

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Case No. 2017-CP-04-02296
Appellate Case 2019-000557

RECEIVED
OCT 14 2019
SC Court of Appeals

Brent Murdock, individually and as agent for Charles Bruce Murdock ,
Appellant,

v.

Anderson County, Diamond W. Farm, LLC and Wallace B. Wood,
Respondents.

RECORD ON APPEAL

Diamond W Farm, LLC
452 Prices Mill Road
Plum Branch, SC 29845

Wallace B. Wood
452 Prices Mill Road
Plum Branch, SC 29845

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) Case No.: 2017-CP-04-02296
COUNTY OF ANDERSON)

Brent Murdock, individually and)
as agent for Charles Bruce Murdock)

Plaintiff,)

vs.)

Anderson County and Diamond W.)
Farm, LLC and Wallace B. Wood)

Defendants.)

ORDER

The Court held a non-jury trial in the above-captioned matter on January 8, 2019. Plaintiff Brent Murdock (“Plaintiff” or “Murdock”) appeared and was represented by Michael F. Mullinax of Mullinax Law Firm, P.A. Defendant Anderson County (“County”) was represented by Leon C. Harmon, Anderson County Attorney.

BACKGROUND

The instant lawsuit is a road closure case in which Murdock seeks to close a County road known as George Brock Road, also identified as County road C-17-51. George Brock Road runs northwest from its intersection with Troy Murdock Road and Alewine Road to Highway SC-284, also known as Trail Road. The Anderson County Council’s most recent Resolution passed on May 2, 2017, regarding George Brock Road expressed opposition to closure of the road..

FINDINGS OF FACT

After carefully considering the evidence presented at trial, including observing the testimony of witnesses testifying at trial and the demeanor of the witnesses, I make the following findings of fact:

1. George Brock Road is a paved County Road slightly less than one (1) mile in length that has been a public road for many years. It presently has some potholes and drainage issues during heavy rain, but is relatively straight with wide shoulders. The County maintains the road.

2. Murdock does not live on George Brock Road, nor does he own property titled in his name on George Brock Road. Murdock lives on Trail Road and has a greenhouse complex near his home for genetic research with plants.

3. Murdock does utilize property on the SC 284 (Trail Road) end of George Brock Road which is titled in his brother's name and in his mother's estate (collectively "Murdock Property") for conducting plant genetic research, including research on seedless watermelons. Murdock's business involving genetic research has the potential for foreign investment in his business. The Murdock property is on both sides of George Brock.

4. The property on both sides of George Brock Road below the Murdock Property is owned by Diamond W. Farm, LLC and Wallace B. Wood. This property contains a tenant house and a barn with an apartment, both of which are occupied by residents. Mr. Wood testified that he wanted George Brock Road closed.

5. From time to time, Murdock has experienced acts of vandalism and observed trash or litter on the Murdock property. These conditions interfere with the genetic plant research Murdock conducts on the Murdock property.

6. There are alternate routes of travel to reach various parcels of property if George Brock Road were to be closed. A number of residents who live in the area use George Brock Road for various purposes, including access to farm property in the area. A number of individuals

responding to notices regarding the proposed closure of George Brock Road expressed opposition to closure of the Road.

7. The Ebenezer Fire Department and the County EMS Service utilizes George Brock Road from time to time in providing fire protection and emergency services to residents in the area. George Brock Road provides a more direct and timely route for emergency vehicles dispatched from the Ebenezer to reach certain parcels of property on George Brock Road in the vicinity of George Brock Road, including Rube Ashley Road, Alewine Road, and Troy Murdock Road.

8. Based upon the testimony of the Ebenezer Fire Department Chief, Jamie Hanks, George Brock Road also provides an alternate route to certain locations in the vicinity of Rube Ashley Road, particularly during storms which can limit access on roads due to downed trees and electric utility lines.

CONCLUSIONS OF LAW

The Court concludes the following as a matter of law:

1. Abandonment or closing of streets, roads, or highways in South Carolina is controlled by S.C. Code Ann. §§ 57-9-10, et. seq. (1976).

2. The standard for closure of a road or street in South Carolina is that “it is to be in the best interests of all concerned that such street, road or highway be abandoned or closed.” S.C. Code Ann. § 57-9-20 (1976). Under this statute, the controlling consideration is “the best interest of all concerned.” *First Baptist Church of Mauldin v. City of Mauldin*, 308 S.C. 226, 229, 417 S.E. 2d 592, 594 (S.C. 1992); *Hoogenboom v. City of Beaufort*, 315, S.C. 306, 319, 433 S.E. 2d 875, 884 (S.C. App. 1992).

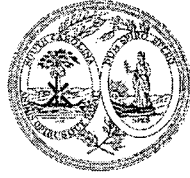
3. Under this statute, a public road or street may not be closed for the sole purpose of benefiting an abutting property owner. *Town of Kingstree v. Chapman*, 405 S.C. 282, 747 S.E. 2d 494 (S.C. App. 2013).

4. After careful consideration, the Court finds that the Plaintiff has failed to prove by a preponderance of the evidence that the closure of George Brock Road is in the best interests of all concerned in accordance with the statute. While there is ample evidence that it is in the Plaintiffs' best interests for the road in question to be closed, the Court places greater weight on the effect that the closure of George Brock Road would have on the availability of fire and emergency protection to the residents of the area. The Court places great weight on the testimony of the Fire Chief on this issue, particularly his description of recent storms limiting road access in the area. The Court recognizes that these type cases often involve significant disagreement between the residents of the communities affected. Accordingly, no weight is being given in this decision to any petitions or opinions expressed by political bodies regarding this action. The Court is sympathetic to the situation of Mr. Murdock. He appears to have a tremendous opportunity with foreign investment in his business. He also has suffered from vandals and other criminal activity on George Brock Road. However, in these cases, the Court must balance the rights of and benefits to the individual with the well-being of the community at large. The possibility that George Brock Road, however poorly-maintained it is, would be the quickest and best way to provide fire and/or emergency services to the residents of the area below Rube Ashley Road is enough to tip the balance of the evidence to the Defendant.

AND IT IS SO ORDERED.

Anderson, SC
February ____, 2019

Honorable R. Scott Sprouse
Circuit Court Judge



Anderson Common Pleas

Case Caption: Brent Murdock , plaintiff, et al VS Anderson County , defendant, et al
Case Number: 2017CP0402296
Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2019-02-15 10:33:56 page 5 of 5

ELECTRONICALLY FILED - 2019 Feb 15 10:54 AM - ANDERSON - COMMON PLEAS - CASE#2017CP0402296

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)
Brent Murdock,)
)
Plaintiff,)
)
v.)
)
Anderson County,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Case No.: 2017-CP-04-02296

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION

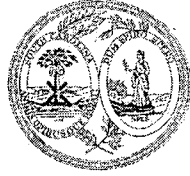
After careful consideration of the able argument and filings of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Accordingly, the Defendants's Motion, pursuant to Rule 59, SCRPC,¹ is DENIED.

AND, IT IS SO ORDERED.

R. SCOTT SPROUSE
Judge, Tenth Judicial Circuit

Walhalla, South Carolina
March ____, 2019

¹ The Court, in its discretion, has determined this Motion on the filings, without oral argument, pursuant to Rule 59(f), SCRPC.



Anderson Common Pleas

Case Caption: Brent Murdock , plaintiff, et al VS Anderson County , defendant, et al
Case Number: 2017CP0402296
Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2019-03-04 16:09:58 page 2 of 2

ELECTRONICALLY FILED - 2019 Mar 04 4:25 PM - ANDERSON - COMMON PLEAS - CASE#2017CP0402296

STATE OF SOUTH CAROLINA)
)
COUNTY ANDERSON)

IN THE COURT OF COMMON PLEAS

Brent Murdock, individually and as)
Agent for Charles Bruce Murdock,)
)
Plaintiff,)

-vs-

MOTION TO RECONSIDER, ALTER,
OR AMEND

Anderson County and Diamond W.)
Farm, LLC and Wallace B. Wood,)
)
Defendants,)

2017-CP-04-02296

TO: LEON C. HARMON, ATTORNEY FOR THE DEFENDANT, ANDERSON
COUNTY

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney will move before the Honorable R. Scott Sprouse, Presiding Circuit Court Judge, for an Order reconsidering, altering, or amending the Trial Court’s Order dated February 15, 2019, received by former counsel to the Plaintiff on February 15, 2019. This Motion is based on the following:

1. The Court abused its discretion in failing to take into account and consider or give proper weight the testimony of Austin Wood, who testified that the road at issue posed a danger to his property based on previous instances of vandalism and speeding. Mr. Wood also testified as to the availability of alternate routes available to his property in the event George Brock Road was closed, consistent with other testimony from Plaintiff’s expert Barry Dunn.

2. The Court abused its discretion in failing to take into account and consider or give proper weight to the testimony of multiple witnesses, including the Plaintiff, Austin Wood, and Barry Dunn, all of whom testified that there were alternate routes of travel available to all

locations currently serviced by George Brock Road, each of which were either shorter or quicker routes of travel to various locations identified in the testimony of the parties.

3. The Court abused its discretion in failing to consider or give proper weight to the testimony of Holt Hopkins, Assistant County Administrator for Anderson County, as he testified that the County did not need George Brock Road to meet county transportation needs.

4. The Court abused its discretion in failing to consider or give property weight to testimony from property owners who would assume control of the former George Brock Road, if closed, in that each testified they would maintain the former roadway as a private driveway and afford access to emergency services, if needed, following closure. Similarly, the Court failed consider the differences between possible road conditions of the current road as compared to conditions of the former roadway as a private drive, and more specifically that George Brock Road is- undisputedly on the record before the Court- poorly maintained by Anderson County.

5. The Court erred in placing great weight on the testimony of Fire Chief Jamie Hanks, for one or more of the following reasons:

- a. in affording great weight to Mr. Hanks' testimony that closure of George Brock Road would adversely impact availability of fire and emergency protection services in the area based on a single instance of utilizing said roadway which took place after filing in this matter;
- b. in affording great weight Mr. Hanks' conclusions that multiple alternative routes were necessary to provide emergency services in the area around George Brock Road despite Mr. Hanks not being qualified as an expert witness;

- c. in affording great weight to Mr. Hanks' testimony that, *inter alia*, more routes are better for providing emergency services in that road closure always and necessarily reduces some possibility of future use of alternative routes for emergency purposes;
- d. in affording great weight to Mr. Hanks' testimony regarding relative merits of alternative routes despite contrary expert and lay testimony concerning other, remaining routes that were either quicker, shorter, or better suited to emergency services travel than George Brock Road.

6. That the Court erred in applying the standard of *Town of Kingstree v. Chapman*, 405 S.C. 282, 745 S.E.2d 494 (Ct.App. 2013), in concluding that a public road or street may not be closed for the sole purpose of benefiting an abutting property owner. That Court went on to explain that incidental private benefit does not alter the generally applicable standard that closure serve the "best interests of all concerned." *Id.* More specifically, while Plaintiff freely admits that closure would be in his best interests, as the Court found, the Court failed to consider how such incidental benefits to the Plaintiff would benefit the community and serve the best interests of all. In overlooking application of this testimony to the correctly articulated standard, the Court erred.

The undersigned would further request that the Court permit oral argument on this motion such that the parties may fully brief the issues presented, with appropriate references to the transcript and remaining record as appropriate.

[signature page to follow]

Respectfully Submitted,

PRUITT & PRUITT

s/ Joshua B. Raffini
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Attorney for the Plaintiff

Anderson, South Carolina

February 22, 2019

1 (WHEREUPON, court convened with all parties
2 present and the following proceedings were had
3 commencing at 9:47 a.m.)

4 THE COURT: Brent Murdock, individually and as
5 agent for Charles Bruce Murdock, versus Anderson County
6 and Diamond W Farm, LLC, and Wallace B. Wood.

7 This is set for a bench trial on the merits.

8 Mr. Mullinax, you may call your first witness.

9 MR. MULLINAX: Thank you, Your Honor. If it
10 please the Court, Your Honor, I'm going to call some of
11 these witnesses out of order because they have jobs to
12 go to, and I'm going to try to get them out of here as
13 quickly as we can.

14 First of all, we call Mr. Barry Dunn.

15 **BARRY DUNN,**

16 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

17 THE CLERK: If you would please come around and
18 take a seat at the witness stand. If you would, please
19 state your name for the court reporter.

20 THE WITNESS: My name is Barry Dunn.

21 **DIRECT EXAMINATION**

22 BY MR. MULLINAX:

23 Q Mr. Dunn, state where you live.

24 A I live in Donalds, South Carolina.

25 Q Okay. And tell me your educational background.

1 A I attended Clemson University and have a BS degree
2 in civil engineering.

3 Q Did you have a late night last night?

4 A I did, but a joyful night.

5 Q Yes, sir.

6 You graduated with a degree in civil engineering?

7 A I did.

8 Q And when was that?

9 A 1975.

10 Q Okay. And since 1975, what have you been doing?

11 A I worked for an engineering firm in Greenwood for
12 ten years and then went on my own in Anderson. I own a
13 surveying and engineering company here in Anderson,
14 since 1985.

15 Q And you have operated that company, and what is
16 its name?

17 A It's Dunn and Dunn Incorporated.

18 Q And you have been the principal shareholder of
19 that company since the incorporation?

20 A Yes.

21 Q And in your capacity as sole shareholder, what
22 jobs do you do?

23 A I do mostly surveying, have done quite a bit of
24 engineering like civil water lines, sewer lines, but
25 primarily surveying.

1 Q And have you operated in counties in the Upstate
2 and other areas of South Carolina?

3 A Yes, I have.

4 Q And in that capacity, have your plats been
5 accepted and filed for record in all counties where
6 courthouses are maintained?

7 A Yes.

8 Q In connection with that work, do you also do the
9 drawing and the scaling and that sort of stuff?

10 A I do.

11 MR. MULLINAX: Your Honor, I would ask that
12 Mr. Dunn be qualified as an expert in civil
13 engineering.

14 THE COURT: Any objection?

15 MR. HARMON: No objection, Your Honor.

16 THE COURT: All right. The witness would be
17 qualified as an expert in civil engineering without
18 objection.

19 BY MR. MULLINAX:

20 Q Mr. Dunn, I'm going to show you an exhibit that
21 has been marked as Plaintiff's Exhibit 8 and just ask
22 you if you can identify that.

23 A Yes. This is a map that I prepared for Brent
24 Murdock.

25 Q And according to the exhibit, it's Map 1 of 3, and

1 it was prepared on September 21, 2018; is that correct?

2 A Yes.

3 Q Okay. And on that map, there are three lines, one
4 marked in red, one marked in blue, and one marked in
5 green; is that correct?

6 A Yes.

7 MR. MULLINAX: I have a blowup of that map.
8 Your Honor, can you see that?

9 THE COURT: Yes.

10 BY MR. MULLINAX:

11 Q Is that in a position that you can view it,
12 Mr. Dunn?

13 A Yes.

14 Q Is that an exact replica of the smaller document
15 that's marked as Plaintiff's Exhibit Number 8?

16 A Yes.

17 Q When you were employed by Mr. Murdock, what were
18 you asked to do?

19 A I was asked to analyze three different alternate
20 roads to get from Ebenezer Fire Department to the
21 intersection of George Brock Road and Rube Ashley Road.

22 Q And on the map, you have designated Ebenezer
23 Volunteer Fire Department with a symbol marked in red
24 and then an end point marked with a red store; is that
25 correct?

1 A Yes.

2 Q And on that plat there, the red route is Route A,
3 the blue route is Route B, and the green route is Route
4 C; is that correct?

5 A Yes.

6 Q And there are distances measured on those various
7 routes; is that correct?

8 A Yes.

9 Q And tell the Court how you determined those
10 distances.

11 A I used the Anderson County GIS mapping system and
12 scaled it from their computer system to get the
13 distances.

14 Q And tell me or tell the Court what the GIS mapping
15 system is.

16 A It's Geographical Information System. It's
17 basically used by Anderson County and other counties
18 for many purposes, but mainly, I guess, it's for the
19 tax assessor's office to have maps of properties and so
20 forth.

21 Q And why is the use of this system credible?

22 A I felt that it had the least variations in getting
23 the distances, you know, versus if you are comparing it
24 to studying the miles in a vehicle with an odometer,
25 those -- any vehicle can vary from one to another or

1 from one driver to another, so I felt that, you know,
2 whether I measured this or you measured it or anybody
3 measured it with that system, you would get very close
4 to the same thing.

5 Q And it's commonly used by governmental entities
6 and other civil land surveyors and engineers for the
7 purpose of determining distances between two points in
8 South Carolina?

9 A Yes, it is. You know, not exact distances that
10 you would get by surveying, but very close
11 approximation for use in many different instances.

12 Q Okay. And when you measured the distance from
13 Ebenezer Fire Department down to Rube Ashley Road along
14 the red route, which is the South Carolina 185, Due
15 West Highway route, what distance did you come up with
16 from the starting point to the end point in time?

17 A 5.0 miles.

18 Q When you measured the blue route from Ebenezer
19 Fire Department using George Albert Lake Road and the
20 Due West Highway, what distance did you come up with to
21 the end point on Rube Ashley Road?

22 A 4.6 miles.

23 Q The green route then goes from Ebenezer Fire
24 Department to the end point. And what distance did you
25 measure that to be on Route C?

1 A 4.6 miles.

2 Q So, based upon your calculation and measurements,
3 Route B and Route C both total out at 4.6 miles?

4 A That is correct.

5 Q And the red route totals out at 5.0 miles, a
6 little further?

7 A That's correct.

8 Q Did you ride each of these routes?

9 A I did.

10 Q Tell the Court the condition of the Due West
11 Highway red route as far as the highway, the
12 measurements on the highway, what it is composed of?

13 A The Due West Highway, South Carolina, it's a
14 primary road, South Carolina road. It's South Carolina
15 Highway 185. It's a very well maintained road; follows
16 the ridge mostly from the start point to the point
17 where you turn off on either Trail Road or Troy
18 Murdock.

19 Q As a South Carolina highway, does it have a center
20 line?

21 A Yes, it does.

22 Q Is it marked in yellow?

23 A Yes.

24 Q Does it have lines, white lines, on each side of
25 it?

1 A Yes.

2 Q And how wide is it?

3 A It goes 22 feet.

4 Q Okay. The Level Land Road route, when you rode
5 that, what condition did you find that to be in?

6 A Level Land Road is a secondary state road for a
7 ways until it gets to Murdock Road, then it turns
8 into -- that route turns into a county route on Murdock
9 Road a short ways on 284, which is a primary road, then
10 back to a county road on Alewine Road to the end.

11 Q Which is here?

12 A Yes.

13 Q And is this road, Level Land Road, with lines and
14 center lines?

15 A It is.

16 Q How about Alewine Road?

17 A No.

18 Q The Route B, which is the blue route, is marked
19 going down Due West Highway and then utilizing a road
20 called George Brock Road. Describe the conditions of
21 that road.

22 A Due West Highway is the same, well maintained
23 primary road. It turns off on Trail Road, which is
24 also a South Carolina primary highway, until it gets to
25 George Brock Road, then it becomes a county road, which

1 is county maintained, not as well.

2 Q And what?

3 A It's not as well maintained as the other roads.

4 Q And South Carolina 284, you were mentioning, is it
5 marked?

6 A Yes.

7 Q George Brock Road is a county road, and your
8 testimony was it's not as well maintained as the roads
9 in the other routes?

10 A That's right.

11 Q Okay. So if you consider, based upon the
12 calculations and, I don't know, site work that you did,
13 if you travel from Ebenezer Fire Department, the same
14 distance on the green route as is the same distance on
15 the blue route; is that correct?

16 A Yes.

17 Q And the condition of the roads on the green route,
18 Route C, is that better or worse than the conditions on
19 the blue route that utilizes George Brock Road?

20 A The secondary state road part is well maintained,
21 otherwise, the county roads are not. So both routes
22 have a part county road access, and, you know, that
23 part is not well maintained -- as well maintained.

24 Q And based upon your observation and measurements
25 that you made from Ebenezer Fire Department down to

1 Rube Ashley Road, which is the end point, utilizing the
2 red route or Route A, what would you say about the
3 ability of fire or emergency vehicles to travel on that
4 road as opposed to the other two routes?

5 A I would say it's a good -- you know, it's a good
6 route to take because of the well-maintained 185 until
7 you turn off on Troy Murdock Road, which is also a
8 secondary state road, which is, you know, the next
9 class down from a primary state road.

10 Q Would the travel be faster on the red route than
11 it would be on the other two?

12 A Yes.

13 Q I'm going to show you another exhibit and ask you
14 if you can identify it.

15 A Yes. This is a map that I prepared for Brent
16 Murdock showing the route comparison from George
17 Murdock Road to a point on Trail Road en route to
18 Belton.

19 THE COURT: What number exhibit?

20 MR. MULLINAX: I haven't introduced it yet, Your
21 Honor. I'm fixing to.

22 THE COURT: Hold on a minute. Are you putting 8
23 into evidence?

24 MR. MULLINAX: Put 8 into evidence. This will be
25 8A. I would ask Map 2 of 3 be marked as 8A.

1 MR. HARMON: I don't have any objection to the map
2 itself, no, Your Honor.

3 THE COURT: So 8 would be admitted without
4 objection.

5 (WHEREUPON, Plaintiff's Exhibit Number 8 was
6 admitted into evidence.)

7 THE COURT: Now you're going to 8A now; is that
8 correct?

9 MR. MULLINAX: Yes, Your Honor.

10 BY MR. MULLINAX:

11 Q Okay, Mr. Dunn. Exhibit 8A is in front of you,
12 and I have also put it up on the board.

13 Did you utilize the same engineering principles in
14 order to prepare this map?

15 A Yes.

16 Q And describe for the Court what this map depicts.

17 A It's depicting two different alternate routes to
18 get from the intersection of Rube Ashley Road and
19 George Murdock Road to the main route to Belton, you
20 know, to the starting point on that map.

21 Q Okay. And if you follow Trail Road out in a
22 northerly direction, where would you end up?

23 A To Belton.

24 Q Belton, South Carolina?

25 A Yes.

1 Q Okay. So utilizing the blue route, which is
2 described as Route B, from this starting point to the
3 end point, how many miles did you determine that to be?

4 A 3.0.

5 Q Okay. And then utilizing Route A, the red route,
6 going down George Albert Lake Road -- George Brock
7 Road, excuse me, how far is that?

8 A 2.9 miles.

9 Q Is the condition of the highways that you would be
10 traveling on different from the Route B to the Route A?

11 A Trail Road is a primary straight road, so that
12 part, you know, is well maintained. It's primary.

13 Q Okay. Is George Brock Road poorly maintained?

14 A Yes.

15 Q Troy Murdock Road, Mount Bethel School Road, Jones
16 Chapel Road?

17 A Secondary state road, not as well as Trail Road.

18 Q Better than George Brock or not?

19 A Better.

20 Q Okay. All right, sir. I'm going to ask you if
21 you can identify this document, which is described as
22 Map 3 of 3.

23 Can you identify it?

24 A Yes, sir.

25 Q Did you prepare that document utilizing the same

1 engineering principles as you did with Maps 1 and 2?

2 A I did.

3 MR. MULLINAX: Your Honor, I would move this be
4 accepted into evidence as Exhibit 8B.

5 THE COURT: Are you moving 8A in, too?

6 MR. MULLINAX: Yes. I move that it be admitted.

7 THE COURT: Okay. So we've got 8A.

8 Is there any objection to 8A?

9 MR. HARMON: No, Your Honor.

10 THE COURT: Any objection to 8B?

11 MR. HARMON: No.

12 THE COURT: All right. So 8A and 8B would be
13 admitted without objection.

14 (WHEREUPON, Plaintiff's Exhibit Number 8A was
15 admitted into evidence.)

16 (WHEREUPON, Plaintiff's Exhibit Number 8B was
17 admitted into evidence.)

18 MR. MULLINAX: And 8C, I'm proposing Map 3 of 3.

19 THE COURT: Any objection to 8C?

20 Show Mr. Harmon what you're seeking to put in.

21 MR. HARMON: I have a copy here. No objection to
22 the map itself.

23 THE COURT: Okay. So 8A, B, and C are admitted
24 without objection.

25 MR. MULLINAX: 8 was included in the initial --

1 I'm sorry, Your Honor. 8 was included in the initial
2 markings as Map 1 is just 8, Map 2 is 8A, and Map 3 is
3 proposed to be 8B. I apologize.

4 MR. HARMON: I don't have a C.

5 MR. MULLINAX: We changed from that.

6 MR. HARMON: Okay.

7 BY MR. MULLINAX:

8 Q Do you recognize the document which has been
9 marked as 8B?

10 A Yes.

11 Q Did you prepare that document utilizing the same
12 engineering principles as you did with the earlier two
13 maps?

14 A I did.

15 MR. MULLINAX: And I would ask that Exhibit 8B be
16 admitted into evidence.

17 MR. HARMON: That's already in evidence.

18 BY MR. MULLINAX:

19 Q Tell the Court, and then I'll put up on the board
20 for you to look at, what's been marked as 8B and ask
21 you if this is an accurate representation of the
22 Exhibit 8B?

23 A Yes.

24 Q And tell the Court what your engineering findings
25 were concerning that route.

1 A This was a comparison of two different routes to
2 get from a resident whose name is John Wendell Ashley,
3 to get from his residence to the intersection of George
4 Brock Road and Rube Ashley Road.

5 Q And if you utilized the Route A, you have measured
6 it from a starting point to an end point to be how far?

7 A Route A, 1.6 miles.

8 Q And from utilizing the blue route, which you have
9 designated as Route B, from that starting point to the
10 end point turns out to be how far?

11 A 1.5 miles.

12 Q And the condition of Trail Road is, as you've
13 described it before, in good shape, county road?

14 A It's a primary state road on Trail Road.

15 Q And between George Brock Road and Alewine Road and
16 C-17-53, what are the conditions of those two roads as
17 compared to each other?

18 A Both roads were county roads. Alewine Road is
19 probably in better condition than George Brock Road.

20 Q All right, sir.

21 MR. MULLINAX: That's all the questions I have.
22 Answer any that Mr. Harmon has for you.

23 THE COURT: Mr. Harmon, your witness.

24 MR. HARMON: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. HARMON:

2 Q Mr. Dunn, I just have a few questions for you.

3 You indicated that you went out and rode on these
4 roads that you have testified about on these different
5 routes on Exhibits 8A and 8B?

6 A I have.

7 Q Did you -- did you see structures on George Brock
8 Road?

9 A I believe I did.

10 Q What structures did you observe?

11 A I believe there was a house on that road.

12 Q Do you know if someone lives in that house?

13 A I don't know.

14 Q You didn't stop to see if anyone was there?

15 A No.

16 Q You were just measuring distances and looking at
17 the road; is that correct?

18 A That is correct.

19 Q And what was the other structure? Was there a
20 structure across the road from the house?

21 A I wasn't really interested in structures. I was
22 just interested in distance on the road, so I didn't
23 observe what was on each side that much.

24 Q Now, I need to find the right map here. This is
25 Exhibit 8, Map 1 of 3. You indicated that the red

1 route would be a faster way of travel than the other
2 two routes.

3 Do I understand your testimony correctly?

4 A That's my belief, it would be.

5 Q Okay. You didn't observe any emergency vehicles
6 using the roads when you were out there riding around?

7 A No.

8 Q But it is a shorter distance to go down George
9 Brock Road, the blue route, to those -- to get to the
10 intersection you marked with a star, Rube Ashley Road?

11 A That's correct.

12 Q Now, you indicated that there was -- you did
13 observe a residence on George Brock Road?

14 A I think I did. I'm not absolutely sure if I did
15 or not. So I was not really interested in structures
16 or residences other than Wendell Ashley, his residence.

17 Q Okay. If there is a residence on George Brock
18 Road, would it be your opinion that an emergency
19 vehicle would need to be able to reach that residence?

20 A Yes.

21 Q Okay. You didn't calculate a distance to the
22 residence you saw on any of the maps that you prepared?

23 A I did not.

24 Q Okay. Now, Mr. Dunn, this is, if I'm remembering
25 correctly how we have these numbered, this is

1 Exhibit 8A.

2 Was there any reason why you selected the start
3 point you have on that map?

4 A I believe Mr. Murdock selected that point.

5 Q Did he tell you why he selected that point and
6 asked you to prepare this map with distances on it?

7 A That point is an intersection common to both
8 routes. You've got to have a start point and an end
9 point, so that is a point to consider if you're trying
10 to get to Belton. Two different routes to merge.

11 Q So your start point to be a point from which you
12 could travel to Belton?

13 A You could.

14 Q And you're looking at travel distances to that
15 start point from Rube Ashley Road?

16 A Yes.

17 Q Is that correct?

18 A Yes.

19 Q Okay. No other reason that you know of for
20 selecting this start point and end point?

21 A No.

22 Q Now, this is Exhibit 8B, Mr. Dunn.
23 Why was this start point selected?

24 A Why was the start point selected?

25 Q Yes, sir.

1 A That's the approximate location of Mr. Ashley's
2 residence, who was a person that Mr. Murdock knew, and
3 I really don't know the details of why we needed to
4 know that, but I was told that I needed to compare it,
5 the routes, to get from that point to the end point.

6 Q But you don't know any reasons why you were
7 looking at the start point to the end point other than
8 Mr. Murdock asked you to do that; is that correct?

9 A I don't know of any particular reason.

10 Q Okay.

11 MR. MULLINAX: May it please the Court. I had
12 asked to take this witness out of order. Mr. Murdock
13 will testify to the reasons why the maps were prepared.

14 THE COURT: Okay. It's your case. You can call
15 them in whatever order you would like to.

16 BY MR. HARMON:

17 Q Now, Mr. Dunn, let me go back to what's been
18 marked as Exhibit 8. And you have three groups drawn
19 on this map. One you're coming from Ebenezer Fire
20 Department along Level Land Road up to Rube Ashley
21 Road. And you rode that route, if I understood your
22 testimony correctly; is that right?

23 A I have.

24 Q Is that a fairly windy route and way to get to
25 your end point?

1 A Yes.

2 Q Do the routes that you observed as you rode
3 through there, do they have wide shoulders or not such
4 wide shoulders? Did you make any observations
5 regarding the shoulders on the road?

