

IN THE SPECIAL COURT OF EMINENT DOMAIN
DESOTO COUNTY, MISSISSIPPI

MISSISSIPPI TRANSPORTATION COMMISSION

PETITIONER

VS.

CIVIL ACTION NO. 99-0687

OSCAR DUNCAN ESTATE, ET AL

DEFENDANTS

STATE MS. - DESOTO CO.
FILED

SEP 20 9 42 AM '00

ORDER GRANTING PETITIONER
RIGHT OF IMMEDIATE TITLE AND POSSESSION

BK 379 PG 654
W.F. ...

This day this Cause having come on to be heard on the motion of the Plaintiff, Mississippi Transportation Commission, for an order granting said Plaintiff the right of immediate title and possession and entry upon the land sought to be condemned and as described in Exhibit "A" attached hereto and incorporated herein, and it appearing that the report of the Court-appointed appraiser has been filed with the Clerk of this Court showing the sum of \$92,000.00 as total compensation and damages for the taking of the Defendants' land, proper notice of said appraisal reports having been given to the Court and to the Defendants as required by law, the Court has reviewed the Court-appointed appraiser's appraisal and considered the same, finds said motion is well taken and that Plaintiff is entitled to immediate title and possession and entry upon the land described in Exhibit "A" attached hereto.

IT IS, THEREFORE, ORDERED AND ADJUDGED that Plaintiff, Mississippi Transportation Commission, be and it is hereby granted the right of immediate title and possession and entry upon the lands sought to be condemned as described in Exhibit "A"

FILED 13 DAY OF April 2000
Abel K. Thompson
CIRCUIT COURT CLERK, DESOTO COUNTY, MISS.

attached hereto and in the Complaint as amended filed herein, provided only that said Plaintiff first deposit with the Clerk of this Court not less than eighty-five percent (85%) of the amount of compensation and damages as determined by said Court-appointed appraisal, as provided by Section 11-27-85, as amended, Mississippi Code of 1972 Annotated.

SO ORDERED AND ADJUDGED on this the 13th day of April, 2000.

Mary E. Bamber

JUDGE, SPECIAL COURT OF
EMINENT DOMAIN

APPROVED AS TO FORM AND ENTRY:

Hollaman M. Raney

HON. HOLLAMAN M. RANEY
Attorney for Plaintiff
Hollaman Raney, P.C.
Post Office Box 1480
Oxford, MS 38655
(662) 236-4001
MSB #4628

STATE OF MISSISSIPPI
DE SOTO COUNTY
I, Dale K. Thompson, Clerk of the Circuit Court in and for said County and State, hereby certify that the foregoing is a true and correct copy of the Order as same appears on file or on record in Book _____ Page _____ of the Records of De Soto County, Mississippi.
Witness my hand and official seal this the 19 day of September, 2000
Dale K. Thompson
Circuit Clerk, De Soto County, Mississippi

IN THE SPECIAL COURT OF EMINENT DOMAIN
DESOTO COUNTY, MISSISSIPPI

MISSISSIPPI TRANSPORTATION COMMISSION

PLAINTIFF

VS.

CIVIL ACTION NO. Co-99-0687

OSCAR DUNCAN ESTATE, ET AL

DEFENDANTS

EXHIBIT "A"

INDEXING INSTRUCTIONS: NW 1/4 OF SECTION 33
TOWNSHIP 2 SOUTH, RANGE 9 WEST,
DESOTO COUNTY, MISSISSIPPI

Begin at the intersection of the Western line of Defendants property with the centerline of survey of State Project No. 94-0029-01-002-10 at survey Station 16+513.590; from said point of beginning run thence North along said Western property line, a distance of 52.832 meters (173.333 feet) to the Northern line of Defendants property; thence run East along said Northern property line, a distance of 737.525 meters (2419.701 feet); thence run southeasterly along a line that is 70.000 meters (229.659 feet) Northerly of and parallel with the centerline of survey of said project, an arc distance of 68.812 meters (225.761 feet) to the Eastern line of Defendants property; thence run South along said Eastern property line, a distance of 70.000 meters (229.659 feet) to the centerline of survey of said project at survey Station 17+322; thence run South along said Eastern property line, a distance of 70.000 meters (229.659 feet); thence run Northwesterly along a line that is 70.000 meters (229.659 feet) Southerly of and parallel with the centerline of survey of said project, an arc distance of 96.815 meters (317.635 feet) to a point that is 70.000 meters (229.659 feet) Southerly of and perpendicular to the centerline of survey of said project at survey Station 17+226.077; thence run North 89° 00' West along a line that is 70.000 meters (229.659 feet) Southerly of and parallel with the centerline of survey of said project, a distance of 709.941 meters (2329.203 feet) to the Western line of Defendants property; thence run North along said Western property line, a distance of 70.000 meters (229.659

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feet) to the point of beginning, containing 10.656 hectares (26.331 acres), more or less.

All of the above being situated in the Northwest 1/4 of Section 33, Township 2 South, Range 9 West, DeSoto County, Mississippi.

Together with any and all abutters rights of access, if any, in, to, over, on and across the above described parcel of land.

All of the above excepting and excluding therefrom all oil and gas and other minerals which may be produced through a well bore.

