

STATE OF INDIANA }
COUNTY OF HENRY } SS:

*Parcel
11*

IN THE HENRY CIRCUIT COURT
OF HENRY COUNTY, INDIANA

CAUSE NO. 36229

STATE OF INDIANA,
Plaintiff

-VS-

CHARLES M. MILLER,
DONALD H. MILLER &
VIRGINIA MILLER (H&W),
VIRGIL THORNSBERY,
WILLIAM L. JACKSON,
HOMER DENNEY,

Defendants

FILED
AUG 15 1963

Wesley W. Ratliff, Jr.
Clark Henry Circuit Court

FINDING AND JUDGMENT

Comes now the plaintiff, State of Indiana, by Edwin K. Steers, Attorney General, and Dale B. McLaughlin, Deputy Attorney General, and come now the defendants, Charles M. Miller, Donald H. Miller and Virginia Miller (H&W), Virgil Thornsbery, William L. Jackson and Homer Denney, by their attorneys of record herein, J. E. Holwager and James R. White and plaintiff now withdraws its request for a jury trial, defendants consenting thereto, and this cause is now submitted to the court upon the issues formed by the exceptions heretofore filed by the defendants.

And the court being duly advised finds as follows:

1. That the plaintiff, State of Indiana, filed its complaint for the appropriation of the fee simple title, to defendants' real estate for highway purposes on the 9th day of May, 1963, and the defendants were properly served with notice as provided by statute prior to the hearing in this cause.

2. That on the 4th day of June, 1963, being the day set for the hearing of the cause, an order was entered upon the record of the Henry Circuit Court, signed by Wesley W. Ratliff, Jr., Judge, showing that the fee simple title to defendants' real estate was condemned for the uses and purposes described in said complaint.

Parcel
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3. That by said order the court also appointed three disinterested freeholders of Henry County to assess the damages and benefits to the defendants caused by the appropriation.

4. That on the 12th day of June, 1963, said court-appointed appraisers returned their report to the court showing total damages in the sum of four thousand five hundred dollars (\$4,500.00), and the court ordered the appraisers' fees set at forty dollars (\$40.00) each.

5. That the plaintiff, State of Indiana, paid the award of the appraisers together with the fees for the services of said appraisers to the clerk of the court on the 28th day of June, 1963.

6. That the plaintiff, State of Indiana, did not file exceptions to the court-appointed appraisers' report.

7. That the defendants, Charles M. Miller, Donald H. Miller & Virginia Miller (H&W), Virgil Thornsbery, William L. Jackson and Homer Denney, filed exceptions to the court-appointed appraisers' report on the 18th day of June, 1963.

8. That the total value of the fee simple title to the defendants' real estate taken for highway purposes and the damages to the remaining land of the defendants is six thousand three hundred dollars (\$6,300.00), and that the defendants, Charles M. Miller, Donald H. Miller & Virginia Miller (H&W), Virgil Thornsbery, William L. Jackson and Homer Denney, should recover from the plaintiff, State of Indiana, total damages in the sum of six thousand three hundred dollars (\$6,300.00).

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that the order of appropriation entered herein on the 4th day of June, 1963, be and the same is hereby confirmed and the fee simple title to the real estate described in plaintiff's complaint be, and the same is appropriated for highway purposes, said real estate appropriated being more particularly described as follows:

Parcel 11

Parcel 11 Permanent Right of Way.

Commencing at the Southwest corner of the Southeast Quarter of Section 16, Township 17 North, Range 11 East, Henry County, Indiana; thence Northerly 30.0 feet / / - to the point of beginning of this description:

Thence Northerly 29.2 feet along the West property line of the owner's land; thence North 89 degrees 41 minutes East, 1,356.5 feet to the east property line of the owner's 40 acre tract; thence Southerly 20.0 feet along said property line to the North boundary of State Road 38; Hence Westerly 1,356.5 feet along said boundary to the West property line of the owner's land to the point of beginning and containing 0.623 acres, more or less.

ALSO:

Parcel 11 A Permanent Right of Way.

Commencing at the Northwest corner of the Northeast Quarter of Section 21, Township 17 North, Range 11 East, Henry County, Indiana; thence Southerly 30.0 feet / / - to the point of beginning of this description:

Thence Easterly 2681 feet along the South boundary of State Road 38 to the East property line of the owner's 160 acre tract; thence Southerly 20.0 feet along said property line; thence South 89 degrees 41 minutes West, 2681 feet to the West property line of the owner's 160 acre tract; thence Northerly 20.0 feet along said property line to the point of beginning and containing 1,231 acres, more or less.

ALSO:

Parcel 11 A T Permanent Right of Way.

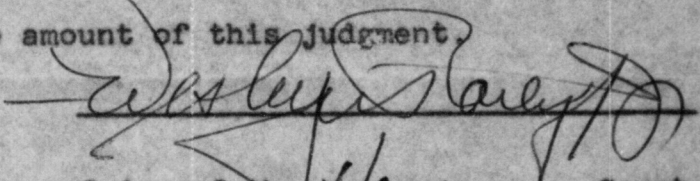
Commencing at the Northeast corner of Section 21, Township 17 North, Range 11 East, Henry County, Indiana; Thence Westerly 1,747.8 feet / / - along the North line of said section; thence Southerly at right angles to said section line, 50.0 feet / / - to the point of beginning of this description:

Thence South 00 degrees 19 minutes East, 55.0 feet;
Thence South 89 degrees 41 minutes West, 56.0 feet;
Thence North 00 degrees 19 minutes West, 55.0 feet;
Thence North 89 degrees 41 minutes East, 56.0 feet to the point of beginning and containing 0.071 acres, more or less.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the defendants, Charles M. Miller, Donald H. Miller & Virginia Miller (H&W), Virgil Thornsbery, William L. Jackson and Homer Denney, have and recover from the plaintiff, State of Indiana, as final and total damages the sum of six thousand three hundred dollars (\$6,300.00), and that the clerk of the court pay said amount to the defendants.

Parcel
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IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the court that the plaintiff, State of Indiana, pay to the Clerk of the Court the sum of one thousand eight hundred dollars (\$1,800.00), which amount, when added to the amount of the court-appointed appraisers' award of four thousand five hundred dollars (\$4,500.00) previously paid in, equals the amount of this judgment.


Judge of the Henry Court

DATED: August 17, 1963

APPROVED: Dale B. McLaughlin
Deputy Attorney General

APPROVED: B. J. J. J.
Attorney for defendants

James R. White
Attorney for defendants

STATE HIGHWAY COMMISSION
STATE OFFICE BLDG.
INDPLS, IND.

June 26, , 19 63

GENTLEMEN:

We enclose State Warrant No. A141285 dated
6 - 21, 1963, in settlement of
the following voucher:

DESCRIPTION	AMOUNT
Clerk Henryy Circuit Court Court House New CAstle, Indiana	
For the amount of the appraisers' award in the condemnation case of State of Indiana vs. CHARLES M. MILLER, et al., Cause 36229 in the Henry Circuit Court.	
-----\$4,500.00	
Appr's fees-----	<u>120.00</u>
	\$4,620.00

Project S778(1) S.R. #38
Parcel II

PLEASE FURNISH FOR OUR FILES YOUR OFFICIAL
RECEIPT FOR THIS AMOUNT.

INDIANA STATE HIGHWAY COMMISSION

Warrant No.

CLAIM - VOUCHER

STATE AGENCY FILL IN. This form may be used for claims charge-
able to Services Other Than Personal.

No.

Claimant's Name
and
Address

CLERK HENRY CIRCUIT COURT
COURT HOUSE
NEW CASTLE, INDIANA

400-800 (Maintenance)	
400-801 (Construction)	
400-802 (Supervisory)	
400-803 (Miscellaneous)	
400-808 (Traffic Engr.)	
AMOUNT TO BE PAID (Total)	

FURNISHED
TO

COST AND BUDGET DISTRIBUTION

STATE AGENCY

FILL IN

Code	Cost Acct. No.	Road and Section No.	Project or Structure No.	Serv. Acct. No.	ENTER APPROPRIATE BUDGET CLASSIFICATION				TOTAL CLAIMED
TOTALS									

Date	Item	Amount	✓
	To supplement the amount previously deposited with the Clerk of the Henry Circuit Court so as to equal the amount of judgment in the condemnation case of State vs. Charles M. Miller, et al., Cause 36229 . .	\$1,800.00	
	(Project S 778(1) S.R.#38 Henry County, Indiana) Parcel 11		

STATE FUNDS	900.00
FEDERAL FUNDS	900.00
TOTAL	1800.00

RECOMMENDED FOR APPROVAL **DATE**

Dale R. McLaughlin 8-12-63
Official Indicating the Charge
Deputy Attorney General

Betty J. Mead
Division of Auditing (Highway Commission)

I certify that this claim is correct and valid, and is a proper charge against the State Agency and Account Number indicated.

James W. Townsend
Indiana State Highway Commission
Asst. Chief

Total **\$1,800.00**

Pursuant to the provisions and penalties of Chapter 155 Acts of 1953:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

8-19-63 X Clerk Henry Circuit Court
Date (If a firm or corporation, give name)

XX By *Rex H. Rateriff*
Personal Signature

APPRAISAL REVIEW

Project S-778 (1) Road SR #38 County Henry Parcel No. 11

Property Owner Charles M. Miller et. al. Address RFD Newcastle Indiana

Address of Appraised Property Same

I have made a determined effort to consider all competent information that I have secured and that is documented by the appraisers including any comments by the property owner along with any recent awards by condemnation juries, that have been brought to my attention, that is relevant to this matter.