6 A No, I was not interested in shoulders. I was
7 interested in distance.

8 Q So your sole focus was on distance between two
9 points?

10 A That was my primary interest.

11 Q You didn't try to evaluate each route with respect
12 to emergency vehicle use of that route?

13 A I did not.

14 MR. HARMON: Your Honor, I have no further
15 questions for this witness.

16 THE COURT: Anything in response?

17 MR. MULLINAX: Nothing in reply. I would ask that
18 Mr. Dunn be excused.

19 THE COURT: Any objection?

20 MR. HARMON: No objection, Your Honor.

21 THE COURT: Thank you, Mr. Dunn. You are excused.

22 MR. MULLINAX: Your Honor, we call Forest Skipper
23 to the stand.

24 **MARK SKIPPER,**

25 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

1 THE CLERK: If you would please come around and
2 take a seat there at the witness stand. Please state
3 your name for the court reporter.

4 THE WITNESS: Mark Skipper.

5 DIRECT EXAMINATION

6 BY MR. MULLINAX:

7 Q And S-k-i-p-p-e-r.

8 Mr. Skipper, if you would please tell me where you
9 live.

10 A Six Mile, South Carolina.

11 Q How long have you lived there?

12 A Since 1980.

13 Q Do you know Mr. Brent Murdock?

14 A I do.

15 Q And how long have you known Mr. Mr. Murdock?

16 A Probably 25 plus years.

17 Q Have you been down to Mr. Murdock's home?

18 A Yes.

19 Q And have you traveled the roads that we have been
20 talking about?

21 A Not all three of them, but the road in question,
22 I've been on.

23 Q I'll put back up Exhibit 8.

24 So you have traveled what's known as George Brock
25 Road; is that correct?

1 A Yes.

2 Q Okay. Tell us your educational background.

3 A BS from NC State and graduate degrees from Oregon
4 State.

5 Q In what?

6 A Agriculture, agronomy, crops and soils.

7 Q And what have been your work positions over the
8 years, could you tell the judge?

9 A Yes. Been involved in research, basically, since
10 I was undergraduate, all the way through my Ph.D.
11 program, then I worked for Monsanto and Clemson
12 University.

13 Q And in connection with your work with Monsanto and
14 Clemson University, what exactly did you do in
15 research?

16 A At Monsanto, I was developing new chemicals to
17 control weeds in rice. This was an international
18 program. And at Clemson I worked in bioremediation,
19 biodegradation of pesticides and also beneficial
20 organisms.

21 Q And how is it that you were acquainted with
22 Mr. Murdock and his farm?

23 A He was a graduate student at Clemson University,
24 and I got to know him and his family at that time.

25 Q And describe your evaluation of the work that he

1 is doing on that farm in Anderson County.

2 A To me it's very critical research in developing
3 ornamental varieties. Ever since I was an FFA or 4H
4 member, research has always been at the forefront of
5 new crops, hybrid corn, for instance. And that has
6 continued and developed even more so in recent years.

7 What Brent and his family are doing there is very
8 critical to the ornamental industry in South Carolina
9 and the nation and even now internationally.

10 Q And you're saying not only is it beneficial to the
11 economy of Anderson County but the state of South
12 Carolina and internationally. Why is that?

13 A Because watermelon, I don't have an exact number
14 on the amount of seeds and things like that,
15 ornamentals that are sold, but it's a major industry in
16 South Carolina and certainly internationally with all
17 the vegetables and melons that are produced and sold.

18 Q And do you have knowledge of the fact that he is
19 affiliated with an international organization?

20 A Yes, sir.

21 Q And in connection with plant research and seed
22 research, is security of a concern?

23 A Absolutely.

24 Q And why is that?

25 A One way I look at it is that if you don't have

1 security, it's like a banker opening his vault door and
2 saying, "Come in and get what you want." And this is
3 what you have without security. All the projects I've
4 been involved in have had different levels but high
5 levels of security.

6 Q And is one of the reasons for that, do you develop
7 seeds and processes to grow seeds overnight, or does it
8 take time?

9 A Oh, it takes easily five to ten years to get a new
10 line coming on to be commercially developed. And so if
11 that is destroyed, you are basically starting over at
12 ground zero, and that's a very expensive proposition.

13 Q And in your -- you did travel down George Brock
14 Road and traveled onto the property utilized by
15 Mr. Murdock in his plant research business?

16 A Right.

17 Q And is there a reason why George Brock Road should
18 be closed based upon that?

19 A That road leaves his whole research investment
20 open to sabotage and to be destroyed. And it doesn't
21 take much of a four-wheeler or something like that
22 coming through to wipe out a whole ornamental breeding
23 program just in 30 minutes out there doing wheelies or
24 something like that. So it's very critical to be able
25 to control and to keep sabotage down.

1 Q And why does his facility have research potential
2 worldwide?

3 A Because he develops the ornamental varieties that
4 will be sold worldwide.

5 Q Do other people develop what he's developed?

6 A There are other companies, so it's very
7 competitive.

8 Q But how would you describe his work?

9 A He has a unique feature with male sterility for
10 the ornamental production.

11 Q And is it vital to the economy of this state as
12 well as this nation?

13 A Yes. In my opinion, it is.

14 Q Please answer any questions that Mr. Harmon has.

15 A Yes.

16 THE COURT: All right, Mr. Harmon.

17 CROSS-EXAMINATION

18 BY MR. HARMON:

19 Q Good morning, Mr. Skipper.

20 A Good morning.

21 Q Have you ever had any involvement in watermelon
22 research?

23 A Only indirectly.

24 Q So yours has been in other fields, areas of crop
25 production, not watermelons?

1 A Yes. We grew strawberries in Six Mile.

2 Q When you had occasion to be on George Brock Road,
3 what piece of -- is there a piece of property on that
4 road that this research is conducted on?

5 A Well, he has lots of fields in the way he grows
6 ornamentals on.

7 Q Do you know if he owns any of those fields?

8 A It's my understanding he does.

9 Q Okay. Did you get out and walk around in the
10 fields?

11 A Yes, sir.

12 Q Now, you mentioned security. Did you see a fence
13 around any of those fields?

14 A I saw some fences on the edges, yes.

15 Q Did they encompass the entire field where the
16 research was going on?

17 A I'm not sure about the ones in the woods. But he
18 had electric fences for deer that was inside of the
19 main plot.

20 Q Well, Mr. Skipper -- and I assume it's Mr. Skipper
21 not Dr.?

22 A I go by Skip.

23 Q Skip, okay. I'll still call you Mr. Skipper, if
24 that's okay with you.

25 If security is so important, as you described it,

1 for the type of research that is going on, it occurs to
2 me that this property ought to be fenced in to keep
3 four-wheelers and those type folks out of the property
4 as you mentioned. Would you agree with that?

5 A Well, are you including fencing that road in?

6 Q No. If you fence in each field, it wouldn't be
7 necessary to fence in the road, would it, Mr. Skipper?

8 A But you're increasing the cost by quite a bit.

9 Q So your opinion would be that the entire area
10 where research is occurring should be fenced in?

11 A That would certainly be helpful. That can't stop
12 them all.

13 Q Mr. Skipper, let me show you what has been marked
14 as Defendant's Exhibit 2.

15 MR. HARMON: Your Honor, I have an extra copy of
16 that that I can provide to you.

17 THE COURT: Thank you.

18 BY MR. HARMON:

19 Q Now, do you see on this document marked as
20 Defendant's Exhibit 2, do you see George Brock Road?
21 It would be toward the right-hand edge.

22 A Yes, I see it there.

23 Q George Brock Road?

24 A Right.

25 Q It's outlined -- I'm a little bit bad with colors,

1 but I think it's blue.

2 Can you identify which parcels of property you
3 have been on on George Brock Road in relation to the
4 watermelon research?

5 A It's my understanding it would be those to the
6 left of that road.

7 Q That is to the left?

8 A Right. If I'm looking at them properly.

9 Q Would you identify which ones they are. These are
10 tax map numbers on here.

11 A These in here.

12 Q So are you identifying Tax Map Number 2320005008
13 and 2 and 23302?

14 A Right.

15 Q Those three properties in that area?

16 A Yes.

17 Q Okay. Now, when you testified earlier to my
18 question about fencing, you indicated that it would be
19 more expensive to fence in unless you fenced in the
20 road. But you have identified properties only on one
21 side of the road; is that correct?

22 A I have not been on the other side. As best I
23 remember, that was wooded area over there.

24 Q Okay.

25 MR. HARMON: Your Honor, I have no further

1 questions for this witness.

2 THE COURT: Okay.

3 Anything further from this witness?

4 REDIRECT EXAMINATION

5 BY MR. MULLINAX:

6 Q You are -- I believe you're a professor emeritus
7 in soil microbiology at Clemson?

8 A Yes.

9 MR. MULLINAX: No further questions, Your Honor.
10 And I would ask that this witness be excused.

11 THE COURT: Any objection to Mr. Skipper being
12 excused?

13 MR. HARMON: No, Your Honor.

14 THE COURT: Thank you, sir. You are excused.

15 MR. MULLINAX: Your Honor, plaintiff would call
16 Mr. Sandy Hayes.

17 SANDY HAYES,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 THE CLERK: If you would please take a seat there
20 at the witness stand. Please state your name for the
21 court reporter.

22 THE WITNESS: Sandy Hayes.

23 MR. MULLINAX: Again, Your Honor, we're calling
24 these first three witnesses out of order in order to
25 allow them to get back to their work positions rather

1 than starting with the plaintiff.

2 DIRECT EXAMINATION

3 BY MR. MULLINAX:

4 Q Mr. Hayes, tell me your full name.

5 A Sandy Hayes, H-a-y-e-s.

6 Q Tell me where you work.

7 A I work for Anderson County Environmental
8 Enforcement. I'm the sergeant.

9 Q How long have you worked for Anderson County doing
10 that job?

11 A I've been employed since 2002 doing animal and
12 litter control.

13 Q If you would tell me, please, what is the extent
14 of your duties as animal control?

15 A Litter control? I patrol Anderson County in
16 reference to litter, unlawful dumping of trash in yard,
17 open storage, and loss of loads and uncovered loads.

18 Q And are you in charge of a department, or are you
19 in charge of the whole county?

20 A I'm in charge of the department which goes over
21 the whole county. I have two other officers under me.

22 Q And in connection with your duties as the head of
23 that department, do you have knowledge of the property
24 owned by Mr. Brent Murdock?

25 A I know he owns property on George Brock Road.

1 Q And have you, in fact, during the course of your
2 duties, investigated anything in relation to
3 Mr. Murdock's property on George Brock Road?

4 A I have.

5 Q And would you please tell me, based upon your
6 records, what you have investigated?

7 A Since 2014 up to 2018, we have had roughly nine
8 complaints in reference to litter, unlawful dumpings,
9 anything from beer bottles -- major, you know, 12, 13
10 beer bottles at the side of the road, dumping of trash,
11 bags of trash, construction debris, TVs, tires, and
12 fast food containers, other window trash.

13 Q Have you been -- and over what period of time has
14 that occurred? Tell me again.

15 A Documented right now, and this is not going to say
16 it's all of them, but since 2014.

17 Q Have you been able to apprehend or arrest any of
18 the perpetrators of that criminal activity?

19 A We've made at least one charge on unlawful
20 dumpings. We have talked to a couple other people that
21 we per se couldn't prove beyond a reasonable doubt that
22 they dumped it but had them go clean it up because it
23 came back to their residence.

24 Q Based upon the number of occurrences, how would
25 you describe the activity that exists on Mr. Murdock's

1 property on George Brock Road?

2 A Well, it appears to be a cut-through road for
3 people drinking alcohol, either in the daytime or at
4 night, and throwing their bottles out. It's because of
5 the location where Mr. Murdock's property is, where
6 I've gotten the complaints, it's a secluded area;
7 therefore, they like to throw their bottles and do
8 their dumping there.

9 Q Based upon that activity, do you also consider it
10 to be a safety hazard?

11 A It could be, yeah. Anybody drinking and driving,
12 it could be a safety hazard.

13 Q And in connection with your trips to Mr. Murdock's
14 property, have you had occasion to travel by automobile
15 on George Brock Road?

16 A I have.

17 Q Could you describe for the judge the condition of
18 that road.

19 A It's a fairly narrow back country road. Some of
20 the shoulders are wide; some of them are growed up with
21 briars and bushes. Once you get so far down the road,
22 it opens up into a bunch of pastureland.

23 Q Got a lot of potholes in it?

24 A To my recollection, there might have been one or
25 two, but I really can't tell.

1 Q But the photographs would show?

2 A All right.

3 Q I'm going to show you a photograph and ask you if
4 you can identify this.

5 A That was a picture taken off of a trail camera.

6 At one time we had a trail camera set up, and

7 Mr. Brock -- Mr. Murdock at some time or another had

8 trail cameras set up. So I do seem to remember this is

9 one of the pictures that come off of his trail camera.

10 Q Okay. So had you seen that picture before so that
11 you can identify it or not?

12 A I cannot honestly say that I remember seeing this
13 picture. I see a lot of pictures all the time.

14 Q Sure. So you don't know if that was one of yours
15 or one of his?

16 A According to here, it says "Recon" on there. I do
17 not have Recon trail cameras, so, therefore, it was not
18 my trail camera.

19 Q All right. Thank you. That was a pretty good
20 move.

21 I have no further questions. Answer any that
22 Mr. Harmon may have.

23 CROSS-EXAMINATION

24 BY MR. HARMON:

25 Q Good morning, Sergeant Hayes. How are you?

1 A Doing fine, sir.

2 Q Good.

3 You testified that you are a litter officer for
4 Anderson County?

5 A Yes, sir.

6 Q And you have two other litter officers working for
7 you?

8 A Yes, sir.

9 Q All three of you are full-time employees?

10 A Yes, sir.

11 Q And you devote your full attention to controlling
12 litter within the county?

13 A Yes, sir.

14 Q You testified to a number of different items that
15 you had seen on George Brock Road?

16 A Yes, sir.

17 Q Do you have similar concerns with those type items
18 in other parts of the county as well?

19 A Yes, sir.

20 Q Now, you indicated that Mr. Murdock owned property
21 on George Brock Road, is your testimony?

22 A Yes, sir.

23 Q Is my exhibit Defendant's Exhibit 2 still up here?

24 A Yes, sir.

25 Q Could you point out which property you're talking

1 about that you believe is owned by Mr. Murdock?

2 A Let's see. Come off Trail Road, it's my
3 understanding this property and this property here, the
4 first two properties when you're coming off of Trail
5 Road on both the right-hand and left-hand side,
6 23200902, 232005009, is my understanding they are owned
7 by the Murdocks.

8 Q And are you including this small tract with the
9 large tract?

10 A Yes, sir.

11 Q That has the same tax map number?

12 A Yes, sir. That's connected.

13 Q And this is on, I guess, the northern end of
14 George Brock Road; is that correct?

15 A I will assume. It's on the Trail Road side.

16 Q Trail Road end of George Brock Road?

17 A Yes, sir.

18 MR. HARMON: Your Honor, I have no further
19 questions for this witness.

20 THE COURT: Anything further from this witness?

21 MR. MULLINAX: Nothing further, Your Honor. Ask
22 that this witness be excused.

23 MR. HARMON: No objection.

24 MR. MULLINAX: Your Honor, I would move that
25 Exhibits 1, 2, 3, 4, 4A, and 5 and 7 be admitted into

1 evidence. They're all recorded documents.

2 Number 7 is an affidavit from the Belton Honea
3 Path News as to the publication necessary in the
4 bringing of a 57-9-10 action.

5 THE COURT: Any objection?

6 MR. HARMON: Your Honor, could he repeat those? I
7 didn't catch them all.

8 THE COURT: Have you got a copy of what he's --

9 MR. MULLINAX: Yes, sir. Number 1, Number 2,
10 Number 3, which is -- those are the deeds. Number 4,
11 which is a power of attorney to Mr. Murdock. Number 5
12 is the tax map, county document relating to ownership
13 of property on George Brock Road. And Number 6 is the
14 affidavit of publication -- Number 7 is the affidavit
15 of publication.

16 MR. HARMON: So we're not doing 6 at this time?

17 MR. MULLINAX: Well, if you will allow it, I will.

18 MR. HARMON: Those are photos. I probably need to
19 talk to the witness about those.

20 MR. MULLINAX: Okay.

21 MR. HARMON: Your Honor, as to the ones
22 identified, I have no objection.

23 THE COURT: So Plaintiff's Exhibits 1, 2, 3, 4, 5,
24 and 7 would be admitted without objection.

25 (WHEREUPON, Plaintiff's Exhibit Number 1, 2, 3, 4,

1 5 and 7 were admitted into evidence.)

2 MR. MULLINAX: The next witness will probably take
3 a little time. Would the Court be willing to take a
4 break?

5 THE COURT: Yeah. We have been at it a little
6 over an hour. Let's take a short break.

7 MR. MULLINAX: Thank you.

8 (WHEREUPON, a recess was taken from 10:52 a.m. to
9 11:04 a.m.)

10 MR. MULLINAX: May it please the Court, Your
11 Honor. We call Mr. Daniel Keown.

12 DANIEL KEOWN,

13 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 THE CLERK: If you would please take a seat at the
15 witness stand. Please state your name for the court
16 reporter.

17 THE WITNESS: Daniel Keown, K-e-o-w-n.

18 DIRECT EXAMINATION

19 BY MR. MULLINAX:

20 Q Mr. Keown, tell me where you live.

21 A I live in Honea Path, South Carolina. More
22 specifically, Craytonville Community.

23 Q Are you married?

24 A Yes, sir, I am.

25 Q Do you have any children?

1 A One on the way. Seven months pregnant, here in
2 March.

3 Q Congratulations.

4 A Thank you.

5 Q Tell me where you work.

6 A I work for South State Bank in Belton, South
7 Carolina.

8 Q Are you familiar with property owned by Mr. Brent
9 Murdock?

10 A Yes, sir, I am.

11 Q I'm going to show you what's been marked as
12 Plaintiff's Exhibit Number 5. And if you can, can you
13 identify that property as being owned by Mr. Murdock
14 and other individuals?

15 A Yes, sir.

16 Q How are you familiar with that property?

17 A I worked on it for years. Not currently, but when
18 I was younger, I did.

19 Q And when you say you worked on it, what does that
20 mean?

21 A Like has been presented, he runs a watermelon
22 farm, and that was my first job when I was 12. That's
23 the first place I ever worked.

24 Q Did you work on the property that is abutting
25 George Brock Road?

1 A That is correct, yes, sir.

2 Q And is it your opinion that George Brock Road is
3 necessary to travel to anyplace, Honea Path, Belton,
4 Abbeville?

5 MR. HARMON: Object to this witness giving opinion
6 testimony.

7 THE COURT: Rephrase your question.

8 BY MR. MULLINAX:

9 Q Have you traveled on -- I'll refer to the map that
10 was introduced as Exhibit 8.

11 Have you traveled on these roads that are shown in
12 red and blue and green?

13 A Yes, sir, I have.

14 Q And a good bit?

15 A Yes, sir. I don't live very far from this area.

16 Q You say you live in the Craytonville Community?

17 A Yes, sir.

18 Q Which would be down 284; is that right?

19 A That's correct, yes, sir.

20 Q And it would be back north of where this is?

21 A That is correct.

22 Q Okay. And as a result of your travel on each of
23 these roads marked with a green route, the blue route,
24 and the red route, is it necessary for George Brock
25 Road to be in existence in order to allow you to go

1 anywhere?

2 A No, sir. There are several other routes that are
3 alternate routes, and I do not believe so, no, sir.

4 Q And the other routes would include the red route
5 and the green route?

6 A Correct.

7 Q Would George -- would the closure of George Brock
8 Road, based upon your travel and your observation,
9 hinder public transportation in any way?

10 A As stated previously, I worked there for an
11 extended period of time. Oftentimes we would be out
12 there for many hours throughout the day, and it would
13 be very rare for us to hear or see any vehicle
14 traveling down that road. We worked right beside that
15 area, so we rarely saw any vehicles on that road.

16 Q Did you ever see an emergency vehicle on the road?

17 A No, sir.

18 Q Did you ever see a fire truck on the road?

19 A No, sir.

20 Q You worked in the seed research business planting
21 crops and attending to them and making sure they grew;
22 is that right?

23 A Correct.

24 Q And would -- what would the closure of George
25 Brock Road mean as far as the security of that plant

1 production?

2 A It was not an unusual occurrence for --
3 Mr. Murdock has previously slept out in his fields
4 before because people are going out there at night and
5 destroyed some of the stuff that we had put together.
6 The crops themselves, the plastic we had laid out,
7 different things. It's not unusual for him to get a
8 tent out there and just watch and see what was going
9 on. It would be beneficial in that situation because
10 it was previously stated he doesn't have security.

11 What he does is he has planted trees all along the
12 route basically to hide anything he has back there. In
13 my opinion, a fence would show that he has something
14 there to hide. Trees are more discrete. If that road
15 was not there, it would not give anyone access through
16 those fields because, like I said, there's fields on
17 each side of that road.

18 Q And, therefore, the security would be supreme?

19 A Exactly, yes, sir.

20 Q Have you traveled recently on George Brock Road?

21 A Yes, sir.

22 Q Describe for the Court the condition of that road.

23 A It's not a lined road. It's -- I mean, it's
24 definitely not in great condition, doesn't seem to be
25 maintained. I remember traveling on that road years

1 and years ago, and to my knowledge, there hasn't been
2 any kind of upkeep since then. That's been 13 years
3 ago.

4 Q That's all the questions I have. Answer any that
5 Mr. Harmon may have.

6 A Yes, sir.

7 THE COURT: Mr. Harmon.

8 MR. HARMON: Thank you.

9 CROSS-EXAMINATION

10 BY MR. HARMON:

11 Q Mr. Keown, is that --

12 A Keown.

13 Q I'm not good --

14 A It happens all the time, trust me.

15 Q You indicated that you had seen things destroyed
16 that have been placed out in the field?

17 A Correct, yes, sir.

18 Q What time frame are we talking about?

19 A This would be in the morning, because we get there
20 very early in the morning.

21 Q I'm talking about what year. What year are you
22 talking about?

23 A This has been several years ago. This would have
24 been -- like I said, this is when I was in high school.
25 Middle school, high school time frame.

1 Q So how many years ago?

2 A About ten years ago.

3 Q And you haven't seen that since that time?

4 A I haven't been out that way since then, no, sir.

5 Excuse me. I've been out that direction. I have
6 not worked in that field since that time frame.

7 Q So it's been ten years since you have done any
8 work in those fields?

9 A That's correct, yes, sir.

10 Q Okay. When you testified earlier that you had
11 worked in fields that Mr. Murdock owned, I believe was
12 your testimony?

13 A Yes, sir.

14 Q I'm going to show you what's been marked as
15 Defendant's Exhibit 2.

16 A Okay.

17 Q And ask you to identify specifically which fields
18 are you speaking of?

19 A You're talking about the ones I was speaking of a
20 moment ago? To the best of my knowledge, it would be
21 Tax Map Number 2320005009 as well as 2320009002, and I
22 believe that is the same as this one right here, if I'm
23 not mistaken, 232009002. Yeah, there was a small piece
24 on the other side of George Brock as well.

25 Q So it's basically the parcels, three parcels, two

1 of which have the same tax map number?

2 A Yes, sir.

3 Q Up toward the Trail Road end of George Brock Road?

4 A That is correct, yes, sir, to the best of my
5 knowledge.

6 Q When you say you have traveled George Brock Road
7 recently, did you travel it from one end to the other,
8 or did you only go a portion of the way?

9 A I only went a portion of the way.

10 Q When you say "a portion of the way," did you only
11 go on the northern end?

12 A It would have only been on the portion on the
13 Trail Road end. I did not come back through the -- I
14 apologize. I'm not great with these road names -- Troy
15 Murdock end, I believe it is, just on the Trail Road
16 side of that.

17 Q When you traveled it recently, did you see any
18 structures on George Brock?

19 A I did not. To be honest with you, I was just
20 looking at the road itself.

21 Q And why did you happen to be on the road recently?

22 A Mr. Murdock asked I went there and refresh myself
23 because it's been several years since I had been there,
24 so I was making sure I remember the area, travel it
25 down, just recouping my information.

1 MR. HARMON: Your Honor, that's all the questions
2 I have for this witness.

3 THE COURT: Anything further from this witness?

4 MR. MULLINAX: No further questions and ask that
5 this witness be excused.

6 THE COURT: Any objection?

7 MR. HARMON: No objection.

8 THE COURT: Thank you, sir. You are excused.

9 MR. MULLINAX: Your Honor, call Mr. Austin Wood.

10 AUSTIN WOOD,

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 THE CLERK: If you would please take a seat at the
13 witness stand. Please state your name for the court
14 reporter.

15 THE WITNESS: Austin Wood.

16 DIRECT EXAMINATION

17 BY MR. MULLINAX:

18 Q Mr. Wood, tell me what your educational background
19 is.

20 A I have a bachelor of science from Clemson
21 University in agricultural mechanization and a minor in
22 business.

23 Q And when did you graduate from Clemson University?

24 A 2005.

25 Q And did you also stay up late last night?

1 A Yes, sir, I did.

2 Q Okay. Since 2005, what have you been doing?

3 A I've created my own business. I build horse
4 arenas all the over the United States for the three top
5 footing companies in the nation.

6 Q And did you start doing that right after
7 graduation?

8 A No, sir. I worked for a timber company in
9 Edgefield, South Carolina until 2008. I worked for
10 them three years, then I started my own business in
11 2008.

12 Q Okay. And what's the name of your company?

13 A Diamond W Contracting, LLC.

14 Q And do you have anyone else working for you in
15 that company?

16 A No, sir.

17 Q Mr. Wood, I was looking around for Plaintiff's
18 Exhibit 5, but it's right before you.

19 Can you tell me if you recognize that document and
20 the property ownership?

21 A Yes, sir, I do.

22 Q And tell me who Diamond W Farm, LLC is.

23 A That is me.

24 Q And your -- who is Wallace Wood?

25 A That is my father.

1 Q The documents that have been marked as Plaintiff's
2 Exhibit 1 and admitted into evidence and Plaintiff's
3 Exhibit -- well, Plaintiff's Exhibit 1, do you
4 recognize that as the deed whereby the property was
5 conveyed to you?

6 A Yes.

7 Q And looking at Plaintiff's Exhibit 5 and taking it
8 and looking to the map that has been put up on the
9 board here, show the Court where your property is.

10 A On George Brock Road, which is the blue line
11 there, my property comes a little over halfway down
12 towards Trail Road from Troy Murdock Road. About where
13 Neighborhood C is.

14 Q And tell me who the property owners are that abut
15 George Brock Road.

16 A Charles Bruce Murdock, which is Brent's brother.

17 Q And who else?

18 A His mother, Doris Murdock.

19 Q And you?

20 A And me, correct.

21 Q Is there anybody else?

22 A No, sir.

23 Q Tell the judge what structures are located on the
24 property that you own as shown on Plaintiff's Exhibit
25 5.

1 A On the right-hand side of the road, if you're
2 headed toward Troy Murdock, on the right-hand side of
3 the road there is a home, an old house place with one
4 structure beside it. On the other side of the road,
5 there are two barns that have been restored.

6 Q Okay. And did you spend resources to do that?

7 A Yes, sir, I did.

8 Q Other than you and Mr. Murdock, there are no
9 property owners on that road; is that correct?

10 A That is correct.

11 Q And do you understand that Mr. Murdock has brought
12 this action to close George Brock Road?

13 A Yes, sir, I do.

14 Q And do you oppose the closing of George Brock
15 Road?

16 A No, sir.

17 Q Are you willing, should the Court decide to issue
18 an order closing the road, to assume the responsibility
19 for maintaining it in order to provide ingress and
20 egress from your home and your structures and barns
21 that you have built on that property?

22 A I do.

23 Q Tell me what problems you have experienced and
24 your family since you bought the property on George
25 Brock Road.

1 A When we first purchased the property, I noticed
2 that there was a tremendous amount of trash that was
3 being dumped on the north end, which would be on
4 Brent's property. Primarily alcoholic beverage, beer
5 bottles, lots and lots of them, construction debris,
6 that type stuff. And then the road is very narrow, and
7 it's not very well maintained, and people travel it at
8 a high rate of speed. There is not a speed limit sign
9 on the road.

10 Q Have -- do you have knowledge of any vandalism or
11 trespass that has occurred as a result of people
12 traveling on George Brock Road, not being owners of the
13 property there?

14 A I have not personally. I know that Brent has from
15 his -- what he's told me.

16 Q Okay. You were here in the courtroom and heard
17 the testimony of Mr. Dunn, which is depicted on a map
18 that he prepared that's been blown up and introduced
19 into evidence as Plaintiff's Exhibit 8.

20 Does George Brock Road serve any public purpose,
21 in your opinion, to travel to anywhere?

22 A In my opinion, no, sir.

23 Q What kind of operation do you currently have, and
24 what are your expectations for your farm?

25 A The farm currently is in row crop production and

1 hay production. I perform the hay production, and I
2 lease out the row crop ground. The farm was purchased
3 originally for me to create a home there and be an
4 asset to the community. I have spent a lot of time
5 cleaning up the farm, restoring the barns, and I still
6 would like to make it my home and to be a part of the
7 community.

8 Q Okay. Would the closure of this road prevent the
9 community from having adequate lines of travel to go to
10 Belton, Honea Path, Abbeville, Anderson?

11 A No, sir, as stated on the map.

12 Q You travel down George Brock Road a good bit?

13 A Every day when I'm home.

14 Q Tell the Court in as much detail as you can the
15 condition of George Brock Road.

16 A It's a county road. It is a tar-and-gravel road,
17 which means it was paved with bigger rock. It's
18 narrow. It's about 15 feet wide.

19 Q Can two cars pass beside each other on it?

20 A Not without them merging onto the shoulders. And
21 it has potholes in the road.

22 Q Is it marked on each side?

23 A No, sir. There are no lines on the road, no
24 center line, no outside lines.

25 Q And you say there are potholes. Describe what you

1 mean by that.

