

VIRGINIA:IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY

The State Commission on Conservation and Development  
of the State of Virginia - - - - - Petitioner.

11/4/33

V. AT LAW NO. 1829

Cassandra Lawson Atkins and others and Fifty-Two Thousand  
and Five Hundred Sixty-One (52,561) Acres of Land,  
more or less, in Rockingham County,  
Virginia - - - - - Defendants.

This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited the record of the above styled proceeding, and announced its purpose and intention to move and pray the Court on the Second day of November, 1933, to enter Judgment in rem, in substantially the form, words and figures shown in a proposed draft thereof hereinafter set forth at length, condemning to the use of the Petitioner each of the several tracts of land within the area described in the petition which are severally designated in the table included in said proposed draft of said judgment by the respective numbers thereof as shown, designated and delineated on the County Ownership Map filed with the report of the Board of Appraisal Commissioners appointed herein; and each of the several tracts of land within the area described in the petition, designated and delineated on the said Map, as to which findings of the facts of value and amount of incidental damages which will arise from the proposed condemnation thereof have been ascertained and determined by the said Board of Appraisal Commissioners and set forth in their said report, to which findings exceptions or motions to disapprove or to decline to accept such findings have heretofore been entered of record, if it shall affirmatively appear of record that such exceptions or motions to disapprove or to decline to accept such findings shall have been withdrawn prior to the time of entry of said judgment: also to move for such other and further relief as Petitioner may be advised, including orders for the dismissal of this proceeding in respect of any or all the various tracts of land shown and delineated on said Map which Petitioner may decide not to acquire as authorized under Section 22 of the Public Park Condemnation Act; and thereupon Petitioner moved the entry of an order setting this proceeding for hearing on said date, and directing any and all the parties of record in this proceeding, if they desire to oppose the entry of said judgment in rem, to show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It appearing from the said record that the respective values of the fee simple estate in each and all of the said tracts of land as to which Petitioner purposes to pray for judgment in rem, and the respective amounts of incidental damages which will result from the proposed condemnation thereof have been determined, ascertained and set forth in the report filed by the Board of Appraisal Commissioners heretofore appointed in this proceeding; and it appearing from the report of the said Board of Appraisal Commissioners and of the Special Investigators heretofore appointed in this proceeding that guardians ad litem have

been appointed and have appeared in this proceeding on behalf of all infants, insane persons, and persons under other legal disabilities who, after diligent search, were found and reported by said Special Investigators or otherwise shown to have any real claim of right, title, estate or interest in or to any of the lands described in the petition filed herein; and upon the motion of the Petitioner, by counsel, it is ordered that this proceeding be set for hearing on the said day and date, at 10:00 A. M. and that any or all of the parties of record in this proceeding, who purpose or desire to oppose the entry of the said judgment in rem, show cause, if any such cause there be, in writing filed with the record of this proceeding not later than five days prior to the said date, why the said judgment in rem should not be entered on the motion and prayer of the Petitioner.

It is further ordered that the Petitioner shall forthwith mail or cause to be mailed a copy of this order to all parties of record in the proceeding whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem, appointed herein for all infants, insane persons, or persons under other legal disability who appear to have any claim of right, title, estate, or interest in or to any of the lands described in the petition or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the said parties of record in these proceedings or any of the said guardians ad litem, or any of said infants, insane persons, or persons under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and the Petitioner is further ordered to file with the record of this proceeding, a verified statement in writing showing the mailing of such copies of this order, to whom mailed and the date of said mailing.

The following is the proposed draft of the judgment in rem which the Petitioner purposes and intends to move and pray the Court to enter as aforesaid:

*begin*  
 - - - - - <sup>4<sup>th</sup></sup> day of November, 1933 - - - - -  
 "This day came the State Commission on Conservation and Development of the State of Virginia, the above named Petitioner, by counsel, and exhibited to the Court the record of the above styled proceeding, and showed to the Court:

"(1) That this proceeding has been conducted under the provisions of the Public Park Condemnation Act (Acts of the General Assembly of Virginia of 1928, page 1036: Code of 1930, Section 4388, et.seq.)

