goes over the whole process regarding
17 boating access.

18 Q. Does DNR have any supervision or interests or
19 involvement with boat landings?

20 A. Sure.

21 Q. What kind of interests or supervision or
22 involvement are you talking of?

23 A. Basically they select, build and maintain
24 boat landings throughout the state. So I thought
25 they were a good source to basically go and talk to

1 and garner information as far as guidelines, as far
2 as construction costs, and just basically to start
3 investigating information I would need in looking at
4 selection for boat sites.

5 Q. Apart from their unwillingness to participate
6 in the committee, did they in any way hamper your
7 investigation or frustrate your investigation or not?

8 A. No. They were very good.

9 Q. Now, what other investigation did you
10 conduct?

11 A. Basically I checked with them and started
12 gathering information. I started doing things to
13 start learning about the river, and then mainly I
14 just was getting ready to set up our meeting with the
15 committee on the 29th.

16 Q. By the time you set up the first meeting with
17 the committee what had you put in place insofar as
18 your investigation goes? What had you done which
19 established the basis for the -- not the basis for
20 the committee, but what the program would be?

21 A. Basically I just had an outline of basically
22 how the process would go all the way through, all the
23 way down to the selections of the preferred -- you
24 know, all the way to picking -- having somebody do
25 the HAZMAT site selections and those type things.

1 I had basically just set that up, and that's
2 what we were going -- those were a step by step
3 process we were going to do on the 29th.

4 Q. Now, on the 29th what kind of business was
5 conducted in that meeting?

6 A. Well, it was a good four- or five-hour
7 meeting. This basically was the meat of the process
8 as far as getting it started.

9 What we did there -- and I understood that
10 Orangeburg County had never gone -- to my
11 understanding had never gone through a process like
12 this, so I had to guide them through the process.
13 It's very important that we follow the process that
14 we go through to make sure that we don't have any
15 vices. And at that meeting I said again -- because I
16 do. I understood what was going on with the -- we
17 talked about the boat landing closed. People were
18 upset. Basically the landowner was upset about the
19 -- people upset about them. I knew all that was
20 going on.

21 I've always been taught if there is an
22 elephant in the room, you introduce it, and that's
23 what I did. I basically told everybody on that
24 committee that this process will have no preconceived
25 ideas. This process is a tried and true process that

1 is based off of open communications, based off public
2 input, and it's based off deciding the thought
3 process criteria before you actually look at any
4 alternative. And that's what we did.

5 We did a lot of things that day. The first
6 thing -- and this is, again, in my meeting minutes --
7 is that D'Anne brought us up to speed on where
8 everything was at; talked about that there was
9 concerns over the loss of public boat ramps here at
10 Ness, and then basically one that was also,
11 I believe, Poole's Landing on the North Fork. They
12 were very interested in bringing an Orangeburg
13 County controlled boat landing that basically they
14 could make sure that they had for the citizens to
15 use that resource of the South Edisto.

16 They also talked about the retreats
17 that they had and that the county council's meeting
18 minutes basically said that really No. 1,
19 I believe, on the recreation agenda or recreation
20 side of the fence or whatnot was define an access
21 on the South Fork of the Edisto. So we went
22 through that.

23 After we got that kind of -- the
24 background and whatnot, I started to lead them
25 through the process, and what that process was is

1 first we had to develop a purpose and need. That's
2 what devised -- that's the first start. What the
3 purpose was defined as is basically to deliver the
4 citizens of Orangeburg County -- and let everyone
5 to use it, but specifically the Orangeburg County
6 citizens a boat landing that was owned by
7 Orangeburg County that provided access to the most
8 users, that basically -- obviously it gets into
9 accessibility; that kept -- tried to keep the
10 pristine manner of the river that you had, and it
11 was something that could be used perpetually for
12 the citizens from now on. And our purpose and need
13 is in the proposal -- not the proposal, but in my
14 decision document. But that was pretty much what
15 the need was. It had to have public access;
16 ability to get to it. It really didn't make sense
17 to have a public landing and you couldn't get to
18 it.

19 So once we decided what the purpose and
20 need was, then we went and looked at -- we looked
21 at the criteria also. What did we want? We wanted
22 a situation that was accessible to handicapped
23 people, that was roughly about an acre; could meet
24 about ten boat trailer type situations. The roads
25 had to be a certain width. It's in my proposal.

1 I'm trying to go off the top of my head here.

2 Q. Well, do you have a copy of your proposal?

3 A. I don't have it right in front of me. But it
4 had to be a certain width, because part of the
5 guidelines of the SOBA was that you needed roadways
6 to be certain widths and certain heights.

7 MR. de HOLCZER: Your Honor, if I could
8 approach, I just want to make it available if he
9 needs to refresh his memory.

10 BY MR. de HOLCZER:

11 Q. Mr. Still, if at any time you need to refresh
12 your memory, just announce that or let us know. We
13 will be happy to accommodate your needs.

14 A. What I'm telling you basically is the flow of
15 the decision document also. We set up the purpose
16 and need. I could read that to you if you wanted to.

17 "The new ramp is proposed for the purpose of
18 providing the citizens of Orangeburg County with an
19 additional public access boat ramp along the South
20 Fork of the Edisto."

21 Q. If you could speak a little slower.

22 A. "The proposed project will incorporate safe
23 and cost effective strategies while maintaining the
24 integrity of surroundings, both ecological and
25 social."

1 Then we got into the design criteria, which
2 basically you'll see -- I won't go over all these,
3 but one acre; a minimum of ten. We want to have --
4 ultimately would be to have some type of safety
5 lighting out there. Obviously want to have a
6 concrete ramp to make for the ease of boats in and
7 out. You don't want to slide down a muddy slope.
8 Access roads to be around 24 feet wide with about
9 13-1/2 foot of clearance so folks don't hit all those
10 things.

11 Those are just the guidelines. Again, trying
12 to build the foundation of what we're looking for,
13 I guess I should say.

14 After we did that, after we developed
15 what the purpose and need was -- and it needs to be
16 accessible. It needs to be on the South Fork of
17 the Edisto or whatnot -- we went to define our
18 study area. And after we developed the purpose and
19 need we basically -- I laid out a Goggle map of the
20 profile, I guess I should say, a 40-mile section of
21 the South Fork, which is pretty much the border
22 between Orangeburg and Bamberg County. And in that
23 what I had done is I had simply looked before the
24 meeting -- basically looked at all the roads that
25 led down to the river.

1 Roughly what I found was there was 18
2 different locations all the way throughout the full
3 South Fork. And what we did there is then I
4 presented that to the committee, and then what we
5 did is we took the purpose and need and started
6 figuring out -- we started figuring out to see what
7 the actual study area would be.

8 In doing that the county commented on:
9 Well, this isn't public. This isn't public as far
10 as access. So I started whittling down those 18.
11 And then when we looked at the study area -- I'm
12 going to go to my Exhibit B, Appendix B. I had
13 gotten -- one thing you want to do is you want a
14 high user rate, obviously. You don't want to put a
15 landing out there that doesn't have the most
16 optimal user rate.

17 Orangeburg County has got a very good
18 GIS system.

19 Q. What is a GIS system?

20 A. It's a global intelligence -- I always just
21 say "GIS". It's mapping that basically you use that
22 stores data or whatnot such as parcel information.
23 Global intelligence -- Global Information System.
24 But it's just a way that -- there is a lot of things
25 that are on there. I was very familiar with that

1 system in Horry County. It's a very sophisticated
2 system and that you're able to get a lot of
3 information based off mapping. You can get leveling
4 information. You can get road information. You can
5 get parcel information. It's a very good system.
6 And Orangeburg has that system, so I used that.

7 One of the things it had here was the -- it
8 had the census data to show population areas. So I
9 used that to look at the population areas. And
10 obviously the biggest population area is Orangeburg.
11 You've got Cope and Norway and those areas, but
12 that's the biggest population area.

13 So what we looked at is -- as we were cutting
14 those roads that didn't have public access into it,
15 is that we were also looking at where the area is
16 going to be that is going to serve the most people.
17 And in any study area you want to have something that
18 has what I call the cerebral borders to make sure
19 that you know -- to have logistical areas. We could
20 look over the whole 40 miles, but if we're not having
21 access there and if people are not -- this is going
22 to be one end of the county -- if the landing is on
23 the whole other side of the county from where your
24 population centers are, it really doesn't make sense.

25 So we defined that area to basically go along

1 Cannon Bridge Road, S39, and basically 321 based off
2 the census data showing where the population center
3 was, which obviously is Orangeburg.

4 Q. Let me ask you: During this process when you
5 say "we", did you or did you not have any input from
6 the committee members?

7 A. I was basically shepherding them through the
8 process. I was giving them information and they
9 would make the decision or they would, I guess,
10 follow the decision, if it made sense. It was almost
11 a collaborative type situation. They didn't
12 understand the process, and I was kind of shepherding
13 them through the process. You don't just go and just
14 figure out what the study area is before you start
15 figuring out what your purpose and need is. You
16 don't start going and looking at sites before you go
17 through these processes.

18 So I would have them go through these
19 processes. The situation like: What is public
20 access? We want to make sure there is public access.
21 That was all agreed upon.

22 Q. When you are going through this, at that
23 stage where you're determining the study area, do you
24 have any public feedback through the hearing at this
25 point or through any mail-outs or any other method?

1 A. When we came up with what the study area was
2 that day -- and quite frankly, we found it was a
3 pretty good study area. Because if you look at the
4 section of the river, there is seven crossings. In
5 that study area --

6 Q. Seven what kinds of crossings?

7 A. Seven bridge crossings that go from
8 Orangeburg over to Bamberg County across the river or
9 bridge or whatnot. If you look in that study area,
10 four of the seven crossings are in that segment.
11 There is two crossings up more toward Springfield,
12 which is really, I guess, the western part of the
13 county, and then you've got another one that is more,
14 I guess, toward Branchville, which is the eastern
15 part of the county. So they were kind of more spread
16 out. But you had four of the seven.

17 And what I also found out, too, if you look
18 at the ADT on it, of those four three of them had the
19 highest ADT. "ADT" is average daily traffic. That
20 means more people are going by there. So common
21 sense would say if you've got more people going by
22 there, you've got a higher user rate.

23 Then also when the surveys came back I looked
24 at it, and by just compiling the information people
25 said that 18 miles is about as far as they want to

1 go.

2 Q. Let me back up. Where do you get the ADT
3 information from?

4 A. I got that from the SCDOT Web site. What
5 they do is they put all the traffic counts from all
6 the counties on their Web site.

7 Q. How often do they do those traffic counts?

8 A. Every year. This was 2006 data.

9 But it's important to understand -- I know
10 I'm being long-winded here, but it's important to
11 understand we went through all that process. We went
12 through establishing a purpose and need. We went
13 through what the design criteria should be and then
14 we went through defining what the study area would
15 be, and that's when we whittled down from the 18 we
16 had down to four.

17 We didn't make a decision then. What we did
18 is then we said: We've got to take this to the
19 public and let them look at what our thought process
20 was and comment on it and see if it needs to be
21 different.

22 Q. And what did you do to get the comment and
23 input of the public at that point?

24 A. It was two phases. We needed to establish --
25 one thing is establishing a need. So they put out a

1 Need Assessment Survey, which you heard about earlier
2 that Mr. Young did.

3 Q. Is there a copy of that Need Assessment
4 Survey in your decision document?

5 A. It's not in this one, but that was sent to
6 the county.

7 Q. Well, do you have a copy of that, of a blank
8 one?

9 A. Of a blank one?

10 Q. Of a blank survey.

11 A. In my document I go over each one of the
12 questions.

13 Q. If I can refresh your memory from some
14 document, let me show you one.

15 Does that look familiar to you?

16 A. Yes. That's the Need Assessment Survey.

17 Q. If you would, please publish the Need
18 Assessment Survey that was mailed out, the blank one,
19 to the Court. What does it say?

20 A. You want me to read the top section?

21 Q. I want you to read the survey to the Court.

22 A. The whole survey to the Court?

23 Q. Yes. What you sent out and asked for
24 information from the public.

25 A. "Background: Orangeburg County is seeking

1 your assistance to determine the level of need for a
2 government owned public boat landing on the South
3 Fork of the Edisto River. To assist, please complete
4 the survey and return it to the county in the
5 enclosed self-addressed, stamped envelope prior to
6 February 12th.

7 "In addition, the county will hold a public
8 hearing regarding the subject and site selection
9 criteria on Thursday, February 15th, 2007 at the
10 Career Center, 6052 Slab Landing Road, Cope, South
11 Carolina. If you have opinions or comments regarding
12 this subject, your attention at this hearing will be
13 greatly appreciated."

14 You want me to read all the questions?

15 Q. Please.

16 A. "Survey: Please answer the following
17 questions. Do you boat in Orangeburg County? Blank.
18 If you do not boat in Orangeburg County and would not
19 do so even if a boat landing was accessible to you,
20 there is no need for you to complete the other survey
21 questions. If that is the case, please return the
22 surveys to the county after completing your answer to
23 Question 1.

24 "Question 2: If you do not boat in
25 Orangeburg County but boat elsewhere, is lack of

1 accessibility to a conveniently located public boat
2 landing, a factor in your decision not to boat in
3 Orangeburg County?

4 "When you boat in Orangeburg County, what is
5 the purpose of your boating? That was Question 3.

6 "Question 4: Do you boat on the South Fork
7 of the Edisto River? Question 5: If you boat in
8 Orangeburg County and your answer to Question 4 is
9 no, please answer the following questions.

10 "Question A: If a government owned public
11 boat landing was conveniently located and available
12 on the South Fork of the Edisto River, would you
13 consider boating there?

14 "5B: What would such a location need to
15 offer for you to select it for boating?

16 "Question 6: Where in Orangeburg County do
17 you currently boat?

18 "Question 7: What factors or circumstances
19 contributed to your selection of the locations given
20 in your response to Question 6?

21 "Question 8: If you could boat anywhere in
22 Orangeburg County you wanted -- Part A: Where in
23 Orangeburg County would you prefer to boat? Part B:
24 Why?

25 "Question 9: If you could boat anywhere in

1 Orangeburg County on the South Fork of the Edisto
2 River you wanted -- Part A: Where on the South Fork
3 of the Edisto would you prefer to boat? Part B:
4 Why?

5 "Question 10: How far do you typically drive
6 to boat in Orangeburg County?

7 "Question 11: How far do you prefer to drive
8 to boat in Orangeburg County?

9 "Question 12: How far are you willing to
10 drive to boat in Orangeburg County?"

11 Then there is a chart on here about community
12 assessment and quality facilities affecting entire
13 jurisdiction with conditions. Check: Doesn't exist.
14 Good, fair or poor.

15 Would you like me to read those?

16 Q. Please.

17 A. Under community assessment in which they
18 would basically rate doesn't exist, good, fair or
19 poor, the first one is water source; the second one
20 is water treatment; the third is water distribution;
21 the fourth is sanitary sewer treatment; the sixth is
22 storm sewer collection; the seventh is other
23 draining; eight is streets; nine is sidewalks; ten is
24 parking, recreation facilities; 11 is parking and 12
25 is: List specific locations of problem areas.

1 Then the last thing on the bottom is: Thank
2 you for your time in assisting Orangeburg County
3 assess the need for a boat landing on the South Fork
4 of the Edisto River. We hope to see you at the
5 public hearing on February 25th.

6 Q. Now, with regard to the community assessment
7 chart which you just spoke, that really doesn't
8 direct much information or require much information
9 about a boat landing, does it?

10 A. It doesn't require much information?

11 Q. I'm talking about the chart that you just
12 read. There is nothing in there about boat landings?

13 A. No, sir. You could maybe say parks and
14 recreation, but nothing that says boat landings, no,
15 sir.

16 Q. If you could go on with your explanation
17 about getting public input.

18 What other measures besides this mail-out
19 were there for obtaining public input?

20 A. What we did at the public hearing on the --
21 I believe the 15th or whatnot at the career center
22 is that we had -- we basically had an aerial
23 drawing of the four sites that basically we had
24 come down to, we had a description of the study
25 area in which we were looking, and then -- one

1 thing I failed to basically talk about is before we
2 got into the actual looking at alternatives we also
3 set up what is the decision criteria we're going to
4 make. I want to make sure I'm explicit about this.
5 This was done before any site selections were cut.
6 "What decisions are we going to look for and what
7 were the weighting?" And that basically came into
8 the factors that we would decide on: Schedule,
9 cost, functionality, environmental safety,
10 esthetics and long-range planning. And those were
11 the factors that we were going to, and we put a
12 weighting on those so once we got the data we could
13 put them in there and then come up with some type
14 of numbering system that would show us which is the
15 preferred site.

16 Now, what we did is basically also show
17 that information of what we were looking at to make
18 a decision on what were the evaluation criterias
19 and what their weightings were at the public
20 hearing to get comments from the public on the path
21 we were taking.

22 Q. Where did the factors come from?

23 A. Basically those factors are from -- it's just
24 a NEPA process. It's basically the same process I
25 always go through.

1 In our talks when we discussed -- you sent me
2 some factors that had been basically in a previous
3 court case. Because I was asking -- obviously any
4 time I'm doing a proposal I try to ask for as much
5 information as I can get. So I received that from
6 you, and what I looked at was -- it's really the same
7 thing -- when I was doing NEPA documents, we would
8 look at safety; we would look at environmental; we
9 could look at cost. All those are the same exact
10 factors. So I basically just used those factors to
11 basically come up with what our decision documents
12 was.

13 Q. Did you use at all your professional judgment
14 as an engineer in selecting the appropriate factors
15 for this study or not?

16 A. Yes. I would not have used those if it
17 wasn't consistent with what I was going to do.

18 Q. Now, you said you were at the public hearing.
19 You made things available.

20 How were these presented to the public? In
21 what format?

22 A. They were in the format that I'm used to,
23 which is a drop-in style. DOT uses it all the time.
24 It's not a situation where people get up and talk.

25 I've always found that if you had that kind

1 of situation, is that the people that really came to
2 get information and just wanted to know about the
3 project would usually be overshadowed by somebody who
4 really wanted to talk a lot. So we made it a drop-in
5 style; casual.

6 We set up basically four stations where
7 people could go in, see the alignments, see those
8 four alignments, see our decision criteria that we
9 made and the study area so they could come in and
10 look. We went around. Basically had the BLAC
11 committee to answer questions of how we got there.
12 Myself was there to answer questions of how we got
13 there. So if people had questions, that we answered
14 them. It was a very informal process. To me that's
15 the best way to get real comments from people.

16 Q: At these stations were there any sort of
17 exhibits?

18 A: Yes. There basically was the exhibits --
19 an aerial exhibit of each one of the four sites that
20 we were looking at.

21 Q: Let me show you some documents and see if you
22 can identify them. Can you identify these documents?

23 A: Yes. These are documents that I used at the
24 public hearing.

25 MR. de HOLZER: I will be happy to hold one

1 up so the Court can see it, but we would like to
2 offer these into evidence, these being the public
3 hearing documents that were made available to the
4 public.

5 A. (Continued) This obviously was one here.

6 Q. Let's start one at a time. Why don't you
7 just tell what it is and describe the size for the
8 record.

9 A. This is just an aerial of one of the sites,
10 basically the South Fork that we were studying, just
11 a kind of closer aerial.

12 Q. Where is that located?

13 A. It's located off of S39 or Cannon Bridge
14 Road.

15 Q. How big is this display that was available to
16 the public?

17 A. How big is the size of this?

18 Q. Yes.

19 A. Roughly 24 X 36.

20 Q. Is it in color or black and white?

21 A. It's a little bit of both.

22 This is Potential Site 3, which is Explorer
23 Drive, just kind of showing you more -- we were
24 trying to get into a closer view of that. It's much
25 like the other one, 22 X 36.

1 Q. Color and black and white?

2 A. Both. A little bit of both.

3 Q. And this was also available at the public
4 hearing?

5 A. Yes. Potential Site 2, which is Binnicker
6 Bridge. It's basically the same size and the same
7 color orientation.

8 Q. It's a black and white? A little bit of
9 color?

10 A. We colored in the limits of the road and
11 basically the river.

12 Q. Does it in any way exaggerate Potential Site
13 2 in any way as different from any of the other
14 sites?

15 A. No. They were all the same.

16 This is Potential Site 1, and basically this
17 is the same thing, just showing the parcel layouts,
18 basic GIS information, and just the exact same thing,
19 same size, same color, whatnot.

20 Q. And this is Potential Site --

21 A. Site 1.

22 Q. Was there any more site specific exhibits?

23 A. No. We just showed site specific on those
24 blowups, and then what I thought -- it was bigger
25 than this. I had one that led over the whole table,

1 but this is showing the project corridor.

2 Q. How big is this exhibit today that we have in
3 the courtroom? Approximately.

4 A. 22 X -- maybe 48.

5 Q. Approximately how large was the one you had
6 at the public hearing?

7 A. The one I had at the public hearing, if I
8 remember right, was pretty much closer to six feet.

9 Q. In length?

10 A. In length.

11 Q. And about how tall?

12 A. Probably about 3 X 6. Just a little bit
13 bigger.

14 Q. Apart from size is this in any way different
15 from the one you had at the public hearing?

16 A. No, it's not. And this is just defining the
17 study area.

18 MR. de HOLCZER: Your Honor, we would offer
19 all five of these exhibits into evidence at this
20 time.

21 MR. MORRISON: Without objection, your Honor.

22 If I may just put one thing on the record
23 before we agree fully about these exhibits. As you
24 know from the directed verdict motions, it's our
25 belief that the key issue in the case is what

1 happened before this witness got involved. And this
2 is a site selection process that he knew all about.
3 And it is the direction of counsel to define this
4 site on the South Fork Edisto, and we think that
5 direction was not in accordance with the condemnation
6 laws.

7 So it's important, I think, that I at least
8 state an objection to the relevance or any testimony
9 from this witness, including his exhibits. And I
10 know the Court has said several times you want to be
11 liberal about evidence and weigh it as a court of
12 equity, which I completely respect, but I want to
13 make my record about this just for the reasons
14 stated.

15 I know I'm overruled, but thank you.

16 MR. de HOLCZER: Your Honor, shall we
17 proceed?

18 THE COURT: Yes.

19 BY MR. de HOLCZER:

20 Q. Mr. Still, at the public hearing did you have
21 any conversations with citizenry regarding this
22 project?

23 A. Yes. I spoke to several people, and that's
24 really what I was there to do, is just really to take
25 conversation with people who came to the tables and

1 looked at them, show them -- one of the exhibits
2 we're not showing or we don't have here is we had the
3 design criteria -- or our decision criteria of what
4 we got; go over that with them and say: This is how
5 we're deciding. Do you agree with that? or whatnot.
6 So yes; I talked with several people.

7 Q. Did anybody from the Boat Landing Assessment
8 Committee give a speech, an introductory speech or
9 presentation with reference to any of the exhibits?

10 A. No, they didn't. Again, I conformed to the
11 more casual drop-in style to get their comments.

12 Q. Are there various styles of public hearings
13 which can be conducted?

14 A. Yes. Actually the DOT has changed
15 tremendously now, which the governor basically got
16 involved and said you have to have -- you need to
17 have more of a drop-in style for a certain portion of
18 it, and then after that you actually have to have a
19 presentation, and then people come and you've got
20 like public input, three minutes each time to talk.

21 In my personal opinion -- I've seen it both
22 ways on big projects, small projects, and I think you
23 get better comments, sincere comments, from people
24 when they're more on a one-on-one basis and they
25 don't feel like they're being overshadowed by other

1 people.

2 Q. Do you have an opinion whether or not this
3 process, this public hearing process, conformed with
4 the law and conformed with the standards of public
5 hearings at the time it was conducted?

6 A. Sure, it did, yes.

7 Q. And your opinion is?

8 A. My opinion is yes.

9 Q. Now, with regard to the public hearing
10 comments, did you summarize any comments in any part
11 of the report?

12 A. Yes, I did.

13 Q. And how did you do that?

14 A. We received 19 comments. It's in my proposal
15 -- in my document. And basically we received 19
16 comments. Of those 19 comments 17 were in favor of a
17 government owned boat landing. And then I looked at
18 the spots or whatnot. One of the comments was just
19 -- it actually didn't really weigh in in my
20 presentation, so I kind of threw that out, but a
21 majority -- I looked to see if they were favoring one
22 or the other, and the majority of them were favoring
23 the Binnicker Bridge.

24 I went back and I looked at this. I've got
25 17 here. Actually it was 15 that were doing it. I

1 found out I made a mistake there. But one was
2 looking at the South Fork, and then one that just
3 wasn't really into it or whatnot.

4 Q. Could you clearly summarize the content of
5 those comments as you've summarized them in your --

6 A. Oh, yes. They were very specific.

7 Q. So total number of comments received was how
8 many?

9 A. 19.

10 Q. And then going through your summary on
11 Page 9: Number of comments in favor of a
12 government owned boat landing?

13 A. 17.

14 Q. Number of comments favoring Tyler Landing
15 road site?

16 A. There wasn't any.

17 Q. Number of comments favoring Binnicker Bridge
18 road site?

19 A. There was 15. That was incorrect. It says
20 17. That was incorrect.

21 Q. Number of comments favoring the South Fork
22 road site?

23 A. There was one.

24 Q. General comments that did not relate to sites
25 or weighted factors?

1 A. There was one.

2 Q. Now, if you could, do you recall -- or if you
3 know this, how many total of the mail-out surveys
4 were returned to the county?

5 A. Were returned? There was 139, I believe.

6 Q. And do you have that information summarized
7 on Page 10 of your decision document?

8 A. Yes.

9 Q. Of the 139 total survey -- of those surveys,
10 could you then using the information you have
11 summarize these as concisely as you did on Page 10.

12 A. Yes.

13 Q. How would you summarize these?

14 A. Of the 139 that were sent to us, 82 were yes,
15 57 were no.

16 Q. And the question was?

17 A. Basically: Do you vote in Orangeburg County?

18 Q. Okay.

19 A. 82 of them said yes, 57 of them said no.

20 Q. Now, what would be the next factor or next
21 thing addressed in the survey and how was it
22 responded to?

23 A. The next question?

24 Q. Yes.

25 A. "If you do not boat in Orangeburg County but

1 boat elsewhere, is a lack of accessibility to
2 conveniently located public boat landing a factor in
3 your decision not to boat in Orangeburg County?

4 Q. And what was the response?

5 A. We didn't really get a lot of response. If I
6 remember right, that's why I kind of put
7 "nonapplicable".

8 Q. What other responses did you have?

9 A. The next question?

10 Q. Please continue that way through the question
11 and what the response was.

12 A. "When you boat in Orangeburg, what is the
13 purpose of your boating?" The majority of the people
14 said fishing, canoeing, pleasure and camping, were
15 all cited as the purpose for boating.

16 "Do you boat on the South Fork of the
17 Edisto?" All but 15 of the yes votes said they boat
18 on South Fork. 14 cited access as an issue to not
19 boating on the South Edisto.

20 No. 5: If you boat in Orangeburg County and
21 you answered Question 4 as no, please answer the
22 following question: If a government owned public
23 boat landing was conveniently located and available
24 on the South Fork of the Edisto, would you consider
25 boating?" All but six -- and I need -- this says

1 yes. It should be no votes. All but six of the no
2 votes were interested in a government owned boat ramp
3 on the South Fork of the Edisto.

4 B: What would such a location need to offer
5 for you to select it for boating? Parking, safe ramp
6 access and lighting were all cited as amenities.

7 "Where in Orangeburg County do you currently
8 boat?" South Fork, North Edisto, Santee and private
9 ponds were mentioned.

10 "What factors or circumstances contribute to
11 selection of the location given in your response to
12 Question 6?" Location, good fishing and accessible
13 river conditions were mentioned.

14 "If you could boat anywhere in Orangeburg
15 County you wanted, where in Orangeburg County would
16 you prefer to boat?" A. 60 of the 82 yes votes
17 cited the South Fork of the Edisto. "Why?" Because
18 of fishing and the location of it.

19 "If you could boat anywhere in Orangeburg
20 County on the South Fork of the Edisto you wanted --
21 -- it basically said 40 -- it was basically 48 of the
22 60 cited the Binnicker Bridge location. I had a typo
23 there.

24 "Where on the South Fork of the Edisto would
25 you prefer to boat?" Binnicker Bridge was what was

1 cited. "Why?" Fishing, location and history.

2 No. 9: How far do you typically drive to
3 boat in Orangeburg County?" 71 of the 82 responded,
4 and that was an average of 18 miles, 17.9 miles.

5 "How far do you prefer to drive to boat in
6 Orangeburg County?" 61 of the 82 that responded said
7 ten miles.

8 "How far are you willing to drive to boat in
9 Orangeburg County?" 56 of the 82 responded and said
10 an average of 18 miles.

11 Q. Now, how did this information gathered at the
12 public hearing and through these responses to the
13 survey impact the study? How did you incorporate
14 that information in the study? if at all.

15 A. Well, basically that was -- it was a Need
16 Assessment Survey. So we set out there to calculate
17 what the need is, and basically of the ones that came
18 back, the majority of them, 82 of them, said yes. Of
19 the ones that said no, ten of them filled out why
20 they said no. I believe three of them were just that
21 they didn't want to bother with the Williamsons --
22 didn't want the Williamsons bothered.

23 Another one was about pollution. One was
24 about they felt there was other things the county
25 should be doing other than a public landing.

1 Q. Other priorities?

2 A. Other priorities.

3 Q. Again, how did the committee take this
4 information and use this, at all?

5 A. Well, we used that really -- really what it
6 did -- like I said earlier, it kind of validated what
7 our -- it helped validate some of the thought
8 processes we had.

9 One is that the study area we're at is
10 roughly 18 miles from the population center of
11 Orangeburg. And it sits pretty much in the middle of
12 that section of South Fork, so it allows people to go
13 -- people going 18 miles, basically off those
14 numbers, they're going as far as they want to go now.
15 I think it kind of helped that: Well, they're not
16 going to the other end of the county. We're not
17 placing it at the other end of the county. If
18 they're on the west side, they've got to go to the
19 east side or whatnot. But as far as -- it just
20 helped establish the need.

21 Q. When you say an average of 18 miles, did
22 people actually say "we'll go an average of 18
23 miles", or did you calculate the 18 miles?

24 A. The way I came up with that, quite frankly,
25 was you had some people that said: I'll go two

1 miles.. You got other people that said I'll -- I
2 think there was one as high as 50. I'm not sure.
3 But there was a wide -- we had some that said
4 nothing. I just didn't count those... But the ones
5 that actually -- which I've got the number in here
6 that actually put something in there.

7 I added all those together and divided it by
8 the number, and that's how I come up with the
9 average.

10 Q. You testified about how many surveys you
11 received; is that correct?

12 A. Yes..

13 Q. And it was a total of --

14 A. A total of 139. I got them actually twice.
15 I got one which was a little bit less and I got like
16 another 19 a little bit later. So that's what added
17 up to 139.

18 Q. Do you actually have custody of 139 of these
19 surveys?

20 A. No. Basically I lost, I believe, 23 of them.
21 It was my fault. I had them set up in "yes" votes
22 and "no" votes, and I lost 23 of the "no" votes --
23 the "yes" votes.

24 What I did is when I sent the original
25 document, I also sent the originals with it. That's

1 just what you do with the document. You send the
2 original copy and all that. And I sent that along
3 with the first of the middle of -- March 15th.

4 Apparently when I went to copy those from our
5 records, I ran out of paper on a copier or whatnot.
6 But I misplaced those. But I can sit here and tell
7 you I went over and over on those things. I know
8 right now and I can sit here and -- I know there is
9 139.