I have reviewed this parcel and appraisal for the following items:

1. I have personally checked all Comparables and concur in the determinations made. x
2. Planning and Detail Maps were supplied appraisers. x
3. The three approaches required (Income, Market Data and Cost Replacement) were considered. x
4. Necessary Photos (3 prints of each) are enclosed. x
5. The appraisal is fully documented and supported as required by the State Highway Commission and the Federal Bureau of Roads. x
6. Plats drawn by the appraisers are attached. x
7. I have personally inspected the Plans. x
8. I have personally inspected the site and familiarized myself with the Parcel. x
9. I have carefully reviewed and checked the computations of this parcel and attest to their correctness. see note.

Comments Approved after amendment.

It is my opinion as of July, 16, 1963 :
(date)

(a) The fair market value of the entire property is: \$ 78,734.00

(b) The fair market value of the property after the taking, assuming the completion of the improvement, is: \$ 72,414.00

The total value of taking is: (a minus b) Total \$ 6,320.00

(1) Land and/or improvements \$ 1,260.00

(2) Damages \$ 5,060.00

Acting *D. J. Fisher*
Reviewing Appraiser

APPRAISAL REVIEW

Project S-778 (1) Road SR 38 County Henry Parcel No. 11
Property Owner Charles M. Miller Address 4732 Brookville Rd. Indpls.
Address of Appraised Property RR, New Castle, Ind.

I have made a determined effort to consider all competent information that I have secured and that is documented by the appraisers including any comments by the property owner along with any recent awards by condemnation juries, that have been brought to my attention, that is relevant to this matter.

I have reviewed this parcel and appraisal for the following items:

1. I have personally checked all Comparables and concur in the determinations made. ✓
2. Planning and Detail Maps were supplied appraisers. ✓
3. The three approaches required (Income, Market Data and Cost Replacement) were considered. ✓
4. Necessary Photos (3 prints of each) are enclosed. ✓
5. The appraisal is fully documented and supported as required by the State Highway Commission and the Federal Bureau of Roads. ✓
6. Plats drawn by the appraisers are attached. ✓
7. I have personally inspected the Plans. ✓
8. I have personally inspected the site and familiarized myself with the Parcel. ✓
9. I have carefully reviewed and checked the computations of this parcel and attest to their correctness. ✓

Comments Road Plans indicate Perm R/W Take = 1.853 ac.
The Grant " " " " = 1.899 ac.

It is my opinion as of 1-23-63 :
(date)

(a) The fair market value of the entire property is: \$ 70,000.

(b) The fair market value of the property after the taking, assuming the completion of the improvement, is: \$ 64,300.

The total value of taking is: (a minus b) Total \$ 5,700.

(1) Land and/or improvements \$ 1260

(2) Damages \$ 4440

J. E. Greengard
Reviewing Appraiser

Date: 1-28-63

REPORT OF APPRAISERS

FILED

JUN 12 1963

STATE OF INDIANA,

COUNTY OF HENRY

SS:

Rea H. Ratliff
Clerk Henry Circuit Court

IN THE HENRY CIRCUIT COURT

STATE OF INDIANA,

vs.

CHARLES K. MILLER, et al.,

No. 36229

The undersigned appraisers in the above entitled proceedings, appointed by HON.
WESLEY W. RATLIFF, JR., Judge of the HENRY Circuit
 Court on the _____ day of _____, 19____, after
 being duly sworn by the clerk of the HENRY Circuit Court
 to honestly and impartially assess the damages and the benefits, if any, that may be
 sustained by or result to said defendants by reason of the appropriation of the real estate
 described in the complaint in said proceeding, met at the office of the clerk of the _____
HENRY Circuit Court, at 1:30 o'clock, PM., on the 4th
 day of June, 1963, and after being duly sworn and
 instructed by the court as to their duties as appraisers proceeded in a body to view
 said real estate that will be affected by said appropriation and to assess and appraise
 the damages and the benefits sustained and resulting to each of said defendants by reason
 of the appropriation thereof, and said appraisers now report the damages and benefits to
 said defendants to be as follows:

The value of the land sought to be appropriated as described in the court's order and
 warrant hereto attached, the appraisers find to be the sum of Seven-Hundred
 Dollars (\$ 700.00).

The value of improvements, if any, on the portion of said realty sought to be appro-
 priated, we find to be the sum of Five-Hundred Dollars
 (\$ 500.00).

The damages, if any, to the residue of the real estate of such defendant owners caused by taking out the part sought to be appropriated as above described, we find to be the sum of \$ 1000⁰⁰

Such other damages, if any, as will result to the defendants from the construction of the improvement described in the complaint, in the manner proposed by plaintiff, we find to be \$ 2300⁰⁰

The benefits, if any, to the residue of the real estate of said defendants, resulting by taking out the part sought to be appropriated as above described, we find to be the sum of \$ None

The total damages we find to be the sum of \$ 4500⁰⁰

Date June 6-1963

Joseph W. Fort
Lowell Cooper
Fred M. Koons
 Appraisers

This report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT S-778 (1) PARCEL # 11

OWNER Charles M. Miller PHONE # FL. 7-7193

Donald F Virginia Miller

(Other interested parties and relationship)

ADDRESS OF OWNER 4732 Brookville Rd.

DATE ASSIGNED 1-28-63

DATE OF CONTACT 3-8-63

TIME OF CONTACT 10:

DATE OF PREVIOUS CONTACT 3-4-63

OFFER \$ 5700.00

DETAIL CONTACT* Parcel condemned and turned in

ACTION TAKEN**

SIGNED E. R. Souder

* Showed plans, walked over property, etc.
** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc.
If area set out does not have space enough, please use back of sheet.

This report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT S- 778 (1) PARCEL # 11
OWNER Charles F Donald PHONE # FL- 7-7193
Miller
(Other interested parties and relationship)

ADDRESS OF OWNER 4732 Brookville Rd.
DATE ASSIGNED 1-28-63
DATE OF CONTACT 2-28-63
TIME OF CONTACT 3:00 Pm
DATE OF PREVIOUS CONTACT 1st

OFFER \$ 5700⁰⁰

DETAIL CONTACT* Called at the home of Charles Miller. Mr. Miller was confined to his home sick, but able to talk to me. I discussed various questions regarding his damages with him. His son and

ACTION TAKEN** wife were not at home. They will both have to sign. I have an appt. mon at 5:30 to talk to all of them. I think they will sign.

SIGNED E. R. Souder

* Showed plans, walked over property, etc.

** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc. If area set out does not have space enough, please use back of sheet.

report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT D778 (1) PARCEL # 11
OWNER Charles & Ruth Miller PHONE # _____
4737 Brookville Rd Lubbock, Texas
(Other interested parties and relationship)

ADDRESS OF OWNER 4737 Brookville Rd Lubbock, Texas
DATE ASSIGNED 7/27/63
DATE OF CONTACT 7/28/63
TIME OF CONTACT 2:30 P. M.
DATE OF PREVIOUS CONTACT None by Mr. Chris Spence

OFFER \$ 5700⁰⁰

DETAIL CONTACT* Ray Spence and I called my Charles Miller and showed him the plans and had a general discussion about the title. We are cordially received.

ACTION TAKEN** Made appointment to see his son Richard Miller & Charles Miller on Monday 5:00 at 5-P. M.

SIGNED H. Atwood

* Showed plans, walked over property, etc.

** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc. If area set out does not have space enough, please use back of sheet.

The report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT S 778-1 PARCEL # 11 & 11A
OWNER CHARLES & DONALD MILLER PHONE # FL 7-7193
VIRGINIA (WIFE)
(Other interested parties and relationship)

ADDRESS OF OWNER 4732 BROOKVILLE ROAD INDIANAPOLIS
DATE ASSIGNED 1-28
DATE OF CONTACT 2-26-63
TIME OF CONTACT 1PM
DATE OF PREVIOUS CONTACT 2-17

OFFER \$ 5700⁰⁰

DETAIL CONTACT* Talked to Mr D. Miller - who was confused about every thing - he said - told him about escrow told him about land and damage break down - told him his wife had to sign also, all of which was gone over the first time which he denied

It wound up, he said he would consult with his wife
ACTION TAKEN** and see if she would agree

I would see wed or Thur. - he is home sick

SIGNED C. Chris Specker

* Showed plans, walked over property, etc.

** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc.
If area set out does not have space enough, please use back of sheet.

This report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT S 778-1 PARCEL # 11
OWNER CHARLES M MILER PHONE # FL 7-7193
DONALD H. MILLER & VIRGINIA
(Other interested parties and relationship)

ADDRESS OF OWNER 4732 BROOKVILLE Rd INDPHS

DATE ASSIGNED 1-28

DATE OF CONTACT 2-13-63

TIME OF CONTACT 6:30

DATE OF PREVIOUS CONTACT 2-11

OFFER \$ 5700⁰⁰

DETAIL CONTACT* Answered questions - made offer

Mr Miller said he had to have time to check
on things and price of installing fence
Said we widened the road 35 years ago and we should have taken enough
ground then so he wouldn't have to keep putting up new fences

ACTION TAKEN** See Feb 22

SIGNED Chris Specker

* Showed plans, walked over property, etc.
** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc.
If area set out does not have space enough, please use back of sheet.

