

EXHIBIT 5

TAB 1 METES AND BOUNDS DESCRIPTION

STATE OF FLORIDA)
)
COUNTY OF SARASOTA)

**DESCRIPTION FOR CONDEMNATION OF RIGHT OF WAY
FOR TAMPA SOUTHERN RAILROAD THRU LANDS OF J.C. BISHOP**

All that, certain piece, parcel, or strip of land situate, lying and being in the Southwest Quarter of Southeast Quarter (SW¼ of SE¼) and Southeast Quarter of Southwest Quarter (SE¼ of SW¼) of Section Twenty (20), Township Thirty-six (36) South of Range Eighteen (18) East, Sarasota County, Florida, particularly described as follows, to-wit:

BEGINNING at an iron monument reputed to be in the east line of the Southwest Quarter of the Southeast Quarter (SW¼ of SE¼) of said Section Twenty (20); said iron monument being *one hundred feet north of the center line of the main line tract of the S.A.L. Railway*; thence westwardly parallel to the center line of the main line track of the S.A.L. Railway and one hundred feet therefrom, fifteen hundred and nineteen and six tenths (1519.6) feet to a point of curve; thence in a general northwestwardly direction (from the preceding course as a tangent) on a curved line to the right have a radius of nine hundred and thirty and thirty-seven hundredths (930.37) feet, a distance of fourteen hundred and sixty and seven tenths (1460.7) feet to a point of tangent; (said point of tangent being distant two hundred and twenty-five (225) feet east of the west line of the Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) of said Section Twenty (20); thence northwardly tangent to said curved line three hundred and five (305) feet, more or less, to an iron monument reputed to be in the south line of the Northeast Quarter of the Southwest Quarter (NE¼ of SW¼) of said Section Twenty (20), a distance of one hundred and seventy-five (175) feet to a point in the east line of land conveyed by J. C. Bishop to the Tampa Southern Railroad Company by deed dated June 2nd, 1923, recorded July 6th, 1923, in Deed Book 11, Page 339, record of Sarasota County, Florida; thence southwardly along said east line four hundred and sixty (460) feet to an iron monument distant fifty (50) feet east of the west line of the Southeast Quarter of the Southwest Quarter (SE¼ of SW¼) of said Section Twenty (20); thence southeastwardly on a curved line to the left concentric with the second course herein described and two hundred (200) feet therefrom, as measured radially, then hundred and thirty (1030) feet, more or less, to an iron monument; said monument *being fifty (50) feet north of the center line of the main line track of the S.A.L. Railway*; thence eastwardly parallel to the center line of the main line tract of the S.A.L. Railway and fifty (50) feet therefrom twenty hundred and sixty-nine and six tenths (2069.6) feet of the east line of the Southwest Quarter of Southeast Quarter (SW¼ of SE¼) of said Section Twenty (20); thence northwardly along said east line fifty (50) feet to the point of beginning; *containing eight and ninety-eight hundredths (8.98) acres, more or less.*

W. G. Forlong,
Real Estate Agent,
A.C.L. RR. Co.,
Wilmington, N.C.,
April 9, 19.25
(emphasis added)

TAB 2 CONDEMNATION PETITION

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT
OF FLORIDA

TAMPA SOUTHERN RAILROAD COMPANY
a corporation created and existing under the laws
of the State of Florida

vs.

CONDEMNATION

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

The petition of the Tampa Southern Railroad Company, a corporation, petitioner in the above entitled cause, respectfully shows unto the Court that it is a corporation duly created and existing under the laws of the State of Florida and is a resident of the State of Florida. That *the defendants, Bonnie K. Tankersley and Mattie v. Davies are residents of the State of North Carolina City of Greensboro, and that the controversy involved herein is one solely between citizens of different States of the United States and that no person having any interest in the controversy herein, save and except your petitioner Tampa Southern Railroad Company, is a resident or citizen of the State of Florida* and that the amount in controversy in this suit exceeds, exclusive of interest and costs, the sum of Three Thousand (\$3000.00) Dollars and that the District Court of the United States has jurisdiction by virtue of the acts of Congress of the United States in the premises.