10 I also had my partner Rob Hamby go and verify
11 those numbers before I even put them down. So he
12 could testify to that. It was 139 of those.

13 Q. As you sit here under oath there were 139?

14 A. Yes.

15 Q. And was there any motive involved by anybody
16 or did you receive any instructions on how to handle
17 these?

18 A. No. It was just basically my fault.

19 Q. Would you tell the Court how you ran through
20 the decision matrix and applied the factors to the
21 sites, the sites that finished up in the report.

22 A. It's fairly self-explanatory. One thing I
23 wanted to do is be precise, simple, so it's very
24 understandable.

25 The first thing we looked at is the schedule.

1 We looked at the three sites. Then we ranked -- what
2 I did, I ranked them 1 to 3, 3 being the best. And
3 then we had already decided on what were the top
4 factors that we were looking for in these boat ramps.

5 One is that there was a closing. So there
6 was -- the citizens don't have the ability like they
7 once did to get to South Fork. So schedule was a top
8 factor or whatnot. So that weighed in 10 points.

9 Functionality, which basically is: Is it
10 close to our users? There we go back to ADT.
11 Actually you don't want it 15 miles back in the
12 woods. You want it somewhere that is close to a
13 crossing, close to a state road or something that is
14 easy to get to, and that's where we looked at the
15 ADT.

16 Then you get into cost. We talked about
17 earlier I talked to DNR. They gave me some costs
18 about construction of the ramps, what they were
19 getting for the concrete ramps. Also about some of
20 the parking lot information they gave me. Also
21 talked to the county about getting costs from them of
22 what they had in building some roads. Because some
23 of these did need a little bit of road work to get to
24 the 24 feet and 13-1/2 feet of clearance.

25 Those were the three top -- for lack of a

1 better word, the highest weighed. Then we looked at
2 environmental aspects of it. Is it going to need
3 permitting? Is there a permitting issue or whatnot?
4 Analyzed those.

5 Then we looked at safety, and when we looked
6 at safety I just did an evaluation of the site
7 distance of those areas. Could people get in and out
8 without much difficulty? Especially with the boat.
9 I basically visually inspected each one of those
10 areas. And then we also looked from the safety
11 standpoint -- one of the conversations I had with DNR
12 was about being able to safely launch your boat. One
13 of the things I looked at: Was there something
14 off-channel for them to be able to launch their boat?

15 Obviously if you're not launching into the
16 main channel, you're able to launch into a slue, if
17 you will. It's a better situation if you're
18 launching into a main channel.

19 So we just looked for those criteria.
20 Esthetics, basically we look -- what I did in, I went
21 to the state historical preservation office to see if
22 there was any archeological significance or any big
23 significance of any of those areas of the four that
24 we were looking at. They basically came back to me
25 and said that there really wasn't. There was no

1 known archeological sites. So that's what we looked
2 at there.

3 Then I looked at the long-range plan. Did
4 one site fit into the long-range plan of the county
5 better than the other one? Would it facilitate
6 something of more use toward recreation or just for
7 their long-range plan would one do something
8 different than the other?

9 Q. Where did the long-range plan information
10 come from?

11 A. I got that from Mr. Young.

12 Q. Please continue.

13 A. Basically do you want to know how I rate
14 them?

15 Q. Yes, please.

16 A. Basically on schedule what we rated there is
17 -- pretty much on schedule the Binnicker Bridge or
18 Ness Landing or whatever you refer to -- obviously we
19 had a quick schedule. It was an existing boat
20 landing that we just established for the Court that
21 you could open up. You could really use it right
22 then.

23 The South Fork I had rated next. You had to
24 do a little bit of road work or whatnot, but it had
25 kind of an open feel. So it wasn't huge -- it wasn't

1 a huge ordeal. But the biggest thing, you had to
2 build a ramp there. Tyler Road was second because of
3 several factors that I looked at -- and it's
4 mentioned in here -- is that you've got to put the
5 boat ramp in. And Tyler Landing basically also had a
6 lot of residential sites, so you had some issues
7 there.

8 Functionality, I basically rated the
9 Binnicker Bridge or Ness the highest. The reason I
10 did that is solely on the ADT. That crossing there
11 had the highest ADT based off the 2006 DOT stuff. If
12 you look -- I've got it in the chart. Binnicker
13 Bridge had -- according to the 2006 counts, it
14 basically had 3,100 cars a day go by it. Obviously
15 the more cars go by it, the more potential users that
16 you have. That was a thought process behind it.

17 Next was basically Tyler Landing. It's off
18 321. The same situation. It was roughly about a
19 thousand cars per day. Binnicker Bridge basically
20 was the highest rated there simply because you had a
21 ramp in place that was already cleared. You had a
22 roadway pretty much there. There really wasn't a lot
23 of work that had to be done. And one of the issues
24 with -- it just was less work that had to be done.

25 We also looked at -- I just made a cost

1 projection on it. What I did there was basically
2 just go off the GIS information so I could be
3 consistent and brought the tax assessors dollars for
4 those and just used those for comparison. It was not
5 saying that that was the value of the property; it
6 was just basically use those for consistent
7 comparison, a way to consistently compare cost for
8 any right-of-way impacts that you perceive.

9 The next one was environmental. Basically
10 that was weighted seven points. Tyler Landing pretty
11 much was better there because there really wasn't --
12 there wasn't as much impact. Binnicker Bridge was
13 actually the worse there because if you go to expand
14 it, there was going to be some wetlands impact.

15 The safety portion of it is that -- I went
16 and did a visual inspection. Binnicker Bridge and
17 South Fork, Tyler, I didn't really see any access
18 issues on any of them that would require anything to
19 say that they differentiated from each other.

20 Tyler Landing also had a lot of issues with
21 site distance, with a guardrail that was basically
22 real close to the road. The road itself came at an
23 approach which would limit the ability for sight
24 distance. You had utility poles in the way. You
25 also were basically taking a car and a boat over.

1 railroad tracks. It had a lot of obstacles to
2 safety. And then it was one of the ones that you
3 would really be putting in -- you would be basically
4 launching a boat directly into the channel.

5 The esthetics -- again, we looked at -- SHPO
6 gave us an opinion from archeology. They basically
7 said there was no known site. I got some information
8 from actually Mr. de Holczer that I researched about
9 a possible Civil War site being there, but since SHPO
10 told me that there was no known archeological sites,
11 I basically disregarded that. They're all very
12 beautiful spots of the river.

13 Q. For clarification, could you please explain
14 what SHPO is.

15 A. SHPO is a State Historical Preservation
16 Office. It's just a state agency that is responsible
17 for restoring sites in South Carolina.

18 Long-range plan, basically that was given to
19 me by Mr. Young. I reviewed the long-range plan to
20 see, as I said earlier, if it fit into any long range
21 -- if there was any one better than the other as far
22 as fitting into the highest and best use of the
23 property or whatnot. The highest and best use is
24 probably not the best way to say it, but the best use
25 of the overall plan.

1 Q. Would you clarify: Was one ranked higher
2 than the other? What was the ranking on the
3 long-range plan?

4 A. Basically I couldn't discern that any one of
5 them -- one was they had a site -- for some reason
6 they -- if you look on the comprehensive plan, they
7 had some type of mixed commercial going close to
8 Binnicker Bridge on 70 for some reason, but it didn't
9 really fit into the overall environmental --
10 recreational type things that were being promoted in
11 the long-range plans, so I didn't see anything to
12 merit one over the other, quite frankly.

13 Then I went through that, scored them based
14 off the weighting criteria that I had that we had set
15 up as far as the first part of the committee, and
16 then basically made a recommendation that the best
17 site was Binnicker Bridge based off of the factors
18 that I just went over with you.

19 Q. What was the final scoring on preferred
20 alignment?

21 A. The final score was 142 for Binnicker Bridge,
22 109 for S-Fork and 92 for Tyler Landing.

23 Q. "S-Fork" is South Fork?

24 A. Yes.

25 Q. But you had four alternatives at the public

1 hearing?

2 A. Correct. We had Explorer Drive, which was
3 one of the ones that we were initially looking at.
4 But, based off comments from the public hearing and
5 comments through the county or whatnot, it was raised
6 an issue that a portion of that road, Explorer Drive,
7 or whatnot or a major portion of it was not a public
8 roadway and certainly not making it accessible, which
9 got -- basically we found out that that was the case,
10 so it got eliminated from further consideration.

11 Q. In your opinion was the BLAC process or was
12 it not in compliance with the NEPA process you
13 mentioned?

14 A. It was in compliance.

15 Q. In your opinion was it or was it not the
16 determination of a preferred location for an access
17 point to the South Fork of the Edisto -- in your
18 opinion was it or was it not an objective process
19 that reached that conclusion?

20 A. It was objective. It was very objective.

21 Q. Were you also involved in a meeting on the
22 site with the landowners?

23 A. Yes, I was.

24 Q. Did you at some point investigate the
25 potential relocation of the access road to the

1 Binnicker Bridge site?

2 A. We looked at -- we provided -- our company
3 provided drawings for two different alternatives for
4 getting access. They were -- basically two sides
5 were trying to negotiate a settlement.

6 Q. Was there a problem with moving or building a
7 changed access road to the bridge or not?

8 A. There was -- I didn't go out on site and
9 basically look at it, but the issues you had was that
10 -- I was on site. I didn't walk through the woods
11 like Mr. Whalen talked about, but it is a wet area.
12 It is a substantial increase in embankment, which
13 brings in a lot more fill basically from the roadway
14 down to the actual grade of the property.

15 There was some issue about -- I dealt with
16 DOT a little bit. I asked them about moving the
17 entrance a little bit. What is the impact of having
18 two entrances so close?

19 Q. So close to what?

20 A. So close to each other.

21 And then the problem is you're moving toward
22 the bridge, so there could potentially be some site
23 distance issues there.

24 Q. Did you ultimately make any determination
25 with regard to moving the access to the Binnicker

1 Bridge Landing?

2 A. I didn't make any determination. I just
3 facilitated the alignment.

4 Q. Did you make any recommendation with regard
5 to the location of an alternative access to the
6 Binnicker Bridge?

7 A. No, I did not.

8 Q. Do you have any opinion with regard to the
9 relocation of the access to the Binnicker Bridge?

10 A. No, I do not.

11 Q. Do you know whether any specific action was
12 taken to exclude the Williamsons from the Boat
13 Landing Assessment Committee public hearing or the
14 mailing of the Need Assessment Survey?

15 A. No, I do not.

16 MR. de HOLCZER: Please answer any questions
17 that Mr. Morrison might have for you, sir.

18 THE COURT: We have reached the 12:00 hour.
19 We'll take our lunch break now and return a little
20 after 1:00.

21 (Lunch recess taken.)

22 MR. MORRISON: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. MORRISON:

25 Q. Good afternoon to you, Mr. Still. How are

1 you?

2 A. Good. How are you?

3 Q. First off, I don't have too many questions
4 for you actually. A couple of things you said
5 already I want to get clarification on.

6 You were retained in this matter by, as you
7 testified, Mr. de Holczer.

8 A. No. I was retained by the county.

9 Mr. de Holczer contacted me, I guess, on behalf of
10 the county along with two other firms to put in bid
11 proposals.

12 Q. So the county became your client, but the
13 connection between you and the county was through
14 Mr. de Holczer?

15 A. Well, actually after the selection I was
16 solely with the county, and I kept Mr. de Holczer
17 informed what we were doing.

18 Q. You kept Mr. de Holczer informed, and
19 Miss Haydel was one of your contacts with the client,
20 was she not?

21 A. Yes, sir.

22 Q. And as it happened, when you were notified
23 that you were retained or had won the bid process,
24 I guess it was -- it was a competitive deal -- you
25 got this letter, Exhibit 11, didn't you?

1 A. Yes, sir.

2 Q. And that's a letter to you from

3 Mr. de Holczer dated January 5, '07?

4 A. Yes, sir.

5 Q. And it informs you you're the winner -- they

6 were impressed with your detail and organization;

7 correct?

8 A. Yes, sir.

9 Q. And the "Re" line is for the J.B. Ness Boat

10 Landing Project, isn't it?

11 A. Yes, sir.

12 Q. And you were told by him to coordinate your

13 work with Miss Haydel and Mr. McLauchlin, and if you

14 had any questions you could call or write him.

15 A. Yes, sir.

16 Q. Did you say when you were testifying about

17 the history that Mr. de Holczer sent you a history

18 article about Sherman or something about the Civil

19 War or something.

20 A. Yes, sir.

21 Q. Was it with respect to Binnicker Bridge?

22 A. Yes, sir. It was about Binnicker Bridge.

23 Q. Did he send you any history documents about

24 any of the other various sites you looked at?

25 A. No, sir, he did not.

1 Q. Did you ask Mr. de Holczer to do a history
2 research for you?

3 A. No, sir.

4 Q. Now, your job -- and I know this is what you
5 do and this is the terminology you use, and you and I
6 went through this at length in your deposition.
7 I think we have a complete understanding. But you
8 use always to organize your work the big heading
9 "Purpose and Need", which you mentioned several
10 times on direct.

11 A. Correct.

12 Q. And you testified that the purpose was to --
13 y'all established, first off, the purpose was to try
14 to get a landing near the most users owned by
15 Orangeburg on the South Fork Edisto in perpetuity,
16 and then you kind of blurred about that that was also
17 the need. But actually the need from Orangeburg's
18 point of view had been given to you before you were
19 retained, was it not? And you were told Orangeburg
20 County is going to get a landing on the South Fork
21 Edisto some place. So to the extent that the county
22 had a need, that was a given for your work.

23 A. Well, not necessarily a given. That was a
24 component of it certainly. Basically they identified
25 that they were losing landings and they wanted to

1 have a landing on the South Fork of the Edisto for
2 the public. And that wasn't -- honestly -- I know
3 it's gone back and forth. We know the landing has
4 been there for more than 30 years. Historically it's
5 used. That shows the use of a need, but we also put
6 out the Need Assessment Survey to help further
7 establish that need.

8 Q. Well, by "need" -- that need you're talking
9 about is public demand; right?

10 A. Correct. Demand. Right. Yes, sir.

11 Q. But let me make sure you and I are clear on
12 the record here.

13 You didn't undertake to study the necessity
14 of condemning or taking another landing on the South
15 Fork Edisto in Orangeburg County. You were hired to
16 find the best site for such a landing.

17 A. Correct. But as I also, I believe, testified
18 today is that part of that finding of the site, if
19 you look at the SOBA or whatnot, is you've got to
20 have the demand, which, i.e., goes through the
21 survey.

22 Q. And if you had found negligible demand, would
23 you have told Orangeburg County: You shouldn't have
24 hired me. Nobody really wants such a landing. There
25 is no need for such a landing from my point of view

1 as a professional engineer? Were you prepared to
2 give them that kind of recommendation?

3 A. The survey basically said there was --
4 I mean, I look at it two ways, to be very up front
5 with you. 1, there is historical use. So there
6 has obviously been a need for it for a long time.
7 So there was an established need.

8 What we were trying to see is currently
9 what the people are looking at from a need
10 standpoint. But did I have a threshold of how many
11 people -- if you're asking did I have -- if there
12 were two people that called back and said: I'm the
13 one interested in this. Would I have gone and said
14 that you need to stop this?

15 I didn't have a number, but I think --
16 if the surveys would have turned out where it was
17 more "no" than "yes", I think I would have brought
18 that to their attention.

19 Q. You just said obviously there was a need
20 because there had been historical use there. You're
21 talking about Ness landing?

22 A. There was a component there was a use, yes.

23 Q. So you equate historical use with a need?

24 A. That's one of the components I looked at,
25 yes.

1 Q. But you didn't check and didn't know how many
2 people use Ness Landing?

3 A. No.

4 Q. Didn't take any data on that?

5 A. No. It was closed.

6 Q. Now, you heard Mr. Livingston yesterday --
7 you've sat through the whole trial, haven't you?

8 A. Yes.

9 Q. You heard Mr. Livingston testify just about
10 like you're saying now. Since it had been used
11 historically, county council believed it should be
12 reopened.

13 You heard that testimony, didn't you?

14 A. Yes, sir.

15 Q. So let me make sure I'm asking you as an
16 expert is it your opinion that if there has been
17 historical need of use of a landing -- Ness in this
18 case -- that equates to a need from your engineering
19 point of view and site selection point of view?

20 A. Well, like I said, I think there is two
21 components. I think it was decided that they need
22 some form of -- whether it's Binnicker or somewhere,
23 they need some access to the roadway. And there was
24 -- excuse me. To the South Fork. And quite frankly,
25 historically there was access at that point. Now

1 that access is gone. So there has been a need for an
2 additional access there. But now we went ahead to
3 certify that need. We went and did the survey, an
4 assessment of need survey, and it came back that yes;
5 the majority of the people say it's needed.

6 Q. When you say "they" and -- you said a lot of
7 things. I don't want to get bogged down in semantics
8 with you, but I do want to make sure we're clear on
9 this.

10 You were told and it was a given before you
11 started that Orangeburg County had previously
12 determined there was a need on the South Fork Edisto
13 and they were going to acquire a new landing on the
14 South Fork Edisto in their county.

15 Now, you knew that from the beginning.

16 A. Yes, sir, I did.

17 Q. Now, whatever need evaluation you did after
18 that with surveys and the like had to do with trying
19 to gauge the demand for one potential location over
20 another; correct?

21 A. It basically was established -- part of the
22 question -- we did a lot of things actually, but if
23 you read the survey it talked about: Do you want --
24 are you interested in a public landing? Are you
25 interested in boating on the South Fork of the

1 Edisto? And the answer was yes. Would you be
2 interested in having an Orangeburg public landing?

3 And the answer was yes.

4 Now, in those they basically went and picked
5 out overwhelmingly where they wanted to go, but the
6 overwhelming demand of wanting to have an access on
7 the South Fork of the Edisto was established in that
8 survey also.

9 Q. "Overwhelming demand". Let me just ask you
10 about your survey, because you're talking a lot about
11 your survey.

12 Do you know where the survey was sent, or did
13 you leave that to Orangeburg County and Harold
14 Young's office?

15 A. Orangeburg County was responsible for that.

16 Q. You were told and you believe that 1,100
17 surveys were sent out; correct?

18 A. It's my understanding that 1,100 were sent
19 out, but there was 333 that was a wrong address and
20 they got back like 700 and something.

21 Q. Well, they got back useable surveys of about
22 139, didn't they?

23 A. Whether -- I got 139 surveys. I don't know
24 if they deemed some other ones unusable. I did not
25 know that..

1 Q. So you, the engineer in charge of this study,
2 what you're saying is you didn't exercise too much
3 control over this survey process. You didn't choose
4 where they were sent. You're not sure exactly how
5 many were sent. You don't know exactly whether
6 Orangeburg County weeded some out or not, but you got
7 back 139 usable surveys.

8 Do I have that straight?

9 A. Well, no. You're saying that I didn't know
10 how many were sent out. I basically checked into
11 that, and how many were sent out -- 1,100 were
12 mailed, 333 were returned due to incorrect address.
13 762 houses received those surveys and 139 of those
14 houses responded. And quite frankly, this is the
15 first I've heard of ones that were unusable. I was
16 never led to believe there were any that was
17 unusable. Quite frankly, a lot of these 139 didn't
18 really fill out anything, but they didn't have to if
19 they said no.

20 Q. You and the BLAC Committee set the corridor
21 or study area -- you reduced the whole length of the
22 South Fork Edisto from some 40 miles in length to a
23 study area about ten miles wide, didn't you?

24 A. Roughly about 10, 12, yes.

25 Q. Just happened to have Ness Bridge right in

1 the middle of it, the study area.

2 Now, you said the study area was selected
3 based on consultation with the committee, or did you
4 choose it yourself?

5 A. We developed the purpose and need and then we
6 based it on the situation of -- they started filling
7 out based on the purpose and need as far as public
8 access, and then we looked at -- you could probably
9 say they were defined by wanting -- you've got seven
10 crossings, and so trying to find that discernable
11 roadway limit, which is -- we looked at it. It was
12 S39 and then 321.

13 Q. Berry, all I'm asking you is who chose --
14 this question is much easier. Who chose the study
15 area?

16 A. I think -- I was trying to answer. I think
17 we all chose it.

18 Q. That's the answer.

19 A. I apologize.

20 Q. Now, you were not limited originally by
21 Orangeburg County with the scope of the study area.
22 You had the complete latitude as an engineer if you
23 wanted to study the entire length of the Orangeburg
24 South Fork Edisto in Orangeburg County; correct?

25 A. And that's -- as I said earlier, I looked at

1 18. possible potential sites over the full 40 miles.

2 Q. So you weren't limited?

3 A. No; we were not limited.

4 Q. And was it your suggestion to the committee
5 that we need to go ahead and reduce this area?

6 A. I think based off -- it's really getting to
7 the process. We established the purpose and need,
8 and then we looked at those sites; and as those got
9 culled out, we started looking at what is the
10 discernable areas that we need to -- you know, we
11 looked at the GIS, was a heavy one. Where do we need
12 to be in relation to population centers, and
13 obviously really slicing in the middle of the river
14 allows Orangeburg, which is your biggest population
15 center, and the ones around it to go there.

16 I guess the best way to answer, if you had it
17 on the eastern most edge of the county, the people on
18 the western edge of the county would have to go
19 further.

20 Q. Well, you testified about that on direct, and
21 I remember all that. I am just asking you: Was it
22 your suggestion to reduce the area, or did that come
23 from the committee?

24 A. I think --

25 Q. If you remember. If you don't, that's okay.

1 You could say it was collaborative.

2 A. I think it was collaborative.

3 Q. That's a fine answer.

4 But in all events, as you've testified, the
5 driving issue for the study area -- excuse me. The
6 main criteria for the study area were serving the
7 largest population and the ADT's, the average daily
8 traffic.

9 Didn't you say you wanted to serve the -- to
10 try to serve the population in Norway, Cope,
11 Orangeburg?

12 A. That seemed to be -- if you look on the
13 exhibit I had, that seemed to be from the GIS the
14 majority of where the census data showed the
15 population.

16 Q. Yes. And I think you testified that
17 Orangeburg, as it turned out from the courthouse, is
18 about 18 miles down to the river.

19 A. That's pretty much what I said, yes, sir.

20 Q. And so after you did the averages on what
21 people wanted to drive, which came out to 18 -- it
22 turns out you had already chosen the corridor before
23 that, but the 18 worked out nicely with Orangeburg.

24 A. Well, I think what it did is -- like I said
25 before, it validated kind of what we were doing, and

1 also that the other instance with the ADT's on the
2 four of the seven crossings, three of the four being
3 the highest ADT's kind of validated that, too.

4 Q. Orangeburg's population, of course, is hugely
5 bigger than Norway's, Cope's, or any of these other
6 little communities. We got it as about 12,800 and
7 Cope was 105 people. Norway is 389 people.

8 MR. de HOLCZER: Your Honor, I'm going to
9 object if he's testifying about population or if he
10 has a question in there for Mr. Still to verify these
11 numbers --

12 Q. (Continued) We'll do it this way. We went
13 through this in your deposition, I think you might
14 remember, and I think you might have it in some of
15 your own documents.

16 : Do you question these population numbers?
17 Cope, 105; Norway, 389; Orangeburg, 12,765?

18 A. No, sir. I don't question that.

19 Q. With the corridor or study area having been
20 located largely based on an effort to serve the
21 greatest population, which is, as you've already
22 testified was part of your purpose for your project
23 -- wouldn't it stand to reason that you would want
24 to send out surveys to Orangeburg people? After all,
25 they are hugely by a tremendous disproportion the

1 largest number of people involved in the area you're
2 trying to serve with your study area.

3 A. I would think you want to involve them, yes.

4 Q. You know that that survey didn't reach that
5 far, don't you? It was concentrated in the area of
6 Norway, Cope, Neeses, Springfield. Areas close to
7 the South Fork Edisto.

8 A. I found that out later, yes.

9 Q. And as you've testified, you did not chose to
10 control the survey mail-out in that regard. You left
11 that to Orangeburg County. Harold Young specifically
12 was on the committee, as you've testified.

13 A. That's correct.

14 Q. Now, I know you used the GIS -- and the name
15 you were struggling with, and you told us you're very
16 familiar with it, but actually John McLauchlin sent
17 you the first GIS on your computer for you to get
18 tuned in to how to use Orangeburg's GIS, didn't he?

19 A. He sent me a basic plat of the Williamson
20 property.

21 Q. The GIS Mr. McLauchlin, who was on the
22 committee, happened to send you to demonstrate how to
23 use a GIS happened to be the Williamson property,
24 didn't it?

25 A. Right.

1 Q. The Ness Landing?

2 A. Yes, sir.

3 Q. And so that's two things that people
4 associated with the committee or on the committee
5 have given you voluntarily. Mr. de Holczer gives you
6 history relating only to the Ness Landing area and
7 Mr. McLauchlin gives you a GIS related only to the
8 Ness Landing area. The letter notifying you won the
9 bidding process references the Ness Boat Landing
10 Project, all of which you've testified to.

11 And you did this hard work yourself, I think
12 if I understand what you're telling me. You were the
13 one that had to use the GIS to go initially the whole
14 length of the river and find those first 18 sites
15 from overhead satellite projections.

16 A. I actually used Goggle Earth, is how I came
17 up with the 18. Yes, sir.

18 Q. And could you see from Goggle Earth --
19 I guess they've got a lot of different photographic
20 options, but you can kind of tell lowlands,
21 highlands, wetlands and dry to some extent.

22 A. Probably the GIS system would be better than
23 that because they actually bring out NWI maps, the
24 National Wetland Inventory maps. But I didn't really
25 look at it from a wetlands standpoint as far as

1 Goggle. I think that's more just identifying roads.

2 Q. Did anybody ever suggest to you or did you
3 ever see a possible site right here next to 321,
4 highlands on the river on the Orangeburg side owned
5 by the Williams family, Laverne Williams, in that
6 area? Because I haven't seen that as having been one
7 of your potential sites.

8 A. I would have to go back and look at the ones
9 on the 18 -- of the 18 that we put out. It's in my
10 document.

11 Q. Do you remember anybody talking to Mr. Lavern
12 Williams or any suggestion by the committee members
13 to look at that site?

14 A. No, sir.

15 Q. And you realize, of course, that Highway 321
16 has by far the biggest ADT of all the crossings you
17 checked.

18 A. That's incorrect.

19 Q. That's 301. 301 has that.

20 A. Yes.

21 Q. But 321 is where Tyler's Landing used to be
22 right here, wasn't it?

23 A. We looked at -- actually looked at Tyler's
24 Landing.

25 Q. I know you did, and you eliminated it in part

1 because the current was a little swifter there,
2 safety, and had a --

3 A. Well, we didn't have to get into that, but
4 that was not a factor. The biggest factor was the
5 accessibility to it and the fact that there really
6 wasn't any open area. You potentially -- based on my
7 judgment, you could take a couple of houses to find
8 the property to access --

9 Q. Tyler was no good to reopen?

10 A. In my opinion, no.

11 Q. And that's all right.

12 Can you check something now to tell us
13 whether Lavern Williams's property was considered or
14 -- and I have a similar question here: Did anybody
15 else tell you or did you ever find out that
16 Dr. Richard Williamson, the brother of one of the
17 plaintiffs here, has eight miles along the South Fork
18 Edisto in this area, a lot of which has high ground
19 and roads in it? Were you aware of that?

20 A. Again, I was aware of the information that I
21 had with the Goggle. It showed 18' all the way across
22 from top to bottom. And then if you look at it --
23 it's tough to look at that map to really see where
24 everything is at. If you look at an overall map, the
25 study area that came in basically showed that we had

1 three of the four highest ADT crossings in our study
2 area; which leads us to say that the potential users
3 in that area are probably higher than anywhere else.

4 The other bridges that you talked about were
5 actually on extreme ends east and west. So it gets
6 away from people if you're on the east side and you
7 locate on the west side of having to go across.

8 Q. I've heard that already. I don't doubt that
9 from you, Mr. Still.

10 The corridor area you happen to put in also
11 had, did it not, three Bamberg landings already in
12 it: Claude's, Bobcat, Brabham's. Brabham's is on
13 County Bridge Road, Bobcat is at 301/601, Claude's is
14 just this side of 321.

15 A. Then that is correct.

16 Q. But you were not concerning your study at all
17 with Bamberg landings. You're clear about that.
18 That was not on your radar?

19 A. We showed -- I show the existing landing when
20 I did -- when I did the 18, I showed the existing
21 landings through the BLAC Committee. But we were
22 looking at Orangeburg landings, yes, sir.

23 Q. And so if in that corridor area instead of
24 three Bamberg landings right on the road that you're
25 so interested in with ADT, if there had been six

1 Bamberg landings or five or four, was there any point
2 at which you were prepared to ask the committee or
3 your employer, Orangeburg County, what is the
4 practical need for another landing in this area on
5 the other side of a 50-foot wide river when you have
6 these other landings right across these bridges?

7 A. You know, I think -- when I talked to DNR or
8 when I talked to -- there was no -- anything saying
9 having more landings is a bad thing.

10 You talk about the Claude's Landing. Yes;
11 it's three miles by road, but it's also three miles
12 by river.

13 Q. 2.7 on the winding river.

14 A. There is a big difference between me riding
15 three miles and me walking three miles. So I don't
16 know if there was anything out of the ordinary. I
17 agree if it was directly across the river where you
18 could swim right over there -- I think that was an
19 issue that was coming up. But if you look at it,
20 it's 2.7 and three miles down the river.

21 Q. Well, Mr. Still, you didn't ask anybody --
22 first of all, that survey, that was drawn up by the
23 county attorney, Miss Haydel, wasn't it?

24 A. By the county. I'm not sure if she was in
25 coordination with somebody else.

1 Q. In addition to not controlling the area of
2 the mail-out, of the survey, you didn't choose as the
3 man in charge of this project to actually word the
4 survey yourself? You left that to somebody with the
5 county; correct?

6 A. The county basically has experience in
7 sending out surveys, so obviously I'm counting on
8 them to use their expertise to send out surveys.
9 I read the survey.

10 Q. It might be obvious to you, but it's not
11 necessarily to me. Because you were the person they
12 portrayed here as the expert. I know you're a
13 professional engineer. And I'm just trying to
14 establish what I think you said. You didn't draw up
15 the survey. Somebody with the county did?

16 A. That's correct.

17 Q. Because it's your understanding they have
18 some special experience with surveys?

19 A. We went into the project knowing that they
20 would handle the survey portion of it.

21 Q. Going back to the line where we were, you
22 just told us that if in fact there had been a Bamberg
23 landing directly across from one of your preferred
24 locations, that would have entered into your
25 thinking.

1 A. I think that's an issue that needed to be
2 addressed, yes.

3 Q. But only if it was directly across?

4 A. I personally didn't feel that -- basically it
5 was three miles, and I went and checked it. It was
6 three miles of river or 2.7 miles of river. So it
7 wasn't exactly that they were exactly together.

8 Q. Why did you do that? Did you do that after I
9 took your deposition or when you were in the BLAC
10 process of writing up your report?

11 A. I think that basically I did that early on in
12 the process. I can't remember exactly. We talked
13 about that with DNR when I was on a conversation with
14 them and they were going over where some of the
15 landings where. So I think I looked at that. I'm
16 not exactly sure which, to be honest with you.

17 Q. Well, if it is something that under some
18 circumstances needs to be considered, Mr. Still,
19 wouldn't it have been the sensible and fair thing to
20 do to put in the survey this question: If you boat
21 on the South Fork Edisto, do you ever use Bamberg
22 County landings across from Orangeburg County?