2 A They're actually holes in the road in two
3 different locations.

4 Q How large?

5 A Several feet -- oh, probably the biggest one is
6 probably maybe two feet in diameter, and there's some
7 smaller ones. Some of them have been patched, and the
8 patches are coming up.

9 Q Based upon Plaintiff's Exhibit 8, the red route,
10 starting from Ebenezer Fire Department going to the end
11 point of Rube Ashley Road, and the green route provide
12 alternate routes for travel for people going any
13 municipality or location; is that correct?

14 A Yes, sir, that's correct.

15 Q And based upon your knowledge and your having
16 driven these roads, what is your opinion as to the time
17 needed if you use the red route to get to Rube Ashley
18 Road?

19 MR. HARMON: Object to the opinion testimony, Your
20 Honor.

21 THE COURT: Overruled.

22 THE WITNESS: The Due West Highway is a
23 state-maintained road. It's very wide. You can travel
24 at 45 to 55. There is a 45-mile-per-hour zone and a
25 55-mile-per-hour zone through there. It's safe. I

1 guess as far as time, depends on how fast you were
2 traveling, but I do believe that that's a safer and
3 quicker route, even though it is a little bit longer.

4 Q If a fire vehicle or other emergency vehicle were
5 utilizing this route, would it be able to get from the
6 starting point to the end point faster than if it had
7 traveled on any of these other two routes?

8 A Yes, sir, because there's only one turn where it
9 turns onto Troy Murdock versus two other turns where
10 they would have to turn on Trail Road and also George
11 Brock Road. And George Brock Road is not near as well
12 maintained or as good of a highway as 185 and also Troy
13 Murdock.

14 Q Okay. And how does the travel -- have you
15 traveled down Level Land Road, Murdock Road, Alewine
16 Road?

17 A Yes, sir, I have.

18 Q And have you traveled down Due West Highway,
19 George Brock Road to get to Rube Ashley?

20 A Yes, sir.

21 Q How does the Level Land green route compare with
22 the blue route going down George Brock?

23 A They're of the same distance, and both the roads
24 have county roads -- I mean both routes have county
25 roads that are narrow.

1 Q Okay. No difference in distance?

2 A No, sir, no difference in distance.

3 Q And have you ever seen a fire truck or ambulance
4 going down George Brock Road?

5 A No, sir.

6 Q And you have previously testified that you're
7 willing to maintain that as a driveway to your home for
8 access to be had by anyone who needs it; is that
9 correct?

10 A Yes, sir.

11 Q Based upon your knowledge and your travel in the
12 area, does George Brock Road provide a shortcut to
13 anywhere?

14 A No, sir.

15 Q As long as Level Land Road, Route C, Murdock Road
16 is open, and as long as Route A, the Due West Highway
17 and Troy Murdock Road is open, there are two alternate
18 routes if George Brock is eliminated; is that correct?

19 A Yes, sir.

20 Q So does George Brock Road serve any public purpose
21 or use for you or the general public to travel on?

22 A No, sir.

23 MR. MULLINAX: That's all the questions I have.

24 Please answer any Mr. Harmon may have.

25 THE COURT: All right. Mr. Harmon.

1 MR. HARMON: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. HARMON:

4 Q Mr. Wood, as I understood your testimony earlier,
5 there are two structures on your property on either
6 side of George Brock Road; is that correct?

7 A Yes, sir, that is correct.

8 Q And one is a residence?

9 A Yes, sir, it is a home.

10 Q Does anyone live in that home?

11 A Yes, they do.

12 Q Who lives in that home?

13 A Grace Hershberger.

14 Q And how long has she lived there?

15 A Approximately 35 years maybe.

16 Q Okay. And on the other side of the road from the
17 residence is the barn that you described?

18 A Yes, sir.

19 Q Did you say anyone lives in that barn?

20 A Yes, sir. There is some living space.

21 Q Do you live there?

22 A When I'm in South Carolina, yes, sir, I do stay
23 there some.

24 Q Okay. Now, is -- when you travel -- when you come
25 into your property, do you ever come in off of Trail

1 Road?

2 A Yes, sir. There are times, yes, sir, I do.

3 Q Okay. How frequently do you do that?

4 A It depends on which way I'm coming from, but, you
5 know, every day, you know, if I'm coming from Anderson
6 that way.

7 Q You would come to your property from the Trail
8 Road side of George Brock Road?

9 A Depending on where I'm coming from, yes, sir.

10 Q Did you have a survey done of your property when
11 you purchased it?

12 A No, sir, we did not have a current survey done.

13 Q Do you know if anyone else owns property near
14 where George Brock Road intersects Troy Murdock Road?

15 A I don't. Mr. Jimmy Brock owns property beside me,
16 and it was from my understanding that he did not. But
17 I don't know. I haven't looked at the plat to know if
18 it comes out in the road, how far the state owns out
19 into the road, so I do not know that, if he owns
20 property on George Brock Road.

21 Q And you don't know if anyone else might own
22 property on George Brock Road on that end that comes
23 into Troy Murdock; is that correct?

24 A That's correct.

25 Q Now, you testified about the condition of the

1 road, and you indicated that there were patches coming
2 up?

3 A. Yes, sir, that's correct.

4 Q And so I would take it from that testimony that
5 the county has done maintenance work on that road in
6 the past?

7 A Well, I actually put rock in the holes because I
8 got tired of hitting them. I put crush and run in
9 them.

10 Q But you didn't put patches on, correct?

11 A That's correct. And then the county did come by
12 and put one patch over that certain pothole.

13 Q Okay.

14 MR. HARMON: Your Honor, I have no further
15 questions for this witness.

16 THE COURT: Anything further from this witness?

17 REDIRECT EXAMINATION

18 BY MR. MULLINAX:

19 Q Do you concur that you want the road closed if the
20 Court so decides?

21 A Yes, sir.

22 MR. MULLINAX: No further questions.

23 THE COURT: Thank you, sir. You can step down.

24 MR. MULLINAX: I'm going to call Ms. Judy Murdock
25 for a limited purpose, and then I will call Brent

1 Murdock.

2 JUDY MURDOCK,

3 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

4 THE CLERK: If you would, please take a seat at
5 the witness stand. Please state your name for the
6 court reporter.

7 THE WITNESS: Judy Murdock.

8 DIRECT EXAMINATION

9 BY MR. MULLINAX:

10 Q Ms. Murdock, you live near George Brock Road?

11 A Yes, sir, I do.

12 Q Who are you married to?

13 A Brent Murdock.

14 Q How long y'all been married?

15 A It will be 19 years this year.

16 Q Do you have any children?

17 A We do.

18 Q How many?

19 A We have five.

20 Q And tell me what you do.

21 A I'm a homemaker. I work with my husband. I help
22 coordinate life on the farm.

23 Q Okay. So do you also work on the farm?

24 A Yes, sir.

25 Q You raise your children?

1 A Yes, sir.

2 Q You cook the meals?

3 A I do my best.

4 Q Okay. You also take photographs?

5 A I do.

6 Q Okay. I'm going to show you, and before we do it,
7 I guess we better get these marked.

8 (WHEREUPON, Plaintiff's Exhibit Numbers 9A-G were
9 marked for identification.)

10 BY MR. MULLINAX:

11 Q How long have y'all lived there? I may have asked
12 this question. How long have y'all lived near George
13 Brock Road?

14 A My husband has lived there all his life, and I
15 have lived there since we have been married.

16 Q For how long?

17 A 19 years.

18 Q 19 years?

19 A Myself.

20 Q And have you traveled each of the routes shown on
21 Exhibit 8 that is in front of you?

22 A Yes.

23 Q And George Brock Road is the route that goes
24 through property owned by your husband; is that right?

25 A Correct.

1 Q Or that he controls?

2 A By the family, yes.

3 Q Along with Mr. Wood?

4 A Correct.

5 Q For the purpose of this examination, I'm going to

6 show you photographs that have been marked as

7 Plaintiff's Exhibit 9, numbered or lettered A through

8 G, and ask you if you can identify these photographs.

9 A Yes, sir. Yes, I can. I took these.

10 Q Who took those photographs?

11 A I did.

12 Q And when were they taken?

13 A In the past week.

14 Q And tell me what those photographs show.

15 A Yes, sir. We were showing the condition of the
16 road back in the middle of the week. These photos with
17 the water and my kids for reference when it was
18 raining, and it floods routinely when it rains.

19 There's several inches of water that cover the road in
20 more than one spot, but the portion down on the Trail
21 Murdock side road particularly floods. So that's that
22 one. And these are some of the potholes that were
23 referred to.

24 THE COURT: Mr. Mullinax, get the witness to refer
25 to the letter.

1 THE WITNESS: Certainly.

2 BY MR. MULLINAX:

3 Q Start on this side. Tell the judge, refer to that
4 and look on the book.

5 This is 9A.

6 A These are potholes. This is an example of the
7 pothole that was referred to earlier, and it is -- it's
8 two feet easily. That's a little kid sitting in the
9 middle. It's several inches deep.

10 Q 9B?

11 A This is 9B. This is a pothole that runs along the
12 line there that, you know, I mean, it may have been
13 patched at some point but not recently. So there's
14 that one.

15 This is 9C. This is another example of breakage
16 in the road, and it fills up with water, and that just
17 gets worse as things progress.

18 This is another example. That pothole looks like
19 there's been patch done along the side, but it's all
20 broken up again. You can see I also wanted to get the
21 edge of the road showing how the grass is beginning to
22 ingress the sides, and it's starting to crumble away
23 the side of the road. So whatever width it was
24 intended to be, it's shrinking in some places,
25 narrowing.

1 This is 9F, another example of the depth of the
2 potholes. I was impressed with the potholes, can you
3 tell?

4 And this here is 9G and 9E, and these show the
5 rain that's puddled. It just runs down the road and
6 just collects down at the bottom there towards the
7 Trail Road side. And that happens whenever it rains.
8 I drive that -- I drove through with my little car,
9 and, I mean, it just bottomed out on the bottom. The
10 rain was so deep, it just -- you know, I didn't
11 hydroplane, but it hit the bottom. It was considerable
12 deep.

13 Q Do those photographs show the usual and ordinary
14 condition of George Brock Road?

15 A With the exception of the rain puddle, which
16 happens when it rains. The rest of it, that's the way
17 it looks all the time, yes, sir.

18 Q Okay.

19 MR. MULLINAX: And I would ask that these be
20 admitted into evidence based upon the testimony of this
21 witness.

22 THE COURT: Any objection?

23 MR. HARMON: No objection, Your Honor.

24 THE COURT: All right.

25 MR. MULLINAX: Your Honor, I would ask that she be

1 released and then subject to being recalled.

2 THE COURT: Okay. Well, all right.

3 Plaintiff's 9A through G would be admitted without
4 objection, and the witness may step down subject to
5 being recalled.

6 (WHEREUPON, Plaintiff's Exhibit Numbers 9A through
7 9G were admitted into evidence.)

8 MR. HARMON: Well, I didn't ask Mr. Harmon, did
9 you have any cross-examination questions regarding
10 these exhibits?

11 MR. HARMON: I do have a couple.

12 THE COURT: Yes, ma'am. I jumped the gun there.
13 I didn't give Mr. Harmon an opportunity to question
14 you.

15 MR. HARMON: I have just a couple.

16 THE COURT: Okay.

17 CROSS-EXAMINATION

18 BY MR. HARMON:

19 Q Ms. Murdock, good morning. I think it's still
20 morning. I have just a couple questions for you.

21 You indicated that every time it rains, the road
22 floods. Now, you would agree with me, would you not,
23 that we have had a considerable amount of rainfall in
24 the last two, three months?

25 A I would agree.

1 Q And are those -- have you observed the same type
2 conditions during the summer months when we don't have
3 much rain?

4 A I don't typically go and check every time it
5 rains, so I can't tell you definitively, you know, yes,
6 I have checked the road every time it rains and it
7 always looks like this.

8 I would imagine, in my opinion, when it rains
9 less, there will be less water. Every time I have
10 driven up there when it's been wet, there has been
11 water running on the road, though perhaps not to that
12 degree.

13 Q And the time that you took these photos, which was
14 last week, I believe you indicated?

15 A Yes.

16 Q Had it been raining just prior to the time you
17 took the photographs?

18 A It had rained early that morning and then it had
19 stopped, and then I went back out. When I went out
20 with my children, it started to sprinkle again, but it
21 had stopped raining probably 45 minutes to an hour
22 prior to my going out. I would say definitely
23 45 minutes to an hour prior to me going out.

24 Q So if I understand your testimony correctly, you
25 do not know if it routinely floods every time it rains

1 because you haven't seen it every time it rains; is
2 that correct?

3 A I have not gone out every time it rains to check,
4 no.

5 Q Okay.

6 MR. HARMON: Thank you, Your Honor. I have no
7 further questions for this witness.

8 THE COURT: Thank you, ma'am.

9 MR. MULLINAX: No questions.

10 Your Honor, I would call Brent Murdock to the
11 stand.

12 **BRENT MURDOCK,**

13 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

14 THE CLERK: Please state your name for the court
15 reporter.

16 THE WITNESS: Brent Murdock.

17 **DIRECT EXAMINATION**

18 **BY MR. MULLINAX:**

19 Q Mr. Murdock, if you would please pull that little
20 microphone a little bit closer, help me hear you. I'm
21 probably the only one in here who has problems, but
22 anyway.

23 You have been married 19 years?

24 A Yes.

25 Q Have how many children?

1 A Five.

2 Q They all work with you on the farm?

3 A Yes.

4 Q Tell the judge what kind of facility that you
5 operate in Anderson County, South Carolina at your
6 residence.

7 A My facility is essentially a plant breeding
8 research station. We have two -- we have almost
9 20,000 square feet of greenhouse space which is
10 comprised of five greenhouses that is 99 percent,
11 except for some flowers I might grow for the children,
12 99 percent of that is exclusively devoted to watermelon
13 and genetic research.

14 Q Okay. I'm going to show you what's been marked as
15 Plaintiff's Exhibit Number 2 and 3 which have been
16 admitted into evidence and representing deeds conveying
17 the property to your brother and deeds conveying
18 property to your mother.

19 And for the Court's information, it's my
20 understanding that your mother passed away last summer.
21 Her will has not been probated, but it leaves all the
22 property to you?

23 A Yes.

24 Q And you recognize these deeds as being the
25 conveyances made to you?

1 A I believe so, yes.

2 Q Your brother and your mother at the time gave you
3 powers of attorney to handle this litigation; is that
4 correct?

5 A Yes.

6 Q And those powers of attorney have been admitted
7 into evidence. I don't see the exhibit right now, but
8 they have previously been admitted into evidence.

9 Why did you find it necessary to bring this
10 action?

11 A Well, that's a long story.

12 Q Condense it as well as you can, please, sir.

13 A When I first came and left the work at the
14 university, my last working at Clemson University as a
15 postdoctoral fellow was in 1996. And the farm was open
16 to me to start to move my research there. And I did.
17 And I planted trees around the boundary of these fields
18 that have been talked about so much this morning.

19 Eight rows of trees, cedars and stuff and pines, and
20 quickly they grew up and gave me a visual shield from
21 the roads where people driving up and down the roads
22 would not see what I was doing out there.

23 Q And you're talking about George Brock Road when
24 you say "the road"?

25 A Yes. And Trail Road also.

1 Q Okay.

2 A And as we progressed and did more work there and
3 we were making our living totally with watermelon
4 genetic research, I was doing seed production as well
5 as developing varieties as well as marketing them. It
6 was everything under the sun in that field. And our
7 main competitor for our little farm was, one of them
8 was Monsanto. So it was David against Goliath with us.

9 We were holding our own with them as far as our --
10 the goodness of our genetics. Our -- but it has caused
11 me unending problems with the road being there, putting
12 up electric fences. I have had to move entrances to
13 those two fields.

14 I used to have two gates on George Brock Road
15 where you could go from one of our parcels to the
16 other. The gates would be -- and the trees were so
17 close together, they couldn't just ride through those.
18 But the gates would be broken into, and they would
19 ingress our fields from there, and we lost maybe
20 \$10,000 worth of equipment over several thefts. And
21 you don't know the equipment is gone until you back
22 your tractor up to it and get ready to hook it up and
23 it's not there, you know.

24 You have equipment sitting around the farm. I
25 have had to -- for three weeks, I have had to sleep out

1 in the fields before in the back of a pickup truck at
2 night, which is uncomfortable when you're working all
3 day anyway. And then one summer I actually got a
4 little camper and we slept in it. But then it's a
5 threat to my life to have to deal with somebody that
6 shows up in the middle of the night into a field.
7 Because the sheriff has about a 30 to 45-minute
8 response time for us.

9 But we've lost not just melons being stolen, but
10 sometimes they're just busted up. And when they bust
11 them up, it is not like they're busting a watermelon
12 that I'm just going to take to the farmers market.
13 They have busted melons up before, and it could be like
14 three years' worth of work. And, you know, if you --
15 if you're not in this field, you don't understand how
16 many generations it takes to make a watermelon variety.

17 It recently, because of the status of our work,
18 we've gotten the interest of a large multinational
19 plant breeding company. They're the sixth biggest
20 plant breeding company in the world called Enzazaden.
21 They're located, headquartered in Holland. They have
22 2,000 employees, and they have 50 nationalities.

23 I have some unique proprietary germ plasma that
24 I've been working with that's unique in the world, and
25 I have just been working on it with ourselves. And

1 then I saw they were just -- even though they're a
2 world leader in lettuce, bell peppers, tomatoes, they
3 had never had a watermelon breeding program until two
4 years ago. And they bought a man's program in
5 California and started their work.

6 And then I contacted them. I said, "This might be
7 a good time for y'all to look at what I'm doing." And
8 they put me under retainer. Very healthy retainer.
9 And they have been sharing their germ plasma with me
10 and me with them, and they're looking at making our
11 farm one of their research stations in the United
12 States.

13 And when that was -- one of their varieties is
14 worth millions of dollars. And I've got to find a way
15 to protect it if they're going to continue doing that.

16 Q And the name of that facility is E-n-z-a-z-a-d-e-n
17 Research USA Inc.?

18 A Yes.

19 Q And you have partnered with them?

20 A Well, I didn't partner with them. They contracted
21 me to work for them. They're -- we're -- they just
22 gave me about \$10,000 to put 24,000-watt high-pressure
23 lights in one of my greenhouses where I'll be able to
24 do -- they want me to do a crop in the winter.

25 I'm growing watermelons now to maturity inside of

1 a greenhouse in South Carolina.

2 Q Look at Plaintiff's Exhibit Number 5. Do you
3 recognize that as showing the property that you own?

4 A Yes.

5 Q And the property that's owned by Mr. Austin Wood?

6 A Yes.

7 Q And if you would, it's easier for the judge to
8 see, come down here and watch your step and show the
9 judge where your property is where you do this
10 research.

11 A Well, our property is on both sides of the road
12 here, George Brock Road, and then my property also goes
13 back into here.

14 Q And utilizing the facilities on the north and
15 south side of George Brock is where you're talking
16 about having problems with vandalism, litter, et
17 cetera?

18 A Yes. Traditionally, over the years, Your Honor,
19 we have -- I have been doing seed production, making
20 seedless watermelon seeds, as well as breeding
21 different seedless watermelon varieties. And,
22 traditionally, we have tried to keep our seed
23 production over close to George Brock Road, you know,
24 just to make the seeds, because we might be 20 acres of
25 watermelons that we all take the seeds out of.

1 And I would keep my breeding stuff back behind
2 where we live. That's been our traditional way of
3 doing it. Because, you know, if they go out there and
4 bust up a bunch of my seeds that we were just taking
5 for, you know, the melons we're just harvesting the
6 seeds out of, that's a loss. You know, each of those
7 melons is worth about 20 or \$30. But that's not
8 anything like the research, that they could be
9 destroying years' worth of work.

10 But now in working with Enzazaden, they don't want
11 me to even do seed production in South Carolina
12 anymore. They couldn't even believe that we had been
13 doing it here. They said it's impossible to even grow
14 seed production here. That's why it was so --

15 Q But the closure of George Brock Road, what would
16 that do to your ability to farm your property?

17 A It would allow me to use my whole farm as a
18 research farm. I would be more free to put to use this
19 100 acres for watermelon research and not -- I don't
20 need to do the seed production there anymore.

21 Q Okay. Take your seat up here. Okay.

22 Before you came to me to bring this action to
23 close George Brock Road, do you believe it has any --
24 George Brock Road has any use to provide the public a
25 means to travel to anywhere?

1 A Not as an essential one, no. There are ways to
2 get anywhere they want to go.

3 Q Okay. And prior to us bringing this lawsuit, did
4 you investigate these other routes?

5 A Oh, yes. I investigated them extensively. I
6 investigated them with the previous two Anderson County
7 councilmen that both visited my farm. Councilman Moore
8 and Councilman Cole. And they both said, "We should
9 shut this road down," so I said, "Well, that's what I
10 want to do."

11 Q Okay. In connection with the routes of travel as
12 shown by the map prepared by Mr. Dunn, did you go to
13 Mr. Dunn to determine whether or not you were harming
14 your neighbors or the general public by asking that
15 George Brock Road be closed?

16 A Yes.

17 Q And as a result of that investigation and your
18 additional investigation, what did you find?

19 A Well, I found that there's just what the map says.
20 It's what's already been testified, that he testified
21 to.

22 Q It's easier to get from starting point to the end
23 point and quicker to go down the Due West Highway?

24 A Yes, sir. If you ever see a fire truck needing to
25 get down in that area, that's where they go. I have

1 never -- the only time, Your Honor, I have ever seen a
2 fire truck or emergency vehicle on George Brock Road is
3 when I called it for arson or for theft. There has
4 never been one down there except for those reasons.

5 Q And as far as distance, this shows that Route C,
6 which goes down Level Land Road, is just as short a
7 route as the road going down George Brock Road; is that
8 correct?

9 A Yes, it's equal.

10 Q Based upon your observation and your travel, is
11 that true?

12 A Yes.

13 Q And the photographs that your wife took and
14 testified to that have been admitted into evidence as
15 Plaintiff's Exhibit 9A through G, do they accurately
16 reflect the condition of George Brock Road?

17 A Yeah. That's the road and that's the potholes,
18 and that's the way the water would look. I'm out there
19 all the time. My wife is not. And if it rains an
20 inch, inch and a half, and the ground is not bone dry
21 so the water is going to run off, you're going to have
22 some amount of flooding on the road, but, of course,
23 the ground is saturated now, so everything that runs
24 out is there.

25 But, yes, you do get flooding on the road if you

1 have a thunderstorm. It's like that.

2 Q Those photographs that are shown with Plaintiff's
3 Exhibit 9A through G were taken recently, but can you
4 state, based upon your knowledge of the area, that the
5 road has looked that way for years?

6 A Yes, the road hasn't been upkeep. The grass on
7 the side is growing, and the roots are loosening it up,
8 so it's getting kind of smaller every year.

9 Q I'm going to show you other photographs that have
10 been marked as Plaintiff's Exhibit 6. There's a series
11 of five photos and ask you if you can identify those.

12 A Yes. Exhibit 6 is a photo of -- looks like me and
13 my son getting out of the car and one of these "Notice:
14 Pending Road Closure" signs.

15 Q All right. That road closure sign, did you post
16 that sign before we brought this action?

17 A Yes. I posted it as soon as you gave me the signs
18 when you filed this thing.

19 Q And you posted it before we could file the
20 complaint; is that correct?

21 A I did it as soon as you gave it to me, sir. I
22 don't remember.

23 Q And the other photographs --

24 MR. MULLINAX: Your Honor, do you want these
25 marked?

1 THE COURT: Yes.

2 (WHEREUPON, Plaintiff's Exhibit Numbers 6A through
3 E were marked for identification.)

4 BY MR. MULLINAX:

5 Q All right. Looking at these photos, did you take
6 these photos 6A through 6E?

7 A I believe so. I'm the only one that had been
8 taking photos of the signs on the road.

9 Q And 6A through 6E reflect the signs being at both
10 ends of George Brock Road?

11 A No. This is only -- these pictures here only show
12 the Troy Murdock/George Brock Road photo.

13 Q Did you post signs on both ends of George Brock
14 Road?

15 A Yes. I think these were -- we have more pictures
16 of these particular signs because they have been
17 reposted three times because the locals like to tear
18 them down.

19 Q How many times have the signs that you posted at
20 each end of George Brock Road been torn down?

21 A The one at the end -- the one at the Trail Road
22 has not ever been torn down. The one at the Troy
23 Murdock Road intersection was torn down four times.

24 Q The Trail Road sign was not torn down. The Troy
25 Murdock Road was torn down four times?

1 A Right. Correct.

2 Q Did you replace it?

3 A Yes. We had to replace it. Every time. One time
4 we found it thrown off into the field, so I didn't have
5 to actually go get a new sign made. We were able to
6 put it back up. And then the last time that I put it
7 up, I had to put the whole sign inside of a steel case
8 where they couldn't just rip it off the post.

9 Q And photo numbered 6E, what does that show?

10 A That shows where some government entity was doing
11 road work down on roads farther below the end of George
12 Brock Road and they put up --

13 Q The end toward this way?

14 A Yes, sir.

15 Q And you're pointing to?

16 A The Rube Ashley Road. They worked on Rube Ashley
17 Road and some other roads down through there, and they
18 put up that sign on George Brock Road saying, you know,
19 how they say beginning work and ending work. And they
20 put that. And this sign is a couple hundred feet from
21 the end of George Brock Road and Troy Murdock Road.

22 Q Has any governmental entity, to your knowledge,
23 done any work on that road in the last years?

24 A The -- the last time a government entity did work
25 on George Brock Road, I had alarms, motion detector

1 alarms that would go off, and this would be back toward
2 Trail Road. They were filling the potholes there where
3 all the water is. And I had a motion detector that
4 went off in my field, and I went down there in my
5 truck. And they were county men filling up a pothole.
6 This was maybe six years ago, seven years ago,
7 somewhere like that.

8 Q So the last time work was done was six or
9 seven years ago, is the answer to my question?

10 A Yes, sir.

11 Q Okay. Let me see those photographs.

12 A What I would think -- I remember that one because
13 I caught one of the county men out in my field.

14 Q Trespassing?

15 A Yes. And the reason he trespassed, I had -- I
16 have a problem with crows. I didn't charge him. I was
17 wanting to tell you why I didn't charge him. Because
18 he was attracted by my bird scarer things that makes a
19 distress signal of a crow. So he decided he wanted to
20 know what that was. So he crawled over into the field,
21 and I caught him there. And then his supervisor said,
22 "Do you want to charge him?" and I said, "I can't.
23 That's the kind of thing I would do, want to go see
24 what that sound was." But that's the kind of ingress
25 we can get.

1 MR. MULLINAX: Your Honor, I would move that 6A
2 through E be admitted into evidence.

3 THE COURT: Any objection?

4 MR. HARMON: No objection.

5 THE COURT: So Plaintiff's Exhibit 6A through E
6 would be admitted without objection.

7 (WHEREUPON, Plaintiff's Exhibit Numbers 6A through
8 E were admitted into evidence.)

9 BY MR. MULLINAX:

10 Q Mr. Murdock, are there any other people who own
11 property on George Brock Road other than you and
12 Mr. Wood?

13 A No.

14 Q You grew up in the area?

15 A I was born in Anderson Hospital, lived here most
16 of my life.

17 Q How old are you?

18 A I'm 60.

19 Q Ever been anybody who claimed that they owned any
20 property on George Brock Road other than you and now
21 Mr. Wood who bought the previous owner's property?

22 A No.

23 Q Okay. Have you farmed this property on both sides
24 of George Brock Road?

25 A Research farming, seed production, yes.

1 Q Okay. And instead of being a farm, yours is a
2 research facility; is that right?

3 A Yes.

4 Q And is that -- does that facility have some
5 significance insofar as the State of South Carolina
6 treats its?

7 A Yes, it does.

8 Q So is a research facility different than a farm?

9 A Yes.

10 Q Does the State of South Carolina treat trespassers
11 on research facilities different than they do normal
12 trespassers?

13 A Yes. Yes, they sure do, if you can get the
14 solicitor and the sheriff to act upon the law.

15 Q Are you familiar with -- let's see where it is.
16 Well, we'll get to that in a moment.

17 Did you do the postings as I asked you to do
18 before we filed the action?

19 A Yes.

20 Q And have you maintained them to the best of your
21 ability?

22 A Best of my ability, yes.

23 Q All right, sir. Have you, in fact, yourself
24 traveled each of the three routes depicted on
25 Mr. Dunn's map?

1 A Not only have I traveled it myself, I traveled it
2 with the fire -- the chief, fire chief of Anderson
3 County.

4 Q And who is that?

5 A Jimmy Sutherland.

6 Q Jimmy who?

7 A Jimmy Sutherland.

8 Q S-u-t-h-e-r-l-a-n-d?

9 A Yes.

10 Q Okay. And --

11 A Me and my wife was in his vehicle while he was
12 measuring the distances using his odometer on his
13 truck.

14 Q Okay. And he's the Anderson County fire marshal?

15 A Yes.

16 Q And can you identify this document?

17 A Yes. This records --

18 Q Can you identify it?

19 A Yes.

20 Q Who prepared it?

21 A Well, the map itself I got from Anderson County.

22 Q Okay. Who prepared the red and blue and green
23 markings on it?

24 A I did.

25 Q And do those reflect your travel as far as

1 distance with the chief and your wife and the time?

2 A Well, it reflects the miles, the miles. It
3 reflects only the distances. The chief told us that
4 time was not an issue. So he refused to record the
5 time.

6 Q But you recorded the time?

7 A Yes, we did.

8 Q And you did this on this document?

9 A Yes.

10 Q All right, sir.

11 MR. MULLINAX: I would ask that that be admitted
12 into evidence as Plaintiff's Exhibit 10.

13 THE COURT: Any objection?

14 MR. HARMON: No objection.

15 THE COURT: Plaintiff's Exhibit 10 would be
16 admitted without objection.

17 (WHEREUPON, Plaintiff's Exhibit Number 10 was
18 admitted into evidence.)

19 BY MR. MULLINAX:

20 Q Would you step down here, Brent.

21 Explain to the Court, please, and take each of
22 these routes, which are the same routes as is shown on
23 Mr. Dunn's map, and explain to him what you did and how
24 you arrived at these calculations.

