

Filed - 2/11/16
Docket # 75160
Order signed
2/11/16
~~2/11/16~~

STATE OF LOUISIANA, DEPARTMENT
OF TRANSPORTATION & DEVELOPMENT

NUMBER

VS.

26TH JUDICIAL DISTRICT COURT

PARISH OF WEBSTER

ESTATE OF DAVID MILES, ET AL.

STATE OF LOUISIANA

P E T I T I O N

The petition of the STATE OF LOUISIANA, DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT, legal successor to the Department of Highways, created and organized under the laws of the State of Louisiana, with its domicile in the City of Baton Rouge, Parish of East Baton Rouge, State of Louisiana, with respect, represents that:

1.

ESTATE OF DAVID MILES, ESTATE OF JOSEPH MILES and ESTATE OF VALENTINE DUBOSE are the defendants herein.

2.

The Department of Transportation and Development, proposes to construct in the Parish of Webster, a certain project designated as State Project No. H.010275, LA 792: Curve Improvement, on State Route LA 792, which project is more fully described by a Certificate of Authorization to Expropriate, approved by the Secretary, Department of Transportation and Development on September 15, 2015, which declares that it is necessary and useful to take immediately the hereinafter described property for highway purposes, a certified copy of said Certificate of Authorization to Expropriate being marked "Exhibit P-1," attached hereto and made a part hereof.

3.

The construction of said project will be greatly conducive to the public interest, convenience and safety, and will be an important improvement in the State Highway System.

4.

Petitioner has surveyed the right of way and laid out the centerline thereof for said project as the same will exist after said project is completed, and the width of the right of way has been fixed



by the Chief Engineer of the Department of Transportation and Development, as shown by his certificate marked "Exhibit P-2," annexed hereto and made a part hereof.

5.

Included within the right of way required for said project is certain property believed to be owned by the defendants, required in full ownership, and described as follows, to-wit:

To the extent of an undivided 42.84% interest, one (1) certain tract or parcel of land, and all of the rights, ways, privileges, servitudes and advantages thereunto belonging or in anywise appertaining, situated in the Parish of Webster, State of Louisiana, and in Section 25, Township 17 North, Range 9 West, Northwestern Land District, identified as Parcel No. 4-1, on a white print of a plat of survey, consisting of Sheet Nos. 4 & 5, made by Robert Keith Duck, Registered Land Surveyor, dated June 2, 2015, revised, annexed to the above numbered and entitled suit, said tract or parcel being outlined in red and being more particularly described in accordance with said plat of survey, as follows:

REQUIRED IN FULL OWNERSHIP

PARCEL NO. 4-1:

From a point on the centerline of State Project No. H.010275, at Highway Survey Station 115+55.20, proceed N00°43'22"E a distance of 53.65 feet to the point of beginning; thence proceed S89°23'30"W a distance of 160.75 feet to a point and corner; thence proceed N00°36'31"W a distance of 26.13 feet to a point and corner; thence proceed N59°57'40"E a distance of 105.85 feet to a point and corner; thence proceed N62°47'22"E a distance of 79.63 feet to a point and corner; thence proceed S00°43'22"W a distance of 113.83 feet to the point of beginning. All of which comprises Parcel 4-1 as shown on Sheet 4 of the Right of Way Plans of State Project No. H.010275, and contains an area of approximately 11489.1 square feet or 0.264 of an acre.

6.

This property is outlined in red on a plat of survey marked "Exhibit P-3," annexed hereto and made a part hereof.

7.

This property is an entire tract believed to be owned by the defendants.

8.

There are no buildings or improvements situated wholly or partially upon the above described property.

9.

The location and design of the improvements proposed by said project are in accordance with the best modern practices adopted in the interest of the safety and convenience of the traveling public, as shown by the Certificate on Location and Design, which is marked "Exhibit P-4," annexed hereto and made a part hereof.

10.

In order to construct said project in a manner and mode conducive to the public interest, convenience and safety, it is necessary that petitioner acquire in full ownership the described property, subject to the mineral reservation set forth below, which property petitioner has attempted to acquire amicably but has been unable to do so.

11.

Therefore, it is necessary for petitioner to expropriate in full ownership the above described property, subject to the mineral reservation set forth below.