23 Wouldn't that be an obvious, easy inquiry to
24 get important information for this survey?

25 A. I think that could have been a question on

1 the survey.

2 Now, I would also add that I think that based
3 off some of the survey results is really the people
4 knew where the landings were, quite frankly, because
5 we got comments such as "I use Claude's now because
6 Ness is closed" or "I use the Bamberg's because I
7 don't have access on South Fork". So I don't
8 disagree with what you're saying. That could have
9 been added to that. But I think there also is an
10 intelligence on the people out there. They know
11 where the landings are.

12 Q. Now, on this mileage business, in order to
13 come up with the 18-mile average of what people who
14 responded to the survey were willing to drive to get
15 to a landing, you testified that somebody wrote down
16 no miles. You tossed that out, and then you took the
17 rest and averaged them, and one was as high as 50 and
18 one was a couple, two, three miles. Right in the low
19 range.

20 A. Yes, sir.

21 Q. But you didn't mention something. Weren't
22 there also a few that said they drive whatever or
23 however far or words to that effect? They didn't put
24 a mileage down.

25 A. Yes, sir, there was. How many, I don't know.

1 I don't think a lot, but . . .

2 Q. So wouldn't those suggest to you as somebody
3 trying to come up with an objective piece of data
4 that those people were willing to drive a pretty far
5 distance? They didn't seem concerned about the
6 distance?

7 A. I guess two things to that was it -- there is
8 basically decisions I'm going to have to make in
9 analyzing the documents. It's hard to divide. I'll
10 go wherever.

11 Q. I know you made a judgment call.

12 A. I definitely made a judgment call on there;
13 and quite frankly, there was just a few of those. So
14 really, even if I cut those out, it still would have
15 been around that range.

16 Q. But there were also a few that said one, two
17 or three miles, weren't there?

18 A. Definitely.

19 Q. And you factored those into your average.
20 And so arguably and mathematically you lowed your
21 average miles by just choosing in your judgment to
22 disregard the ones that suggested they drive a long
23 way and factor in the ones that I might argue were
24 ridiculously low.

25 A. But I guess the problem with that, when

1 you're looking at statistics, that person that says
 2 "I'll go however far", their thought of "however far"
 3 may be three miles; it may be ten miles. They may
 4 not have a car. They may walk.

5 So entering into it that way -- you have to
 6 have a numerical value to go by. That was my
 7 rationale.

8 Q. You said that you initially started with 18
 9 sites. And I hadn't made you do this yet, but I
 10 really need to know if you considered Laverne
 11 Williams' site or Dr. Richard Williamson's site.
 12 Because they have lots of highlands on the South Fork
 13 Edisto. If there is something you can look at to
 14 check that --

15 A. I can show you the 18 sites and what roads
 16 they were on. That's in the report.

17 Q. That's actually in your report? All right.

18 A. Yes, sir.

19 Q. What page is that on?

20 A. If you'll look on Page 5, you'll look at the
 21 15 potential sites and their road names, and then
 22 basically the ones that were selected.

23 Q. There is 14 or 15 on there, but not 18. So
 24 the 18 are the other three at the bottom?

25 A. I took Explorer out and didn't put it back in

1 because we had looked at it and it got rejected.

2 Q. Did I understand your testimony on direct,
3 Mr. Still, that you went through the 18 and weeded
4 them out by: Isn't public. Isn't public. Whittle
5 down the 18. "Isn't public", meaning they didn't
6 have public road access to them, or what does that
7 mean?

8 A. Well, they're basically just -- they didn't
9 have public access to them or adjacent to it.

10 Q. It wasn't adjacent to it.

11 Well, isn't there a good bit of judgment in
12 that call? Ness Landing is not on a public road.
13 You have to condemn the Williamsons' land to drive
14 off of Highway 70 through their road down to the
15 landing; correct?

16 A. Correct.

17 Q. So of the 12 sites you've eliminated because
18 it wasn't adjacent or close to a public road, how are
19 we to judge whether that exercise of discretion was
20 fair compared to the ones you left in? Because even
21 Ness is off of a public road. All of them presumably
22 can be reached by some public road.

23 A. There is some -- definitely there is some
24 judgment in that. If it's off of a public road by
25 three miles, then obviously it doesn't make a lot of

1 sense.

2 If it's off -- you're using Ness as an
3 example. If it's just off the road, then that makes
4 it more of a feasible situation.

5 Q. Were you more scientific than giving us these
6 big parameters? If it was three miles, that was an
7 easy elimination; and if it's only half a mile or
8 whatever Ness is, that was one we would consider?

9 Where is the data about the 12 sites cut?
10 Because you deemed them or the committee deemed them
11 not close enough to public access?

12 A. The information was given to me from the
13 county in saying that these did not have public
14 access. It's kind of a component.

15 Q. Explorer Drive was one?

16 A. Explorer is a very good one, yes. When we
17 found out -- we looked at it. We thought at the time
18 it had public access, and it was -- basically we
19 found out it didn't.

20 Q. What you really found out was you would have
21 to condemn more than the committee wanted to condemn
22 to get down to the landing site. I mean, that's what
23 you really found out about that particular one. We
24 don't have free public drive down to the landing
25 site. Explorer is privately owned in part.

1 A. Right. It was like a mile or something, if I
2 remember right. It was private.

3 Q. So a big part of what is being discussed in
4 the BLAC Committee on what you call accessibility is
5 really a cost issue. The county is going to condemn
6 to take Ness or any other landing that is not
7 voluntarily turned over. It's just a question of how
8 much they have to condemn; i.e., how much money they
9 have to spend to acquire a site and the access to the
10 site.

11 Isn't that what we're really talking about?

12 A. Well, cost is a component in our decision
13 document.

14 Q. You testified that you knew you had to write
15 a defensible study because the background and the
16 triggering event of this situation was the dispute
17 over Ness. And you knew that Mr. de Holczer was
18 already on the scene before you got involved. You
19 knew Mr. de Holczer was not a county employee -- he's
20 an outside attorney for the county -- didn't you?

21 A. Yes, sir.

22 Q. So you knew you were walking into a lawyer
23 litigation situation, for lack of a better
24 description. I'm sure people in your profession have
25 antennae about those things.

1 Now, did anybody on the BLAC commission ever
2 mention that they thought it should be considered in
3 the cost criteria whether a landowner was willing to
4 turn over land on a voluntary basis or whether a
5 landowner was not and would fight the county and cost
6 the county the additional money involved in the
7 condemnation fight?

8 A. We didn't look at -- I did not look at this
9 document from any condemnation standpoint whatsoever.

10 Let me just answer one of the other things
11 you said, too, is that I know from my experience --
12 I worked with DOT for a long time. Most of my
13 documents that we did or I was involved in are
14 going to go to litigation. So I didn't need --

15 Q. You always do them the same way?

16 A. I didn't need Mr. de Holczer or you to
17 understand that that is a definite issue with it.

18 Q. You've been in a coat and tie, blue suit, on
19 the witness stand enough to know that?

20 A. I've been there before.

21 Q. But the answer to my question is that is not
22 in your protocol to consider that and nobody from the
23 committee suggested to you that it might be the
24 prudent thing for the committee to consider as to its
25 options in the cost criterion whether the real cost

1 factoring in a fight or voluntary turnover -- that
2 was never brought up?

3 A. That's correct. Because in a decision
4 document, one of the things you have to have is
5 consistency, and that's not to say that everything in
6 a judgment call is exactly right. You're going to
7 have to make a judgment call, which you have to be
8 consistent. There is no way that I would know if
9 this person would condemn this or this person
10 wouldn't or whatever and make that judgment. So you
11 have to be consistent. So that was not at all
12 considered.

13 Q. What about this possibility: When you're
14 asking the people that you had responses from in the
15 surveys and the people at the Cope meeting -- when
16 you're asking them to pick between sites, would it
17 not have been a reasonable thing to ask them if their
18 feelings about site selection as a taxpayer in
19 Orangeburg County might change or be the same
20 depending on whether the county had to have a
21 litigated fight over a site and pay for that fight?

22 A. Again, that's outside of being consistent of
23 what this -- it's not based off fee. It's based off
24 facts. That's what the whole thing is, why you're
25 able to be objective. No; I wouldn't have done that.

1 Q. But if you're looking for facts --

2 A. Let me finish. Quite frankly, this is the
3 opinion we came up with. The county doesn't have to
4 accept that. The county could have basically said
5 that guy is -- that is something for the county to
6 decide once that decision --

7 Q. All right. That's a fair answer.

8 Did anybody on the commission suggest to you
9 that the population of Branchville had over a
10 thousand and should be considered as needing service
11 by a landing? There is no Orangeburg County landing
12 from Hog Pen all the way down the river southeast
13 toward the Atlantic ocean in Orangeburg County.

14 Now, you favored finding a zone in the
15 middle, but couldn't a person argue rationally that
16 with Branchville down toward the southern end,
17 Roseville near there -- it's as big as Norway -- that
18 it would be just as sensible and fair to put a new
19 Orangeburg landing around the Branchville area?
20 After all, a person could reasonably argue Bamberg
21 offers three landings already in the middle of the
22 whole 40-mile stretch, but the southeastern end,
23 Branchville, has nothing. Well, they've got Zigzag,
24 but they don't have an Orangeburg County landing.
25 They're the population area farther away from the

1 other Orangeburg landing, Hog Pen.

2 A. Just like you said, to use that rationale,
3 the only other Orangeburg County landing is up at Hog
4 Pen. So that one does have the Bamberg side or
5 whatnot. But again, I've been over what my rationale
6 is and what I thought, and I think --

7 Q. My question was: Did anybody on the
8 committee think to suggest to you: We need to look
9 to serving Branchville?

10 A. No, sir.

11 Q. When you were notified by Mr. de Holczer in
12 the letter we've talked about that you were selected,
13 RPM Engineering, LLC was selected -- when you got
14 started with this process, like a lot of your other
15 projects, time was pressing. They wanted you to move
16 forward without delay, did they not?

17 A. Yes, sir.

18 Q. In fact, one of your factors actually has to
19 do with time, does it not? Schedule. You call it
20 "schedule"; how fast can you get this done.

21 A. Yes, sir.

22 Q. And I guess Ness was going to win that race
23 every time because it had just been closed within the
24 last year.

25 A. It's an existing structure. It could open up

1 tomorrow. Yes. You're right.

2 Q. What was the hurry? Ness gets ten points out
3 of ten points on the schedule. What did you
4 understand to be the hurry? Why did Ness have to
5 garner so many points as being the fastest place that
6 could reopen?

7 A. It was my understanding basically that it was
8 closed. They had a boat landing that was closed, and
9 they want to bring that resource of a public boat
10 landing back to the citizens.

11 Q. Well, when you started you were first told by
12 Orangeburg County it would be nice to have an
13 advisory committee. Somebody like Miss Haydel --
14 somebody said a committee would be good to work into
15 this process; right?

16 A. I think that we both talked about -- in our
17 phone conversation we both talked about a steering
18 committee.

19 Q. Steering committee.

20 A. And I've been involved with it either way.
21 I'm not exactly -- I don't remember who exactly
22 brought up --

23 Q. Whose idea?

24 A. Whose idea, but that was discussed..

25 Q. And in all events, in those initial

1 conversations it was your idea this was going to be
2 -- I'm trying to remember your words from your
3 deposition about how the makeup of the committee was
4 described in y'all's conversation.

5 Do you remember what you told me your
6 understanding about what the committee was going to
7 be?

8 A. No, I don't, sir.

9 Q. Did you understand it was going to try to be
10 some kind of fair and objective committee,
11 representative committee?

12 A. I think it was a fair and objective
13 committee, but that's the thought process -- it was
14 going to have more people on it, which we tried --
15 I tried to get some people, the county tried to get
16 some people, but for whatever reason they chose not
17 to.

18 Q. I found it. "Well rounded kind of
19 expertise." That's a phrase you used with me before.

20 Do you recall testifying to that?

21 A. I don't remember having a question of "well
22 rounded", but if it's there I said it.

23 Q. Look at Page 4 of your deposition, if you
24 will.

25 A. If it's in my notes, I agree to it.

1 Q. Well, I've got to make sure the record is
2 straight, and this will refresh your recollection,
3 I'm sure. Look at Page 34, if you don't mind,
4 Mr. Still.

5 A. Yes, sir.

6 Q. Do you recollect now that --

7 A. What line?

8 Q. Down toward 21.

9 A. Okay. "The idea of a steering committee" --
10 you want me to read sentence 21, or how long would
11 you like me to read?

12 Q. Does that refresh your recollection about you
13 using the phrase "well rounded kind of expertise"?

14 A. I did. If it's in my notes, I did.

15 Q. It's not in your notes. It's actually in
16 your recorded sworn deposition.

17 A. I thought I had my minutes here. I thought
18 you were asking me to read from the minutes.

19 Q. Oh, no, sir. I'm just getting it from your
20 deposition on December 17.

21 A. I definitely said that then.

22 Q. And it turned out that a number of people
23 were disinclined for whatever reasons to serve on the
24 committee, as you've testified on direct.

25 A. Correct.

1 Q. And so you ended up with the three county
2 employees and Joe Sutcliffe; correct?

3 A. Correct.

4 Q. Now, had anybody at that time when the
5 committee got formed told you anything about
6 Mr. Sutcliffe?

7 A. I knew that Mr. Sutcliffe was involved in
8 going to the county council about the closing of
9 Ness. I did know that.

10 Q. How did you know that already when you just
11 started this process and started putting together the
12 committee?

13 A. Because we talked about -- we were on the
14 committee. We talked about -- Joe Sutcliffe's name
15 came up. And basically he was an interested party,
16 so they thought about putting him on the committee.

17 Q. But he wasn't just an interested party, was
18 he? I mean, you then knew from the beginning that he
19 was a party with a specific interest, and that
20 specific interest was to reopen Ness?

21 A. Yes, sir. He wanted Ness. And that's what I
22 said before. The first thing I did within the
23 committee is basically say it's based off what the
24 data comes up. This is going to be -- it has to be a
25 situation where there is no preconceived conditions.

1 There is no: This is where we're going. It has to
2 be where the data goes.

3 Like I said, when the elephant is in the
4 room, you introduce it, and that's what I did.

5 I knew not only from that situation, but the rest
6 of the stuff that went with the county and through
7 Mr. Williamson -- I knew that.

8 Q. One thing you didn't know is that the county
9 administrator sent that letter that you've heard
10 testified about, Exhibit 10, to those 14 state and
11 federal agencies?

12 A. Yes, sir.

13 Q. Nobody from the county told you when you
14 commenced this process or showed you that letter, did
15 they?

16 A. No. I did not know about this letter.

17 Q. In fact, the first you heard of it was when I
18 deposed you on December 17 of last year?

19 A. Yes, sir. That's correct.

20 Q. Nobody from the county -- maybe they did.
21 I don't know.

22 Had Mr. de Holczer told you that he had
23 sent an inquiry in December to Absolute Title, LLC
24 -- I'm looking at Plaintiff's 8. And I'll hand
25 this to you, but I just want to ask you a question

1 first -- ordering an acreage search for the
2 Williamson property and providing them with
3 specific information about the property and asking
4 that their personnel be discreet in their inquiry
5 concerning this property? Did you know about that?

6 A. No, sir. I don't recall this.

7 Q. Did they tell you before you asked on
8 February 28th, '07 -- did anybody tell you that
9 council had voted in September and November, as
10 you've heard while you sat in this courtroom,
11 Exhibits 3 and 6, to take the action to reacquire
12 Ness Landing? Unanimous votes.

13 A. I knew that they had basically had -- as part
14 of their retreat, that was one of the first things
15 that Miss Haydel told us at the 29th meeting, was
16 that the county had placed at a party a boat landing
17 on South Edisto.

18 Now, at that time did I know that basically
19 there was also those minutes? I don't believe I did.
20 I don't think I did.

21 Q. Well, I don't want you to get mixed up. And
22 you might be recollecting right.

23 Let me get this straight. The retreats that
24 I know about that have been testified about to my
25 knowledge by county council occurred in late January,

1 early February '07.

2 Do you know about other retreats or another
3 retreat that predated your retention?

4 A. When we sat down on the 29th, I think --

5 Q. Of which month?

6 A. Of January -- that Miss Haydel referred to
7 that the county council retreat was right at that
8 point and that they had voted to have a landing on
9 the South Fork. And that's what the email you had
10 earlier --

11 Q. That's what gave rise to that email?

12 A. I replied back that I would like to have that
13 to show that's in there.

14 Q. We're talking about the same retreat then?

15 A. Yes, but I can't remember -- I found out
16 later, but at that point at that meeting I did not
17 know that part -- or there was some type of minutes
18 or whatever saying to get Ness.

19 Q. Right. That's just what I was going to
20 cover.

21 Your email, Exhibit 15, asked the natural
22 question, which is: I'm in the midst of writing the
23 document. I have a few questions. D'Anne, did the
24 county council approve a resolution or some document
25 that shows the boat landing being a priority? If

1 they did, I would like to include it in the document
2 if you are okay with it.

3 Part of her answer was: Council voted in
4 open regular session that the county was to take all
5 action necessary to "reopen the boat landing",
6 "including condemnation", referring to the Williamson
7 property. I can provide you a copy of those minutes.

8 So what you're saying is that that was the
9 first time you were told by anybody with the county
10 on the 28th of February that this wasn't just a
11 general objective by county council to obtain a
12 landing somewhere on the South Fork; they had
13 actually voted to reopen, including condemnation if
14 necessary, Ness. That's the first time you were told
15 that?

16 A. Right around that point is when I knew that.
17 That's why I basically did the reply that I did.

18 Q. But my point is this -- and I think you know
19 what it is. You had been in this process since
20 January 5th. They had you on a schedule. Move this
21 along, please. Until you asked at the end of
22 February, near the end of your process, nobody from
23 the county told you that council had voted to take
24 back Ness Landing, did they?

25 A. No. I knew that there was definite

1 negotiations of wanting Ness Landing, a lot of people
2 saying that's where I need to go or -- excuse me.
3 That's where the project needs to go. And I knew,
4 just like I testified, that it was closed and people
5 wanted to open it back: Council, several different
6 people.

7 Did I know that they had that meeting minutes
8 or whatever? No, I did not, not to my recollection.

9 Let me also say this, too: Is that it's not
10 uncommon in the documents I've done or whatever for
11 somebody to already have -- the people have a
12 preconceived notion of where they want to go, but
13 it's the bottom line of the decision that got there
14 that it was objective.

15 Q. But you don't make the county of Orangeburg's
16 political decisions? You're not a voter on county
17 council? You're not an elected official?

18 A. No, sir.

19 Q. And you had no motion one way or the other
20 and still don't whether or not council would vote to
21 scrap anything they've done in the past when you
22 finish your project. Y'all took it eventually to
23 them in March or so, didn't you? April. Whatever.

24 A. April 20th.

25 Q. But you didn't know what they would vote to

1 do?

2 A. No, sir.

3 Q. Do you know what the total population in
4 Orangeburg County is?

5 A. The total population of Orangeburg County?

6 Q. Yes, sir.

7 A. I see on the map it's 12,000, but --

8 Q. That's Orangeburg city now. On the county is
9 what my question is.

10 A. Of Orangeburg County?

11 Q. Yes, sir.

12 A. No, sir, I do not.

13 Q. Because you had testified this was a massive
14 survey that was sent out, this 1,100, and I was just
15 wondering how you came up with that number, massive
16 numbers being relative. But if you don't know the
17 county population, you don't know that.

18 MR. de HOLCZER: Your Honor, if that's a
19 question, I would like to have him answer it.

20 Q. (Continued) Massive relative to what? What
21 do you mean by "massive survey"? That was your word
22 on direct.

23 A. They sent out 700 mailings. I think that's a
24 pretty good size mailing. That's my opinion.

25 Q. Did you hear during the preparations and

1 leading up to the Cope Center public meeting what
2 people were doing to try to help get the turn-out up?

3 Wasn't there a big push by D'Anne Haydel with
4 emails: Let's do what we can to get people there,
5 get the public announcement out?

6 A. We were definitely pushing for attendance.
7 That's why -- you always push for attendance on a
8 public hearing.

9 Q. Did you know that Joe Sutcliffe was going to
10 make some phone calls to get some people there?

11 A. No, sir, not to my knowledge.

12 Q. Did you have anything to do with drawing up
13 the notice, the wording of the notice of the public
14 hearing that went into the newspaper?

15 A. I don't believe I did.

16 Q. Do you realize that what it says is
17 Orangeburg County will hold a public hearing for
18 community input to, 1, assess the need for a
19 government owned public boat landing on the South
20 Fork of the Edisto River? Do you know that's what it
21 said?

22 A. I would have to see it. I haven't seen the
23 notices for a long time.

24 Q. Well, you didn't help word it?

25 A. No, sir. I saw it when it went out, but I

1 did not word it, not that I recall.

2 MR. MORRISON: That's all I have for you,
3 Mr. Still. Thank you, sir.

4 MR. de HOLCZER: May it please the Court,
5 your Honor.

6 REDIRECT EXAMINATION

7 BY MR. de HOLCZER:

8 Q. Mr. Still, you said you recall reading the
9 notice before it went out.

10 A. I read the notice and the survey before it
11 went out.

12 Q. Did either the notice or the survey direct a
13 citizen toward a particular alternative location for
14 this boat ramp?

15 A. No, they did not.

16 Q. Did either the notice or the survey or the
17 notice of the public hearing direct any person to
18 respond affirmatively that they required or needed or
19 the county should have a boat ramp on the South Fork
20 of the Edisto?

21 A. Can you give me that one again?

22 Q. Did either the public notice or the survey
23 direct or steer a citizen responding toward the
24 conclusion that Orangeburg County needs a public boat
25 ramp on the South Fork of the Edisto?

1 A. I know the survey didn't. I haven't seen the
2 notice. I don't think it did either.

3 Q. Let's look at the notice then. Before it
4 went out did you make a determination whether it did?

5 A. I saw the notice before it went out.

6 Q. Before it went out and when you saw it did
7 you determine that it steered anybody toward access
8 on the South Fork affirmatively to say there should
9 be access on the South Fork of the Edisto?

10 A. Nothing we sent out steered them in that
11 direction.

12 Q. Let's look at the notice as well.

13 MR. MORRISON: I think it's Exhibit 17.

14 Q. (Continued) Review it now, sir, please.

15 A. (Witness complies.) Okay.

16 Q. Is there anything in that notice which steers
17 or indicates to a recipient of that notice or a
18 reader of that notice that that person should respond
19 affirmatively to the question: Should Orangeburg
20 County have a public boat ramp on the South Fork of
21 the Edisto River?

22 A. No. This is basically just saying they're
23 assessing the need for it.

24 Q. Did you yourself at the public hearing steer
25 any inquirer, any person, any citizen attending the

1 public hearing toward a conclusion that the county
2 required a boat ramp landing on the South Fork of the
3 Edisto River?

4 A. No.

5 Q. Did anything that you presented at that
6 public hearing steer a citizen toward the conclusion
7 that the boat ramp at the Binnicker Bridge had to be
8 reopened --

9 A. No.

10 Q. -- or was the preferred alternative of the
11 study?

12 A. There was no preferred alternative at the
13 public hearing.

14 Q. Do you know who receives the Orangeburg Times
15 & Democrat where the notice was published?

16 A. Apparently all of Orangeburg.

17 Q. When you say "all of Orangeburg", are you
18 talking about the city, the county? What?

19 A. Surroundings.

20 Q. The city?

21 A. The city, the county.

22 Q. Including both, is what you're saying?

23 A. Yes. I think it's apparently well read
24 throughout the area.

25 Q. Is there anything in that notice to

1 discourage someone from any part of the county from
2 attending the meeting?

3 A. No.

4 Q. Mr. Still, when you talked about the zero
5 miles that you kicked out of the response in the
6 survey, if you were to include the zero miles along
7 with the "I'll travel any distance to get to the
8 river ", wouldn't the zero miles tend to lower the
9 number of miles, the average number of miles, that a
10 person would travel?

11 A. I don't recollect the zero miles.
12 I recollect that somebody said there was some
13 higher. They'll go wherever. But again, it was so
14 small, it wasn't really going to change the
15 mileage.

16 Q. Isn't it true from your experience that any
17 landowner facing a public acquisition has a
18 constitutional right to challenge the acquisition?

19 A. Yes.

20 Q. So any one of those alternative sites which
21 you proposed or studied in your project -- isn't it
22 true that with any one of the owners of those
23 property could have said "stop. Don't take my
24 property" and brought the county in to court?

25 A. Yes.

1 Q. So in that sense was there one or more of
2 those locations weighted according to legal issues?

3 A. Again, I can't go and look at legal issues or
4 what may or may not happen. I have to look at
5 consistent evidence.

6 Q. Let me ask you about the letter that
7 Mr. Clark sent out about the requests for information
8 or requests for assistance regarding the conservation
9 easement. You testified you weren't aware of it.

10 If you had been aware of it, how would it
11 have influenced your work on this committee?

12 A. It wouldn't influence my work.

13 Q. Knowing about it now, how does it influence
14 or affect your conclusions about this study?

15 A. It would not change my decision.

16 Q. When a public body is preparing to acquire
17 any property, do you know whether or not they have to
18 have an appraisal?

19 A. Yes; they have to have an appraisal.

20 Q. If you have an appraisal, do you know whether
21 or not you have to have a title search?

22 A. Yes. That's a component of the appraisal.

23 Q. Do you know whether the title search which
24 was referenced to you was acquired for the boat
25 landing acquisition through your process, the BLAC

1 Committee, or whether it was part of separate
2 negotiations to reopen the Ness Landing?

3 A. It had nothing to do with me or our decision
4 document or the BLAC Committee. I can tell you from
5 my standpoint it was never brought into anything that
6 I looked at.

7 Q. You didn't look at the title search while you
8 were working on the Boat Landing Assessment
9 Committee?

10 A. No.

11 Q. Did you know there was one?

12 A. No.

13 Q. Knowing it now that there is a title search
14 that exists or that the county at one point obtained
15 a title search, does that in any way change your
16 conclusions in this study?

17 A. No.

18 Q. Is there anything that Mr. Morrison asked you
19 in his cross-examination which cast doubt in your
20 mind as to the objectivity or the veracity of the
21 work you did in the Boat Landing Assessment
22 Committee?

23 A. No. I'm confident in my decision.

24 Q. Is there anything that Mr. Morrison asked you
25 which caused you to question or repudiate your

1 decision document or your conclusions in this matter?

2 A. No.

3 MR. de HOLCZER: Nothing further, your Honor.

4 RECROSS-EXAMINATION

5 BY MR. MORRISON:

6 Q. Mr. Still, do you have any idea why the
7 county would only obtain a title search on Ness
8 Landing property and not on all these others that are
9 in the competition?

10 A. No.

11 Q. You say in response that you didn't try to
12 steer the -- influence the opinions, I guess, of the
13 persons at the Cope Center meeting.

14 What is that document, please?

15 A. This is the booklet.

16 Q. What kind of booklet is that? It's entitled
17 "South Fork of the Edisto Landing Public Hearing
18 Booklet".

19 A. That's it.

20 Q. Was it handed out and available to the
21 attendees at the Cope meeting?

22 A. Yes.

23 Q. Did you draft it?

24 A. Yes, sir.

25 Q. You did? Did anybody help you draft it?

1 A. No, sir.

2 Q. Right under Purpose and Need read along with
3 me and see if I've got this right.

4 MR. MORRISON: I'm going to move admission of
5 this document as our next exhibit, your Honor.

6 (Plaintiff's Exhibit 25, Public Hearing
7 Booklet, marked for identification.)

8 Q. (Continued) Just read along and let me know
9 if I've got this right. "The need for construction
10 of a new boat ramp to access the South Fork of the
11 Edisto River arose from the closing of the Ness
12 Bridge boat ramp in early 2006. This boat ramp
13 located along Binnicker Bridge Road has provided
14 citizens of Orangeburg County free public access to
15 the river for many decades.

16 "The loss of this vital amenity leaves the
17 citizens of Orangeburg County with only one public
18 access, Hog Pen boat ramp, within their county roads.
19 The South Fork of the Edisto River encompasses over
20 40 miles of pristine waterfront and establishes the
21 county line between Bamberg and Orangeburg and is the
22 source of recreation for many residents in Orangeburg
23 County and is a priority to Orangeburg County Council
24 to restore that amenity to its taxpaying citizens."

25 Now, my question to you is this: Did I read

1 that correctly?

2 A. It looks like it.

3 Q. And you referred to the Ness Bridge boat ramp
4 as a vital amenity, did you not?

5 A. The vital amenity is having an access to the
6 South Fork of the Edisto River. What I'm saying here
7 is fact. It was closed down. That necessitated now
8 they want to look for some spot -- some sites. And
9 then if you look at -- there was -- I basically put
10 the drawings that were out at the public hearing,
11 four different ones. If I was trying to sway
12 somebody, why would I put four different ones on
13 here?

14 Q. Well, how did you determine it was a vital
15 amenity before you even had the responses from the
16 public about whether they considered it vital?

17 You told them it was a vital amenity. You
18 told them in direct context of the closing of Ness
19 Bridge, did you not, it was a vital amenity? You
20 told them in the context of closing Ness Bridge boat
21 ramp, being a vital amenity, that Orangeburg County
22 Council has a priority to restore that amenity to its
23 taxpaying citizens.

24 Now, do you not think that could influence
25 somebody reading that open paragraph?

1 A. No, I do not.

2 MR. MORRISON: That's all I have for you,
3 sir.

4 REDIRECT EXAMINATION

5 BY MR. de HOLCZER:

6 Q. Mr. Still, the priority established by county
7 council in their retreat, did that precede the public
8 hearing or did it come after the public hearing?

9 A. That was -- as far as boat landing on the
10 South Edisto? I believe that was before the public
11 hearing.

12 Q. Was that before the decision document was
13 finalized?

14 A. Yes.

15 MR. de HOLCZER: No further questions.

16 THE COURT: Anything further?

17 MR. MORRISON: Nothing from me. Thank you,
18 your Honor.

19 THE COURT: You may step down.

20 (Short recess taken.)

21 MR. de HOLCZER: May it please the Court. At
22 this time I call Mr. Hardwick.

23

24

25

1

2

3

DENNIS L. HARDWICK

4

being first duly sworn, testified as follows:

5

DIRECT EXAMINATION ON VOIR DIRE

6

BY MR. de HOLCZER:

7

Q. Mr. Hardwick, would you state your full name

8

for the record.

9

A. My name is Dennis L. Hardwick.

10

Q. Where do you live?

11

A. I live in Greenville, South Carolina.

12

Q. And would you please give the Court the

13

benefit of your education.

14

A. I have a B.S. in business administration from

15

the Citadel; graduated in 1973.

16

Q. Do you have any other continuing education?

17

A. Yes. I have a real estate appraisal license,

18

a certified general real estate appraisal license,

19

licensed under the state of South Carolina. I have

20

to do continuing education for my appraisal license.

21

Q. Would you please give the Court the benefit

22

of your work history.

23

A. I retired from SCDOT. I retired after 34

24

years of service. I was in the right-of-way section

25

of DOT. I was a real estate appraiser; still have my

1 real estate appraisal license, as I just said. I was
2 in the right-of-way acquisition business for SCDOT.

3 Q. Do you have any other work history, say, with
4 the government?

5 A. Yes. I also retired from the South Carolina
6 Army National Guard after 20 years. I retired at the
7 rank of major.

8 Q. And what branch of the military were you?

9 A. I was in the armory, tanks.

10 Q. I wanted to ask you specifically about your
11 experience with rivers and navigable waters.

12 Mr. Hardwick, could you describe for the
13 Court your background and experience with navigable
14 waters of the state of South Carolina.