ORDER

Upon careful consideration, this Commission has determined it to be in the best interest of the motorists and taxpayers of Mississippi to locate, relocate, construct and/or reconstruct a segment of SR 304 from US 61 to SR 301, a part of the Mississippi State Highway System, as a part of State Project Number 94-0029-01-002-10, DeSoto County, Mississippi. To accomplish this project, the Commission finds it necessary to acquire for public use certain property belonging to OSCAR DUNCAN ESTATE, ET AL or their successor in title, as is more particularly described in File Number 009-0-00-W, (or as amended) on file in these offices, all of which is made part hereof by this reference; and

Being unable to agree with the Owner(s) and/or other parties interested in said property, this Commission, after solemn and due consideration, does hereby declare said property necessary for public use and orders that it be condemned. Further, this Commission authorizes and requests the Office of Attorney General, directly or through contracted private attorneys and/or other necessary professionals, to institute any and all condemnation proceedings necessary to acquire the above described property for the public use mentioned, including all access rights as shown by the plans for said project and as defined in an Order of this Commission dated February 9, 1999, in Minute Book 6, at Pages 1611 & 1612; and

In support of this Order to Condemn, the Commission acknowledges and declares its eligibility to obtain the right of immediate title and possession under the provision of Section 11-27-81 of the Mississippi Code; and.

This Commission further declares that it will suffer irreparable harm and delay by exercising the right to condemn the subject property through eminent domain proceedings pursuant to Code Sections 11-27-1 through 11-27-51, as opposed to claiming the right of immediate title and possession of said property pursuant to Code Section 11-27-81 through 11-27-91. A construction contract, the completion of which requires the acquisition of the subject property, has been let or will be let in the near future. Federal funding may be utilized in the construction of this project; and

In all projects where Federal funds are involved, it is necessary for the Mississippi Transportation Commission to certify to the Federal Highway Administration that all rights of entry to designated right of way property (including the subject property) have been acquired or will imminently be acquired before the release of Federal funds can be authorized. Right of entry to all right of way property must be forthwith vested in the Mississippi Transportation Commission or the construction project that is the subject of said construction contract will be prevented or significantly impaired; and

The Chief Engineer of the Mississippi Department of Transportation is directed to prepare evidence for the condemnation proceedings hereby authorized and ordered.

MOVED, SECONDED AND ORDERED this the 13th day of July, A.D., 1999, by the following vote:

Commissioners voting aye:

Dick Hall, Chairman
Wayne H. Brown

BOOK 7

PAGE 1949 & 1950

<p>Certified a true and correct copy of the document on file in the offices of the Mississippi Department of Transportation, this the <u>30th</u> day of <u>September</u>, 19<u>99</u>.</p> <p><u>Linda O. Ferrell</u></p> <p>LINDA O. FERRELL, SECRETARY</p>
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BK 0379 PG 0659

CONTROLLED ACCESS ORDER

Upon motion duly made and seconded, and Commissioners Zack Stewart and Wayne H. Brown, each voting yes, under the authority of the Commission, in conformity with and as spread on its minutes, Controlled Access Order recorded in Book 4, Pages 531 & 532 on February 25, 1997, is hereby amended to correct referenced Station Numbers along U.S. 61 as follows:

WHEREAS, this Commission proposes to acquire right-of-way under a project known and designated as Project Numbers 94-0029-01-002-10 R.O.W. (94-0029-01-002-10 P.E.), 94-0072-00-003-11 & 12 R.O.W. (94-0072-00-003-11 & 12 P.E.), and 94-0029-02-006-10 R.O.W. (94-0029-02-005-10 P.E.), Tunica and DeSoto Counties, Mississippi, being a relocated segment of MS 304 between U.S. 61 and Interstate 55; and Spur Connector between Relocated MS 304 and existing MS 304; and

WHEREAS, the plans and specifications of said highway project call for and show that ingress and egress from said highway will be prohibited as shown on said plans, and

WHEREAS, the Commission has considered and determined and now confirms that the prohibiting of all ingress and egress to and from said highway as shown on plans of the proposed project is proper and necessary to the safety of the traveling public and that such ingress and egress should be denied as shown by the plans and specifications of said project.

NOW, THEREFORE, upon motion duly made and seconded, and Commissioners Zack Stewart and Wayne H. Brown, each voting yes, under the authority of the Commission, in conformity with and as spread on its minutes, it is ordered that all access to and from proposed Relocated MS 304 and Spur Connector as shown on said plans for Project Numbers 94-0029-01-002-10 R.O.W., 94-0072-00-003-11 & 12 R.O. W., and 94-0029-02-006-10 R.O.W., be denied and further declares the areas wherein access is to be denied as a Type 1 controlled access facility, and further declares access be denied as a Type 2B controlled access facility along U.S. 61 from Station 9+064.81 (left) and Station 9+141.99 (right) to Station 11+746.681 (left and right) subject to all the laws, rules and regulations, and policies therefor and further finds and orders that all abutting rights of access, if any there be, be acquired along with the right-of-way necessary for the construction of said project as shown by the plans and specifications.

ORDERED, this the 9th day of February, 1999.

BOOK 6

PAGES 1611 & 1612

Certified a true and correct copy of the document on file
in the offices of the Mississippi Department of Transportation.
this the 13th day of October, 1999
Linda O. Ferrell
LINDA O. FERRELL, SECRETARY