

22. Statement as to Jurisdiction upon Appeal under Rule 12 of Supreme Court of the United States.
23. Order Allowing Appeal.
24. Citation and Service thereof.
25. Statement of the Evidence and Proceedings before the Court, together with Plaintiffs' Exhibits Nos. 3 and 4, and Defendants' Exhibits Nos. 7, 8, 9, 13, 14 and 16, and so much of Defendants' Exhibit No. 10 as is included in the list of exhibits attached to the Statement of Evidence.
26. Cost Bond on Appeal.
27. Præcipe for Transcript of Record.
28. Order Settling Testimony and Record on Appeal, [fol. 387] signed by Judge Glenn, dated March 10, 1937.
29. Order Extending Time to Docket Case to May 14, 1937, taken under Rule 11 of the Supreme Court, signed by Judge Glenn, dated March 12, 1937.
30. Acknowledgments of Service of Order Settling Testimony and Record on Appeal, signed by Judge Glenn, dated March 10, 1937, and Order Extending Time to Docket Case to May 14, 1937, taken under Rule 11 of the Supreme Court, signed by Judge Glenn, dated March 12, 1937.
31. Order Enlarging Time to Docket Case to June 23, 1937, taken under Rule 11 of the Supreme Court.
32. Acknowledgments of Service of Order Enlarging Time to Docket Case to June 23, 1937, taken under Rule 11 of the Supreme Court.
33. Clerk's Certificate of Transcript of Record.
34. Notice Pursuant to Equity Rule 75.
35. Points Relied on and Parts of Record Necessary for consideration thereof.

Thomas W. Davis, Douglas McKay, Solicitors for Atlantic Coast Line Railroad Company, Intervenor. M. G. McDonald, Solicitor for Charleston & Western Carolina Railway Company, Intervenor. J. B. S. Lyles, Solicitor for L. R. Powell, Jr., and Henry W. Anderson, as Receivers of Seaboard Air Line Railway Company, Intervenor. John M. Daniel, Attorney General of South Carolina; J. Ivey Humphrey, Assistant Attorney General of South Carolina; M. J. Hough, Assistant Attorney General of South Carolina; Eugene S. Blease, Steve C. Griffith, Solicitors for all Original Defendants.

Dated June 4, 1937.

[fol. 388] I acknowledge receipt of copy of Points Relied on and Parts of Record Necessary for Consideration Thereof in the above entitled cause.

This 7 day of June, 1937.

E. M. Reidy, Attorney for Appellee, Interstate Commerce Commission. J. Ninian Beall, Attorney for Appellee, Barnwell Bros., Inc. Tison & Miller, Attorneys for Marlboro Produce Association and A. J. Mattheson, Inc., Appellees. S. King Funkhouser, Attorney for Appellees.

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[fol. 392] IN THE SUPREME COURT OF THE UNITED STATES

[Title omitted]

DESIGNATION BY APPELLEES OF ADDITIONAL MATERIAL PARTS OF RECORD—Filed June 29, 1937

Come Now the Appellees and request that the following additional parts of the record filed in this cause and necessary for the consideration of this case on appeal, should be printed by the clerk:

1. That portion of plaintiffs' Exhibit 1, entitled "Apportionment of Federal Aid funds to various states for years 1917 to 1937, inclusive" showing apportionment of Federal Aid funds for South Carolina for each year and the total for the United States as a whole for the entire period.

2. Plaintiffs' Exhibits Nos. 2, 5, and 6.

3. Those portions of documents as exhibited in the trial of the case, shown and copied in sheets attached to appellees' praecipe, and properly marked for identification (original copies of which documents in full are also attached to appellees' praecipe) entitled as follows:

(a) "Act V uniform Act Regulating Traffic on Highways" prepared and adopted by the National Conference on Street and Highway Safety as published by the Bureau of Public Roads of the Department of Agriculture, 1934.

(b) "Recommendations of the American Society of Automotive Engineers on gross weight and dimensions of motor vehicles adopted in 1933."

[fol. 393] (c) "Who Shall Use the Highways and How" published by the American Association of State Highway Officials 1932.

(d) "Testimony of Thomas H. McDonald, Chief of the Bureau of Public Roads before the Interstate Commerce Commission, December 5, 1931, Oocket No. 23,400."