Petitioner further shows unto the Court that it is a corporation duly incorporated under the laws of the State of Florida as a public carrier for the operation of a commercial railroad and is authorized to construct, maintain and operate a line of railroad from the City of Tampa in the State of Florida to the town of Sarasota in the County of Sarasota, State of Florida. Petitioner further says that it is authorized, under the laws of the State of Florida, to take and condemn real estate for purposes necessary for its use as a railroad.

Petitioner further shows unto the Court that it has duly located its line of railroad and intends in good faith to construct the same over and through the property hereinafter described. That is desires to condemn for use as a right of way the following described property in Sarasota County, Florida, to-wit:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

Petitioner further shows unto the Court that is has made diligent search to ascertain the name or names of the owners, mortgagees or occupants of the said property hereinbefore described, their places of residence and whether or not the said owners, mortgagees or occupants are under any legal disability.

Petitioner further shows unto the Court that the owners of the above described property are Bonnie K. Tankersley and Mattie V. Davies and that the place of residence of the said Bonnie K. Tankersley and Mattie V. Davies is City of Greensboro, State of North Carolina.

Petitioner further shows unto the Court that there are no mortgages appearing of record in the records of Sarasota County, Florida, upon said property, nor does it know of any mortgagees of said property.

Petitioner further represents and shows unto the Court that according to the best of its knowledge, information and belief, the owners of the said property, Bonnie K. Tankersley and Mattie V. Davies, are not under any legal disability.

Petitioner further represents and shows unto the Court *that the taking of the said property by your petitioner is for the purpose of its use as a right of way for the construction of its railroad, and that the said property is necessary for that purpose.*

Petitioner further shows unto the Court that it has made all reasonable efforts to purchase a right of way through the said property from the owners thereof, but that all negotiations for such purchase have failed.

Wherefore your petitioner prays that the said property aforesaid may be condemned for the uses and purposes above set out, in accordance with the laws of the State of Florida in such case made.

Kelly-Sutton & Shaw
Attorneys for Petitioner.

(emphasis added)

[Notary attestation by T. Paine Kelly, Counsel for Tampa Southern Railroad Company]

Sworn to and subscribed before me this 14th day of September, A.D. 1925.

TAB 3 WRIT OF SCIRE FACIA

1225 – T

DISTRICT COURT, UNITED STATES
SOUTHERN DISTRICT OF FLORIDA.

TAMPA SOUTHERN RAILROAD COMPANY

VS.

BONNIE K. TANKERSLEY AND MATTIE V. DAVIES

FILED SEPT. 15, 1925

NOTICE,

Scire Facia

KELLY, SUTTON & SHAW

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT
OF FLORIDA.

TAMPA SOUTHERN RAILROAD COMPANY
a corporation ,

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

TO THE UNITED STATES MARSHAL:

You are hereby directed to make known to Bonnie K. Tankersley and Mattie V. Davies and all other persons interested in or claiming any lien upon or any interest in the property herein described, to-wit:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

That they, the said Bonnie K. Tankersley and Mattie V. Davies, are hereby commanded and notified to be and to appear in the District Court of the United States for the Southern District of Florida, on the 2nd day of November, A.D. 1925, the same being the first Monday in said month, to show what interest they have in the property herein described, and to show cause why it should not be taken for the uses and purposes set forth in the petition filed by the Tampa Southern Railroad Company on the 14th day of September, A.D. 1925, and more particularly why the said lands should not be taken for use as a right of way by said Tampa Southern Railroad Company, or else be barred.

WITNESS THE HONORABLE LAKE JONES, Judge of said Court, this 15th day of September, A.D. 1925.

Edwin R. Williams [signature]
Clerk, United States District Court
Southern District of Florida
By: Julian A. Blake, Deputy
(emphasis added)

TAB 4 SHOW CAUSE HEARING (9/15/25)

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF FLORIDA.**

TAMPA SOUTHERN RAILROAD COMPANY
a corporation ,

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

TO THE UNITED STATES MARSHAL:

You are hereby directed to make known to Bonnie K. Tankersley and Mattie V. Davies and all other persons interested in or claiming any lien upon or any interest in the property known described, to-wit:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

That they, the said Bonnie K. Tankersley and Mattie V. Davies, are hereby commanded and notified to be and to appear in the District Court of the United States for the Southern District of Florida, on the 5th day of October, A.D. 1925, the same being the first Monday in said month, to show what interest they have in the property herein described, and to show cause why it should not be taken for the uses and purposes set forth in the petition filed by the Tampa Southern Railroad Company on the 14th day of September, A.D. 1925, and more particularly why the said lands should not be taken for use as a right of way by said Tampa Southern Railroad Company, or else be barred.