This report to be completed in triplicate on each call. One copy to be inserted in parcel - one to be forwarded to office with weekly report - one copy to property owner.

BUYERS REPORT

PROJECT S 778-1 PARCEL # 11

OWNER CHAS. MILLER PHONE # FL 7-7193

DONALD MILLER
(Other interested parties and relationship)

ADDRESS OF OWNER 4732 BROOKVILLE RD INDPLS IND

DATE ASSIGNED 1-28

DATE OF CONTACT 2-11-63

TIME OF CONTACT 9:30 AM

DATE OF PREVIOUS CONTACT —

OFFER \$ —

DETAIL CONTACT* Talked to Mrs Miller - who said to call back and see Mr Miller in the evening about 6:30 Wednesday.

ACTION TAKEN** —

SIGNED Chris Specter

* Showed plans, walked over property, etc.
** Made appointment - returned parcel to office - right of entry - Secured - Condemned, etc.
If area set out does not have space enough, please use back of sheet.

Highway Commission for construction of Road 38
through the County, _____ and
WHEREAS, the above mentioned buildings and improvements located on right
of way of said proposed construction project designated as S-778 (1)
_____ and
WHEREAS, it is necessary, in order to properly construct and improve
said highway, to sell buildings and other improvements and to cause
their removal from the strip of right of way as above described and by
law provided.

R E S O L U T I O N

WHEREAS, The Indiana State Highway Commission of Indiana has heretofore
 acquired by CONDEMNATION Dated none
 executed by the STATE OF INDIANA and Donald Miller
 a frame shed, attached leanto

including trees, shrubs and fence, if any, on Road # 38
 located within the limits of the proposed improvements to be made on
 said highway. The parcel of real estate is situated in Henry
 County, Indiana, and more particularly described as follows:

SW 1/4	SE 1/4	SEC 16	TWP 17N	Range 11E
NE 1/4	SE 1/4	SEC 16	TWP 17N	Range 11E

WHEREAS, the parcel of real estate heretofore described was so procured
 by the Indiana State Highway Commission for construction of Road 38
 through the County, and

WHEREAS, the above mentioned buildings and improvements located on right
 of way of said proposed construction project designated as s-778 (1)
 and

WHEREAS, it is necessary, in order to properly construct and improve
 said highway, to sell buildings and other improvements and to cause
 their removal from the strip of right of way as above described and by
 law provided.

BE IT RESOLVED, therefore, by the Indiana State Highway Commission of Indiana, that said building so described be advertised, sold and caused to be removed from right of way of said highway project within a definite time to be fixed in the notice and terms of sale thereof, all as by law provided, and,

BE IT FURTHER RESOLVED, that a copy of this Resolution be submitted to the Director of Public Works as his warrant of authority for the disposal of said personal property as herein requested.

ADOPTED and PASSED by the Indiana State Highway Commission of Indiana this 27th day of June, 19 63.

Offices of the Indiana State Highway Commission of Indiana.

This is to certify that the attached is a full, true and complete copy of a Resolution authorizing the sale of improvements on the right of way as described, as the same appears in the minutes of the Commission in the State Office Building in the City of Indianapolis, Indiana.

IN WITNESS WHEREOF, I, ^{M. L. Hayes Acting} Roy Whitton, Secretary of the Indiana State Highway Commission of Indiana, hereto place my hand and seal of said Commission on this 27th day of June, 19 63.

M. L. Hayes
Acting Secretary

SEAL:

CONTRACT OF SALE

RECEIPT NO.

322

Project 8-778 (1)
Parcel Cond 11
County Henry
Former Owner Donald Miller

THIS AGREEMENT, made this 2nd day of August 1963, by and between the State of Indiana, acting by and through the Department of Administration, Supply Division, for the State Highway Commission of Indiana, hereafter referred to as SELLER, and Donald Miller whose address is

743 in New Castle

hereinafter referred to as BUYER; Witnesseth:

THAT THE SELLER, in consideration of the amount and conditions hereinafter set forth and in accordance with the terms of the advertising for the sale thereof, promises and agrees to sell, and does hereby sell, to the BUYER, the following personal property, to wit:

**frame shed, attached lean-to
trees, shrubs and fence, if any**

AND THE BUYER now pays to the SELLER the amount of \$ 1.00 being the amount bid by said BUYER at the public sale of said property, receipt of which is hereby acknowledged and BUYER promises and agrees to remove said personal property from the said real estate upon which it is now located within ¹⁵~~30~~ days from the date of sale, and, upon the failure of the BUYER to remove all of said property within said time, the SELLER, through the State Highway Commission of Indiana may retain the purchase price, as liquidated damages, and retain title to said personal property, on account of the breach of this Agreement; and it is a condition of this Agreement that the time for the moving of said described property is of the essence hereof, and the BUYER shall have no recourse or claim for damages against the SELLER for the moving, sale or destruction of any of said property after the time limit above set forth.

After said personal property has been removed from its present location by the purchaser, the SELLER shall, upon demand, deliver to the purchaser a Bill of Sale for said personal property.

IN WITNESS THEREOF, the said parties have caused their signatures to be affixed by the appropriate officers.

STATE OF INDIANA: James H. Berg (SELLER)
By: _____ Deputy Commissioner; Department of Administration

Donald Miller (BUYER)

STATE OF INDIANA
COUNTY OF HENRY

SS:

IN THE HENRY CIRCUIT COURT
OF HENRY COUNTY, INDIANA
Term, 19

STATE OF INDIANA,

Plaintiff

versus
CHARLES M. MILLER
DONALD H. MILLER &
VIRGINIA MILLER (H&W)
VIRGIL THORNSBERY
WILLIAM L. JACKSON
HOMER DENNEY

FILED

Cause No. 36229

MAY 9 1963

COMPLAINT FOR APPROPRIATION
OF REAL ESTATE

Rea H. Ratcliff
Clerk Henry Circuit Court

Defendants.

NUMBER 1

The plaintiff, State of Indiana, complains of the above named defendants, and says: That the plaintiff, acting through its legally organized and constituted commission, known and designated as the Indiana State Highway Commission is now engaged in the improvement of a certain public highway in Henry County, Indiana, said highway being known as State Road No. 38, Project No. S-778 (1), said highway being one of the highways of and a part of the State Highway System of the State of Indiana; and the same is to be improved and maintained by said Indiana State Highway Commission as a part of the said state highway system. That said Indiana State Highway Commission has heretofore prepared and adopted plans for the improvement of said highway, which plans have been signed by the Chairman of said Indiana State Highway Commission and are now on file in its office.

That the defendants CHARLES M. MILLER, DONALD H. MILLER &
VIRGINIA MILLER (H&W) et al.

are the owners of certain real estate in said county in which is included the real estate hereby sought to be appropriated and condemned. Defendants said real estate is described as follows:

The Southwest Quarter of the Southeast quarter of Section Sixteen (16) Township Seventeen (17) North, Range Eleven (11) East, containing 40 acres.

Als9 the Northeast Quarter of Section Twenty One (21) Township Seventeen (17) North, Range Eleven (11) East, containing One Hundred Sixty (160) acres.

Plaintiff is informed and verily believes that the defendants, Virgil Thornsberg, William L. Jackson and Homer Denney claims and asserts an interest in and to the real estate described in Paragraph 2.

Plaintiff alleges that ownership of the fee in and to the real estate is set forth in Rhetorical Paragraph 2 and said defendants last above mentioned are made parties hereto, to answer as to any right, title or interest they may have in and to the real estate set forth in said Rhetorical Paragraph 2.

That for the purpose of improving said highway, it is necessary and proper that plaintiff take and appropriate under the powers vested in it by the General Assembly of the State of Indiana, the fee simple title to part of said tract of real estate described in Paragraph 2 herein. The part so sought to be appropriated and condemned is described as follows:

**SEE NEXT
PAGE**

A blue-print sketch plat of the above described real estate sought to be appropriated and identified by means of cross-hatched lines is attached hereto and made a part hereof and designated as Exhibit "A".

PROJECT S-778(1) PARCEL 11, 11A (IN FEE)

PARCEL 11 PERMANENT RIGHT OF WAY.

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE NORTHERLY 30.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTHERLY 20.2 FEET ALONG THE WEST PROPERTY LINE OF THE OWNER'S LAND; THENCE NORTH 89 DEGREES 41 MINUTES EAST, 1,356.5 FEET TO THE EAST PROPERTY LINE OF THE OWNER'S 40 ACRE TRACT; THENCE SOUTHERLY 20.0 FEET ALONG SAID PROPERTY LINE TO THE NORTH BOUNDARY OF STATE ROAD 38; THENCE WESTERLY 1,356.5 FEET ALONG SAID BOUNDARY TO THE WEST PROPERTY LINE OF THE OWNER'S LAND TO THE POINT OF BEGINNING AND CONTAINING 0.623 ACRES, MORE OR LESS.

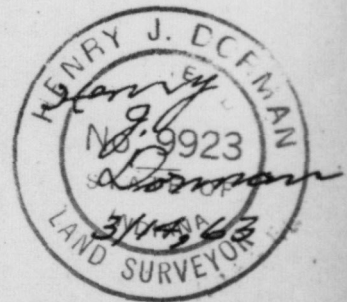
ALSO:PARCEL 11 A PERMANENT RIGHT OF WAY.