"(2) That there was incorporated in the notice for publication herein, provided in Section 9 of the said Public Park Condemnation Act, the notice and warning touching incidental

damages set out in Section No. 20 of said Act;

"(3) That this proceeding was had upon newspaper publication of notice, warning 'all persons whomsoever' as provided in Section No. 12 of said Act;

"(4) That the report of the Special Investigators and the Board of Appraisal Commissioners heretofore appointed in this proceeding, filed herein discloses a final and conclusive ascertainment and determination of the value of the fee simple estate in each of the numbered tracts of land shown in the table herein after set out and for which judgment of award condemning the same to the use of the Petitioner is moved and prayed by Petitioner; and of the amount of incidental damages which will result from the condemnation of each of the said tracts for the use of Petitioner, on account of which any person who has appeared and is entitled to be heard, has submitted claims, or on account of which it appears from the said report of Special Investigators and the Board of Appraisal Commissioners, filed as aforesaid, any infant, insane person, or person under legal disability, or any person not entitled to be heard at the hearing provided in Section No. 12 of said Act, has a real and well founded claim, or on account of which it has been made to appear that any infant, insane person or person under other legal disability has any real and well founded claim;

"(5) That the record discloses an ascertainment and determination of said Board of Appraisal Commissioners, as shown by the said report filed as aforesaid, of the fact or facts of value of all, or substantially all, claims of right, title, estate, or interest by such owners or claimants, in or to each of the said respective tracts, and amount of any real claim which any of such persons, or any other person, or persons, who have appeared and are entitled to be heard, may have in the proceeds of each of said respective tracts;

"(6) That a longer period than six months has elapsed since the 'day certain' fixed by the order of the Court entered herein on or before which all interested persons were warned to appear and answer or plead as provided in Section No. 9 of said Act;

"(7) That a longer period than sixty days has elapsed since said report of Special Investigators and Board of Appraisal Commissioners was filed in the Clerk's Office of this Court;

"(8) That neither Petitioner, nor any other person has filed, or presented any motion praying this Court or the Judge thereof to decline to accept or to disapprove any of the findings of facts of value and incidental damages so ascertained and determined by said Board of Appraisal Commissioners as shown by their said report with reference to any of said tracts; or if any such motion or exception has been filed or presented with respect to said tracts or any of them, such motion or exception has been withdrawn in writing filed with the record of this proceeding;

"(9) That each of said tracts is located wholly within

the boundary lines of the lands sought to be condemned and set forth and described in the petition filed herein, and is separately shown, delineated and designated by number on the County Ownership Map, and described in the above mentioned report of the Special Investigators and Board of Appraisal Commissioners, with which said County Ownership Map was filed and of which it forms a part;

"(10) That diligent inquiry and search was made by the Special Investigators appointed herein as to the existence of any land, or parcels or tracts of land, or right or title or interest or estate therein, within the boundary line set forth in the petition, or of any real claim in or to the proceeds of any such land, or right, or title, or estate, or interest in the event of its condemnation, owned by any infant, insane person, or person under other legal disability, or any property or properties owned by such person or persons which will be damaged by the taking of land within the boundary line set forth in the petition, beyond the peculiar benefits that will accrue to such property or properties of such persons from the acquisition of the land, or estate, or interest therein, sought to be condemned and the use of the same for a public park or for public park purposes; and the names of all such persons found by the said Special Investigators or otherwise known to the Board of Appraisal Commissioners, were reported in the said report of the Special Investigators and the Board of Appraisal Commissioners appointed herein; and guardians ad litem were appointed in this proceeding for each and all of such persons;

"(11) That Petitioner, in compliance with the order setting this proceeding for hearing on its motion and prayer for a judgment in rem condemning the hereinafter mentioned tracts of land to its use, and forthwith upon the entry of said order, mailed a copy thereof to all parties of record in this proceeding whose post office addresses have been filed with the record, as provided in Section 7 of the Public Park Condemnation Act, to their several post office addresses thus filed with the record; and to the guardians ad litem appointed herein for all infants, insane persons, and persons under other legal disability, who appear to have any claim of right, title, estate, or interest in or to any of the lands described in the petition, or to the proceeds arising out of the condemnation thereof or to incidental damages arising from such condemnation, as set forth in the said report filed by the Special Investigators and the Board of Appraisal Commissioners appointed herein after diligent search made for such persons as set out in said report, to the post office addresses of said guardians ad litem as shown by the record or otherwise known to the Petitioner; and further to the attorneys of record representing any of the said parties of record in these proceedings or any of said guardians ad litem or any of said infants, insane persons or person under other legal disability, to their respective addresses as shown in the record or otherwise known to the Petitioner; and thereafter Petitioner filed with the record a verified statement in writing showing the mailing of such copies of said order, to whom mailed and the date of mailing.