WITNESS THE HONORABLE LAKE JONES, Judge of said Court, this 15th day of September, A.D. 1925.

Edwin R. Williams [signature]
Clerk, United States District Court
Southern District of Florida
By: Julian A. Blake, Deputy
(emphasis added)

TAB 5 SHOW CAUSE HEARING (11/2/25)

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA.

TAMPA SOUTHERN RAILROAD COMPANY
a corporation ,

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

NOTICE IS HEREBY GIVEN TO BONNIE K. TANKERSLEY AND MATTIE V. DAVIES, and all other persons interested in or claiming a lien upon any interest in the property hereinafter described, in Sarasota County, Florida, to-wit:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

To appear in the District Court of the United States in and for the Southern District of Florida, on the 2nd day of November, A.D. 1925, the same being the first Monday in said month, to show what interest they have in and to the proper property herein described, and to *show cause why said property should not be taken for the uses and purposes set forth in the petition filed by the Tampa Southern Railroad Company herein on the 14th day of September, A.D. 1925, and more particularly why the said lands should not be taken for use as a right of way by the Tampa Southern Railroad Company, or else be barred.*

WITNESS THE HONORABLE LAKE JONES, JUDGE OF THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF FLORIDA, this 15th day of September, A.D. 1925.

Edwin R. Williams [signature]
Clerk, United States District Court
Southern District of Florida
By: Julian A. Blake, Deputy
(emphasis added)

TAB 7 ANSWER

1225 – T

DISTRICT COURT, UNITED STATES
SOUTHERN DISTRICT OF FLORIDA.

*Tampa Southern Railroad Company, a corporation created and existing under the
laws of the State of Florida,*

VS.

Bonnie K. Tankersley and Mattie V. Davies

ANSWER

FILED NOV. 2, 1925

JOHN B. SINGLETARY
BRANDENTON, FLORIDA

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT
OF FLORIDA

TAMPA SOUTHERN RAILROAD COMPANY
a corporation created and existing under the laws
of the State of Florida

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

THE ANSWER OF BONNIE K. TANKERSLEY AND MATTIE V. DAVIES TO THE
PETITION OF CONDEMNATION OF THE TAMPA SOUTHERN RAILROAD COMPANY,
A CORPORATION CREATED AND EXISTED UNDER THE LAWS OF THE STATE OF
FLORIDA, AGAINST THESE DEFENDANTS:

For answer to said petition, these defendants say that said Tampa Southern Railroad Company, petitioner in said cause, should not have or maintain its said cause against these defendants for the reason and because of the fact that said Tampa Southern Railroad Company has not filed in this cause any duly verified petition, sworn to by the petitioner or its president or other executive office of said Tampa Southern Railroad Company, a corporation, which corporation is as these defendants aver a private corporation entitled only to maintain an action of condemnation upon and when it has filed a petition praying the condemnation of the property sought to be taken, duly verified by the oath of said petitioner, its president or some other executive officer of said corporation.

These defendants further show unto the Court that while said petitioner avers in its petition that it is a corporation duly incorporated under the laws of the State of Florida as a public carrier for the operation of a commercial railroad and is authorized to construct, maintain and operate a railroad from the City of Tampa in the State of Florida to the Town of Sarasota in the County of Sarasota, State of Florida, it seeks in and by said petition particularly described, which is not essential for the construction of its line of railroad from said City of Tampa to the City of Sarasota but beyond the destiny and termination of its purposes and authority and its power to extend and proceed with its said road and with condemnation for its construction or for its right-of-way, to-wit: beyond its terminus in the City of Sarasota, and these defendants so allege and aver that the land in said petition

described is not part of the right-of-way of said railroad company from Tampa to Sarasota but lies beyond the terminus of said road in the City of Sarasota.

