



ROADWAY LIABILITY ISSUES

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CONFERENCE
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STANDARD OF CARE

- What is the Standard of Care owed by Alabama Counties to the General Public with regard to County Roads?
- Alabama Counties are under a statutory duty to maintain their roads and bridges in a reasonably safe condition for travel and to remedy defects of which they have notice.
- Alabama counties are not guarantors of safe travel on their roadways and are bound only by the reasonably safe standard.

JURY QUESTIONS

- What is reasonably safe with regard to a road condition is generally a question of fact for a jury in most circumstances.
- For example, there is nothing under Alabama law that says that a 2-inch shoulder drop off is not reasonably safe, or 3 inch, or 4 inch or 5 inch. That determination is generally a fact question for jury to determine.
- In addition, the lack of adequate signing on a roadway can render a roadway not reasonably safe. What roadway signs are necessary to make a roadway reasonably safe is also a fact question for jury to determine.

NOTICE

- Notice of a defective condition is a prerequisite to County liability for a road defect case.
- Notice of a defective condition can be actual notice, such as where someone calls the county, or a County employee sees the defective condition.
- Notice can also be constructive. Constructive notice is where a condition exists for such a period of time that a County new or should have known of its existence. There is nothing Alabama law that would indicate how long a defective condition must exist before a County should have constructive notice of it. That also is generally a fact question for a jury to determine.

NOTICE CONTINUED

- In many cases, there is a dispute about whether notice of a defective condition was received by a county prior to an accident.
 1. Plaintiff says notice was given
 2. County says no notice given
 3. Without adequate record keeping, a county cannot prove it did not get notice.
 4. If it is not written down, it did not happen

NOTICE CONTINUED

- Many Counties that document citizen complaints, do so differently
 1. Some counties have central or single source to receive and analyze citizen complaints.
 2. Other have no central source for which to compile and analyze complaints. Rather, complaints are spread between several employees.
 3. Some counties document citizen complaints by paper and do so well.
 4. Other who still use paper documentation to compile citizen complains do not do so well.
 5. Some written work orders/complaint forms have a place for remedial work and when completed, it is returned to the county's complaint person for archiving.
 6. Other have complaint forms which are sent to foreman but contain NO place to indicate remedial action taken and therefore, little or no record of the remedial action exists, or is returned to the County Engineer or County Administrator.

Recommendation: Centralize complaint intake, document incoming complaints, and document any remedial action, if any. DOCUMENT, DOCUMENT, DOCUMENT!!

COUNTY INFORMATION MANAGEMENT SYSTEM

- More and More counties are utilizing computer programs to document complaints/problems and remedial action.
- One of those programs that has been beneficial to Counties in defending road defect cases is the County Information Management System (CIMS)

COUNTY INFORMATION MANAGEMENT SYSTEM

- That system is proved beneficial to counties in many cases to refute various allegations. Such as:
 1. Stop sign down case
 2. Strip patching case
 - Facts of accident
 - Showed date work began
 - Dates when signs went up
 - Documented description of which signs went up
 - Documented when sweeper was on site
 - Documented when signs were taken down

We are still seeing too many of the following types of cases:

1. Accidents occurring where strip patching is being conducted
2. Accidents involving low shoulders
3. Accidents involving obstructions to sight distance at intersections
4. Accidents involving obstructed stop signs or stop ahead signs
5. Accidents in Construction / Work Zones