12.

The expropriation of the full ownership of the property described above shall be made subject to the reservation in favor of the owners of all oil or gas located under the property described above, or the royalties therefrom, in accordance with law, and subject to any existing oil or gas reservation or to any existing oil or gas lease.

13.

The just compensation to which the defendants are entitled, being the compensation for the full ownership of the above described property, subject to the mineral reservation set forth herein, has been estimated to be the sum of Three Hundred Ninety Five and 84/100 Dollars (\$395.84), which is 42.85% of the total value of the property as shown by the written Estimate of Compensation marked "Exhibit P-5" annexed hereto and made a part hereof.

14.

Petitioner is entitled to expropriate the full ownership of the above described property, subject to the mineral reservation set forth herein, in a manner authorized by Article 1, Section 4 of

the Constitution of the State of Louisiana for the year 1974, and Title 48 of the Revised Statutes of 1950, Sections 441 to 460, inclusive as amended and reenacted.

15.

Petitioner is entitled to trial by jury as authorized by Title 48 of the Revised Statutes, Section 451.2, as amended and reenacted.

16.

Petitioner desires to utilize the cash deposit authorized by Article 1734.1 of the Code of Civil Procedure and desires that the amount of the deposit be fixed as required by law.

17.

Petitioner requests written notice at least thirty (30) days prior thereto of any trial, motion or other proceeding scheduled to come before this Honorable Court in this lawsuit in accordance with Article 451 of Title 48, and also requests notice of any interlocutory or final order, decree or judgment rendered and signed in this lawsuit as provided by Louisiana Code of Civil Procedure.

18.

Petitioner believes that DAVID MILES, JOSEPH MILES, and VALENTINE DUBOSE are deceased, no succession representative has been appointed, no heirs or legatees have been sent into possession judicially and it is necessary that an Attorney at Law be appointed to represent THE ESTATE OF DAVID MILES, THE ESTATE OF JOSEPH MILES, and THE ESTATE OF VALENTINE DUBOSE as authorized in LA C.C.P. Article 5091, as amended.

WHEREFORE, petitioner prays that an order issue herein directing petitioner to deposit in the registry of this court the sum of Three Hundred Ninety Five and 84/100 Dollars (\$395.84) for payment to the person or persons entitled thereto, and declaring that the full ownership of the above described property, and subject to the mineral reservation set forth herein, has been taken for highway purposes as of the time such deposit is made.

Petitioner further prays that said order direct the defendants to surrender to petitioner possession of said property.

Petitioner further prays that the Order of Expropriation in this matter be recorded in the conveyance records of this Parish.

Petitioner further prays that notice of this expropriation be issued and served upon THE ESTATE OF DAVID MILES, THE ESTATE OF JOSEPH MILES, and the ESTATE OF VALENTINE DUBOSE, together with a certified copy of this petition, the order of expropriation of this court and the receipt of the Clerk of Court for the deposit made, according to law.

Petitioner further prays that an Attorney at Law be appointed to represent THE ESTATE OF DAVID MILES, THE ESTATE OF JOSEPH MILES, and THE ESTATE OF VALENTINE DUBOSE as authorized by LA C.C.P. Article 5091, as amended.

Petitioner further prays that this matter be tried by jury and that it be allowed to utilize the cash deposit authorized by Article 1734.1 of the Code of Civil Procedure.

Petitioner further prays that it be served with written notice of any trial, motion or other proceeding scheduled before this Honorable Court in accordance with Article 451 of Title 48, and that it be served with notice of any interlocutory or final order, decree or judgment rendered and signed as provided by Louisiana Code of Civil Procedure.

Petitioner further prays that upon a final hearing herein there be judgment herein in favor of petitioner fixing the amount of just compensation at a sum not to exceed Three Hundred Ninety Five and 84/100 Dollars (\$395.84).