15 A. Yes. I guess the reason I'm here today is
16 not in my other capacities I've already mentioned,
17 but both my hobby for just about my entire life has
18 been canoeing, fishing. I started canoeing or
19 paddling with my father when I was probably six or
20 seven years old. I'm 57 years old now. So I've been
21 doing it for about 50 years, primarily in the state
22 of South Carolina. I've paddled many rivers, lakes
23 in this state. And my father had me in the front of
24 a boat when I was seven years old, and I have many
25 fond memories. My father actually built boats, canoe

1 type boats, out of plywood, cypress. And ever since
2 I was a little kid I just loved rivers, and I've
3 continued that my entire life.

4 Q. Where did you grow up?

5 A. I grew up in Dillon, South Carolina.

6 Q. And what bodies of water were near your home
7 that you accessed?

8 A. I grew up about a mile from the Little Pee
9 Dee River in Dillan. It's a river real similar to
10 the South Fork of the Edisto. It's very, very
11 similar to it. I also grew up near the Lumber River.
12 I know the black water swamp type river. It's just a
13 little bit wider than the South Fork or the Little
14 Pee Dee.

15 Q. What rivers and bodies of water have you
16 paddled or boated on in South Carolina? If you can
17 recall.

18 A. I've paddled probably -- I think I tried to
19 remember this, but it's from memory. About 12 rivers
20 in South Carolina all the way from the Tatooga, a
21 white water river up in the upper part of the state,
22 all the way to the Waccamaw. And I've paddled the
23 Ashepoo also.

24 I have paddled in the middle part of the
25 state, up in Greenville area, Saluda, the Reed River.

1 I've had a lot of experience -- one of my favorite
2 rivers is the Tiger River in Union, Florence County
3 area.

4 Q. Have you paddled the North Fork of the
5 Edisto?

6 A. I haven't paddled the North Fork. I've
7 paddled the South Fork.

8 Q. What portions of the South Fork of the Edisto
9 have you paddled?

10 A. I've paddled from Claude's Landing to Bobcat
11 Landing.

12 Q. Have you paddled anyplace adjacent to or
13 around Colleton State Park?

14 A. No. I have never paddled the Edisto down in
15 that area of the state.

16 Q. Have you ever testified in a court of law as
17 an expert witness with regard to navigable waters?

18 A. Yes, I have; in Circuit Court up in Chester,
19 and I was qualified as an expert witness in canoeing,
20 paddling, and also in navigable rivers.

21 MR. de HOLCZER: Your Honor, we would offer
22 Mr. Hardwick as an expert paddler in just exactly the
23 same thing he's been qualified in Chester County,
24 just as he testified.

25 MR. MORRISON: I have one voir dire.

1 THE COURT: Sure.

2

3 CROSS-EXAMINATION ON VOIR DIRE

4 BY MR. MORRISON:

5 Q. Mr. Hardwick, good afternoon. We haven't
6 met. I'm Howell Morrison. I know you've been
7 watching this trial and you know my name by now.

8 The case you were in in Chester, what was the
9 issue about there?

10 A. It was a navigable river case. It was a lot
11 different --

12 Q. The question about whether a river or stream
13 was a navigable river?

14 A. Was a navigable river.

15 MR. MORRISON: That's all I have for you.

16 Your Honor, we don't have any issue like
17 that, whether a river is navigable or not. This
18 gentleman had no input into the process of Berry
19 Still. He had no input into what happened before
20 Berry Still. I saw his name listed. I've got no
21 objection to him testifying as a lay witness about
22 what rivers he prefers and landings he thinks are
23 better or needed and that kind of thing. Those are
24 his opinions, and he's been on enough rivers to have
25 some opinions. But as far as being an expert on

1 canoeing, paddling and navigable rivers, there is no
2 issue about those things. There is just no issue.
3 This is just a redundant expert to load up the
4 record, I guess, with expert testimony.

5 Mr. de Holczer went on in one of his spirited
6 objections yesterday about how we weren't even
7 qualified to challenge his expert engineer because
8 we're just not in that field. Well, we did our best
9 today without an expert, but at least that gentleman
10 had a role in this case. He does have a role.
11 Mr. Still does. This man had no role. So I just
12 don't know what it's relevant to, and I question this
13 business about a good accomplished paddler and canoer
14 like Mr. Hardwick, which I don't doubt that he is.
15 I just don't know what he adds.

16 THE COURT: I was going to ask the same
17 thing. What is the purpose of this gentleman?

18 MR. de HOLCZER: Your Honor, the plaintiffs
19 have attempted to put necessity and access at issue;
20 location. The idea that there is another landing
21 just a few miles up the river is satisfactory access.
22 We don't need another landing here. They have placed
23 that in issue over and over again.

24 We have somebody who is unconnected with this
25 project, an independent witness who has been asked to

1 come in and comment on the issues of access and
2 necessity for an additional boat landing on the South
3 Fork of the Edisto River. That is exactly where I
4 intend to address my questions to elicit testimony
5 from this witness that indeed additional access to
6 the South Fork of the Edisto River is reasonably
7 necessary to accomplish the public purpose of
8 achieving public access to a "highway forever free to
9 the citizens of South Carolina". That's a rough
10 quote from the Constitution of the state of South
11 Carolina. That is what I intend to submit this
12 witness for.

13 THE COURT: On that narrow issue I think I
14 probably would allow it.

15 MR. de HOLCZER: That's it. Your Honor.

16 MR. MORRISON: Maybe I said two different
17 things, but I don't see why he's an expert.

18 Starting with the basics, the law permits a
19 person to give opinion testimony if he can bring
20 special knowledge to the reasonable juror who needs
21 special explanation of difficult facts. If he canoed
22 a hundred rivers in South Carolina, he can still
23 explain to the average juror or your Honor in this
24 case exactly what he's talking about without giving
25 personal opinions as an expert as to why this landing

1 is needed or better than that one. It's just plain
2 common sense.

3 And your Honor can ask him what he likes,
4 what his preferences are, his personal opinions are,
5 but to qualify him as an expert is going to -- in my
6 view, your Honor, is not what the expert testimony
7 rule is for, and it's going to give him extra
8 credibility for purposes of the record. It can be
9 arguing more and more that I just didn't bring a
10 canoe paddler expert in here and they had one.

11 If canoeing and paddling -- if he sailed
12 around the world and was solo sailor and could
13 testify about something that people can't even
14 imagine what the difficulty and expertise required of
15 that kind of a challenge is, that might be a
16 different thing, but -- I don't mean this
17 disrespectfully, Mr. Hardwick, but it's just paddling
18 a canoe, and he likes this and he doesn't like that.
19 That does not make him an expert for purposes of
20 court testimony.

21 THE COURT: Well, I think here again --
22 I'm not going to qualify him as an expert as long
23 as he's testified to those things that you're
24 referring to. I certainly know very little about
25 canoeing myself. I would be curious as a

1 layperson, so to speak, and he's obviously an
2 expert compared to me in that regard to testify.

3 MR. de HOLCZER: Mr. Hardwick goes beyond the
4 average canoe or the average paddler as a person who
5 has built his own boats, a person who has been
6 qualified as an expert in navigable rivers. He's not
7 going to be testifying about the simple mechanics of
8 paddling or the simple joys of observing wildlife on
9 the paddling. I have no objection to him talking
10 about that, but what I intend to get into is access
11 and necessity, and for those reasons I can develop
12 his testimony some more if you would like. If you
13 would like to hear more, I would be happy to develop
14 that testimony before he's qualified, but I will be
15 happy to do that.

16 THE COURT: All right.

17 REDIRECT EXAMINATION ON VOIR DIRE

18 BY MR. de HOLCZER:

19 Q. Mr. Hardwick, would you please tell the Court
20 some of the measures you've taken to access the
21 rivers of South Carolina, what measures you've taken
22 and how you have accessed the navigable waters and
23 the rivers of the state of South Carolina.

24 A. What I do before I do any canoe trip or
25 paddling trip, whether it's kayak or canoe, is I do a

1 lot of research, such as South Fork of the Edisto.
2 I go online. I research online. I try to find
3 other people I can talk to.

4 Actually in the South Fork of the
5 Edisto I found several articles written and
6 published on the internet -- in fact, two of them
7 were from -- not from Claude's to Ness Landing, but
8 they started at Ness Landing before it was closed.
9 It was, I think, about 2003, 2004. They put in at
10 Ness Landing and paddled to -- I believe the
11 Brabham's Landing -- the Cannon Bridge. But I do a
12 lot of research. I do it on the internet. If I
13 can find names of people I call them. I have
14 several resource books that I look at before I
15 paddle a river. So I do a lot of research. And I
16 like paddling new rivers.

17 Q. Mr. Hardwick, could you just identify the
18 publications you refer to.

19 A. Paddling South Carolina. I forget the
20 author's name. Two guys who paddled every river,
21 I believe, in South Carolina that was navigable,
22 and they published a book. And it just gives you a
23 lot of information from landing to landing, the
24 mileage, the things you will encounter on the
25 river, whether it's white water rivers or black

1 water rivers with log jams whatever. It's a good
2 resource book.

3 I also look at the -- I get information
4 from DNR. They're also helpful in researching
5 rivers before somebody like me, the general public,
6 gets on a river to paddle it. As far as access to
7 rivers, I depend on public landings. I guess I am
8 the public because I depend on public landings.
9 I can't drag my boat through people's yards or
10 through woods or whatever. I would never trespass,
11 but I would depend on public landings.

12 There has been times when I was a
13 little bit younger in life -- I remember one
14 occasion I wanted to paddle a particular section of
15 river, and there was really no public access.
16 There was no roads. There was no landing.
17 Nothing. But I wanted to see a particular section
18 of river. I literally tied ropes to the canoe and
19 slid it down the bridge abutment on the highway
20 right-of-way, threw myself down after it slid down
21 the bank, and then paddled the river and took out
22 at the next landing. I had a little bit of
23 difficulty trying to put out, but at least I
24 figured out how to put the boat in.

25 So I depend on public landings. Like I

1 say, I research it and I look at certain mileage
2 distances that I can cover in a day, a half a day
3 or just a casual Sunday afternoon. So there is a
4 lot of things that go into accessing rivers from
5 somebody such as me, the public, and we depend on
6 those locations to look at the rivers and paddle to
7 do our recreational things.

8 Q: Are you a member of any boating
9 organizations, Mr. Hardwick?

10 A: I am a member of the Palmetto Paddlers.

11 Q: And Mr. Hardwick, have you ever camped on a
12 trip?

13 A: Many, many times I've camped on rivers.
14 Typically I try to camp on a sandbar. Usually on a
15 sandbar out in the river. That takes a little bit
16 more information and research before I do things like
17 that.

18 I camp a lot of times in Sumter. It's on the
19 Tyger River. I camp on sandbars in the national
20 forest area. I camp a lot on the Lumber River, which
21 is just an absolutely gorgeous black water river
22 where I grew up, and camp on the sandbars.

23 Q: Do you ever fish on these rivers?

24 A: I've fished on rivers all my life. Usually
25 when I fish, incidentally, when I'm canoeing just

1 enough to catch a few fish, pull up on a sandbar and
2 cook them and eat them. If I go just for fishing,
3 usually I take a square stern canoe with an electric
4 motor on the back and I put in. I don't even
5 actually own a gasoline powered boat.

6 My hobbies are canoeing and kayaking, but I
7 do fish quite a bit from those type of boats.

8 MR. de HOLCZER: Your Honor, again, we would
9 submit Mr. Hardwick as an expert in addressing the
10 issues of access and necessity, an expert in boating,
11 paddling and canoeing and access to rivers.

12 MR. MORRISON: A little more voir dire on
13 this.

14 RECROSS-EXAMINATION ON VOIR DIRE

15 BY MR. MORRISON:

16 Q. Mr. Hardwick, when did you first get
17 contacted by the county or Mr. de Holczer?

18 A. I think it was about March or April this past
19 year.

20 Q. When did you paddle the South Fork that you
21 made reference to?

22 A. I think it was the third Saturday in June.

23 Q. Of what year?

24 A. This year, 2008.

25 Q. So you were contacted by Mr. de Holczer in

1 : March, and the first time you paddled the South Fork
2 : was in June?

3 : A. : That's correct.

4 : Q. : And do you know when he listed you as a
5 : witness?

6 : A. : I'm not sure when he listed me as a witness.

7 : Q. : Well, it was May 29, '08. So it's right
8 : between the time he called you and listed you. Then
9 : shortly thereafter you did your paddling.

10 : : Was your paddling on the South Fork in
11 : anticipation of testifying in this case?

12 : A. : Yes.

13 : Q. : Did you play any role whatsoever in inputting
14 : to the county of Orangeburg back in '06 about their
15 : decisions with respect to Ness Landing?

16 : A. : No.

17 : Q. : Did you play any role whatsoever in the
18 : process that you heard described by Berry Still, his
19 : engineering analysis and consultation with the
20 : county?

21 : A. : No.

22 : Q. : Do you know anything more about the South
23 : Fork of the Edisto than you have learned in your
24 : research with respect to this case, public access
25 : research, maybe Web sites and your one trip down from

1. Claude's to Brabham's?

2. A. Bobcat.

3. Q. I thought you said Brabham's, but you only
4. went to Bobcat.

5. Do you know anything more about the South
6. Fork? Any special history or experience other than
7. that?

8. A. No, sir, just what I've learned through
9. research.

10. Q. By your own description of yourself, you
11. consider yourself a member of the public with respect
12. to public interests in canoeing?

13. A. I'm a citizen of South Carolina; and yes,
14. I depend on public facilities to get me through the
15. river.

16. Q. Do you think that anybody who paddled any
17. portion of the South Fork Edisto in a canoe and has
18. an interest in canoeing and boating on fresh water
19. rivers should be able to come in here and testify
20. what he would like to see the county do by way of
21. condemnations in this trial?

22. A. I think access to rivers is important.
23. I think the public access is important. You know,
24. I depend on the county and state, all the counties
25. in the state of South Carolina -- because I paddle

1 all over the state -- to provide access to
2 navigable waters in the state.

3 Q. And since you like to take different lengths
4 of trips -- full day, overnight, half a day, Sunday
5 afternoon -- the most convenient thing for you would
6 be the most number of public landings maintained by
7 the state and taxpayers' money taken from private
8 lands and put in public hands; correct?

9 A. Well, definitely, not just for me, but for
10 anybody. Anybody with different skill levels.
11 I have a lot of skill in paddling. Some people are
12 novices, some people are beginning, some people are
13 medium paddlers, but people with different skill
14 levels need different lengths to access. So the
15 more access it is, the better it is for the public,
16 whether they are experts or not.

17 Q. And you think the need for the people with
18 different skill levels -- the need analysis that
19 condemning authorities and public government
20 authorities should take into consideration is the
21 different skill levels of paddlers and they should
22 make condemnation decisions based on the different
23 skill levels of canoers?

24 A. Well, I think it's more for just for the
25 people in general, the citizens in general, to get to

1 the river. Not just the skill levels, but whether
2 they're fishermen, whether they're paddlers.
3 Whatever their recreational interests are. The
4 rivers need the access for the public to get to it.

5 Q. But under that argument, Mr. Hardwick,
6 respectfully, the greatest thing for all the people
7 in the state to access the river would be for all the
8 river property on both sides of all the rivers to be
9 owned publicly, wouldn't it not?

10 A. That's not necessarily true. I mean, a
11 landing side by side within a hundred yards, that
12 would not be practical or feasible. But I've heard a
13 lot of testimony about Claude's to Ness Landing, that
14 it's only three miles or whatever.

15 Q. 2.7.

16 A. You know, I keep hearing from Claude's to
17 Ness. I look at not just from Claude's to Ness, but
18 from Ness down to Bobcat. That's about eight miles,
19 I think. That's a good float trip. From Claude's to
20 Ness is a good Sunday afternoon float trip or a float
21 trip for somebody that is possibly handicapped,
22 somebody elderly, somebody with kids, just to do a
23 short trip, a pleasure trip to enjoy the river.

24 Q. Well, how about the Livingston Landing or
25 Rowe's Landing or Rowe's Landing to Kilcare all on

1 the North Santee?

2 A. I think those are good locations for canoe
3 trips.

4 Q. If you were coming clear from Greenville to
5 go on the South Edisto or North Edisto and you were
6 mostly concerned with skill level and the length of
7 the trip, you would consider, would you not, the
8 North Edisto trip as well as the South Edisto so you
9 could distance the put-in and take-out spots to suit
10 your particular needs?

11 A. Sure. I mean, traveling down from Greenville
12 typically I would want to get more than one trip in.
13 I would consider doing the North Edisto as well as
14 the South Edisto.

15 Q. And you would certainly also as a practical
16 matter look at the landings on both sides of the
17 South Edisto, not just those in Orangeburg County?

18 A. I would look at every landing, not just one
19 in Orangeburg or Bamberg County. I would look at all
20 the landings. All of them provide access for
21 somebody like me.

22 Q. Have you ever heard of anybody who is a
23 canoer who had some strong personal preference that
24 he would only use landings in his own county that he
25 helped pay for as a taxpayer and would refuse to use

1 landings on the other side of a river as small as the
2 South Edisto?

3 A. I personally would -- whether it's in
4 Orangeburg or Bamberg or whether it's in Greenville
5 or Spartanburg county, I would look at the landings
6 in general.

7 MR. MORRISON: I withdraw my objection to
8 this expert, your Honor.

9 THE COURT: You may have asked him all the
10 questions.

11 MS. HAYDEL: May I make sure I understand:
12 The voir dire questions and answers are part of the
13 record just as if they had been admitted and asked by
14 anyone.

15 THE COURT: Yes.

16 DIRECT EXAMINATION

17 BY MR. de HOLCZER:

18 Q. Mr. Hardwick, why would somebody who was
19 fishing have a preference as to which landing they
20 put in at?

21 A. Well, when I go fishing I normally go with my
22 brother. We go in a square stern canoe. We have an
23 electric motor on the back. Electric motors depend
24 on batteries. Batteries sometimes go dead. So I
25 like to do shorter trips when I go fishing, serious

1 fishing anyway. My brother is actually the more
2 serious fisherman than the two of us. But say if we
3 put in at Claude's, we would go down maybe a mile and
4 then we would fish our way back up because it's
5 easier to navigate against the current for fishing
6 than it is going downstream. So we would fish back
7 up to Claude's. We would go past Claude's for
8 however long we wanted to fish, and then we would
9 drift back down or paddle back down to Claude's
10 because it's definitely easier. Like the South
11 Edisto, it still has substantial current in places.
12 You float back down to the take-out point.

13 With an electric motor you don't have the
14 logistics that you do for a canoe trip. A canoe trip
15 you have to have a shuttle. You don't paddle back up
16 the river. You've got to have a vehicle parked
17 downstream somewhere so that when you get there you
18 drive back up to the take-out point. It makes it
19 much better.

20 Again, I keep hearing from Claude's to Ness;
21 but if I put in at Ness to go fishing, like a lot of
22 people do, I would probably go downstream about a
23 mile again and fish back up to Ness and then cover
24 the next section of the river back up towards
25 Claude's. When my battery runs low I can paddle back

1 down to the take-out point. So those are just
2 practical matters that fishermen consider when
3 they're fishing.

4 Q. Do you have a fishing license yourself,
5 Mr. Hardwick?

6 A. Yes, I do.

7 Q. Is it a state license or some other license?

8 A. It's a state fishing license.

9 Q. What if someone had a county license; sir,
10 how would that affect their choice of where to put in
11 and fish?

12 A. They couldn't fish anywhere but the county
13 where the license was good for.

14 Q. Let me ask you: If somebody were to put in
15 with an Orangeburg County license and they were to
16 put in at Claude's Landing in Bamberg County, how
17 would that affect their fishing?

18 A. I don't think they can go in through another
19 county to fish. That's getting a little bit out of
20 my area.

21 MR. MORRISON: I was going to object, your
22 Honor.

23 MR. de HOLCZER: If he knew the answer, your
24 Honor.

25 THE COURT: A DNR man you can ask that

1 question.

2

3 BY MR. de HOLCZER:

4 Q. So you don't know whether a person with an
5 Orangeburg license could put in at a Bamberg landing
6 and take out at a Bamberg landing legally with fish?

7 A: It wouldn't sound like they would be able to.

8 MR. MORRISON: Objection. He doesn't know.

9 THE COURT:: Yes.

10 BY MR. de HOLCZER:

11 Q. Now, Mr. Hardwick, tell the Court, if you
12 could quickly, just before you became involved in
13 this matter had you had an opportunity to review any
14 documents provided by any individuals concerned or
15 interested in this issue, in this boat landing?

16 A. I think I looked at the affidavit from the
17 Palmetto Paddlers. I think that's the only one.

18 Q. And let me ask you what issues are concerned
19 with access insofar as whether safety or any those --
20 what other issues can you think of or do you know of
21 are important about access?

22 A. Well, sometimes if somebody is injured, if
23 you've got -- the more access points, the more
24 ability to get somebody out of the river.

25 Most people I take with me that are novices,

1 they are always worried about snakes. And I worry
2 more about insects, such as wasp nests and things
3 like that because I have had people get stung, but
4 luckily never anybody personally with me has ever
5 been injured or anything. But the most dangerous
6 thing on the river is probably log jams. You've got
7 to have strainers. The limbs from a log are under
8 water. Water goes through. Humans don't go through
9 them too well. You can be injured. You can be
10 injured while you are trying to pull over logs.
11 Because you do encounter log jams on the small black
12 waters, and you can become injured doing that. So
13 the more access points you've got, the more places
14 you can get an injured person.

15 Another thing is if somebody starts a trip --
16 say a novice paddler starts -- say they were going
17 from Claude's down to Bobcat. The level of the water
18 is low and it becomes where they can't control the
19 boat quite as good. They are having to encounter
20 these log jams. Somewhere like Ness would be a good
21 place for them to take out instead of going on down
22 river.

23 You have other hazards: Lightning or
24 whatever. But the more access you have, the more
25 points you have to stop a trip or to get possibly an

1 injured person out.

2 Q. You testified earlier you had paddled from
3 Claude's Landing down to Bobcat Landing.

4 When you paddled that section of the river,
5 did you encounter any log jams?

6 A. The water level was low this past June. The
7 state in general has been -- there is not enough
8 rain. The water level is probably low. I think I
9 encountered six log jams.

10 Q. Did you encounter any snakes?

11 A. I encountered lots of snakes that day.

12 Q. Do you recall if any of them were poisonous
13 or nonpoisonous?

14 MR. MORRISON: This is just not relevant.

15 MR. de HOLCZER: I am going to the safety
16 issue. He testified that those present hazards to
17 people and access is important for retrieving injured
18 people from the river. I'm establishing that there
19 are indeed hazards on the river which could possibly
20 necessitate evacuation of an injured individual.

21 THE COURT: I think he is already established
22 that.

23 Q. (Continued) Mr. Hardwick, is there any
24 individuals with which you have spoken with regard to
25 the need for greater access on the river?

1 A. I don't think so. I don't think I've spoken
2 to anybody.

3 Oh, yes. I have also talked to -- I did talk
4 to a couple of residents of Orangeburg County that
5 have actually used Ness Landing. I talked to them
6 just basically about using Ness Landing..

7 MR. MORRISON: Your Honor, I object to this
8 testimony. This witness is going to just the people
9 he talked to.

10 THE COURT: Unless you've got --

11 MR. de HOLCZER: I'm about done, but I wanted
12 to establish that he had some knowledge about this.

13 THE COURT: That would be hearsay.
14 Anything he's heard from anybody else would be
15 obviously hearsay.

16 MR. de HOLCZER: I wasn't going to get into
17 all the content, but the research that he does and
18 how far he travels to paddle, showing this is a man
19 -- after all, I did offer him as an expert of --

20 THE COURT: I think he testified to that.
21 He's quite accomplished.

22 MR. de HOLCZER: I have no further questions
23 then, your Honor.

24 CROSS-EXAMINATION

25 BY MR. MORRISON:

1 Q. Mr. Hardwick, one or two more things, sir.

2 Have you had occasion to see people fishing
3 at Binnicker Bridge off Highway 70?

4 A. I don't remember seeing anybody fishing --
5 well, I know I didn't see anybody fishing off the
6 bridge.

7 Q. Did you happen to pull over onto DOT
8 right-of-way on either side of the Binnicker Bridge
9 and examine the area around the bridge?

10 A. I did look at the area around the bridge. I
11 didn't get out of the canoe. But the water is pretty
12 slow there, so I did hesitate in that area.

13 Q. As I guess you've testified, you used to when
14 you were younger -- depending on your strength and
15 abilities, you can put a canoe in lots of places.
16 You don't have to have a landing to put a canoe over
17 or to take a canoe out in the case of an emergency if
18 a bunch of wasps stung you or there was lightening in
19 the area. You don't have to find a landing to seek
20 shelter, do you?

21 A. I usually can figure things out, probably
22 more so than the normal paddler could.

23 MR. MORRISON: That's all I have for you,
24 sir.

25 REDIRECT EXAMINATION

1 BY MR. de HOLCZER:

2 Q. Could a handicapped individual or a child or
3 an elderly person access the river easily by dropping
4 a canoe down the side of the right-of-way of a
5 bridge?

6 A. I don't think so. I don't think I'm going to
7 do that anymore. I'm getting kind of older.

8 MR. de HOLCZER: Nothing further, your Honor.
9 We would ask that this witness be excused, your
10 Honor.

11 MR. MORRISON: No objection, your Honor.

12 MR. de HOLCZER: At this time we would call
13 Bill Clark.

14 J. WILLIAM CLARK
15 being first duly sworn, testified as follows:

16 EXAMINATION

17 BY MR. de HOLCZER:

18 Q. Mr. Clark, I wanted to ask you particularly
19 about the retreat.

20 The county has retreats; is that correct?

21 A. Yes. The county has retreats with county
22 council and with staff.

23 Q. Is a retreat a public meeting? Is it a
24 private executive session meeting? What is that?

25 A. It's a public meeting of council and it's for

1 planning purposes.

2 Q. If it's public, does that mean that there has
3 to be notice given?

4 A. Yes, sir.

5 Q. What kind of notice?

6 A. Public notice meeting is delivered to the
7 local press and posted in the buildings.

8 Q. Do you send a mailing to every household of
9 every dweller in the county of Orangeburg to invite
10 them to the meeting?

11 A. No, sir.

12 Q. What suffices for notice under your
13 requirements as a county official?

14 A. My understanding is exactly what we do, that
15 we post copies of the notice in our buildings and
16 then make them available to the press with a 24-hour
17 notice.

18 Q. And that at least 24-hour notice to the
19 press, is that usually published in the newspaper?

20 A. Yes.

21 Q. Do you know in January of 2007 if the retreat
22 was published in the press, if notice of that was
23 published in the press?

24 A. I'm sure it was.

25 Q. Did you conform with posting it in the county

1 administration building?

2 A. Yes.

3 Q. And did county council establish any policies
4 or priorities regarding recreational facilities?

5 A. Yes, but also in about a dozen other areas as
6 well.

7 Q. So it covered a much broader aspect than just
8 recreation issues?

9 A. Yes. The purpose is to set priorities for
10 the upcoming fiscal year.

11 Q. Do you recall if access to the North Fork of
12 the Edisto River was a priority or identified as
13 something that the county had a priority to get more
14 access to the North Fork?

15 A. There were actually three areas identified:
16 The North Fork, South Fork, and Lake Marion.

17 Q. What is the significance of the county
18 establishing that priority through open session
19 available to the public?

20 A. It's part of the process of disclosure and
21 open government.

22 Q. Do you know whether or not the establishment
23 of those priorities were reached through
24 deliberation --

25 MR. MORRISON: Objection; leading.

1 Q. (Continued) Do you or do you not know
2 whether or not any deliberation led to establishing
3 any priorities?

4 A. The priorities were developed in discussion
5 with all of the county council members' input and
6 input of various key staff members.

7 Q. And could you give me the identities of any
8 key staff members who might have assisted with
9 establishing those priorities.

10 A. It would have been seven council members,
11 myself, my deputy administrators, the clerk to
12 council, and the county attorney.

13 Q. Who are your deputy administrators who would
14 have provided information?

15 A. Earl Whalen, John Smith, Harold Young, Marion
16 Lloyd and Ken Maybank.

17 Q. Back in January of 2007 when those priorities
18 were established, the priorities you testified to, do
19 you know whether or not Mr. Whalen or Mr. Young
20 provided any input on those priorities?

21 A. Yes. All members participated.

22 Q. And do you know whether or not that
23 establishment of priorities was done prior or after
24 the commencement of the Boat Landing Assessment
25 Committee?

1 A. My recollection is the council retreat dates
2 were in the latter part of January and carried over
3 until the early part of February. So where that
4 places it with the BLAC study, those are the dates
5 that council met.

6 Q. So you can't really say for sure?

7 A. Well, I wasn't a part of the BLAC Committee,
8 so I'm not as fresh on those dates as I was with
9 council retreats. Because I played a large role in
10 those.

11 Q. But as a result of those priorities being set
12 and as a result of the boat landing -- let me ask you
13 this: You are present at every county council
14 meeting; is that correct?

15 A. With very few exceptions, unless I'm
16 traveling on official business out of town.

17 Q. Were you present at any time in county
18 council meeting when the Boat Landing Assessment
19 Committee made any presentation to county council?

20 A. Yes. I do recall the final report being
21 presented in a county council meeting and voted on.

22 Q. Do you recall about when that was?

23 A. It would have been in the spring of '07. The
24 exact date I'm not sure, but I can determine it by
25 looking at my calendar.

1 Q. But what was the presentation -- if you
2 could, please, describe the presentation and describe
3 whatever vote was taken.

4 A. The report, when it was available, was -- and
5 all agenda materials are generally distributed a week
6 prior to the county council meeting. Generally given
7 out on the Friday prior to the meeting. I don't
8 remember if these may have been available earlier,
9 but they certainly would have been available no later
10 than the Friday before the meeting, giving council
11 the Friday and the weekend to prepare for the
12 material that is going to be on the agenda.

13 At that point a presentation of the report
14 was officially on the agenda and county council voted
15 to accept the recommendations within the report.

16 Q. Now, was that meeting where the vote was
17 affirmative in favor of the Boat Landing Assessment
18 Committee report decision document -- was that
19 meeting publicized? Was it publicized as
20 appropriate, as you've described earlier?

21 A. It was publicized. And typically the Times &
22 Democrat includes not just the meeting date, but the
23 subject matter to be addressed as part of the agenda.

24 Q. Do you recall any members of the public
25 attending that meeting with regard to the Boat

1 Landing Assessment Committee report?

2 A. You know, I don't remember specifically. I
3 think Mr. Sutcliffe was probably there, but I don't
4 recall individuals who may or may not have been
5 present.

6 Q. Do you recall any discussion about the Boat
7 Landing Assessment Committee at all? I know it's
8 been a while.

9 A. I don't have anything strike out from my
10 memory, so I don't think anything out of the ordinary
11 occurred.

12 Q. Now, at the time that the Boat Landing
13 Assessment Committee was doing its work had the
14 county -- was the county intent on just condemning
15 the Ness boat landing, or was it looking at other
16 alternatives?

17 A. I think that issue woke up council to some
18 point of awareness about the need to maintain access
19 to the various bodies of water in the county. That's
20 why their recommendation included the North Fork as
21 well as the South Fork and Lake Marion.

22 Q. And do you know whether the county was also
23 negotiating with the plaintiffs at all -- without
24 getting into the details of the negotiations -- to
25 try and restore the Ness boat landing to public use?