(e) "Report of the Committee on Post Offices and Post Roads to the 67th Congress on June 20, 1921 entitled 'Continuation of Federal Aid in the Construction of Highways'."

4. Petition of Interstate Commerce Commission to Intervene as a Plaintiff, filed November 17, 1936.

5. Petition of Receivers of Seaboard Air Line Railway to Intervene as Defendants, filed November 24, 1936.

6. Petition of Atlantic Coast Line Railroad Company and Charleston and Western Carolina Railway Company to Intervene as Defendants, filed November 25, 1936.

7. Petition of Marlboro Produce Association to Intervene as a Plaintiff, filed December 1, 1936.

8. Petition of A. J. Mattheson, Inc., to Intervene as Plaintiff, filed December 1, 1936.

9. Appellees' Counter Request entitled "Additional Material Parts of Record."

Respectfully submitted, S. King Funkhouser, J.  
Ninian Beall, Frank Coleman, Martin P. Burks,  
III, Solicitors for all Original Plaintiffs.

June 19, 1937.

[fol. 394] The undersigned hereby accepts service and acknowledges receipt of a copy of Appellees' counter-request entitled Additional Material Parts of Record, dated June 19th, 1937.

Executed this 21st day of June, 1937.

J. B. S. Lyles, Attorney for Intervening Appellants.

[fol. 395] Steve C. Griffith Attorney for Appellants.

[fol. 396] Thos. W. Davis Attorney for Appellants.

[fol. 397] IN THE SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION AND ADDITION TO RECORD—Filed July 13, 1937

It appearing to Counsel of record:

That at the trial of this cause the Appellees introduced in evidence, as their Exhibits 5 and 6, two maps, one marked "The Federal Aid Highway System—Progress Map, Corrected to May 1, 1936", a publication of the Department of Agriculture, Bureau of Public Roads (2 sheets), and one marked "United States System of Highways—Adopted for Uniform Marking by the American Association of State Highway Officials, November 11, 1936, corrected to July 1, 1935", a publication of the Department of Agriculture, Bureau of Public Roads (1 sheet);

That these two exhibits were included in the Appellees præcipe directed to the Clerk of the District Court;

That by the decree of the District Court dated — —, — —, settling the record for appeal, it was ordered that the Clerk of said Court certify said Exhibits 5 and 6 along with other portions of the record in the cause and that the parties hereto furnish the said Clerk with 40 copies of each of said exhibits;

That 40 copies of said exhibits were accordingly furnished said Clerk, but;

That the said Clerk failed to certify copies of said exhibits to the Supreme Court of the United States along with other portions of the record, although 40 copies of said exhibits accompanied the certified record to the Supreme Court of the United States;

[fol. 398] That in their statement of Additional Material Parts of Record filed with the Clerk of the Supreme Court of the United States, Appellees requested that said Exhibits 5 and 6 be printed along with other portions of the record, but;

That the Clerk of the Supreme Court of the United States is unable to comply with this direction since he has no certified copy of either of said exhibits.

Now, Therefore, in consideration of the foregoing it is agreed and stipulated between the undersigned counsel of record in this cause that the necessity for procedure to

establish a diminution of the record shall be and it is hereby waived, and the undersigned counsel of record do hereby request the Clerk of the District Court for the Eastern District of South Carolina to certify one copy of each of said exhibits, plaintiffs' exhibits Nos. 5 and 6, to the Clerk of the Supreme Court of the United States in order that the record in this cause may be complete.

Thos. W. Davis, J. B. S. Lyles, Solicitor- for all Intervening Defendants. S. King Funkhouser, Solicitor for all Original Plaintiffs-Appellees. Thomas M. Ross, Solicitor for Interstate Commerce Commission. Tison & Miller, Solicitors for Marlboro Produce Assn. and A. J. Matheson, Inc. John M. Daniel, Attorney General; J. Ivey Humphrey, Assistant Attorney General; M. J. Hough, Assistant Attorney General; Eugene S. Blease, Steve C. Griffith, Solicitors for all Original Defendants.