These defendants further show unto the Court that petitioners right to condemn said property exists only under and by virtue of the Constitution and Laws of the State of Florida granting petitioner the privilege of exercising the right of condemnation to take private property for its use upon payment of such compensation as shall be to the owners of said property allowed and awarded by a jury of twelve men to be empaneled in the County where said property is situated and drawn from the body of said County in which said land is located and upon and after a view of said property by the said jury and not otherwise, all of which can not be provided, allowed and granted by this Honorable Court by reason whereof said Court is without jurisdiction to try said cause.

These defendants further show unto the Court that they are entitled to and desire to be present and heard as to the amount due these defendants as compensation for the damage by them sustained by reason of the appropriation and taking of their said land if the taking thereof is allowed.

Frank Redd
James B. Singletary
Attorneys for Defendants

Bonnie K. Tankersley
Mattie v. Davies
Defendants

(emphasis added)

TAB 11 T.S.R. REQUESTED JURY CHARGE

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

TAMPA SOUTHERN RAILROAD COMPANY,
A CORPORATION,

VS.

CONDEMNATION

BONNIE K. TANKERSLEY, ET AL.

PETITIONER'S REQUESTED CHARGES

1. The jury are instructed that, as the power of eminent domain is necessary for the public good, it would be unjust to the public that the plaintiff should be required to pay the owner more than a fair indemnity for the loss he sustains by the appropriation of his property for the general good. On the other hand, the owner being compelled to part with his property, whether he desires to sell or not, the law allows him just compensation therefor.

2. The jury are instructed that "just compensation" means the payment of such sum of money as will make the defendant whole, so that, on receipt by the defendant of the compensation and damages awarded, he will not be poorer by reason of his property being taken or damaged.

3. The jury are instructed that, in considering the compensation to be paid to the defendant of the land about to be taken, they are to fix the actual cash market value of the land taken. And they are further instructed that they are not to consider the price at which the property would sell for under special or extraordinary circumstances, but its fair market value, if sold in the market under ordinary circumstances for cash, and not on time, and assuming that the owners are willing to sell, and the purchaser is willing to buy.

4. The court instructs the jury that you are not to consider what the land was worth to the defendant, the owner, for speculation, or merely *possible uses*, nor *what she claims it was worth to her*, nor *what it may be worth to plaintiff for railroad or other purposes*, nor what the land would bring at a forced sale. You are not to consider the price the land would sell for under special or extraordinary circumstances, but its fair market value, if offered in the market under ordinary circumstances for cash, a reasonable time being given to make the sale. *Market value is the amount the strip would sell for if put upon the open market, and sold in the manner in which property is ordinarily sold for cash in the community*

where it is situated, with a reasonable time being given to find a purchaser and make the sale.

5. The court instructs the jury that you must take into consideration the purposes for which the property was adapted and determine the market value from what a person would then have paid for the property, in cash, not buying, however, for any particular purpose, but having regard to the market value of the property a sit then stood for all purposes.

6. The court tells the jury that they will find for the defendants a fair equivalent for the entire piece of property, which finding should be its market value at present in money, and its market value is that price it would bring when it was offered for sale by one who desires, but is not obliged to sell it, and is bought by one who is under no necessity of buying it; in other words, a fair market value means the fair value between one who wants to purchase and one who wants to sell.

Kelly Sutton Shaw
Attorneys for Petitioner

(emphasis added.)

TAB 16 VERDICT

No. 1225T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

TAMPA SOUTHERN RR COMPANY

vs.

BONNIE K. TANKERSLEY, ET AL.

VERDICT

Filed March 18, 1926

Edwin R. Williams
Clerk

Julian A. Blake
Deputy

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF FLORIDA.

TAMPA SOUTHERN RAILROAD COMPANY
a corporation ,

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

We, the jury, duly impaneled and sworn in accordance with law to try what compensation shall be paid to the defendants for the property sought to be appropriated in this cause, irrespective of any benefit from any improvement proposed by petitioner, do find:

1. That the property sought to be condemned is described as follows:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

2. That the compensation made therefor shall be the sum of \$61,500.00 Dollars, together with the further sum of \$5,000.00 Dollars as a reasonable attorney's fee for the defendant's attorneys in this cause.
3. That the amount of said compensation shall be paid to Bonnie K. Tankersley and Mattie V. Davies, in equal portions.