25 A Well, these calculations were given to me by the

1 police -- I mean the fire chief as he was saying the
2 mileage numbers. That's --

3 Q Were you in the car with him?

4 A My wife and I were in the backseat of his truck.
5 And also for the record, my wife had her cell phone and
6 recorded all this. We have a minute -- I mean an hour
7 and 60-something, 30-something minutes of him giving us
8 all this data. He allowed us to ride with him while he
9 was doing this.

10 And the reason I asked him to do this is because
11 erroneously at the Anderson County council meeting,
12 they had said that George Brock Road was a shortcut.
13 And I went to the fire chief and asked him, "How can
14 you call something a shortcut when there is another way
15 to get there?" So he agreed to come the next morning
16 and met me and my wife and rode -- while he rode and
17 measured the things. And this is what we found. The
18 riding, using his odometer, riding the Due West Highway
19 route down to here, it was 5.2 miles. That's what he
20 said. And then he --

21 Q You saw the odometer, did you not?

22 A I -- yes. I mean, we were looking. We were in
23 the backseat looking at it, you know. And then he
24 rode -- then I asked him, "Will you do the time?" And
25 he said, "The time is not an issue. It's only distance

1 that we're interested in." And then he rode this route
2 right here.

3 Q Blue route.

4 A The blue line and using George Brock Road and
5 found out that it was 4.8 miles. And then he said --
6 then his big concern was now these people down here are
7 not getting fire coverage.

8 Q And you're referring to the people that are south
9 of Rube Ashley Road?

10 A Yes. And they were -- and he started measuring
11 the people that would be within the umbrella of the
12 two-mile window -- I mean the .2-mile window. And he
13 said, "Oh, that will make their insurance go up a
14 thousand dollars," he said.

15 And then I asked him to check the Level Land
16 route. And he did the Level Land route with all of us,
17 him and his deputy that was with him, looking at the
18 speedometer.

19 Q Which is the red route on this Plaintiff's
20 Exhibit 10?

21 A Yes. And when we got halfway down Alewine Road,
22 everybody was looking at it and said, "This is going to
23 be close." And then the guy tried to run off into a
24 dirt road, and I had to yell at him, "Stay in Alewine
25 Road." He tried to go off into a field. And that's on

1 the tape.

2 And then they get to the end of Alewine Road, and
3 they go all the way across the road almost in the Trail
4 Road, and then the speedometer didn't click to 4.9.

5 Q So it measured how much?

6 A 4.8. And there was no joy in Mudville for the
7 fire chief because he saw his whole argument was shot,
8 you know. And it was --

9 Q So based upon your travel with the fire chief, the
10 existence of at least a shorter route was confirmed
11 going and using Level Land Road?

12 A Yes. And he said on tape, "All these houses are
13 protected by the -- they're covered by the fire
14 department." So I said, "Well, what's your objection
15 now?" And he said, "Well, I'll have to go back to the
16 station." And then the fire chief --

17 MR. HARMON: Your Honor, I object.

18 THE COURT: Don't tell me what somebody else said.

19 THE WITNESS: I'm sorry.

20 BY MR. MULLINAX:

21 Q How did the time be calculated that you put on
22 this Exhibit 10?

23 A My son and I one morning, we would start here, and
24 I would --

25 Q At the Ebenezer Fire Department?

1 A At the Ebenezer Fire Department. And I used my
2 iPhone, and I took a picture of the odometer being
3 zero, and I took a picture of another iPhone with the
4 stop clock on it, and I pressed it when we took of.

5 Q And you did it for each of the three routes?

6 A Yes. And while we were driving, I had the -- my
7 son was holding the iPhone, you know, video camera so
8 you could see which route we were going. And then as
9 soon as we got to this end right here, you know, he hit
10 the stopwatch. And while I was -- I would step down
11 and film it while he was stopping it. And we did this
12 twice, too, to show that it wasn't -- and I just tried
13 to drive the speed limit.

14 Q And the finding and the results that you have
15 annotated on Exhibit 10 is it took 6 minutes and
16 21 seconds to use the Due West Highway, green route?

17 A Yes.

18 Q 6 minutes 53 seconds to use the George Brock Road
19 route?

20 A Yes.

21 Q And 6 minutes and 42 seconds to use the Level Land
22 Road route?

23 A Correct.

24 Q So the green route and the red route are, based on
25 your findings and calculations at that time, a faster

1 means to get from Point A to the end point?

2 A Yes.

3 Q Okay. Take your seat.

4 Is there any reason for any public transportation
5 to utilize George Brock Road to go anywhere, Belton,
6 Honea Path, Abbeville, Anderson?

7 A I don't believe so.

8 Q You heard the testimony from the Anderson County
9 litter officer concerning problems that have existed
10 and that they have investigated with your property, did
11 you not?

12 A Yes.

13 Q Is all that correct and true?

14 A Yes.

15 Q In the operation of your research facility, and
16 especially during the summer months, you employ minors?

17 A Many I employ.

18 Q And have done so for a number of years?

19 A For 25 years, yes.

20 Q And what -- are you concerned about the safety of
21 those minors that you employ as well as the safety of
22 your research crops as a result of this George Brock
23 Road being open?

24 A Well, the children's safety is more important than
25 my crops, but, yes, we -- we cannot allow --

1 sometimes -- I wouldn't have kids doing work right next
2 to the road. You know, I wouldn't send them out there
3 unchaperoned. It creates a difficulty. I found --
4 I've went down the path going into the bigger field,
5 and I found hardcore pornography spread out on the path
6 where someone had soiled it. And that creep -- maybe
7 we don't have creeps in America anymore, but he's a
8 creep in my opinion, and somebody like that is
9 dangerous.

10 Q Okay. With the closure of George Brock Road,
11 would there be any security problem as far as your
12 property is concerned or as far as Mr. Wood's property
13 is concerned?

14 A It would increase our security greatly.

15 Q All right. And --

16 A It would increase my personal safety. I need to
17 explain.

18 I'll be at home at night, and 3:00 in the morning,
19 I'm in bed with my wife, and I hear a car come down
20 George Brock Road and it stops. 3:00 in the morning.
21 What's a car doing stopped down on that road? So I
22 have to get up, and I'm not going down unprotected, and
23 I'm putting myself in harm's way.

24 And when -- those situations are not good. And
25 you have that happen to you, I mean, your sleep is done

1 for the rest of the night. And I'm working all day
2 long besides that.

3 Q We earlier talked about the South Carolina
4 legislature treating research facilities differently
5 than regular farms; is that correct?

6 A Yes.

7 Q I'm going to show you a copy of South Carolina
8 Code Section 47-21-10. It's cited as the Farm Animal
9 Crop Operation and Research Facilities Protection Act.

10 Do you recognize that as being what the State has
11 passed, the state legislature, in order to protect
12 facilities such as yours from vandals and trespass?

13 A Yes.

14 Q Okay. And I'm going to refer you to Section
15 47-21-80 that refers to violation and penalties. Do
16 you see that?

17 A Yes.

18 Q And it reflects a \$10,000 fine for trespass?

19 A \$10,000, \$5,000, and up to three years in jail or
20 one year in jail. It's a little different from the
21 normal trespassing law.

22 And also it allows for triple damages and punitive
23 damages because the legislature looks at a research
24 farm like this much differently than just a little
25 market garden. Even if they're just caught hiding out

1 on the facility, they're under that type of penalty.

2 Q So to sum up, basically, once you had done your
3 research and completed your research, is there any
4 reason, based upon your observation and your travel on
5 these routes, for any traffic, public emergency or
6 otherwise, to go down George Brock Road?

7 A No. The only reason is the habit of some people.
8 It's just in their mind. It's not an objective,
9 factual habit -- I mean reason.

10 Q You understand that if the judge sees fit to close
11 this road, Anderson County will not be required to
12 maintain it at all?

13 A They're not maintaining it now, so it wouldn't be
14 anything less.

15 Q But you understand they won't be required to?

16 A Sure.

17 Q And they're not maintaining it now?

18 A I understand that.

19 Q But it will become, if the judge sees fit, owned
20 equally by you and Mr. Wood where your property abuts
21 that road?

22 A Yes, sir.

23 Q You're willing to assume that responsibility?

24 A Yes.

25 Q Do you believe that the public purpose is served

1 by the closing of the road?

2 A I do.

3 MR. MULLINAX: Bear with me one minute, Your
4 Honor.

5 That's all I have. Answer any questions that
6 Mr. Harmon may have for you.

7 THE COURT: Mr. Harmon.

8 MR. HARMON: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. HARMON:

11 Q Mr. Murdock, if I understood your testimony
12 correctly, you're now not doing seed farming on the
13 property that abuts on George Brock Road; is that
14 correct?

15 A We're trying to shift from seed production to
16 exclusively research and development. But the research
17 and development requires seed to come out of watermelon
18 fruit, so -- and the most basic view of it, watermelons
19 still need to be grown there. But just the value of
20 those seeds rather than, you know, 20 or \$30 per melon,
21 it would be -- maybe it could be hundreds of thousands
22 of dollars per melon.

23 Q Well, your residence is not on George Brock Road;
24 is that correct?

25 A That is correct.

1 Q Your residence is on Trail Road; is that correct?

2 A That is correct.

3 Q And it's to the north of George Brock Road?

4 A You see that little blue arrow?

5 Q This one right here?

6 A Yes, sir. It's probably between that little blue
7 arrow and the intersection of Trail Road and George
8 Brock Road, more close -- see that little line that
9 goes out through there that does not have a name on it?
10 That's Boyce Murdock Road. Yes, it's pretty close to
11 that.

12 Q That's what's marked Route B on this Exhibit --

13 A I can't see it.

14 Q -- 8?

15 A I can show you if you allow me to.

16 Q Sure.

17 THE COURT: Step down and show him.

18 THE WITNESS: That's about where our house is,
19 right there. And I live in a house my
20 great-grandfather built in 1924.

21 BY MR. HARMON:

22 Q And that is where your greenhouse operation is; is
23 that correct?

24 A No, sir. My greenhouses is where my mother had
25 lived.

1 Q And which piece of property is that on?

2 A Can I show you?

3 Q Sure.

4 A The greenhouse operation is up here off the road.
5 Five greenhouses there.

6 Q Okay. So it's on the other side of Trail Road on
7 the same side as your home?

8 A Yes, sir. And like I said --

9 Q Further north?

10 A If I can explain, in the evolution of our
11 business, we kept the most important stuff away from
12 George Brock Road. That's why that is there.

13 Q Okay.

14 A It offered more security.

15 Q Now, you're proposing to close the entirety of
16 George Brock Road; is that correct?

17 A I believe so.

18 Q And you do not personally, in other words, you do
19 not hold title to any piece of property that borders on
20 George Brock Road?

21 A I have a will from my mother that says I do. It
22 has not been probated yet.

23 Q So the title does not -- is not in your name as we
24 stand here and speak today --

25 A No.

1 Q -- correct?

2 Now, are you aware that there are some residents
3 that presently live on George Brock Road?

4 A Yes. I think Mrs. Hershberger lives there, and
5 her husband lived there until he passed away, and then
6 Mr. Wood is there when he's in town.

7 Q Okay. And if I understood your testimony
8 correctly, you grew up in this area?

9 A Yes. Jimmy Brock back there drove the bus that I
10 went on as a little boy.

11 Q And George Brock Road has been there during this
12 entire time that you were growing up, and it was a
13 public road; is that correct?

14 A I believe so. I remember vaguely as a kid roads
15 being paved. You know, I was a little boy then. I
16 don't know all those roads back -- the smorgasbords of
17 roads back there, they all got paved because the county
18 commissioner lived back there. He's an Ashley, I
19 think, is what I heard from secondhand information, is
20 what I remember hearing.

21 Q But you don't know that of your own personal
22 knowledge?

23 A No, I don't.

24 Q Now, you don't personally have title to any
25 property on George Brock Road?

1 A No. And I have a reason for that. Can I tell
2 you? Can I? Am I allowed to tell you?

3 THE COURT: Let the witness explain his answer.

4 BY MR. HARMON:

5 Q Okay. You can explain.

6 A The seed industry is tremendously liabilityous.
7 You don't -- I mean, there are -- to buy seedless
8 watermelon seeds at a commercial rate, seed
9 distributors require the grower to sign a liability
10 waiver where they will not be held accountable to it.

11 And some of the biggest seed companies in the
12 country do not even sell seeds in one state. You know
13 what that state is? You can see on those liability
14 waivers: These watermelon seeds are not for sale in
15 South Carolina.

16 You know why? Because farmers have -- because the
17 laws here have made the liability problem so great. So
18 I have purposefully not put, while I'm still in the
19 seed business of selling -- producing seeds and selling
20 seeds, I didn't want to endanger my real estate where
21 if attorneys decided to come after me, even though it
22 might not even be anything wrong with my seed, they can
23 just come after me and make me liable for a bad crop
24 that they had. So I haven't put those into my name.

25 But when I'm working with Enzazaden and they're

1 taking all that risk away from us not having to be seed
2 producers anymore, they produce the seeds in the
3 Cadillac places of the deserts of California, and I can
4 just do breeding, and then when that liability concern
5 is no longer on our plate, we're going to put all this
6 land into our names. Yes, sir, we'll do it then.

7 Q Well, some of this is in your brother's name --

8 A Yes.

9 Q -- presently; is that correct?

10 A Can I explain?

11 Q Sure.

12 A My brother bought the other half of the farm to
13 keep it for me to be able to buy it back from him.
14 He's holding it for me.

15 Q Okay. Now --

16 A And the land is safe from legal action because
17 it's in his name if somebody wants to sue me because
18 they had a bad year with their watermelon seeds.

19 Q Now, you testified with regard to safety that you
20 had put some electric fences up. You have never gone
21 beyond putting electric fences up?

22 A I did a lot. Can I explain it to you? I'll have
23 to get down and tell you what I've done.

24 Q Did you put anything up other than electric
25 fences?

1 A Yes. I put gates. I've hired bulldozers to -- if
2 you let me explain, I can show you what I did. It
3 would be clear to you.

4 Q Okay. Come down.

5 A At the early time of our work on using these, sir,
6 there was a gate on this side of George Brock Road to
7 our property, and there was a gate on this side of
8 George Brock Road to our property. The gates kept
9 getting broken into. Four-wheelers would go ride
10 around in a field. Can you imagine what a four-wheeler
11 does when it runs over a bunch of watermelon plants?
12 Fruit -- anyway, so I had to do something about it.

13 And this additional thing I did, answering your
14 question, I hired a bulldozer to build -- to put up
15 where that gate was a ten-foot thing of dirt. And then
16 we removed the gate and put up a ten-foot thing of dirt
17 on that side. And then I had him turn his blade to the
18 side and dig a gully between the trees, where the
19 treeline ends, all around this field. You know, the
20 gully is about this deep and about that wide where when
21 Joe Vandal decides he's just going to ride in there, he
22 gets stopped like a tank trap. I did do that.

23 And I also, because I closed those gates up there,
24 I had to spend two days' worth down here having a whole
25 new driveway put into that. Mr. Martin came, one of my

1 witnesses, an engineer that came and helped us put in
2 where we have a driveway coming through here to get out
3 into this field. And I situated that right in front of
4 my cousin's house where they wouldn't be as able to go
5 through that. But now that creates a safety concern
6 with the kids, sometimes up to three-dozen of them,
7 that have to go from our house down here to work. We
8 have to go down that busy road there. Not all of them
9 can drive. And when they need to come back to the
10 house, that's the way it goes.

11 So I did a lot to try to do that. And I have a
12 double electric fence in the pines along the road. And
13 electric fence, it can be cut. I've found them cut
14 before.

15 And one way that I have -- I can be alerted to the
16 intrusion on the road, besides hearing them up here at
17 our house, is right next -- where the pine trees end --
18 I have like ten rows of pine trees and cedars on both
19 sides of this road all around the property that I
20 planted back in the late '90s when I was hoping to do
21 this company -- it was, right where the pine trees end,
22 I'll keep a freshly plowed swath with the tractor. You
23 know, one pass with the plow where the weeds don't grow
24 up, the land just remains soft and friable. And that
25 way, none of the people that are working for me ever go

1 to that part. So I can just walk down there and look,
2 and if I see footprints, I know someone has been in the
3 field, and then I know I have to start doing stuff to
4 try to scare them off.

5 Q Okay. So how much work is done in your fields now
6 compared to the greenhouse operation?

7 A Well, right now I've got two greenhouses full of
8 watermelon plants. Some of them are due to be
9 harvested. Some of them I just got proprietary
10 genetics from Enzazaden.

11 One of the things that they gave me to work with
12 was the number one variety in the United States for the
13 past two years in three university trials. And they're
14 trusting me with that. So that's growing in -- you
15 don't grow watermelons in the field in the winter in
16 South Carolina, you know.

17 Only thing that's in these fields right now are
18 the plastic. We grow everything on drip irrigation
19 with plastic. Like you see strawberries growing. We
20 have a water system. We have got a
21 60-gallon-per-minute well in my greenhouse. 24/7 of
22 clean, pure water. And that system goes all over our
23 farm. So I can grow something at the end of this, and
24 I got 40 gallons a minute of water I can put through
25 the drip line.

1 Q Okay. Now, the property that you are farming
2 abuts George Brock Road?

3 A Yes, sir.

4 Q It also abuts on Trail Road?

5 A And I've got trees there also.

6 Q But individuals would have access to your farm
7 from Trail Road even if George Brock --

8 A You can see --

9 THE COURT: Let him finish his question.

10 BY MR. HARMON:

11 Q Individuals would have access to your farm parcels
12 from Trail Road even if George Brock Road is closed; is
13 that correct?

14 A They would have -- I would explain it this way:
15 George Brock Road is closed with the coming of
16 Enzazaden that's got lots of money to invest, I would
17 put fences that -- no fence is impregnable, but a fence
18 that's off hidden somewhere that nobody lives on -- you
19 know, I have a streetlight on the middle of George
20 Brock Road. I wish you would ask about that.

21 Why do you have a streetlight that I'm paying \$25
22 a month for in the middle of the George Brock Road? To
23 try to spook the creeps. Because if they're there by
24 themselves, I can barely hear them up at our house, or
25 my wife can hear them or my son can hear them when they

1 pull down there and stop at night. This big road here,
2 they're just not going to stop on that big, main South
3 Carolina road. You're just not going to stop there and
4 drink your beer and say, "I wonder what Old Man Murdock
5 has got growing out in his field?" that night. Because
6 they're out in the middle of the road. There is cars
7 going by all the time. But on George Brock Road, it's
8 a little safe place for them to park.

9 Q You can have a seat again.

10 Now, you put signs up along at both ends of George
11 Brock Road --

12 A Yes.

13 Q -- about possible closure of the road.

14 You do not, as you sit here today, recall when you
15 did that; isn't that correct?

16 A I did it as soon as Mr. Mullinax posted the thing
17 in the newspaper, I believe.

18 Q When he posted something in the newspaper?

19 A I believe. I'm not sure. I did it according to
20 my attorney's instructions.

21 Q Okay.

22 A I can go back and look on my phone that's got the
23 pictures we took, and it will be time dated. And it's
24 on his e-mail. I sent him e-mails of it. So we can
25 prove it that way.

1 Q Now, you indicated, as you were riding around
2 putting these numbers on Plaintiff's Exhibit 10, do you
3 recall testifying about that?

4 A I do.

5 Q That you drove the speed limit?

6 A Yes, I was purposefully trying not to cheat to try
7 to fudge the data.

8 Q Well, now we have heard earlier testimony today
9 that there's no speed limit sign on George Brock Road,
10 so did you drive the speed limit on that road?

11 A I think I drove 45. I think I tried to do between
12 35 and 45 on all the little roads.

13 Q ~~And what's the speed limit on Trail Road?~~

14 A I think it's 55. I believe. And on the Due West
15 Highway road, you know, it fluctuates because you're
16 going past a church. The numbers I came up with was as
17 honest as I could do them, you know. I mean, if you
18 wanted to get other numbers, you ought to go out there
19 and drive it yourself. I mean, I can't do any better
20 than I did.

21 But the big thing is the fire -- the only time I
22 have ever seen a fire truck down George Brock Road is a
23 sheriff deputy is when I called the man. You know,
24 that's the only time they have ever come.

25 Q That's the only time you have ever seen them

1 there; is that correct?

2 A Well, I live and work there, yeah. Yeah. I mean,
3 I've just been there, you know, since '96 since I came
4 home. And, you know, whenever we hear a siren, we
5 wonder. If we hear a siren anywhere now, we'll be in
6 Anderson and we'll hear a siren, and one of my kids
7 say, "I wonder if they're going to have to go down
8 George Brock Road to get there, Daddy."

9 Q Now, have you called the Anderson County litter
10 officers to come out when you have seen litter on
11 George Brock Road?

12 A I believe he testified to that, yes, sir.

13 Q And he's come whenever you have called him,
14 correct?

15 A He or his subordinate.

16 Q A litter officer came?

17 A Yes.

18 Q And they investigated whatever the problem was?

19 A Well, twice they found a dress in the garbage
20 bags, and then he went and told me -- this was the one
21 that testified here. He said he went and scared them
22 so bad by talking to them. He didn't charge them, and
23 then they came and picked it up.

24 I think the man that put the two truckloads of
25 construction waste there, I think he made them pick it

1 up and he charged them.

2 Q And this was on property that was off of George
3 Brock Road?

4 A Yes. And also we found a burned-out van on
5 George -- on where they broke through our gate and
6 right into our field. I come in there one day. It's
7 like a FedEx van. Someone had put it in there and
8 flamed it. And the county came and towed it back to
9 here. We never heard anything else from that.

10 MR. HARMON: Just one moment, Your Honor.

11 Your Honor, that's all the questions I have for
12 this witness.

13 THE COURT: Anything further for this witness?

14 MR. MULLINAX: Nothing further.

15 THE COURT: Thank you, sir. You can step down.

16 We're going to break for lunch. It's almost 1:00.
17 We'll start back about 2:30.

18 (WHEREUPON, lunch recess was taken from 12:52 p.m.
19 to 2:28 p.m.)

20 THE COURT: All right. Let's go back on the
21 record.

22 Mr. Mullinax, call your next witness.

23 MR. MULLINAX: Yes, Your Honor. Mr. Eddie Martin.

24 **EDDIE MARTIN,**

25 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

1 THE CLERK: If you would please come around and
2 take a seat at the witness stand. Please state your
3 name for the court reporter.

4 THE WITNESS: Eddie Martin.

5 DIRECT EXAMINATION

6 BY MR. MULLINAX:

7 Q Mr. Martin, if you would try to speak into the
8 microphone.

9 Tell me where you live.

10 A I live on Highway 413, which is two roads north of
11 Trail Road.

12 Q How long have you lived there?

13 A I was born and raised there. I worked for the
14 federal government 33 -- over 33 years traveling part
15 of that time, but I live there now full-time again.

16 Q And what did you -- where did you go to school?

17 A I went to Clemson.

18 Q What did you do for the federal government?

19 A I was a civil engineer and agricultural engineer
20 for the USDA.

21 Q For the USDA?

22 A Yes, sir.

23 Q And what, basically, did you do, or what were your
24 responsibilities?

25 A I was in about four or five different locations

1 across the state including the state office, and I
2 designed dams, large ditches, drainage systems, high
3 lines, hog facilities, buildings. And my life's work
4 was in stream restoration through natural principles.

5 Q And being a resident of Highway 413, I think you
6 said two roads north of --

7 A Trail Road.

8 Q -- the roads in question we're speaking of?

9 A Yes, sir.

10 Q Are you familiar with and have you driven down
11 each of the routes that are depicted on Map 8A?

12 A I've been on those roads but not for the purposes
13 of this court hearing.

14 Q But you have been there?

15 A Yes, sir.

16 Q You're familiar with them?

17 A Yes, sir.

18 Q You know where they are?

19 A Yes, sir.

20 Q And are you familiar with Mr. Brent Murdock?

21 A Yes.

22 Q And tell the Court how you are familiar with him
23 and what he does.

24 A I've known Brent and his family since I was a kid
25 and Brent was a kid, and then he went -- I went to

1 Clemson, he went to Clemson, we met back up there, and
2 then he did his studies, some of them out of state, and
3 I stayed in state working. And then we got back into
4 the Greenville/Anderson area in about '96 also. So we
5 came back about the same time.

6 Q Are you familiar with what he does at his plant
7 research facility?

8 A Very much so.

9 Q How did you become familiar with it?

10 A Because I'm a retired professional engineer.

11 Because of my engineering training, when Brent has a
12 question about something related to soils, crossings,
13 even in the level of security or business decisions,
14 because I wrote federal contracts, he will call me and
15 just ask me an opinion. It's not a binding opinion,
16 it's just a friendly opinion, and we deal with it on
17 that manner.

18 Q And based upon your knowledge of the area and the
19 fact that you have traveled all of the roads including
20 the ones depicted on the map prepared as Plaintiff's
21 Exhibit 8, does George Brock Road, based upon your
22 travel and your observation, serve any public purpose
23 that is not provided by other routes in the area?

24 A No, sir. That road to me is a farm-to-market road
25 that got paved somewhere along the way. When it had

1 the tenant houses on it and the cotton fields and mules
2 and wagons, it had a viable purpose, but that purpose
3 has mostly passed.

4 Q All right, sir. Does the fact -- what is your
5 opinion, based upon your knowledge and observation,
6 about the problem caused by keeping open George Brock
7 Road with the research facility being operated by
8 Mr. Murdock?

9 A I think there's been a misunderstanding or maybe a
10 lack of knowledge of plant breeding and crop production
11 that's been discussed here today because watermelon
12 production requires at least two years of fallow in
13 between production. So when Brent was asked, "Are you
14 growing watermelons on the left to right side of George
15 Brock Road?" he may not be this year, but he will have
16 to grow them there in two to three years to break the
17 disease cycles in other fields and have that fallow
18 program going on. So he's got to have those fields
19 available.

20 Q Based upon what you know and your observation,
21 does George Brock Road being open create any problems
22 for Mr. Murdock in the production of his plant
23 seedlings?

24 A I am a family friend, so I have seen their family
25 stress levels over the problems on George Brock Road.

1 I have been there because of the damage. I have been
2 there because of the debris.

3 At one time Brent and Judy were away from home,
4 and I went over to check on another child with an
5 animal issue. And as I went by, there was a truck
6 stopped in the road, and the people were stealing pine
7 needles off Brent's property. And they just stopped in
8 the road because there's not enough traffic to bother
9 it, but it's been a real hassle.

10 There are other pictures that aren't in court
11 today that I've seen of people out partying in the road
12 at night. It's just -- for some reason it's an
13 attractive nuisance.

14 Q And how would the closure of that road affect the
15 safety of not only the people who work there, the
16 minors who work there, but the production of the crops
17 that is being researched?

18 A If that road was closed, Brent would be able to
19 fence the entirety of Trail Road, have one entrance
20 across from his house, which would be safeguarded much
21 better than the entrances in other places, and then he
22 could travel on his own property in the fields rather
23 than having to travel up and down Trail Road.

24 Q Okay. That's all the questions I have. Answer
25 any that Mr. Harmon may have.

1 THE COURT: Mr. Harmon.

2 MR. HARMON: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. HARMON:

5 Q Good afternoon, Mr. Martin.

6 A How are you?

7 Q You have never worked in this area of George Brock
8 Road; is that correct?

9 A On the farm?

10 Q Yes.

11 A Yes, sir, I have worked with -- I've never worked
12 for Brent as a paid employee, but I have worked on the
13 farm for Brent.

14 Q And what did you do on the farm?

15 A I rode -- knocked watermelons off vines that were
16 not pollinated by hand. I've worked with him on
17 construction projects and roads. I've worked with him
18 on advice as far as other places to put in barriers. I
19 worked with him on crossings and wet areas. I've
20 advised him on timber work. But I'm not a professional
21 in those capacities; I'm doing that as a friend.

22 Q Okay. Now, you mentioned earlier that there had
23 at one time been a purpose for George Brock Road in
24 that it was a farm-to-market road?

25 A Yes, I'm sure it was.

1 Q And there's other farming operations that go on on
2 George Brock Road other than Mr. Murdock's; is that not
3 correct?

4 A That would be Mr. Wood.

5 Q Yes, on the Wood property.

6 A Yes, sir.

7 Q Have you ever done anything for Mr. Wood?

8 A No, sir, I haven't.

9 Q So you don't know anything about the farming
10 operation that goes on on his property?

11 A Well, I do because his father is a long-term
12 friend and coworker, so I know some of the things that
13 are going on there.

14 Q And what type of crops does he grow --

15 A He grows --

16 Q -- on that property?

17 A He grows hay, but he also has the land leased out
18 for row crops.

19 Q What type of row crops would be grown?

20 A I have seen soybeans there, but I don't go on
21 George Brock Road except when helping Brent do
22 something.

23 Q And would George Brock Road be used to transport
24 farm equipment to and from the farming that goes on on
25 the Woods' farm?

1 A It would be from his -- most likely his entrance
2 side, if he turns it into a private driveway, it would
3 never impair his farming to change it to a private
4 driveway.

5 MR. HARMON: That's all the questions I have for
6 this witness, Your Honor.

7 THE COURT: Anything further?

8 MR. MULLINAX: Nothing further, Your Honor.

9 THE COURT: Thank you, sir. You can step down.

10 MR. MULLINAX: I'm sorry, Your Honor. Could this
11 witness be excused?

12 THE COURT: Any objection?

13 MR. HARMON: No objection, Your Honor.

14 THE COURT: You are excused.

15 MR. MULLINAX: That's the case for the plaintiff,
16 Your Honor.

17 THE COURT: Okay. All right.

18 Mr. Harmon.

19 MR. HARMON: Your Honor, we would call Jamie Hanks
20 to the stand.

21 **JAMIE HANKS,**

22 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

23 THE CLERK: If you would please come around and
24 take a seat at the witness stand. If you could please
25 state your name for the court reporter.