Accidents Occurring Where Strip Patching Is Being Conducted

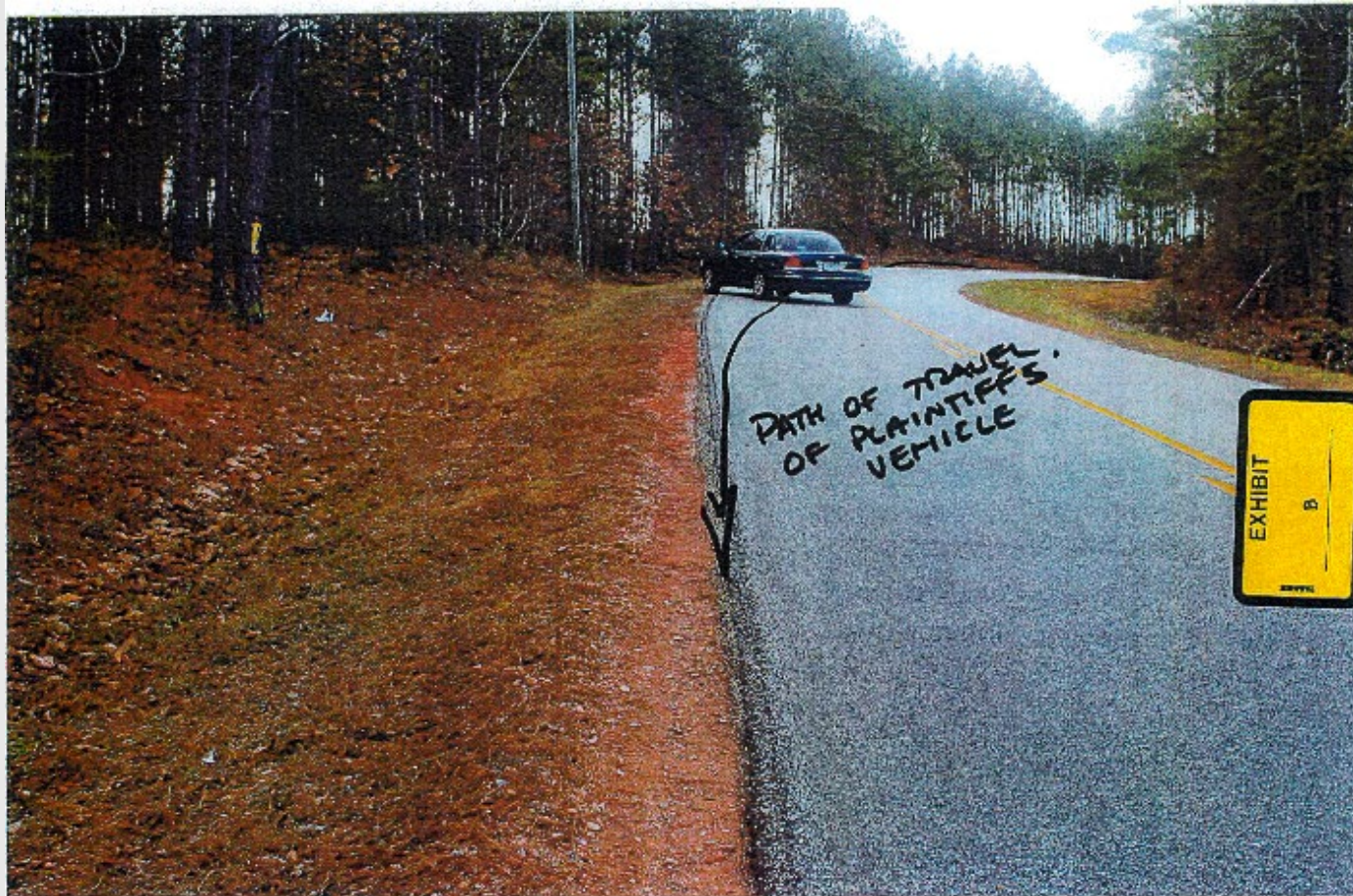


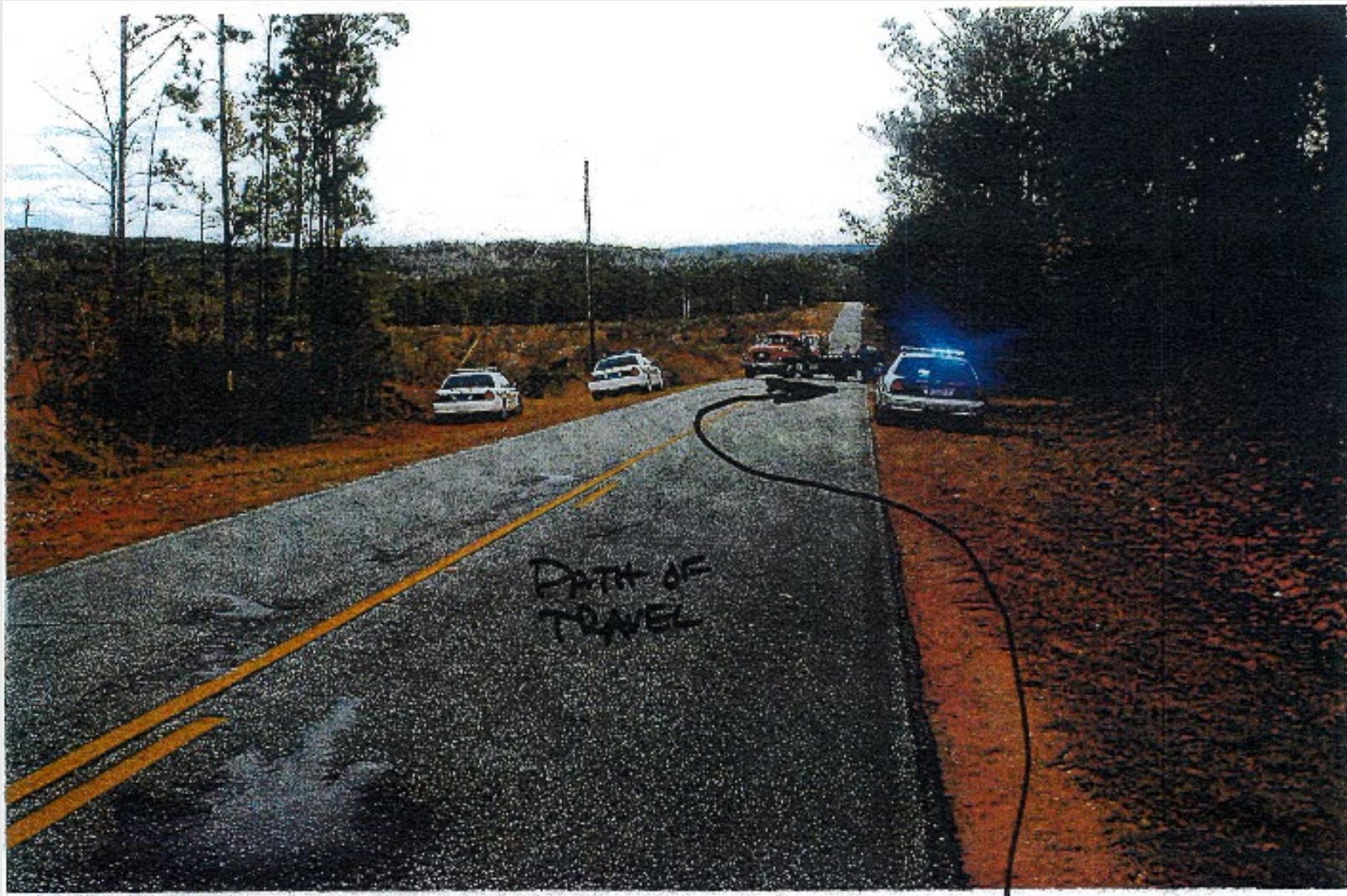


Accidents Occurring Where Strip Patching Is Being Conducted

- **Recommendation:**
- A permanent signpost be erected on each side of the project.
- On the post put a “Loose Stone” sign and under that put a “25 MPH” advisory speed sign.
- Get a sweeping plan in place:
 - 2 days after,
 - 7-days after.
- Remove signs and signpost.
- Document what you did and when you did it!!

