

**FILED**  
U. S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

FEB 01 2012

JAMES W. McCORMACK, CLERK  
By: *Blair Nicholson*  
DEP CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
HELENA DIVISION

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BRIAN A. HERNDON

PLAINTIFF

VS.

NO. 2:06-CV-00180-BSM

RICHARD B. FLOWERS, SR.,  
D.C. (DUTCH) PARKER, RICHARD  
B. FLOWERS, JR., DAVID MATTSON  
GREGORY FLOWERS, CAMPBELL  
FLOWERS MELTON, PLANTERS OIL  
MILL, ET AL.

DEFENDANTS

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AGREED FINAL JUDGMENT

The Court, after a review of the pleadings filed in the above styled and numbered action, and after hearing various witnesses of the Plaintiff and some of the witnesses of the Defendants (limited to Richard B. Flowers, Sr., D.C. (Dutch) Parker, Richard B. Flowers, Jr., David Mattson Gregory Flowers, Campbell Flowers Melton and Planters Oil Mill, as the other Defendants have previously settled) at a bench trial held November 14 and November 15, 2011 in the Courthouse in Helena, AR, has been advised that the parties reached an agreement for the settlement and disposition of this case, and said parties, based upon the pleadings filed herein, and the evidence presented, have stipulated, and the Court having heard said testimony and reviewed said pleadings hereby makes the following findings of fact:

(1) Part of Sections Twenty-Two (22) and all of fractional Twenty-Three (23), Township Two (2) North, Range Six (6) East, Lee County, Arkansas eroded and washed into the Mississippi River.

**(2) No islands now exist nor have previously existed in the area of Sections Twenty-Two (22) and Twenty-Three (23), Township Two (2) North, Range Six (6) East, Lee County, Arkansas since 1823.**

**(3) The state line between the States of Arkansas and Mississippi is the current live thalweg of the Mississippi River as it exists today with regard to the area near and around Section Two (2), Township Four (4) South, Range Twelve (12) West, Tunica County, Mississippi, as more particularly indicated on the attached Exhibit 1 which is incorporated herein.**

**(4) The Deeds (as defined below) issued by the State of Arkansas and by the Board of Directors of the St. Francis Levee District to the Plaintiff, Brian A. Herndon, are void. Any property described in the Deeds is not located in the State of Arkansas. The Deeds are defined as follows:**

**(A) Limited Warranty Deed No. 161741 from Mark Wilcox, Commissioner of State Lands within and for the State of Arkansas, to Brian A. Herndon, dated May 17, 2006 and recorded in the Lee County Circuit Clerk's Office on May 22, 2006 as Document No. 200601411.**

**(B) Limited Warranty Deed No. 161741 from Mark Wilcox, Commissioner of State Lands within and for the State of Arkansas, to Brian A. Herndon, dated July 13, 2006 and recorded in the Lee County Circuit Clerk's Office on July 18, 2006 as Document No. 200601747.**

**(C) Quitclaim Deed from the Board of Directors, St. Francis Levee District to Brian A. Herndon, dated July 6, 2009 and recorded in the Lee County Circuit Clerk's Office on July 7, 2009 in Deed Book 2009 at Pages 2532-2533.**

**(5) With regard to this litigation, the States of Arkansas and Mississippi have both been advised that it is pending and invited to participate. It is noted by**

the Court that both the State of Arkansas and the State of Mississippi decline to participate in this litigation.

NOW THEREFORE, based on the above and foregoing, the Court hereby orders as follows:

1. Part of Sections Twenty-Two (22) and all of fractional Twenty-Three (23), Township Two (2) North, Range Six (6) East, Lee County, Arkansas eroded and washed into the Mississippi River, and as no islands now exist nor have previously existed in the area of Sections Twenty-Two (22) and Twenty-Three (23), Township Two (2) North, Range Six (6) East, Lee County, Arkansas since 1823, the state line between the States of Arkansas and Mississippi is the current live thalweg of the Mississippi River as it exists today with regard to the area near and around Section Two (2), Township Four (4) South, Range Twelve (12) West, Tunica County, Mississippi, as more particularly indicated on the attached Exhibit 1 which is incorporated herein (and therefore, ownership of all of Section Two (2), Township Four (4) South, Range Twelve (12) West, Tunica County, Mississippi is confirmed in the Defendants.)

2. The Deeds (as defined above in Paragraph 4) issued by the State of Arkansas and the Board of Directors of the St. Francis Levee District to the Plaintiff, Brian A. Herndon, are void. Any property described in the Deeds is not located in the State of Arkansas.

3. All parties shall bear their own cost associated with this matter.

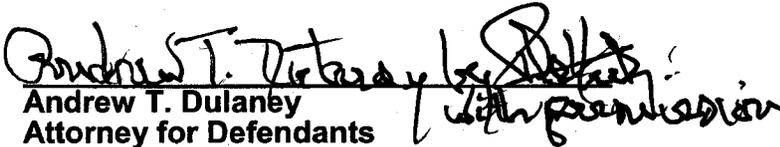
SO ORDERED AND ADJUDGED, this the 15<sup>th</sup> day of <sup>February</sup> ~~December~~, 2014.