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE SOUTHERLY 30.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE EASTERLY 2681 FEET ALONG THE SOUTH BOUNDARY OF STATE ROAD 38 TO THE EAST PROPERTY LINE OF THE OWNER'S 160 ACRE TRACT; THENCE SOUTHERLY 20.0 FEET ALONG SAID PROPERTY LINE; THENCE SOUTH 89 DEGREES 41 MINUTES WEST, 2681 FEET TO THE WEST PROPERTY LINE OF THE OWNER'S 160 ACRE TRACT; THENCE NORTHERLY 20.0 FEET ALONG SAID PROPERTY LINE TO THE POINT OF BEGINNING AND CONTAINING 1.231 ACRES, MORE OR LESS.

ALSO:PARCEL 11 A T PERMANENT RIGHT OF WAY.

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE WESTERLY 1,747.8 FEET +/- ALONG THE NORTH LINE OF SAID SECTION; THENCE SOUTHERLY AT RIGHT ANGLES TO SAID SECTION LINE, 50.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE SOUTH 00 DEGREES 19 MINUTES EAST, 55.0 FEET; THENCE SOUTH 89 DEGREES 41 MINUTES WEST, 56.0 FEET; THENCE NORTH 00 DEGREES 19 MINUTES WEST, 55.0 FEET; THENCE NORTH 89 DEGREES 41 MINUTES EAST, 56.0 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.071 ACRES, MORE OR LESS.



NUMBER 5

That the residue of said real estate described in Paragraph 2 and owned by the above-named defendants will be benefited by said proposed improvement of said State Road as alleged herein.

NUMBER 6

That prior to the bringing of this action, the plaintiff through the said Indiana State Highway Commission, made an effort to purchase said real estate described in Paragraph 4 from the above-named owners, but that plaintiff and said owners have been unable to agree as to the purchase price thereof, or as to the amount of damages, if any, sustained by said defendants by reason of the appropriation of said real estate for the use hereinbefore stated.

NUMBER 7

That prior to the bringing of this action the said Indiana State Highway Commission adopted a resolution setting forth the description of said real estate sought to be acquired by it, as above set forth, which said resolution alleged and set forth that said real estate herein sought to be condemned was necessary for the carrying out of said highway improvement project and directed that condemnation proceedings therefor be instituted by the Attorney General in the name of the State of Indiana.

NUMBER 8

That said highway so to be improved extends from Wayne County, Indiana thence in a Westerly direction through New Castle, Noblesville, Frankfort and terminating in LaFayette, Indiana; that the termini and course of the particular project involved is as follows: Beginning at a point on State Road Number 38 approximately 781.5 feet East of the West line of Section 20, Township 17 North, Range 11 East, and extending in an Easterly direction approximately 33,000 feet to a point on State Road 38 approximately 3280.5 feet East of the Henry-Wayne County line.

in Henry County, State of Indiana, and said right of way is to be 100 feet wide, excepting where additional width may be required for construction purposes.

NUMBER 9

That the plaintiff, through said Indiana State Highway Commission intends to use the real estate herein sought to be condemned for the purpose of the improvement of said highway and the widening thereof, and said real estate as herein described is necessary and proper for the carrying out of said work, and said real estate when obtained will be used for such purpose.

NUMBER 10

WHEREFORE, the plaintiff prays that three disinterested freeholders of said county be appointed to appraise the value of the real estate sought to be condemned, and to fix the amount of benefits and damages, if any; and that such appraisers be ordered to report their appraisal, as by law provided, and that all other steps be taken and all proceedings had necessary for the Indiana State Highway Commission to acquire, by the right of eminent domain, the real estate so sought to be condemned for the purpose aforesaid.

EDWIN K. STEERS

Attorney General

Norman L. Kettel

Deputy Attorney General

Deputy Attorney General

Attorneys for Plaintiff

R E S O L U T I O N

WHEREAS, the carrying out of the construction and improvement by the Indiana State Highway Commission of Indiana of Project No. S 778 Sec. (1), in Henry County, Indiana, requires the construction, reconstruction, relocation or maintenance and repair (strike out inappropriate) of a public highway in said County, locally known as the State Road 38 ~~//ddd/~~ which highway forms a part of a State Highway designated in the records and files of the Indiana State Highway Commission of Indiana as Road No. 38, which extends from Wayne County, Indiana thence in a westerly direction through New Castle, Noblesville, Frankfort and terminating in Lafayette, Indiana,

the general width of the right of way for said project is 100 feet, which proposed construction project will necessitate acquisition of right of way as provided in the plans of said project on file in the offices of the Indiana State Highway Commission of Indiana at Indianapolis, Indiana, the general route, location and termini thereof being as follows: Beginning at a point on State Road Number 38 approximately 781.5 feet East of the West line of Section 20, Township 17 North, Range 11 East, and extending in an Easterly direction approximately 33,000 feet to a point on State Road 38 approximately 3280.5 feet East of the Henry-Wayne County line.

AND WHEREAS, it is necessary in making said improvement to acquire a right of way as hereinafter described over the land of Charles M. Miller, Donald H. Miller, Virginia Miller, 4732 Brookville, Road, Indianapolis, Indiana; Virgil Thorushery, R.R. 3, New Castle, Indiana; Wm., L. , and Jackson, Cadiz, Indiana; Homer Denney, R.R. 3, New Castle, Indiana,

WHEREAS, that the fee to the said land hereinafter described is to be taken for the reason that the public interest will be best served and economy effected, and,

WHEREAS, the Indiana State Highway Commission of Indiana has made an offer to said owner(s) for the purchase of said land, but has been unable to agree with said owner(s) upon purchase price thereof, or upon the amount of damages sustained by said owner (s), by reason of the taking thereof for the purchase aforesaid, and,

WHEREAS, the failure to obtain said land for said purpose is delaying the work of said highway improvement.

BE IT RESOLVED, that condemnation proceedings be instituted by the Attorney General in the name of the State of Indiana in a court of appropriate jurisdiction for the land hereinafter described in fee, the same being in Henry County, Indiana, and to be used as right of way for said highway improvement, and being necessary for such purposes, which land is specifically described as follows, to-wit:

PROJECT S-778(1) PARCEL 11, 11A (IN FEE)

PARCEL 11 PERMANENT RIGHT OF WAY.

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE NORTHERLY 30.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTHERLY 20.2 FEET ALONG THE WEST PROPERTY LINE OF THE OWNER'S LAND; THENCE NORTH 89 DEGREES 41 MINUTES EAST, 1,356.5 FEET TO THE EAST PROPERTY LINE OF THE OWNER'S 40 ACRE TRACT; THENCE SOUTHERLY 20.0 FEET ALONG SAID PROPERTY LINE TO THE NORTH BOUNDARY OF STATE ROAD 38; HENCE WESTERLY 1,356.5 FEET ALONG SAID BOUNDARY TO THE WEST PROPERTY LINE OF THE OWNER'S LAND TO THE POINT OF BEGINNING AND CONTAINING 0.623 ACRES, MORE OR LESS.

ALSO:

PARCEL 11 A PERMANENT RIGHT OF WAY.

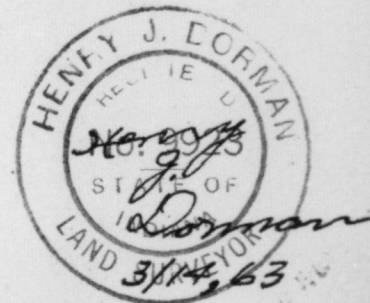
COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE SOUTHERLY 30.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE EASTERLY 2681 FEET ALONG THE SOUTH BOUNDARY OF STATE ROAD 38 TO THE EAST PROPERTY LINE OF THE OWNER'S 160 ACRE TRACT; THENCE SOUTHERLY 20.0 FEET ALONG SAID PROPERTY LINE; THENCE SOUTH 89 DEGREES 41 MINUTES WEST, 2681 FEET TO THE WEST PROPERTY LINE OF THE OWNER'S 160 ACRE TRACT; THENCE NORTHERLY 20.0 FEET ALONG SAID PROPERTY LINE TO THE POINT OF BEGINNING AND CONTAINING 1.231 ACRES, MORE OR LESS.

ALSO:

PARCEL 11 A T PERMANENT RIGHT OF WAY.

COMMENCING AT THE NORTHEAST CORNER OF SECTION 21, TOWNSHIP 17 NORTH, RANGE 11 EAST, HENRY COUNTY, INDIANA; THENCE WESTERLY 1,747.8 FEET +/- ALONG THE NORTH LINE OF SAID SECTION; THENCE SOUTHERLY AT RIGHT ANGLES TO SAID SECTION LINE, 50.0 FEET +/- TO THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE SOUTH 00 DEGREES 19 MINUTES EAST, 55.0 FEET; THENCE SOUTH 89 DEGREES 41 MINUTES WEST, 56.0 FEET; THENCE NORTH 00 DEGREES 19 MINUTES WEST, 55.0 FEET; THENCE NORTH 89 DEGREES 41 MINUTES EAST, 56.0 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.071 ACRES, MORE OR LESS.



Form CR -2

Rev. 5 - 61

Resolution (cont.)

and a Right of Way Plat as shown in attached exhibit and marked "Exhibit A".

WHEREAS this matter was considered and adopted by voice vote by a quorum of the members of the Indiana State Highway Commission present at a regular meeting held in the office of the Indiana State Highway Commission in Indianapolis, Indiana, on the 15th day of April, 1963.