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[fol. 398 $\frac{1}{2}$ ] IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE EASTERN DISTRICT OF SOUTH CAROLINA

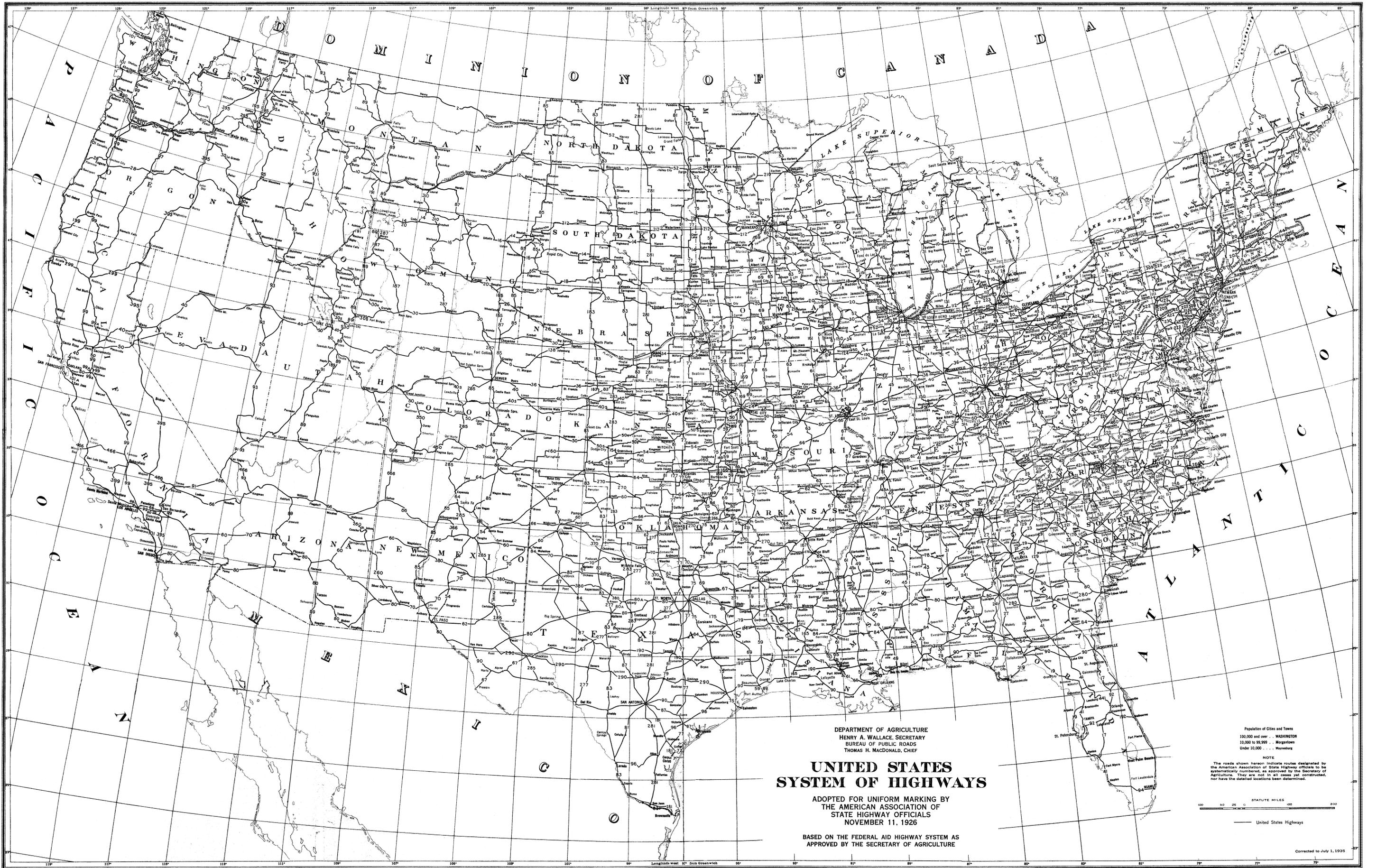
CERTIFICATE

I, Richard W. Hutson, Clerk of the Court aforesaid, do certify that the maps hereto attached are true copies of the original Exhibits 5 and 6 in the case of Barnwell Brothers, Inc., et al., Complainants, vs. South Carolina Highway Department et al., Defendants, the said Exhibits 5 and 6 being put in evidence by and on behalf of Complainants, which original Exhibits 5 and 6 are now on file and of record in the Clerk's office of said Court.