LOUISIANA DEPARTMENT OF
TRANSPORTATION & DEVELOPMENT
OFFICE OF THE GENERAL COUNSEL

BY: _____



Of Counsel

Charles D. McBride
Bar Roll No. 23856
1201 Capitol Access Road
Baton Rouge, LA 70802
P. O. Box 94245
Baton Rouge, LA 70804-9245
PH: (225) 242-4607
FAX: (225) 242-4690
Attorney for State, DOTD

PLEASE SERVE:

Through Court Appointed Curator
Estate of David Miles
Last known address:
19421 Tillman Avenue
Carson, CA 90746

Through Court Appointed Curator
Estate of Joseph Miles
Last known address:
19421 Tillman Avenue
Carson, CA 90746

Through Court Appointed Curator
Estate of Valentine Dubose
Last known address:
19421 Tillman Ave.
Carson, CA 90746

STATE OF LOUISIANA, DEPARTMENT
OF TRANSPORTATION & DEVELOPMENT

VS.

ESTATE OF DAVID MILES, ET AL.

NUMBER

26TH JUDICIAL DISTRICT COURT

PARISH OF WEBSTER

STATE OF LOUISIANA

ORDER

The foregoing considered:

IT IS ORDERED that _____, Attorney at Law, whose address is
_____, and whose telephone number is
_____, be and is hereby appointed to represent THE ESTATE OF DAVID MILES,
THE ESTATE OF JOSEPH MILES, and THE ESTATE OF VALENTINE DUBOSE as authorized
in La. C.C.P. Article 5091, as amended.

Signed at Minden, Louisiana, the _____ day of _____, 2016.

JUDGE, TWENTY-SIXTH JUDICIAL DISTRICT COURT

September 15, 2015

CERTIFICATE OF AUTHORIZATION TO EXPROPRIATE

The Department of Transportation and Development contemplates and plans to construct certain projects for the improvement of various highways throughout the State of Louisiana.

The project presently planned by the Department of Transportation and Development is hereinafter set forth:

STATE PROJECT NO(S). H.010275
LA 792: CURVE IMPROVEMENT
STATE ROUTE LA 792
PARISHES OF WEBSTER & BIENVILLE

State Project Number H.010275 provides for base course, asphalt pavement, clearing and grubbing, pavement markings and related work, on State Route LA 792 in the Parishes of Webster & Bienville, as follows: Beginning at approximate Highway Survey Station 101+45.00, then proceed in a northwesterly direction to end at approximate Highway Survey Station 119+75.00. The total roadway length is approximately 0.432 miles, for an overall project length of approximately 0.432 miles.

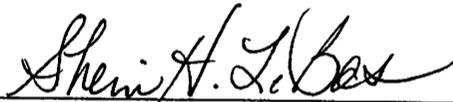
The construction of the above described project will be conducive to the public interest, convenience and safety and will enable the Department of Transportation and Development to properly fulfill the functions imposed upon it by law.

The proper construction of said described project is dependent upon the acquisition of the rights of way as fixed by the Chief Engineer, Office of Engineering, for the said project and such other rights as may be appurtenant thereto.

It is necessary and useful to take, by expropriation for highway purposes and in the manner provided by law, in servitude or in full ownership, the property and property rights not otherwise acquired, which are needed for the proper construction of said project.

Pursuant to the authority vested in me by the provisions of L.R.S. 36:501 et seq., and L.R.S. 48:11 et seq., as Secretary of the Department of Transportation and Development, it is necessary and useful to take and, as required by L.R.S. 48:442(3)(a), I hereby approve and authorize the Department of Transportation and Development to take by expropriation for highway purposes and in the manner provided by law, in servitude or in full ownership, the property and property rights not otherwise acquired, and which are needed for the proper construction of State Project No(s). H.010275, LA 792: Curve Improvement, State Route LA 792, Parishes of Webster & Bienville.

Baton Rouge, Louisiana, this 15th day of September, 2015.



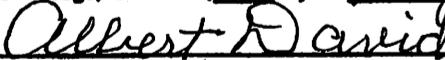
SHERRI H. LEBAS, P.E.

SECRETARY

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

I, Albert David, assistant custodian of official records of the Department of Transportation and Development of the State of Louisiana, do certify under the provisions of R.S. 13:3712 and Chapter 9 of the Louisiana Code of Evidence that the attached 2 page(s) is (are) a true and correct copy (copies) of the original(s) which is (are) in my custody and possession in my official capacity.