BE IT FURTHER RESOLVED, that a copy of this resolution be referred to the Attorney General of Indiana.

INDIANA STATE HIGHWAY COMMISSION

Form CR-3
Rev. 5-61

Offices of the Indiana State Highway Commission of
Indiana, Indianapolis, Indiana.

This is to certify that the attached and foregoing is
a full, true and complete copy of a Resolution with Right of
Way map attached affecting the lands of Charles M. Miller,
Donald H. Miller, Virginia Miller, 4732 Brookville Road, Indianapolis,
Indiana; Virgil Thorushery, R.R. #3, New Castle, Indiana; William L.
Jackson, Cadiz, Indiana; Homer Denney, R. R. #3, New Castle,
Indiana,
in Henry County, Indiana, as the same appears in
the minutes of the Commission in the State Office Building in
the City of Indianapolis, Indiana.

IN WITNESS WHEREOF, I, Roy Whitton, Secretary of the
Indiana State Highway Commission of Indiana, hereto place my
hand and seal of said Commission on this 18th day of April,
19 63.

Roy F. Whitton

Secretary

SEAL:

PARCEL NO. 11-PERM & 11A-PERM OWNER: CHAS. M. MILLER

DRAWN BY WIXOM, R. F.

PROJECT NO. S-77B (1)

et al

CHECKED BY *Blot*

ROAD S. R. 38

DEED RECORD

title search 45536-2
PAGE DTD., By

6/26, 62
Henry Co.
Abstract Co.

NOT GIVEN

COUNTY : HENRY



CROSSHATCHED
AREA IS
APPROX. TAKE

SCALE:

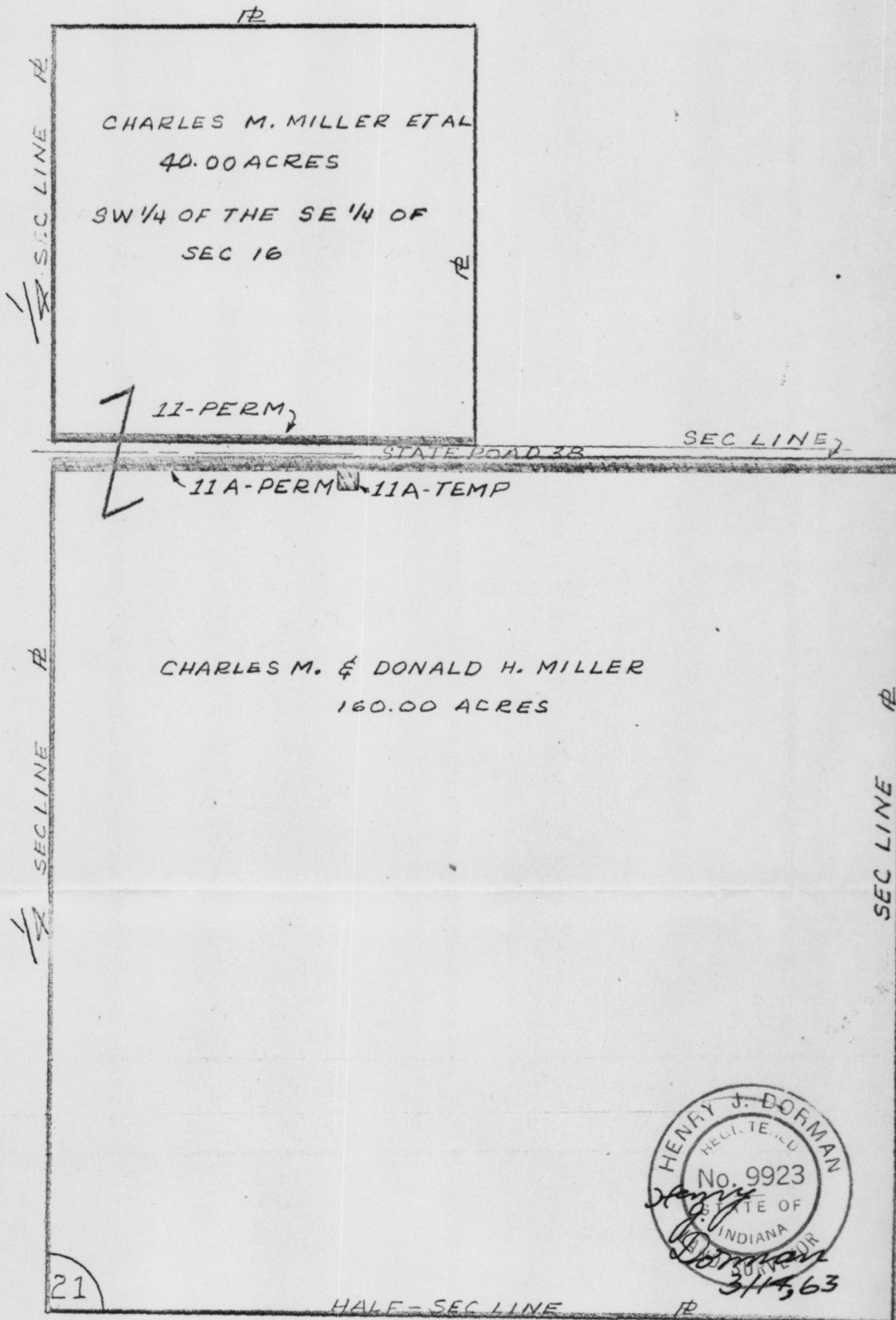
1" = 400'

NORTH

SECTION : 21 & 16

T 17 : N

R 11 : E



TITLE AND ENCUMBRANCE REPORT

5536-2

DIVISION OF LAND ACQUISITION

INDIANA STATE HIGHWAY COMMISSION

S.R. 38 PROJ. S-778(1) COUNTY Henry

Names on Plans Charles M. & Donald H. Miller

Names in Trans. Book Charles M. & Donald H. Miller

Description or Addition	Sec.	Twp.	Rge.	Acreage	Assessed Value	
NE $\frac{1}{4}$	21	17	11	160	\$9030	\$570
SW $\frac{1}{4}$ SE $\frac{1}{4}$	16	17	11	31.37	\$1260	\$2430
W $\frac{1}{4}$ SE $\frac{1}{4}$ Forest Reserve	16	17	11	8.63	\$10	None

Liberty Township

LAST OWNER OF RECORD

Affidavit file In Comr. Papers, shown at Entry 21 of attached Title Search
Deed Record P. Recorded Dated Deed

Grantor Bertha H. Miller died 6-13-1947, leaving her sole heirs:

Grantee Charles M. Miller & Donald H. Miller

Address of Grantee R R #3, Box 159, New Castle, Indiana

MORTGAGE RECORD

Mortgage Recrd NONE P. Amount Dated

Mortgagor

Mortgagee

JUDGMENT RECORD Yes None LIS PENDENS RECORD Yes None

MISCELLANEOUS RECORD Yes None EASEMENT Yes None

* Wild Life Habitat, See Entries Nos. 16 to 20 of attached Title Search herewith.
If answer to any of above is yes, clarify on back of sheet or on attached sheet.

TAXES Current Paid Delinquent

CERTIFICATE

I, the undersigned certify that the above and the attached copies include all transfers of the above described real estate as shown by the records in the office of Recorder of the above county from the date of the earliest entry shown in this search to date, except as otherwise noted, and that all liens, judgments and other matter of record hereinbefore requested for the same period are set forth.

HENRY COUNTY ABSTRACT COMPANY, INC.

Dated this 26th day of June 1962

Nelson Diggins
Abstractor President.

Prel. Approval of Title Date

By
Deputy Attorney General

Final Approval of Title Date

By
Deputy Attorney General

TITLE SEARCH

No. 45536-2

Prepared for Indiana State Highway Commission.
Project S-778 (i), Liberty Township, Henry County, Indiana.

1. Names On Plans: Charles M. Miller and
Donald H. Miller
- Names on Transfer Book: Charles M. Miller and
Donald H. Miller

Description

The Southwest Quarter of the Southeast quarter of Section Sixteen (16) Township Seventeen (17) North, Range Eleven (11) East, containing 40 acres.

Also the Northeast Quarter of Section Twenty One (21) Township Seventeen (17) North, Range Eleven (11) East, containing One Hundred Sixty (160) acres.

SUPPLEMENTAL TITLE AND ENCUMBRANCE REPORT

PROJECT No. S-778 (1) STATE ROAD No. S.R.38 PARCEL No. 11

RECORD OWNER Charles M. & Donald Miller

FROM 6-26-62 TO 3-20-63

I have checked the following records in Henry COUNTY,
Indiana, for the Caption Property as described in the original T. & E. Report.

DEED RECORD	<u>NOCHANGE</u>
MORTGAGE RECORD	<u>" "</u>
MISCELLANEOUS RECORD	<u></u>
OLD AGE ASSISTANCE RECORD	<u></u>
TAX LIEN RECORD	<u></u>
JUDGMENT RECORD	<u></u>
LES PENDENS RECORD	<u></u>
TAX DUPLICATE	<u>PAID NO. DEL.</u>

CHANGES SINCE DATE OF LAST ABSTRACT ARE AS FOLLOWS:

SIGNED *John H. [Signature]*
DATE 3-20-63

2.