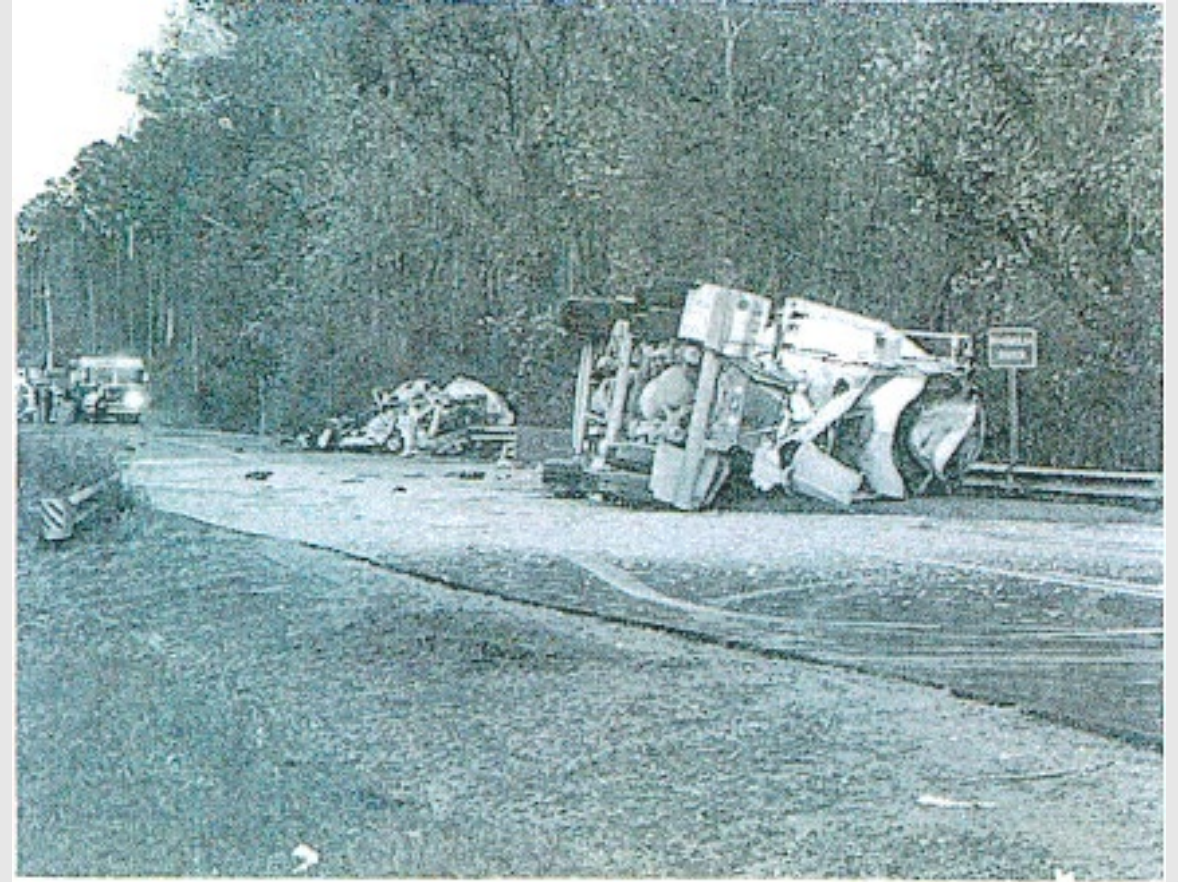
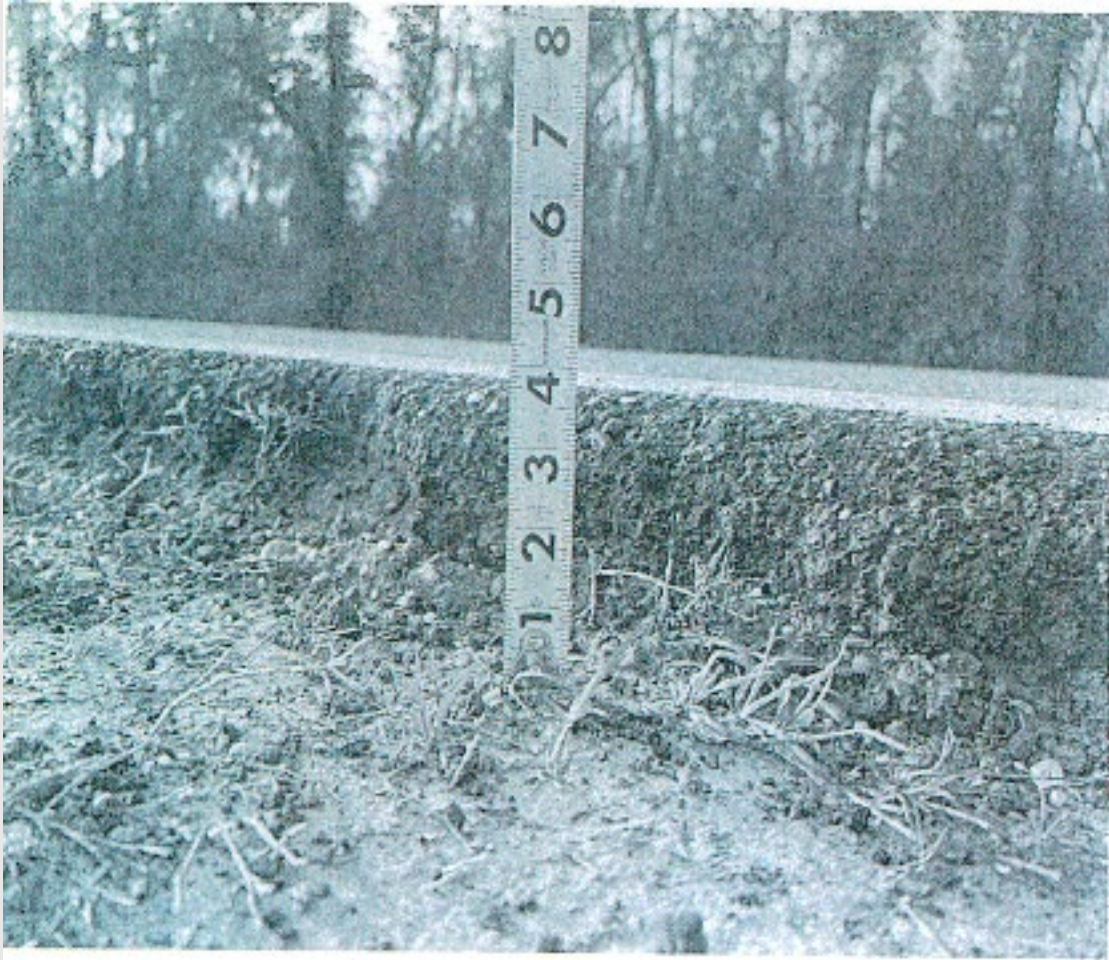
Accidents Involving Low Shoulder