1 MR. MORRISON: Your Honor, this is really
2 repetitive prior testimony. There have been a dozen
3 witnesses, it seems like, to negotiations, and it
4 just seems to be so redundant.

5 THE COURT: I understand.

6 MR. de HOLCZER: I am about done, your Honor.
7 Again, it's part of our case that there is a
8 two-track system going on here, and the plaintiffs
9 are attempting to conflate the two into a single
10 strand of acquisition, and that's not what -- I want
11 to make that clear that we have two central threads
12 going on. 1, to negotiate for resolution on a
13 particular landing and a boat landing access
14 committee on some access along the South Fork.
15 I think that is central to the case. That
16 conflation is what would attempt to pollute this
17 process.

18 THE COURT: Okay.

19 Q. (Continued) Do you recall the question?

20 A. I believe I do, yes.

21 One of the options or one of the tracks, as
22 you termed it, would have been the offer to acquire
23 the property or purchase the property from the
24 Williamsons, and that was still on the table.

25 Q. Do you know who selected the committee

1 members for the Boat Landing Assessment Committee?

2 A. I don't remember that too clearly other than
3 the three members of county staff were suggested by
4 myself and appointed by myself based upon the
5 function that they play and the responsibilities they
6 have with the county, that being Mr. Young,
7 Mr. McLauchlin and Mr. Whalen.

8 Q. And what did Mr. Young bring to that
9 committee?

10 A. Mr. Young was selected because of his history
11 particularly with grantsmanship. When he originally
12 came to the county --

13 MR. MORRISON: I'm sorry, your Honor.
14 Mr. Young just testified two hours ago. He testified
15 about what he was doing there, what his function was.
16 I just don't know the relevance of this and I don't
17 know why it wasn't discussed when Mr. Young was on
18 the stand.

19 MR. de HOLCZER: Your Honor, Mr. Young didn't
20 appoint himself to the committee. Only Mr. Clark can
21 appoint these gentlemen to this committee and only
22 Mr. Clark can express why he chose that. That's not
23 a question Mr. Young can answer. That's a question
24 Mr. Clark would have to answer.

25 I'm trying to establish how the committee was

1 put together. Again, counsel for the plaintiffs have
2 suggested that there was --

3 MR. MORRISON: I withdraw the objection.

4 BY MR. de HOLCZER:

5 Q. Mr. Clark --

6 A. Mr. Young, of the individuals I had available
7 on staff, had the most experience with conducting
8 public hearings and also conducting surveys on behalf
9 of the county. That's why he was appointed.

10 Q. How about Mr. Whalen?

11 A. Mr. Whalen was appointed because he had the
12 most experience with the public works matters,
13 including road construction, right-of-way
14 acquisition, the county GIS system and public works
15 activities.

16 Q. And how about Mr. McLaughlin?

17 A. Mr. McLaughlin was selected because he is the
18 only engineer I have on staff and had performed prior
19 to coming to county in a regulatory capacity with
20 DHEC. So that was my reason for selecting him.

21 Q. And with regard to public participation in
22 various committees, do you find it difficult or easy
23 or some other -- use any other adjective that you
24 want. Describe what it's like getting public
25 participation in committees.

1 A. It varies by the committee, but we have a
2 number of committees of county council right now that
3 have vacancies because it is difficult for
4 individuals to serve. But these positions generally
5 involve commitment of time and energy with no
6 compensation, and it takes an individual with a
7 particular amount of passion towards the subject to
8 want to engage themselves as such.

9 Q. Going back to the priority meeting, how about
10 members of the general public attended the priority
11 meeting which was open to the general public?

12 A. None.

13 Q. Did the press attend the priority meeting in
14 January?

15 A. No, they did not.

16 Q. Was it covered in the paper, any of the
17 proceedings of the public hearing?

18 A. No, it was not.

19 Q. How did you come to select Mr. Sutcliffe onto
20 that committee?

21 A. Mr. Sutcliffe had demonstrated through his
22 willingness to appear before county council and serve
23 as a spokesman for a group of individuals a degree of
24 interest in the subject.

25 MR. de HOLCZER: Nothing further, Mr. Clark.

1 Please answer any questions from Mr. Morrison.

2

3 CROSS-EXAMINATION

4 BY MR. MORRISON:

5 Q. Mr. Clark, just briefly.

6 The council planning sessions were on January
7 the 27th, '07 and February 6th of '07, were they not?

8 A. That sounds correct, yes.

9 Q. That's the retreat that you talked about?

10 A. Correct.

11 Q. And I guess you've been here for everything,
12 so you know that Mr. Still was hired by a letter from
13 Mr. de Holczer on January the 5th, '07, do you not?
14 Do you recall that?

15 A. I don't recall it, but I accept your
16 statement.

17 Q. And you heard the testimony that Mr. Still
18 was informed by council that they wanted to move
19 along quickly with this process; correct? You heard
20 that testimony?

21 A. Certainly they would have wanted to move
22 quickly.

23 Q. And the timeliness was one of the criterion
24 in the weighing of a preferred selection site; that
25 is to say, how fast a landing could be made available

1 to the public; correct?

2 A. Correct.

3 Q. And so in fact the retreat priorities were
4 set in the midst of the BLAC process. You probably
5 don't know when the first committee meeting was, but
6 the testimony has been that it was at the end of
7 January or January the 29th. So that's right in the
8 middle of the retreat on the 27th and the follow-up
9 retreat on the 6th of February, is it not?

10 A. Yes. I would accept your guess. Yes.

11 Q. Has council pursued acquiring and building
12 new landings, opening new landings on North Fork or
13 on Lake Marion?

14 A. There have been some dialogue started with
15 regard to Lake Marion, but not on the North Fork.

16 Q. So council voted at this retreat in January,
17 February '07 to set priorities for new landings on
18 North Fork, South Fork and Lake Marion.

19 It also at some point allocated some monies,
20 didn't it, for these expenditures?

21 A. Yes. We have monies appropriated in the
22 annual budget process for these type activities.

23 Q. And by September of '07, within about seven
24 months or so, the condemnation had been commenced on
25 Ness Landing, had it not?

1 A. I believe that's correct.

2 Q. And now we're at the December -- we're in
3 October '08, a little over a year later. All you can
4 tell us about these other so called priorities is
5 that some conversation has commenced about Lake
6 Marion?

7 A. Well, let me say also there were more
8 projects identified than just boat landings. Within
9 that same element was also identified another
10 community resource of a community aquatic facility,
11 and that project is fully engaged at this point.

12 Q. Weren't these landings the No. 1 priority
13 coming out of their retreat?

14 A. I don't think that they were ranked as such
15 as you're presenting. They were ranked about a dozen
16 priorities. That one was definitely on the top of
17 the consideration. I don't think it was No. 1. I
18 think economic development projects were ranked No. 1
19 and this element was ranked second.

20 Q. It was the No. 1 recreational priority, was
21 it not?

22 A. Right. It was one of, I think, three
23 projects listed under that subheading. There were
24 public landings, public transportation, and the
25 aquatic facility.

1 Q. And the aquatic has now jumped well in front
2 of the North Fork and Lake Marion, but the South Fork
3 priority is handled expeditiously. Is that fair to
4 say?

5 A. Well, you know, Mr. Morrison, we have to
6 address projects as we have the resources available
7 to address them; and so yes, I have multiple projects
8 going on at any given time, and this is the only
9 project on the Edisto at this point. But I do have
10 one concurrently going on with Lake Marion.

11 Q. But really, Mr. Clark, of course that's not
12 all there was to it. Because ever since September
13 and November of '06 you as county administrator have
14 been under the effect, for lack of a better
15 description, to county council to vote specifically
16 directed at opening Ness Landing. Those votes
17 happened and you explicitly were charged with
18 effecting the will of council on that.

19 A. Yes, sir, but I'm also charged with executing
20 the economic development priority too, which includes
21 about the same time the largest project going on in
22 the state at this point. That's what I'm telling
23 you. I have multiple priorities that are being
24 pursued simultaneously.

25 Q. The voting by council to accept the

1 recommendation of the BLAC Committee, Mr. Still's
2 report, in that recommendation, of course, was Ness
3 Landing. That vote is absolutely consistent with the
4 votes from the fall of '06 by council, was it not?

5 A. I'm not sure I understand the question.

6 Q. Council voted for the third time in the
7 spring of '07.

8 A. To accept the report?

9 Q. To acquire Ness Landing.

10 A. Yes. That was part of the recommendation of
11 the report:

12 Q: With respect to one other thing,
13 Mr. Sutcliffe -- I know you've heard much of the
14 testimony. I think he's not in the courtroom
15 anymore. But you knew as well as everybody else who
16 was at the first council meeting in the fall after
17 the closing of Ness Landing that Mr. Sutcliffe was
18 the spokesperson for the people complaining about the
19 closing of the landing?

20 A. That's correct.

21 MR. MORRISON: Thank you, sir.

22 REDIRECT EXAMINATION

23 BY MR. de HOLCZER:

24 Q. Did acquisition of the Ness Boat Landing move
25 forward specifically for the Ness Boat Landing

1 through condemnation -- did that occur before or
2 after the vote on the BLAC report?

3 A. It occurred after the report came back
4 identifying that as the first priority site for the
5 landing.

6 Frankly, I would have preferred that if there
7 had been an easier route to take to another site, I
8 would have preferred that that happen. Here we all
9 sit.

10 Q. Did the county take any specific action
11 toward condemnation after the first two votes but
12 before the BLAC report was approved by the county
13 council?

14 A. No, they did not.

15 MR. de HOLCZER: Nothing further, your Honor.

16 RECROSS-EXAMINATION

17 BY MR. MORRISON:

18 Q. Was Mr. de Holczer working for the county of
19 Orangeburg starting in December of '06?

20 A. Yes.

21 Q. Do you know whether -- you heard the
22 testimony, I guess. Do you know whether he ordered a
23 title search to be discreetly done according to the
24 -- I think it was January of '07.

25 A. Yes. I believe that's correct.

1 Q. And do you know whether -- well, you've heard
2 the other testimony.

3 When Mr. de Holczer asked you did the county
4 take any specific action toward condemnation, you
5 were answering as a nonattorney to the best of your
6 knowledge about what you considered to be action
7 toward the condemnation; correct?

8 A. Correct.

9 MR. MORRISON: Thank you, Mr. Clark.

10 REDIRECT EXAMINATION

11 BY MR. de HOLCZER:

12 Q. Mr. Clark, do you know whether or not
13 negotiations were continuing with acquiring the
14 Williamson property at the time the title search was
15 obtained?

16 A. I think it was done for that express
17 purposes. Because we still had an interest in
18 acquiring that property, and it was the only one on
19 the table at that time.

20 MR. de HOLCZER: Thank you.

21 MR. MORRISON: Please let this poor man go,
22 your Honor.

23 Defense has rested. We have no rebuttal.

24 Anything from --

25 MR. de HOLCZER: At this time we would renew

1 our motion for a directed verdict.

2 THE COURT: There again, I have to deny
3 your motion.

4 MR. de HOLCZER: I understand, your Honor.

5 I also have a memorandum I can pass up which
6 might -- it's a brief on challenge action, a law of
7 challenge action, and I will be happy to provide the
8 Court a copy as a resource.

9 Obviously if the Court decides on a requiring
10 order or requesting an order --

11 THE COURT: That's what I was going to get
12 to next.

13 MR. MORRISON: May I make one motion for the
14 record. I think I made this at the directed verdict
15 stage, but I want to renew the motion for the Court
16 to essentially declare irrelevant and not consider
17 the testimony of Mr. Berry Still. Because our view
18 of the case, from what I understand, is that the
19 decisions that we challenge were made before
20 Mr. Still was hired. And Mr. Still has testified, as
21 I anticipated he would, that his was a site selection
22 process, that he came to the project with the need
23 and necessity given to him by county council to find
24 a site suitable on South Fork Edisto.

25 We challenge council's original necessity

1 decision and the total lack of methodology associated
2 with it: Rational e, consideration, weighing
3 factors, objectivity. That's what we challenge in
4 this case as being an abuse of discretion; and if
5 that is the case that's before your Honor, the
6 logical thing to do, of course, is to declare
7 Mr. Still's testimony irrelevant.

8 And so I just wanted to put that back on the
9 record and renew that so it would be clear.

10 MR. de HOLCZER: Your Honor, we would submit
11 that the plaintiffs have not shown that the decision
12 making process insofar as what was done at the
13 priority meeting, which was open to the public --
14 that the decisions made expressing greater need for
15 access on the North Fork of the Edisto and the South
16 Fork of the Edisto were not challenged by any party
17 as far as -- there is no record that they were ever
18 challenged.

19 There is no record that the discussions that
20 the county council -- which, again, were open to the
21 public -- was incomplete or that their discussions
22 were in violation of the Freedom of Information Act
23 and were in violation of law. That is exactly what
24 they are to do. And your Honor, we would submit that
25 pursuant to those cases which do exist on this topic,

1 the courts have been very clear that the exercise of
2 that discretion and its determination of necessity is
3 a legislative function. It is not even particularly
4 an engineering function. It's a legislative
5 function, and that is exactly what the county council
6 did. They performed their legislative function.
7 Mr. Clark testified to that, and Mr. Still, if
8 anything, verified that. He came and did a study
9 independent, and his conclusions certainly supported
10 the actions of the legislature.

11 Then the legislature passed again when they
12 approved receipt and approved the decision made to
13 move forward on the decision document which had been
14 produced by the BLAC committee.

15 So we're really talking about semantics in
16 this situation. It truly is semantics because we
17 have a process which ensured a fair hearing, an open
18 hearing. The public hearing was open. It was
19 published. The fact that there was a limited
20 distribution of the questionnaires -- the
21 questionnaires were an additional safeguard. They
22 weren't the sole reason or the sole public
23 announcement of this project, or the BLAC committee.
24 They were an open invitation to all members of
25 Orangeburg County, all citizens of Orangeburg County,

1 and that process -- it only helped the legislative
2 branch, the county council when they ultimately made
3 their vote and accepted the recommendations of the
4 committee and moved forward at that point, and that
5 was what led into the condemnation.

6 Thank you, your Honor.

7 MR. MORRISON: Judge, I know you listened
8 intently to our arguments yesterday and nothing about
9 the evidence heard today has changed our arguments
10 that I can recall other than the renewal of the
11 motion about Mr. Still I just made.

12 I don't want to burden the Court with
13 repetitiveness. There are only about six or eight
14 cases that Mr. de Holczer and I both throw at the
15 Court as being the law. We have different views of
16 how to interpret those cases obviously, and we feel
17 very strongly about our law as well.

18 I said at the beginning of this case that I
19 didn't think there were any big fact disputes, and I
20 think the end of the case proves that. I don't think
21 there was any big fact disputes. There is some
22 different inferences to be drawn from the facts, but
23 this is mainly a matter of law; and if the Court sees
24 fit, we would appreciate the opportunity to have some
25 time to submit a little post trial memo.

1 THE COURT: I was going to get to that.

2 MR. MORRISON: Certainly if the Court wants
3 me to address anything specifically on the Court's
4 mind that wasn't clarified by this case and the
5 testimony, I'm ready to address it, but otherwise I
6 don't want to repeat my whole argument from
7 yesterday.

8 THE COURT: I agree. Basically what I was
9 going to tell you was that what I normally do in
10 these cases is ask for a proposed order rather than
11 memorandums because I feel like it's redundant to
12 have to turn around and do an order afterwards.

13 I would like to remind you of one thing, that
14 this order of reference that was presented is some --
15 a little different than most orders of reference
16 because -- I won't say it limits me, but I have to be
17 limited by what order of reference contains, and the
18 ordering part in the Page 2 says to address the
19 merits to determine whether or not condemnation
20 action is lawful under the constitution and laws.

21 So that is the narrow focus of this order of
22 reference to me, is to see whether or not or
23 determine whether or not the taking is one of
24 lawfulness or abuse of discretion. So I think it's a
25 very narrow issue in a sense of what I have before

1 me. I won't say confine your proposed orders to --
2 I can't tell you what to write, but keep that in
3 mind. That is what I have been basically ordered
4 to determine, just the lawfulness of the taking,
5 and that's what you need to focus on more than
6 anything else. Not any peripheral issues that
7 might affect the condemnation. I'm not here to do
8 the condemnation.

9 MR. MORRISON: I want the Court to know I'm
10 scrambling to see my calendar to see how much time I
11 need to beg for the proposed order.

12 THE COURT: I always say a minimum of 30
13 days.

14 MR. MORRISON: Thank you, your Honor.

15 THE COURT: I hadn't really thought about
16 it with the Thanksgiving coming up. Today is the
17 23rd. Do you want to do it after or before
18 Thanksgiving holiday? Probably before.

19 MS. HAYDEL: I, for one, would be thankful.

20 MR. MORRISON: By the Wednesday before or the
21 Tuesday before the Thursday?

22 MR. de HOLCZER: 30 days would be
23 November 22nd, I believe, your Honor.

24 THE COURT: When is Thanksgiving?

25 MR. MORRISON: Thanksgiving is on the 27th

1 and --

2 MR. de HOLCZER: That's a good five days
3 before, your Honor.

4 MR. MORRISON: If we can do the 26th. Thank
5 you.

6 MS. HAYDEL: The 22nd is 30 days from now.

7 MR. MORRISON: The 22nd is a Saturday.

8 THE COURT: Let's do it the 24th. Thank
9 you for all your courtesies in this matter.

10 (Hearing concluded at 3:50 p.m.)

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02-1039



STATE OF SOUTH CAROLINA)

RIGHT-OF-WAY AND BOAT RAMP
LEASE AGREEMENT

COUNTY OF ORANGEBURG)

THIS AGREEMENT, made

THIS AGREEMENT, made on this the 4th day of September, 2001, by and between Leon B. Newman, Party of the First Part, and the COUNTY OF ORANGEBURG, a political body existing under and by virtue of the laws of South Carolina, Party of the Second Part, and hereinafter sometimes referred to as the "County".

W I T N E S S E T H :

SUBJECT TO the terms and conditions hereinafter set forth, Leon B. Newman hereby leases to the County a boat ramp, parking and launching area on the Edisto River, Orangeburg County, South Carolina, and grants to the County a right-of-way for the existing section of County highway leading from South Carolina Highway No. 70 to the aforesaid parking area (which said County highway was previously constructed under Agreement recorded September 18, 1975 in Deed Book 415 at page 421, Orangeburg County Records). Said right-of-way and parking and launching area are part of the property acquired by Leon B. Newman from John A. McDilda by deed dated December 31, 1998, recorded January 7, 1999, in Deed Book 735 at page 45, Orangeburg County Records.

EX-017-1039

This Agreement is subject to the following terms and conditions:

1. The aforesaid right-of-way and parking and launching area are more fully shown on the sketch attached hereto as a part hereof.

2. This Agreement shall be for the period of one (1) year from the date hereof, with automatic extensions of one (1) year thereafter. Either party may terminate this Agreement by giving the other party sixty (60) days written notice thereof prior to any anniversary date hereof.

3. The County agrees to properly maintain said right-of-way and parking and launching area.

4. Leon B. Newman shall have the right, in his sole discretion, to terminate this Agreement if the premises are no longer used by the public and such non-use continues for a period of six (6) months; or if Leon B. Newman sells the land upon which the aforesaid premises are situate. In addition, should there be repeated, excessive, deliberate vandalism and destruction of the adjoining property of Leon B. Newman and any improvements thereon, this Agreement may be canceled by the mutual consent of both Leon B. Newman and the County.

5. Upon termination of this Agreement, all improvements thereon immediately shall become the property of Leon B. Newman.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in their behalf by their duly authorized representatives, on this the day and year first herein above written.

SIGNED, sealed and delivered in the presence of:

Linda G. Newman

Leon B. Newman
LEON B. NEWMAN

Allison W. Aiken

EX-101160X8

COUNTY OF ORANGEBURG

Reed Van Tassan

BY: Donnie L. Hilliard
DONNIE L. HILLIARD

Jagadevi P. Suresh

Title: County Administrator

STATE OF SOUTH CAROLINA)
)
) *PICKENS*)
COUNTY OF ORANGEBURG)

P R O B A T E

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named grantor sign, seal and as the grantor's act and deed, deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this
28th day of September, 2001

Chh

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires: 10-9-2010

01 Linda B. Newman

STATE OF SOUTH CAROLINA:)
COUNTY OF ORANGEBURG)

P R O B A T E

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named grantor sign, seal and as the grantor's act and deed, deliver the within written instrument and that (s)he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this
13th day of September, 2001.

Scott Van Tasselen

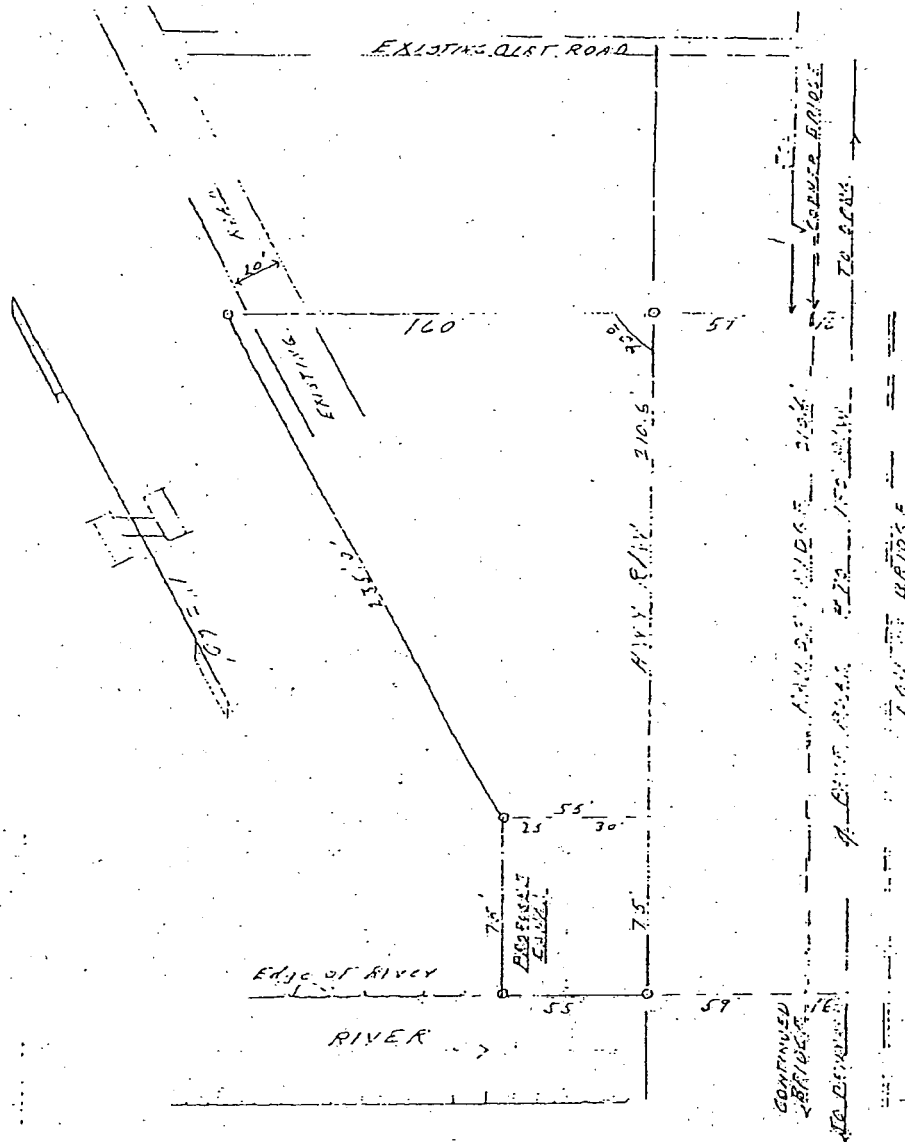
NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires: 09-14-09

01.

Reginald P. Sauer

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SKETCH PREPARED FOR
ORANGEBURG COUNTY

HWY # 20 FROM D. E. DISTO. RIVER

Recorded this 11 day of March
20 02 in deed 917 at Page 143

STATE OF SOUTH CAROLINA

David J. Jolley
REGISTER OF DEEDS
ORANGEBURG CO., S.C.

BOOK 176116



March 1, 2006

Mr. J. William Clark
Orangeburg County Administrator
Post Office Drawer 9000
Orangeburg, SC 29116

CERTIFIED MAIL

Dear Mr. Clark:

I represent Mr. and Mrs. John W. Williamson, III who on March 15, 2005, purchased from Leon B. Newman a tract of land located on the north side of the South Edisto River in Orangeburg County.

A portion of this property is subject to a Right-of-Way and Boat Ramp Lease Agreement between Leon B. Newman and the County of Orangeburg dated September 4, 2001.

Please be advised that Mr. and Mrs. Williamson, as successors in title to Mr. Newman, now wish to terminate immediately the lease agreement under Section 4 of the agreement which states "Leon B. Newman shall have the right, in his sole discretion, to terminate this agreement... if Leon B. Newman sells the land upon which the aforesaid premises are situate."

The County of Orangeburg is further requested to take the necessary steps to remove all signs concerning the public use of the boat ramp, parking and launching area and close the right-of-way leading from S. C. Highway 70 to the parking area.

Yours very truly,

J. Terry Poole

JTP:esh

cc: Mr. and Mrs. John W. Williamson, III
Post Office Box 307
Denmark, SC 29042

March 1, 2006

or two years

Class Mail
national mail
with Cert
Mail

requested to
complete and
affixable post
age. To receive
your Certified

attached to the
mark the mail

ed; please
mark on the
postage and
then making
wa

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. J. William Clark
Orangeburg County Administrator
P.O. Drawer 9000
Orangeburg, SC 29116

2. Article Number
(Transfer from service label)

7005 0390 0003 5616 0773

PS Form 3811, February 2004

Domestic Return Receipt

102535-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Delores M. Wicks*☐ Agent☐ Addressee

B. Received by (Printed Name)

Delores M. Wicks

C. Date of Delivery

3-2-06

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

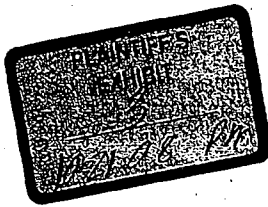
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

MOTLEY RICE LLC
ATTN: ELIZABETH HUGHEY
POST OFFICE BOX 365
BARNWELL, SC 29812

Re: Williamson



**MINUTES
ORANGEBURG COUNTY COUNCIL
SEPTEMBER 5, 2006
5:30 P.M.**

Pursuant to the Freedom of Information Act, the news media was notified and notice was posted on the bulletin board 24 hours prior to the meeting.

MEMBERS PRESENT:

Harry F. Wimberly, Acting Chairman
Janie Cooper

Clyde B. Livingston
Heyward H. Livingston
Johnny Ravenell
Johnnie Wright, Sr.

MEMBERS ABSENT:

OTHERS PRESENT:

Bill Clark, County Administrator
D'Anne Haydel, County Attorney
Jacqueline P. Turner, Clerk to Council

CALL TO ORDER

Harry F. Wimberly, Acting Chairman

MOMENT OF SILENCE

Harry F. Wimberly, Acting Chairman

APPROVAL OF MINUTES

Motion by Councilwoman Cooper, seconded by Councilman Wright, to approve minutes of August 14, 2006 with corrections, if any. Motion approved unanimously.

PUBLIC COMMENTS:

AGENDA ITEMS:

None

PUBLIC COMMENTS:

OTHER MATTERS:

Charles Butler questioned why manufactured housing was being addressed separately in the building code enforcement ordinances. The County Attorney replied the first ordinance given second reading applies to all housing except manufactured housing.

Motion by Councilman Wright, seconded by Councilman Livingston, adopting resolution honoring Industry Appreciation week September 18-22, 2006. Motion passed unanimously.

Motion by Councilman Ravenell, seconded by Councilman Clyde Livingston, adopting resolution honoring the 60th anniversary of Clark's Inn and Restaurant. Motion passed unanimously.

Motion by Councilman Wright, seconded by Councilman Clyde Livingston, adopting resolution honoring the 225th Anniversary of the Battle of Eutaw Springs. Motion passed unanimously.

1. ORDINANCE – PUBLIC HEARING AND SECOND READING

AN ORDINANCE TO AMEND SECTION 6.1(a) OF THE CODE OF ORDINANCES FOR ORANGEBURG COUNTY SO AS TO ADOPT BY REFERENCE MANDATORY CONSTRUCTION CODES REQUIRED TO BE ENFORCED BY THE STATE OF SOUTH CAROLINA.

Acting Chairman Wimberly opened the public hearing. No comments received from the public and the public hearing was closed.

Councilman Clyde Livingston asked why the matter of enforcing building codes was before Council since it has already been predetermined and mandated by state law. Attorney Haydel answered the state law has no enforcement guidelines and if the County does not say what the codes are and let the public know what the codes are, then it may have trouble enforcing them.

Motion by Councilman Clyde Livingston, seconded by Councilwoman Cooper, to approve second reading of the ordinance. Motion passed unanimously.

Acting Chairman Wimberly indicated permits already issued for projects underway would be grandfathered in and allowed to continue under the old regulations. Councilman Ravenell received clarification from Attorney Haydel that all 46 counties will be operating under the same guidelines and only counties that pass their own ordinances like Orangeburg County is doing would notify the local residents the laws are going to be enforced.

Acting Chairman Wimberly stated the four public hearings and second reading for the four other related ordinances would be continued until the September 18, 2006 Council meeting to allow an additional public hearing and comments to be received from the public.

Motion by Councilman Clyde Livingston, seconded by Councilwoman Cooper, items on agenda identified as numbers 2,3,4, and 5, will be continued until September 18, 2006 for a public hearing only. Motion passed unanimously.

3. ACCEPTANCE OF BIDS:

A. TRI-AXLE DUMP TRUCKS – *The County Administrator explained bids were solicited, six vendors submitted bids; three bids did not meet specification. Of the three bids that met specifications, he is recommending Volvo Truck Center of Charlotte, N.C. be accepted in the amount of \$810,554.72 for eight (8) trucks (\$101,319.34 each). The funding for this purchase was appropriated in the budget for FY 2007 and included in the fleet financing bid approved by Council as part of the vehicle replacement plan.*

Motion by Councilman Heyward Livingston, seconded by Councilman Ravenell, to accept the low bid of Volvo Truck Center in the amount of \$810,319 to purchase eight dump trucks. Motion passed unanimously.

B. GAS MONITORS - *The County Administrator explained through a Homeland Security federal grant, the County solicited bids for twenty-six gas monitors for use by the fire departments. Five (5) vendors submitted bids, the lowest received from Powell and Associates, West Columbia, S.C., in the amount of \$25,378.72. He is recommending this bid be accepted.*

Motion by Councilman Clyde Livingston, seconded by Councilman Wright, to accept low bid of \$25,378.72 by Powell and Associates for twenty-six gas monitors. Motion passed unanimously.

C. S.C. DEPARTMENT OF TRANSPORTATION SAFETY AND BEAUTIFICATION PROJECT - *The County Administrator explained SCDOT authorized a grant to provide safety and beautification to Buckley and State Streets on the campus of South Carolina State University with the County acting as administrator for the grant and overseeing construction of the project.*

Motion by Councilwoman Cooper, seconded by Councilman Wright, approving the low bid of \$174,995.00 submitted to R.B. Todd, Engineers, by Advanced Outdoor Services of Columbia, S.C. Motion passed unanimously.