THIS INDENTURE WITNESSETH, That Phebe Hewit, a widow and unmarried, Carrie Yauky and Aldona Yauky, her husband, of Henry County, Indiana CONVEY AND WARRANT TO Bertha H. Miller, of Henry County, Indiana, the said Phebe Hewit, being the surviving widow of John H. Hewit, deceased and Carrie Yauky and Bertha H. Miller, being all of the children of the said John H. Hewit, and the said Phebe Hewit, Carrie Yauky and Bertha H. Miller, being all and the sole and the only heirs-at-law of John H. Hewit, deceased, late of Henry County, Indiana, for and in consideration of the sum of One dollar and in partition of the lands of which the said John H. Hewit, died seized, the undivided two-thirds of the following described real estate, situate in Henry County, Indiana, to wit:

Sixty (60) acres off of the north end of the east half of the Northeast quarter of section twenty one (21) township, seventeen (17) North, Range eleven (11) east.

IN WITNESS WHEREOF, The said Phebe Hewit, Carrie Yauky and Aldona Yauky, her husband have hereunto set their hands and seals this 27th day of October, 1921.

Phebe Hewit (seal)
Carrie Yauky (seal)
Aldona Yauky (seal)

State of Indiana, County of Henry, SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the above named Phebe Hewit a widow, Carrie Yauky, and Aldona Yauky, her husband, and acknowledged the execution of the above and foregoing deed.

Witness my hand and Notarial seal, this 27th day of October, 1921.

(LS) N. Guy Jones
Notary Public

My commission expires March 18th, 1925
Rec. June 17, 1922
Deed Record 100, page 293.

3.

THIS INDENTURE WITNESSETH, That Carrie Yauky and Aldona Yauky her husband, of Henry County, Indiana, CONVEY RELEASE AND QUIT CLAIM unto Bertha H. Miller, of Henry County, Indiana said Carrie Yauky grantor, and Bertha H. Miller, grantee, being the only children and together with Phebe Hewit, the surviving widow, being all and the sole and only heirs at law of John H. Hewit, deceased late of Henry County, Indiana, for and in consideration of the sum of One dollar and in partition of the real estate and lands of which the said John H. Hewit, died seized, the undivided one third of the following described real estate in Henry County, Indiana, to wit:

The southwest quarter of the southeast quarter of Section sixteen (16) township seventeen (17) North, range eleven (11) east of the Second Principal Meridian in Indiana.

Also, commencing at the northwest corner of the northeast quarter of section twenty one (21) township seventeen (17) North range eleven (11) east; running thence east eighty (80) rods; thence south one hundred (100) rods; thence west eighty (80) rods thence north to the place of beginning.

Also, thirty one and one half (31½) acres off of the south end of the west half of the northeast quarter of section twenty one (21) township seventeen (17) North, Range eleven (11) east.

Also twenty (20) acres off of the south end of the east half of the northeast quarter of section twenty one (21) township seventeen (17) North, Range eleven (11) east.

X
OK

OK

OK

4.

IN WITNESS WHEREOF, The said Carrie Yauky and Aldona Yauky her husband, have hereunto set their hands, this 27th day of October, 1921.

Carrie Yauky (seal)
Aldona Yauky (seal)

STATE OF INDIANA, COUNTY OF HENRY, SS:

Before me, the undersigned a Notary Public in and for said County and State, personally appeared Carrie Yauky and Aldona Yauky, her husband, and acknowledged, the execution of the above and foregoing deed. Witness my hand and Notarial Seal, this 27th day of October, 1921.

(LS) N. Guy Jones
Notary Public

My commission expires
March 18, 1925

Recorded June 17, 1922
Deed Record 100, page 294.

5.

LAST WILL AND TESTAMENT OF PHEBE HEWIT

I, Phebe Hewit, of Henry County, Indiana, being of sound and disposing mind and memory do hereby make, seal publish and declare the following to be my last will and testament and do hereby revoke any and all wills heretofore made by me.

Item One: I direct that all my just debts and funeral expenses be paid by my Executor as soon after my decease as practicable out of any money that may come into its hands.

Item Two: Unto my daughter Carrie Yauky I will, devise and bequeath all my interest as surviving widow of John H. Hewit, deceased, the same being the undivided one third of the following described real estate in Henry County, Indiana, towit:

The south half of the west half of the east half of the northwest quarter of section twenty two (22) township seventeen (17) North, range eleven (11) east; also the south half of the west half of the northwest quarter of section twenty two (22) township seventeen (17) north, range eleven (11) east; also the east half of the southeast quarter of section sixteen (16) township seventeen (17) North, range eleven (11) east, except the right of way of the P.C.C. & St. L. Railroad Company, over, through and across said lands, to have and to hold the same absolutely and in fee simple.

Item Three: Unto my daughter Bertha H. Miller I will, devise and bequeath all my interest as surviving widow of John H. Hewit, deceased, the same being the undivided one third of the following described real estate situate in Henry County, Indiana, towit:

The southwest quarter of the southeast quarter of section sixteen (16) Township Seventeen (17) North, Range eleven (11) east of the Second Principal Meridian in Indiana. Also commencing at the northwest corner of the northeast quarter of section twenty one (21) township seventeen (17) North, range eleven (11) east, running thence east eighty (80) rods, thence south one hundred (100) rods; thence west eighty (80) rods; thence north to the place of beginning. Also thirty one and one half (31½) acres off of the south end of the west half of the northeast quarter of section twenty one (21) township seventeen (17) north, range eleven (11) east. Also twenty (20) acres off of the south end of the east half of the northeast quarter of section twenty one (21) township seventeen (17) North range eleven (11) east to have and to hold the same absolutely and in fee simple.

1
3

To
Bertha
+
1/3
+
Bertha's
already
1
3
interest

Henry County Abstract Company, Inc.

New Castle, Indiana

6.

Item Four: All the rest and residue of my property both real and personal I will devise and bequeath unto my said daughters Carrie Yauky and Bertha H. Miller share and alike and absolutely and in fee simple.

Item Five: I nominate and appoint Central Trust and Savings Company of Newcastle, Indiana Executor of this my last will and testament.

IN TESTIMONY WHERE I hereunto set my hand and seal this 27th day of October, 1921 and have also set my hand on the first page hereof on said date.

Phebe Hewit (seal)

The foregoing instrument was subscribed, sealed, published and declared by Phebe Hewit as and for her last will and testament in our presence and in the presence of each of us, and we, at the same time, at her request, in her presence and in the presence of each other, hereunto subscribe our names as attesting witnesses this 27th day of October, 1921.

W.U. Kennedy
J.C. Hardesty

STATE OF INDIANA, HENRY COUNTY, SS:

In open Court before me John H. Morris Judge of the Circuit Court of the County of Henry, in the State of Indiana, personally came W.U. Kennedy subscribing witnesses to the foregoing instrument of writing, who being by me first duly sworn upon oath, depose and say that Phebe Hewitt, the testator named in the instrument of writing purporting to be his LAST WILL AND TESTAMENT, did sign, seal, publish and declare the same to be his last Will and Testament, on the day of the date thereof; that the said testator was, at the same time of the full age of twenty one years, and of sound and deposing mind and memory and that he was not under coercion, compulsion or restraint, and that he was competent to devise his property. And that the said testator so signed, sealed, published and declared the same to be his last WILL AND TESTAMENT, in manner and form as aforesaid, in the presence of affiant, and of J.C. Hardesty the other subscribing witness thereto; and that they each attested the same, and subscribed their names as witnesses thereto; in the presence and at the request of said testator, and in the presence of each other, and that said testator departed this life testate as he believes on the 11th day of May, 1930.

W.U. Kennedy

SUBSCRIBED AND SWORN TO BEFORE ME, In witness of which I hereunto affix the seal of said Court, and subscribe my name at Newcastle, this 28th day of May, 1930.

Clark F. Reece, Clerk

STATE OF INDIANA, HENRY COUNTY, SS:

I, Clark F. Reece, Clerk of the Circuit Court of the County of Henry, in the State of Indiana, do certify that the foregoing last Will and Testament of Phebe Hewit has been duly admitted to Probate before me.

That the same was proved by the examination, under oath, of W.U. Kennedy the subscribing witness thereto; and that a full and complete record of the said Will, and of the proof and examination by the witnesses by whom the same was proven, has been made, and is now on record in Will Record L of said County, on pages 367-368.

IN TESTIMONY WHEREOF, I have hereunto affixed the seal of said Court, and subscribed my name, at Newcastle, this 28th day of May, A.D. 1930.

Clark F. Reece, Clerk

8.

CODICIL NUMBER ONE

I, Phebe Hewit do make this my codicil hereby confirming my last will and testament made on the 27th day October 1921 as far as this codicil is consistent therewith, and I make this exception to my said will.

Item Five: of said will I name and appoint Central Trust and Savings Company of Newcastle Indiana as my Executor, I hereby desire and do change my Executor hereby canceling the appointment of the Central Turst and Savings Company of Newcastle, Indiana, and do hereby substitute and appoint as Executrix of my said will my two daughters, Carrie Yauky and Bertha H. Miller, with full power to act.

Witness my hand and seal this the 4th day of August 1924.

Phebe Hewit

The above named Phebe Hewit did on the 4th day of August 1924 sign, seal and declare the above as codicil number One to her said will and we did at her request and in her presence and in the presence of each other sign our names as subscribing witnesses to her said codicil number one.