DATED THIS 18TH DAY OF MARCH, A.D. 1926.
SO SAY WE ALL.

W. G . Overstreet
FOREMAN

TAB 17 JUDGMENT

No. 1225-T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

TAMPA SOUTHERN RR COMPANY

vs.

BONNIE K. TANKERSLEY, ET AL.

JUDGMENT

FILED MAR. 18, 1926

Edwin R. Williams
CLERK

[ILLEGIBLE SIGNATURE]
DEPUTY CLERK

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
SOUTHERN DISTRICT OF FLORIDA.

TAMPA SOUTHERN RAILROAD COMPANY
a corporation ,

vs.

BONNIE K. TANKERSLEY AND MATTIE V.
DAVIES

CONDEMNATION

The above entitled cause coming on to be heard upon the verdict of the jury, which verdict is in words and figures following, to-wit:

We, the jury, duly impaneled and sworn in accordance with law to try what compensation shall be paid to the defendants for the property sought to be appropriated in this cause, irrespective of any benefit from any improvement proposed by the petitioner, do find:

1. That the property sought to be condemned is described as follows:

[METES AND BOUNDS DESCRIPTION OF 8.98 ACRE STRIP OF LAND]

2. That the compensation made therefor shall be the sum of \$61,500.00 Dollars, together with the further sum of \$5,000.00 Dollars as a reasonable attorney's fee for the defendant's attorneys in this cause.

3. That the amount of said compensation shall be paid to Bonnie K. Tankersley and Mattie V. Davies, in equal portion.

DATED THIS 18TH DAY OF MARCH, A.D. 1926.
SO SAY WE ALL.

W. G. Overstreet
FOREMAN

It is considered by the Court that the property therein described be appropriated by the Tampa Southern Railroad Company for use as a right of way for said Railroad Company, upon the petitioner paying, or securing by deposit of money, the sum of Sixty-one Thousand Five Hundred Dollars, the compensation found by the verdict of said jury in favor of the owners, and in addition thereto, paying or securing by deposit of money in the registry of court, the sum of Five Thousand Dollars, which is determined by the jury to be a reasonable attorney's

fee for the defendants in this proceeding, also the costs of this proceeding, to be taxed by the Clerk of this Court.

DONE AND ORDERED THIS 18TH DAY OF MARCH, A.D., 1926.

Lake Jones
JUDGE

(emphasis added.)

TAB 18 DEPOSIT OF JUDGMENT

No. 1225-T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

TAMPA SOUTHERN RR COMPANY

vs.

BONNIE K. TANKERSLEY, ET AL.

**CERTIFICATE OF CLERK
AS TO DEPOSITING MONEY
IN REGISTRY OF COURT**

FILED APR. 17, 1926

Edwin R. Williams
CLERK

Julian A. Blake
DEPUTY CLERK

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF FLORIDA

TAMPA SOUTHERN RAILROAD COPMANY, |

VS. |

CONDEMNATION |

BONNIE K. TANKERSLEY, ET AL. |

I, EDWIN R. WILLIAMS, Clerk of the District Court for the Southern District of Florida, do hereby certify that on this 17th day of April, 1926, the Tampa Southern Railroad Company duly deposited in the registry of the above court, the sum of SIXTY-ONE THOUSAND FIVE HUNDRED and 00/100 DOLLARS (\$61,500.00) the compensation allowed by the jury in the above cause for the land sought to be appropriated, and do further certify that the said Tampa Southern Railroad Company has further deposited in the registry of this court, the sum of FIVE THOUSAND DOLLARS (\$5000.00), the amount found by the jury to be a reasonable attorney's fee to be allowed to the defendant in the said cause, and has further deposited in the registry of this court the sum of ONE HUNDRED ELEVEN and 58/100 (\$111.58) as costs of this proceeding.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of said Court this 17th day of April, A.D. 1926.

Clerk, District Court, United States,
Southern District of Florida
by Julian A. Blake
Deputy Clerk.