Accidents Involving Low Shoulder

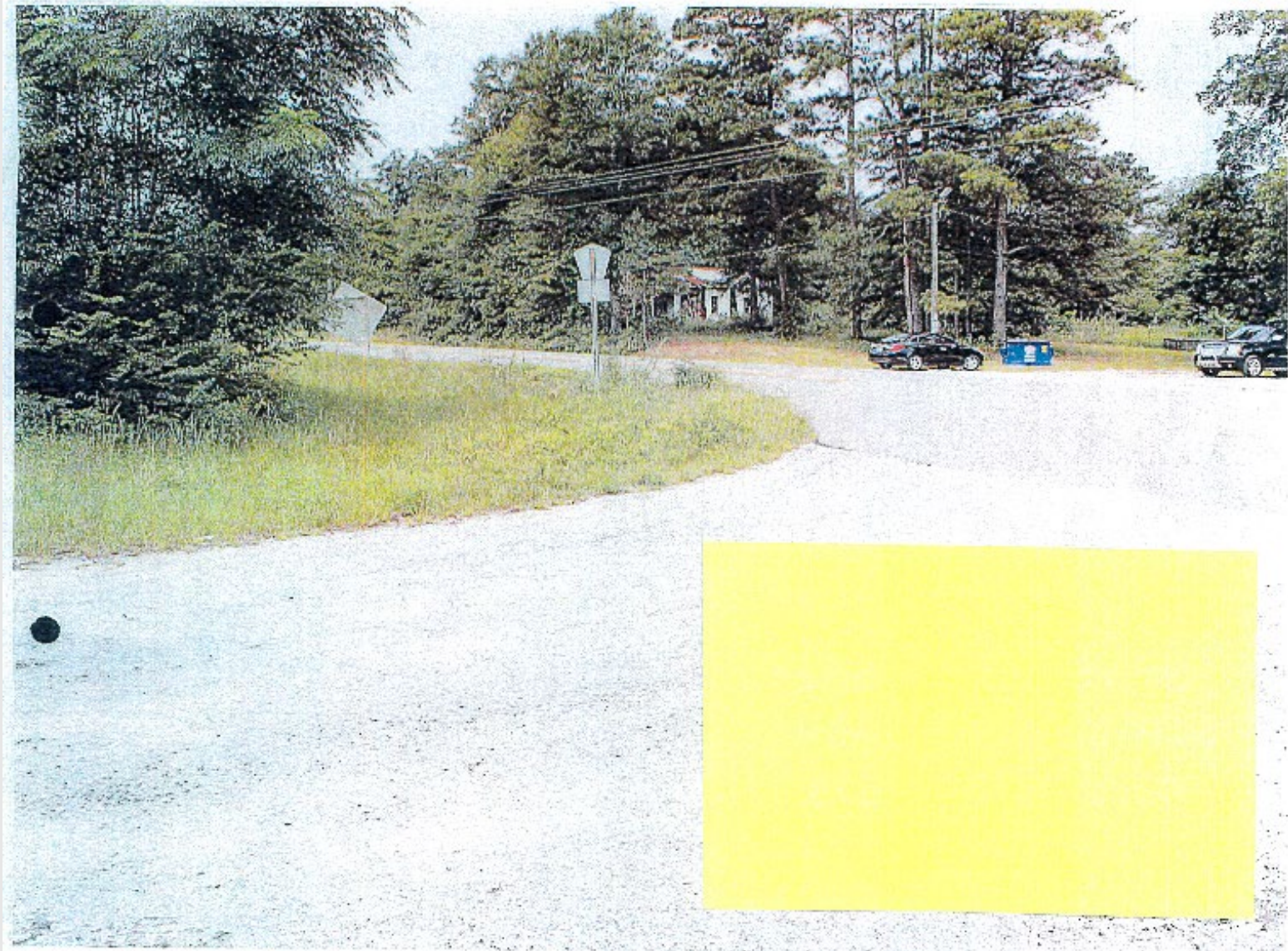
Types of Questions Asked:

In low shoulder cases there are difficult questions for County Engineers, such as:

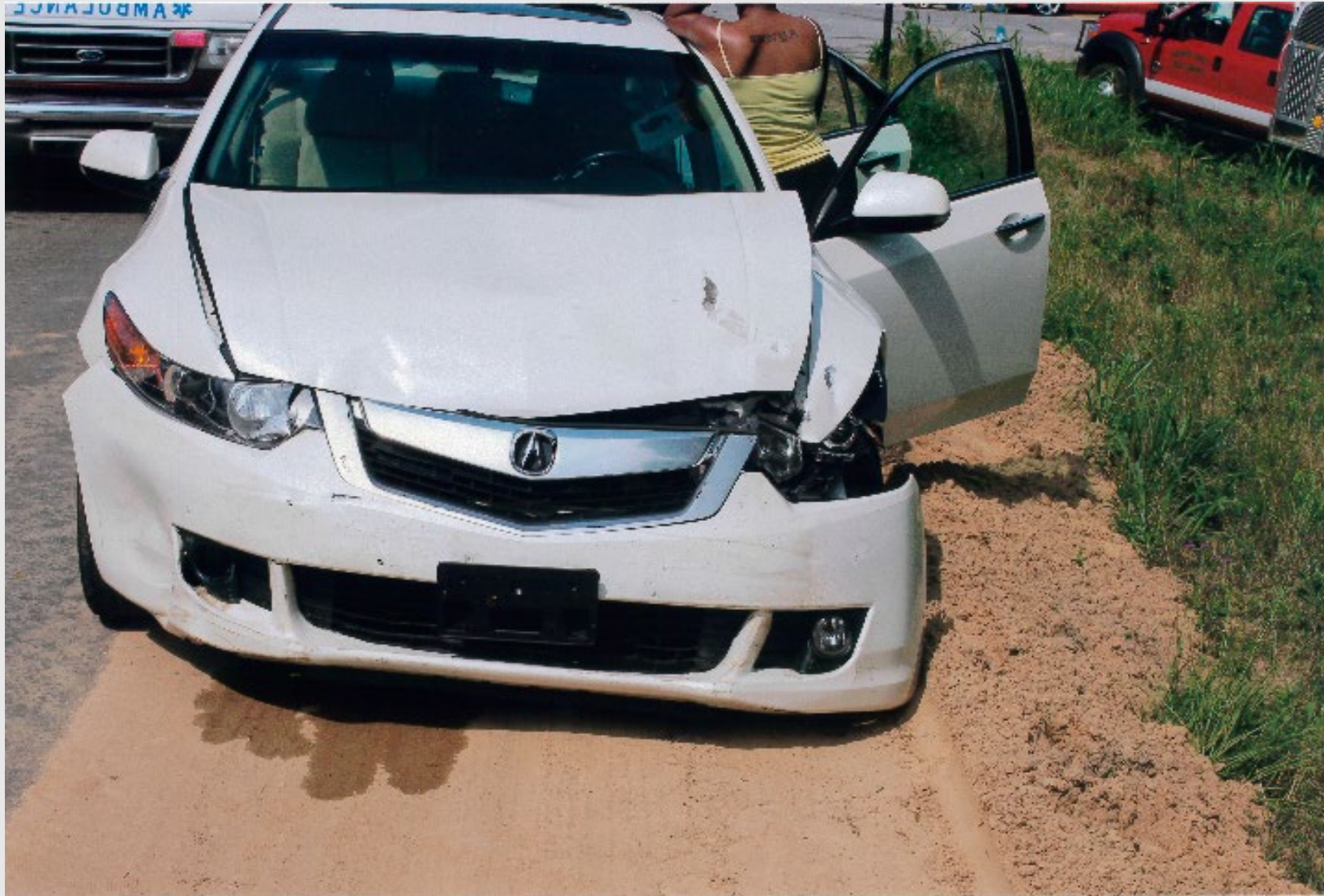
1. Identify any and all standards, policies, and/or procedures you have followed regarding edge drop off and/or warnings.
2. Identify handbooks, manuals, and other information provided by the County to individuals employed by the County regarding standards, policies, and procedures when designing, measuring, paving, and maintaining edge drop offs.
3. Identify any and all government regulations or recognized industry standards regarding design, construction, and warnings regarding shoulder edge drop offs or soft shoulders.
4. State with specifications any attempts made by this Defendant to measure the shoulder edge drop off at or near the accident site either during or upon completions of the project.
5. Identify and describe the system the County uses to record and/or keep track of reports of complaints involving low/soft shoulders during road work being preformed either by the County or private contractor.
6. Any calls or complaints of any nature whatsoever about the shoulder on the project at issue.