4. ORANGEBURG COUNTY TAX AND TOURISM ADVISORY COMMITTEE REPORT -

The County Administrator indicated the Tax & Tourism Advisory Committee recommended appropriating \$20,000 to Santee Cooper Country for their FY 2006-2007 marketing plan, \$20,000 to Tri-County Regional Chamber of Commerce for their FY 2006-2007 projects, \$10,000 to S.C. State University to sponsor a Columbia City Ballet program on the campus and \$1,565.62 to cover the costs of printing a brochure promoting Indian Bluff Park for a total of \$51,565.62.

Motion by Councilman Clyde Livingston, seconded by Councilman Wright, approved funding the Tax & Tourism Advisory Committee recommendations in the amount of \$51,565.62. Motion passed unanimously.

5. PUBLIC WORKS - REQUEST FOR ACCESS ROAD INCLUSION - GRIZZLY GROVE ROAD

The County Administrator indicated Grizzly Grove Road met the criteria for inclusion into the County's road maintenance system, and he is recommending Council's acceptance.

Motion by Councilman Clyde Livingston, seconded by Councilwoman Cooper, to accept Grizzly Grove Road into the County's road maintenance system. Motion passed unanimously.

6. REPORT ON NESS BOAT LANDING

The County Administrator reported he has been in contact with the property owner, addressing his concerns about liability, littering, road access and law enforcement, with no resolution being achieved. He will put the County's proposals to solving the problem in a letter to the owner, and the County Attorney is going to research the County's legal options.

Motion by Councilman Heyward Livingston, seconded by Councilman Wright, for the County Administrator and the Attorney to do whatever is necessary to keep the landing open. Motion passed unanimously.

7. PERSONAL APPEARANCES:

A. Blakely Hallman, National Kidney Foundation appeared before Council to thank them for their support and present a plaque of appreciation.

B. Marie Laird, North Family Community School, appeared before Council to inform them of the need for a larger facility and their plans for construction of a facility. Mayor Jeffcoat also spoke in support of the School.

Motion by Acting Chairman Wimberly, seconded by Councilman Heyward Livingston, for the Administrator to send a letter of support, without financial commitment. Motion passed unanimously.

Motion for adjournment made by Councilman Clyde Livingston, seconded by Councilman Wright. Motion passed unanimously.

Meeting adjourned.

Jacqueline P. Turner, Clerk

John H. Rickenbacker, Chairman



October 13, 2006

Mr. John W. Williamson
Post Office Box 307
Denmark, SC 29042

Re: Ness Boat Landing

Dear Mr. Williamson,

I want to begin by thanking you for allowing me to meet with you recently to discuss the various concerns each of us has regarding the Ness Boat Landing. It is my hope that we can find enough common ground to satisfy your interests as well as those of the citizens who desire to see the landing remain open to the public.

Since the last time we spoke I have been working to see if I could identify an alternate site for a boat landing in your area. Unfortunately this effort has not been successful. Although I have not given up on this process, I do not have any leads that look promising at this time. Given this, I am back to making an appeal to you to allow the County to keep the Ness Landing open and available to the public.

From our previous conversations, I understand that you have a number of concerns relating to the use of the Ness Landing by the public. The County is prepared to offer the following in response to your concerns:

1. Liability - The County is willing to prepare an Agreement for your review that would release you from any liabilities relating to the use of the boat landing by the general public.
2. Law Enforcement - The Orangeburg County Sheriff's Office is willing to add the boat landing as a point on their area patrol. The Sheriff's Office will provide a direct contact for you within the department to receive any complaints or concerns about the boat landing.
3. Litter - The County is willing to add the boat landing to a list of locations that receive regular clean-up through the Litter Control office. I can elaborate on this process if necessary.

4. Road Access - After reviewing the site, the County does not believe that it is practical to construct an alternate road to provide access into the boat landing. The County is aware of your desire to limit possible points of access on to your property and we believe this can be achieved by closing the access point at the boat landing and creating an alternate point of entry to your property off of Highway 70 that could be gated. I am willing to present this option to you in greater detail if you desire.

I want to thank you again for your willingness to meet with me in the past to discuss our mutual interests and concerns about the boat landing. If it will help to further the discussion, I am willing to meet with again to see if we can find an agreeable resolution to this matter. As you know, the Orangeburg County Council has a strong desire to maintain the history of public access to the Ness Landing. They would like to have a response from you regarding your intention by November 15, 2006. If the matter remains unresolved after this date, County Council will give consideration to a condemnation action. If I can provide any assistance in interim, please feel free to contact me directly at my office at (803) 533-6101 or at my cell phone at (803) 682-4955.

Sincerely,

Bill Clark
County Administrator

TOTAL P.002

P.4

803 534 2797

Danne Hagdel

Jan 29 08 07:00p

MINUTES
ORANGEBURG COUNTY COUNCIL
NOVEMBER 21, 2006
5:30 P.M.

Pursuant to the Freedom of Information Act, the news media was notified and notice was posted on the bulletin board 24 hours prior to the meeting.

MEMBERS PRESENT:

Harry F. Wimberly, Acting Chairman
Janie Cooper
Clyde B. Livingston
Heyward H. Livingston
Johnny Ravenell
Johnnie Wright, Sr.

MEMBERS ABSENT:

OTHERS PRESENT:

Bill Clark, County Administrator
D'Anne Haydel, County Attorney
Jacqueline P. Turner, Clerk to Council



CALL TO ORDER

Harry F. Wimberly, Acting Chairman

MOMENT OF SILENCE

Moment of silence observed

APPROVAL OF MINUTES

Motion by Councilman Wright, seconded by Councilman Ravenell, to approve minutes of November 6, 2006 with corrections, if any. Motion approved unanimously.

PUBLIC COMMENTS

AGENDA ITEMS

No comments made.

PUBLIC COMMENTS

OTHER MATTERS

No comments made

1. ORDINANCE - THIRD AND FINAL READING

AN ORDINANCE AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE FEE AGREEMENT DATED SEPTEMBER 4, 2001 BY AND BETWEEN ORANGEBURG COUNTY, SOUTH CAROLINA AND ALLIED AIR ENTERPRISES TO PROVIDE FOR AN EXPANSION OF THE ALLIED AIR ENTERPRISES INC. FACILITY, THE EXTENSION OF THE TERMS OF THE FEE AGREEMENT, AND FOR THE INCLUSION OF THE EXPANSION IN

- 1 -



THE ORIGINAL FEE AGREEMENT; AND OTHER MATTERS RELATING HERETO.

Motion made by Councilman Heyward Livingston, seconded by Councilwoman Cooper, for approval of third and final reading of the ordinance. Motion passed unanimously.

2. ORDINANCE – THIRD AND FINAL READING

AN ORDINANCE OF THE COUNTY COUNCIL OF ORANGEBURG COUNTY, SOUTH CAROLINA, APPROVING FORMATION OF AND MEMBERSHIP OF COUNTY IN ORANGEBURG JOINT GOVERNMENTAL ACTION AUTHORITY; APPROVING THE ISSUANCE OF NOT TO EXCEED SEVENTY-FIVE MILLION DOLLARS PRINCIPAL AMOUNT (\$75,000,000) CAPITAL PROJECTS SALES AND USE TAX REVENUE BONDS (ORANGEBURG SOUTH CAROLINA PROJECT), SERIES 2006, BY ORANGEBURG JOINT GOVERNMENTAL ACTION AUTHORITY; APPROVING THE FORM OF SAID BONDS; APPROVING THE FORM AND CONTENT OF THE TRUST AGREEMENT; APPROVING THE FORM AND CONTENT OF THE CAPITAL PROJECTS SALES AND USE TAX FACILITIES CONSTRUCTION AGREEMENT; APPROVING THE APPROPRIATION OF CAPITAL PROJECTS SALES AND USE TAX REVENUES FOR FISCAL YEARS THAT BEGAN ON JULY 1, 2005 AND JULY 1, 2006, AND OTHER MATTERS RELATED THERETO.

Acting Chairman Wimberly indicated third and final reading for this ordinance would be postponed because one document needed had not been received. It is expected to be received shortly; once received a special meeting of County Council will be called to give third and final reading of the ordinance.

3. ORDINANCE SECOND READING

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT DATED AS OF DECEMBER 4, 2006 BY AND BETWEEN ORANGEBURG COUNTY, SOUTH CAROLINA AND DOANE PET CARE COMPANY, D/B/A MARS PETCARE U.S., PROVIDING FOR A PAYMENT OF A FEE IN LIEU OF TAXES.

Motion for second reading approval made by Councilwoman Cooper, seconded by Councilman Wright. Motion passed unanimously.

4. ORDINANCE - SECOND READING

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE IN LIEU OF TAX AGREEMENT BETWEEN ORANGEBURG COUNTY, SOUTH CAROLINA AND MARTIN MARIETTA MATERIALS, INC. OR ITS DULY GUARANTEED ASSIGNEE; AND OTHER MATTERS RELATING THERETO INCLUDING, WITHOUT LIMITATION, PAYMENT OF A FEE IN LIEU OF TAXES.

Motion for second reading approval made by Councilman Wright, seconded by Councilwoman Cooper. Motion passed unanimously.

5. ORDINANCE - FIRST READING (BY TITLE ONLY)

AN ORDINANCE TO DEVELOP A JOINT INDUSTRIAL/BUSINESSPARK IN CONJUNCTION WITH CALHOUN COUNTY, SUCH INDUSTRIAL/BUSINESS PARK TO BE GEOGRAPHICALLY LOCATED IN ORANGEBURG AND CALHOUN COUNTIES AND ESTABLISHED PURSUANT TO SOUTH CAROLINA CODE OF LAWS 1976 SECTION 4-1-179, ET. SEQ., AS AMENDED; TO PROVIDE FOR A WRITTEN AGREEMENT WITH CALHOUN COUNTY PROVIDING FOR THE EXPENSES OF THE PARK, THE PERCENTAGE OF REVENUE APPLICATION, AND THE DISTRIBUTION OF FEES IN LIEU OF AD VALOREM TAX TO THE COUNTIES AND RELEVANT TAXING ENTITIES; TO PROVIDE THAT JOB TAX CREDITS ALLOWED BY LAW BE PROVIDED FOR INDUSTRIES LOCATING IN SAID PAARK; AND TO PERMIT A USER FEE IN LIEU OF AD VALOREM TAXATION (DOANE/MARS PETCARE).

Motion by Councilman Heyward Livingston, seconded by Councilman Ravenell, for first reading approval of ordinance. Motion passed unanimously.

6. RESOLUTION - MARTIN MARIETTA MATERIALS, INC.

A RESOLUTION PROVIDING THAT UNDER CERTAIN CONDITIONS, ORANGEBURG COUNTY WILL EXECUTE A FEE-IN-LIEU OF TAX AGREEMENT FOR A PROJECT INVOLVING AN INVESTMENT OF APPROXIMATELY ELEVEN MILLION DOLLARS (\$11,000,000) BY MARTIN MARIETTA MATERIALS, INC.

Motion for adoption of resolution by Councilman Wright, seconded by Councilman Clyde Livingston, Motion passed unanimously.

7. **SOUTH CAROLINA COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE - STATEMENT OF SUPPORT**

Acting Chairman Wimberly explained the organization requested their presentation be postponed until December 18, 2006, due to the inclement weather.

8. **ACCEPTANCE OF BID - WATER EXTENSION (BOWMAN AREA)**

County Administrator Clark indicated ten bids were received with the lowest bid received from McMahon Brothers Pipeline, Inc. of St. Matthews, South Carolina for a total of \$876,732.62. The total amount includes an alternate to increase the size of a section of the waterline from 10" to 12" to the extension from Homestead Road to I-26. Cost of the project will come from a Community Development Block Grant and the Capital Projects Sales Tax. It is his recommendation the lowest bid be accepted.

Motion for acceptance of the low bid from McMahon Brothers Pipeline in the amount of \$876,872.62 made by Councilman Ravenell, seconded by Councilwoman Cooper. Motion passed unanimously.

9. **REPORT FROM COUNTY ADMINISTRATOR REGARDING STATUS OF NESS BRIDGE LANDING**

County Administrator Clark reported the November 15, 2006 deadline date for a written response to be received from the property owner had passed without a written response being received. A verbal response had been received from an attorney on behalf of the property owner who was positive with his comments whereby he thought something could be worked out, but nothing had been received in writing as of today's date. Consequently, it is his recommendation to Council to proceed with the conditions laid out in the letter to the property owner to initiate condemnation activity to reopen Ness Landing to the public. Subsequently, if something is received in writing favorable for consideration, Council could come back to the issue.

Motion by Councilman Heyward Livingston, seconded by Councilwoman Cooper to proceed with legal activity to reopen Ness Landing to the public. Motion passed unanimously.

The County Attorney indicated the condemnation statutes recognize that you may end up working out a voluntary agreement and is part of the process.

Motion for adjournment made by Councilwoman Cooper, seconded by Councilman Wright, Motion passed unanimously.

Meeting adjourned.

Jacqueline P. Turner, Clerk

John H. Rickenbacker, Chairman

PLAINTIFF'S
EXHIBIT7
10-21-08 PM

Public vs. private rights

Landowner says he's protecting his family;
county trying to restore public access to river

By LEE HENDREN
T&D Staff Writer

Orangeburg County is continuing its efforts to restore public access to the Ness Boat Landing on the Edisto River, County Attorney D'Anne Haydel says.

Since lease negotiations with the property owner broke down, the county is preparing to exercise its power of eminent domain, also known as condemnation, to acquire the property, she says.

But the property owner, John W. "Johnny" Williamson III, says he is not convinced that such action is legal.

Haydel, during an interview, produced a copy



T&D FILES

The dispute continues between Orangeburg County and a landowner over access to the Edisto River.

See RIGHTS, 6A

Rights

Continued from 1A

of a right-of-way and boat ramp lease agreement signed Sept. 8, 1975, by the Georgia-Pacific Corp. and the Orangeburg County Commission, forerunner to County Council.

Haydel said the document is by far the most formal and detailed of the county's agreements for public use of privately owned property, such as boat landings.

She pointed to a clause that the agreement would automatically renew for one year on each anniversary date unless either party gives the other party 60 days written notice thereof prior to any anniversary date thereof.

Successive owners kept the lease in effect, to the delight of anglers from near and far who say it's a great place to set off on a fishing trip.

That boat landing is the most accessible landing on the South Edisto River, and probably the most popular one, frequent visitor Joe Sutcliffe has said.

Then one day last spring, disappointed boaters found a barricade had been erected across the drive leading from Binnicker Bridge Road to the landing.

Then calls to the county to express their concern are what alerted county officials to the situation, Haydel said.

The boat landing users have a valid complaint, she said, because "from a legal standpoint, we still have a lease. . . . We've never received written notice from anyone that the property owner wanted to cancel the lease."

Williamson believes otherwise.

"I sent them a certified letter on March 1, 2006, that they never responded to," he said. "They got it. I'm sure they did. My attorney got the return receipt and all that."

Williamson also said he has a copy of a revised contract from 2001. It was signed by Leon Newman, who owned the land at that time, and Donnie Hilliard, who was the county administrator at that time.

Haydel was surprised to learn that a revised contract existed. She said she would like to see a copy of it.

Williamson said it is recorded in the deed book that is on file at the Orangeburg County Courthouse for all to see.

Soon, another public document will be filed. "I'm in the process of putting a wetlands easement reserve on it," Williamson said.

Williamson is a nuisance abatement agent with the state Department of Natural Resources and a former Bamberg County Council member.

He insisted that the county's move to force him to sell his land did not anger him. "No,

I'm not mad," he said.

As to whether he intends to fight the county, he said that would depend on his attorney's advice to him as to whether the county has the legal right to condemn land that it previously used under contract.

Haydel said the law gives public bodies, such as council, the right to take private property as long as it is for public use.

Just last month, the state's voters passed, by a large margin, a state Constitutional amendment prohibiting the state and local governments from condemning or taking private property for any purpose other than to put it to public use or to eliminate blight or a danger to community safety and health.

Haydel said the boat landing serves the public purpose by providing public access to the river, which is a natural resource available to all.

Sutcliffe says state law ensures that waters such as the Edisto River are open to public use but "what good is it to have that water if you can't get access to it?"

But not all people practice good stewardship, Williamson said. A few engage in anti-social behavior, ranging from littering to shooting guns and from burning cars to stealing boats.

From the day he bought the property, Williamson said his attorney has questioned whether the family was adequately protected from liability in connection with whatever might happen at the landing.

Williamson said he waited on the county for 15 months to sign a new lease indemnifying him from liability. When that did not occur, "we did what we had to protect ourselves," he said.

Two of Williamson's requests were for a new access route to the boat landing and for more litter pickup and prevention efforts by county employees. Haydel said that could have been worked out rather easily.

However, Haydel said the county could not accommodate two other requests.

One was the indemnification, and at one point in the negotiations, County Administrator Bill Clark said, "I proposed an agreement that would indemnify him from liability."

However, Haydel said new accounting rules won't allow the county to do that to an unlimited degree. The county can only purchase insurance with a

stated maximum dollar amount.

The other request was for an increased presence of law enforcement personnel, but Haydel said, "We can't direct the sheriff to give anybody special treatment."

Although a lease extension could not be agreed upon, County Council felt strongly that the public needed to continue to have access to the river at that point.

At one point, Councilman Heyward Livingston, whose district includes that area of the county, said he thought the county should "go down and knock the gate down."

Instead, on Nov. 22, County Council voted to pursue condemnation, not of the entire 238-acre tract, but of the portion that had been used under the lease.

Haydel said state law is specific; it not only lays out the condemnation process, but actually spells out, word for word, the texts of the letters the county must send to the property owner.

The condemnation process is both expensive and time-consuming, it works like this:

- The county hires a lawyer with particular expertise in this area of the law.

- The lawyer hires an appraiser with particular expertise in this kind of property.

- The county sends the property owner a letter asking permission for the appraiser to visit the property.

- The appraiser determines the fair market value of the property and prepares an appraisal. This is not just a dollar amount written on a Post-It note; the appraisal is more like a small booklet with documentation and justification of what is determined to be "just compensation" to the property owner.

- The property owner is notified of the appraisal and is given 30 days to file a legal action challenging the basis of the condemnation.

- If the property owner does not file an objection, the fair market price is paid and the county takes ownership of the property.

■ T&D Staff Writer Lee Hendren can be reached by e-mail at lhendren@timesanddemocrat.com or by phone at 803-533-5552. Discuss this and other stories online at TheLandD.com.

Paul de Holczer

From: Paul de Holczer [pdeholczer@mkb-law.com]
Sent: Friday, December 15, 2006 5:38 PM
To: AbsoluteTitle
Cc: 'D'Anne Haydef'; Iris Jennings
Subject: Acreage, sixty (60) year search
Attachments: GIS Material.pdf

Attn: Tabitha Mills
Absolute Title, LLC
1903 Gadsden Street, Suite 203
Columbia, SC 29201



Dear Tabitha:

I am writing to order an Acreage, sixty (60) year search
I understand the Acreage, sixty (60) year search is \$225 plus appropriate travel expenses.

Attached is a GIS map showing the subject parcel which is in Orangeburg County, northwest of the SC-70 crossing of the South Edisto River into Bamberg County. It is our understanding that the property currently belongs to John W. Williamson, III and Kathryn J. Williamson, Post Office Box 307, Denmark SC 29042. The subject parcel is of 238 acres. The current Tax Map Sheet Number of the property is: 0075-00-01-0009.000 (The OLD Tax Map Sheet Number of the property is: 0074-00-00-002.).

understand the deed to the Williamsons is at Deed Book 1086 Page 0279.
I understand there is a Lease Agreement between Georgia Pacific and Orangeburg County at Book 415 Page 421 (September 1975). Old TMS #0074-00-00-002.

I need both of these documents as well as any Affidavit of True Consideration for this property within the last ten years.

PLEASE ASK ALL TITLE PERSONNEL TO BE DISCREET IN THEIR INQUIRIES CONCERNING THIS PROPERTY.

PLEASE ASK THE TITLE PERSONNEL TO HAVE THE COPIES CERTIFIED.

If you have any questions, please do not hesitate to write or call.

Thank You!

Paul D. de Holczer, Esq.
Moses Koon & Brackett, PC
1441 Main Street, Fourth Floor
Columbia, SC 29201

Post Office Box 100261
Columbia, SC 29202-3261

3-461-2317 Telephone
803-461-2309 Facsimile
pdeholczer@mkb-law.com

12/15/2006

P-1111

On the Web at: <http://www.mkb-law.com>

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12/15/2006

P-112

Paul de Holczer

From: Berry Still [bstill@rpmengineers.com]
Sent: Wednesday, January 03, 2007 5:23 PM
To: Paul de Holczer
Subject: RE: Orangeburg Considerations
Attachments: Boat Ramp Evaluation Outline.doc; Cost Estimate for Boat Ramp.doc



Paul,

Here is the draft scope and cost proposal as promised. The number can be reduced if we reduced the number of sites. I have given you some numbers to reference that. Thanks for giving us the opportunity.

Berry

From: Paul de Holczer [mailto:pdeholczer@mkb-law.com]
Sent: Wednesday, December 20, 2006 3:53 PM
To: Berry Still
Cc: dannehaydel@sc.rr.com
Subject: Orangeburg Considerations

**Berry, here are the relevant factors for consideration.
These are not necessarily of equal value in consideration.**

aesthetic factors, (cultural, educational, historical)
environmental factors,
safety factors,
reliability/functionality/efficacy/accessibility factors,
area development patterns,
long-range planning by city and/or county public authorities
costs

\$ 20,000

Paul D. de Holczer, Esq.
Moses Koon & Brackett, PC
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1/3/2007

P. 76

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1/3/2007

P. 17



COUNTY ADMINISTRATOR
BILL CLARK



COUNTY OF ORANGEBURG

P.O. DRAWER 9000, ORANGEBURG, S.C. 29116-9000
TELEPHONE 803/533-1000
WWW.ORANGEBURGCOUNTY.ORG

December 20, 2006



2005

COUNCIL MEMBERS

JOHN H. RICKENBACHER, CHM.
HARRY F. WIMBOLLY, VICE CHM.
JANIE COOPER
CLYDE B. LIVINGSTON
KEYWARD H. LIVINGSTON
JOHNNY RAVENEL
JOHNNIE WRIGHT, SR.

Mr. Grady Adkins, Jr., P.E., State Conservation Engineer
USDA Natural Resources Conservation Service
Strom Thurmond Federal Building
1835 Assembly Street, Room 950
Columbia, SC 29201



Re: J. B. Ness Boat Landing Project - Orangeburg County

Dear Mr. Adkins:

I am J. William "Bill" Clark, Administrator of Orangeburg County, South Carolina. I am writing regarding a project proposed by Orangeburg County, the J. B. Ness Boat Landing Project. This project involves the County condemning a fee simple interest in a property which has served under lease to Orangeburg County for the last thirty (30) years as a public boat landing. The acquisition is for the improvement of the boat landing and to ensure that the landing is, in the future, as open and available to the general public as it has been for so many years. The project envisions preserving this boat landing as one of only two public boat landings in Orangeburg County on the South Fork of the Edisto River in South Carolina.

I want to make your agency aware that Orangeburg County is currently engaged in pre-project planning and negotiations with the Landowners. Unfortunately, the Landowners oppose this project and have announced to the local newspaper that they will pursue various measures to prevent this project, including placing a conservation easement on the property. We welcome an opportunity to work with your agency to address this and any other issue pertinent to this project and affecting the public interest and the citizens of Orangeburg County.

Enclosed is a GIS map showing the subject parcel which is in Orangeburg County, north-west of the SC-70 crossing of the South Edisto River into Bamberg County. Also enclosed is a portion of a road map showing the approximate location of the existing boat ramp improvements. It is our understanding that the property subject to acquisition belongs to John W. Williamson, III and Kathryn J. Williamson, Post Office Box 307, Denmark, SC 29042. The existing boat ramp is on a larger parcel of 238 acres; however, the area to be acquired, to include the existing boat ramp, will likely be less than 10 acres. The current Tax Map Sheet Number of the property is: 0075-00-01-0009.000. (The OLD Tax Map Sheet Number of the property is: 0074-00-00-002.)

On behalf of Orangeburg County, I ask that you make interested branches and individuals in your agency aware of our project. I ask, too, that you communicate with me if any matter comes to your attention requiring action by Orangeburg County or involving this property. If you need further information, please do not hesitate to call.

With kind regards, I am

Yours truly,

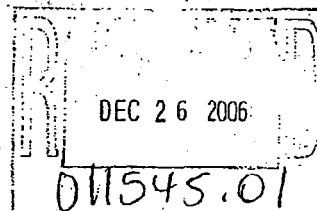
J. William Clark
County Administrator

Enclosures

BUILDING A BRIGHTER FUTURE FOR OUR CITIZENS

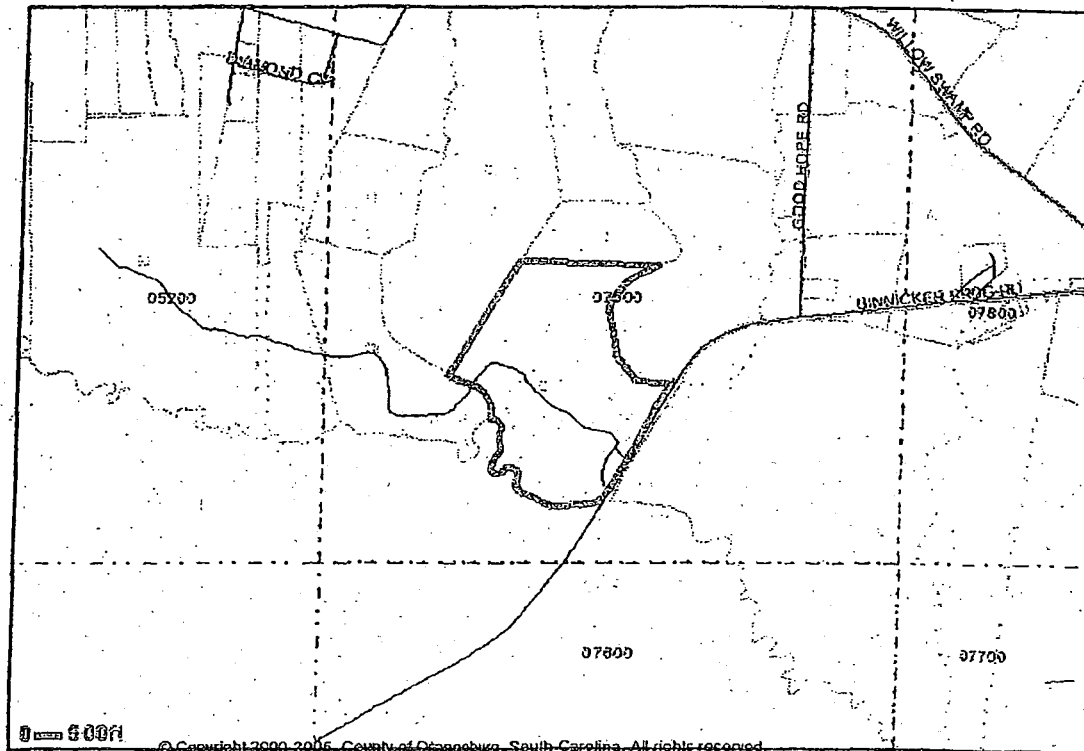
286

cc: Earl Whalen, Deputy Administrator of Public Services
John McLaughlin, County Engineer
D'Anne Haydel, County Attorney
✓ Paul D. de Holczer, Esquire



P-87

County of Orangeburg



TAX MAP NUMBER: 0075-00-01-009.000

TAX MAP NUMBER: 0075-00-01-009.000
 OLD MAP NUMBER: 0074-00-00-002.000
 ACCOUNT NUMBER: 130050
 ACREAGE: 238.006
 DEED REF.: Book 0000 Page 0000
 PLAT REF.: Book 0000 Page 0000
 NEWMAN LEON B
 CONTACT INFORMATION: 448 NINE TIMES ROAD
 SUNSET S C 29685
 SUBDIVISION: TCHNOSE TRACT
 PHYSICAL ADDRESS:
 FIRE DISTRICT: NORWAY

FEMA ZONE, SHEET 12/16/80:

ZONE C, 1600200B

ZONE A, 1600200B

2000 CENSUS INFO:

 TRACT: 011800
 BLOCK: 1072
 GROUP: 1

LANDUSE

TL, CL

SOILS:

Js (JOHNSTON)

W (WATER)

Lu (LUMBEE)

BIB (BLANTON)

AeC (AILEY)

TrB (TROUP)

AeB (ALBION)

P-88

Jo (JOHNS)

OcA (OCILLA)

Eo (ELLOREE)

Sw (SWAMP)

LaC (LAKELAND)

RsC (RUSTON)

School District: DIST 4

Primary School:

Elementary School: HUNTER KINARD TYLER

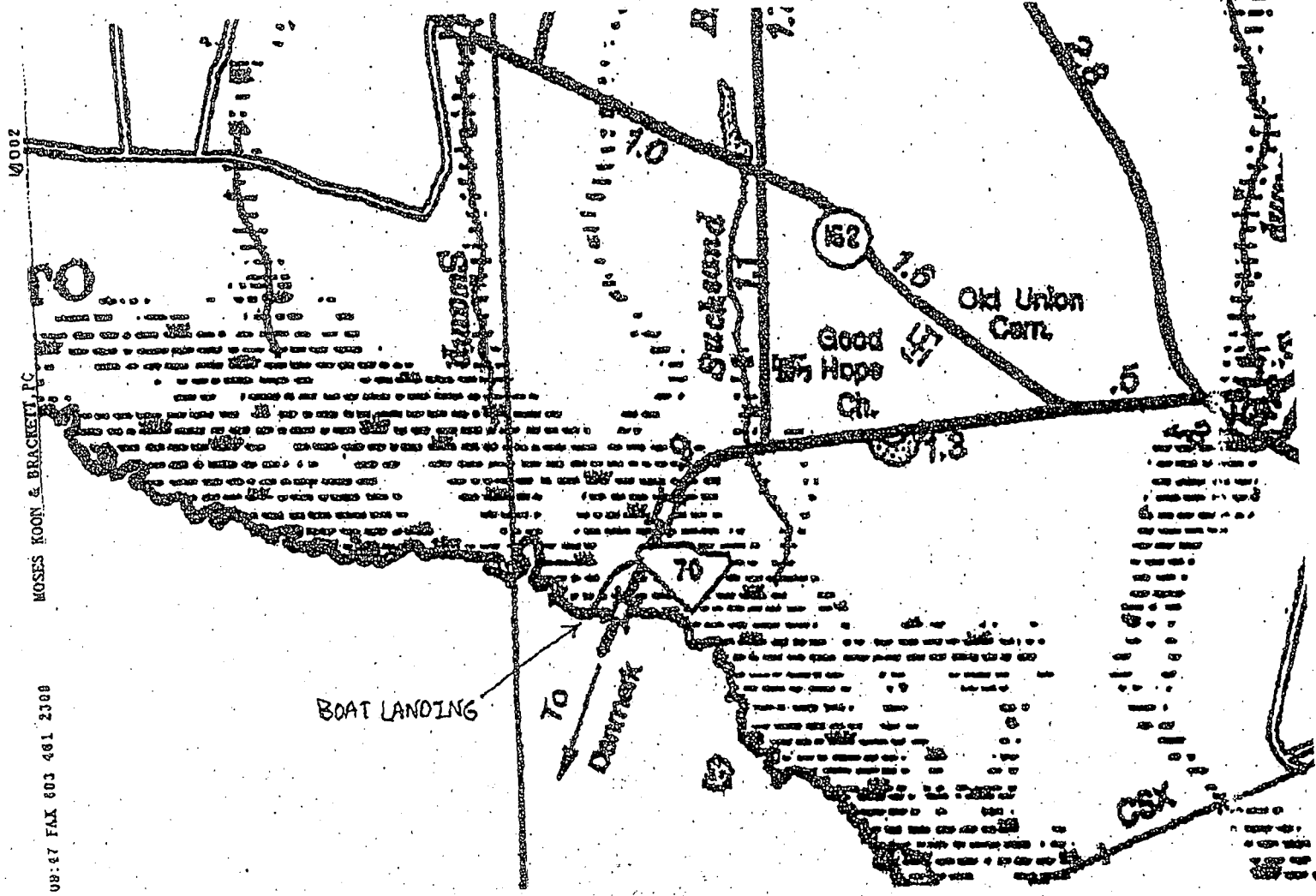
Middle School:

High School: HUNTER KINARD TYLER

SC State Senator:

P. 49

595



12/18/2008 08:47 FAX 603 461 2388

12-90

Dec 19 06 05:48P

Danp Hayden

803 594 2797

P-1

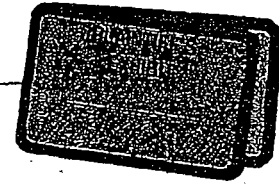
MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1441 MAIN STREET, FOURTH FLOOR (29201)
POST OFFICE BOX 100261
COLUMBIA, SOUTH CAROLINA 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309
Website <http://www.mkb-law.com>

Paul D. de Holczer
Direct Dial: (803) 461-2317
Email: pdeholczer@mkb-law.com



January 5, 2007

VIA US POST & FAX: 996-2944

Mr. Berry Still, P.E.
RPM Engineers, PLLC
307 W. Main Street
Lexington, SC 29072

Re: J. B. Ness Boat Landing Project
Orangeburg County
MKB File No.: 11545.1

Dear Mr. Still:

I am writing to thank you for your proposal for engineering consulting services on the above referenced project. Orangeburg County was impressed with the detail and organization of your proposal. RPM was selected for this particular project, and the County would like to get this going at your earliest opportunity. If you require an engagement agreement, please send that to me as soon as possible. You can expect to coordinate your work with the individuals copied with this letter. Full contact information for these can be found below and I will email it to you as well.