1 THE WITNESS: Jamie Hanks.

2 DIRECT EXAMINATION

3 BY MR. HARMON:

4 Q Mr. Hanks, where do you live?

5 A I live in Anderson County in Ebenezer Community.

6 Q And is that in the vicinity of George Brock Road
7 that we have been discussing?

8 A It's sort of north of there.

9 Q So you live a little bit north of George Brock
10 Road?

11 A Yes. Yes, sir.

12 Q And who are you employed by?

13 A I'm employed by Duke Energy.

14 Q How long have you been with Duke?

15 A Ten years.

16 Q And are you involved with the Ebenezer Fire
17 Department?

18 A Yes, sir. I've been a volunteer there for over
19 30 years. I have been chief for about 14 years.

20 Q And does the Ebenezer Fire Department cover the
21 area in which George Brock Road is located?

22 A Yes, sir.

23 Q Where is the Ebenezer Fire Department located?

24 A It's located right at the intersection of Highway
25 413 and 185.

1 Q And looking at what is Plaintiff's Exhibit 8, is
2 the location of the fire department correct on that
3 map?

4 A Yes, sir.

5 Q Now, in your work as chief of the Ebenezer Fire
6 Department, do you work with the Anderson County Fire
7 Protection Commission?

8 A From time to time.

9 Q And would you explain how that -- what that
10 relationship is?

11 A Well, each school district has a representative
12 that is on the fire commission, and the chiefs from
13 that school district, the concerns they have, they
14 would go to your designee and they work out problems,
15 keep communication between the fire departments in that
16 district and the county fire department.

17 Q Okay. And are you the most responsible person for
18 the Ebenezer Fire Department?

19 A Yes, sir.

20 Q And you have fire equipment located at Ebenezer
21 Fire Department, I take it?

22 A Yes, sir.

23 Q Is there any EMS equipment located there,
24 emergency services equipment?

25 A Yes, sir.

1 Q What type of emergency services equipment is
2 located there?

3 A At the present we have an ambulance from MedShore
4 there.

5 Q And about how long have you had some type of EMS
6 equipment at the fire station?

7 A Around eight to ten years.

8 Q Are you familiar with George Brock Road?

9 A Yes, sir.

10 Q Do you know how long it's been a public road?

11 A No, sir. Ever since I can remember.

12 Q And how long has that been, approximately?

13 A 45 years.

14 Q Are you aware of residents who live on George
15 Brock Road?

16 A Yes, sir.

17 Q Who are they?

18 A Ms. Hershberger, and then I think Mr. Wood has a
19 place. He stays there from time to time.

20 Q And where are those structures located on George
21 Brock Road?

22 A If you're going from the Trail Road side, they're
23 a little more than halfway down the road. They're
24 right adjacent from each other, right across the road
25 from each other.

1 Q So they're right across the road in location from
2 each other?

3 A Yes, sir.

4 Q Have you been involved in discussions with your
5 fire department regarding closure of this road?

6 A Yes, sir.

7 Q What type of discussions have you had?

8 MR. MULLINAX: I'm sorry. I didn't hear. Who he
9 had discussion?

10 MR. HARMON: With members of his fire department.

11 MR. MULLINAX: I object to any hearsay testimony.
12 He can testify as to his own knowledge.

13 THE COURT: Just let him ask the question. I
14 haven't heard exactly what he's asking yet.

15 BY MR. HARMON:

16 Q Have you had discussions with fire personnel at
17 your fire department regarding closure of George Brock
18 Road?

19 A Yes, sir.

20 Q And what was the nature of those discussions?

21 A One meeting night we sat down and discussed the
22 closure of it and how it would affect us. Of course, I
23 have several firemen that live in that area, and it was
24 of concern to them, and we -- I think a couple of the
25 firemen actually done some road tests to see, you know,

1 the alternate routes, how it would affect us.

2 Q Okay. Were you involved -- first of all, let me
3 show you what's been marked as Defendant's Exhibit 4.

4 Are you familiar with that document?

5 A Yes, sir.

6 Q Would you describe it to the Court.

7 A It's a petition not to close George Brock Road by
8 Ebenezer Fire Department, is who put this petition out,
9 and I did sign it.

10 Q Okay.

11 MR. MULLINAX: Your Honor, I would object to
12 Defendant's Exhibit 4 on the basis that it constitutes
13 hearsay. The petition is really irrelevant, immaterial
14 to the issues before the Court under the statutory 59
15 section to close this road.

16 Mr. Hanks can testify as to his observations and
17 opinions, but as to this petition, I would object to it
18 being admitted into evidence on those bases.

19 THE COURT: Mr. Harmon.

20 MR. HARMON: Your Honor, that's a petition that
21 the witness has testified to that was used as he
22 discussed the closure of George Brock Road with members
23 of his fire department, and it's offered for that
24 purpose.

25 THE COURT: As both of you know, the petition has

1 absolutely no legal bearing on this case, and I will
2 allow it in for whatever it's worth, but I will
3 overrule your objection.

4 (WHEREUPON, Defendant's Exhibit Number 4 was
5 admitted into evidence.)

6 BY MR. HARMON:

7 Q Now, Mr. Hanks, have you had occasion to look at
8 travel times with respect to traveling to other
9 properties if this road were closed?

10 A Yes, sir.

11 Q And if George Brock Road were to remain open, what
12 route would be used to get to Ms. Hershberger's house?

13 A Ms. Hershberger? Yeah, I'd go down 185, take a
14 right on Trail Road, then back on George Brock.

15 Q Would you come down and point out to the Court how
16 you would do that.

17 A Fire department, go down Due West Highway, Trail
18 Road, take a right, follow Trail Road down to George
19 Brock, take a left, and Ms. Hershberger lives right in
20 there somewhere.

21 MR. MULLINAX: Your Honor, I would just object to
22 the testimony calling that Mrs. Hershberger's house.
23 The property belongs to Mr. Wood. It doesn't belong
24 to --

25 THE COURT: I've heard the testimony. And we'll

1 note Ms. Hershberger, I believe, is a tenant of
2 Mr. Wood.

3 MR. HARMON: That's correct, Your Honor.

4 THE COURT: Okay. With that noted. I heard the
5 testimony.

6 MR. MULLINAX: Yes, sir.

7 BY MR. HARMON:

8 Q Now, that's how you would go today if there
9 were -- if you were called to Ms. Hershberger's house?

10 A Yes, sir.

11 Q Now, if the road were closed, would you tell us
12 how you would travel to get to her -- to the house she
13 lives in?

14 A Yes. I would start out here at the fire
15 department, go down Due West Highway all the way to
16 Troy Murdock, back down George Brock and back down to
17 wherever she's living.

18 Q And have you looked at the difference in travel
19 time to get there if the road was closed?

20 A I think it was a couple of minutes.

21 Q A couple of minutes additional travel time?

22 A Yes.

23 Q To get to the location of her house?

24 A Yes, sir.

25 Q Okay. And explain to the Court why travel time is

1 important in what you provide as to the fire
2 department.

3 A Well, as far as a structure fire and someone being
4 trapped in that structure, it is every minute counts.
5 It's critical to get there, assess the scene and get
6 the person or whoever is trapped out of the structure.

7 You know, people think one or two minutes ain't no
8 big deal, but I got a house burning, a lot can happen
9 in a minute.

10 And, you know, all this stuff everybody is dealing
11 with is based on a perfect world. You are always going
12 to have traffic to deal with. If you got storms, you
13 got debris. There might be a tree down here, and I got
14 to go that way. There might be a tree down there, and
15 I got to go the other way. You don't ever know. You
16 have to assess it.

17 So, you know, in my opinion, and this is my
18 opinion, leaving all options open is the best thing.

19 Q Leaving options open to be able to?

20 A All options, excuse me, leaving all options and
21 routes open to get to the destination, the fire,
22 accident you're trying to get to, is the best way to
23 go. Because we got other people that live down in here
24 in this other area that other routes could be blocked
25 and we may need to get to. You never know.

1 Last spring we had a storm down there. I know
2 Troy Murdock Road was blocked. Alewine Road was
3 blocked. And we had to go in there to cut trees out,
4 and I actually used George Brock Road to get in there,
5 but that was after going one direction, having to
6 backtrack and come back another.

7 You see, you never know if you're going to have to
8 backtrack, and all that takes time. And I know that
9 certain instances, and it ain't going to be an everyday
10 thing, storms, whatnot, but it happens.

11 Q And so is that -- is that your primary concern as
12 far as keeping that road open?

13 A Yes, sir. It will knock out an option that we
14 could -- a route that we could take in case something,
15 you know, something comes up on one of the other
16 routes.

17 Q Now, would your same concern apply to emergency
18 medical services as well?

19 A Yes, sir, it would be the same. I mean, they have
20 got to have their own route to get there, and the
21 quickest route is always the best. And Alewine Road, I
22 think the asphalt is in pretty good shape, but it's
23 growed up, no shoulders, curvy dips and berms. George
24 Brock, it's rough, but it's a straight shot. Good
25 shoulders on the road.

1 Q Would you explain to the Court how response times
2 affect insurance rates?

3 MR. MULLINAX: Objection, Your Honor, unless he's
4 testifying from some insurance manual.

5 THE COURT: Lay some foundation for that question.
6 Establish how he would know that.

7 BY MR. HARMON:

8 Q Are you familiar with insurance ratings?

9 A Yes, sir.

10 Q And how have you become familiar with insurance
11 ratings over time?

12 A Over time of being chief, I have insurance agents
13 call me regularly wanting to know --

14 MR. MULLINAX: Objection.

15 THE COURT: Don't testify to what somebody else
16 said.

17 THE WITNESS: Insurance companies want the fire
18 department to be within five miles of the resident that
19 they're protecting.

20 I don't understand, I don't really know what I'm
21 allowed to say and what --

22 BY MR. HARMON:

23 Q And why do insurance companies want that?

24 MR. MULLINAX: Objection, Your Honor. That again
25 calls for speculation.

1 THE COURT: I'll sustain the objection.

2 MR. HARMON: Hold on.. I need to ask you a
3 different question.

4 Q How do you --

5 THE COURT: Mr. Mullinax, could you step here? I
6 want to be able to see the --

7 MR. MULLINAX: I'm sorry. I'm trying to hear.

8 THE COURT: I want everybody to be able to hear
9 and see.

10 BY MR. HARMON:

11 Q Have you received calls or requests regarding
12 response times to various areas that you serve with
13 Ebenezer Fire Department?

14 A Not response times but distance.

15 Q You have looked at distances to respond to a
16 particular location?

17 A Yes, sir.

18 Q And if George Brock Road were closed, can you
19 explain how the route you would take to get to the home
20 in which Ms. Hershberger lives, what distance did you
21 determine?

22 A I don't remember exactly. Have you got that
23 paper?

24 Q Let me show you what has been marked as
25 Defendant's Exhibit 3.

1 A 5.4 miles.

2 Q Explain what Defendant's Exhibit 3 is.

3 A It is taking the route going from the fire
4 department down Due West Highway all the way down to
5 Troy Murdock back down to George Brock, back up to 351
6 George Brock Road.

7 Q Okay. And what would the distance be if George
8 Brock Road were open and you took the route you
9 testified that you would use if the road remains open?

10 A 4.2 miles.

11 Q And how did you gather that information?

12 A I went into Mapquest.com, put in the fire
13 department address, and I put in 351 George Brock Road.

14 MR. MULLINAX: Objection, Your Honor. That's
15 hearsay. It's based upon a document that hadn't been
16 verified or presented for verification to the Court.
17 It has no relevance to the matter at hand.

18 THE COURT: Overruled.

19 MR. HARMON: Your Honor, we would offer
20 Defendant's Exhibit Number 3 into evidence.

21 THE COURT: That's admitted with the objection
22 noted for the record.

23 (WHEREUPON, Defendant's Exhibit Number 3 was
24 admitted into evidence.)

25 BY MR. HARMON:

1 Q Are there times when additional fire departments
2 are called in to assist Ebenezer?

3 A Yes, sir. On any structure fire, another station
4 is automatically dispatched at the time that we are.

5 Q And what typically would be the fire station that
6 would be dispatched in the Ebenezer area?

7 A That would be, for that location there, it would
8 be Craytonville.

9 Q And where is Craytonville?

10 A Craytonville is at the intersection of Trail Road.
11 I don't know if they call that 20 or Brown Avenue
12 Extension.

13 Q And what direction is it?

14 A Toward Belton, down Trail Road. Or -- yeah.

15 Q And what likely route would they use to come to a
16 location on George Brock Road?

17 MR. MULLINAX: And I object to that as being
18 speculation, Your Honor. He's not the fire chief. He
19 hasn't traveled the route. He doesn't know what they
20 would do.

21 THE COURT: Ask him the route he would take.

22 BY MR. HARMON:

23 Q What route would you take, Mr. Hanks, to get from
24 Craytonville to -- Ms. Hershberger lives on George
25 Brock Road.

1 A Okay. Their fire department parking lot dumps
2 right out on Trail Road. I'd follow Trail Road
3 straight on down across the intersection at Due West
4 Highway down -- turn on Trail Road and turn on George
5 Brock.

6 Q Have you driven that route yourself?

7 A I have actually drove one of their fire trucks to
8 a call on Trail Road down below there.

9 Q Okay.

10 MR. MULLINAX: On a road down to Level Land? What
11 is your answer?

12 THE WITNESS: I've actually drove one of
13 Craytonville's trucks. Is that what you're asking, or
14 Ebenezer's?

15 MR. HARMON: Theirs.

16 THE WITNESS: I actually drove a fire truck to a
17 structure fire from Craytonville Fire Department down
18 Trail Road. Not George Brock, but I have went to that
19 area before.

20 BY MR. HARMON:

21 Q On a fire truck?

22 A On a fire truck.

23 Q And have you driven a fire truck down George Brock
24 Road?

25 A Yes, sir. Drove one down it last spring during

1 this storm.

2 MR. MULLINAX: I'm sorry, I didn't understand your
3 answer.

4 THE WITNESS: I said yes, I've drove a truck down
5 George Brock Road during some storms that we had last
6 spring.

7 THE COURT: Why don't we do this. Retake the
8 witness stand and speak into the microphone. That way
9 Mr. Mullinax can hear you a little better because
10 apparently we're having difficultly here.

11 Ask the question again.

12 BY MR. HARMON:

13 Q Mr. Hanks, have you driven a fire truck down
14 George Brock Road?

15 A Yes, sir.

16 Q And when did you do that?

17 A Last spring we had some storms in that area, trees
18 were down there, and that was the route I took to get
19 down to Troy Murdock because other routes was blocked.

20 Q Have there been any other instances that you can
21 recall today that you had driven a fire truck down
22 George Brock Road?

23 A Not right offhand, to be honest with you.

24 MR. HARMON: Your Honor, that's all the questions
25 I have for this witness at this time.

1 CROSS-EXAMINATION

2 BY MR. MULLINAX:

3 Q Mr. Hanks, you do understand that the purpose of
4 the hearing before the Court today is for Mr. Murdock
5 to close George Brock Road for public access?

6 You do understand that, correct?

7 A Yes, sir.

8 Q And the fact that the road would be closed for
9 public access does not mean that it would be closed,
10 but that the public couldn't use it to go up and down
11 George Brock Road. Do you understand that?

12 A Yes, sir.

13 Q And do you understand and were you here to hear
14 Mr. Austin Wood and Mr. Murdock testify that they would
15 maintain what is now known as George Brock Road as a
16 driveway to the properties that they own along what is
17 now called George Brock Road?

18 A I remember Mr. Wood saying it, but I didn't hear
19 it from Brent.

20 Q Okay. So the Hershberger home that you're
21 referring to is actually Mr. Wood's home?

22 A Yes, sir.

23 Q And Mr. Wood said he would maintain this road to
24 be open so that fire emergency vehicles could service
25 his property when they needed to; is that correct?

1 A Yes, sir.

2 Q So the fact that it would remain open by Mr. Wood
3 to the only residence that is on the road would then
4 mean that everything that you said would still be true
5 because you could use it to get to Mr. Wood's property,
6 correct?

7 A Correct, with two more minutes of time to get
8 there.

9 Q Well, if it's still open, why is it two more
10 minutes of time?

11 A Because you got to go around the other end of it
12 to get up there.

13 Q You don't disagree with these measurements made by
14 Mr. Dunn using the GIS system, do you?

15 A I guess they're as good as any.

16 Q Do you know what the GIS system is?

17 A I heard y'all explain it.

18 Q But you're not familiar with it?

19 A Huh?

20 Q But you don't have anything to tell the Court as
21 to why you would object as to any of these being true,
22 do you?

23 A No, sir.

24 Q And Mr. Dunn testified this green route shows that
25 4.6 miles is the same as 4.6 miles along this blue

1 route to get to this furthest point from Ebenezer, does
2 it not?

3 A You have 4.6 miles is 4.6 miles, but see all them
4 curves and turns and everything on that other route?

5 Q And you do acknowledge that the Due West Highway,
6 185, is the best route to travel of any of the three,
7 do you not?

8 A Yeah, down to 284 and then go to Trail Road and
9 hit George Brock.

10 Q It's a wide road, it's marked, it has white marks
11 on the side, yellow markings in the middle center line,
12 good asphalt, no problems, basically straight until you
13 make this turn on Troy Murdock?

14 A On Trail.

15 Q Well, if you go all the way down here, it's
16 straight until you get to Troy Murdock. If you go down
17 here and turn on Trail Road, same difference,
18 basically, correct?

19 A Some people's opinion.

20 Q And you told Mr. Harmon that you were familiar
21 with George Brock Road, right?

22 A Yes, sir.

23 Q I'm showing you Plaintiff's Exhibit 9A through G
24 and ask you to take a look at them, please.

25 A I rode down the road yesterday. I'm familiar with

1 the potholes.

2 Q And those accurately reflect the condition of that
3 road, do they not?

4 A Oh, yeah. Of course. But it's a wide, straight
5 road with good shoulders.

6 Q Show me those good shoulders.

7 A You can see them there. See them there?

8 Q Let's just refer to this one, 9D.

9 A See that shoulder? You got a wide shoulder there
10 on both sides. No trees, no overgrowth.

11 Q It's dirt, isn't it?

12 A Yeah. That's what the shoulder of a road is.

13 Q When it rains, it's mud, isn't it?

14 A Every road in the state is mud right now.

15 Q The fact of the matter is there are alternate
16 routes. Mr. Wood keeps this road up. It's not just
17 for public access, but it's still a road that can be
18 used by you for the fire department for emergency
19 vehicles, correct?

20 A Oh, yes, sir.

21 MR. MULLINAX: No further questions.

22 THE COURT: Anything further from this witness?

23 MR. HARMON: Just a couple questions, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. HARMON:

1 Q You were asked some questions about Mr. Dunn's
2 testimony this morning?

3 A Yes, sir.

4 Q None of Mr. Dunn's calculations included getting
5 to the residence where Ms. Hershberger lives; is that
6 correct?

7 A That's correct.

8 Q And your testimony -- your testimony is that it's
9 more than five miles if the road is closed and you
10 can't come through the part of the road that's near
11 Trail Road, you have to go around; it's going to be
12 more than five miles to her residence?

13 A That's correct.

14 Q Thank you.

15 MR. HARMON: Nothing further, Your Honor.

16 THE COURT: Anything further?

17 MR. MULLINAX: No further questions, Your Honor.

18 THE COURT: Thank you. You can step down.

19 THE WITNESS: Thank you, sir.

20 MR. HARMON: Call Ronnie Madison.

21 **RONNIE MADISON,**

22 **BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

23 THE CLERK: Please state and spell your name for
24 the reporter.

25 THE WITNESS: Ronnie Madison.

1 DIRECT EXAMINATION

2 BY MR. HARMON:

3 Q Good afternoon, Mr. Madison. Can you tell us
4 where you live.

5 A 3720 Trail Road. That's where Trail Road and
6 Murdock Road intersect.

7 Q And that's within the Ebenezer Fire --

8 A I'm within two and a half miles of the fire
9 department.

10 Q Are you employed?

11 A No, sir. I've been retired since '97. I'm a
12 volunteer fireman.

13 Q How long have you been a part of Ebenezer Fire
14 Department?

15 A I'm a charter member. I think '73. '72, '73.

16 Q And are you also a board member of the fire
17 department?

18 A Yes, sir.

19 Q And what is your responsibility as a board member?

20 A Any problems that come up, financial or whatever,
21 we meet on them. We meet once a quarter.

22 Q Have you had any involvement with the proposed
23 closure of George Brock Road?

24 A Yes, sir.

25 Q What has been your involvement in that matter?

1 A Well, I met with the fire department, you know,
2 and we all agreed that it didn't need to be closed
3 and --

4 Q I'm sorry. You agreed that?

5 A It did not need to be closed.

6 Q Okay.

7 MR. MULLINAX: Object to the testimony of "they
8 agreed," Your Honor. He can testify --

9 THE WITNESS: The fire department agreed.

10 THE COURT: Hold on. Don't testify about what
11 other people said.

12 Rephrase your question.

13 BY MR. HARMON:

14 Q What was -- what role did you play as far as
15 involvement in the proposed closure of George Brock
16 Road?

17 A I helped get some of the times together on the
18 road, run the routes, and things of that nature.

19 Q And when you say you ran the routes, were you
20 looking at different routes to travel to get to areas?

21 A Yes, sir.

22 Q In the George Brock Road area?

23 A Yes, sir.

24 Q And explain to me what routes you looked at.

25 A Well, I have a son that lives on Troy Murdock

1 Road. And to get to his house, instead of going
2 Alewine, which it's a narrow road with no shoulders,
3 it's crooked and rough at the bridge, I mean, if you're
4 driving a tractor or something, I mean, you just about
5 got to stop. I always go up on George Brock Road and
6 turn and go down to that, that way, to my son's house.

7 Q So you use George Brock Road on a regular basis?

8 A Probably a couple times a day.

9 Q I'm sorry?

10 A Probably a couple times a day.

11 Q And you travel on George Brock Road?

12 A Yes, sir. It's closer.

13 Q Every day?

14 A I won't say every day, but I would say three or
15 four times a week.

16 Q Now, if George Brock Road were closed to the
17 public, what route would you travel?

18 A Well, I would have to go up Trail Road, pick up
19 Alewine and go through that curvy road. If you meet a
20 vehicle, you just about got to stop on that particular
21 road.

22 Q You're talking about Alewine Road?

23 A Alewine Road, right. There's no shoulders hardly
24 anywhere. I mean, you know, you might have two or
25 three feet, but that's nothing like George Brock.

1 Q Now, as far as looking at proposed routes for fire
2 equipment to travel, did you look at those?

3 A Yes, sir.

4 Q And what routes did you evaluate?

5 A Leave the fire station, the 413 and 185, come down
6 185 to 284, turn right back left on George Brock Road.
7 That road is less than a mile long. And that house, it
8 would be less than a half a mile.

9 Q When you say "that house," are you referring to
10 the --

11 A Mr. Wood.

12 Q -- house Ms. Hershberger lives in?

13 A Right.

14 Q There on the Woods' property?

15 A That's on the Woods' property.

16 Q Are there any other homes in the area that you
17 might go to using George Brock Road?

18 A Yes.

19 Q What are some of those?

20 A There's about three or four houses below on Troy
21 Murdock. I would go to them, you know, come out George
22 Brock, go to them. After you get to the creek down
23 there, you're better to go McClain Road.

24 Q Where is the creek? When you refer to the creek,
25 where's it at?

1 A It's before you get to McClain Road, between
2 George Brock and McClain Road. It's probably a mile
3 down there to it and one, two, three, four -- one, two,
4 three -- three houses below there.

5 Q So that you would travel George Brock Road --

6 A Right, uh-huh.

7 Q -- if you had a call at one of those residences?

8 A Yes, sir.

9 Q Okay. Did you look at any other routes other than
10 the ones that you have talked about?

11 A Yeah. I mean, I have traveled Alewine. If you
12 want to take the long way, you can go all the way down
13 201 to Abbeville County and come up Troy Murdock, but
14 that's miles away.

15 Q And what's your understanding about distances with
16 respect to how far a resident should be from the fire
17 station?

18 A Well, for insurance purposes, you know, you need
19 to be within a mile --

20 MR. MULLINAX: Objection. The witness is not
21 employed by the insurance industry. I object to his
22 testimony as being hearsay.

23 THE COURT: Lay some foundation for your question.

24 BY MR. HARMON:

25 Q Mr. Madison, have you fielded calls from insurance

1 companies about distances to residents from the fire
2 department?

3 A Can I use an incident not in this area but
4 somewhere else that was for me?

5 Q Sure.

6 A I own some land on Lake Secession in Abbeville
7 County about, I don't know, less than five miles from
8 Iva. Abbeville County Fire Department covers that
9 area. My insurance agent told me --

10 MR. MULLINAX: Objection.

11 THE COURT: Don't tell us what somebody told you.

12 THE WITNESS: My insurance -- if I got a statement
13 from Iva Fire Department that they would cover, they
14 would reduce my --

15 MR. MULLINAX: Objection. He's testifying to what
16 someone told him.

17 THE WITNESS: I got a statement from Iva.

18 THE COURT: Hold on. Tell us what you did. Tell
19 us what you did, not what somebody told --

20 THE WITNESS: I called the chief at Iva station
21 and asked the question, would he cover my house in case
22 of a fire even though I'm in Abbeville County, and he
23 said yes, and he gave me a letter. And this happened
24 several years ago. And at that time -- this was quite
25 a while ago, probably back in the '90s. At that time

1 it was about a \$300 savings on insurance.

2 BY MR. HARMON:

3 Q And how far was your property from Iva Fire
4 Department?

5 A It was less than five miles.

6 MR. HARMON: That's all the questions I have for
7 this witness.

8 THE COURT: All right.

9 Mr. Mullinax, your witness.

10 CROSS-EXAMINATION

11 BY MR. MULLINAX:

12 Q You live somewhere down here at the intersection
13 of Trail Road and Murdock Road?

14 A Yes, sir, uh-huh.

15 Q And you were testifying earlier about going
16 somewhere on Troy Murdock Road; is that correct?

17 A Yeah. I got people that lives along over there.
18 I got a little farm.

19 Q So your easiest route would be go down Alewine,
20 correct, to Troy Murdock?

21 A No. That would be the closest, but not the
22 easiest.

23 Q It would be the closest?

24 A Yeah, but sometimes you don't take the closest
25 because it's not the best.

1 Q So Alewine, according to this plat as drawn by
2 Mr. Dunn as a registered land surveyor, don't look that
3 curvy to me.

4 A Well, you need to go ride it.

5 Q Does it look curvy to you there?

6 A Yes.

7 Q It does?

8 A Uh-huh.

9 Q Does Troy Murdock Road look curvy to you?

10 A Troy Murdock, yeah, it's got curves on it.

11 Q Does that road look curvy too?

12 A That map does not show the full details of it.

13 Q You familiar with the condition of George Brock
14 Road?

15 A Yeah.

16 Q Got a lot of potholes on it, doesn't it?

17 A Yeah.

18 Q And you are also -- you tried to testify and then
19 you changed your testimony. You had said Alewine Road
20 doesn't have any shoulders, but then you said it was
21 two or three feet?

22 A Well, I mean, that's no shoulders, especially if
23 you got farm equipment. It's not a wide one like
24 George Brock.

25 Q Okay.

1 MR. MULLINAX: I don't have any further questions,
2 Your Honor.

3 THE COURT: Thank you, sir. Step down.

4 MR. HARMON: Your Honor, we would call John
5 Wendell Ashley.

6 JOHN WENDELL ASHLEY,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: If you would please take a seat at the
9 witness stand. Please state your name for the court
10 reporter.

11 THE WITNESS: John Wendell Ashley.

12 DIRECT EXAMINATION

13 BY MR. HARMON:

14 Q Mr. Ashley, where do you live?

15 A I live on Trail Road, 3536 Trail Road.

16 Q And do you own property in the vicinity of where
17 George Brock Road intersects with Rube Ashley Road?

18 A Yes, sir, I do.

19 Q What -- let me show you what's been marked as
20 Defendant's Exhibit 2.

21 A Yes, sir.

22 Q This is George Brock Road?

23 A Yes, sir.

24 Q Right here?

25 A Yes, sir.

1 Q Now, which piece of property do you own?

2 A I own this property right here, the corner of Rube
3 Ashley Road and Troy Murdock Road, 40, 50 acres there.

4 Q Okay. And do you own any property that touches
5 George Brock Road?

6 A Yes, sir, I do. I own a slice.

7 Q And how large a piece of property do you own
8 there?

9 A Well, from the center of Five Forks Road -- we
10 call that Five Forks because it's five together from
11 the center of that road -- to George Brock Road, I
12 imagine it's about 30 feet.

13 Q So you own property on the south side of George
14 Brock Road near the intersection with Alewine and Rube
15 Ashley Road?

16 A Yes.

17 MR. MULLINAX: I object to his testimony on the
18 basis of best evidence rule, Your Honor. Unless he can
19 show a plat or deed, he just can't come in here and say
20 that he owns property on George Brock Road.

21 THE WITNESS: I own --

22 THE COURT: Well, that's an issue of fact, so I
23 would overrule your objection.

24 Proceed.

25 THE WITNESS: Can I say something? There is a

1 cornerstone from -- if you're on Rube Ashley Road, from
2 the center of that road to the shoulder of Brock Road,
3 there is a metal stake. Charles -- Brian Charlesworth
4 found that stake for me when he surveyed the land.

5 THE COURT: Okay.

6 BY MR. HARMON:

7 Q And you're familiar with the property that you
8 own?

9 A Yes, sir.

10 Q Do you use George Brock Road on a regular basis?

11 A I go two, sometimes three times a day. I've got a
12 farm. I see my cows and I have to go that road.

13 Q So you travel from where you live --

14 A Yes.

15 Q -- off of Trail Road and you use George Brock Road
16 to get to your farm that's near the end of George Brock
17 Road where it intersects with Alewine Road?

18 A Yes, sir.

19 Q Thank you. I have no further questions.

20 THE COURT: Mr. Mullinax.

21 MR. MULLINAX: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. MULLINAX:

24 Q Mr. Ashley?

25 A Yes, sir.

1 Q Let me see the deed where you acquired the
2 property that you were just testifying about.

3 A You will have to go to the county, or I'm going to
4 have to go home to get it. I didn't bring it with me.

5 Q You don't have the deed?

6 A I've got a deed.

7 Q Do you have the deed with you, please, sir?

8 A No, sir.

9 Q Do you have it with you?

10 A No, sir.

11 Q Do you have your plat with you?

12 A No, sir.

13 Q Okay. So you have no evidence to show the Court
14 of a deed or a plat that would delineate the fact that
15 you own land on George Brock Road?

