

**IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA**

**STATE OF ALABAMA,  
PLAINTIFF.**

**v.**

**CV02-1567MJ**

**OWEN SCOTT SMITHERMAN, Owner  
of the Fee, MERCHANTS AND PLANTERS  
BANK aka PEOPLES BANK & TRUST  
COMPANY(MORTGAGEE), and ANNETTE D.  
SKINNER, SHELBY TAX COLLECTOR.  
DEFENDANT(S).**



**ORDER AND DECREE OF CONDEMNATION**

THIS CAUSE was commenced on May 14, 2002, in the Probate Court of Shelby, Alabama, by filing an application to condemn the property hereinafter described under and pursuant to Section 23 of the Constitution of Alabama, § 18-1A-1 et seq. and §23-1-45, Code of Alabama, 1975, as amended. An amended application to condemn the property, correcting the legal description, was filed on or about August 26, 2002. Defendant set the case for trial in this Court on the 15th day of September 2003, on appeal from the Order of Condemnation made and entered in the Probate Court of Shelby County on the 14<sup>th</sup> day of November 2002. The parties, by and through their counsel of record, have advised this Court that an agreement has been reached in this matter and the parties stipulate as follows:

1. That the Defendants shall be paid the sum of Twenty-five Thousand and 00/100 Dollars (\$25,000.00) in addition to interest that has accrued on sum of money now on deposit with the Circuit Court of Shelby, Alabama in the amount of Ninety-six and 69/100 Dollars (\$96.69). Representing a total payment of Twenty-five Thousand Ninety-six and 69/100 Dollars (\$25,096.69).
2. The State agrees to pay court costs incurred in this matter.

The Plaintiff, State of Alabama, showed unto the Court that it has heretofore, deposited with the Judge of Probate of Shelby County, Alabama the total sum of Thirteen Thousand One Hundred fifty and 00/100 Dollars (\$13,150.00) on or about 29<sup>th</sup> day of January, 2003, which amount represented the damages and compensation awarded by the Probate Court to the condemnation of said land. Thereafter, on the 30<sup>th</sup> day January 2003, the Clerk of the Probate Court of Shelby County, Alabama, deposited the sum of \$13,150.00 with Mary Harris, Circuit Clerk of Shelby County, Alabama. A Motion and Order for investment of Deposit was filed on February 7, 2003.

It is therefore, CONSIDERED, ADJUDGED and DECREED by the Court that, pursuant to the agreement of the parties, the damages and just compensation to the Defendants in this cause is the sum of Twenty-five Thousand and 00/100 Dollars in addition to interest that has accrued on sums of money now on deposit with the Circuit Court of Shelby County, Alabama in the amount of Ninety-six and 69/100 Dollars (\$96.69).



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The Clerk is hereby authorized and directed to pay to the Defendants as their interest may appear, the sum of Twenty-five Thousand and 00/100 Dollars (\$25,000.00) in addition to interest that has accrued on sums of money now on deposit with the Circuit Court of Shelby County, Alabama in the amount of Ninety-six and 69/100 Dollars (\$96.69). The Clerk is hereby authorized and directed to pay to the Defendant as their interest may appear, the sum of Twenty-Five Thousand ninety-six and 69/100 Dollars (\$25, 069.69) which is the amount of the final award in this cause.

The Plaintiff, State of Alabama, has heretofore deposited with the Probate Court of Shelby County, Alabama, the sum of Thirteen Thousand One Hundred Fifty and 00/100 Dollars, which was subsequently deposited with and is currently in the possession of the Clerk of the Circuit Court of Shelby County, Alabama on or about February 19, 2003. That Twenty-five Thousand Ninety-six and 69/100 Dollars is the amount of just compensation due the Defendants in this cause.

Now, therefore, it is ORDERED, ADJUDGED and DECREED by the Court that the Clerk of this Court is ordered and directed to pay forthwith to the Defendants, property owner, the sum of \$11,850.00, the balance of damages and compensation to which the property owner is entitled in this cause.