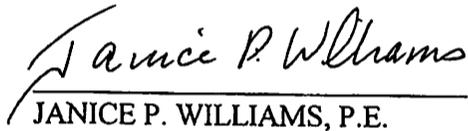
Baton Rouge, Louisiana 22 day of September 2015



ALBERT DAVID
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
STATE OF LOUISIANA

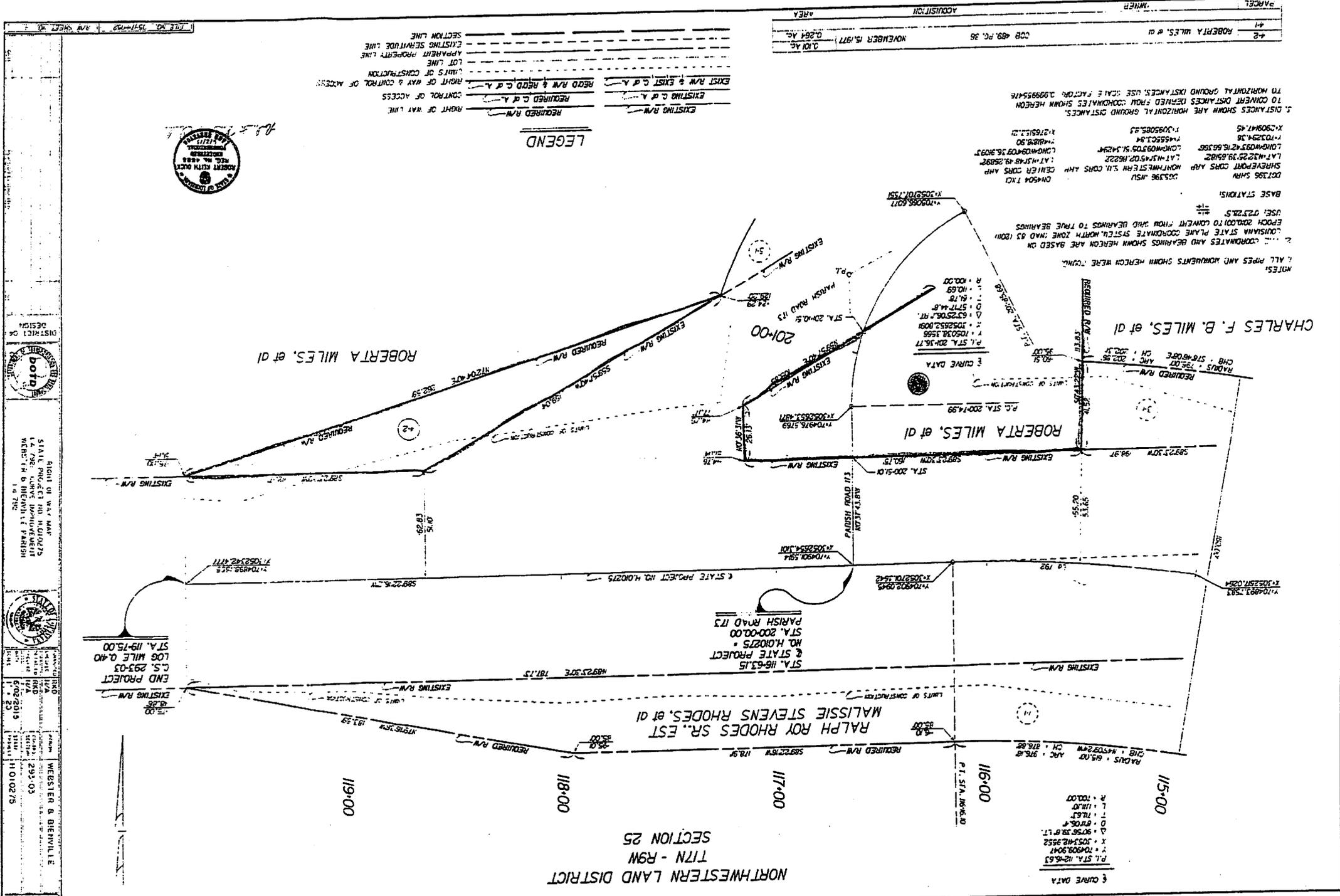
CERTIFICATE
OF THE
CHIEF ENGINEER

I hereby certify that I have fixed the right of way required to construct STATE PROJECT NO. H.010275, LA 792 CURVE IMPROVEMENTS, ROUTE LA 792, WEBSTER & BIENVILLE PARISHES, in a manner sufficient in my judgment to provide presently and in the future for the public interest, safety and convenience.