Accidents Involving Obstructions To Sight Distance At Intersections









Accidents Involving Obstructed Stop Signs Or Stop Ahead Signs





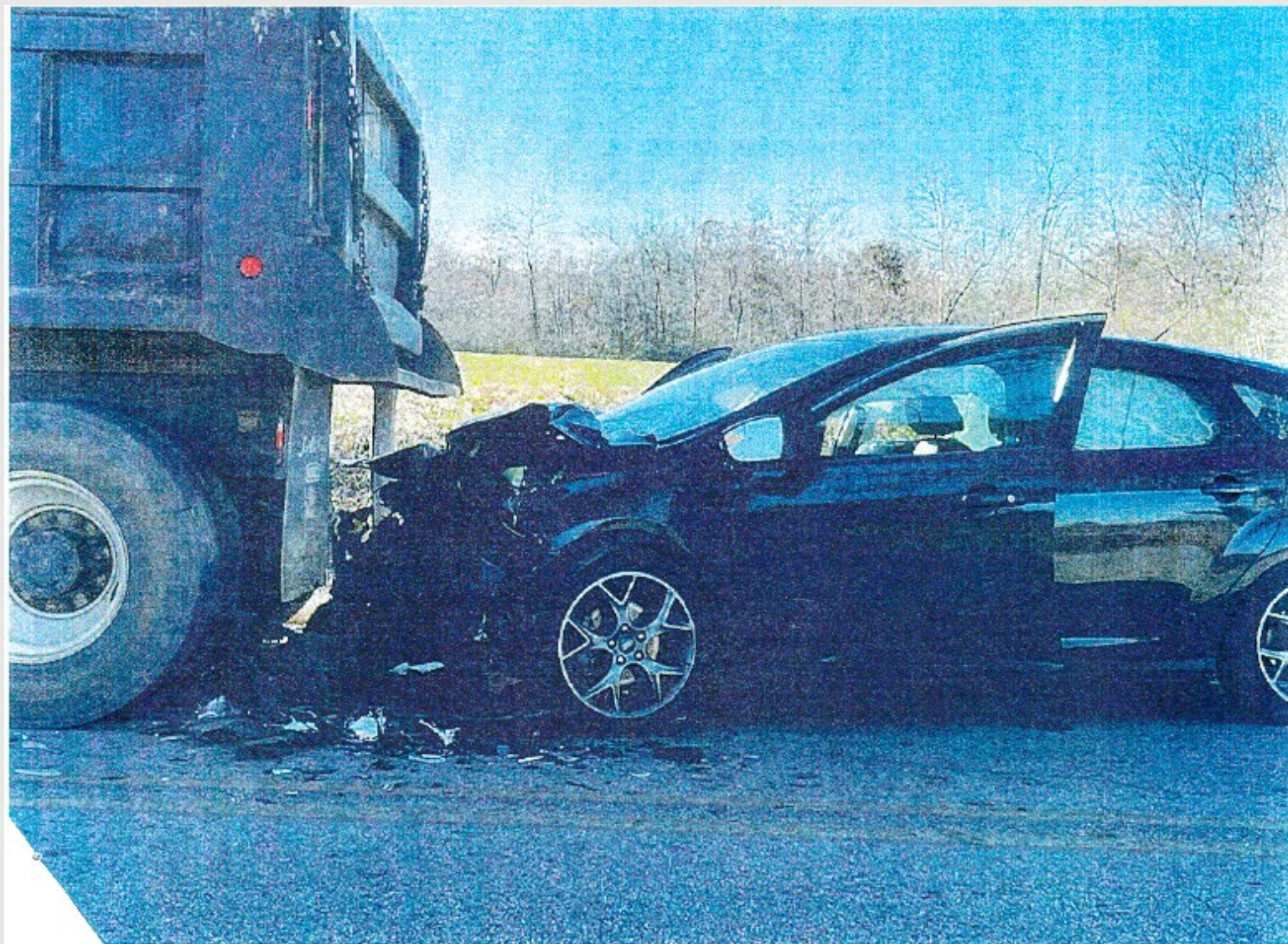






Accidents in Construction / Work Zones





ACCIDENT REPORTS

- Get Accident Reports in cases involving serious injury or death.
- Check the Accident Report to make sure information is correct.
- If the information is not correct, seek an amended Accident Report with corrected information.

ANY QUESTIONS?

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