Witness my official signature and seal of office at Charleston, S. C., the 7th day of July, 1937.

Richard W. Hutson, C., D. C. U. S., E. D. S. C. (Seal  
United States District Court, Eastern District,  
So. Ca.)

(Here follow 2 Maps, Exhibits 5 and 6, side folios 399  
and 400)

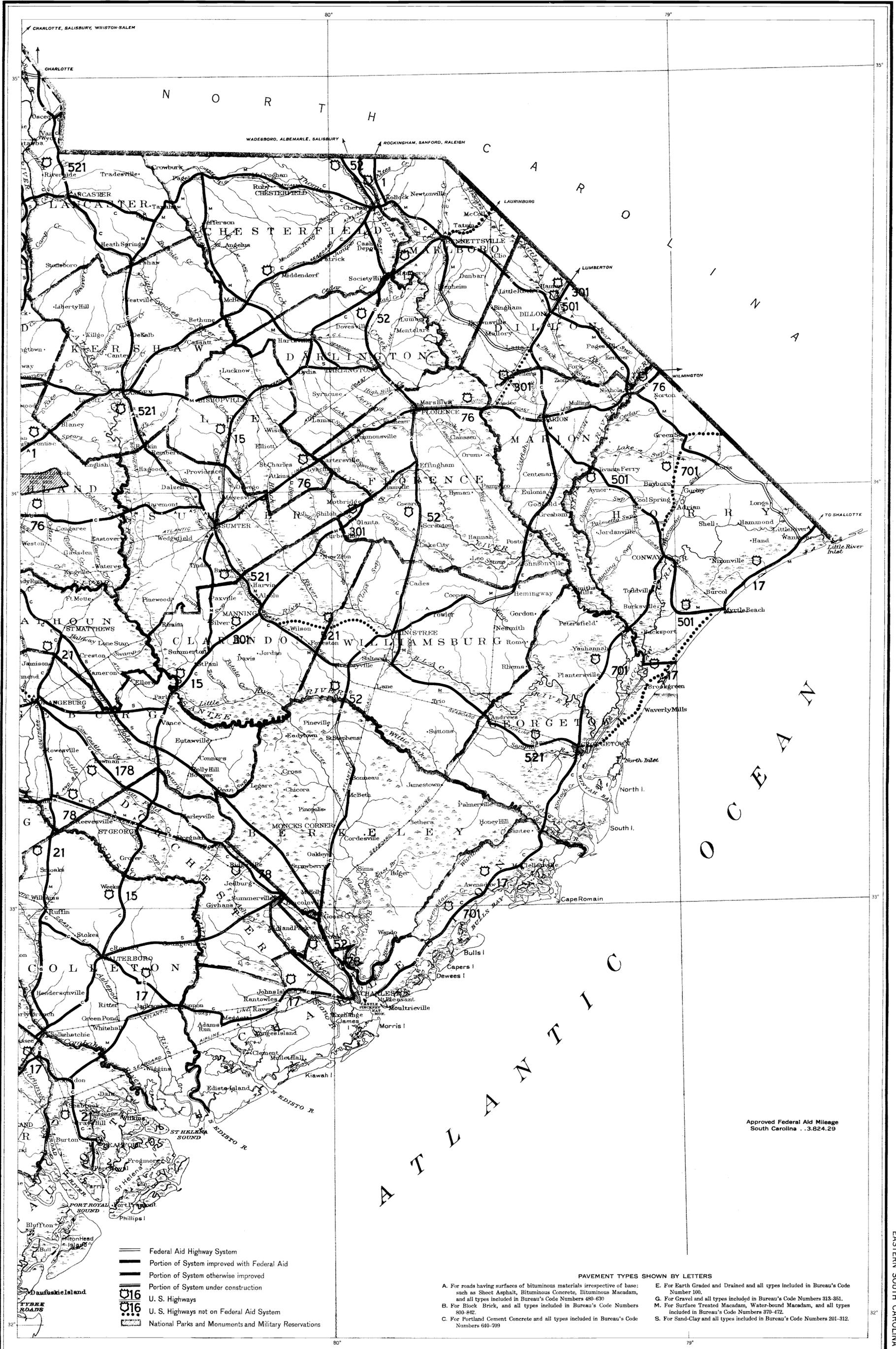


# THE FEDERAL AID HIGHWAY SYSTEM PROGRESS MAP

DEPARTMENT OF AGRICULTURE  
BUREAU OF PUBLIC ROADS

IN EVIDENCE, COMPLAINTS' EXHIBIT No. 6 **300B**  
Richard W. Hutson, C., D. C. U. S., E. D. S. C. 12/1/36