16 A Not with me today.

17 Q Okay. Are you able to see this board?

18 A Not too good.

19 Q Would you mind stepping down here. And please be
20 careful on these steps.

21 Can you see it okay now?

22 A Okay.

23 Q Does this start point with the star on Plaintiff's
24 Exhibit 8B reflect where you live?

25 A I live between George Brock Road and Alewine.

1 Q Would you agree that that start point on this plat
2 is approximately where your home is?

3 A Yes, sir.

4 Q Okay. And my understanding of your testimony is
5 you would use George Brock Road to go to Rube Ashley
6 Road?

7 A Yes, sir.

8 Q And you also would be able to use this route with
9 the blue line to travel down McClain Road and Alewine
10 Road to get to the same location?

11 A If I desire.

12 Q Okay. And this route, traveling down Alewine Road
13 and McClain Road, is actually a tenth of a mile
14 shorter; is that correct?

15 A I don't know about that, sir. Time-wise it might
16 not be, you know.

17 Q But distance-wise, according to the surveyor,
18 Mr. Dunn, according to this exhibit that's been
19 admitted into evidence, it is one tenth of a mile
20 shorter?

21 A It could possibly be.

22 Q Okay. So there's two routes to get to where
23 you're going?

24 A Yeah, one good one; one bad one.

25 Q I don't have any further questions.

1 THE COURT: I have a question, Mr. Ashley.

2 Which tract -- in response to the question that
3 Mr. Harmon asked you, which of these tracts on
4 Defendant's Exhibit Number 2 do you own?

5 Mr. Harmon, can you show him the exhibit?

6 Mr. Ashley, if it's still up there, I need to know
7 which tract you own.

8 THE WITNESS: Okay.

9 THE COURT: The number on it.

10 THE WITNESS: I own 2330005001. I own 2330005005.
11 And on down the road, I own the next one, 2320008002.
12 And then I own one on JT Ashley Road. I'm trying to
13 find it.

14 THE COURT: Let me cut to the basis of my
15 question.

16 Which is the tract that you claim borders --

17 THE WITNESS: Borders that road? It is
18 2330005001.

19 THE COURT: Okay. Thank you, sir.

20 THE WITNESS: I'm pretty sure that's right.

21 THE COURT: Either attorney have any question in
22 response to my question?

23 MR. MULLINAX: No, sir.

24 MR. HARMON: No, Your Honor.

25 MR. MULLINAX: And you're referring to Defense

1 Exhibit 2, which is a tax map?

2 THE COURT: That's what I was asking.

3 Thank you, sir.

4 MR. HARMON: Your Honor, the county calls Holt
5 Hopkins.

6 HOLT HOPKINS,

7 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

8 THE CLERK: Please state your name for the
9 reporter.

10 THE WITNESS: Holt Hopkins.

11 DIRECT EXAMINATION

12 BY MR. HARMON:

13 Q Mr. Hopkins, where do you live?

14 A 2005 Edgewood Avenue, Anderson.

15 Q And what is your position with the county?

16 A I am the deputy county administrator.

17 Q And what are your responsibilities as deputy
18 county administrator?

19 A I oversee multiple departments for the county, one
20 of them being roads and bridges.

21 Q Okay. And how -- what are your responsibilities
22 related to requests for a closure of roads?

23 A Mostly lately advisor to the manager of that
24 department and the others in roads and bridges.

25 Q But that person works under your supervision?

1 A The manager does, correct.

2 Q And who is the manager presently?

3 A Currently it's Matt, Matthew Hogan.

4 Q And who was the manager prior to Mr. Hogan?

5 A Tony Owens.

6 Q Let me show you, Mr. Hopkins, what has been marked
7 as Defendant's Exhibit 5. This is a multiple-page
8 document.

9 Can you identify this document?

10 A Yeah. It was a report back to county council
11 after we went through our normal procedure when an
12 abandonment request comes to roads and bridges.

13 Q And did you receive an abandonment request for
14 George Brock Road?

15 A We did. It's on page 2 of this document.

16 Q The actual petition itself?

17 A Correct.

18 Q That you received for George Brock Road, page 2 of
19 this exhibit?

20 A Page 2, yes.

21 Q And what do you do after you receive a petition to
22 close a road?

23 A Typically, we, during this time frame, we would
24 normally report to council, so that may kind of explain
25 the year between when we received it to the time this

1 report was done. But our normal procedure is that we
2 go ahead and post signs notifying the public, leaving
3 them up for 30 days and taking any public comments.
4 Our phone number is on the sign. We take any public
5 comments during those 30 days.

6 We also send letters notifying emergency services
7 as well as school districts of requests that we have
8 and invite their input back to us within that 30-day
9 time frame so we can prepare the report. We also do
10 traffic counts and look through the files, see if
11 there's anything significant in the files that we may
12 need to be aware of.

13 Q Okay. And with respect to George Brock Road, what
14 was included in the investigation of that road?

15 A As the report shows, that we did a traffic count.
16 We had 84 cars a day. We checked, double-checked the
17 width and length of the road, put that in the report.

18 Q And what was the width and length of the road?

19 A The width was 18 feet wide, and that would be the
20 surface. Whether it's under grass or not, that would
21 be the actual paved surface of the road is 18 feet wide
22 and 4,496 feet long.

23 We did receive some public comments during that
24 time, 17 according to this report, with all of them
25 being in opposition of closing.

1 Q And did the roads and bridges department prepare
2 the third page in this document, which is a map of
3 George Brock Road?

4 A Yes. Using our GIS data, we prepared that for
5 presentation to council.

6 Q And let me direct your attention to page 4 of the
7 document.

8 MR. MULLINAX: May it please the Court, Your
9 Honor. I would object to the document which is denoted
10 Defendant's Exhibit Number 5 on the basis that it was a
11 part of an ancillary proceeding that is not under the
12 provisions of SC Code 57-9-10. The county could have
13 opened it, the county could have closed it, but the
14 fact of what the county did has no relevance or
15 rationale as to the Court's ruling on the issues in
16 this case, and, therefore, it's irrelevant and
17 immaterial to the issues that are before the Court to
18 be determined, and I object to the basis of this filing
19 back in 2015.

20 THE COURT: Mr. Harmon.

21 MR. HARMON: Your Honor, the county cannot close a
22 road, as has been asserted. The county goes through a
23 procedure to advise county council when our roads and
24 bridges department receives a petition.

25 The witness has already testified that they send

1 letters to school districts, to emergency service
2 providers and asks for their comment. And he's
3 testifying as to what he received back and put in the
4 report and in the packet that went to county council.

5 I don't understand the objection about this
6 particular document.

7 MR. MULLINAX: In addition, Your Honor, it's all
8 hearsay. I mean, he can testify to what he knows.
9 Mr. Hopkins is a knowledgeable individual who has been
10 with roads and bridges in effect for many years, very
11 smart guy, and he can testify to what he knows, but as
12 far as what's contained in this, it's all hearsay.

13 THE COURT: I'll overrule the objection for the
14 purposes of the proceeding, but, Mr. Harmon, I will
15 have you redact the letters from third parties who may
16 be expressing opinions in the case that would
17 constitute hearsay.

18 I know you got some letters from various folks.
19 This witness is testifying about the procedure and the
20 letter that his office puts out, which I'm going to
21 allow. I think that's proper testimony, but I believe
22 there's some communication from third parties that
23 would constitute hearsay, so I'll let you have this
24 exhibit back. You can redact those.

25 MR. HARMON: Third parties meaning are you talking

1 about Anderson County Fire Commission?

2 THE COURT: Right. And then there is a list of
3 people that are expressing opposition or favor. He's
4 testified there's 17 people that were opposed, which I
5 don't object to that, but as to the individual stating,
6 "I am opposed," that's a hearsay statement unless they
7 come to testify to that.

8 So there is a page in here with people's names,
9 and if you want to redact that.

10 MR. HARMON: I've got one here that's not clipped
11 together.

12 THE COURT: And the letter from the fire
13 department would need to be redacted as well. Unless
14 you have that person coming as a witness, then you
15 could put it in through him.

16 MR. HARMON: I do not.

17 THE COURT: Are you okay with letters that went
18 out from -- he can testify to what his office did and
19 see if he can identify the packet, and certainly the
20 petition itself I'm going to allow in because that's
21 what the plaintiff submitted.

22 (WHEREUPON, Defendant's Exhibit Number 5 was
23 remarked for identification.)

24 BY MR. HARMON:

25 Q Mr. Hopkins, let me ask you, if you would, to look

1 at the last page of the document.

2 Would your department have taken those
3 photographs?

4 A Yes. These were just documenting that our signs
5 were in place. And the first page shows the dates
6 that -- the date range that those signs were there
7 marked -- I mean March 25, 2015, until or after
8 April 24, 2015.

9 Q Okay. And what was your roads and bridges
10 department recommendation with regard to closure of
11 George Brock Road?

12 A The last paragraph of the report says that we do
13 not recommend the closing based on the letters we got.

14 MR. MULLINAX: Objection.

15 THE COURT: State your objection.

16 MR. MULLINAX: My objection was that he was going
17 to state what was received in the petition. If they
18 recommended not closing it, that's his answer to the
19 question. Anything else would be hearsay, Your Honor.

20 MR. HARMON: He's explaining his recommendation.

21 THE COURT: Don't testify as to what somebody else
22 said, but you can explain your answer.

23 THE WITNESS: Just based on their responses, we
24 concluded to not recommend the closure.

25 MR. HARMON: Okay.

1 BY MR. HARMON:

2 Q Now, what response -- who did you receive
3 responses from?

4 A We did receive a letter back from the fire
5 commission, fire chief, and we received an e-mail back
6 from the school district, and we received phone calls.

7 Q Okay. And the phone calls consisted of some 17
8 public comments?

9 A Yes.

10 MR. HARMON: Counsel, approach.

11 (WHEREUPON, a bench conference was held off the
12 record.)

13 MR. HARMON: Your Honor, we would move into
14 evidence Defendant's Exhibit Number 5 as it has been
15 redacted.

16 THE COURT: So admitted.

17 (WHEREUPON, Defendant's Exhibit Number 5 was
18 admitted into evidence.)

19 BY MR. HARMON:

20 Q Mr. Hopkins, let me ask you to look at Defendant's
21 Exhibit 2.

22 Do you recognize what that document is?

23 A Let me get my bearings. Yes, sir.

24 Q And can you describe what the document is?

25 A That looks like it's from our GIS system, county

1 mapping system, showing the area of George Brock Road
2 and the parcel tax maps, tax parcel numbers along with
3 it.

4 Q Along George Brock Road?

5 A Along with the road maps, I mean, showing the
6 roads and the tax map numbers.

7 MR. HARMON: Your Honor, we would move Defendant's
8 Exhibit 2 into evidence.

9 THE COURT: It's this document?

10 MR. HARMON: Yes, sir.

11 THE COURT: Any objection?

12 MR. MULLINAX: Let me look at it, Your Honor. I'm
13 not certain which one that is.

14 No objection.

15 THE COURT: So Defendant's Exhibit 2 would be
16 admitted without objection.

17 (WHEREUPON, Defendant's Exhibit Number 2 was
18 admitted into evidence.)

19 MR. HARMON: Your Honor, I have an affidavit from
20 the records custodian for the two resolutions that were
21 done by county council regarding this road closure that
22 I'm going to hand up to you. These resolutions were
23 mentioned in the plaintiff's complaint.

24 THE COURT: These are the same ones that you
25 referenced in your complaint?

1 MR. MULLINAX: They're mentioned, but they are not
2 contained as a result of trying to establish
3 chronologically what had occurred over the last three
4 years.

5 Again, the objection would be to the relevancy and
6 materiality to the issues before the Court because if
7 the county council had seen fit to open these roads
8 totally, that has no bearing on the Court's right to
9 say, "No, I'm closing the roads." Or if they had
10 closed them, the Court can say, "I'm opening them."

11 So what the county council said has no bearing, no
12 relevancy, and no materiality and no probative value,
13 Your Honor, on the proceedings that we're here today
14 about.

15 MR. HARMON: Well, I think it does, Your Honor,
16 because they were mentioned in the plaintiff's
17 complaint. For whatever reason I didn't get a copy of
18 the exhibits when the complaint was served on the
19 county, and I don't know whether they were actually
20 filed with the Court or not.

21 MR. MULLINAX: They were not.

22 MR. HARMON: But they are mentioned in the
23 complaint, and I think they do have relevance to this
24 matter because it is an expression of what county
25 council's feeling is with regard to keeping the road

1 open or closing the road.

2 MR. MULLINAX: Your Honor, the issue is whether or
3 not it is in the interest of the public or whether or
4 not it would be a detriment to the public. County
5 council cannot claim to be a member of the public.

6 MR. HARMON: Well, the thought occurs to me, Your
7 Honor, that they are elected representatives of the
8 people of Anderson County.

9 MR. MULLINAX: If --

10 THE COURT: The Court has the ultimate authority
11 whether to close a road under the statute. The statute
12 broadly defines what the standard is, so I'm going to
13 overrule the objection. I'm going to let it in.

14 Again, county council does not determine whether
15 or not a road should be closed. Only the Court can do
16 that. The decision of county council is not binding on
17 the Court. So Mr. Mullinax is absolutely correct in
18 that assertion.

19 For the purposes of determining the public
20 interest, I will allow it in again for whatever it's
21 worth.

22 BY MR. HARMON:

23 Q Now, Mr. Hopkins, there's been a lot of testimony
24 today about the condition of George Brock Road. Are
25 you familiar with the condition of the road?

1 A It's been a while since I've been on the road.

2 Q Mr. Hopkins, I'm going to hand you photographs
3 that have been marked 9A through G, I believe. Could
4 you review those photographs?

5 And I'm most concerned -- I want you to review
6 them with respect to whether or not the county has done
7 maintenance work on the road.

8 A Exhibit 9D is what I'm referring to. It very
9 clearly shows that, although this may not be timely
10 maintenance, but it is maintenance. We have patched
11 this pothole, and it appears to me that we have patched
12 it more than once.

13 Q And would you explain why that photograph shows
14 that it's been patched more than one time?

15 A There's two different materials being used or at
16 least on the right side, looking at the photo. The
17 patching material is much older than the patching
18 material on the left. So it shows me that we have
19 maintained it. We do cut the shoulder, the grass on
20 the shoulder, as part of my normal routes around the
21 county. Beyond that, that's about all the photos tell
22 me.

23 Q Are there any other photos that show any
24 maintenance work that had been done by the county?

25 A Not lately. I mean, I don't see anything that

1 stands out like that does.

2 Q How many miles of road does the county maintain?

3 A The county maintains a little over 1,500 miles of
4 road throughout the county.

5 Q And can you describe how weather conditions impact
6 the maintenance of the road?

7 A Well, just the sun, it deteriorates asphalt, and
8 eventually over time, it will make it crumble. That's
9 when water starts getting under it and the potholes
10 start developing.

11 Wintertime is the hardest on it. It would get a
12 freeze-thaw effect on the roads. And lack of funding,
13 we haven't been able to keep every road on its proper
14 schedule of repaving or resurfacing. We don't pave
15 every road. We could even come back and tar and gravel
16 a rural road such as this, but we haven't done that.
17 From the photos, it looks like it's been many years
18 since it's been resurfaced of any kind.

19 Q And do you try to keep roads on a regular schedule
20 to maintain?

21 A Most of our maintenance such as pothole patches is
22 more of a response-type activity. If it's reported or
23 noticed by one of our people, we will turn it in as a
24 work request. Things like mowing, that's on a router
25 system. We do that. We try to get anywhere from four

1 to six times a year. Don't always make it that much,
2 but that's what we try.

3 Signage and some of the other maintenance
4 activities, again, would be on response. If somebody
5 reports it to us, then we'll react to it.

6 Q Okay.

7 MR. HARMON: Your Honor, I have no further
8 questions for this witness.

9 MR. HARMON: All right.

10 Mr. Mullinax.

11 CROSS-EXAMINATION

12 BY MR. MULLINAX:

13 Q Mr. Hopkins, look at those photographs of George
14 Brock Road that you have in front of you that you just
15 went through.

16 Pretty abysmal maintenance, wouldn't you say?

17 A I wish it was better.

18 Q And it is or would be difficult for any vehicles,
19 emergency, fire, or just a personal vehicle, to travel
20 down the road at any reasonable speed?

21 A I mean, I'm hesitant to answer that because I
22 don't know if I can agree with you or not. It's been a
23 while since I've been on the road. I don't know the
24 placement of the potholes or if you can get around
25 them.

1 Q You agree with me, though, that the potholes are
2 deep?

3 A Yes.

4 Q You agree with me that water is ponding on the
5 road?

6 A Yes.

7 Q And you would agree with me that if someone came
8 down there and hydroplaned on those road surfaces and
9 it's the county's responsibility to maintain them and
10 killed a child working on the side of the road, I'd be
11 in my rights to name Anderson County as a defendant in
12 that case, wouldn't I?

13 A I assume, but I don't know how long -- how hard it
14 was raining at the time of this, whatever. None of our
15 roads can drain everything.

16 Q You don't have any personal knowledge of the
17 maintenance or any of the work that has been done at
18 any time on George Brock Road?

19 A No, sir, I do not review those records.

20 Q And you weren't out there when it was done or
21 anything like that; is that correct?

22 A No, sir.

23 Q You do have personal knowledge of the fact that
24 School District 2 bus transportation doesn't use George
25 Brock Road at all, don't you?

1 A Based on their response to us, yes.

2 Q All right, sir.

3 Back when -- and His Honor has allowed into
4 evidence Defendant's Exhibit 1, which pertains to the
5 resolutions to county council?

6 A Yes.

7 Q That was based on a petition that was brought by
8 Mr. Austin Wood?

9 A Yes.

10 Q And Mr. Wood requested that the county council
11 abandon George Brock Road?

12 A Correct.

13 Q And Mr. Wood owns property on George Brock Road?

14 A Correct.

15 Q And you have been present in the courtroom and
16 heard both Mr. Wood and Mr. Murdock testify; isn't that
17 correct?

18 A Correct.

19 Q And Mr. Wood wants George Brock Road closed as
20 well as Mr. Murdock?

21 A Correct.

22 Q And during the time Mr. Wood was maintaining that
23 action to abandon, you and I had a couple conversations
24 about the closure of George Brock Road, didn't we?

25 A Yes.

1 Q And at that time, you told me you didn't really
2 have any objection from a transportation standpoint?

3 A Yes. That was before we had heard back from other
4 parties.

5 Q Okay. But you and I had a conversation in which
6 you said, from a transportation standpoint, George
7 Brock Road was not needed by Anderson County?

8 A That is correct.

9 Q Okay. That's all the questions I have.

10 THE COURT: Anything further from this witness?

11 MR. HARMON: Nothing further, Your Honor.

12 THE COURT: Thank you, sir. You can step down.

13 MR. HARMON: That completes our case.

14 THE COURT: Is there any reply testimony?

15 MR. MULLINAX: Yes, Your Honor. May I have a
16 second.

17 Your Honor, if it please the Court, would you mind
18 maybe having a five-minute break to allow myself and
19 the county attorney to confer?

20 THE COURT: That's fine. We'll take a short
21 break.

22 (WHEREUPON, a recess was taken from 3:59 p.m. to
23 4:11 p.m.)

24 MR. MULLINAX: May it please the Court.

25 In reply, we have two documents, a deed recorded

1 in the register of deeds office for Anderson County in
2 Deed Book 3974 at page 249 which refers to a plat which
3 we also have a copy of, Plat Book 87 at page 929 that
4 shows the intersection of George Brock Road, Rube
5 Ashley Road, Troy Murdock Road, and Alewine Road as is
6 shown on Plaintiff's Exhibit 5, and we're not going to
7 offer any testimony.

8 The county attorney has kindly agreed to stipulate
9 to the introduction of these. And the reason Exhibit 5
10 is important is on that plat, the judge would look at
11 it, where George Brock Road is, it refers to it as Joe
12 Ashley Road.

13 MR. HARMON: Joe Black.

14 MR. MULLINAX: I'm sorry, Joe Black Road.

15 And with that stipulation, I would move for these
16 to be admitted into evidence.

17 THE COURT: All as Plaintiff's 5?

18 MR. MULLINAX: I guess it would be a new Exhibit.
19 I was just referring to 5 to show you --

20 THE COURT: So we're going to mark this two as one
21 exhibit?

22 (WHEREUPON, Plaintiff's Exhibit Number 11 was
23 marked for identification.)

24 THE COURT: Is that correct, Mr. Harmon?

25 MR. HARMON: Yes, Your Honor.

1 THE COURT: All right. So those will be admitted
2 without objection.

3 (WHEREUPON, Plaintiff's Exhibit Number 11 was
4 admitted into evidence.)

5 MR. MULLINAX: That's the case.

6 THE COURT: All right. Y'all have given me a
7 significant amount of material to review and the
8 testimony. I'm going to take this under advisement.
9 I'm going to deem the case as being submitted, and I
10 will have my law clerk e-mail you a decision once I
11 have reached one.

12 I'd like to attorneys to come forward and count
13 all the exhibits and make sure that they're all there,
14 and then we can conclude the hearing.

15 (WHEREUPON, proceedings concluded at 4:14 p.m.)

16 ***END OF REQUESTED TRANSCRIPT OF RECORD***

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STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, **C. BRUCE MURDOCK** of 300 South Griffin Mill Court, Spartanburg, South Carolina, do hereby appoint **BRENT A. MURDOCK**, of 3124 Trail Road, Belton, South Carolina as my true and lawful Attorney in Fact with full power and authority to act for me and in my name, place and stead, and to make any and all decisions concerning litigation to be commenced to close George Brock Road in Anderson County, South Carolina, with full power and authority to act for and on my behalf in connection with the making of decisions, the execution of any and all documents, and any and all other matters involved in the above refernced litigation.

Granting also to such Attorney in Fact, full authority and power to execute, acknowledge and deliver all such other instruments as may be necessary or desirable to exercise the powers herein granted.

I, as principal, do hereby expressly declare that this Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing her own estate.

I, as principal, do hereby further expressly declare that at any time after the onset of any mental disability, my Attorney in Fact shall not be required to (a) file an inventory of my deposits, choses in action, or personal property with any probate, or other court. (b) post any surety bond with any probate or other Court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 23rd day of Nov. 2015.

C. Bruce Murdock
C. BRUCE MURDOCK

Melanie W. Hiltz
Witness

Elizabeth A. Cox
Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF Union)

ACKNOWLEDGMENT

I, the undersigned Notary Public for South Carolina do hereby certify that the Grantor/Principal personally appeared before me this day and acknowledged the due execution of the foregoing.

Witness my hand and official seal this 23rd day of November, 2015

Alyssa Lambert
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 12/22/2019



STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

LIMITED POWER OF ATTORNEY

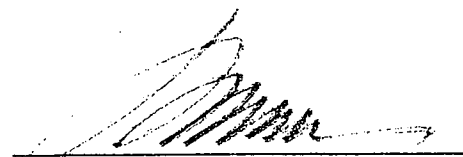
KNOW ALL MEN BY THESE PRESENTS, that I, DORIS B. MURDOCK of 3040 Trail Road, Belton, South Carolina, do hereby appoint BRENT A. MURDOCK, of 3124 Trail Road, Belton, South Carolina as my true and lawful Attorney in Fact with full power and authority to act for me and in my name, place and stead, and to make any and all decisions concerning litigation to be commenced to close George Brock Road in Anderson County, South Carolina, with full power and authority to act for and on my behalf in connection with the making of decisions, the execution of any and all documents, and any and all other matters involved in the above refernced litigation.

Granting also to such Attorney in Fact, full authority and power to execute, acknowledge and deliver all such other instruments as may be necessary or desirable to exercise the powers herein granted.

I, as principal, do hereby expressly declare that this Power of Attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing her own estate.

I, as principal, do hereby further expressly declare that at any time after the onset of any mental disability, my Attorney in Fact shall not be required to (a) file an inventory of my deposits, choses in action, or personal property with any probate, or other court, (b) post any surety bond with any probate or other Court.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 5th day of January 2016.



Doris B. Murdock
DORIS B. MURDOCK

Witness
Sandra C. Mullinax
Witness

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ACKNOWLEDGMENT

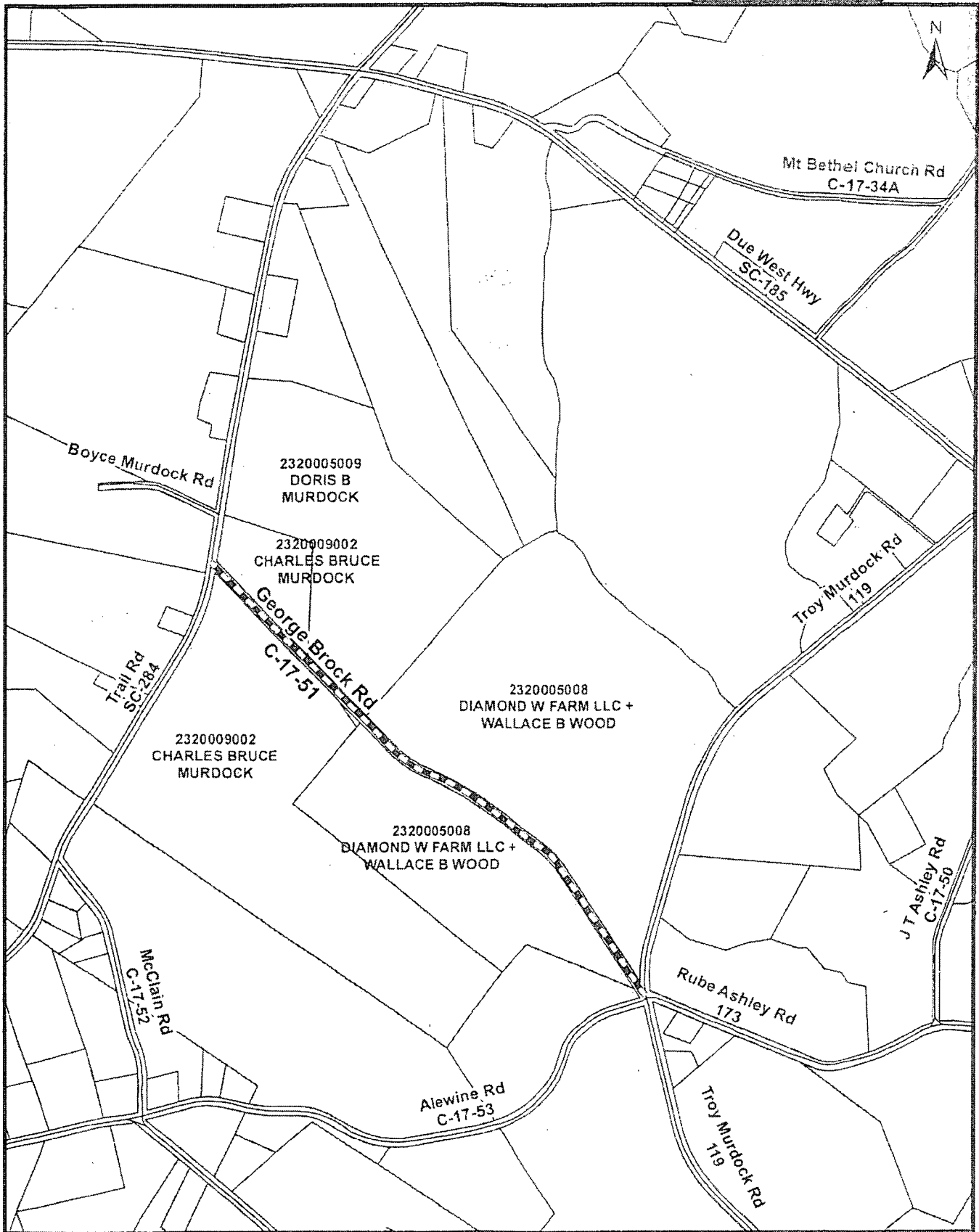
I, the undersigned Notary Public for South Carolina do hereby certify that the Grantor/Principal personally appeared before me this day and acknowledged the due execution of the foregoing.