"(12) That all the provisions and requirements of said Public Park Condemnation Act, and specifically the provisions of

Section 11 and Section 38 thereof, have been complied with and the facts shown and disclosed by the record entitle the Petitioner to the judgment in rem condemning each of the said tracts to the use of Petitioner as moved and prayed by Petitioner.

"It is, accordingly, adjudged and ordered, upon the motion and prayer of the Petitioner, by counsel, that the fee simple estate in each of the several tracts described in the report of the Special Investigators and Board of Appraisal Commissioners filed with the record of this proceeding and numbered, shown and delineated on the County Ownership Map filed with and made a part of said report, the County Ownership Map number of which is set forth in the following table, is hereby condemned to the use of the Petitioner upon the Petitioner paying into the custody of this Court, for the use and benefit of the person or persons entitled thereto, the sum ascertained and determined as the value of the fee simple estate in said tract together with the amount of the incidental damages resulting from the condemnation thereof ascertained and determined by said Board of Appraisal Commissioners, which sum and amount of incidental damages are as shown and separately set out in the following table, which table constitutes an integral part of this judgment, and are here expressly stated as constituting the award for each of the said tracts herein contained, and upon the payment into the custody of this Court by Petitioner of the amount thus stated as constituting the award for any such tract the fee simple estate therein shall vest in the Petitioner as provided in Sections 13 and 38 of said Public Park Condemnation Act.

"But nothing herein contained shall be construed as requiring or obligating Petitioner to pay the said awards or any of them into the custody of the Court or to acquire all or any of said tracts, and Petitioner may at its election acquire any one or more of said tracts by payment into the custody of the Court of the amount stated herein as the award therefor.

"The following table sets forth in columns under appropriate explanatory headings:- First, under the heading 'Tract No.', the numbers of the several tracts designated by number and shown and delineated on the above mentioned County Ownership Map and described in the said report of the Special Investigators and the Board of Appraisal Commissioners filed with the record of this proceeding, each of which is condemned herein to the use of the Petitioner; Second, under the heading 'Value', the value of the fee simple estate in each of the said tracts as ascertained and determined by the said Board of Appraisal Commissioners; Third, under the heading 'Incidental Damages', the amount of the incidental damages ascertained and determined by said Board of Appraisal Commissioners which will result from condemnation hereunder of the numbered tract in the corresponding column of the table; Fourth, under the heading 'Aggregate', the aggregate of the value and of the amount of incidental damages ascertained and determined by the said Board of Appraisal Commissioners with reference to the numbered tract in the corresponding column of the table, which aggregate amount as shown in the table is stated and set out herein as constituting the award for the said tract upon its condemnation to the use of the Petitioner.

(A) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired by the Petitioner, hereunder, in any or all of the said tracts of land is and shall be subject nevertheless to such easements of passage and rights of way therein or thereover as have heretofore been acquired or are now claimed by the United States of America, which easements and rights of way are described in said report of the Board of Appraisal Commissioners, in Exception 7 of the body of said report as an easement of passage and right of way on or over a strip of land one hundred feet wide running through the tracts mentioned in said Exception 7 of said report, the value of which easement of passage and right of way was not ascertained or determined by the said Board of Appraisal Commissioners: and it further appearing from the said report that the said United States of America owns or claims the fee simple estate in said strip of land and that the value of the said fee simple estate in the said strip of land owned or claimed by the United States subject to said easement of passage and right of way thereon or thereover, has been ascertained and determined by the said Board to be one dollar, U. S. currency, the fee simple estate in said strip of land is hereby condemned to the use of the Petitioner subject to said easement of passage and right of way, upon the payment of the said amount of one dollar into the custody of the Court for the use and benefit of the person or persons entitled thereto, which said amount is hereby stated and set out as constituting the award for the fee simple estate in said strip of land subject to the said easement of passage and right of way.