EASTERN SOUTH CAROLINA



Approved Federal Aid Mileage  
South Carolina . . . 3,624.29

- Federal Aid Highway System
- Portion of System improved with Federal Aid
- Portion of System otherwise improved
- Portion of System under construction
- U.S. Highways
- U.S. Highways not on Federal Aid System
- National Parks and Monuments and Military Reservations

- PAVEMENT TYPES SHOWN BY LETTERS
- A. For roads having surfaces of bituminous materials irrespective of base: such as Sheet Asphalt, Bituminous Concrete, Bituminous Macadam, and all types included in Bureau's Code Numbers 480-630
  - B. For Block Brick, and all types included in Bureau's Code Numbers 800-842
  - C. For Portland Cement Concrete and all types included in Bureau's Code Numbers 640-709
  - E. For Earth Graded and Drained and all types included in Bureau's Code Number 100
  - G. For Gravel and all types included in Bureau's Code Numbers 313-351
  - M. For Surface Treated Macadam, Water-bound Macadam, and all types included in Bureau's Code Numbers 370-472
  - S. For Sand-Clay and all types included in Bureau's Code Numbers 201-312

Scale 1:500,000, or 1 inch = 7.891 miles.  
Projection—Modified Polyconic.  
Base Map from U. S. Geological Survey State map.  
Base revised as to cities and towns on F. A. H. S. and county lines by Bureau of Public Roads.  
Data for pavement types on those portions of F. A. H. S. heretofore improved without F. A., compiled from latest State records.  
Sections of pavement less than half a mile in length merged with adjacent section of nearest similar type.



Published in accordance with Act of Congress approved Nov. 9, 1921, creating the Federal Aid Highway System.  
Data corrected to May 1, 1936