Marcia Landrigan
Horace G. Yergin

STATE OF INDIANA, HENRY COUNTY, SS:

In open Court before me, John H. Morris Judge of the Circuit Court of the County of Henry, in the State of Indiana, personally came Horace G. Yergin subscribing witnesses to the foregoing instrument of writing, who being by me first duly sworn upon oath, depose and say that Phebe Hewit the testator named in the instrument of writing purporting to be his last WILL AND TESTAMENT did sign, seal, publish and declare the same to be his last Will and Testament, on the day of the date thereof, that the said testator was, at the same time of the full age of twenty one years, and of sound and deposing mind and memory and that he was not under coercion, compulsion or restraint, and that he was competent to devise his property. And that the said testator so signed, sealed, published and declared the same to be his last WILL AND TESTAMENT, in manner and form as aforesaid, in the presence of affiant, and of Marcia Landrigan the other subscribing witnesses thereto; and that they each attested the same, and subscribed their names as witnesses thereto; in the presence and at the request of said testator, and in the presence of each other, and that said testator departed this life as he believes on the 11th day of May, 1930.

9.

Horace G. Yergin

SUBSCRIBED AND SWORN TO BEFORE ME, In witness of which I hereunto affix the seal of said Court, and subscribe my name at Newcastle this 26th day of May, A.D. 1930.

Clark F. Reece, Clerk

STATE OF INDIANA, HENRY COUNTY, SS:

I, Clark F. Reece, Clerk of the Circuit Court of the County of Henry, in the State of Indiana, do certify that the foregoing, last Will and Testament of Phebe Hewit has been duly admitted to Probate before me.

That the same was proven by the examination, under oath, of Horace G. Yergin the subscribing witness thereto; and that a full and complete record of the said Will, and of the proof and examination by the witnesses by whom the same was proven, has been made, and is now on record in Will Record L of said County on pages 368 and 369.

IN TESTIMONY WHEREOF, I have hereunto affixed the seal of said Court, and subscribed my name, at New Castle this 26th day of May, A.D. 1930.

Clark F. Reece, Clerk

Henry County Abstract Company, Inc.

New Castle, Indiana

10.

I hereby certify that the above and foregoing is a full, true and complete copy of the last will and testament of Phebe Hewit, deceased, as the same appears of record and on file in this office and in my custody.

Clark F. Reece
Clerk Henry Circuit Court

Will Record L pages 367 to 369.

11.

State of Indiana
County of Henry, SS:

In The Henry Circuit Court
April Term, 1930
No. 14124

In Re: Estate of
Phebe Hewit, deceased

Probate of Will

Comes now Horace G. Yergin and W.U. Kennedy and file their last will and testament with codicil of Phebe Hewit, late of said County, Indiana, deceased, which last will and codicil is as follows, towit (HI) and said Horace G. Yergin and W.U. Kennedy the subscribing witnesses thereof being duly sworn upon their oath deposes and testifies as follows, towit (HI) and said last will with codicil with the proofs thereof are now submitted to the Court and the Court having seen and examined the same and being well advised in the premises finds that said decedent died testate at Henry County, Indiana, on the 11th day of May, 1930 and on the 27th day of October 1921 she executed her last will and testament and on the 4th day of August, 1924 she executed her codicil as herein filed, and at the time of the execution thereof said testator was of full age, that is more than twenty one years and of sound and disposing mind and memory and competent to devise her property.

IT IS FURTHER ORDERED AND ADJUDGED, by the Court that the said Phebe Hewit died testate at Henry County, Indiana, on the 11th day of May, 1930 and on the 27th day of October 1921 she executed her last will and testament and on the 4th day of August, 1924 she executed her last codicil as herein filed, and at the time of the execution thereof said testator was of full age of twenty one years, and of sound and disposing mind and memory and competent to devise her property.

IT IS FURTHER ORDERED by the Court that the said Last Will and Testament of Phebe Hewit be and the same is hereby admitted to the probate in the Henry Circuit Court and that the same be spread on record upon the proper will record of said County

May 28th, 1930
Probate Order Book 42, page 406.

12.

State of Indiana
County of Henry, SS:

In the Henry Circuit Court
April Term, 1930
No. 3258

In Re: Estate of
Phebe Hewit, deceased

Petition bond and letters

Comes now Bertha H. Miller and files her petition with her bond in the sum of Fifteen Hundred (\$1500) dollars with C.M. Miller and R.H. McIntyre as sureties thereon, said petition and bond being for the appointment of Executor of the Estate of Phebe Hewit, deceased, and being in the words and figures as follows towit: (HI) said petition and bond is now submitted to the court and the court having seen and examined the same and being well advised in the premises approves said bond and said Bertha H. Miller being duly sworn upon her oath as such Executor letters are issued to her in said trust.

June 25, 1930
Probate Order Book 42, page 442.

13.

State of Indiana
County of Henry, SS:

In Henry Circuit Court
September Term, 1931
No. 3258

In Re: Estate of
Phebe Hewit, deceased

Final Settlement

Comes now Bertha H. Miller, Executor of the above named estate, and submits to the Court the following account and vouchers by her filed in final settlement herein as follows, towit (HI) and also files and submits proofs of posting and publication of notices to the creditors, heirs at law and all others interested in said estate of the filing thereof and when the same would be heard, which notices to the creditors heirs at law and all others interested in said estate of the filing thereof and when the same would be heard, which notices and proofs the court finds to be sufficient and are as follows, towit (HI) and the Court having seen and examined said account and vouchers and having heard the evidence and being fully advised in the premises approves and confirms said final settlement account in all things and orders that said Administrator be and is hereby released and discharged from any and all further liability hereunder.

The Court further finds that the several interests received by the heirs of said decedent in and to said estate is less than the amount exempt from the payment of any inheritance tax, thereon and that said estate is not liable for the payment of any inheritance tax.

And this estate is adjudged fully and finally disposed of.

September 10, 1931
Probate Order Book 43, page 420.

14.

ORDER DETERMINING VALUE OF ESTATE AND FINDING NO INHERITANCE TAX
Cause No. 736

IN THE CIRCUIT COURT
COUNTY OF Henry STATE OF INDIANA.

In the Matter of the Estate of
Phebe Hewitt

At the Sept. Term, 1930

The matter of determining the value of the property of said decedent and the tax imposed by the inheritance and transfer tax laws upon the transfer thereof coming on to be heard at this time pursuant to notice given on the 24 day of July, 1930, to all persons interested, including the State Board Tax Commissioners and County Treasurer;

And it appearing that the inventory and report of Bertha Hewitt and the report of Arthur J. Kendall (Appraiser) have heretofore been duly filed herein and that said deceased died on or about the 11 day of May, 1930.

And having taken testimony and considered the inventory, appraisal, report and the whole record herein, and having heard all parties desiring a hearing, and being fully advised in the premises;

The Court finds and determines that the clear market value of the property of the said decedent, subject to and within the jurisdiction of the laws of this State, is as follows:

Value of Personal Property (Gross)	\$ 785.31
Value of Real Property (Gross)	8830.00
Total Gross Value of Estate	9615.31
Deductions (Debts, Claims, Expenses, etc)	907.86
Total Net Value of Estate	8707.45

And the Court further finds and determines that the proportions and amounts of the property of the decedent transferred, the names and relationship of the persons beneficially entitled to receive the same, the rates and amounts of tax for which they are liable, are as follows:

NAME	RELATION	VAL. OF INT.	EXEMPT	RATE	AMT. OF TAX
Bertha Miller	daughter	4698.72	5000	1%	NONE
Rea H. Yauky	G. Son	2004.36	5000	1%	"
Madge O'Neal	G. Daughter	2004.37	5000		"
TOTAL		8707.45			NONE

WHEREFORE, IT IS ORDERED, That nothing is due from said persons as and for the tax imposed by the acts in relation to the taxable transfers of property, and that the following property be free from any lien of inheritance and transfer tax;

County	Twp, City or Town	Description	S	T	R	Acres
Henry	Liberty	N.E.	21	17	11	100
"	Liberty	S.W.S.E.	16	17	11	40
"	"	S.W.N.W.	22	17	11	40
"	"	S.W.E.N.W.	22	17	11	20
"	"	In E.S.E.	16	17	11	79.2

Also that the several items of personal property described in the petition for determination of inheritance tax and the appraiser's report are free from lien

Dated September 5, 1930 By the Court John H. Morris, Judge

16.

Form Approved By
Indiana Attorney
General: 10-2-47

I - Revised

FARMER - STATE COOPERATIVE AGREEMENT
For
WILDLIFE HABITAT RESTORATION PROGRAM

THIS AGREEMENT entered into this 29th day of November, 1948, by the INDIANA DEPARTMENT OF CONSERVATION by its DIVISION OF FISH AND GAME hereinafter called the STATE, and Charles M. Miller, C. M. Miller, Executor of Bertha H Miller Estate owner of the real estate herein described for his heirs, administrators, and assigns hereinafter called the OWNER, WITNESSETH:

Purpose

1. That the parties hereto agree to cooperate to effectuate the development and maintenance of a food, cover, and nesting unit for wildlife on the real estate herein described under the provisions of the Cooperative Wildlife Habitat Restoration Program, Indiana Project 6-D;

Consideration

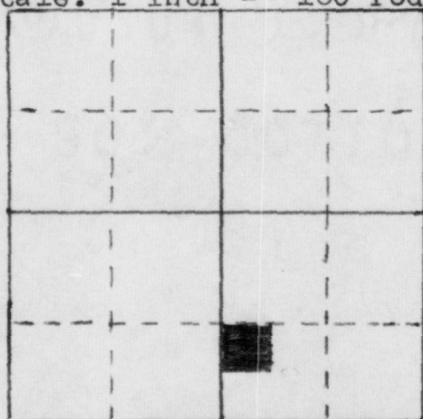
2. That any benefits of whatsoever nature or kind, inuring, or reasonably expected to inure, to any party hereto, by reason of this agreement, shall be deemed by that party sufficient consideration for the performance, or the promise to perform, any act required of such party by this agreement;

17.