It is further ORDERED, ADJUDGED and DECREED by the Court that the Complaint for condemnation of lands herein described be, and the same is hereby granted and the Plaintiff, State of Alabama, is hereby given and awarded the interest in said lands sought to be acquired in said Complaint and said lands are hereby condemned for the uses and purposes stated and sought in the Complaint for Order of Condemnation as amended and as filed herein.

It is further **ORDERED, ADJUDGED and DECREED** that the interest and right-of-way condemned and awarded to the Plaintiff, State of Alabama, is in, over, across and under the following land of Defendant, to-wit:

The property described on Exhibit, A which is attached hereto and made A part hereof, and as shown on the right-of-way map of Project No. BR-458 (6), Tract No. 4, of record in the Alabama Department of Transportation, a copy of which is also deposited in the Office of the Judge of Probate of Shelby County, Alabama, as an aid to persons and Entities interested therein as shown on the property plat, which consists of two pages, attached hereto as Exhibit B and made a part hereof.

It is further **ORDERED, ADJUDGED and DECREED** and it is the judgment of this Court that the parties whose names are next hereafter set out are entitled to share in said

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award as may be ascertained by the Court.

Owen Scott Smitherman (fee)  
3004 Longleaf  
Helena, AL 35080

Merchants and Planters Bank & Trust (Mortgagee)  
aka Peoples Bank & Trust Company  
835 Main Street  
Montevallo, AL 35115

Annette D. Skinner Tax Collector  
P. O. Box 1298  
Columbiana, AL 35051

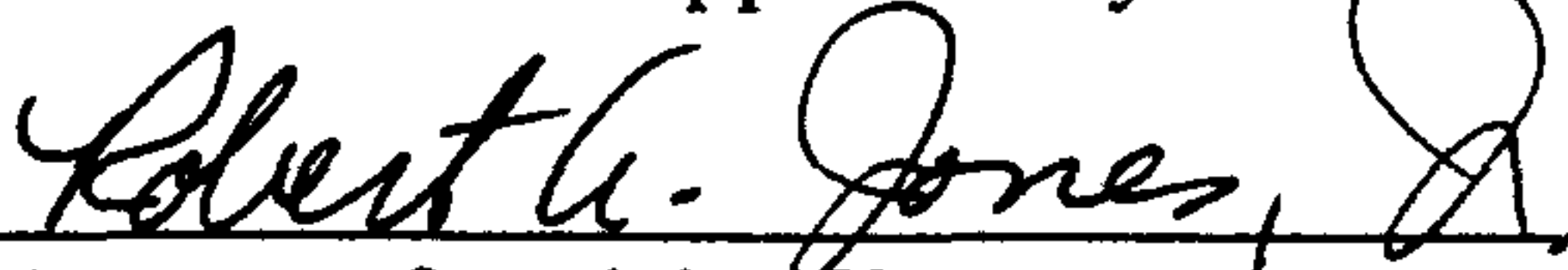
All claims having been identified, with said parties having (30) days to file a claim, the disbursements to those parties have been made.

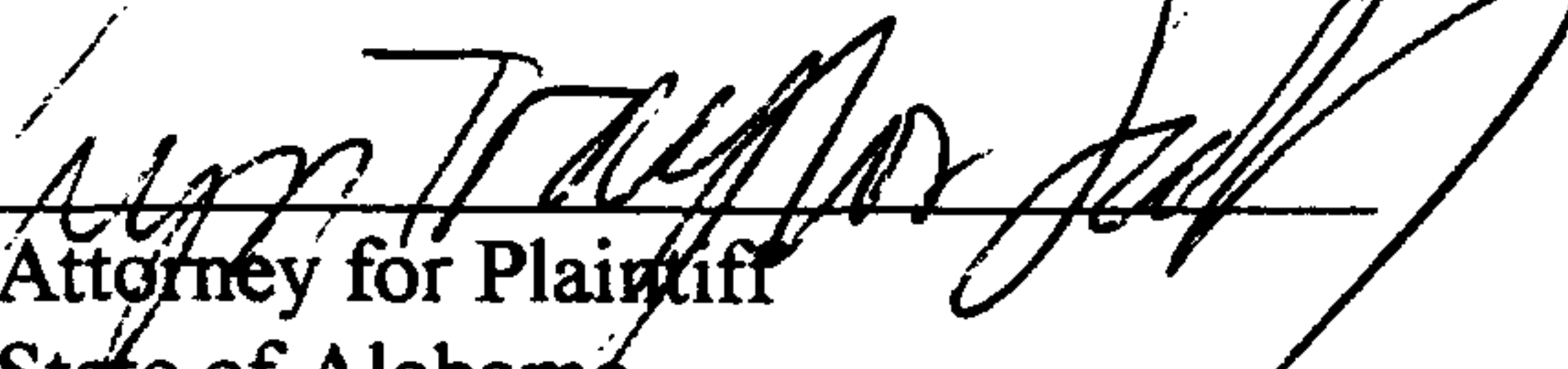
It is further **ORDERED, ADJUDGED and DECREED** by the Court that the costs of this cause are hereby taxed against the Plaintiff, State of Alabama, of which let execution issue.