(B) The foregoing notwithstanding, it is further adjudged and ordered that the fee simple estate which may or shall be acquired hereunder by the Petitioner in any or all of the said tracts of land is subject to such rights of way and easements in, on or over such tracts or any of them for the erection, maintenance, repair, replacement and operation of poles and wires or other appliances or means for the transmission of electricity as have heretofore been lawfully acquired therein by the Harrisonburg Mutual Telephone Company to which reference is made in Exceptions 2, 3 and 4 in the body of said report of the Board of Appraisal Commissioners; and by E. T. Wyant to which reference is made in Exception 5 in the body of said report; and by the Virginia Service Corporation, to which reference is made in Exception 6 in the body of said Report.

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
1	\$86.00	None	\$86.00
2	188.00	None	188.00
4	3785.00	None	3785.00
5	568.00	None	568.00
9-a	645.00	None	645.00
10-b	915.00	None	915.00
10-c	1925.00	None	1925.00
10-d	350.00	None	350.00
12	2521.00	None	2521.00
13	1020.00	None	1020.00
18-b	24.00	None	24.00
19	1757.00	None	1757.00
20	70.00	None	70.00
21	150.00	None	150.00
22	190.00	None	190.00
22-a	161.00	None	161.00
23	1135.00	None	1135.00
24	3012.00	None	3012.00
25	25.00	None	25.00
26	1413.00	None	1413.00
27	4787.00	None	4787.00
29	3160.00	None	3160.00
30	3274.00	None	3274.00
31	2997.50	None	2997.50
32	2161.00	None	2161.00
33	3458.00	None	3458.00
37	4634.00	None	4634.00
38	4884.00	None	4884.00
39	1248.00	None	1248.00
47-a	3190.00	None	3190.00
49	623.60	None	623.60
51	1162.50	None	1162.50
51-a	5175.00	None	5175.00
52	1044.00	None	1044.00
54	2795.00	None	2795.00
57	2580.00	None	2580.00
64	5316.00	None	5316.00
64-a	899.00	None	899.00
66	810.00	None	810.00
66-a	4770.00	None	4770.00
67	3260.00	None	3260.00
68	3969.50	None	3969.50
69	7859.00	None	7859.00
72	10410.00	None	10410.00
73	1548.00	None	1548.00
74	63.00	None	63.00
75	1785.00	None	1785.00
77	11616.00	None	11616.00
79	3801.00	None	3801.00
79-a	6570.00	None	6570.00
80	7885.00	None	7885.00
80-a	1765.00	None	1765.00
82	1000.00	None	1000.00

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
83	\$1935.00	None	\$1935.00
85	6314.00	None	6314.00
86	1945.00	None	1945.00
87	305.00	None	305.00
87-a	2905.00	None	2905.00
88	100.00	None	100.00
89	700.00	None	700.00
90	4300.00	None	4300.00
91	900.00	None	900.00
92	2262.50	None	2262.50
95-a	685.00	None	685.00
98	1300.00	None	1300.00
106-a	4595.00	None	4595.00
108	1990.00	None	1990.00
111	705.00	None	705.00
112	872.00	None	872.00
113	945.00	None	945.00
114	4695.00	None	4695.00
115	7180.00	None	7180.00
116	3580.00	None	3580.00
117	1895.00	None	1895.00
118	440.00	None	440.00
119	2005.00	None	2005.00
120	412.50	None	412.50
121	340.00	None	340.00
122	3420.00	None	3420.00
124	660.00	None	660.00
127	1530.00	None	1530.00
128	1050.00	None	1050.00
129	3444.00	None	3444.00
130	1920.00	None	1920.00
132-a	1634.00	None	1634.00
140	1265.00	None	1265.00
142	3141.50	None	3141.50
143	730.00	None	730.00
144	2791.00	None	2791.00
146	2381.00	None	2381.00
150	4791.00	None	4791.00
151	9923.00	None	9923.00
151-a	775.00	None	775.00
153	209.00	None	209.00
154	1530.00	None	1530.00
157-a	119.00	None	119.00
158	1120.00	None	1120.00
160-a	2830.00	None	2830.00
164	388.00	None-	388.00
165	2218.00	None	2218.00
165-a	5905.00	None	5905.00
165-a-I	24.00	None	24.00
167	4300.00	None	4300.00
168	1200.00	None	1200.00
170-a	10.00	None	10.00
171	1226.00	None	1226.00
173	2770.00	None	2770.00
174	3261.25	None	3261.25