Witness my hand and official seal this 5th day of Jan, 2016

Sandra C. Mullinax
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 7/12/2019
Sandra C. Mullinax

George Brock Rd C-17-51

PENGAD 800-631-9989
PLAINTIFF'S
EXHIBIT
5



George Brook

NOTICE
ENGINEER
PLANNING
CONSTRUCTION
ILLINOIS

PLAINTIFF'S
EXHIBIT
6

PENAD 800-637-6869

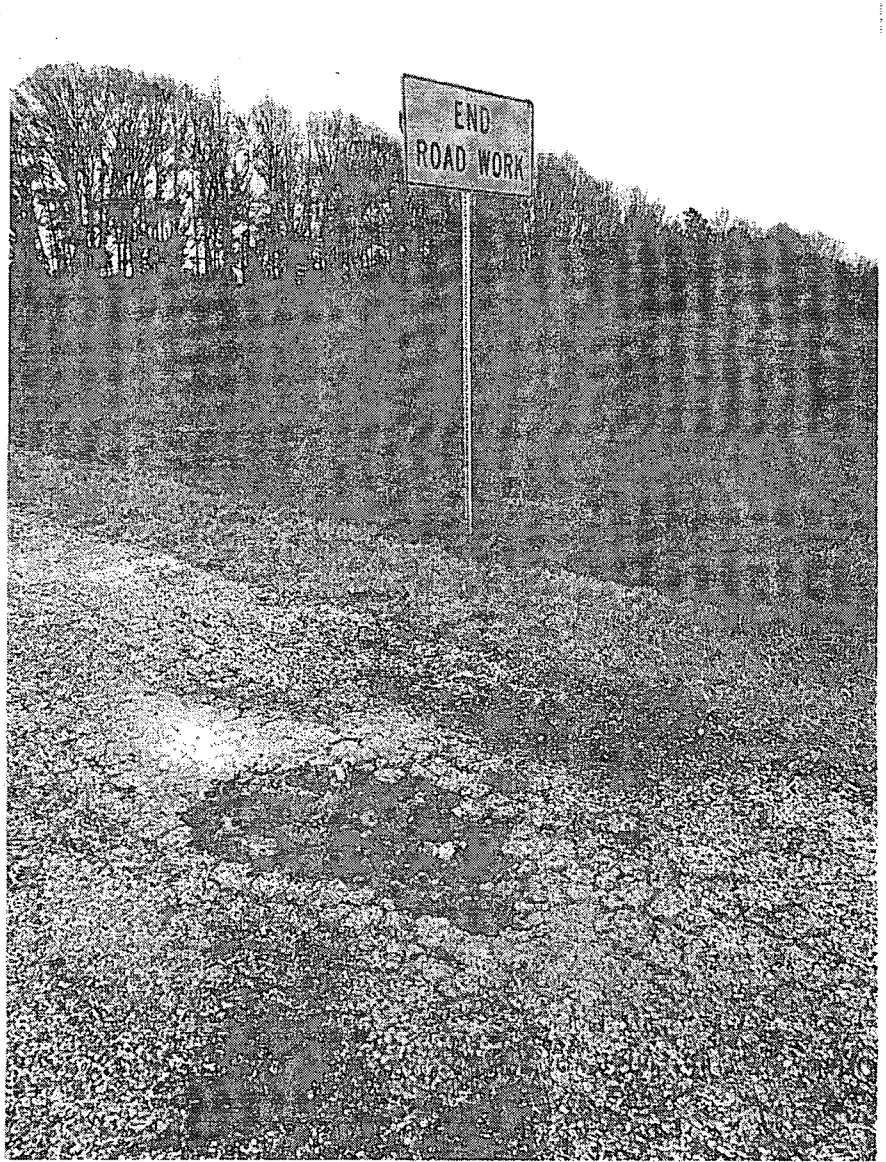
NOTICE
PENDING ROAD
CLOSURE
—
57-9-10, AS AMENDED
—
FOR INFORMATION
CALL (864)261-6242

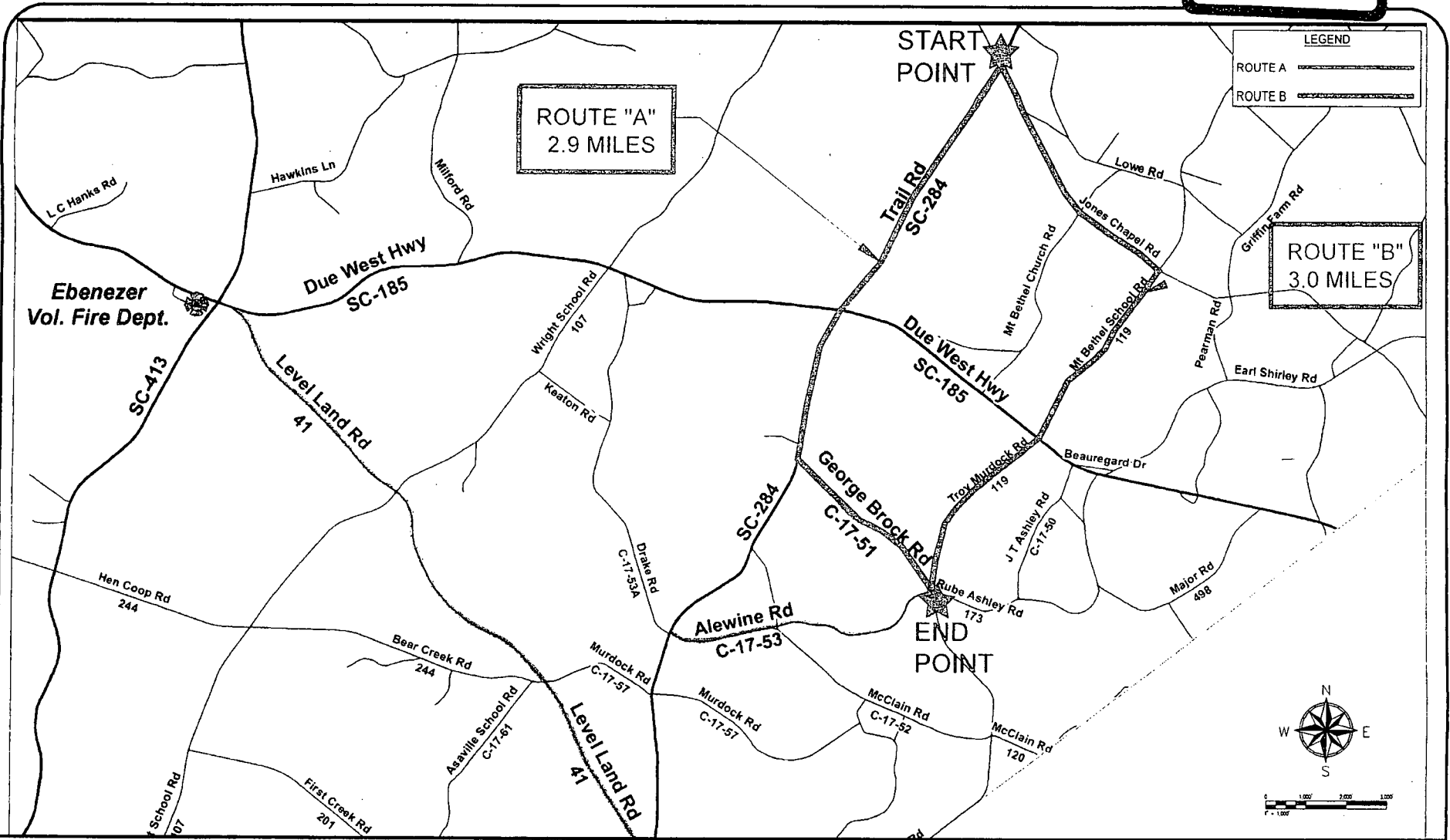


George Brock C 17 51 RD

NOTICE
PENDING ROAD
CLOSURE
NOTICE
FOR INFORMATION
CALL (864) 264-2332



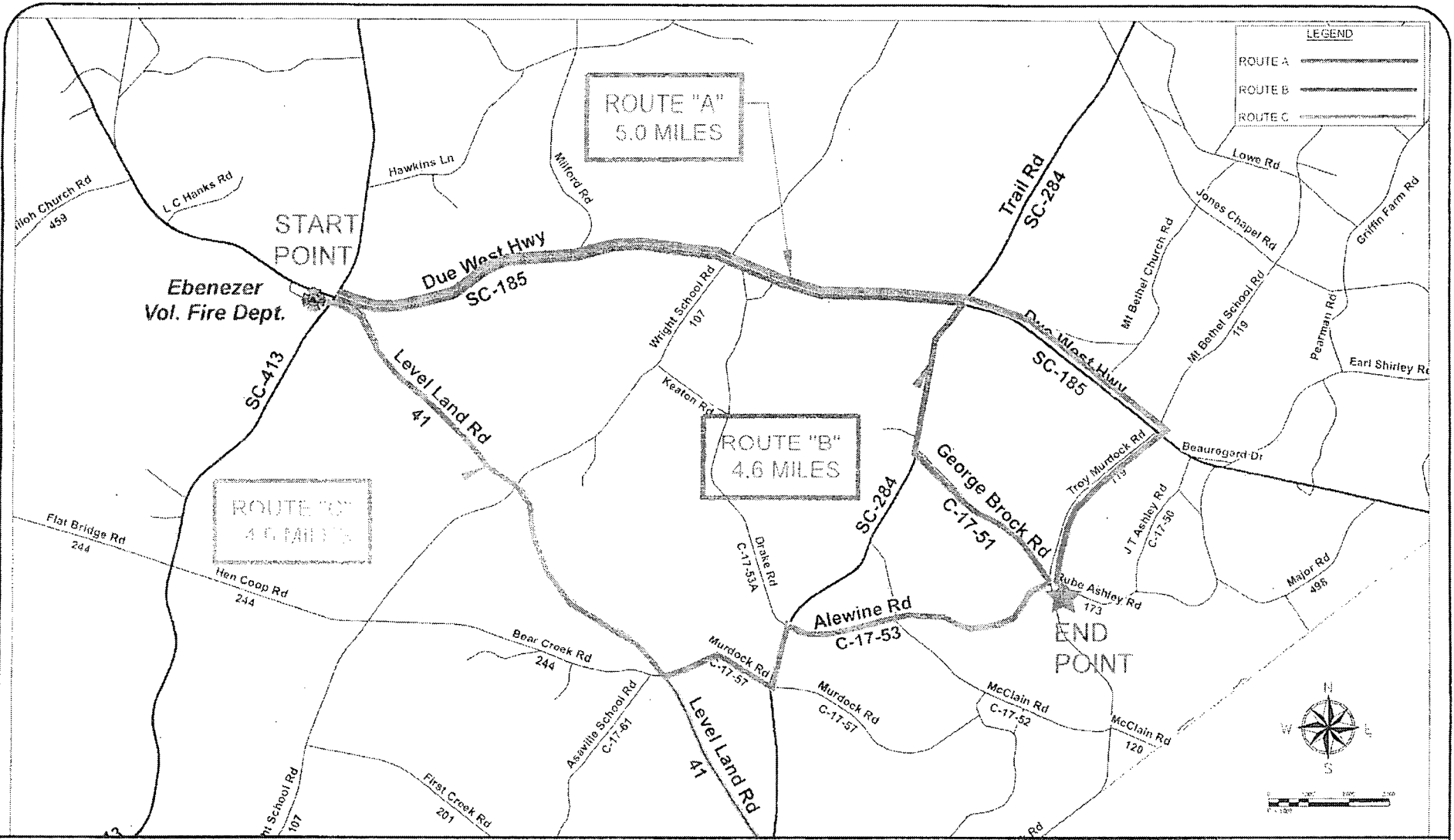




MAP PREPARED FOR
BRENT MURDOCK

ROUTE COMPARISON
TRAIL RD & JONES CHAPEL RD
(ACCESS TO BELTON)
TO
GEORGE BROCK ROAD & RUBE ASHLEY ROAD

MAP 2 OF 3
SEPTEMBER 21, 2018

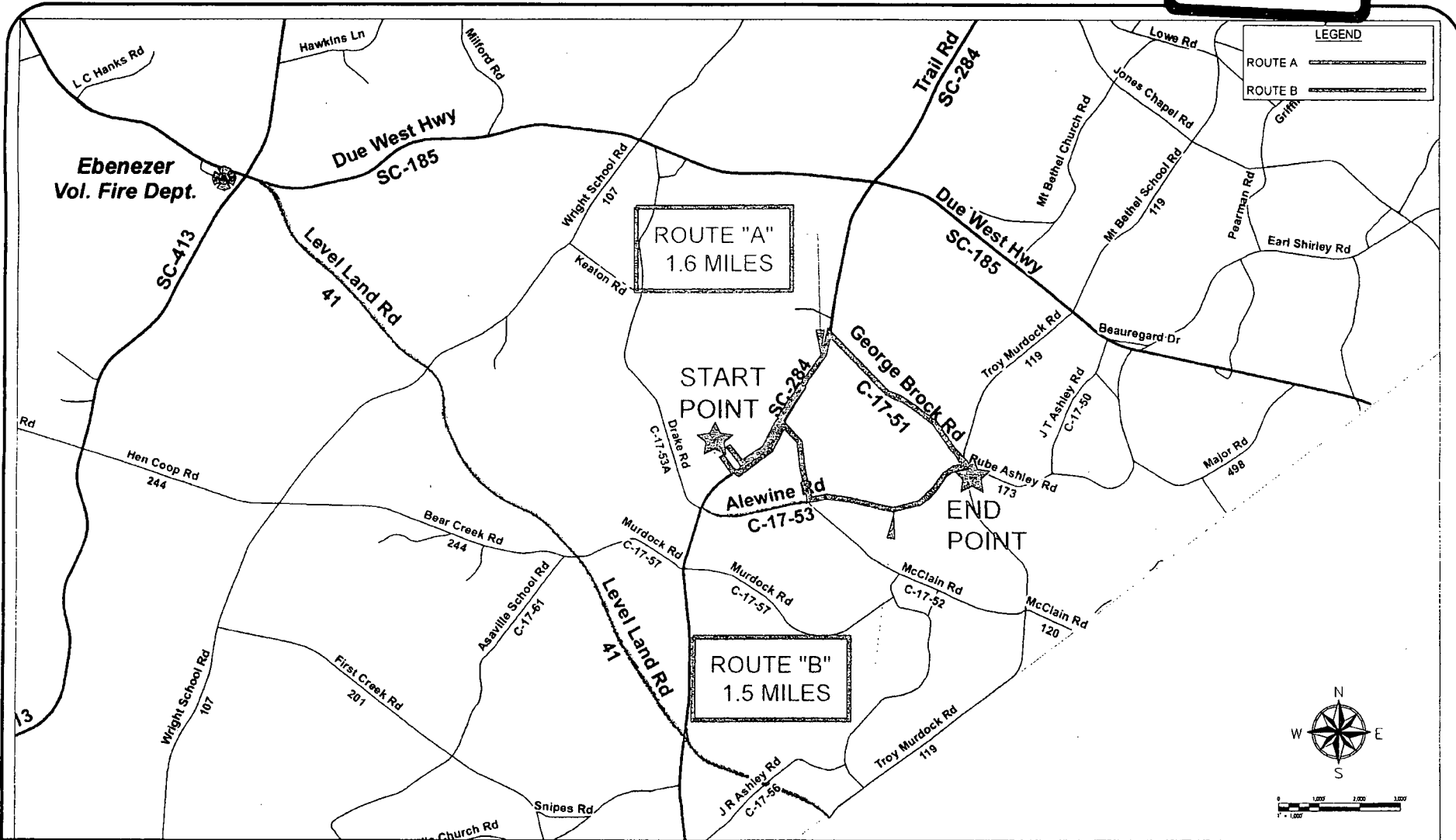


MAP PREPARED FOR
BRENT MURDOCK

ROUTE COMPARISON
EBENEZER FIRE VOLUNTEER DEPARTMENT
TO
GEORGE BROCK ROAD & RUBE ASHLEY ROAD

MAP 1 OF 3
SEPTEMBER 21, 2018

PLAINTIFF'S
EXHIBIT
3



MAP PREPARED FOR
BRENT MURDOCK

ROUTE COMPARISON
3536 TRAIL RD (JOHN WENDELL ASHLEY RESIDENCE)
TO
GEORGE BROCK ROAD & RUBE ASHLEY ROAD

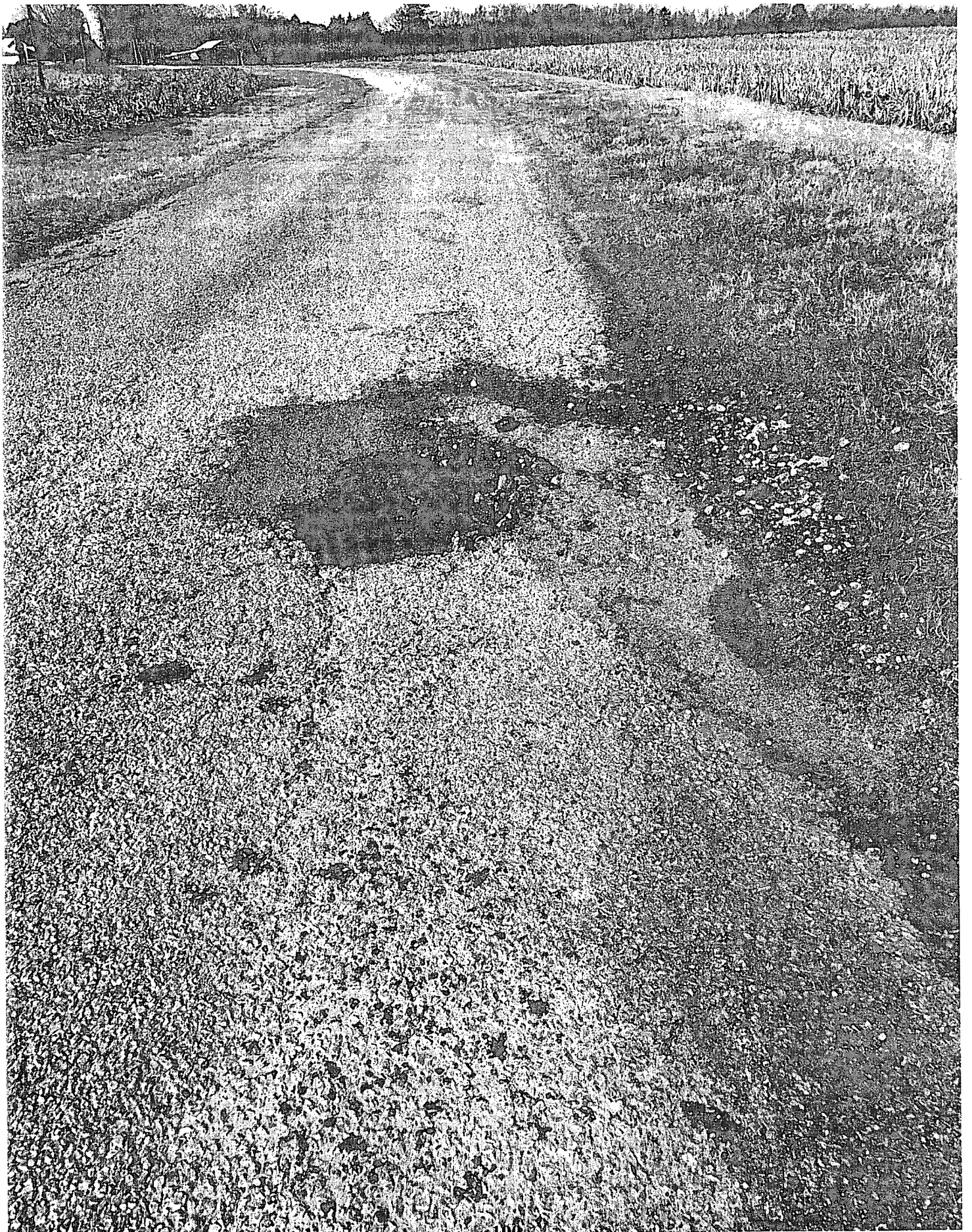
MAP 3 OF 3
SEPTEMBER 21, 2018



PENGAD 000-431-8989
PLAINTIFF'S
EXHIBIT
9

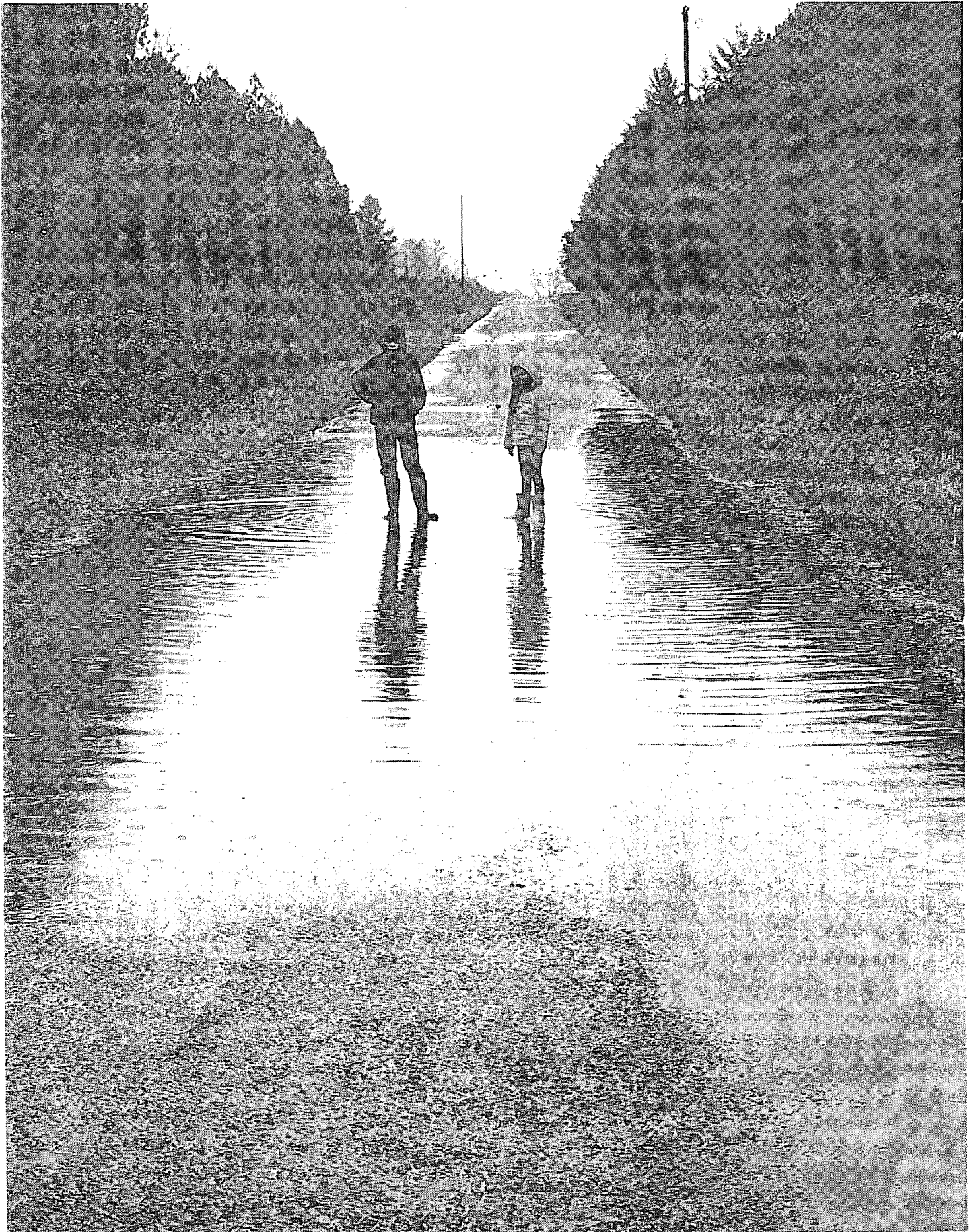


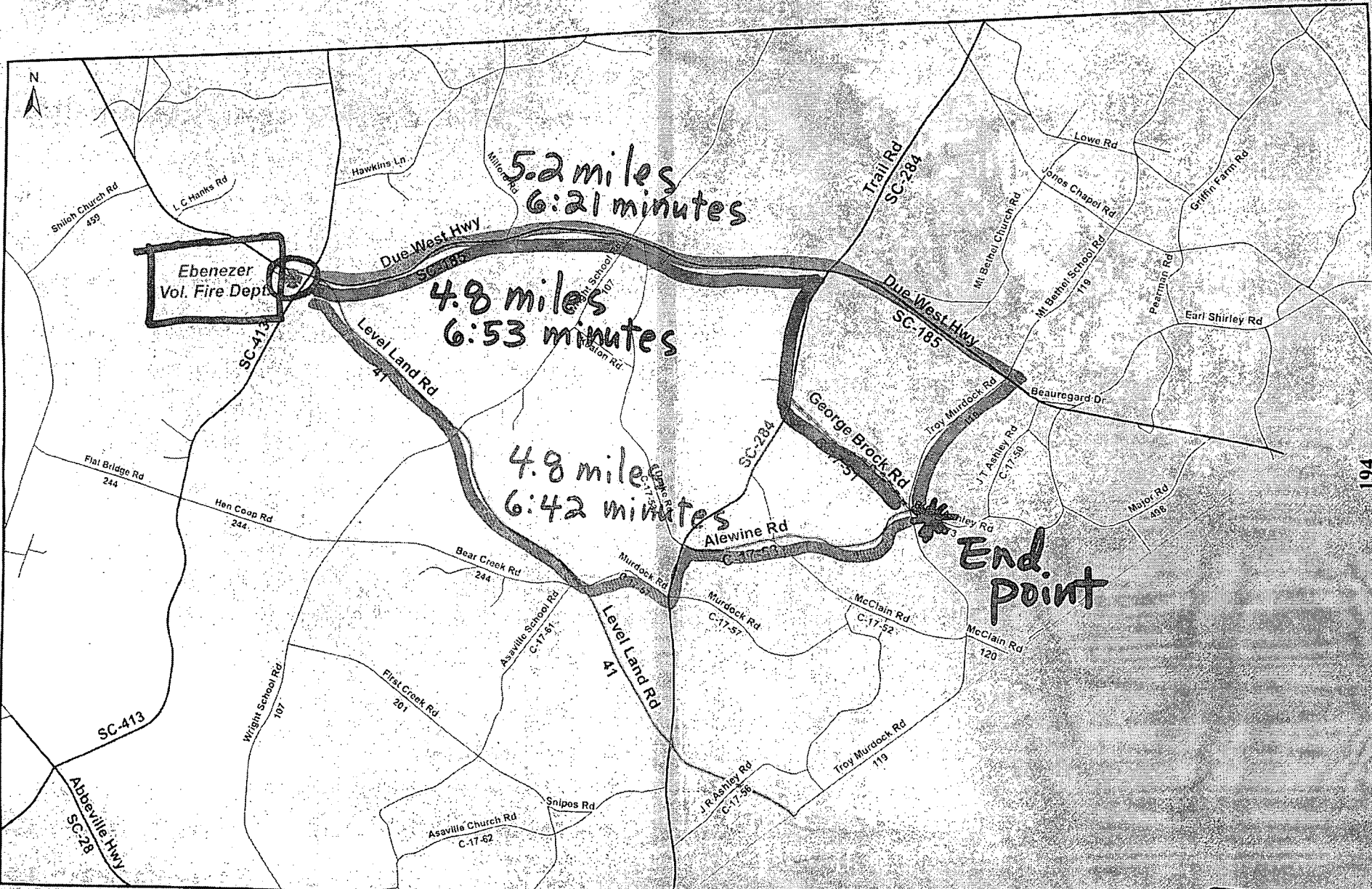












May 22, 2017

PLAINTIFF'S EXHIBIT
10

RESOLUTION NO. R2015-022

**A RESOLUTION EXPRESSING COUNTY CONSENT TO JUDICIAL
ABANDONMENT OF GEORGE BROCK ROAD DESIGNATED C-17-0051;
AND OTHER MATTERS RELATED THERETO**

WHEREAS, George Brock Road designated C-17-0051 (the "Road") is currently a paved Anderson County (the "County") public road:

WHEREAS, the Road in question is shown on the map prepared by Anderson County Roads and Bridges Engineering Department on April 1, 2015 attached hereto as **Exhibit A** and incorporated herein by reference;

WHEREAS, the adjoining land owners (hereinafter collectively the "Petitioners") have requested that Anderson County abandon the Road in order to deter unsolicited traffic. The Petition is attached hereto as **Exhibit B** and incorporated herein by reference;

WHEREAS, Anderson County Fire Protection Commission has expressed its position that closure of the Road will impact emergency vehicle response to the citizens in the area and, therefore, opposes the closure of the Road. The letter is attached hereto as **Exhibit C** and incorporated herein by reference;

WHEREAS, with respect to the Road, Anderson County has complied with its ordinances and regulations pertaining to abandonment and closure of Anderson County public roads;

WHEREAS, Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council desires to express its intent to take a neutral position regarding continued maintenance of the Road:

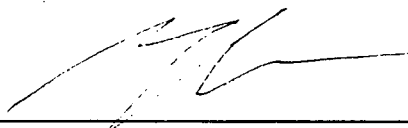
NOW, THEREFORE, be it resolved by Anderson County Council in meeting duly assembled that:

1. Anderson County, acting by and through its County Council, hereby states that Anderson County Council takes a neutral position regarding the closure and judicial abandonment of George Brock Road designated as C-17-0051.
2. All orders and resolutions in conflict herewith are, to the extent of such conflict only, repealed and rescinded.

4. Should any part or portion of this resolution be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding shall not affect the remainder hereof, all of which is hereby deemed separable.
5. This resolution shall take effect and be in force immediately upon enactment.

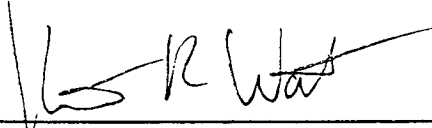
RESOLVED this 5th day of May, 2015, in meeting duly assembled.