Mr. John E. McLauchlin Jr.
Orangeburg County Engineer
Post Office Box 1303
Orangeburg, SC 29116
(803) 536-3333 Phone
(803) 534-1165 Fax
(803) 747-1414 Cell
john@ocdc.com

D'Anne Haydel
Attorney at Law
2015 Broughton Street
Orangeburg, SC 29115
(803) 534-4487 Phone
(803) 534-2797 Fax
dannehaydel@sc.rr.com

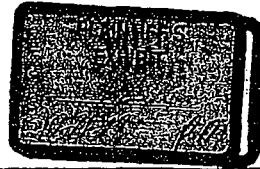
If you have any questions or concerns, please do not hesitate to write or call.

With kind regards, I am

Yours truly,

Paul D. de Holczer

PDH:iwj



Berry Still

From: D'Anne Haydel [dannehaydel@sc.rr.com]
Sent: Thursday, January 18, 2007 2:33 PM
To: 'Paul de Holczer'
Cc: john@ocdc.com; Berry Still
Subject: RE: Orangeburg Edisto River Tract RFP

The County Engineer, John McLaughlin and I had a 2 hour conference call with Berry Still today. The first committee meeting will be January 29th. I would appreciate it if you would coordinate with Berry regarding when he will need access to the property. By copy of this e-mail, I am letting Berry know of your timetable and the need to coordinate access through your office. D'Anne

-----Original Message-----

From: Paul de Holczer [mailto:pdeholczer@mkb-law.com]
Sent: Thursday, January 18, 2007 12:40 PM
To: 'D'Anne Haydel'
Subject: RE: Orangeburg Edisto River Tract RFP

D'Anne:

A lot of the work can be done without going on the property.

We do want him to go on the property – but not until the engineers' work is done.

Keep me informed of that progress, please.

When that time comes, we just need to give notice under the statute and I will take care of that. That will be certified letter or some such with a courtesy copy to Brad Hutto.

Incidentally, the engineers can go on the property under the same statute, so if they do need to do so, let me know and I will get that letter prepared. In both cases I will need a specific date and time for the entry and would prefer about two weeks' lead.

If the Sheriff can serve the notice of entry, at least 48 hours in advance, that might be best in terms of flexibility.

Paul D. de Holczer, Esq.

Moses Koon & Brackett, PC

1441 Main Street, Fourth Floor

11/14/2007

Columbia, SC 29201

Post Office Box 100261

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803-461-2309 Facsimile

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From: D'Anne Haydel [mailto:danneyhaydel@sc.rr.com]
Sent: Thursday, January 18, 2007 7:42 AM
To: 'Paul de Holczer'
Cc: john@ocdc.com
Subject: RE: Orangeburg Edisto River Tract RFP

Paul: How will he establish the before value without going on the property? I am hoping that whenever he has to go on the property, your services include obtaining the Landowner's permission. If the latter is not correct, let me know. The Mr. of the Landowner (land in the name of Mr&Mrs) has notified the County that his attorney in this matter is Brad Hutto. I am assuming that you would need to go through Brad; however, I have never known Brad to be a returner of any phone calls he did not originally initiate, so good luck to you! I tell you this not to be snippy; but to let you know a snag that is likely to occur. D'Anne

-----Original Message-----

From: Paul de Holczer [mailto:pdeholczer@mkb-law.com]
Sent: Wednesday, January 17, 2007 8:57 PM
To: 'Stephanie Bates'; Lee Parker
Cc: danneyhaydel@sc.rr.com; Iris Jennings

11/14/2007

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From: Stephanie Bates [mailto:StephanieB@parkerassoc.com]
Sent: Friday, January 12, 2007 1:18 PM
To: Paul de Holczer
Cc: Lee Parker (Lee Parker)
Subject: Orangeburg Edisto River Tract RFP

Mr. de Holczer,

At Mr. Parker's request, I have attached the RFP letter for the Orangeburg Edisto River tract. I will send you the original through regular mail. Please let us know if you have any questions.

Thank you,

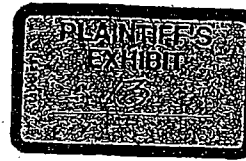
Stephanie Bates

Parker Associates

11/14/2007

Paul de Holczer

From: Berry Still [bstill@rpmengineers.com]
Sent: Tuesday, January 23, 2007 2:41 PM
To: D'Anne Haydel
Cc: John@ocdc.com; Paul de Holczer
Subject: RE: Ness Boat Landing - Schedule



D'Anne and John,

I just wanted to touch base with ya'll. I have spoken to Tim Vinson with SCDNR. He is sending some design information and the names of a couple websites to aid in determining site criteria. He also forwarded me to his supervisor Dick Byrd, Dick raised some concerns about SCDNR being on the ad hoc committee. He said that he has received several FOI requests about the site. He said that he would check with his chief counsel and determine if they can be part of the committee and not jeopardizes the process or any future condemnation actions. Apparently SCDNR is getting a lot of public inquiries about this. Paul has sent me some information about the site history and he is looking for the Brad Hutto's study. I will review the information and should be in touch by Friday.

John,

Please call me, I want to talk to you about the potential extent of the study area.

If ya'll have any questions, please do not hesitate to contact me.

Berry
Cell 803-315-6318
Office 803-996-2900
Fax 803-996-2944

1/23/2007

P-64

Berry Still

From: Berry Still
Sent: Thursday, February 22, 2007 10:47 AM
To: 'John McLauchlin'
Subject: Revised contract amount



Mr. McLauchlin,

This email is to advise you of the revised contract amount. After reducing the study area, the BLAC Committee reduced the number of potential sites from six to four. As per the contract, the lump sum amount was reduced by \$2,295.00 per site for a total reduction of \$4,590.00. The BLAC Committee also decided to perform only one site assessment instead of three. The other two site assessments may yet be performed if an environmental hazard is found at the preferred site. This will further reduce the contract by \$6000.00. The new revised contract amount will be \$17,319.00. Any future alteration to the contract amount, if necessary, will be forwarded to you for approval prior to revising the amount.

Thanks,

Berry Still
RPM Engineers

2/22/2007



Berry Still

From: Berry Still
Sent: Wednesday, March 07, 2007 11:33 AM
To: 'D'Anne Haydel'
Cc: 'John McLauchlin'; 'Earl Whalen'; 'Harold Young'
Subject: RE: Information for the document

First of all, I trust everyone got home safely from their recent travels. I just wanted to take a minute to touch base with everyone. I have conducted our site visits and gathered just about all of the information needed. SCDNR is going to provide me with river accident data if it is available. Everything seems to be progressing and I should have the draft to ya'll by the 13th. I just wanted to go over a couple things.

John, I do not know if you saw last weeks email, but we have eliminated Explorer Drive from any further consideration. We have done work on this alternative when we first thought it was a public access roadway. We recently found out that only a small portion of this has public access. I will not include information on this alternative in the write up. I will simply say it was discarded because it did not comply with the purpose and need. There should be a refund to the county for some of the tasks associated with this elimination, but since we have done several of the tasks for that site it would not be the full amount. I should have a number to you after I have completed the draft. I just have not had time to go back and look. Call me if you want to discuss.

Harold, were you able to get the exact number of the surveys mailed?

D'Anne, Were you able to get a copy of the minute for the retreat? I think that is all we need.

Thanks for everything.

Berry

From: D'Anne Haydel [mailto:danneydel@sc.rr.com]
Sent: Wednesday, February 28, 2007 3:16 PM
To: Berry Still
Cc: 'John McLauchlin'; 'Earl Whalen'; 'Harold Young'
Subject: RE: Information for the document

See below response to #1. D'Anne

-----Original Message-----

From: Berry Still [mailto:bstill@rpmengineers.com]
Sent: Wednesday, February 28, 2007 1:30 PM
To: D'Anne Haydel
Cc: John McLauchlin; Earl Whalen; Harold Young
Subject: Information for the document

Hope everyone is well. I am in the midst of writing the document and have a few questions.

- 1.) D'Anne, did the County Council approve a resolution or some document that shows the boat landing being a priority. If they did I would like to include in the document if you are okay with it. Council included a boat landing on the South Fork of the Edisto River as one of its priorities at Council's 2007 retreat. Our Administrator is out of town until next week (as is Harold and perhaps Earl). He was the one who took minutes of the meeting known as

11/14/2007

the retreat. I will ask him when he returns if he can provide something in writing.

In addition, Council voted in an open regular session that the County was to take all action necessary to "reopen the boat landing" "including condemnation"—referring to the Williamson property. I can obtain a copy of those minutes and send them to you if that fits your purposes.

- 2.) Harold, I have received the comments and surveys- thank you. Have you been able to find the exact number of surveys that were sent out?
- 3.) Earl and John, two of the comments claim that Explorer Drive is private and the county has not right to it, either deeded or proscribed. It is my understanding from our first meeting that the county (public) does have a right to use the road. Can ya'll please have someone verify that this road can be used by the public. If not then I need to stop compiling information for it since it does not meet our purpose and need.

Also, if you have things that you would like to see in the document please let me know.

Thanks,

Berry

11/14/2007



MACTEC

engineering and constructing a better tomorrow

March 13, 2007

Mr. Berry Still
RPM Engineers, PLLC
307 West Main Street
Lexington, South Carolina 29072



**Subject: Proposal for Phase I Environmental Site Assessment
Binnicker Bridge Road Boat Landing
Orangeburg County, South Carolina
MACTEC Proposal 07COLM0037**

Dear Mr. Barefoot:

MACTEC Engineering and Consulting, Inc. (MACTEC) is pleased to submit this proposal for a Phase I Environmental Site Assessment of an approximate 1.6-acre parcel of land located in Orangeburg County, South Carolina. This proposal is based on information provided by Mr. Berry Still of RPM Engineers, PLLC to Mr. Shaun Rankin of MACTEC, our understanding of your specific needs for this project, and our experience with similar projects.

This proposal presents MACTEC's approach to providing the assessment using our multi-disciplinary engineering capabilities and knowledge of environmental regulations and risks. The following sections contain a discussion of the project information, our proposed scope of services, and a cost estimate and schedule.

PROJECT INFORMATION

It is our understanding that the approximate 1.6-acre property is located along Binnicker Bridge Road, immediately north of the crossing of the South Fork of the Edisto River in Orangeburg County, South Carolina. We understand that the property has previously been utilized as a boat landing and is being considered for a potential real estate transaction.

PURPOSE AND SCOPE OF SERVICES

The objective of a Phase I ESA is to identify recognized environmental conditions associated with the site. We propose to conduct the Phase I in material compliance with those tasks established by ASTM International in E 1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process*. This standard practice is intended to fulfill the requirements of 40 CFR Part 312, "Standards and Practices for All Appropriate Inquiry, Final Rule." You can obtain a copy of ASTM E 1527-05, *Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process* at the ASTM web site <http://www.astm.org/>.

Our assessment will include a review of the site history, a review of environmental lists published by federal, state and local agencies, a site and area visit, and preparation of a written report. This report will summarize our observations, findings, and conclusions and recommendations. The report, including its findings, opinions, and conclusions, is intended for the exclusive use and

MACTEC Engineering and Consulting, Inc.
720 Grocer Road, Suite 132 • Columbia, SC 29210 • Phone: 803.798.1200 • Fax: 803.750.1303

www.mactec.com

March 13, 2007

benefit of, and may be relied upon only by RPM Engineers, PLLC and for the project described in MACTEC's proposal.

We will use information you provide to help prepare our Phase I report. ASTM Standard E 1527-05 outlines the information that the User must provide in the User Questionnaire, which will be provided upon authorization. At that time, we request that you or your representative complete the attached questionnaire and return it to MACTEC. In addition, ASTM Standard E 1527-05 requires a review of title information for the site concerning environmental liens held against the property. We also ask that you provide this information upon authorization. This information must be included in our report. MACTEC can, under subcontract to others, provide the environmental lien search; however, additional fees will apply.

Our proposed scope of services for the Phase I ESA does not include sampling or evaluating buildings for radon, asbestos or lead-based paint; evaluating ambient air quality; conducting property condition assessment; identifying wetlands; or testing of the soil, air, surface water, drinking water or groundwater for chemical contaminants.

COST INFORMATION AND SCHEDULE

Based on our understanding of the project requirements, we propose a lump sum cost of \$2100 for this property. Our written report will be available within ten working days from receipt of written authorization to proceed. Our schedule does not include delays which would result from encountering unanticipated field conditions, such as limited access and limited visibility on the site, or delays from receiving User supplied information such as questionnaires, title information and interview comments. As our client, you are responsible for arranging access to the subject property, for investigating site access conditions prior to our site visit, and providing a legal description of the property. Delays and additional costs will be incurred if MACTEC personnel must re-visit the site.

AUTHORIZATION

We can begin this project immediately after receiving your authorization to proceed. To authorize us to begin, and to make this proposal, our statement of Terms and Conditions, and any other attachments, the Agreement between us; please sign both copies of the Proposal/Work Acceptance Sheet (PWAS) and return both copies to us. We will, in turn, sign and return a signed copy to you.

Our report will be prepared for the sole and exclusive use of our client and only those parties acceptable to MACTEC that you specify on the Proposal/Work Acceptance Sheet with the understanding that those parties understand and accept the Purpose, Scope of Services, and Terms and Conditions under which this work is performed. MACTEC will require these parties to sign mutually acceptable terms and conditions.

March 13, 2007

CLOSING

We appreciate the opportunity to provide this proposal of our services for your consideration. If you have any questions concerning these services or require adjustments to our approach or schedule, please contact us.

Sincerely,

MACTEC ENGINEERING AND CONSULTING, INC.

Karl M. Rains

Karl Matthew Rains
Staff Professional

BY *[Signature]* WITH PERMISSION

Shaun C. Rankin, CHMM
Principal Scientist

Enclosures: User Questionnaire
Proposal/Work Acceptance Sheet

MOSES KOON & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

1441 MAIN STREET, FOURTH FLOOR (29201)
POST OFFICE BOX 100261
COLUMBIA, SOUTH CAROLINA 29202-3261

Telephone (803) 461-2300
Facsimile (803) 461-2309
Website <http://www.mkb-law.com>

Paul D. de Holzer
Direct Dial: (803) 461-2317
Email: pdeholzer@mkb-law.com

April 16, 2007

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John W. Williamson, III
Kathryn J. Williamson
898 Bluff Road
Denmark SC 29042

VIA US POST & FAX: 843-579-8718

Howell Morrison, Attorney at Law
Phyllis Ewing, Attorney at Law
Moore & Van Allen, PLLC
40 Calhoun St.; Ste. 300
Charleston, SC 29401

Re: J. B. Ness Boat Landing Project - Orangeburg County
MKB File No.: 11545.1

Dear Mr. and Mrs. Williamson:

Orangeburg County has completed its investigation of several locations on the South Edisto River to determine their suitability for a public boat landing. Your property has been identified by engineering consultants as the preferred site for the public boat landing. As part of the County's due diligence in determining the appropriate configuration of the boat landing and the fair market value of the property, the County needs to enter your property, identified below, for the purpose of making a survey, determining the location of proposed improvements, and making an appraisal.

The property subject to entry is: subject parcel in Orangeburg County, northwest of the SC-70 crossing of the South Edisto River into Barnberg County; belonging to John W. Williamson, III and Kathryn J. Williamson. The current Tax Map Sheet Number of the property is: 0075-00-01-0009.000 (The OLD Tax Map Sheet Number of the property is: 0074-00-00-002.)

Orangeburg County, potential condemnor in this matter, has the authority to make this investigation pursuant to South Carolina Code Annotated, Section 28-2-70, The South Carolina Eminent Domain Procedure Act. Orangeburg County proposes to enter your property, identified above, on or about Friday, April 20, 2007, between the hours of 9:00 AM and 5:00 PM to investigate wetlands and again, on or about Tuesday, April 24, 2007, between the hours of 9:00 AM and 5:00 PM to for surveying. This letter is intended to give you, the landowner(s), notice of the date and time of its investigation. Orangeburg County will not perform any destructive testing or damage any property in making its investigation.

You are welcome to observe the investigation by engineering personnel on behalf of the County and you may contact these persons about the investigation. The contact information is:

Page Two
April 16, 2007

J.J. Jowers, Jr., P.E., P.L.S.
Edisto Engineers and Surveyors, Inc.
650 Broughton Street
Orangeburg, SC 29115
(803) 536-1104 (phone)

Christopher M. Lake, PWS, President
Palmetto Environmental Consulting, Inc.
1801 Charleston Highway, Suite B-3
Cayce, SC 29033
(803) 791-1033 (phone)
(803) 791-1055 (fax)
(803) 463-2764 (cell)

Orangeburg County and its contractors very much appreciate your cooperation in this investigation. Orangeburg County will attempt to minimize any inconvenience to you in making its investigation; however, the County must conduct this investigation as part of its project. In the event a landowner does not allow the County to enter the property, the County may get a court order allowing it to do so pursuant to Section 28-2-70. Please note that a landowner has no cause of action for trespass arising out of the county's exercise of authority pursuant to Section 28-2-70.

If you have any questions or concerns, please do not hesitate to write or call.

With kind regards, I am

Yours truly,

Paul D. de Holczer

PDH:ijw

cc:

D'Anne Haydel, Counsel to Orangeburg County
John McLaughlin, Orangeburg County Engineer
Berry Still, P.E., RPM Engineers, PLLC
J.J. Jowers, Jr., P.E., P.L.S.
Christopher M. Lake, PWS

P.O. Box 191
WAYNESBURG, GA 30830

STATE OF SOUTH CAROLINA,)
COUNTY OF ORANGEBURG.)

LEASE



THIS AGREEMENT is dated this 23 day of March, 1982,
by and between Kimberly-Clark Corporation, hereinafter referred to as Lessor,
and The County of Orangeburg, hereinafter referred to as Lessee, WITNESSETH:

1. Lessor hereby leases and demises to Lessee the following described
property:

All that certain piece, parcel or lot of land, with all
improvements thereon, situate, lying and being in Branchville
Township, Orangeburg County, South Carolina, and described as
follows: Beginning at a staked point 25 feet southwest of the
Old Bamberg county dirt road near its termination at the North
Edisto River on property of Kimberly-Clark Corporation, and
proceeding southeast parallel to the Old Bamberg county dirt
road a distance of 290.4 feet; thence turning 90° and proceeding
southwest 150 feet to a point; thence turning 90° and proceeding
northwest 290.4 feet to a point on the bank of the North Edisto
River; thence turning 90° and proceeding northeast 150 feet to
the point of beginning; as reference to the drawing hereto
attached will more fully show.

This property being a portion of the Kill Kare Klub tract
located 3.1 miles west of the intersection in the Town of
Branchville of U. S. Highway 78 and State Road S-38-63 at the
termination point of the Old Bamberg county dirt road where it
reaches the North Edisto River. Being a portion of the property
conveyed to Kimberly-Clark Corporation by deed recorded in
Deed Book 292 at page 69 in the office of the Clerk of Court
for Orangeburg County; and being shown on a plat made by Henry
M. Chaplin, dated December 12-16, 1966, recorded in Plat Book 24
at page 45 in said Clerk's Office.

2. The term of this lease shall be for a period of twenty-five (25)
years. Lessee shall have the option to renew for an additional twenty-five
(25) years, in which event the terms and conditions of this lease shall remain
in full effect as long as the Lessee continues to use the demised property.

BAB

3. Lessee shall pay to the Lessor the sum of Fifty and no/100 Dollars (\$50.00) due on the 1st. of March for the term of this agreement.

4. Lessee agrees that it will maintain the property in a fashion reasonably designed to enable its use as a boat landing.

5. Lessee agrees that it will indemnify and hold Lessor harmless for any and all claims and liabilities created by the use of the demised property.

THIS AGREEMENT is binding upon the parties hereto, their successors and assigns.

WITNESS our Hands and Seals this date first above written.

IN THE PRESENCE OF:

LESSOR:

Reggie Hatcher
Bill J. Quinn
9-28-83

KIMBERLY-CLARK CORPORATION
Southeastern U.S. Forest Products Company
By: L. M. Hogan
President

LESSEE:

Jacqueline P. Lauer
Angela W. Lightfoot

THE COUNTY OF ORANGEBURG

By: Gary A. Lauer

B-294

STATE OF
COUNTY OF

PERSONALLY appeared before me

and made oath that he saw the within named Lessor, Kimberly-Clark Corporation,
by its

sign, seal and as its act and deed, deliver the within written Lease, and
that he with witnessed the execution thereof.

SWORN to before me this 8th day
of , 1982.

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires

STATE OF SOUTH CAROLINA,
COUNTY OF ORANGEBURG.

PERSONALLY appeared before me

and made oath that she saw the within named Lessee, The County of Orangeburg,
by Gary A. Smoak its County Administrator sign,
seal and as its act and deed, deliver the within written Lease, and that he

with Yvonne Teroner witnessed the execution thereof.

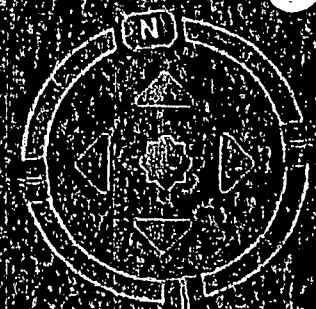
SWORN to before me this 8th day
of December, 1981.

NOTARY PUBLIC FOR SOUTH CAROLINA

My commission expires



PLAINTIFF'S
EXHIBIT
23
10-6-08 VM



70

Potential Site #2

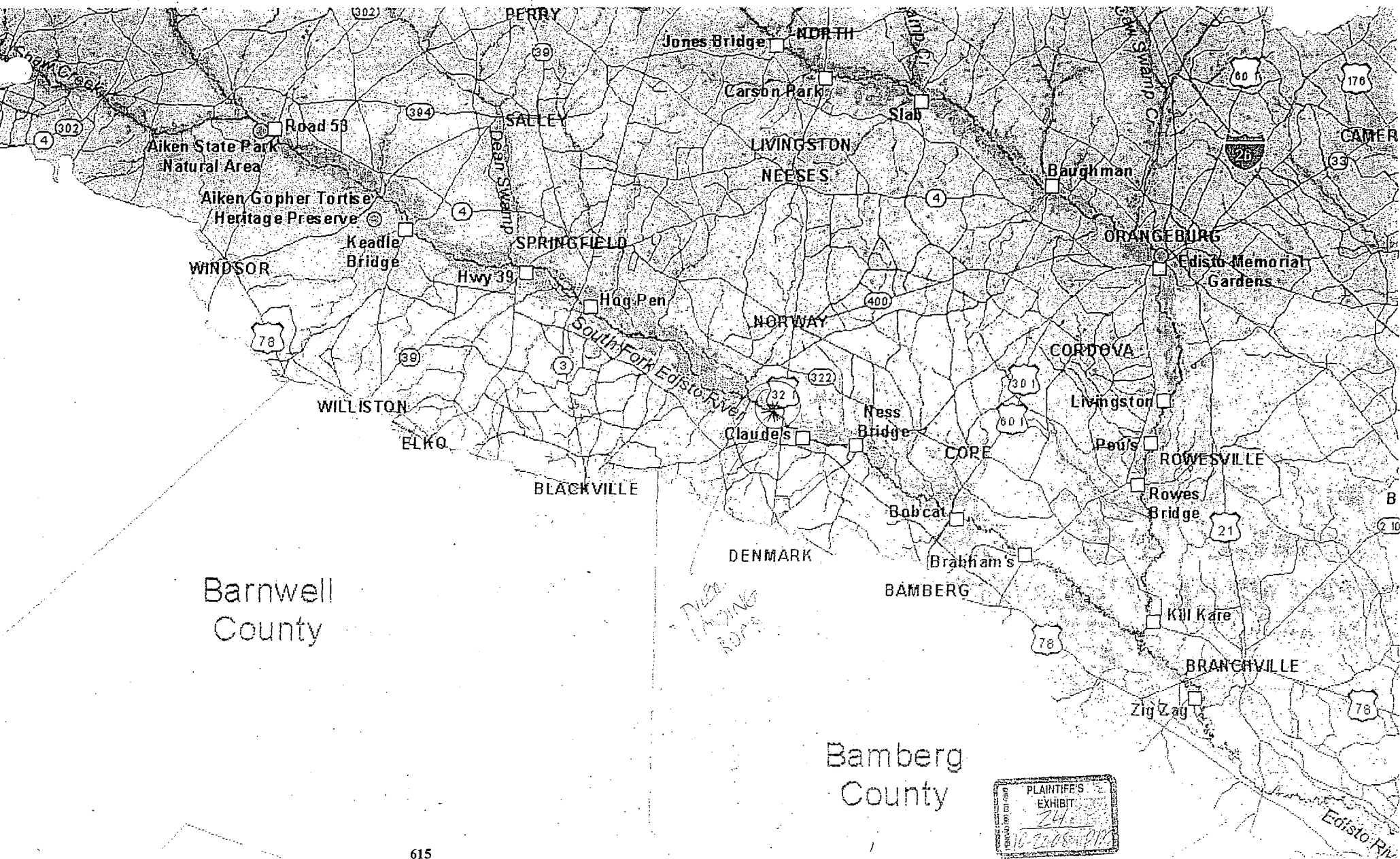
Bonanza Rd

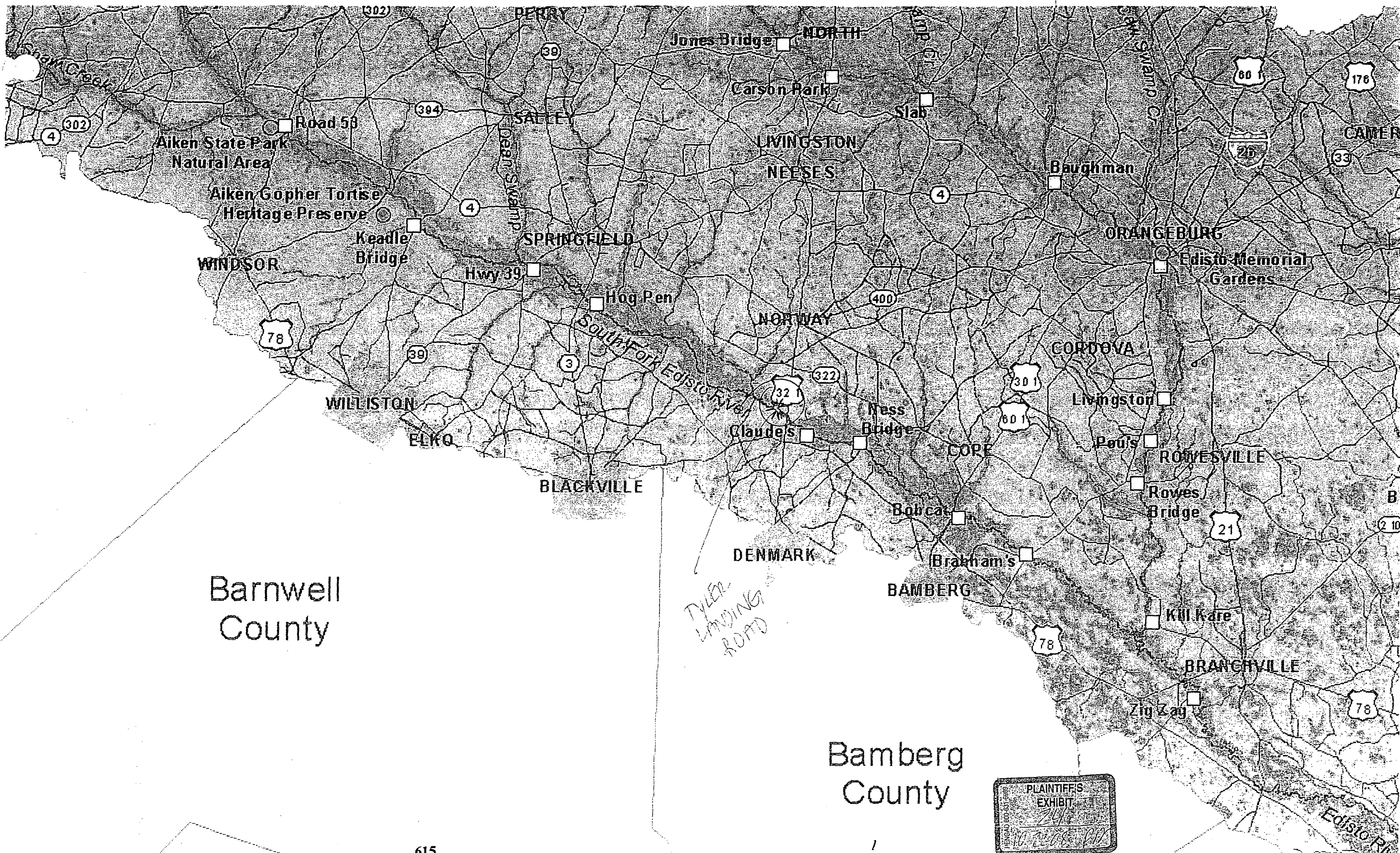
© 2007 Europa Technologies
© 2007 Navteq

Google

Point: 93-22-34.60° N 81-04-56.48° W elev 151 ft Streaming 100%

View 25.17 ft





Barnwell
County

Bamberg
County

PLAINTIFFS
EXHIBIT
24
10-2-08

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

C/A No.: 2007-CP-38-

Project: J. B. Ness Boat Landing Project
File: (11545.1)
Tract: 1 (TMS: 0075-00-01-0009.000)

ORANGEBURG COUNTY,

Condemnor,

vs.

John W. Williamson, III and Kathryn J. Williamson,

Landowner(s),

and

Leon B. Newman, Interest Holder, AgSouth Farm
Credit, ACA, Mortgagee, and Southern Pine
Plantations, Inc., Interest Holder,

Other Condemnee(s).