JANICE P. WILLIAMS, P.E.
DOTD CHIEF ENGINEER

1-12-2016
DATE



ACQUISITION AREA	DATE
ROBERTA MILES, et al	NOVEMBER 15, 1977
0.264 AC.	
0.00 AC.	

NOTES:
 1. ALL PIES AND MOMENTS SHOWN HEREON WERE TOWNSHIP COORDINATES AND BEARINGS SHOWN HEREON ARE BASED ON LOUISIANA STATE PLANE COORDINATE SYSTEM NORTH ZONE (NAD 83) EPOCH 2011.00 TO CONVERT FROM GRID BEARINGS TO TRUE BEARINGS USE: 0.27225°

BASE STATIONS:
 D03396 NSU
 D05454 TXU
 CEMILEN CORS AMP
 LANTWESTERN S.U. CORS AMP
 SHREVEPORT CORS AMP
 D03396 NSU
 D05454 TXU

TO HORIZONTAL DISTANCES USE SCALE FACTOR: 0.999954176
 TO CONVERT DISTANCES DERIVED FROM COORDINATES SHOWN HEREON

ROBERTA MILES, et al
 P.I. STA. 20+36.77
 X = 105038.1556
 Y = 1052552.9094
 Δ = 57.2506° RT
 D = 577' 44.8"
 L = 61.75'
 R = 100.00'

ROBERTA MILES, et al
 P.I. STA. 200+14.99
 X = 105038.1556
 Y = 1052552.9094
 Δ = 57.2506° RT
 D = 577' 44.8"
 L = 61.75'
 R = 100.00'

ROBERTA MILES, et al
 P.I. STA. 116+63.15
 X = 105038.1556
 Y = 1052552.9094
 Δ = 57.2506° RT
 D = 577' 44.8"
 L = 61.75'
 R = 100.00'

ROBERTA MILES, et al
 P.I. STA. 118+00
 X = 105038.1556
 Y = 1052552.9094
 Δ = 57.2506° RT
 D = 577' 44.8"
 L = 61.75'
 R = 100.00'

ROBERTA MILES, et al
 P.I. STA. 119+00
 X = 105038.1556
 Y = 1052552.9094
 Δ = 57.2506° RT
 D = 577' 44.8"
 L = 61.75'
 R = 100.00'

LEGEND

EXISTING R/W	---
REQUIRED R/W	---
EXIST R/W & EXIST C.O.A.	---
REQD R/W & REQD C.O.A.	---
RIGHT OF WAY & CONTROL OF ACCESS	---
RIGHT OF WAY LINE	---
SECTION LINE	---
EXISTING SEPARATE LINE	---
APPROXIMATE PROPERTY LINE	---
LOT LINE	---
LIMITS OF CONSTRUCTION	---



RIGHT OF WAY MAP
 SHALL PROJECT AND RECORD
 WITHIN 6 MONTHS OF FINISH
 14 DAY



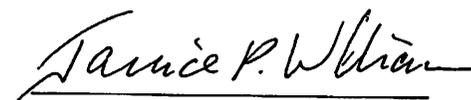
WESSER & BREVILLE
 293-03
 11/01/2015

CERTIFICATE

ON

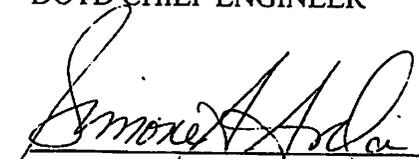
LOCATION AND DESIGN

We hereby certify that the location and design of the improvements proposed within STATE PROJECT NO. H.010275, LA 792 CURVE IMPROVEMENTS, ROUTE LA 792, WEBSTER & BIENVILLE PARISHES, are in accordance with the best modern practices adopted in the interest of the safety and convenience of the traveling public.