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
175	\$5103.00	None	\$5103.00
176	1430.00	None	1430.00
177	1635.00	None	1635.00
178	7166.00	None	7166.00
179 ✓	5573.00	None	5573.00
180	4600.00	None	4600.00
181	4222.00	None	4222.00
182	1504.00	None	1504.00
183	1435.00	None	1435.00
185	2220.00	None	2220.00
186	8237.00	None	8237.00
187	2375.00	None	2375.00
188	2371.00	None	2371.00
189	4585.00	None	4585.00
190	113.00	None	113.00
190-a	341.00	None	341.00
191	337.50	None	337.50
193	1515.00	None	1515.00
194	725.00	None	725.00
196	485.00	None	485.00
196-a	1367.00	None	1367.00
197	1520.00	None	1520.00
198	65.00	None	65.00
199	65.00	None	65.00
200	67.50	None	67.50
201	12.50	None	12.50
206	367.00	None	367.00
207	2702.00	None	2702.00
213-a	2180.00	None	2180.00
214-a	5280.00	None	5280.00
215-a	15.00	None	15.00
219	303.00	None	303.00
220	405.00	None	405.00
221	974.00	None	974.00
222	3053.00	None	3053.00
223	1340.00	None	1340.00
224	1429.00	None	1429.00
225	248.00	None	248.00
225-a	300.00	None	300.00
226	4459.00	None	4459.00
227	4730.00	None	4730.00
228	710.00	None	710.00
228-a	195.00	None	195.00
229	1277.00	None	1277.00
230	3685.00	None	3685.00
231	405.00	None	405.00
232	1433.00	None	1433.00
235	4426.00	None	4426.00
237	1815.00	None	1815.00
238	1268.00	None	1268.00
239	825.00	None	825.00
240	2285.00	None	2285.00
241	1288.00	None	1288.00
241-a	231.00	None	231.00
243	1590.00	None	1590.00
254	315.00	None	315.00

TRACT NO.	VALUE	INCIDENTAL DAMAGES	AGGREGATE
255	\$767.00	None	\$767.00
257	665.00	None	665.00
258	547.50	None	547.50
260	610.00	None	610.00
261	615.00	None	615.00
262	540.00	None	540.00
263	645.00	None	645.00
264	1465.00	None	1465.00
270	2428.00	None	2428.00
281	105.00	None	105.00
282	35.00	None	35.00
283	1065.00	None	1065.00
284	220.00	None	220.00
285	1563.00	None	1563.00
297-a	3563.00	None	3563.00
304	1087.00	None	1087.00
308	1795.00	None	1795.00
318	220.00	None	220.00
319	372.00	None	372.00
319-a	12.00	None	12.00
320	100.00	None	100.00
321	60.00	None	60.00
322	30.00	None	30.00
323	30.00	None	30.00
324	65.00	None	65.00
326	45700.00	None	45700.00
326-I	674.00	None	674.00
326-II	75.00	None	75.00
327	680.00	None	680.00
328	353.50	None	353.50
331	1520.00	None	1520.00
332	1716.00	None	1716.00
338	690.00	None	690.00
352	10.00	None	10.00
354	100.00	None	100.00
355	480.00	None	480.00
356	250.00	None	250.00
358	320.00	None	320.00
359	490.00	None	490.00
361	26.00	None	26.00
362	20.00	None	20.00
363	210.00	None	210.00
364	265.00	None	265.00
365	54.00	None	54.00
367	35.00	None	35.00
369	35.00	None	35.00
370	3378.00	None	3378.00

11/4/33  
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See Exception numbered Seven in the body of the report filed by the Board of Appraisal Commissioners with reference to the above set out values of tracts numbered 30, 49, 51, 52, 68 and 69.

53	1250.00	None	1250.00
3	112.00	None	112.00
166	523.00	None	523.00
41-a	1665.00	None	1665.00
70	2731.00	None	2731.00

*omit NWB*

VIRGINIA: In the Circuit Court of Rockingham County.

The State Commission on Conservation and Development  
of the State of Virginia, Petitioner,

vs

Cassandra Lawson Atkins and 52, 561 Acres of Land,  
more or less, Defendants.

ORDER

For further disposition of all matters and things not  
disposed of by the entrance of the Order for Condemnation in  
Rem in the above styled cause this ~~2nd~~<sup>4th</sup> day of November, 1933,  
the said cause is hereby continued until the 18th day of  
December, 1933, that being the first day of the December Term  
of this Court.

*and  
17 WWS*

11/4/33

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11/4/33