Lease &
Term

3. That the OWNER in consideration of the premises and of the sum of \$1.00, receipt of which is hereby acknowledged, does hereby lease, let and demise to the STATE for the term of ten years the following described real estate, to wit:

Scale: 1 inch = 160 rods Acres: 8.73 (more or less)



Quarter: SW $\frac{1}{4}$ of SE $\frac{1}{4}$

Section: 16

Township: 17N

Range: 11E

County: Henry

Nearest Town: New Castle

said area being more particularly described on a plat marked Exhibit A and dated the same date herewith;

Obligations
of the STATE

4. That the STATE agrees to use the above described area for the purpose mentioned in Paragraph 1 and agrees:

Survey

(a) to pay all costs of surveying and measuring the above described area that is required; and

Vegetation

(b) to furnish all seeds, vines, shrubs, and trees that it may require to be planted on said area; and

Henry County Abstract Company, Inc.
New Castle, Indiana

18.

Signs &
Fencing

(c) to furnish all signs, and to pay the OWNER for all fencing which the STATE may require on said area according to the schedule of prices and specifications for such fencing which is contained in a separate contract entered into between said OWNER and the STATE and dated the same date herewith;

Obligations
of the OWNER

5. That the OWNER will furnish the labor, tools and equipment necessary to the establishment, development and maintenance of the above described area for the purpose herein stated and agrees:

Planting

(a) that he will plant and tend said area according to the plans and directions furnished by the STATE; and

Maintenance

(b) that he will care for and maintain said area and the fence and signs around the area under the supervision of the STATE; and

Fire &
Grazing

(c) that he will take reasonable care to prevent damage to the area by fire and to prevent his domestic stock from grazing on the above described area;

Hunting

6. That the area herein leased to the STATE as a wildlife habitat and sanctuary shall be closed for hunting during the term of this lease and that the remainder of the OWNER'S farm will not be closed as a wildlife sanctuary and that the OWNER will permit hunting on such remainder under the same rules and restrictions which the OWNER imposed upon hunters prior to this lease.

19.

Release

7. That this contract and lease may be terminated by the STATE on ___ days' notice in writing mailed to the OWNER, in which event, the STATE will at its expense prepare, execute and record a release of this agreement.

Duplicate

8. This lease and agreement is executed in duplicate and each copy thereof shall be deemed an original.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

STATE

BY

INDIANA DEPARTMENT OF CONSERVATION
Donald R. Hughes
Director, Division of Fish and Game
Donald R. Hughes

Charles M. Miller
Charles M. Miller

C.M. Miller
C.M. Miller

Executor of Bertha H. Miller's Estate
R#3 New Castle, Indiana

State of Indiana

County of Marion SS:

STATE ACKNOWLEDGMENT

Before me this 7th day of December 1948 personally appeared Donald R. Hughes, known by me to be the Director of the Division of Fish and Game of the Department of Conservation of the State of Indiana, and as such director acknowledges the execution of the above Henry County Abstract Company, Inc.

New Castle, Indiana

20.

the above and foregoing instrument.

(LS)

Elvie Murtaugh

My commission expires: 2/15/52

State of Indiana

County of Henry, SS:

OWNER ACKNOWLEDGMENT

Before me this 29th day of Nov. 1948 personally appeared Charles M. Miller, C.M. Miller, Executor of Bertha H. Miller Estate, known by me to be the owner of the real estate which is above described, and as such owner acknowledges the execution of the above and foregoing instrument.

(LS)

James A. Hughes

Notary Public

James A. Hughes

My commission expires;
October 24th, 1951

Recorded January 6, 1949 in Miscellaneous Record 31, page 160 & 161.

21.

AFFIDAVIT

Charles M. Miller of Liberty Township, Henry County being duly sworn on his oath deposes and says:

That Bertha H. Miller died intestate on the 13th day of June, 1947 and that no administration was had on her estate. That at the time of her death she was the owner in fee simple of the following described real estate:

The northeast quarter of section 21, Township 17 North, Range 11 East and the southwest quarter of the southeast quarter of section 16, township 17 North, range 11 east, all in Liberty Township, Henry County, Indiana and consisting of 200 acres.

He further desposes and says that all the debts of the said Bertha H. Miller have been paid and that all taxes, gross inheritance, county and Federal have been paid. That the sole and only heirs at law of the above Bertha H. Miller are Charles M. Miller, husband, and Donald H. Miller, son and that the sole and only purpose of this affidavit is for the transfer of the above real estate on the tax records of the County of Henry, Indiana

Charles M. Miller

Charles M. Miller

Subscribed and sworn to before me this 8th day of March, 1951 by Charles M. Miller.

(LS)

J. Frank Shively

Notary Public

My commission expires 1-6-54.

Filed in Commissioners Papers
March Term, 1951.

Planning Commission Ordinance

A printed copy of the Henry County, Indiana, Planning Commission Ordinance No. 1, Revised, consisting of pages numbered 1 to 54 inclusive, certified to by the Auditor of Henry County, Indiana, was recorded June 5th, 1956, and appears of record in Miscellaneous Record 38, pages 170 to 198 inclusive, all of which is made a part of this abstract by reference.

Said Ordinance affects all rural area of Henry County, Indiana, all unincorporated communities and such incorporated communities as may be placed under the administration of the Henry County Planning Commission.

22. For details of this Ordinance and how the same affects Caption Real Estate, if within such jurisdiction, attention is directed to such record and to The Building Commissioner of Henry County, Indiana, who is the Administrative Officer of said Planning Commission.

Attention is likewise directed to the New Castle Planning Commission as to Land Use, Zoning, etc. of Real Estate within the jurisdiction of said Planning Commission.

This Abstract and the subsequent Certificate does not Cover Zoning or Land Use of any tract or lot in Henry County, Indiana; for such information it is necessary to contact the proper administrative officer of the Planning Commission having jurisdiction of Caption Real Estate.

This Abstract and the subsequent Certificate does not cover any governmental limitation or regulation respecting access to abutting streets, roads or highways.

Taxes

An examination has been made and is limited to the Current Tax Duplicate of Henry County, Indiana, for taxes, both delinquent and current, against the Caption Land of this Abstract, (assessed in some instances with other Real Estate.) Such examination does not cover taxes on personal property, Auditor's Assessments, nor future taxes which may be a lien but not computed and extended on the Current Tax Duplicate.

Such examination reveals taxes against caption land assessed in the Name, Taxing Unit, Description and Amount or Amounts, as follows:

23. Charles M & Donald A. Miller
Liberty Township

NE	21-17-11	160 Acres	\$9030	\$570
SW SE	16-17-11	31.37 Acres	1260	2430
SW SE	16-17-11	8.63 Acres Forest Reserve	10	

Exemptions None
Delinquent Taxes "

1961 Taxes payable May, 1962: \$246.05: Pd 3/26/1962
1961 Taxes payable Nov 1962 : 246.05:

432
13300
1296
1296
3300
57556

Judgment Examination

Judgment Examination, as covered by the attached Certificate, made as against the following name or names, only, to-wit:

24. Charles M. Miller and Donald H. Miller, Jointly and individually for the period of ten years last past.

25.

Note

We limit the judgment search covered by this certificate to the date of June 11, 1962 at 7:00 A.M. this being the last date on which orders have been placed in the Civil Order Books in the Henry Circuit Court.

Abstracter.

Old Age Assistance Lien Search

Search has been made for Old Age Assistance Liens filed and recorded in the "Recorder's Abstract of Old Age Assistance Certificates Filed," of Henry County, Indiana, pursuant to the "Welfare Act of 1936," as amended by Chapter 144, Acts of 1947, approved March 12th, 1947, and said Search shows no assistance has been granted and no Old Age Assistance Liens filed against the person or persons hereinafter named, except and unless set out at prior entry or entries in this abstract. Said Search being made and is expressly limited to the following name or names, and not otherwise, viz.

26.

Charles M. Miller
Donald H. Miller

C E R T I F I C A T E

The Henry County Abstract Company, Inc., hereby Certifies that the above and foregoing Search includes all transfers of the Real Estate described at Entry No. One herein as shown by the records in the office of the Recorder of Henry County, Indiana, and likewise all liens and mortgages executed by or filed against the owners shown herein of said real estate within the period of Twenty years immediately prior to the date of this Search, and judgments rendered by the Henry Circuit Court of said County and State, against the record owners as set forth in the Judgment Examination in this Search.

This Certificate and Search covers Entries No. One (1) to Twenty six (26) inc., and the period of Twenty years last past; any entries shown prior to that time are hereby certified as correct.

Dated at New Castle, Indiana, this the 26 day of June
A.D. 19 62at Seven O'clock A.M.

HENRY COUNTY ABSTRACT COMPANY, INC.

By *Nelson Stupp*
President