**DONE AND ORDERED**, this the 21<sup>st</sup> day of October, 2003.

  
**CIRCUIT JUDGE**

Consented and approved by:

  
Attorney for Plaintiff  
State of Alabama

  
Attorney for Plaintiff  
State of Alabama

  
Attorney for Defendant



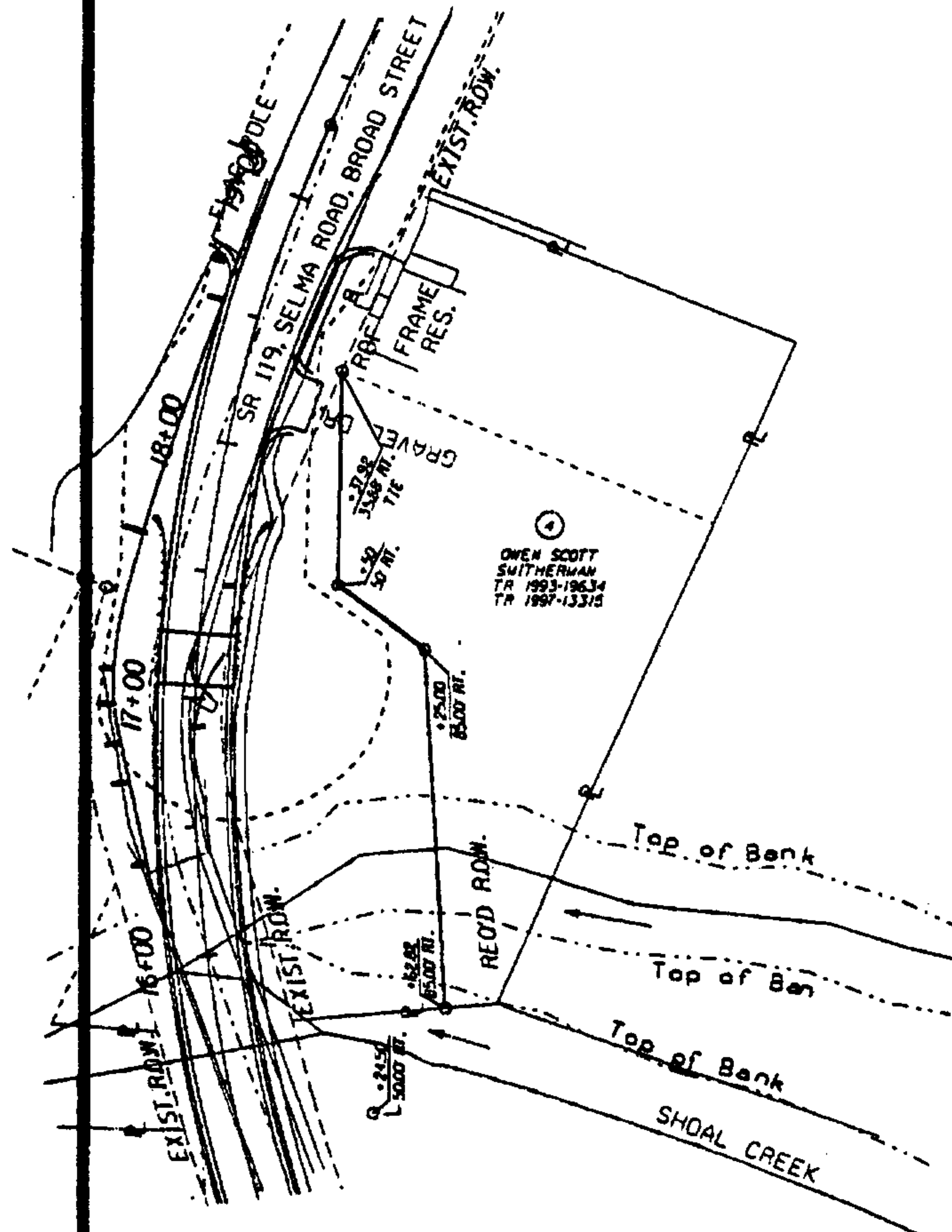
— EXHIBIT A —

AND AS SHOWN ON THE RIGHT-OF-WAY MAP OF PROJECT NO. BR-458(6) of record with the Alabama Department of Transportation, a copy of which is also deposited in the Office of the Judge of Probate of Shelby County, Alabama, as an aid to persons and entities interested therein, and as shown on the property plat attached hereto and made a part hereof :

Part of Partial Section 28, Township 22 South, Range 3 West, identified as Tract No. 4, Project No. BR-458(6) in Shelby County, Alabama and being more particularly described as follows :

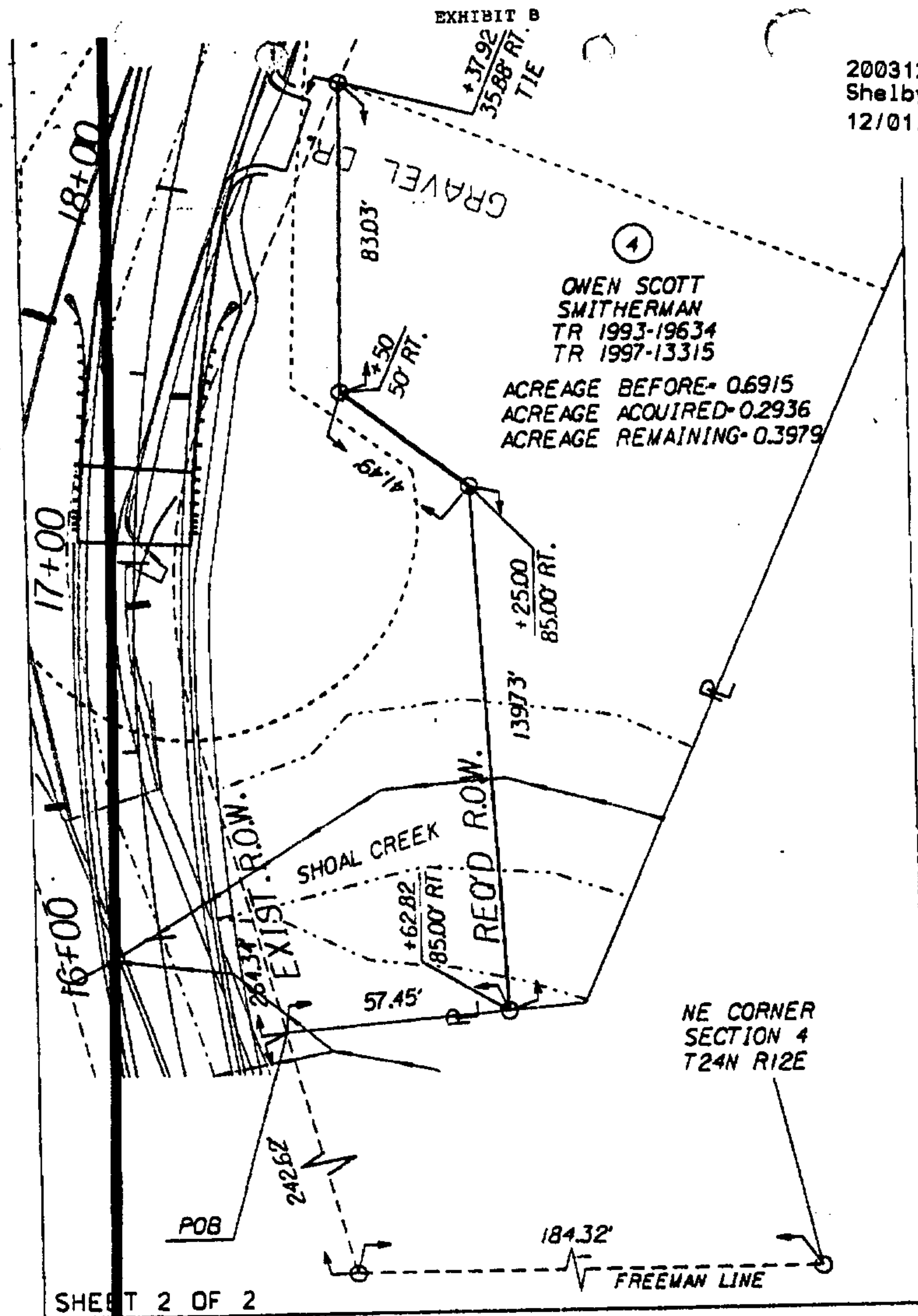
Commence at the northeast corner of Section 4, Township 24 North, Range 12 East; thence westerly along the north line of said Section 4 (also being the Freeman Line and the south line of Partial Section 28, Township 22 South, Range 3 West); thence west along the south line of Partial Section 28 (also being the Freeman Line) a distance of 184.32 feet to the existing east right of way line of State Route 119; thence northerly along said right of way line a distance of 242.62 feet to the south property line and the point of beginning of the property herein to be conveyed; thence continue northerly along said right of way line a distance of 264.34 feet to a point that is 35.88 feet easterly of and radial to said centerline at Station 18+37.92; thence southerly a distance of 83.03 feet to a point that is 50 feet easterly of and radial to said centerline at Station 17+50; thence southeasterly a distance of 41.49 feet to a point that is 85 feet easterly of and radial to said centerline at Station 17+25; thence southerly a distance of 139.73 feet to a point that is 85 feet easterly of and radial to said centerline at Station 15+62.82, the south property line; thence westerly along said south property line a distance of 57.45 feet to the point of beginning. Containing 0.2936 acre, more or less.