JANICE P. WILLIAMS, P.E.
DOTD CHIEF ENGINEER

1-12-16
DATE



SIMONE A. ARDOIN, P.E.
ROAD DESIGN ENGINEER

01/12/16
DATE

Parcel No. 4-1
S. P. No. H.010275

CERTIFICATE
OF
ESTIMATE OF COMPENSATION

I, the undersigned, hereby certify that I have made a careful investigation of the property identified as Parcel Number(s) 4-1, and it's (their) remainder(s) which is the subject matter of this estimate, that I am familiar with land values in the vicinity, and that I estimate the compensation to be as follows:

Value of Land	\$ 924
Damages	\$ 0
Additional Compensation	\$ 0
Total Estimate of Compensation	\$ 924

Methodology Used:

- | | |
|---------------|-----------------------------------|
| <u> X </u> | 1. Sales Comparison Approach |
| <u> </u> | 2. Cost Approach |
| <u> </u> | 3. Income Capitalization Approach |

Todd M. Tidwell, MAI
117 Julia Street, Suite 7, West Monroe, LA 71291

Qualifications:

- | | |
|---------------|---|
| <u> X </u> | 1. Designated Appraiser |
| <u> </u> | 2. Candidate for Designation |
| <u> </u> | 3. Louisiana Certified Residential Real Estate Appraiser |
| <u> X </u> | 4. Louisiana Certified General Real Estate Appraiser |
| <u> </u> | 5. Right of Way Appraiser in the regular employ of the Department |

West Monroe, Louisiana, August 26, 2015



TODD M. TIDWELL, MAI
LOUISIANA CERTIFIED GENERAL REAL ESTATE
APPRAISER CERTIFICATE NO. G0805

Total Approved Amount of Compensation to the full
extent of the owner's loss \$ 395.84

Heather Corsetino 1/14/2016
HEATHER CORSENTINO Date

Assistant R/E Administrator,
Department of Transportation and
Development, State of Louisiana

42.84%
ownership

STATE OF LOUISIANA, DEPARTMENT
OF TRANSPORTATION & DEVELOPMENT

VS.

ESTATE OF DAVID MILES, ET AL.

NUMBER

26TH JUDICIAL DISTRICT COURT

PARISH OF WEBSTER

STATE OF LOUISIANA

ORDER OF EXPROPRIATION

The petition, exhibits and the premises considered:

IT IS HEREBY ORDERED that the STATE OF LOUISIANA, DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT, do deposit in the registry of this court, for the use and benefit of the person or persons entitled thereto, the sum of Three Hundred Ninety Five and 84/100 Dollars (\$395.84).

AND IT IS HEREBY FURTHER ORDERED that the full ownership of the property described below, subject to the reservation in favor of THE ESTATE OF DAVID MILES, THE ESTATE OF JOSEPH MILES and THE ESTATE OF VALENTINE DUBOSE of all oil or gas located under the property described below, or the royalties therefrom, in accordance with law, and subject to any existing oil or gas reservation or to any existing oil or gas lease, is expropriated and taken for highway purposes as of the time of such deposit, according to law, said property being described as follows, to-wit:

To the extent of an undivided 42.84% interest, one (1) certain tract or parcel of land, and all of the rights, ways, privileges, servitudes and advantages thereunto belonging or in anywise appertaining, situated in the Parish of Webster, State of Louisiana, and in Section 25, Township 17 North, Range 9 West, Northwestern Land District, identified as Parcel No. 4-1, on a white print of a plat of survey, consisting of Sheet Nos. 4 & 5, made by Robert Keith Duck, Registered Land Surveyor, dated June 2, 2015, revised, annexed to the above numbered and entitled suit, said tract or parcel being outlined in red and being more particularly described in accordance with said plat of survey, as follows:

REQUIRED IN FULL OWNERSHIP

PARCEL NO. 4-1:

From a point on the centerline of State Project No. H.010275, at Highway Survey Station 115+55.20, proceed N00°43'22"E a distance of 53.65 feet to the point of beginning; thence proceed S89°23'30"W

a distance of 160.75 feet to a point and corner; thence proceed N00°36'31"W a distance of 26.13 feet to a point and corner; thence proceed N59°57'40"E a distance of 105.85 feet to a point and corner; thence proceed N62°47'22"E a distance of 79.63 feet to a point and corner; thence proceed S00°43'22"W a distance of 113.83 feet to the point of beginning. All of which comprises Parcel 4-1 as shown on Sheet 4 of the Right of Way Plans of State Project No. H.010275, and contains an area of approximately 11489.1 square feet or 0.264 of an acre.