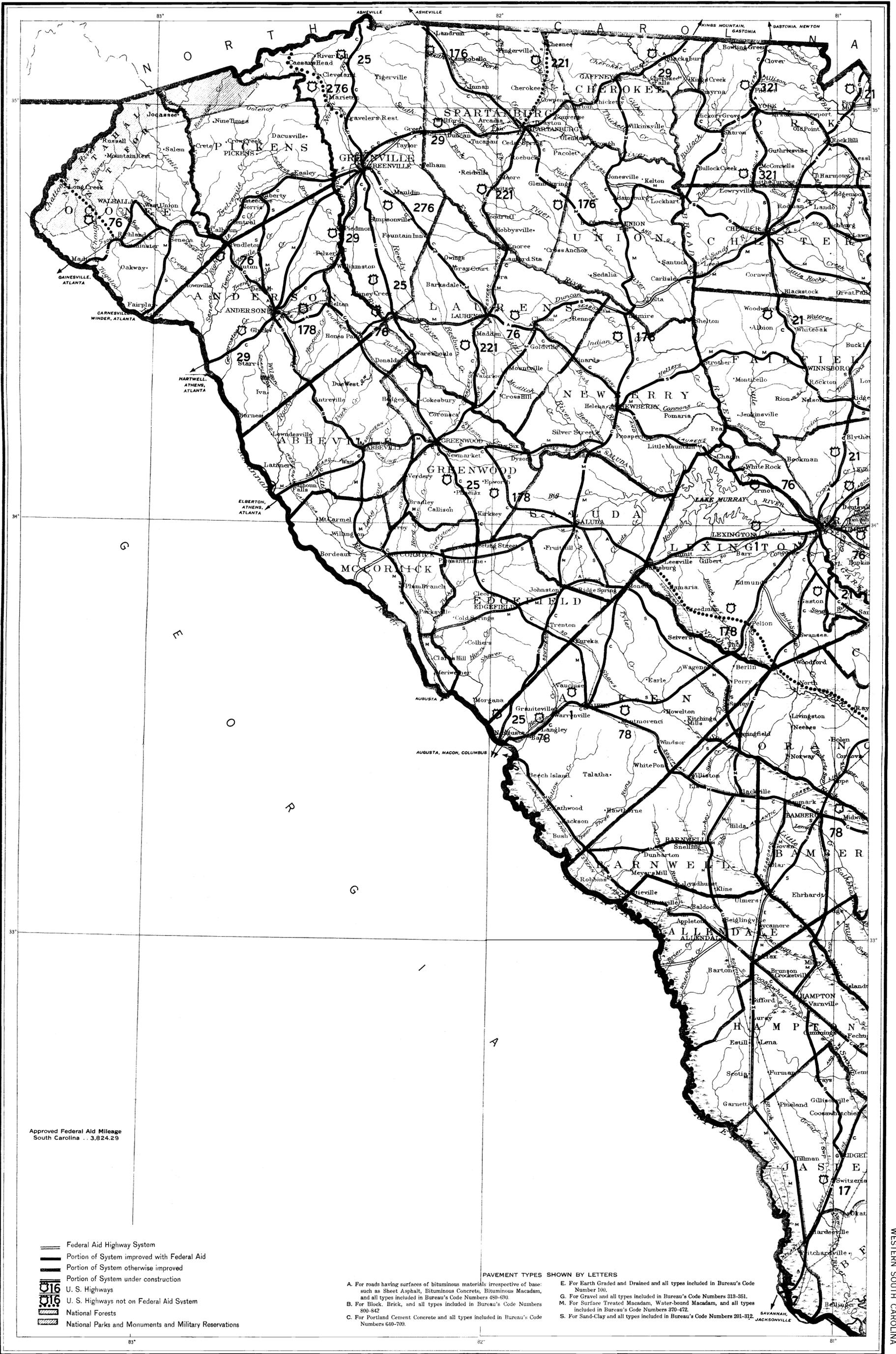
PRINTED BY THE U. S. GEOLOGICAL SURVEY

EASTERN SOUTH CAROLINA

# THE FEDERAL AID HIGHWAY SYSTEM PROGRESS MAP

DEPARTMENT OF AGRICULTURE  
BUREAU OF PUBLIC ROADS

WESTERN SOUTH CAROLINA



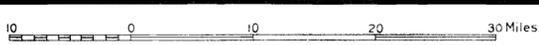
Approved Federal Aid Mileage  
South Carolina . . . 3,824.29

- Federal Aid Highway System
- Portion of System improved with Federal Aid
- Portion of System otherwise improved
- U. S. Highways
- U. S. Highways not on Federal Aid System
- National Forests
- National Parks and Monuments and Military Reservations

**PAVEMENT TYPES SHOWN BY LETTERS**

- A. For roads having surfaces of bituminous materials irrespective of base: such as Sheet Asphalt, Bituminous Concrete, Bituminous Macadam, and all types included in Bureau's Code Numbers 480-630.
- B. For Block, Brick, and all types included in Bureau's Code Numbers 800-842.
- C. For Portland Cement Concrete and all types included in Bureau's Code Numbers 640-703.
- E. For Earth Graded and Drained and all types included in Bureau's Code Number 100.
- G. For Gravel and all types included in Bureau's Code Numbers 313-351.
- M. For Surface Treated Macadam, Water-bound Macadam, and all types included in Bureau's Code Numbers 870-472.
- S. For Sand-Clay and all types included in Bureau's Code Numbers 201-312.

Scale 1:500,000, or 1 Inch=7.91 miles.  
Projection—Modified Polyconic.  
Base Map from U. S. Geological Survey State map.  
Base revised as to cities and towns on F. A. H. S. and county lines by Bureau of Public Roads.  
Data for pavement types on those portions of F. A. H. S. heretofore improved without F. A., compiled from latest State records.  
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WESTERN SOUTH CAROLINA

11 W

[Endorsed:] File No. 41,642. E. South Carolina. D. C. U. S. Term No. 161. South Carolina State Highway Department, South Carolina Public Service Commission et al., appellants, vs. Barnwell Brothers, Inc., Poole Transportation, Inc., Horton Motor Lines, Inc., et al. Filed June 21, 1937. Term No. 161, O. T., 1937.