  
Brian S. Miller, Judge

Agreed to and approved by:

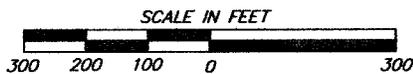
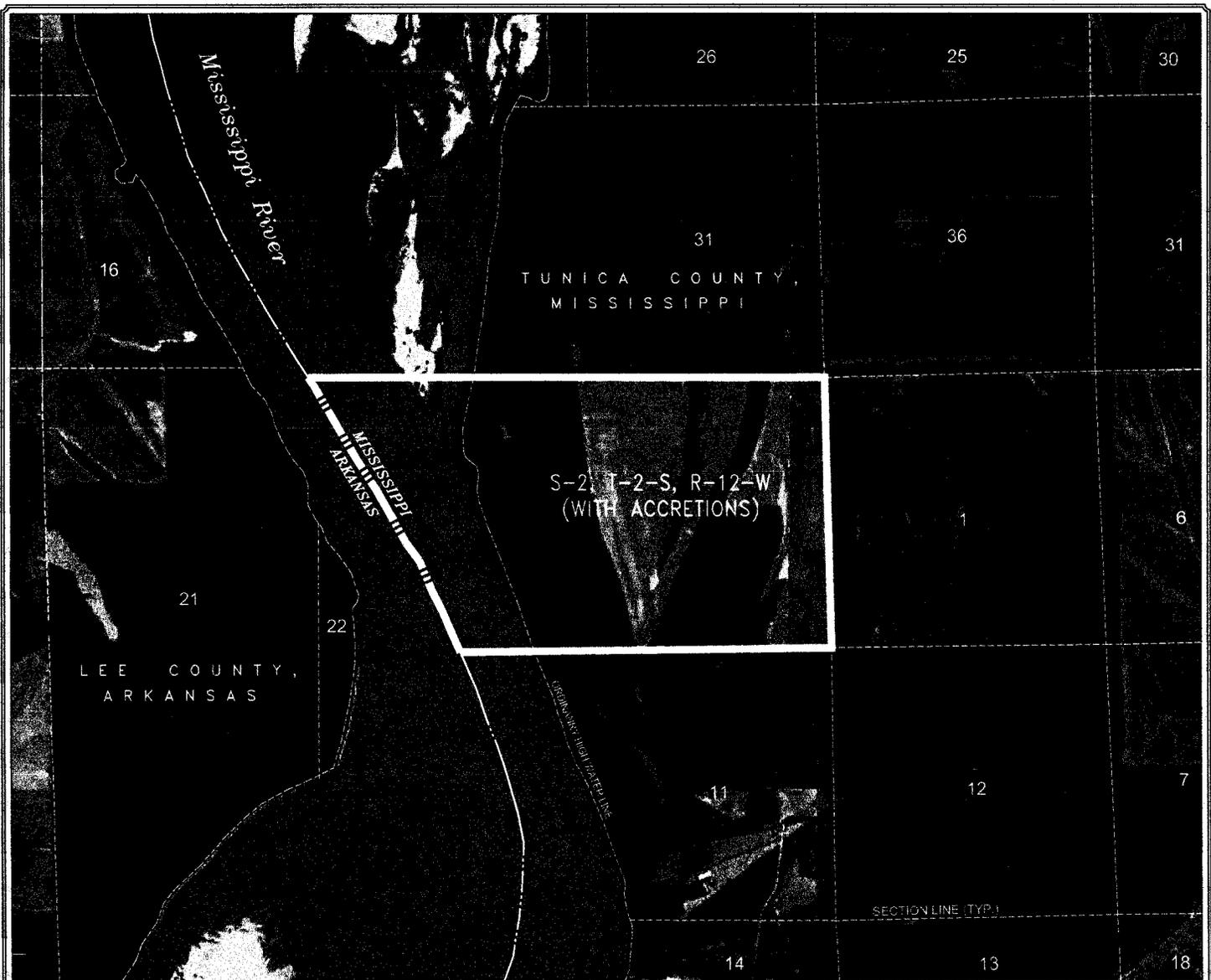


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with permission

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Andrew T. Dulaney  
Attorney for Defendants

  
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Charles B. Roskopf  
Attorney for Plaintiff  
Supreme Court No.: 54013



**PLAT SHOWING SECTION 2 (WITH ACCRETIONS) IN TOWNSHIP 2 SOUTH, RANGE 12 WEST, TUNICA COUNTY, MISSISSIPPI**

**NOTES**

THIS PLAT WAS DRAWN FROM AVAILABLE INFORMATION AND DOES NOT REPRESENT AN ON-THE-GROUND SURVEY.

THE POSITION OF THE ARKANSAS-MISSISSIPPI STATELINE SHOWN WAS TAKEN FROM NATIONAL GEODETIC SURVEY (NGS) QUADRANGLE MAPS.

THE ORDINARY HIGH WATER LINE IS THE JURISDICTIONAL BOUNDARY OF THE PUBLIC DOMAIN AND RIPARIAN BOUNDARY OF FRACTIONAL SECTIONS.

DECEMBER 2011



**Florence & Hutcheson**

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