**CONDEMNATION NOTICE
AND
TENDER OF PAYMENT**

Jury Trial Demanded

CC: HOWELL MORRISON, ESQUIRE, MOORE & VAN ALLEN, PLLC, 40
CALHOUN STREET, SUITE 300, CHARLESTON, SOUTH CAROLINA 29401

TO: THE LANDOWNER(S) NAMED ABOVE:

Pursuant to the South Carolina Eminent Domain Act, Section 28-2-10, *et. seq.*, South
Carolina Code of Laws (1976, as amended), you are hereby notified as follows:

1. Orangeburg County is the Condemnor herein and seeks to acquire the real
property described herein for public purposes.

2. John W. Williamson, III and Kathryn J. Williamson, are named as
Landowner(s) in this action by virtue of their claim(s) of title (or other interests) as shown
by that certain deed from Leon B. Newman, dated March 15, 2005, and recorded in Deed

Book 01086 at Page 0279 on March 21, 2005 in the Office of the Register of Deeds for Orangeburg County.

3. Leon B. Newman, Interest Holder, is named as Other Condemnee(s) in this action by virtue of his claim(s) of title (or other interests) as shown by that certain deed from Leon B. Newman, dated March 15, 2005, and recorded in Deed Book 01086 at Page 0279 on March 21, 2005 in the Office of the Register of Deeds for Orangeburg County.

4. AgSouth Farm Credit, ACA, Mortgagee, is named as Other Condemnee(s) in this action by virtue of its claim(s) of title (or other interests) in that certain mortgage, dated March 15, 2005, and recorded in Mortgage Book 01563 at Page 0081 on March 21, 2005 in the Office of the Register of Deeds for Orangeburg County.

5. Southern Pine Plantations, Inc., Interest Holder, is named as Other Condemnee(s) in this action by virtue of its claim(s) of title (or other interests) as shown by that certain easement from Georgia-Pacific Corporation, dated March 20, 1992, and recorded in Deed Book 578 at Page 941 on March 24, 1992 in the Office of the Register of Deeds for Orangeburg County.

6. The following is a description of the real property subject to this action and a description of the interest sought to be acquired in and to the property by the Condemnor:

All that parcel or strip of land, in fee simple, with improvements thereon, if any, containing 4.42 acres of land, more or less, composed of a portion of land located south of S.C. Highway 70, this being shown as the Area of Obtain on Exhibit(s) A attached hereto and made a part hereof.

Tax Map Number(s): 0075-00-01-0009.000

7. The Condemnor is vested with the power of eminent domain pursuant to Section 4-9-30 and Section 28-2-60, South Carolina Code of Laws (1976, as amended).

8. The property sought herein is to be acquired for public purposes, more particularly for the J. B. Ness Bridge Boat Landing Project, a recreational and transportation improvement project near S.C. Route 70 in Orangeburg County and the State of South Carolina.

9. This action is brought pursuant to Section 28-2-240, South Carolina Code of Laws, (1976, as amended).

10. The Condemnor has complied with the requirements set forth in Section 28-2-70(a), South Carolina Code of Laws, (1976, as amended), by having the subject property appraised and making the appraisal available to the Landowner(s) where required by law, and certifies to the Court that a negotiated resolution has been attempted prior to the commencement of this action, or pursuant to Section 12-27-405, South Carolina Code of Laws, (1976, as amended), an appraisal of this property was not required.

11. Project plans may be inspected, during normal working hours, at the offices of Mr. John E. McLauchlin Jr., Orangeburg County Engineer, Orangeburg County Development Commission, Carolina Regional Park, 125 Regional Parkway, Suite 100, Orangeburg, South Carolina 29118.

12. THE CONDEMNOR HAS DETERMINED JUST COMPENSATION FOR THE PROPERTY AND RIGHTS TO BE ACQUIRED HEREUNDER TO BE THE SUM OF TWENTY-THREE THOUSAND AND NO/100 (\$23,000.00) DOLLARS AND HEREBY TENDERS PAYMENT THEREOF TO THE LANDOWNER(S).

13. Payment of this amount will be made to the Landowner(s) if within thirty (30) days of service of this Condemnation Notice, the Landowner(s) in writing requests payment, and agrees to execute any instruments necessary to convey to the Condemnor the property interests and rights described hereinabove. The Agreement and Request for Payment must be sent by first class mail with return receipt requested or delivered in person to Paul D. de Holczer, Esquire, 1441 Main Street, Fourth Floor, Post Office Box 100261, Columbia, S.C. 29202-3261. If no Agreement and Request for Payment is received by the Condemnor within the thirty (30) day period, the tender is considered rejected.

14. If the tender is rejected, the Condemnor has the right to file this Condemnation Notice with the Clerk of Court of the County where the property is situated and deposit the tender amount with the Clerk. The Condemnor shall give the Landowner(s) and Other Condemnee(s) notice that it has done so and may then proceed to take possession of the property interests and exercise the rights described in this Condemnation Notice.

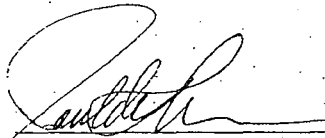
15. AN ACTION CHALLENGING THE CONDEMNOR'S RIGHT TO ACQUIRE THE PROPERTY AND RIGHTS DESCRIBED HEREIN MUST BE COMMENCED IN A SEPARATE PROCEEDING IN THE COURT OF COMMON PLEAS WITHIN THIRTY (30) DAYS OF THIS CONDEMNATION NOTICE, OR THE LANDOWNER(S) WILL BE CONSIDERED TO HAVE WAIVED THE CHALLENGE.

16. THE CONDEMNOR HAS ELECTED NOT TO UTILIZE THE APPRAISAL PANEL PROCEDURE. Therefore, if the tender herein is rejected, the Condemnor shall notify the Clerk of Court and shall demand a trial to determine the amount of just compensation to be paid. A copy of that notice must be served on the Landowner(s). That

notice shall state whether the Condemnor demands a trial by jury or by the Court without a jury. The Landowner(s) has the right to demand a trial by jury. The case may not be called for trial before sixty (60) days after the service of that notice, but it may thereafter be given priority for trial over other civil cases. The Clerk of Court shall give the Landowner(s) written notice by mail of the call of the case for trial.

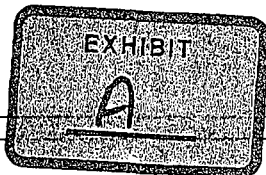
17. THEREFORE, IF THE TENDER HEREIN IS REJECTED, THE LANDOWNER(S) IS/ARE ADVISED TO OBTAIN LEGAL COUNSEL AT ONCE, IF NOT ALREADY OBTAINED.

18. In the event the Landowner(s) accepts the amount tendered in this Notice, the attached Agreement and Request for Payment form should be signed and returned to the undersigned attorney for the Condemnor within thirty (30) days of your receipt of this Notice.



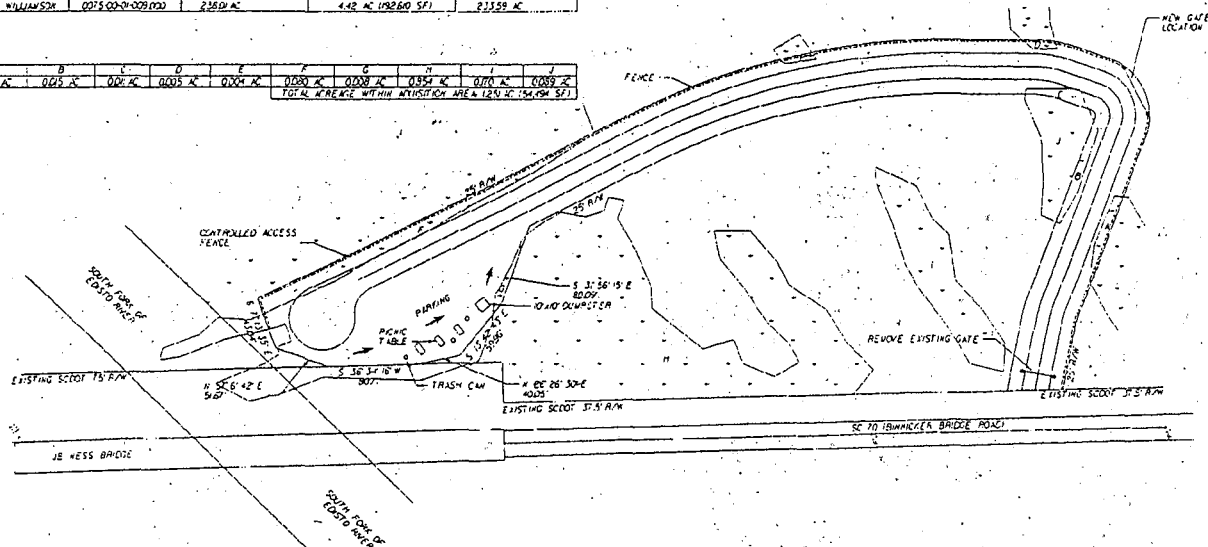
Paul D. de Holczer (SC Bar #6905)
Moses Koon & Brackett, PC
1441 Main Street, Fourth Floor
Post Office Box 100261
Columbia, South Carolina 29202-3261
(803) 461-2300 / (803) 461-2309 Fax
Attorneys for Condemnor

September 27, 2007



PROPERTY OWNER	TAX MAP NUMBER	TOTAL PROPERTY	PROPERTY OBTAINED	PROPERTY REMAINING
JOHN W.B. KATHREN WILLIAMS	0075-00-000000	2360 AC	442 AC (19260 SF)	23158 AC

WETLAND AREA	A	B	C	D	E	F	G	H	I
	0005 AC	0005 AC	0005 AC	0005 AC	0005 AC	0005 AC	0005 AC	0005 AC	0005 AC
	TOTAL WETLANDS WITHIN ACQUISITION AREA 4.120 AC (176,004 SF)								



DATE	BY	REVISION	DESCRIPTION
11/11/11	W.B.K.	1	INITIAL DESIGN

Owner: JOHN W.B. KATHREN WILLIAMS Project: BOAT PARKING LAYOUT Location: 442 AC (19260 SF) Scale: 1" = 50' North Arrow	Client: JOHN W.B. KATHREN WILLIAMS Project: BOAT PARKING LAYOUT Location: 442 AC (19260 SF) Scale: 1" = 50' North Arrow
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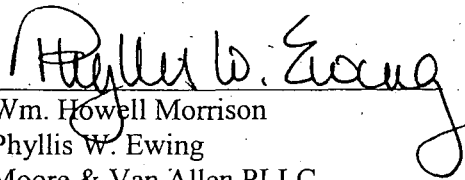


REV.	DATE	DESCRIPTION
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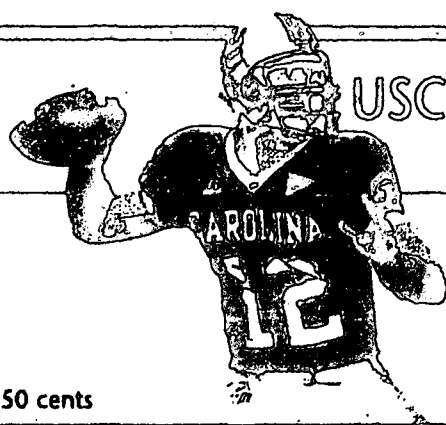
ORANGEBURG COUNTY
RPM ENGINEERS
BOAT PARKING LAYOUT
SCALE: 1" = 50'
SHEET 1

CERTIFICATE OF APPELLANT'S COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.


Wm. Howell Morrison
Phyllis W. Ewing
Moore & Van Allen PLLC
40 Calhoun Street, Suite 300
P.O. Box 22828
Charleston, South Carolina 29413-2828
(843) 579-7000
Attorneys for Appellant

August 27, 2008



USC's quarterback, Blake Mitchell, arrested and suspended from team.

THURSDAY, SEPTEMBER 14, 2006

The Times and Democrat

50 cents

ORANGEBURG, SOUTH CAROLINA

SERVING SOUTH CAROLINA'S CROSSROADS SINCE 1881

Sections, 20 Pages, Vol. 125, No. 257

www.TheTimesD.com

Celebrealty

A day for news
about celebrities



Whitney Houston and Bobby Brown

Whitney Houston files for divorce

LOS ANGELES (AP) — Whitney Houston has filed for divorce from her husband Bobby Brown, her publicist told The Associated Press on Wednesday.

Publicist Nancy Seltzer declined to reveal where or when Houston filed the divorce papers, and said the singer had no statement to make.

"I can just confirm that she has filed for divorce," Seltzer said.

Houston and Brown, who married in 1992, have had a sometimes tumultuous marriage, and rumors of their breakup have surfaced often over the years.

Official calls death of Anna Nicole Smith's son 'suspicious'

NASSAU, Bahamas (AP) — Authorities on Wednesday revealed that a third person was in Anna Nicole Smith's hospital room at the time of her 20-year-old son's "suspicious death," and said that an inquest might lead to criminal charges.

A third person not employed by the hospital was in the room when Daniel Wayne Smith died, said Reginald Ferguson, assistant commissioner of the Royal Bahamian Police Force. He refused to reveal the person's identity, saying he did not want to jeopardize the investigation.

Authorities said they believe they know what killed Smith three days after his mother gave birth to a baby girl, but they were waiting for a toxicology report to confirm the findings.



Kevin Federline and Britney Spears

It's another boy for Britney Spears and Kevin Federline

LOS ANGELES (AP) — She did it again. Britney Spears gave birth to her second son early Tuesday at a Los Angeles hospital, according to several entertainment magazines.

The baby boy was delivered around 2 a.m. at Cedars-Sinai Medical Center, Us Weekly reported on its Web site Wednesday, citing an unnamed family source. The child was delivered by a scheduled Cesarean section procedure, People.com reported.

The newborn's name wasn't imma-

Mother gets bond on charge of helping son flee crash site

By THOMAS BROWN
T&D Staff Writer

An Orangeburg woman charged with accessory after the fact and filing a false report was brought into Orangeburg County Magistrate's Court Wednesday afternoon for a bond hearing.

Linda Sue Jones, 61, of 609 Rivelon Road, Orangeburg, made a tearful appearance before Orangeburg County Magistrate Meree Williamson, who

set a cash or surety bond of \$5,000 on the defendant.

Jones' attorney, Michael Horger, argued she has been a lifelong resident of Orangeburg and presented no risk of flight. "Her family is here and she is close to her family," he said. "I don't believe there is any danger that she will attempt to leave the area."

First Circuit Solicitor David Pascoe urged Williamson to place "at least a surety bond on Mrs. Jones if not a substan-

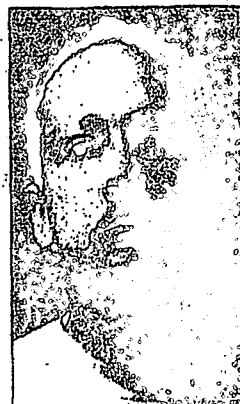
tial bond. Mrs. Jones did all she could to impede this investigation."

According to the arrest warrant for accessory after the fact, on Aug. 28, Jones, having knowledge of the crime, assisted her son Randall P. Jones in escaping after he allegedly struck pedestrian Hazel Colter on Edisto Drive. Colter died at The Regional Medical Center less than an hour later as a result of her injuries. Jones' son faces charges of leaving the

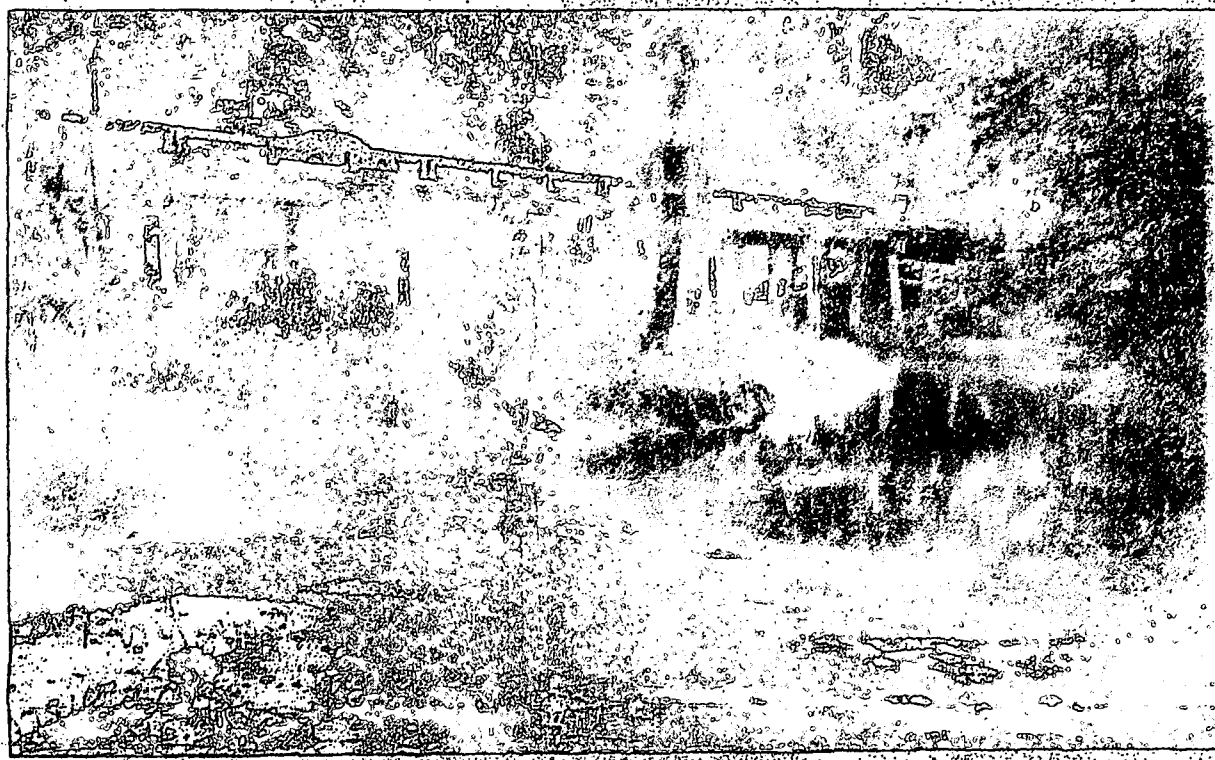
scene of the incident without stopping to render any assistance.

The second warrant indicates Jones filed a false report with the Orangeburg County Sheriff's Office by reporting her car had been stolen from her residence on Aug. 28, 2006. Investigation later revealed Jones' son was the driver and that she had knowledge that her son was the driver of

See CHARGED, 5A



Randall P. Jones is still at large and being sought by authorities for leaving the scene of an accident involving a death.



VAN HOPE/T&D

Referring to Ness Landing, "That boat landing is the most accessible landing on the South Edisto River, and probably the most popular one," local fisherman Joe Sutcliffe said.

A pretty beautiful stretch of water'

COUNTY SEEKING WAY TO REOPEN BOAT LANDING

By LEE HENDREN
T&D Staff Writer

Joe Sutcliffe grew up swimming and fishing in the South Fork Edisto River, which defines the boundary between Orangeburg and Bamberg counties.

His favorite spot is near Ness' Boat Landing off Binnicker Bridge Road, also known as S.C. Highway 70.

"It's a pretty beautiful stretch of water," he says. Its slow current makes it "an ideal place to go canoeing."

The fishing's great, too. "Bream, redbreast, bass, every-

and he wasn't alone.

"That boat landing is the most accessible landing on the South Edisto River, and probably the most popular one," he said.

That changed earlier this year, when fishermen from as far away as Aiken County arrived to find a barricade blocking access to the landing. The owner of the landing says he needs guarantees from Orangeburg County that he won't be held responsible for any problems before he reopens the landing to the public.

Sutcliffe says state law ensures that waters such as the Edisto River are open to public use, but "that didn't

He said state highway officials told him that S.C. 70 dead-ended at the landing until the bridge was built in 1956.

The landing is simple enough — just a slab of concrete at the end of a dirt road.

County records show the property was owned by Georgia Pacific Corp. until 1992. It has had a succession of owners since then.

"Property was provided for public boat landing purposes through an easement that was granted," Orangeburg County Administrator Bill Clark said.

OCSID 5 wants bus policy revised

By LEE HENDREN
T&D Staff Writer

School bus drivers in Orangeburg Consolidated School District 5 have an exemplary safety record, and the goal is to maintain it, Assistant Superintendent Donnie Boland says.

Riding the school bus "is a privilege, not a right," he said at Tuesday's trustee board meeting. Riders who jeopardize safety on the bus will be disciplined.

All of the trustees agreed with that, but some had concerns about the disciplinary procedures.

See BUS POLICY, 5A

DID YOU HEAR?

Salon owner to sponsor HIV/AIDS event Saturday

By DIONNE GLEATON
T&D Staff Writer

A local salon owner is just as concerned about lifestyles as he is hairstyles with his sponsorship of an upcoming HIV/AIDS community awareness event.

Abdul Arraheem, owner of Anointed Hair & Nail Salon, is sponsoring the event to be held from 6 to 8 p.m. Saturday, Sept. 16, at the Orangeburg salon located at 1250 Brickle St. behind Kevin's Wings & Sports.

Charged

Continued from 1A

the vehicle.

Jones' son, Randall P. Jones, is still at large and being sought by authorities for leaving the scene of an accident involving a death. South Carolina Probation, Pardon and Parole Services is also seeking Jones' son because officials believe he may have gone to North Carolina, which is a possible violation of his parole on a burglary charge.

Landing

Continued from 1A

"And that's the situation we find ourselves in."

John W. "Johnny" Williamson III and Kathryn J. Williamson bought the property on March 15, 2005.

"I live directly across (the river) from it," Johnny Williamson said in an interview. "I can get in my boat and push across there."

"I'm in the process of putting a wetlands easement reserve on it," he said. "I'm trying to protect the environment. I can sit on my back porch and hear the owls and the whippoorwills."

Williamson is a nuisance alligator agent with the state Department of Natural Resources — he's been doing that for 19 years — and is a former Bamberg County Council member.

"We've got to protect the Edisto River," he continued. "The river's got everything in it: redbreast, bream, crappie, jackfish, catfish ..."

And trash. "Litter has been a chronic problem" at the landing, said Williamson, who has found "pickup loads" of trash and two burned cars at the landing.

He spoke of his ire that "young hooligans" used the landing as a staging ground for stealing boats from Williamson's neighbors.

And, occasionally, there has been gunfire.

"When I purchased the property, I gave (the county) the opportunity to renew the lease," Williamson said. "It was discussed at a County Council meeting and they did nothing about it."

"There have been problems at the landing the whole time," Williamson said. "My lawyer, this bugged him. Every month he'd call me," asking if the county had agreed to indemnify the Williamsons from liability in connection with anything that might happen at the landing.

"After 15 months of them not taking any action, my wife and I could not stand the exposure (to

Colter's daughter, Joyce Lockard, made an emotional appeal to the court for justice for her mother.

"I want justice done," Lockard said. "I just want justice for my mother. He shouldn't have left my mother in the street like that. And she (Linda Jones) shouldn't have kept information from the police the way she did. She should have made him do the right thing. She should've made him turn

himself in and do the right thing."

After Williamson set bond, Jones' two daughters, both in tears, came to her and embraced her as they cried together, offering her comfort and assuring her that she would be released.

Jones' next court appearance is scheduled for Nov. 13, 2006.

Comment on this and other stories at TheTandD.com

potential liability) and we did what we had to do to protect ourselves," he said.

"They forced me into doing what my lawyer said I needed to do," he said. "In March, my attorney wrote them a letter saying (the landing) would be closed" to the public.

Still, "I had no contact from them," he continued, until after a County Council meeting in late June.

"We had 15 to 20 individuals at that meeting who came to express their concern to have the landing remain open" to the public, Clark said.

Sutcliffe was among those individuals. "I came expecting to be a spectator," he said, but he ended up speaking on behalf of the others.

"Being a landowner, I certainly appreciate Mr. Williamson's position," he said. "I respect the rights of the property owner to keep people off his property."

"I wish there was some way Johnny would reconsider and work something out with the county," he added.

With Ness' landing closed, "we have only one public boat landing on the South Edisto," Sutcliffe said. That is Hog Pen Landing near Springfield.

That's on the Orangeburg County side, he acknowledged.

And that is Williamson's point.

"Access is not an issue," Williamson said, citing a new landing "three minutes away. It was installed by the state Department of Natural Resources, with a paved access road, off Secondary 49, in Bamberg County."

There's Bobcat Landing on U.S. 301 and another on Cannon Bridge Road, he said.

"All of those are finished, paved, maintained landings," Williamson said. "There's plenty of access."

Sutcliffe countered that it's not a simple matter to travel up and down the river, with its fluctuating water levels and many logs.

He said stores near Ness' landing have seen a drop-off in busi-

ness since the landing was closed.

"That's right, it's been off a good little bit," said Rock Ransdale, whose wife owns Jack's Country Store.

"At one time I was selling a lot of bait, but I'm not selling as much now," Ransdale said. The same goes for beverages and snack foods popular with anglers and boaters, he said.

"A majority of them like to go to Ness," Ransdale said. "I wish they could do something to get it back open."

Sutcliffe said he has offered to buy two acres of the land — at the price per acre Williamson paid for it — and deed it to the county.

Clark said he has talked with Williamson twice.

"The first time was to get his concerns about the landing," he said. "The second time was when I came back to him, to address what I believe the county could do to address the concerns he gave me previously."

"I laid out a proposal for him. He didn't commit one way or the other, but seemed interested in wanting to receive it in writing," Clark said.

One concern was liability. "I proposed an agreement that would indemnify him from liability," Clark said.

Another was litter. "We have a supervised crew that does cleanup activity," Clark said. "I proposed that we place that location (on a list) as part of their rotation."

A third concern was law enforcement. Clark proposed asking for increased patrols in that area.

The fourth concern was Williamson's request for changes in the access road.

"I am summarizing our last conversation into a letter. He will receive it next week. It will give him some official communication to respond to," Clark said.

"I want to remain optimistic about the dialogue at this point. We've given him some ideas to think about. He needs adequate time to review the proposal in writing," Clark said.

"Any?" Kalu asked.

Boland clarified that he meant illicit drugs.

"Then the policy should say that," Kalu said. "Even syrups contain alcohol. A child that takes an asthma drug can get excited" as a side effect of the medication.

Boland said the policy is based on language suggested by the South Carolina School Boards Association.

Superintendent Melvin Smoak said he will consult with the SCSBA regarding the trustees' concerns and will draft revisions that will add the word "illicit" to the drug references and add a suspension clause for second-written offenses.

Enrollment down at Howard Middle

Mattie Dillon, interim human resource services officer, said student headcount in the district on the 10th day of school this year was 7,105.

She gave trustees a breakdown of the district's enrollment by school and grade.

bership on the 135th day of the 2004-05 year, so the 593 figure was from two years ago.

Farlow said the decline is still significant, even if it's over two years instead of one.

Smoak said student enrollment is declining at public schools across Orangeburg County.

Parent raises security concerns

Tina Allen asked for heightened security at Dover Elementary and North Middle/High schools, which her children attend.

She said her daughter got into a confrontation with another student last year, and last week her son found a knife at Dover.

"We need metal detectors for our kids to be safe," she said.

Executive session

After a three-hour executive session, trustees returned to open session at 12:22 a.m. and:

Authorized the superintendent to move forward with construction of a new art room at

Vieira makes early-morning debut as 'Today' co-host

By DAVID BAUDER
AP Television Writer

NEW YORK — She can't cook, once had a hamster named Al and teases Matt Lauer about his rippling abdominals — these are the things America learned Wednesday about Meredith Vieira on her first day as co-anchor of NBC's "Today" show.

While predecessor Katie Couric's first week on the "CBS Evening News" was scrutinized for its seriousness, Vieira's debut was all about convincing viewers she could be their friend.

"I feel like it's the first day of school and I'm sitting next to the cutest guy," Vieira said after the camera focused on her and Lauer sitting behind the gleaming white desk on the show's new set.

It was a first day with major implications. "Today" is on a 10-year winning streak as the nation's favorite morning show and is television's most profitable program, so millions of dollars depend on whether viewers are comfortable watching Vieira as they sit in their pajamas.

Admitting to nervousness, the former panelist on "The View" showed off a good-luck bracelet her husband and three children gave her.

After the show, she seemed buoyant and relieved.

"I just had a lot, a lot of fun," she said. "It's a great family and I'm glad that they let me in."

Everyone tried hard to convey that family atmosphere. "Nightly News" anchor Brian Williams stopped in with a bouquet of flowers. Vieira took a finger-full of wedding cake icing and smeared it on Lauer's nose. She showed a recent People magazine with Lauer pictured on the beach, and her new co-host pulled out an old Esquire where Vieira had flashed her legs.

Event

Continued from 1A

prevention; personal testimonies from HIV-positive individuals; entertainment from local church choirs and praise dance groups; free food and door prizes will all be featured at the event.

Arraheem said that a number of his relatives have died as a result of HIV/AIDS, and he feels that it's a subject that needs to be addressed by everyone affected by it, mainly African-Americans.

"For some strange reason, we don't talk about this or seem to have the knowledge or understanding of this particular disease," said Arraheem, who serves on the HIV/AIDS outreach committee of his church, Brookland Baptist Church in West Columbia.

Arraheem's wife, Dr. Stephanie Waters, who is a pediatrician, and Orangeburg AIDS activist Stephanie Williams, who is HIV-positive, will speak at the event.

Arraheem wants to alert people to the seriousness of HIV and that something needs to be done as a community before the problem worsens. He wants both old and young to understand that unprotected sex is going to cause problems eventually.

He said his salon staff will also be on hand to provide logistical support during the event. They include stylists Ruth Summers, Delphine Glover, Monique Guinyard and Barbara "BJ" Folk. Calvin Wright is executive director of the Orangeburg-Calhoun-Allendale-Bamberg Community Action Agency Inc., which has its own HIV Prevention Project which was started in the late 1990s. The project



AP

Matt Lauer laughs as his new co-host Meredith Vieira surprises him by smearing frosting from a cake on his nose during her first day on NBC's "Today" show outside the NBC Studios in Rockefeller Center Wednesday.

Her only serious duty was interviewing NBC's Washington bureau chief, Tim Russert, who had traveled north for the special day. They talked about the political response to President Bush's speech on the Sept. 11 terrorist attacks.

After Vieira asked about whether the Democrats needed a specific plan for Iraq, the friendly Russert said: "That's the magical question. You have put your finger on it."

That segment, in the first half hour, is where her nervousness passed, Vieira said later.

"If I felt OK, I could do this, this is a good place," she said. "Then from there it was fine."

NBC briefly profiled Vieira and her family, showing clips from the beginning of her career in Providence, R.I. Her eyes glistened when "Today" gathered the students and teachers at her

old grammar school for a live shot welcoming her.

She also served notice she won't be completely abandoning the bawdy personality that came through during her years on "The View."

"I'm going to be 'the broad' in broadcasting," she said.

Competitor Steve Friedman, CBS News executive overseeing "The Early Show," said it was clear Vieira could do the job. The only question is whether first impressions last.

"That's just a first date," he said. "We'll see how the relationship goes."

"Today" rebuilt its studio and broadcast in high definition for the first time. The furnishings were as bright as a sunlit morning, with a gleaming white desk, spotless white easy chairs and background of blue glass subway tiles.

Happy 2nd Birthday
DANIEL JOSEPH FERNER



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Daddy, Mommy, Grandma, Grandpa, Auntie, Uncle, and Friends

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