The Grantors, the Successors and Assigns of said Grantors herein, hereby reserves the mineral rights to the property hereby conveyed to the State of Alabama, but it is understood and agreed by and between the Parties to this conveyance that the rights so reserved will in no way affect or interfere with any maintenance of public roads and highways on the property herein conveyed.



SHEET 1 OF 2

|                |                       |                                 |
|----------------|-----------------------|---------------------------------|
| TRACT NUMBER   | 4                     | ALABAMA DEPT. OF TRANSPORTATION |
| OWNER:         | OWEN SCOTT SMITHERMAN | PROJ. NO. BR-458(6)             |
|                |                       | COUNTY: SHELBY                  |
| TOTAL ACREAGE: | 0.6915                | SCALE: 1" = 50'                 |
| R/W REQUIRED:  | 0.2936                | DATE:                           |
| REMAINDER:     | 0.3979                | REVISED:                        |



|                              |                                 |
|------------------------------|---------------------------------|
| TRACT NUMBER <u>4</u>        | ALABAMA DEPT. OF TRANSPORTATION |
| OWNER: <u>OWEN SCOTT</u>     | PROJ. NO. <u>BR-458(6)</u>      |
| <u>SMITHERMAN</u>            | COUNTY: <u>SHELBY</u>           |
| TOTAL ACREAGE: <u>0.6915</u> | SCALE: 1" = <u>30'</u>          |
| R/W REQUIRED: <u>0.2936</u>  | DATE: <u>          </u>         |
| REMAINDER: <u>0.3979</u>     | REVISED: <u>          </u>      |

**Certified a true and correct copy**  
**Date:** November 19, 2003

Mary H. Harris, ob  
Mary H. Harris, Circuit Clerk  
Shelby County, Alabama