AND IT IS HEREBY FURTHER ORDERED that this matter be tried by jury upon the plaintiff making a cash deposit in accordance with LA C.C.P. Art. 1734.1. Upon the setting of this matter for trial, the court shall fix the amount due and the time of said deposit, which time shall be no later than thirty (30) days prior to trial.

AND IT IS HEREBY FURTHER ORDERED that this Order of Expropriation be recorded in the conveyance records of this Parish.

AND IT IS HEREBY FURTHER ORDERED that the defendants, THE ESTATE OF DAVID MILES, THE ESTATE OF JOSEPH MILES, and THE ESTATE OF VALENTINE DUBOSE, vacate the above described property and surrender possession thereof unto the plaintiff s immediately upon the deposit of the estimated compensation into the registry of this court.

Minden, Louisiana, this _____ day of _____, 2016.

JUDGE, TWENTY-SIXTH JUDICIAL DISTRICT COURT

**STATE OF LOUISIANA, DEPARTMENT
OF TRANSPORTATION & DEVELOPMENT**

VS.

ESTATE OF DAVID MILES, ET AL.

NUMBER

26TH JUDICIAL DISTRICT COURT

PARISH OF WEBSTER

STATE OF LOUISIANA

RECEIPT

HOLLI VINING, CLERK OF COURT

TO

**THE STATE OF LOUISIANA, AND
THE DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**

In the cause entitled "STATE OF LOUISIANA, DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT, VS. ESTATE OF DAVID MILES, ET AL." No. _____ of the docket of said court, the State of Louisiana seeks the expropriation of the full ownership of the property described below, subject to the reservation in favor of the owners of all oil or gas located under the property described below, or the royalties therefrom, in accordance with law, and subject to any existing oil or gas reservation or to any existing oil or gas lease, for the project set forth in the petition, said property being described as follows, to-wit:

To the extent of an undivided 42.84% interest, one (1) certain tract or parcel of land, and all of the rights, ways, privileges, servitudes and advantages thereunto belonging or in anywise appertaining, situated in the Parish of Webster, State of Louisiana, and in Section 25, Township 17 North, Range 9 West, Northwestern Land District, identified as Parcel No. 4-1, on a white print of a plat of survey, consisting of Sheet Nos. 4 & 5, made by Robert Keith Duck, Registered Land Surveyor, dated June 2, 2015, revised, annexed to the above numbered and entitled suit, said tract or parcel being outlined in red and being more particularly described in accordance with said plat of survey, as follows:

REQUIRED IN FULL OWNERSHIP

PARCEL NO. 4-1:

From a point on the centerline of State Project No. H.010275, at Highway Survey Station 115+55.20, proceed N00°43'22"E a distance of 53.65 feet to the point of beginning; thence proceed S89°23'30"W a distance of 160.75 feet to a point and corner; thence proceed N00°36'31"W a distance of 26.13 feet to a point and corner; thence proceed N59°57'40"E a distance of 105.85 feet to a point and corner;

thence proceed N62°47'22"E a distance of 79.63 feet to a point and corner; thence proceed S00°43'22"W a distance of 113.83 feet to the point of beginning. All of which comprises Parcel 4-1 as shown on Sheet 4 of the Right of Way Plans of State Project No. H.010275, and contains an area of approximately 11489.1 square feet or 0.264 of an acre.

In accordance with an order of the court signed herein, the Department of Transportation and Development, on behalf of the State of Louisiana and of itself, has this day paid into the registry of said court the sum of Three Hundred Ninety Five and 84/100 Dollars (\$395.84) in cash, lawful current money of the United States of America, by delivering said sum to the said Clerk of Court, who acknowledges receipt of said sum and declares that he has placed same in the registry of said court.

Signed at Minden, Louisiana, this ____ day of _____, 2016.

DEPUTY CLERK OF COURT, TWENTY-SIXTH JUDICIAL DISTRICT COURT