ATTEST:

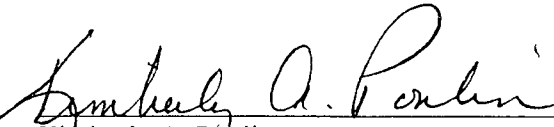


Rusty Burns
Anderson County Administrator

FOR ANDERSON COUNTY:

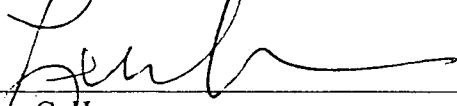


Ken Waters, Vice-Chairman
District Six



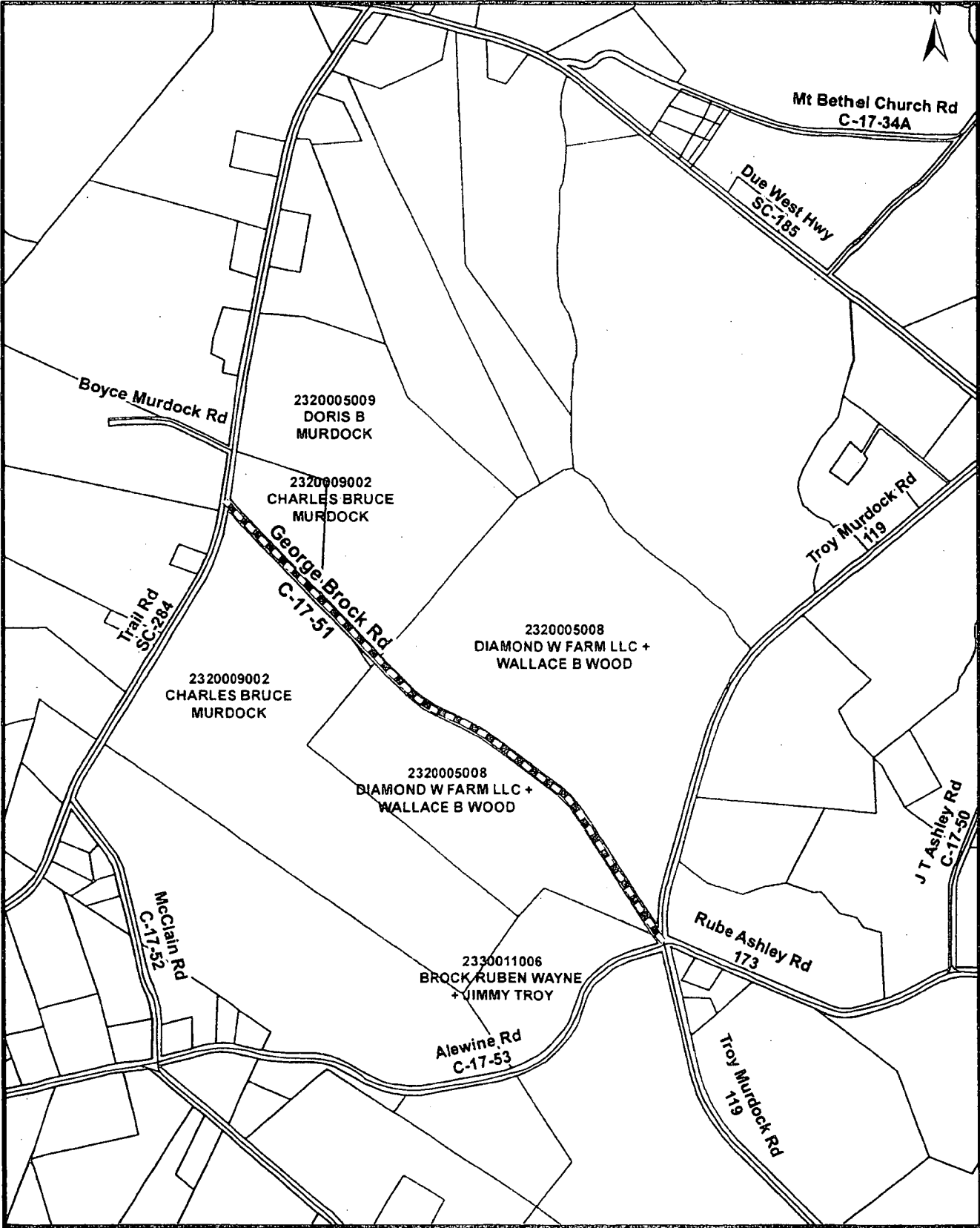
Kimberly A. Poulin
Clerk to County Council

APPROVED AS TO FORM:



Leon C. Harmon
Anderson County Attorney

Exhibit A
George Brock Rd C-17-51
Proposed Abandonment



April 1, 2015

Anderson County Roads & Bridges

RECEIVED
3/20/2015

Exhibit B

Only one signature per household will be counted.

Date: 3/24/14

PETITION

We, the undersigned landowners, do petition the Anderson County Roads and Bridges to abandon the road or portion of named below.

ROAD NAME: George Brock RD

Name	Address	Phone #
Lamar W Farm LLC	452 Rivermill RD PlumBranch SC 29845	864-993-5029
Wallace Wood	" "	864-993-5012

* Davis B. Murdock 864-296-1871

Charles Bruce Murdock 864-579-7061

I am the contact person for this road and will be responsible for the expedition of information between the Anderson County Roads and Bridges Engineering Section and the landowners on the proposed road.

Name Austin Wood (Owner of Diamond W Farm LLC) DiamondWLLC@ email
 Address 4342 Shiloh Church RD Aiken SC 29801 email
 Telephone #: 864-993-5029 .SD

Exhibit C

Anderson County Fire Protection Commission

210 McGee Road
Anderson, South Carolina 29625
Telephone: (864) 260-4016
Fax: (864) 260-4015

Jimmy R. Sutherland
Anderson County Fire Chief



GLENN G. HOLLIDAY
CHAIRMAN

PRESTON COX
VICE CHAIRMAN

S.W.K. SORENSEN
TREASURER

COMMISSION MEMBERS
GERALD HANKS
WILLARD WILES

April 2, 2015

**Roads and Bridges Department
735 Michelin Boulevard
Anderson, SC 29626
Attn: Tony Owens**

Subject: George Brock Road Closure

Dear Mr. Owens:

On behalf of the Anderson County Fire Department this closure will impact our emergency vehicle response time to the Citizens in this area. George Brock Road is a short cut and we oppose to the road closure.

We appreciate your time and consideration. Please advise if we can be of further assistance.

Sincerely,


**Jimmy Sutherland
Assistant Fire Chief
Anderson County Fire Protection Commission**

RESOLUTION NO. R2017-024

A RESOLUTION EXPRESSING COUNTY INTENT TO CONTINUE MAINTENANCE OF GEORGE BROCK ROAD DESIGNATED C-17-0051; AND OTHER MATTERS RELATED THERETO.

WHEREAS, George Brock Road designated C-17-0051 (the "Road") is currently a paved Anderson County (the "County") public road;

WHEREAS, the Road in question is shown on the map prepared by Anderson County Roads and Bridges Engineering Department on April 1, 2015 attached hereto as **Exhibit A** and incorporated herein by reference;

WHEREAS, the adjoining land owners (hereinafter collectively the "Petitioners") have requested that Anderson County abandon the Road in order to deter unsolicited traffic. The Petition is attached hereto as **Exhibit B** and incorporated herein by reference;

WHEREAS, Anderson County Fire Protection Commission has expressed its position that closure of the Road will impact emergency vehicle response to the citizens in the area and, therefore, opposes the closure of the Road. The letter is attached hereto as **Exhibit C** and incorporated herein by reference;

WHEREAS, with respect to the Road, Anderson County has complied with its ordinances and regulations pertaining to abandonment and closure of Anderson County public roads; and

WHEREAS, Anderson County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council, desires to express its position to continue maintenance of the Road.

NOW, THEREFORE, be it resolved by Anderson County Council in meeting duly assembled that:

1. Anderson County, acting by and through its County Council, hereby states that Anderson County Council expresses its opposition that George Brock Road designated as C-17-0051 being closed and further expresses its desire to continue maintenance of this road.
2. All orders and resolutions in conflict herewith are, to the extent of such conflict only, repealed and rescinded.
3. Should any part or portion of this resolution be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding shall not affect the remainder hereof, all of which is hereby deemed separable.

4. This resolution shall take effect and be in force immediately upon enactment.


RESOLVED this 2nd day of May 2017, in meeting duly assembled.

ATTEST:

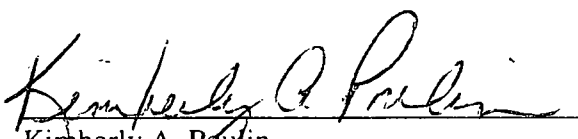
FOR ANDERSON COUNTY:



Rusty Burns
Anderson County Administrator

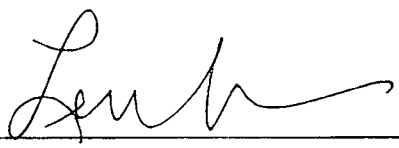


Tommy Dunn, Chairman
County Council



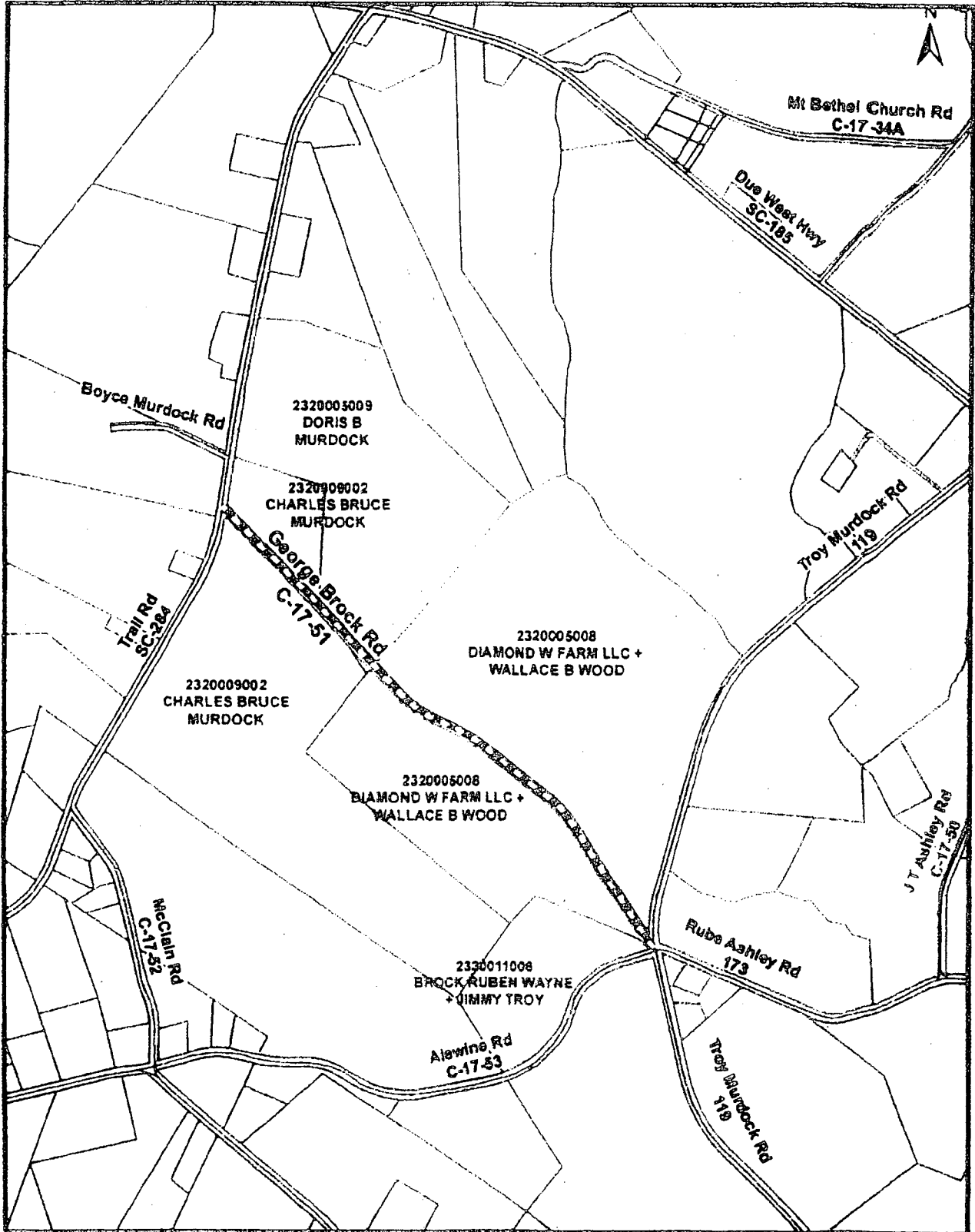
Kimberly A. Powell
Clerk to County Council

APPROVED AS TO FORM:



Leon C. Harmon
Anderson County Attorney

Exhibit A
George Brock Rd C-17-51
Proposed Abandonment



April 1 2015

Anderson County Roads & Bridges

received
3/20/2015

Exhibit B

Only one signature per household will be counted

Date: 3/24/14

PETITION

We, the undersigned landowners, do petition the Anderson County Roads and Bridges to abandon the road or portion of named below.

ROAD NAME: George Branch RD

Name	Address	Phone #
Demond W Farm LLC	452 Rivermill RD PlumBranch SC 29345	864-993-5029
Wallace Wood	" "	864-993-5012

* Darin B. Murdock 864-296-1871

Charles Owen Murdock 864-579-7061

I am the contact person for this road and will be responsible for the expedition of information between the Anderson County Roads and Bridges Engineering Section and the landowners on the proposed road.

Name Austin Wood (Owner of Demond W Farm LLC) email DemondWLLC@
 Address 4342 Shiloh Church RD Aiken SC 29801
 Telephone #: 864-993-5029

Exhibit C

Anderson County Fire Protection Commission

210 McGee Road
Anderson, South Carolina 29625
Telephone: (864) 260-4016
Fax: (864) 260-4015

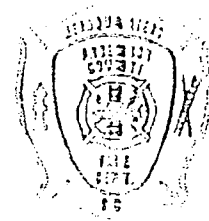
Jimmy R. Sutherland
Anderson County Fire Chief

GLENN C. HOLIDAY
CHAIRMAN

PRESTON COX
VICE CHAIRMAN

S.V.V. SORENSEN
TREASURER

COMMISSION MEMBERS
GERALD HANKS
WILLARD WILLES



April 2, 2015

Roads and Bridges Department
735 Michelin Boulevard
Anderson, SC 29626
Attn: Tony Owens

Subject: George Brock Road Closure

Dear Mr. Owens:

On behalf of the Anderson County Fire Department this closure will impact our emergency vehicle response time to the Citizens in this area. George Brock Road is a short cut and we oppose to the road closure.

We appreciate your time and consideration. Please advise if we can be of further assistance.

Sincerely,


Jimmy Sutherland
Assistant Fire Chief
Anderson County Fire Protection Commission

Anderson County, South Carolina
Geographic Information Systems

County Home Page | Results | Help



Search Results Layers

Results List

Details

3 Features Found

< Prev Next >

ROADS	
L_ADD	101
L_T_ADD	399
R_ADD	100
R_T_ADD	398
PRE_DIP	
STR_NAME	GEORGE BROCK
STR_TYPE	RD
POST_DIR	
ATT_TYP	COUNTY_ROAD
RDNAME	GEORGE BROCK RD
ROADNUM	C-17-51
NUMBER	C-17-0051
EXIT_NO	
RANK_TYPE	
COMMENTS	
SPEED	Null
LINE_TYPE	
PO_NAME1	Belton
PO_NAME2	Belton
DRWAY	6
CLASS	Major Rural Local
ZIP1	29627
ZIP2	29627
L_ESR	165
R_ESR	165
SURFACE	Impervious
L_LAW	Anderson County Sheriff
L_FIRE	FD Ebenezer Sta 23
L_POL	3
R_LAW	Anderson County Sheriff
R_FIRE	FD Ebenezer Sta 23
R_POL	3
X_EMS	3
SHAPE_LENGTH	4532.56383
MODIFIEDBY	RPHILLIPS
L_CCD	Three
R_CCD	Three

Zoom To Buffer Clear



DEFENDANT'S
EXHIBIT
3

1/18/2019

206

1416 Due West Hwy to

www.mapquest.com

Sign up Log in

Mapquest

Start Over

Home Food Maps Coffee County Gas

Hampton by Hilton

Start Over

1416 Due West Hwy

398 Troy Murdock Rd

351 George Brock Rd

Add Step Route Settings

Multiple Stops

7 min 5.4mi

Est. fuel cost: \$6.49

Current Traffic: Light

Mapquest

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7:52 PM 1/17/2019

207

PENGAO 800-631-6988

DEFENDANT'S EXHIBIT

3

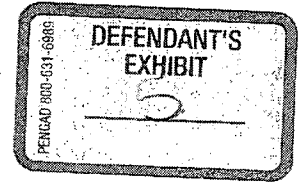


Anderson County

Roads and Bridges Department

735 Michelin Boulevard, Anderson, SC 29626 • (864) 260-4190 • Fax (864)332-5474

Memorandum



To: Mr. Rusty Burns, County Administrator
From: Tony Owens, Roads and Bridges Manager
Date: April 27, 2015
CC: Holt Hopkins, File
RE: Proposed Abandonment of George Brock Road, C-17-0051

Please forward the information provided to all members of Council.

Please find attached information regarding the proposed abandonment of the above road. The landowners have requested abandonment in order to deter unsolicited traffic.

Enclosed is a petition signed by all landowners. They were provided a copy of Anderson County Ordinance regarding abandonment and closure of public roads policies and procedure and were notified in writing of their responsibilities for obtaining legal title to the road if Council approves abandonment by resolution.

Notification signs were placed on the road on March 25, 2015. Signs were in place for 30 days on April 24, 2015.

Notification of the proposed abandonment was mailed to Emergency Service providers and Anderson School District Two Transportation Department. The school district transportation department has no problem with the road closure. Anderson County Fire Protection Commission is opposed to the closure due to emergency vehicle response time to citizens in this area.

Our department has conducted a thorough investigation of this road.

- Public notification signs were posted for 30 days.
- There were 17 public comments – All are opposed to the closure
- Road is in general public use
- Road runs from Trail Road to Troy Murdock Road
- Road length to be abandoned is 4,496 linear feet and 18 feet wide
- Pavement type is tar and gravel with prescriptive right-of-way
- Average Daily Traffic Count is 84 cars per day

Photographs and location map are enclosed for your convenience.

Due to Anderson County Fire Protection Commission's opposition to this proposed closure, Anderson County Roads and Bridges does not recommend closing George Brock Road.

Enclosures

Tommy Dunn
Chairman
Council District 5

Ken Waters
Vice-Chairman
Council District 6

Frances M. Crowder, Sr.
Council District 1

Gracie S. Floyd
Council District 2

J. Mitchell Cole
Council District 3

Thomas F. Allen
Council District 4

M. Cindy Wilson
Council District 7

Kimberly A. Poulin
Clerk to Council

Rusty Burns
County Administrator



Accredited by the
American Public
Works Association

Member of the Anderson County Public Works Division

RECEIVED
3/20/2015

Only one signature per household will be counted.

Date: 3/24/14

PETITION

We, the undersigned landowners, do petition the Anderson County Roads and Bridges to abandon the road or portion of named below.

ROAD NAME: George Brock RD

Name	Address	Phone #
Diamond W Farm LLC	452 Five Mill RD Plum Branch SC 29845	864-993-5029
Wallace WOOD	" "	864-993-5012

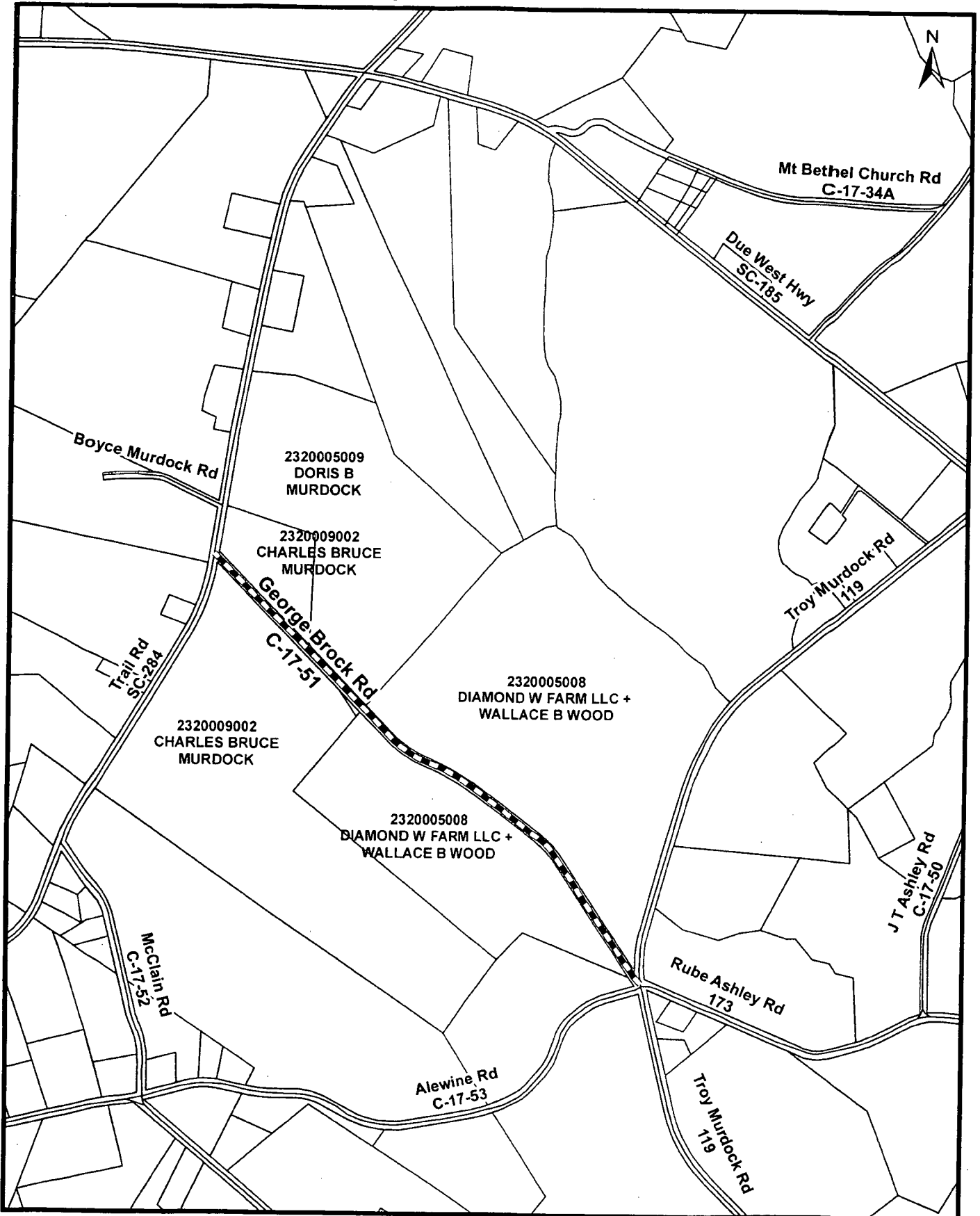
* Darin B. Murdock		864-296-1871
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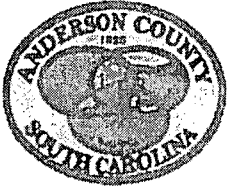
Charles Bruce Murdock		864-579-7061
-----------------------	--	--------------

I am the contact person for this road and will be responsible for the expedition of information between the Anderson County Roads and Bridges Engineering Section and the landowners on the proposed road.

Name	<u>Austin WOOD (Owner of Diamond W Farm LLC)</u>	email
Address	<u>4342 Shiloh Church RD Aiken SC 29801</u>	Diamond W LLC @
Telephone #:	<u>864-993-5029</u>	email

**George Brock Rd C-17-51
Proposed Abandonment**





Anderson County
Roads and Bridges Department

735 Michelin Boulevard, Anderson, SC 29626 • (864) 260-4190 • Fax (864) 332-5474

March 24, 2015

Tommy Dunn
Chairman
Council District 5

Ken Waters
Vice-Chairman
Council District 6

Chief Billy Gibson
Anderson County Fire Department
210 McGee Road
Anderson, SC 29625

Dear Chief Gibson:

Francis M. Crowder, Sr.
Council District 1

We have received a request from property owners to abandon George Brock Road, C-17-51. The road runs from Trail Road to Troy Murdock Road. Owners request abandonment to alleviate unwanted traffic and vagrant activity.

Gracie S. Floyd
Council District 2

J. Mitchell Cole
Council District 3

We would appreciate your input as to how this closure might impact emergency vehicle response to neighboring citizens. A response from you within 30 days regarding this matter would be greatly appreciated. If this closure has no effect, we will proceed with the abandonment process.

Thomas F. Allen
Council District 4

M. Cindy Wilson
Council District 7

A location map is enclosed for your convenience.

Kimberly A. Poulin
Clerk to Council

Thank you in advance for your assistance with this matter. You may contact me by email at towens@andersoncountysc.org if you desire.

Rusty Burns
County Administrator

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Owens".

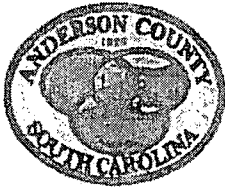
Tony Owens
Manager

Enclosures



Accredited by the
American Public
Works Association

Member of the Anderson County Public Works Division



Anderson County

Roads and Bridges Department

735 Michelin Boulevard, Anderson, SC 29626 • (864) 260-4190 • Fax (864) 332-5474

March 24, 2015

Tommy Dunn
Chairman
Council District 5

Ken Waters
Vice-Chairman
Council District 6

Francis M. Crowder, Sr.
Council District 1

Gracie S. Floyd
Council District 2

J. Mitchell Cole
Council District 3

Thomas F. Allen
Council District 4

M. Cindy Wilson
Council District 7

Kimberly A. Paulin
Clerk to Council

Rusty Burns
County Administrator

Larry Shirley, Director of Transportation
Anderson County School District Two
10990 Belton-Honea Path Highway
Honea Path, SC 29654

Dear Mr. Shirley:

We have received a request from property owners to abandon George Brock Road, C-17-51. The road runs from Trail Road to Troy Murdock Road. Owners request abandonment to alleviate unwanted traffic and vagrant activity.

We would appreciate your input as to how this closure might impact bus routing to neighboring streets. We would appreciate a response within 30 days.

A location map is enclosed your convenience.

Thank you in advance for your assistance with this matter. You may contact me by email at towens@andersoncountysc.org if you desire.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Owens".

Tony Owens
Manager

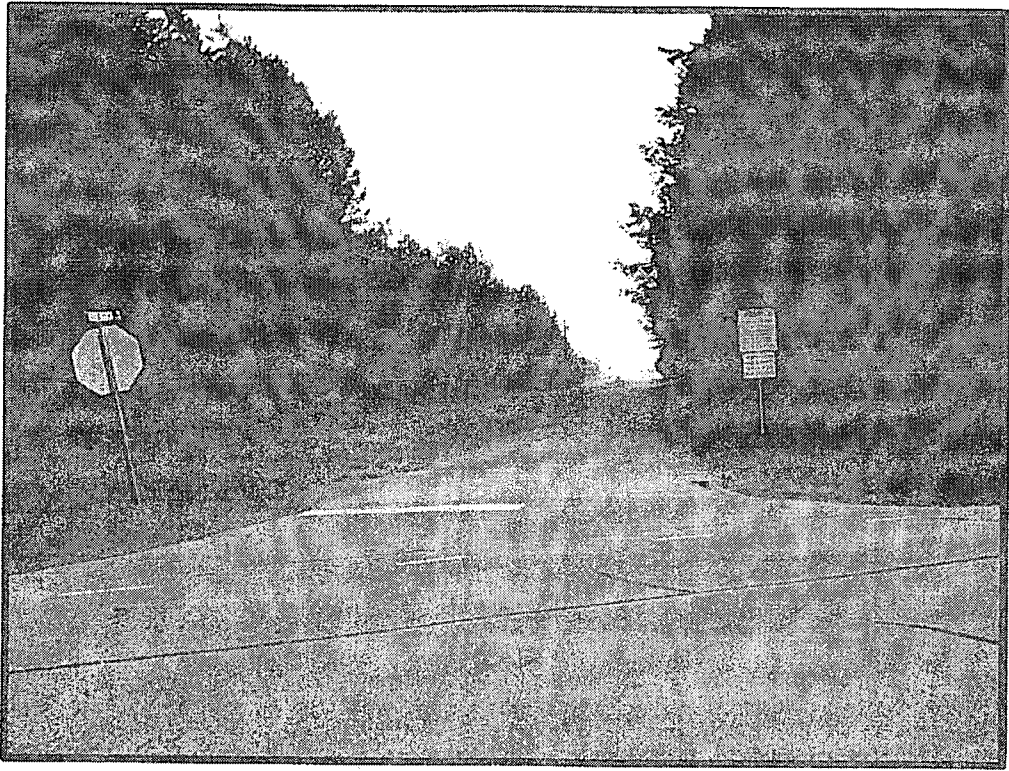
Enclosures



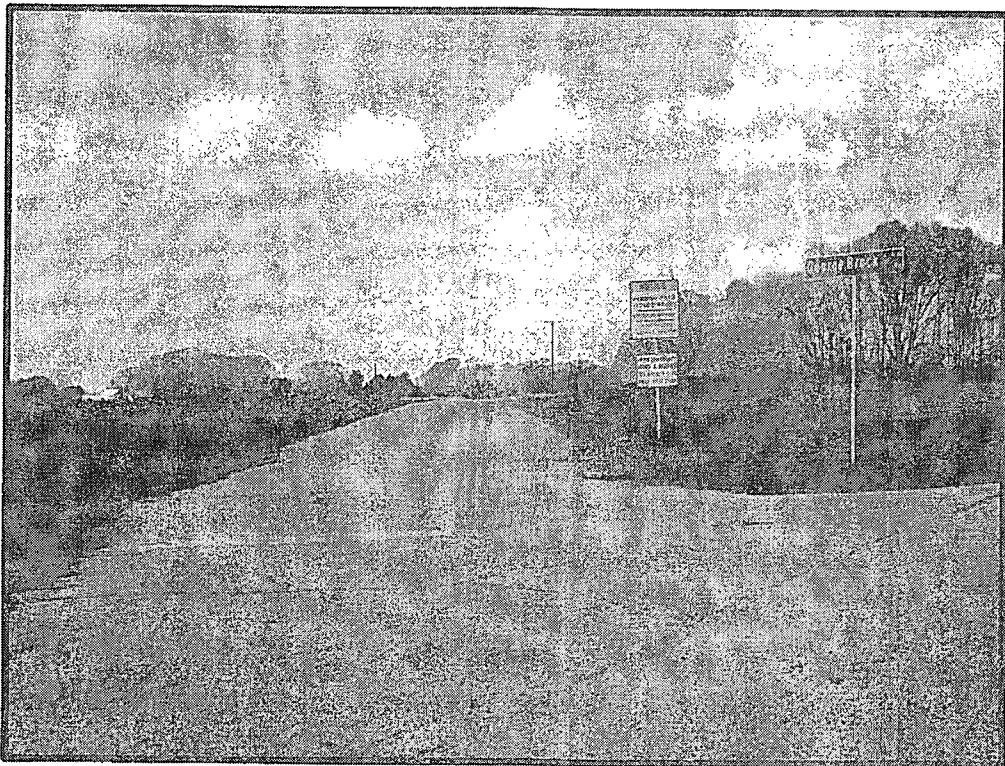
Accredited by the
American Public
Works Association

Member of the Anderson County Public Works Division

Proposed Abandonment of George Brock Road, C-17-51




George Brock Road at Trail Road



George Brock Road at Troy Murdock Road

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



Joshua B. Raffini
S.C. Bar No. 101338
PRUITT & PRUITT
101 N. Murray Ave.
Anderson, South Carolina 29625
(864) 224-3121
Attorneys for Appellant

RECEIVED

OCT 14 2019

SC Court of Appeals